

Is there an American Market in Transplant Organs: Allegations of Commodities, Proprietary Interests, and the Mob?

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What do the international task forces that met in Bellagio (1997) and Rotterdam (2007) and the World Health Organization have in common? In the specific context of organ transplantation they all agree that an illegal and unregulated international organ market has become a serious problem. In fact, *The Bulletin of the World Health Organization* recently stated "The growth and regularization of the international organ trade should be regarded as a global public health issue" (p. 959).³ Apparently, these organ markets succeed by preying on the vulnerable to serve the wealthy or better off.

Although the sale of organs in the U.S.A. is explicitly proscribed, with punishments including 5 years in prison and up to \$50,000 in fines, Americans are not immune to their own variations on a nefarious theme. One American citizen received a liver graft in Shanghai, China after incurring a substantial, out-of-pocket cost there.¹ The donor was an executed prisoner and the American a "transplant tourist." Capital crimes in China may be as trivial as credit card fraud or stealing farm animals. The American, however, was not troubled upon learning of the fatal ramifications that his new liver had for the donor and his or her family. The American paid the suggested price and returned to his life in the U.S. As of now, there is no law in the U.S. to cover activities like this. This is just another example of "gaming" the system through a questionable international practice.

In a separate incident in November 2001, a plaque was placed at the entryway of U.C.L.A. Westwood Hospital's transplant section. It read, "In grateful recognition of the Goto Research Fund established through the generosity of Mr. Tadamasa Goto."² The donation was for \$100,000. Additionally, it is presumed that Mr. Goto paid cash for a liver transplant he received at Westwood, estimated to be in the range of \$500,000. This individual was recognized as having amassed his considerable fortune as a Japanese crime boss. Furthermore, at the time of his transplant he happened to be in the U.S. under FBI supervision, previously prohibited from entering this country. Later, in 2002, another \$100,000 "donation" was received by the same center from another associate of the same Japanese crime family.² The transplant surgeon for these procedures has responded that the selection process utilized in these two instances was both legal and just. Meanwhile, concern persisted and, ultimately, led to allegations appearing in the *Los Angeles Times*. Has the integrity and credibility of transplantation been stretched to a breaking point? Although the center in question and its staff are innocent until proven guilty, a serious investigation should occur and should be conducted in a completely transparent manner.

What are the critical ethical issues involved here? There are at least four. First, were the two foreign individuals objectively chosen, especially when compared to others on the waiting list? Liver transplantation utilizes the "MELD" score which is an empirically proven formula that ensures the sickest get the first available organ, not the "first come" or otherwise positioned (e.g., financially). Is there proof that this objective standard was honored?

Next, what about the fact that both recipients were non-resident aliens and the majority population on the waiting list was comprised of American citizens? U.N.O.S (United Network for Organ Sharing) policy states "no consideration in organ allocation is given to gender, race, citizenship, or social factors such as wealth." As a result, 5% of organs available in the US are allocated to non-resident aliens. Whether or not the program in question exceeded this "cap" should be ascertained.

Thirdly, the specific criterion "or social factors such as wealth" from the UNOS policy must be dissected during the requisite investigation. The two recipients not only paid for the costs of transplantation, but in addition, made a sizeable donation assumedly procured from questionable sources. If similar potential recipients were "jumped over" based on financial considerations, there is a big problem.

Finally, given that donors and their families are gracious citizens, the court of public opinion should be considered. Any media suspicion of wrongdoing must be addressed to the public's satisfaction. Lack of trust in the system by donors could have adverse effects on the availability of organs. Responses to the article in the *Los Angeles Times* already suggest irreparable damage to a public trust—but only if the allegations are substantiated.

Transparency is essential when allegations of this nature arise, particularly in the context of organ transplants. A "blind eye" cast towards the specifics of the situations at this particular center may add to the already fifteen-plus people who die each day without a donated organ.

- 1.) Hua, V. "Patients Seeking Transplants Turn to China." *San Francisco Chronicle* April 17, 2006. <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/04/17/MNGHAI5B51.DTL&hw=patients+seeking+transplants&sn=002&sc=848>, accessed June 2, 2008.
- 2.) Ornstein, C., Glionna, J. M. "After Livers, Cash to UCLA." *Los Angeles Times* May 31, 2008. <http://www.latimes.com/news/local/la-me-ucla31-2008may31.0.1503718.story>, accessed June 2, 2008.
- 3.) Shimazono, Y. "The State of the International Organ Trade: A Provisional Picture Based on Integration of Available Information." *Bulletin of the World Health Organization* 85, no. 12 (December 2007): 955-962.