Dissertation Abstract

The purpose of my dissertation is to give a philosophic defense of the so-called “dead donor” rule (DDR) in transplant ethics, something that is sorely lacking in the current literature on the topic. Part of my project is concerned with the rule’s correct formulation: What exactly does it forbid? I answer that it is primarily concerned with prohibiting the killing of the donor for his or her organs, and that it need not be concerned with requiring that the donor be dead before surgery begins (as important as that might be). What is morally important is that surgery not be the proximate cause of death. Historically, this flows out of the concern to be in compliance with homicide law and the longstanding norm that doctors should not kill their patients for any reason. As I see it, homicide law and the norms against physician-arranged death is based on a overarching norm that calls for the respect for human life, even in its waning form, because every human life has a fundamental and ineliminable dignity. Hence, I defend the following argument: (1) transplant protocols that would have us secure the donor’s death would have us kill someone for their organs; (2) killing someone for their organs disrespects the worth of someone; (3) no act that disrespects the worth of someone is permissible; (4) therefore, protocols that would have us secure the donor’s death are impermissible. This deductive approach to the issue indicates my intention to defend a moral absolute: It is wrong for transplant surgeons to kill their donors always and everywhere — even with their consent.

I defend this argument in each chapter. I begin with an analysis of the nature of ourselves and our deaths. I contend that the answer to the question “What are we?” is the answer, “a human organism” and that “death” marks the end of the biological life of a human organism, not a psychological entity distinct from a human organism. I then defend the currently accepted
neurological criterion as being sufficient for determining death. Next, I clarify what is meant by “transplant protocol” and “kills” and what it is to kill someone “for their organs.” Along the way, I contend for a theory of intention that seeks to balance out our first- and third-personal perspectives with respect to determining what counts as an intentional action.

Moving to the second premise, I argue that the fundamental problem with lethal transplant surgery, to which I assume the donor consents, is that it bestows more worth on the organs than the donor who has them. At stake is the very basis of human equality, which is an ineliminable dignity that each of us has in virtue of having a rational nature. To allow mortal harvesting would be to make our worth contingent upon variable quality of life of judgments that can only be based on properties that come in degrees. Thus, rejecting the ban on killing donors comes at the expense of our egalitarian principles, which require equal treatment insofar as protections from being killed are concerned. In short, the ban on killing is a matter of respect.

I end by explaining why this respect and our egalitarian principles require this treatment, and why it is at least “virtually” absolute if not categorically absolute (the third premise). The fundamental problem with non-absolutist systems of morality is that they only superficially differ from consequentialism, a moral theory most bioethicists are loath to accept. I give some reasons why consequentialism is inadequate, and explore options for grounding the the DDR as a moral absolute. Yet my case does not depend on the falsity of consequentialism, since a rule-consequentialist could hold that the DDR is “virtually” absolute because upholding it produces the best outcomes. I explore some of the reasons why this may be so. In any event, we have good reason to think that protocols that would have us secure the donor’s death are impermissible.