

Increasing the Supply of Organs:

What Method is Most Ethical and Practical for the United States?

Most of us would like to think that we would do whatever it takes to help save the most people possible, but sometimes it is not as simple as it sounds. Everyday all around the United States, people are fighting for their lives, waiting for organs that may never come. As hard as it is to get an organ donation, what if we had the opportunity to make it easier for so many? It sounds great, but many people are not donors, and they don't have to be if they don't want to. People have a basic human right to make choices about their own bodies, which medical ethicists call the right to bodily autonomy. But all rights have limits. Even after someone has died, do they retain that right? In what cases does the utilitarian principles of doing the most good for the most people outweigh the right to do what one pleases with their organs after death?

Societies must come up with systems that serve the living while protecting the dead. All countries with a functioning health care system have a process of organ donation and transplants. Some countries such, such as the United States, let people "opt in," that is, to volunteer to become donors. Other countries, such as several European nations, have been experimenting with forms of an "opt out" system, in which citizens are presumed to be donors unless they explicitly act to take themselves off a donor list. This paper will examine the ethics and practicality of these two main approaches to the supply of donor organs in the service of explain what the U.S. can do better.

Although the U.S. should not force people into giving their organs to those who need them, our society should do more to promote organ donation through public policy “nudges” and increased education on the benefits of organ donation. People have a right to make their own choices about their organs, but society has an obligation to inform people and come up with systems that entice people to donate in order to have save the lives of the most people possible.

The Urgent Need for Organs

It is no surprise that people need organs all over the world. What may be surprising is how many people need them, and how many people will never get them. Over 100,000 people in the United States need an organ transplant and 18 people die each day waiting for one (Lieberman & Brown, 2012). This is a shocking and obviously frightening statistic, but it is even more frightening to be on that list. The following two examples (both summarized from Lieberman & Brown, 2012) illustrate the human suffering caused by the insufficient supply of organs.

Jessica Danielson was 19 when she was diagnosed with restrictive cardiomyopathy which led to congestive heart failure. She was told that she would either have a heart attack or die from the disease within 3 years. 10 years later, she is waiting in line for a double transplant at Mayo Clinic.

Joey Gill of Cincinnati has been on the waiting list for kidney and liver transplant for a year and a half. Gill has a genetic disorder known as Primary Hyperoxaluria Type I or PH1. It is caused by a defect in the liver which leads to an overproduction of waste in the liver. Over time this lead will lead to kidney failure. Once the kidneys fail, oxalate starts to attack other organs which will eventually leading to death. The only way to fix this is a liver and kidney transplant. Joey gets dialysis at the Mayo Clinic five days a week—a 5 hour per day process. Gill has had to put his life and plans for college on hold because of his need for an organ transplant. “I miss my life, you know, I could be doing a lot of things with my life,” he said. “It’s been really rough. I’ve gone through a lot of severe, unimaginable pain.” His mother said the hardest part is waiting. “Every time the phone rings my heart skips five beats because we don’t know if that’s the call. We want it to happen but it’s scary too. It’s a big deal, a big operation,” Nancy Gill said.

These stories are two of many. There are 99,998 more just like it.

The process of receiving of transplant has many steps (the following two paragraphs are based on Cleveland Clinic, 2021). First, a patient who is medically deemed to need an organ must visit a transplant hospital to get on the list. They will then be evaluated by a multi-disciplinary team in order to determine if they are eligible. There are national criteria to determine if someone is eligible, but each hospital has its own criteria as well. If the patient is determined to be a good candidate, they will be added to the national waiting list. They are allowed to be on the transplant list at more than one hospital. The only thing left to do is wait. The patient will be placed in a pool of names and when an organ becomes available all the patents in the pool are assessed to determine who will receive the transplant.

The United Network for Organ Sharing (UNOS) is the organization that maintains what organs are matched where. When an organ is available, the local organ procurement team sends medical social and genetic info to UNOS. UNOS then generates a list of potential recipients based on blood type, tissue type, organ size, medical urgency, time spent on the waiting list and distance between the donor and the recipient. The organ is then offered to the candidate who is the best match.

All of this goes to show that even when placed on the transplant list there is no guarantee for an organ. People can spend months and even years on the list waiting for organs that may never come. We have discussed the criteria necessary for donor recipients, but what other ways can we increase the number of organs available in the United States?

The U.S. Opt-in System and Donor Hesitancy

The United States currently operates on an opt-in organ donation system. This means that in order to be considered a registered donor, one must sign up or clearly express that they want to be an organ donor. In other countries an opt-out system has been introduced, which will be discussed in detail further.

There are three main ways to become an organ donor (see Cleveland Clinic, 2021). The first is to join a donor registry. This means that you legally give consent to give organs if it is an option. Another way is to sign and carry an organ donation card which can be downloaded and then always carried around. Being identified as an organ donor on one's driver's license is a common version of this approach. Finally, a person can tell the key people who will make decisions for them after their death that they want their organs donated, if needed. You can

also let a family member, lawyer, or minister know you would like to donate. These methods are not mutually exclusive; in fact, one should do all of them if they want to have the greatest chance at becoming a donor. Informing the family, particularly the family member or other person who is one's power of attorney or conservator, is the most important thing to do, because families often have the power to make the final decision about whether donation occurs.

As it happens, many families feel hesitant about donation their deceased loved one's organs, even if that person had said, while alive, that they wished to donate. Moreover, many people are hesitant to volunteer to donate, even though the American public at large overwhelmingly supports organ donation. This dual hesitancy is a large obstacle to the supply of organs.

Why is this? There are many reasons as to why people may be hesitant to donate. People may choose not to donate their organs due to religious reasons, fear of what donation is like, or lack of knowledge of organ donation and how to sign up. I believe that a lot of people don't know how to register for donation or realize how important it is.

The hesitancy held by many has been known to halt potential organ donors from registering. People have a misconception about the way bodies are handled during the procurement process, fear that healthcare workers will not work as hard to save themselves etc. Medical mistrust and bodily integrity concerns are still very large concerns that need to be addressed in order to increase donation rates (Miller et al., 2020). This fear not only is contained to the possible donor, but also can live within the relatives of potential donors. There

are also religious reasons that people cannot donate organs. Jehovah's witnesses and Orthodox Jews have restrictions when it comes to organ donation which therefore may force the to opt out.

These objections however are not good enough for the low statistics we see with organ donation. While there are valid reasons for people's unwillingness to not donate such as religious and cultural reasons, more must be done. 90% of people studied in the United Kingdom say they are in support of organ donation, but only 40% are registered donors (Miller et al., 2020). The gap must be bridged, and we need to do more as a society to encourage donation.

The Opt-Out System: Does it Avoid Coercion?

Some countries, including several in Europe, have adopted laws in the past few decades that reflect an opt out system. Such a system has been discussed in medical and bioethics literature under the varied terms presumed consent, implied consent, and deemed consent. These all amount to the same thing: Instead of going to the DMV or telling your doctor that you would like to be a donor, you are already a donor to begin with, and if you want to opt out you have the option to. The opt out system has been tested in Scotland and England beginning in 2020 and has shown great promise (Miller et al., 2020). It stills gives individuals the option to not participate but keeps as many people registered as possible (Miller et al., 2020).

The opt out system has its flaws or has the potential to have flaws. It must still be noted that people must be made aware of the fact that they are in the system. They must understand what organ donation is and how the process works. Without this proper understanding and the

right to opt out for whatever reason they may choose, I believe that there is a potential for the system to be unethical. With any medical proceeding all pros and cons and general information must be given and understood so that everyone has a right to make an informed choice.

One study argued that once we recognize the difference between consent and wishing and desiring, we will then see that obtaining consent before organ removal isn't necessary in order to respect patient autonomy (Zambrano, 2018). This claim comes from the basis that there is a difference between obtaining consent and carrying out the wishes and desires of a person (Zambrano, 2018). They have come up with a policy where you must either consent, dissent or do nothing (Zambrano, 2018). In this policy instead of giving their consent to donate, if they wish to donate then organ procurement can occur (Zambrano, 2018). The same is true in the opposite. If the person consented and then expressed a wish to not donate, then there wishes would be carried out (Zambrano, 2018). This policy allows for fluidity in people to change their minds without needing to change their consent. This policy is controversial as if you ask someone their wishes in their final moments it may not be what they truly desire if they are confused. It leads to the question of whether it is moral or not to not gain official consent before procurement.

Why Not Just *Make* Everyone a Donor?

The totally other spectrum is, should we just force donation and take good organs in order to save the most amount of people, regardless of their wishes? One of our fundamental values is to do the most good possible and if we can do this through giving our organs away

after we can no longer use them then what is the harm. There are arguments that we have no use for our organs after we die, and if we can give them to someone to help save their life, then that is the right thing to do and as a society we should not only encourage it but mandate it. Given that there are 18 people in the United States alone who die every day waiting for an organ, why would we let people be buried with their organs when they can be used to save someone and allow them to live a long and happy life? It would seem most respectful of the dignity of these patients to help them live.

This argument seems valid until you think about the person giving the organs rather than just the person receiving. The person who is donating or choosing not to donate is a person, too, with human dignity. They may have religious or cultural practices that organ donation would violate. Or someone may be scared and hesitant to donate.

We can educate, and even nudge, but to force people to do something with their bodies crosses a line that advocates of both ethical theories should be loath to cross. The deontological objection is clear enough: people have the right to bodily autonomy and dignity. People who have passed are still people and they deserve to be treated as such, and this means carrying out their wishes and following their desires, or lack thereof, for donation. But even utilitarians should worry about a coercive system. If we can take things from people after they have passed to better serve others, then where is the line? Can we take their belongings and give them to others who need it? Can we give their homes away or cars? The point of these questions is that promoting the overall good without built-in limits can lead to extreme results

Utilitarian's will also need to consider what approach would work. An elegant solution that does not actually increase donations and that leads to resistance from people because

they are being coerced is counterproductive. One study shows that coercion will not be attractive to many people. The study asked registered donors, registered non-donors, and unregistered individuals to evaluate three different socioeconomic resolutions to the lack of organ donors (Dos Santos et al., 2017). The results of this study showed that registered donors were in favor of a system based on autonomy and coercion. Registered non-donors were less supportive of coercion and wanted decisions about donation to be based on autonomy. From this study people already registered—both donors *and* non-donors—were more supportive of a new system that increases organ donation, but only the donors wanted coercion to be part of the process (presumably donors would not feel coerced since they have already agreed to donate). The third group, people not registered, were much less supportive of a new system and did not want coercion to be a part of it (Dos Santos et al., 2017).

Every person wants to have some form of autonomy incorporated into their decision, some more than others. However, if we force everyone to donate no matter what, then we strip autonomy all together and create a system where no one has the freedom to choose.

Relative and Presumed Consent: How do these systems affect donation?

Presumed consent does not purport to be a coercive approach, and it has many defenders among doctors, ethicists, and public officials. Let's consider the case for it. Presumed consent has been shown to boost donation but many results showed the practice of seeking relatives' consent, which can either veto or legitimize donation (Costa-Font et al., 2021). One study found that presumed consent policies increased willingness to donate (Costa-Font et al., 2021). In countries where no relative consent is required, presumed consent increases a donor's willing to donate (Costa-Font et al., 2021).

With the idea of presumed consent versus relative consent, models on how to increase organ donation have been proposed (Costa-Font et al., 2021). One idea was to ask whether people are willing to donate which is an active choice (Costa-Font et al., 2021). Then the next step is to give consequences of what they might lose by not opting in (Costa-Font et al., 2021). They believe this may be a better choice than the opt in versus opt out system.

Another system that was thought of is to remove the idea of family consent, although this is most likely not feasible in today's society.

From this study they concluded that presumed consent increases willingness to donate but relative consent decreases it (Zambrano, 2018). In order to increase the rate at which people donate we must create systems that encourage without enforcing. This study showed that there are ways to increase donation through refined systems. Relative consent lowers presumed consent, and although we cannot eliminate relative consent there are ways to reform what we must increase consent (Zambrano, 2018).

How to Nudge Donations Without Coercion

The U.S. opt in system is insufficient to meet the need but opt out systems have flaws as well. Is there a middle ground? Can we nudge people in the direction of donation while respecting their freedom? Nudging is the practice of encouraging people without belittling or forcing. With nudging, medical professionals and the people around potential donors, you can explain the benefits and upsides to donating. However, with this ideology you cannot make individuals feel bad for their overall decision or lie about the process to appease them or

change their minds. Nudging can be beneficial, but there is a fine line that must be walked such as not to turn nudging into something unethical.

Research Pertinent to Nudging

There was a study done on whether influencing relatives to allow for donation is ethical or unethical. In England and Scotland an introduction of opt out system rather than an opt in system is being introduced starting in 2020 (Miller et al., 2020). In this study 15 people who ended up choosing to opt out were asked why (Miller et al., 2020). Three main reasons were found as to why people chose to opt out. These were consent versus coercion, self-protection and “riddled with pitfalls” (Miller et al., 2020). From this info it was clear to see that there was an issue with the communication of organ donation. There is a misconception of what organ donation is and that is clear from peoples reasoning for not donating. In the United Kingdom a study was conducted that showed 90% of people are in favor of organ donation but only 40% are actively registered as donors (Miller et al., 2020). This shows a large disparity to those who favor donation versus those who are registered. In this article they explain that there the reason for this is medical mistrust and bodily integrity concerns (Miller et al., 2020). In order to ease this fear, it is important that we put out literature and education that shows the true good work that organ donation is. The key to keep as many people registered as possible is by minimizing the fears of people and making sure that everyone is aware of what a good thing organ donation really is.

Two studies were conducted to determine the opinions on opt in vs opt out system (Dijker et al., 2019). The goal was to examine to effects of sociopolitical viewpoints and attitudes toward donation. They found that individuals most concerned with the need of

patients waiting for an organ donation are indifferent with respect to the sociopolitical implications of a registration system (Dijker et al., 2019). On the other side, those strongly objecting to a coercive role for the state expresses reservation against donation as a whole (Dijker et al., 2019). The conclusion of this study was in order to allow for debate and open dialogue about donation and its implications (Dijker et al., 2019). This will allow for more people to donate if they feel their words and concerns are being heard.

In this study they found that improving consent rate from the family or next of kin is important in order to raise the amount of people involved in organ procurement (Sharif et al., 2018). They discussed incorporating an understanding of cognitive psychology and behavioral change therapy can be beneficial to understanding and helping to improve the rate of people who allow for donation (Sharif et al., 2018). A potential intervention to use the concept of nudge theory (Sharif et al., 2018). This is when the decision-making process of families is influenced by encouraging positive reinforcement and indirect suggestion (Sharif et al., 2018). This technique of nudging families through understanding and then overcoming their hesitations or fears about donation is a novel process (Sharif et al., 2018). However, it is also a controversial one.

How To Go About Nudging

Just as in life, there must be a line between subtle nudging and coercion. We cannot force people into donating organs, because the person giving or the families of those considering donation are entitled to make whatever choice suits them best. However, I believe that there is nothing wrong with listening to the hesitations of people and explaining the positives for the donating. This falls along the lines of education rather than coercion which is

morally wrong. For example, if someone has hesitation over donation due to fear of mistreatment of their dead relative, then there is no moral objection to explaining the process to make them feel at ease. If someone were to mislead the relative to make them believe organ procurement was something it wasn't and explain a totally different process than it really is then I would consider that to be immoral.

Although nudging is not wrong, there are boundaries that must be had to make sure that we do not cross the fine line. Using nudging to explain to families the positives as well as address their fears and hesitations is not wrong and I believe should be used in order to help save the lives of so many who otherwise have no chance. However, to use nudging to belittle or force someone into donation is wrong. If you have made your best case as to why they should donate and someone still does not want to allow it, I don't believe that you should use guilt tactics or make people feel bad. At the end of the day organ donation is a personal choice that crosses over into affecting the lives of others. That is why it is important that we encourage so we can do the most we can as citizens of the world to help those in need. However, we must remember that it starts with the person being willing to give up their organs, and we cannot coerce of force, but that does not mean that we should just do nothing in order to promote this life saving and selfless act.

As with everything that has been discussed so far, it falls on a very thin line between coercion and being moral. If someone is clearly not in control of their full capacities, then it is not moral to take their wishes as true if they have already expressed, they do not want to donate. However, if someone is clear and concise and wants to donate and expresses that wish,

then I believe we should honor their wishes without obtaining consent formally. People can change their minds and we should honor their dying wishes.

One way we can encourage donation is through education. Earlier in this paper I explained the four ways that people can state they would like to donate their organs. Most people, I included, did not know that other than putting the red heart on your license, that there is another way to say you want to donate your organs. This is a problem, as people who don't drive or don't opt into the system when they receive their license probably do not know of a way to change that. If more education was made possible than we would know how to register or state that we want to be donors.

One way to educate about organ donation is in drivers' education. Most people before getting their license take a driver's education course. In this course one way to educate people could be to dedicate a part of the time to explaining why organ donation is so important. Doing this within that time can be important as in a couple short months these people will be going to their license. If we can inform them before they go to get their license, then we can greatly increase the chance that they will say yes to being donors. We can also offer other programs to allow for registry such as at churches, doctors' offices, etc.

Conclusion: Seeking Balance

Organ donation is a tricky system as it involves the living and the dead. We have the lives of people to think about but also the lives of those who have passed on to also think about. There is no question that the system we have now is not working. Too many people are

on the transplant list and there are simply not enough donors to compensate for how people need organs to survive. Yet to force people or their families to give away their organs when it goes against their wishes is fundamentally unethical.

So where does this leave us? If we cannot enforce or coerce, how do we increase the donation rates? The research surveyed in this essay suggests that people are not against donation in a lot of instances but are rather afraid and misunderstand what it is. People fear for the treatment of their bodies during the procurement process, who their giving their organs to, and whether it is worth it to cut open their dead friend or relative for the sake of someone else. This is where education and nudging come into play. People are not opting in due to misinformation and if we can educate them on what donation is really like and what the process is like, then we can inspire so many to donate and save the lives of so many. Nudging is a tightrope, and while I believe we should nudge people to donate by explaining the benefits and reminding them why this is such a good thing to do for others, I don't think we should belittle people if they decide it is not something they want to do. Nudging can lead to coercion and guilt tripping, which is not the purpose of it, but rather a bad slope that people can fall.

I also believe the opt out system is something we genuinely need to think about and consider implementing upon further study. While it may see like we are trying to get people to donate without them knowing, I believe there is a way to present this system that still allows for the freedom of choice. If we explain that everyone has the right to opt out while explaining what it means to be a donor, then no rights are being violated.

Overall, donating is a tricky topic. We want to help the most amount of people possible, but we do not want to violate anyone's rights. Therefore, we are obligated as a society to look

further into new systems and more education that can increase the supply of organs and organ donors.

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