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# Dignity in organ donation – balancing stakeholders' interests

The use of human tissue has been central to medicine for almost as old as medical practice itself; ranging from experimentation for increasing understanding of the anatomy and physiology of the body consequential to development of therapeutic interventions, to direct use as therapeutic interventions such as transplantation. Today biomedical research such as genetic studies and drugs development that has revolutionised medicine evolved from the use of human tissue from cellular to organ level. For example, organ transplantation, a fast growing procedure has made significant impact on life expectancy and quality of life to millions of people across the world. However, the use of human tissue evolved through involuntary and inhumane practices, the climax of which resulted in an outcry for regulation to inculcate sanity and dignity. Central to regulation has been the evolution of medical law and ethics. Consequently, in most civilised societies today, the use of human tissue, dead or life, is voluntary following well informed consent. While this is the positive result of regulatory measures that has empowered the individual to own ownership, it has been to the imbalance of community interests on what happens to his body. Organ transplantation, for example, although in general the number of donors in UK has increased over the years, has not matched that of recipients at any time. This could partly be the result of increasing awareness of the individual of his rights and dignity of his body consequently its disposal, regardless of his community's interests. It looks from this the same legal system that brought sanity to the use of human tissue is lopsided in favour of the individual than other stakeholders, not the least his community. To bridge the gap calls for consortia approach fulcrum on all stakeholders' interests. This paper examines the various stakeholders in facilitating dignity in organ donation consequential to enhancing numbers. It looks at the need for organ donation; current rates of organ donation in UK; the stakeholders in organ transplantation, the respective roles of government, and medical law and ethics in enhancing organ donation; finally conclusion calling for review of current

transplantation strategies, involving a consortium of stakeholders, that would rhyme with the rest of the world thereby enhancing dignity consequently, donation rates.

# 1. Introduction

The use of human tissue, from cellular to organ level to save life has been in practice for a long time.[1] For example, blood and its products have been central to various life-saving measures worldwide. More specifically, for over 50 years organ transplantation has become an established form of treatment worldwide, and has brought tremendous benefits to millions of people.[2] Currently organ transplantation is the most cost effective treatment for some end stage diseases such as renal failure, and indeed the only available treatment for end stage organ failure such as the heart, liver and the lungs.[3] Following successful transplantation there is usually significant improvement in the number of life years and quality of life. Transplantation procedures have continued to improve, becoming safer and more effective.[4, 5]

However, organ donation and transplantation are complex and sensitive, raising ethical, moral, and practical issues. An example, issue the issue of dignity in organ donation. At the back of these always been short of the number of recipients, consequently an ever increasing waiting list.[6-10] This is a tragedy in that mortality rate of those in the waiting list continues to increase. This remains a cog-in-the-wheel in maximisation of this invaluable human innovation.[11]

There have always been efforts to increase donation rates. A possibility is harnessing the issue of dignity in donation, in particular, the interplay of the interests of the various stakeholders in this regard.

This paper seeks to balance the interests of stakeholders in organ donation, a possible prerequisite to raising donation rates. It examines the need for organ donation, current UK organ donation rates, the stakeholders in organ donation, the role of government and medical law and ethics in balancing their interests as means to increasing donation rates, then a conclusion.

# 2. The need for organ donation

Organ transplantation is a fast growing procedure that has made significant impact on life expectancy and quality of life to millions of people across the world. The bedrock of transplantation is organ donation. Donation is from both living and cadaver donors. The ideal living characteristics of the living donor are achieved in the cadaver by certifying brain stem death, and maintaining viability using appropriate techniques up to transplantation.[12-15] In the UK, as in most developed countries, donation is generally altruistic. Although this trend is changing in jurisdictions across the world, it remains central in the current UK regulatory framework.

Since the inception of transplantation the waiting list for recipients has never been merged by the number of donors.[16] The result is that many prospective recipients die while waiting for a donor[17] Because of this, it is the view of some that there is no moral justification promoting any system that fails to increase the number of organs available to those who need them.[18] To enhance the number of donors, it is suggested that the Human Tissue Act 2004 be altered to allow individuals to 'contract out' i.e. consent to donate is presumed unless it is specifically withdrawn.[19] This has already been adopted in some European jurisdictions.[20, 21] Another option is to balance the interests of the various stakeholders, a great possibility of raising their awareness of the significance of their respective roles in enhancing donation rates.

# 3. Current rates of organ donation in UK

Statistically, although there is a general global trend of increasing living donors over the years, this has never matched the waiting list of prospective recipients. The table below shows the transplantation activities in the UK from April 2010 to March 2012.[22]

| Donor &Transplantation Activities | Current Year (April 2011- March 2012 | Previous Year (April 2010 – March 2011 | Percentage Change (%) |
|---|---|---|---|
| **ORGAN DONORS** | | | |

| | | | |
|---|---|---|---|
| Donors after Brain Death | 628 | 622 | 1.0 |
| Donors after circulatory death | 419 | 355 | 18.0 |
| **Total Deceased Donors** | **1047** | **977** | **7.2** |
| Living Donors | 924 | 918 | 0.7 |
| **Cornea Donors** | | | |
| Cornea Only Donors | 2509 | 2372 | 5.8 |
| Cornea & Organ Donors | 341 | 328 | 4.0 |
| **Total Cornea Donors** | **2850** | **2700** | **5.6** |
| **ORGAN TRANSPLANTS** | | | |
| **Deceased Donors** | | | |
| Kidney | 1542 | 1445 | 6.7 |
| Pancreas | 35 | 40 | 12.5 |
| Kidney / Pancreas | 164 | 152 | 7.9 |
| Pancreas Islets | 29 | 12 | 141.7 |
| Heart | 136 | 128 | 6.3 |
| Lung | 171 | 164 | 4.3 |
| Heart / Lung | 5 | 5 | - |
| Liver / Lobe | 699 | 649 | 7.7 |
| Others (Mult-organ) | 25 | 16 | 56.3 |
| **Total Deceased Donor Transplants** | **2806** | **2609** | **7.6** |
| **Living Donor Transplants** | | | |
| Kidney | 888 | 900 | -1.3 |
| Liver | 36 | 18 | 100 |

| | | | |
|---|---|---|---|
| Lung | 0 | 0 | 0 |
| **Total Living Donor Transplants** | **924** | **918** | **0.7** |
| **Total Cornea Transplants** | **3393** | **3452** | **-1.7** |
| **ACTIVE TRANSPLANT LIST** | | | |
| Kidney | 6417 | 6597 | -2.7 |
| Pancreas | 38 | 55 | -30.9 |
| Kidney / Pancreas | 200 | 253 | -20.9 |
| Panceas Islets | 24 | 24 | 0 |
| Heart | 163 | 128 | 27.3 |
| Lung | 213 | 212 | 0.5 |
| Heart / Lung | 16 | 13 | 23.1 |
| Liver | 509 | 483 | 5.4 |
| Others (Multi-organ) | 52 | 35 | 48.6 |
| **TOTAL** | **7632** | **7800** | **-2.2** |

Table Showing most recent 2-year UK Organ Donation and Transplantation Activities Figures from 30 April 2010 – 31 March 2012.

From these figures, it is evident that the UK follows suit with the rest of the world on the shortage of transplants despite increasing efforts to enhance organ donation over the years. This highlights the vital need for rethinking strategies for significant enhancement of availability of transplants.

# 4. The stakeholders in organ donation

A variety of stakeholders with variable interests come to play in different ways in the process of organ donation as would be highlighted in this part of this report.

## 4.1. The donor

Some advocate sole own owner of every individual just as any property in his possession, consequently his exclusive liberty to decide what happens to his body, dead or alive.[23, 24] In short the potential organ donor can exercise his autonomy over his body.[25] It is the respect of the individual's integrity and autonomy that has made organ donation altruistic rather than by conscription in most civilised parts of the world today.

However, the ever widening gap between waiting list and donors necessitates facilitating the individual to empathetically balance his dignity and autonomy over his body on the one hand, and giving hope and dignity of life to another, the ever anxiously waiting organ recipient. For just as there is dignity in maintaining one's bodily integrity, so is there in revolutionising another's hope of life, and indeed quality life by donating one's organ. Although, anonymity is to be maintained in the case of non-related donors and recipients, it would be a lasting memory for the donor, knowing he has given hope and meaning to life to another; much as it would be an unforgotten memory to the recipient that his 'extended' lifespan largely came from someone. Today many philanthropists are most excited just knowing that their generosity has impacted the lives of others. This should even be more so for the advocates of own bodies as their personal property to decide to donate it just as the philanthropist does his wealth. However, he should do this after critically balancing the health implications and any personal risk of his donation on himself.[26]

## 4.2. The donor's family

Another important stakeholder in organ donation is the donor's family. This is for both living and cadaveric donors. It is unlikely any donor that has a family to conceal to his family his decision to donate an organ whether while alive or when dead.[27] Many donors who decide to give their organs

at their death are likely to have included their decision in their will, or communicated their intention to their families or any one that would execute their mandate following their demise. Many families would see executing this part of their deceased's will as part of their sustaining love and respect for the deceased. However, they should be approached cautiously, at the appropriate time and in the right setting. The balance between ensuring harvesting the organ and storage for viability and the emotional impact of this on the family of the deceased should be carefully sought. A good balance here is safeguarding 'robbing Peter to pay Paul', i.e. displeasing a grieving family to please a dying prospective recipient. Not surprising approaches such as 'mandated choice', whereby a person's wish to donate is executed by-passing the family are not encouraged for boosting donation rates.[28]

## 4.3. The recipient

'He who hurts is he who feels', so is the saying. Of all the stakeholders the recipient is the most central. He is the most disturbed. He is the one that stands to gain or lose the most. Whatever happens in the entire process of transplantation will impact on him most. No recipients, no need for donors, and indeed no transplantation, regardless of its novelty. The recipient is wrapped up in anxiety, anticipation, expectations and uncertainty; all these related issues are additional to the direct impact of his primary condition necessitating transplantation. In the end what drains him is not just the direct impact of his diseased organ on his health, but the related psychological and emotional impact on having to wait without time scale for a donor. Each day buys time for an organ while surrendering to the coffin. This state of helplessness and indeed hopelessness has driven many that can afford into the 'illegal' procurement of the organ they needed. To justify such procurement as illegal has to be brought to balance with, for example, buying a fruit to promote one's health.

## 4.4. The doctor

The doctor is quite central to organ donation in a variety of respects. In addition to harvesting and carrying out the transplantation, he has other numerous roles. In the first instance, the diagnosis of the need for an organ by the patient is done by the doctor. He also plays the vital role of conservative management of the patient while on the waiting list in order to 'buy' time for when there would be a donor.[29] Furthermore, the doctor gives information to both donor and potential recipient and their respective families. For his role the doctor needs to be well informed on, *inter alia*, the ethical, moral, legal and logistic issues related to organ donation.[30]

## 4.5. The Public

The public has an invaluable role in organ donation, key of which is their availability to donate. This is greatly influenced by their perception of who they are with regards to their ownership of the body, their religious, cultural, moral and ethical beliefs; their grasp of their responsibilities to their community and the whole idea of personal sacrifice for the sake of others.

With regard to the public on cadaver donation, Professor Harris[31] views the dead as 'ex-persons' and beyond harm or benefit by us. He argues that for the dead, although it may be damaging what he calls their 'persisting interest' using their body parts, this should be weighed against the unfilled interest of the living that would have benefited from their body parts otherwise. While this may sound a reasonable argument given the fact that the remains of the dead may be seen as a burden to the environment for example, is not convincing enough to ignore the interests of the dead for the living's sake as it would erroneously imply imposition of a sense of a right by the latter to 'exploit', to use Professor Harris's word, the former for his benefit. Most important is the potential traumatic psychological impact of such 'imposition' on the deceased relatives and associates.

However, a more persuasive argument to the donor for public interest on his body is the public investments done on the individual over the years, consequently, need for him to give back to the public even his organs. For example, the body he now claims ownership of is the product of investment, not only by him, but jointly with others. For example, from conception through to early

adulthood when he began to be ‘independent’ of parental and public support for virtually every aspect of his life.

Also more persuasive is public education to raise their awareness to the need, and their moral obligation to meet it.[32] In general, people would be more willing to voluntarily donate when properly informed about the need to do so.[33]

## 4.6. Siblings as stakeholders

In the US there has been legislature permitting siblings to donate and receive organs over 50 years ago, but not a ‘blanket’ permission.[34, 35] This is more express for sibling to sibling donation where the death of the recipient would lead to grave personal emotional and psychological impact on the donating sibling.[36] It is the best interest of the donating child that is taken into account here. The ‘minor’s best interest’ rule for parental consent for donation by a minor is the current practice in most jurisdictions. In both England and Wales his parents could give consent for the donation as they would have done for his treatment.[37] The ‘best interest’ principle sounds both morally and ethically right, given their dual beneficial results – the primary gain from the exercise by the donor and the ‘secondary’ gain by the recipient.

## 4.7. Stakeholders with commercial interests

### 4.7.1. Organ dealers:

The desperation of the anxious prospective organ recipient amidst organ shortages has paved the way for commercialisation of body parts to be a thriving business[38] in spite of prohibiting legislature in many countries. Some maintain that any argument supporting the sale of human organs diminishes human dignity and brings disrespect.[39, 40] The most vulnerable are the poverty-stricken that are more likely to trade their autonomy for bodily integrity for currency following financial inducement by profiteering organ dealers.[41]

To some commercialisation is a means of curbing the problem of organ shortage. This has received a lot of debates and discussions for its complexity with regards to issues, *inter alia*, ethical, moral, practical, safety, ownership, autonomy and human rights.[42, 43] Some practical and ethical problems of commercialisation include the risk for the recipient for example disease transmission that could result from defective screening techniques. However, Erin and Harris[44], advocating for commercialisation are of the view that this problem as well as that of consent could be resolved by making the NHS the sole purchaser.

## 4.7.2. The commercial donor

The UK Human Tissue Act 2004 (for England, Wale and Northern Ireland) and Human Tissue and Transplantation (Scotland) Act 2006, as in most jurisdictions in other parts of the world prohibit commercialisation of body parts.[45] In Europe, the European Convention on Human Rights and Biomedicine[46] explicitly states that: 'The human body and its parts shall not, as such, give rise to financial gain'.

However, it is increasingly globally accepted some form of gratification be made; particularly in the face of the perennial and ever lengthening waiting list.[47-51] Gratification could take variable forms; from simple acknowledgement, to paying in part or full the funeral costs in case of cadaver donors, and indeed cash.

But here is where the issues of autonomy and human rights meet morality and conscience. Would commercialisation of body parts more or less be saying 'life for sale'? Are we playing God? Who owns the body?[52, 53] By equating it to commodity, are we down grading it for pea nuts, whatever the price tag? Who has the right to sell it? Morally, would commercialisation not be to the seller 'living on my body', a situation already demonstrable by acts such as prostitution? What is likely to be the health implications on the seller, on the short, medium and long term? What if after the sale the seller (often impoverish) becomes in need of one, should he have to buy or given free? What price tag should be placed on organs? How would this be regulated? All these questions point to the fact,

if legally imbibed, commercialisation would require a regulatory framework robust and speculative enough to address the unforeseen, and this would require careful planning. However, despite the global distaste, commercialisation of body parts seem to have come to stay because of the practical problem of cross border control, as well as the poverty associated with it; not the least as a lucrative business. Organ trafficking is akin to the current problem of global hard drug control, whereby eradication is only a mirage.

## 5. Government as a stakeholder balancing other stakeholders' interests.

One key role of the government is setting regulation for both donation and receiving organs.[54] For example legislature prohibiting organ trafficking.[55] In the UK the Human Tissue Act 2004 for England, Wales and Northern Ireland, and the Human Tissue Act 2006 for Scotland are quite explicit on government's prohibition of commercialisation of organ donation. It is also government's responsibility to ensure both national and international collaboration on transplantation activities. This is by formulation and enforcement of legislature on issues such as organ trafficking; enforcement of proposals for international collaboration such as The Declaration of Istanbul on Organ Trafficking and Transplantation.[56]

This submit reiterated condemnation of organ trafficking which targets vulnerable populations such as the poor, uneducated, prisoners, refugees. The ease of communication brought about by air transport and the internet has made cross border organ trafficking and transplantation tourism a great problem. Such illegal and unregulated organ transplantation activities are a high risk to both donor and recipients. Consequently, the Declaration called on governments of both sellers and recipients to commitment to their responsibility of protecting their citizens from such risky transplantation activities by formulating and enforcing appropriate legislature. It also reiterated that such illegal activities compromised the legacy of transplantation, the success of which is not justified in victimisation of the poor for the rich.

In the UK Plan for the Future,[57] a government initiative with a remit to raise donor rate, has very bright ideas in their enthusiasm to raise donor rate by 50% within five years. Some of their strategies include the use of transplant coordinators. A key role of the coordinators is to bridge the gap between potential donors and their families on the one hand, and recipients and their families on the other. However, some of the processes in this strategy need caution for their practical, ethical, and moral ambiguities. For example the transfer of a dying medical patient from the tranquillity of a medical ward to an Intensive Care Unit (ICU) in preparation for harvesting his organs for the benefit of another, robs the patient of that 'final calm peace of mind' on his departure, and subjects his relatives to further stress.[58]

## 6. Medical law and ethics as a stakeholder balancing other stakeholders' interests

Given the perennial widening gap between number of donors and waiting list in countries where organ donation remains legislated by traditional altruism, time is more than ripe to return to the drawing board for a review of such legislature to rhyme with current realities. The choice is between rigidity in maintaining altruism which opens more coffins on the one hand, and flexibility for a multisystem organ donation strategy that would revolutionise availability of organs to redeem more lives. For this, the interests of the stakeholders need proper balancing for dignity in the whole issue of transplantation.

The principal stakeholder is the recipient. The focus of any legislative reform should now be on him rather than the philosophies of policy makers.[59] It pays no good dividend insisting on altruism for a kidney that may never arrive for a prospective recipient rich enough to pay any sum if only he had one for currency. If legally opened the door, by 'procuring' their organs, the rich in a way would give better prospects to the poor from the altruistic pool.

However, in addition to the state promulgating appropriate legislature and guidelines to ensure safety, dignity and control, it should provide adequate facilities for screening. Transaction should also be done only at designated well equipped centres for screening; preferably where the transplantation would be carried out. Legalising commercialisation of organs by itself enhances safety for the fact that its legitimacy allows open and transparent dealings. Furthermore, the transaction should not be left between recipient and donor. Compensation should be well defined, and the transaction carried out by professional experts involved in the process of transplantation.

However, commercialisation should be concurrent with campaigns for altruistic donation. For example, in addition to the direct market approach, incentive should be provided to the altruistic donor. Incentive could take different forms such as covering costs such as funeral costs, donation to a designated charity or family member.[60] For financial incentive, this should be carefully explored. Such incentive should be left on the table for eligible donors or their representatives to decide whether or not to take them. The presentation should be carefully made as many living donors would be put off at the slightest impressing that they are selling their body. Furthermore, it requires caution to establish the prime motive of the donor, particularly for the 'money monger' who would go forward to donate primarily for the financial incentive rather than a genuine willingness to donate.[61] But who foots the bill for incentive, the patient or the government? This is clearly answered by the question 'Who foots the overall bill for the transplantation?' If the government does the latter, then it should the former.

Countries such as Israel, in response to the shortage of altruistic organ donors poses, in 2008 promulgated a law for compensatory donation.[62] The law provides incentives for donors. These include costs for travels and time. Donors also receive priority in the waiting list if they or their relative needed a transplant in the future. This significantly increased the donation rate. Similar compensatory incentives in Iran are reported to have significantly truncated the waiting list.[63]

However, a move for a compensation scheme would require a round table negotiation with relevant stakeholders to strike balance between benefits and dangers.[64] Also, the dilemma arises when the

‘commercial donor’ who’s remaining kidney subsequently fails. Should he go into the waiting list for an altruistic donor, especially if he could not afford to ‘buy’ one were there any for sale? This is one of the moral issues in the balancing of stakeholders’ interests – the moral justification of a free kidney to someone that ‘sold’ his.

Still as means of to enhance transplantation, some have also advocated increasing the age of donors as well as recipients.[65] A report by Frontera and Kalb (2010) from the US gave a waiting list of nearly 103,000 for only 6,000 donors in 2009, and that the previous year an average of 17 patients died every day while waiting for a donor. Their report showed a growing concern of a worsening situation. To improve the situation, they advocated “extended criteria donor”, i.e. extending the age of potential donors to 60 years or 50-59 with additional criteria such as stroke as the cause of death, a creatinine level of >1.5meg/dl or a history of hypertension.[66]

# 7. Conclusion

Since the advent of transplantation, the general outcry has been closing the gap between the number of organ donors and recipients which has remained a mirage. Although the trumpet of victory for bridging this gap is yet to be blown, and indeed, may never, there should still be some celebration for the progress made so far. This by itself is a booster for forging ahead on how to thrive undeterred with this invaluable medical advancement. For such celebration, it would need to be acknowledged millions of lives the world over have not only been saved but of better quality and dignity. Also a cause for jubilation is the fact that with advancement of knowledge and technology the process continues to show refinement thus making it to become continually safer, as well as ensure maximisation of the relative imbalance of donors and recipients due to increasing rate of transplant take.

While it would be good to continue campaign for enhancing donation rates, this should be conscientiously be pursued with campaigns to address related core issues, such as the underlining aetiological factors of organ failure in society generally. This would be a positive way of bridging

the gap between donors and recipient – reducing the number of people in need of transplant. For example, radical steps in the reduction of the rate of alcoholism and smoking, key aetiological factors of organ failure in society generally, would by itself cut down the number of those in need of transplantation of the organs in question.

Quite positive also is the continuous refinement of legislature and government support in this aspect of healthcare. For example, radical decisive steps such as the recent raising of the unit price of alcohol as a strategy to reduce the rate of alcohol consumption, and the move towards unified cigarette package as a deterrent to teenage smoking in Scotland by the Scottish government deserve commendation and emulation across the UK. However, such support would have to continue to be cautiously provided and monitored, given the great sensitivity, sentimental and commercial elements involved. Principal stakeholders here which are industries fro these products such as the tobacco, alcohol and advertising, would have to be cautiously carried along by persuasive but firm legislature.

Furthermore, time is more than ripe for the road to the drawing board to review current transplantation legislature. Altruism as a sole organ donation mandate has over stayed its welcome, being out of tune with current reality. At the drawing board should be a consortium of all stakeholders. The review of current transplantation activities should be open, honest and transparent with willingness to imbibe good practice from other legislature globally in order to balance well the interests of the stakeholders, not the least, the issue of dignity that cuts across. Being the principal stakeholder, the interests of the organ recipient should be paramount. Giving the ever widening gap between donated transplants and waiting list, the issue is a matter of choice now: to insist on the status-quo on organ donation and open more coffins, or embark on a legislative reform that allows a multi-donation system which allows current altruistic donation alongside, for example, a compensated scheme and safe more lives.

Of paramount importance now is need for care not to allow the mirage that befalls closing the gap between donors and recipient waiting list to rob all involved in this invaluable medical innovation

that has transformed and given dignity to millions of lives the world over, of some celebration of such accomplishment. By itself, such celebration serves as incentive to thrive unabated with the procedure.

Above all, stakeholders' interests balanced with all dignity resulting in more donors than recipients, is life worth the living? It is still same three scores and ten years.[67] For the day would still come, 'sooner or later, our bodies will be burned, or eaten by worms, an inevitable fate…'[68] Given the inevitability of the fate, therefore, dignity in transplantation or not, what next?

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**Й. Дангата**

**Гідність у донорстві органів – балансування інтересів зацікавлених осіб**

Розглянуто питання трансплантації, як одного з найефективніших засобів лікування осіб, які перебувають на термінальних стадіях захворювань і потребують пересадки органів. Наголошено на тому, що донорство та трансплантація є доволі складними питаннями, які породжують багато етичних, моральних і практичних проблем, що мають своїм наслідком зростання рівня смертності осіб, які перебувають у листку очікування на пересадку органів. З'ясовано існуючі проблеми донорства у Великобританії. Окреслено потребу збільшення кількості донорів, зокрема, шляхом внесення змін до Закону «Про тканини людини» від 2004 року щодо запровадження презумпції згоди на донорство органів, а також необхідність збалансування інтересів зацікавлених суб'єктів, підвищення рівня їхньої обізнаності в тому, наскільки важливою є їхня роль у зростанні показників донорства.

Проаналізовані чинні показники донорства органів у Великобританії, а саме, наведено статистичні дані у сфері трансплантації у цій країні за період з квітня 2010 року до березеня 2012 року, які вказують на те, що у Великобританії, як і в інших державах світу зменшується кількість необхідних трансплантатів, незважаючи на багаторічні зусилля, які докладаються для того, аби покращити рівень донорства органів. Закцентовано на необхідності зміни стратегії, яка б призвела до істотного збільшення кількості трансплантатів.

З'ясовано роль кожного із зацікавлених осіб у донорстві, зокрема, роль донора, сім'ї донора, реципієнта, громадськості, лікаря, уряду, осіб, які переслідують комерційні інтереси. Вказано на те, що недоторканність та автономія особистості надали донорству органів у більшості цивілізованих країн світу здебільшого альтруїстичного характеру, радше ніж зробили з нього обов'язок. Підкреслено, що прірва, яка щоразу збільшується, між особами, які перебувають у листку очікування та донорами змушує особу рішуче зважувати власну гідність та недоторканність власного тіла, з одного боку, та давати надію і можливість гідно прожити життя іншій людині – реципієнту, який очікує на пересадку органу. Зроблено наголос на істотній ролі лікаря, який забезпечує пацієнту консервативне лікування поки з'явиться довгоочікуваний донор. Вказано також на те, що лікар повинен бути належно обізнаний в етичних, моральних, правових та організаційних питаннях, що пов'язані з донорством органів, адже саме лікар виконуватиме функцію щодо надання необхідної інформації донору, його сім'ї, реципієнту та відповідно його сім'ї. Висвітлено роль громадськості в аспекті донорства, зокрема, зроблено акцент на необхідності збільшення поінформованості населення щодо потреби в донорстві та моральному обов'язку задовольнити цю потребу, адже, загалом представники громадськості частіше виявлятимуть бажання стати добровільним донором у випадку, якщо будуть належним чином поінформовані про таку необхідність.

Окреслено певні аспекти комерційного донорства, з акцентом на його учасниках, а саме торговці органами, комерційні лікарі тощо. Висвітлено окремі моральні проблеми комерціалізації донорства. Проаналізовано деякі ініціативи Уряду Великобританії, спрямовані на збільшення показників донорства упродовж наступних 5 років, зокрема, висвітлено стратегію щодо використання координаторів трансплантації, ключова роль яких зводитиметься до подолання прірви між потенційними донорами та їхніми сім'ями та реципієнтами і їхніми сім'ями. З'ясовано роль медичного права та біоетики в аспекті

необхідності внесення змін до чинного законодавства, що стосується донорства органів і тканин людини та трансплантації, запровадження яких уже давно назріло.

*Ключові слова:* гідність, донор, тривалість життя, донорство органів, якість життя, реципієнт, трансплантація.

**И. Дангата**

**Достоинство в донорстве органов - балансирование интересов заинтересованных лиц**

Рассмотрены вопросы трансплантации, как одного из эффективных средств лечения лиц, находящихся на терминальных стадиях заболеваний и нуждающихся в пересадке органов. Отмечено, что донорство и трансплантация являются довольно сложными вопросами, которые порождают много этических, моральных и практических проблем, имеют своим следствием рост уровня смертности лиц, находящихся в листе ожидания на пересадку органов.

Дано характеристику существующих проблем донорства в Великобритании. Определены потребности увеличения количества доноров, в частности, путем внесения изменений в Закон «О тканях человека» от 2004 года в контексте введения презумпции согласия на донорство органов, а также необходимость сбалансирования интересов заинтересованных субъектов, повышения их осведомленности в том, насколько важна их роль в росте показателей донорства. Проанализированы действующие показатели донорства органов в Великобритании, а именно, приведены статистические данные в сфере трансплантации в этой стране за период с апреля 2010 года по март 2012 года, которые указывают на то, что в Великобритании, как и в других государствах мира, уменьшается количество необходимых трансплантатов, несмотря на многолетние усилия, прилагаемые для того, чтобы улучшить уровень донорства органов. Акцентировано на необходимости изменения стратегии, которая привела к существенному увеличению количества трансплантатов.

Указано роль каждого из заинтересованных лиц в донорстве, в частности, роль донора, семьи донора, реципиента, общественности, врача, правительства, лиц, которые преследуют коммерческие интересы. Указано на то, что неприкосновенность и автономия личности оказали донорству органов в большинстве цивилизованных стран мира основном альтруистического характера, скорее чем сделали из него долг. Подчеркнуто, что пропасть, каждый раз увеличивается, между лицами, которые находятся в листе ожидания и донорами заставляет человека решительно взвешивать собственное достоинство и неприкосновенность собственного тела, с одной стороны, и давать надежду и возможность достойно прожить жизнь другому человеку - реципиенту, который ожидает пересадку органа. Сделан акцент на существенной роли врача, который обеспечивает пациенту консервативное лечение пока появится долгожданный донор. Указано также на то, что врач должен быть надлежащим образом информирован в этических, моральных, правовых и организационных вопросах, связанных с донорством органов, ведь именно врач выполнять функцию по предоставлению необходимой информации донору, его семьи, реципиенту и соответственно его семьи. Освещена роль общественности в аспекте донорства, в частности, сделан акцент на необходимости увеличения информированности населения о потребности в донорстве и моральном долге удовлетворить эту потребность, ведь, в целом представители общественности чаще будут изъявлять желание стать добровольным донором в случае, если будут должным образом информированы о такой необходимости.

Определены некоторые аспекты коммерческого донорства, с акцентом на его участниках, а именно торговцы органами, коммерческие врачи и т.п. Освещены отдельные моральные проблемы коммерциализации донорства. Проанализированы некоторые инициативы правительства Великобритании, направленные на увеличение показателей донорства в

течение следующих 5 лет, в частности, освещено стратегию использования координаторов трансплантации, ключевая роль которых сводиться к преодолению пропасти между потенциальными донорами и их семьями и реципиентами и их семьями. Выяснена роль медицинского права и биоэтики в аспекте необходимости внесения изменений в действующее законодательство, что касается донорства органов и тканей человека и трансплантации, внедрение которых уже давно назрело.

*Ключевые слова*: достоинство, донор, продолжительность жизни, донорство органов, качество жизни, реципиент, трансплантация.

**Y. Dangata**

## Dignity in organ donation – balancing stakeholders' interests

The issues of transplantation as one of the most effective way of treating persons who are suffering from diseases at their terminal stages and need organ transplantation are elucidated. An accent is made on the fact that organ donation and transplantation are rather complex and sensitive issues, raising different ethical, moral, and practical problems, which result in increasing the number of persons' death who are in the waiting list for organ donation. Current problems of organ donation in Great Britain are analyzed. The need of increasing the number of donors by making amendments to the Human Tissue Act 2004 as regards implementation of the presumption of consent to organ donation as well as the necessity to balance the stakeholders' interests and increasing the level of their knowledge of the fact how important is their role in organ donation rates growth is highlighted.

Current rates of organ donation in Great Britain; in particular statistic data of transplantation in this state during the period April 2010 till March 2012 are illustrated. The statistic data shows that in Great Britain as in other states of the world the amount of transplants despite increasing efforts to enhance organ donation over the years. The accent is made on the necessity for rethinking strategies for significant enhancement of availability of transplants.

The role of each stakeholder in organ donation, in particular: donor, donor's family, recipient, the public, doctors, the Government as well as persons with commercial interests in donation are illustrated. The author notes that the integrity and autonomy of an individual made the organ donation altruistic rather than by conscription in most of the civilized parts of the world. It is also noted that the ever widening gap between waiting list and donors necessitates facilitating the individual to empathetically balance his dignity and autonomy over his body on the one hand, and giving hope and dignity of life to another, the ever anxiously waiting organ recipient. The accent is also made on the role of the doctor who provides conservative treatment of the patient in order to 'buy' time for when there would be a donor. The doctor should be well informed of the ethical, moral, legal and logistic issues related to organ donation, since it is he who will give information to both donor and potential recipient and their respective families. The author highlights the important role of the public in the aspect of organ donation; in particular, an accent is to be made on the necessity of raising public awareness of the significance of their respective roles in enhancing donation rates as well as their awareness to the need of organ donation, and their moral obligation to meet it, since in general, people would be more willing to voluntarily donate when properly informed about the need to do so.

Certain aspects of commercial donation with the focus on its participants such as organ dealers, commercial doctor, are elucidated. Moral issues of organ donation commercialization are illustrated. The article also highlights certain initiatives of the Government of Great Britain which are aimed at increasing donation rates during next 5 years, in particular the role of transplant coordinators and their task to bridge the gap between potential donors and their families on the one hand, and recipients and their families on the other. The role of medical law and bioethics in the aspect of the necessity to make legislative amendments regulating organ and human tissue transplantation is analyzed in the article as well.

*Key words:* dignity, donor, life expectancy, organ donation, quality of life, recipient, transplantation.