

COMMENT

The unfair trade: Why organ sale is indefensible

SIBY K GEORGE

Abstract

This paper argues against the proposal of a system of compensated living donation in the global south, especially India, without recourse to essentialist ethics. It relies on the anti-essentialist ethical-ontology of Levinas for the claim that it is the concrete vulnerability of the suffering other, rather than any absolute moral imperative, that makes a market for organs unethical.

Introduction: Situating the question

Organ sale, consensual or not, is prohibited, presuming the absolute inviolability of the embodied person. Criminalisation of the profit motive makes donation to foreigners virtually impossible in India. But Indian law does not criminalise prostitution per se, another type of commercial use of the body. A much abused part of the Indian law is donation with the approval of the authorisation committee to unrelated persons, owing to 'affection' or 'other special reasons'. The black market for organs, however, is active in India - and throughout the Global South - with the increased possibility of living longer, stricter laws against organ sale, and persistent cultural prejudices against living related and cadaveric donation. The exposés of 2016 show that this market has moved from shantytowns, shady clinics, and dubious quacks to elite private hospitals in major metropolises of the country. Around 2,000 Indians sell their kidneys annually, mostly to foreigners, but there were only around 750 legal cadaveric donations in 2015 (0.5 per million population), though showing a steadily rising trend (1). On the other hand, in Iran there is a legal market for organs. In this context, the question is: why is compensation paid to an organ donor unethical?

My purpose in this paper is to argue against the proposal of a system of compensated living donation in the Global South, especially India, without recourse to essentialist ethics or moral absolutism, according to which an ethical transgression breaks a universal, objective, rationally knowable and natural ethical law. The context of the argument is India and the Global South in general. The term 'culture' is used in the sense that most relevant aspects pertaining to humans are cultivable and transformable rather than natural and unchangeable.

In the first section below, I elaborate on the anti-essentialist ethico-ontological perspective, referring to Levinas, in order to clarify why I reject both the ultra-moralistic anti-commodification and the ultra-triumphalist pro-commodification ethics, which takes transplant for a sort of human right to defy death. In the next section, I argue that a regulated market for organs cannot be unethical in an absolutist-essentialist sense. Rather, it is unethical from the perspective of the vulnerability of victims, especially in contexts where they are coerced to consent to sell their organs out of desperation. I conclude with a brief note on new cultures of dying and living.

Towards an anti-essentialist transplant ethics

Two broad ethical perspectives may be seen in modern western philosophy-essentialism and anti-essentialism. Essentialism, represented in deontological and utilitarian traditions, deduces ethical principles from rationally knowable, necessary, unchangeable metaphysical essences, much like religious ethics before it, based its principles on metaphysical notions such as God and soul. Immanuel Kant's humanity principle - the inviolable dignity of the person - and his notion of the worth of ethical dispositions are drawn from his metaphysics of essential, 'unconditional and incomparable' human nature, which is autonomous, rational and lawgiving. "Autonomy," writes Kant, "is therefore the ground of the dignity of human nature and of every rational nature." (2: p 85) Further, Kant's ethics presupposes the three postulates of immortality, freedom and God.

An important strand of philosophy since the late 19th century, seen in the works of figures such as Nietzsche, Heidegger and Wittgenstein, considers the concept of eternal and universal 'essence,' hidden from our experiences and language, as a philosophical pretension. Essentialism forces us to forget that what we consider as essential is a historical-cultural construct, contingent upon time and place. Nietzsche writes: "'Essence,' the 'essential nature,' is something perspective and already presupposes a multiplicity." (3: p 301) The evolutionary perspective has indeed dealt a death blow to essentialist humanism. Exploring an anti-essentialist stance for bioethics, Stan van Hooft argues that often "the standards of human excellence propounded by essentialist theory are the standards that are native to the propounder of the theory. This is why essentialism is usually oppressive to anyone who is 'other' in relation to the essentialist." (4: p 25)

Author: **Siby K George** (kgsiby@iitb.ac.in), Associate Professor, Department of Humanities and Social Sciences, Indian Institute of Technology Bombay, Powai, Mumbai 400 076 INDIA

To cite: George SK. The unfair trade: Why organ sale is indefensible. *Indian J Med Ethics*. Published online on January 4, 2017.

©Indian Journal of Medical Ethics 2017

Essentialist human ontology has become palpably problematic with contemporary technology. The American feminist thinker Donna Haraway argues that traditional binaries such as human-animal, animal-machine, physical-nonphysical have become perceivably untenable with new technology and science. She captures the tangible breach of ontological essentialism in her concept-metaphor of the 'cyborg,' which is both organism and machine, real and fictional, as when we implant foreign organs or machines into our bodies, or when we make real imaginative suggestions in science fiction and socio-political discourses. For Haraway, the anti-essentialist 'cyborg ontology' can be the basis both of liberation and oppression, but it definitively abandons the idea of a hidden essence behind identity that stokes a fear of transgressing its boundaries. "Liberation rests," says Haraway, "on the construction of the consciousness... of oppression, and so of possibility." (5: p 11) If organ transplant was both practically unimaginable and morally abhorrent before, cyborg ontology can explain and defend how new technological and moral-political cultures of liberation from biological and social dominations have legitimately transformed such imagination and ethics.

Taking a broadly anti-essentialist ontological stance, the 20th century French phenomenologist Emmanuel Levinas argues that our actual moral sensibility does not arise from free rational calculation. For example, our unwillingness to get involved in a road accident in fact arises from rational calculation, which restrains our more original moral sensibility. Levinas's ontological explanation for the possibility of ethics hinges on the spontaneous moral response ('responsibility' in his terminology) we feel obliged to have towards the 'face' or the other in her vulnerable exposure that is, our own embodied-sensual-moral openness to the other which is enacted through culturally filtered interpretive lenses, when we are faced with a morally needy other human being. Indeed, it is only when we forsake in some measure our own being, essence, freedom and self-interest, and recognise the other person in her otherness, that ethics is possible. Our own sense of self/identity is an outcome of dialogical interaction with the world and others, passively received without our choice and decision, from the earliest moments of our birth. Levinas, therefore, holds that our originary ethical sensibility or responsibility for the other is an aspect of our own subjectivity. "The present is a beginning in my freedom," he contends, "whereas the Good is not presented to freedom; it has chosen me before I have chosen it. No one is good voluntarily." (6: p 11) Of course, we can be either ethical or unethical in the normative sense, accordingly as we respond or not in terms of originary responsibility. Our manifold culturally embedded ethical and legal norms, argues Levinas, are various necessary ways in which we attempt to rationalise and regulate our anarchic responsibility for the other. The latter he calls 'the saying' and the former 'the said'. That is, the original responsibility, which is the ontological communication of goodness, has to be finally expressed in language and culture as science, reason, art, ethics and law. "Responsibility

for the others or communication is the adventure that bears all the discourse of science and philosophy." (6: 160) Notice that Levinas does not ontologically explain ethical action in terms of any rational imperative but does so in terms of sensible openness to otherness. Before reason and calculation, morality is an affect. It is not clear in Levinas' writings whether moral sensibility in this sense is an essential human trait. However, I take it as a concrete and finite possibility of humans as we know them historically.

From the anti-essentialist point of view, the autonomy of the rational agent, which is the foundation for contemporary medical ethics, is a modern cultural-moral ideal rather than an essential human trait. Humans can perhaps never be fully transparent autonomous agents in their concrete situations. The instrument of informed consent, widely used in medical contexts, is a tool deployed for the sake of pragmatic ethical transactions. It is never unambiguously moral. As a matter of fact, in nearly all recent organs trade exposés in India, the medical professionals involved made a legally valid case to their own advantage, relying on the sanctity of consent documents. The cultural process of modernity is still underway in India in a specifically contextual and different manner from the West. Hence, the unqualified reliance on informed consent documentation is that much more suspect in India. It is often an alibi for the medical professional to legally wriggle out of compromising situations rather than the unmistakable guarantor of patient autonomy. In the context of organ transplantation in India, and perhaps everywhere, therefore, a more imaginative, context-specific, and morally sensitive approach towards donors and patients is required on the part of the medical professional.

Anand Gandhi's film *The Ship of Theseus* (2013) powerfully depicts moral ambivalence and different moral responses to organ transplants. In its first frames, we read the classic essentialist problem of the riddle of Theseus's ship: "As the planks of Theseus's ship needed repair, it was replaced part by part, up to a point where not a single part from the original ship remained. Is it, then, still the same ship?" The film skillfully draws our attention to three true-to-life organ transplant episodes, which lead to a reversal of perspective for the subject of transplant. The visually challenged photographer Aaliya finds that a cornea transplant that gives her an overabundance of visual splendor has in fact taken away her photographer's creativity, and she decides to abandon photography. The animal rights activist and monk Maitreya, who refuses liver transplant in the name of his moral ideology and decides instead to die voluntarily, finally opts for a transplant in his encounter with the terror of death. The successful kidney transplant survivor and carefree stockbroker Navin decides to wage a moral-legal battle against kidney theft and organs trade but is forced into the realisation of the entanglement of the trade in the geopolitical economy of the North-South divide. All three protagonists are united in the final scene of the film in the awareness that they, and a few others like them, are partaking in the life of a speleologist, who had a fatal fall. The instability and essence-lessness of identity, and the meaninglessness

of essentialist moralism, based on an absolute conception of autonomy, free will and human exceptionality, are the emphases of the film.

The anti-essentialist ethical perspective, I want to argue, disavows both the prudish anti-commodification stance on organ transplant, as well as the triumphalist pro-commodification stance.

As regards the first, I must say that moral cultures do change and contemporary transplant ethics has come a long way. Kant disapproved of organ transplant. "To deprive oneself of an integral part or organ (to maim oneself) - for example, to give away or sell a tooth to be transplanted into another's mouth, or to have oneself castrated in order to get an easier livelihood as a singer, and so forth - are ways of partially murdering oneself." (2: p 547) He disapproved of sexual love except for the purpose of preservation of the species. The nostalgia for permanent modes of being and doing is a powerful myth, rehabilitated by modern philosophy and science, although science itself is witness to foundational shifts in paradigm. Contemporary critical enquiry is in a process of interrogating the residual moral difficulties of modern ethical ideals. The ideal of sacrosanctity of the body, which has crept into modern ethics from traditional morality and has too many skeletons in the cupboard, continues to haunt the views of even perceptive organ trade critics like Nancy Scheper-Hughes, when they uncritically bemoan the death of traditional moralities, as if moral cultures never change (7). The inviolability of the body, enshrined in the ethics of purity and pollution, is often the very reason for violating female bodies and Dalit bodies (8). From a Kantian perspective, scholars sometimes argue that commodification of the body is wrong, despite informed consent, because they consider "embodiment as a fundamental part of personhood" (9: p 170). Libertarians challenge this, insisting that "one must show why the fact that money is exchanged corrupts the transfer of organs from one person to another" (10: p 141). Indeed, going by the principles of contemporary medical ethics, medical professionals should promote uncoerced organ sale, regulated by informed consent documentation. The self-evident immorality of organ sale flies in the face of Kantian justifications of the voluntary sale of oneself to another in prostitution or pornography (11), in surrogacy, and in the prevalence of the socially condoned practices of voluntary subordination of oneself to another in the exploitative conditions of family, marriage and neoliberal workspaces. In fact, some scholars, after thinking through the Kantian paradigm, have used it to defend sale of organs under ideal conditions (12). Just like sexual morality, which is gradually abandoning a puritanical ethos, medical ethics cannot be blind to the new possibilities offered to the body by modern medicine. From an anti-essentialist perspective of public morality, the conclusion that compensating for organs is absolutely evil is difficult to fathom, if the seller is not harmed by the sale and there are ideal circumstances to give her free consent. Indeed, a desirable culture of easy, unremorseful gifting or even selling of body fluids and body parts, without unreasonable risks and exploitation of the donor/seller, is welcome.

As for the second stance, the modernist belief of death as failure is its basis. A consequence of the denial of death is the technologisation of dying. Another is cryonics (preservation of the body immediately after death at a low temperature in the hope of resuscitating it with advances in medicine), which has already been pursued by a few Americans (13). We haven't yet ceased to die, though the culture of dying has changed. With advances in modern medicine, and the death scene gradually shifting from home to hospital, and the body being professionally prepared for funeral, our encounter with human mortality and finitude is becoming rather unreal and the longing to live longer insistent. Lewis Thomas, the American philosopher-poet of medicine, argues that Americans "view death as a sort of failure, just as we now look at the process of aging itself as failure" (14: p 3). Pre-modern cultures accentuated the inevitability of dying, tempering the terror of death with anticipations of immortality. We read in *The Bhagavad Gita* II:27: "What is born is certain of death/ What is dead is certain of birth./ And so, for what is inevitable/ You must not mourn." The excessively insistent transplant culture, supported by an organ black market, is undergirded by the culture of death as failure. But failure presumes a degree of freedom for the subject. We fail an examination, an interview, an assigned duty, a moral standard. Death was traditionally not a failure because we hadn't been free enough to refuse death. Organs never failed before because we couldn't artificially control their activity; thus there was no organ shortage. They fail today because we are able to replace them when they cease to function. We are now free to refuse death far beyond traditional limits with the aid of medical technologies. Thus, human focus is successfully turned away from other-worldly concerns of tradition to this-worldly lifespan expansion the new materialistic immortality. But the extreme eagerness to escape death, taking recourse to the new medical technologies, even by plunging another into danger, perhaps signifies the human desire for self-deification. About this condition, Heidegger says the following: "Creation, once the prerogative of the biblical God, has become the mark of human activity, whose creative work becomes in the end business transactions." (15: p 165) The inordinate sacrosanctity of the body, thus, gives way to profane manipulation of bodies to deify finite humans. Scheper-Hughes points out that free market medicine requires "the divisible body and detachable organs as commodities" (16: p 62). In the process, the moral sensibility, arising from human sociality, comes to be compromised. Technologically amplified modern human freedom can take ghostly proportions.

The good we are seeking in organ transplant is humanly desirable freedom from illness, pain and death, as long as possible for finite humans. From an anti-essentialist ethical perspective, this good we are seeking has to steer clear of both prudish anti-commodification moralism and defiant pro-commodification triumphalism. The question of relevance, therefore, is: how far can one push the prolongation of one's life without jeopardising another's good and life itself?

The moral predicament: gifting or selling organs?

The moral predicament concerning transplant ethics stems from the liberal ethico-political ideal of individual autonomy. Libertarian philosophers see the notion of self-ownership as attached to the Kantian principle of treating autonomous individuals as ends in themselves, who cannot be sacrificed for any other end without their consent (17). Why is a person, they ask, forbidden to sell parts of her body to a needy other as the fully autonomous owner of her own body, even as she is encouraged to donate parts of her body under the same assumptions? Autonomy and self-ownership are deeply ingrained assumptions of mainstream contemporary bioethics globally (18). The claim that body parts cannot be sold because the body is fundamental to personhood flies in the face of the claim that they can nevertheless be gifted. The property-based model of autonomous selfhood, on which are based such claims of gifting and selling, is counterintuitive to the way a human becomes a self, an identity.

Against this model, Levinas holds that humans are not discrete, autonomous spirits; their subjectivity is formed in relations with others. Since Heidegger, the self is not to be understood as a thing or property but as 'a way of being.' Hence, ontologically speaking, my responsibility for others comes before my self-ownership and autonomy: "the surplus of my duties over my rights. The forgetting of self moves justice" (6: p 159). The Levinasian ethico-ontological paradigm begins and ends with the other, not the self. Hence, the ideals of individual freedom and rights are justified not because the individual is a discrete, self-owned ego. Rather, it is the responsibility of everyone in society to invest the individual with rights so that she may not be weighed down by the anarchic responsibility that forms her own subjectivity. It is to be remembered that the ideal of autonomy became culturally acceptable in western societies after a hard-fought movement of resistance against the overbearing communal ethos of sacrificing self-interests at the altar of community. Autonomy is not a natural human trait. A culture of freedom is crucial for its cultivation and practice. Levinas insists that a free and equal society of human fulfillment does not entail "a limitation of anarchic responsibility," but is conditioned on "the irreducible responsibility of the one for all," which cannot be "without friendships and faces" (6: p 159).

Kristin Zeiler criticises Levinas' account of moral experience as an overtly altruistic model for transplant ethics donation without reciprocation. She, however, recognises that his work can also be understood "as seeking to reach a better understanding of the phenomenology of the experience of feeling the need to come to someone's aid" (19: p 55). That is, it focuses on the vulnerabilities and concreteness of the asymmetric encounter between giver and receiver. Stephen Frears's film *Dirty Pretty Things* (2002) depicts the Nigerian immigrant doctor Okwe and Turkish chambermaid Senayas drawn into the murky world of prostitution, drug peddling and illegal organ transplantation in a shady London hotel. Exploitation of vulnerable immigrant bodies for sex and organ

harvesting is the main storyline. Calvo and Sanchez observe that the film is a perverse reversal of the emphasis on relation rather than identity/unicity¹ in Levinas' ethics of hospitable welcome because immigrants fall prey to exchanging their bodies for new passports and new identities (20). Levinas was himself interned at the Nazi concentration camp and does not deny such shocking reversals. The point of his ethical ontology is to explain the possibility of even little acts of kindness that can prevail in situations where each fought for her own bare survival. *Dirty Pretty Things* depicts not only the vulnerability of the immigrant protagonists, but also the moral relation they are able to maintain under threat of police detection and danger to life. Michael Davidson sees in the film the contradiction of dirty/pretty relations between international labour migration, new medical technologies and sexuality. Gross, dirty exploitation, rather than welcoming of the vulnerable other, is a cruel repetition of historical capitalism as depicted in the 'dirty' exploitation of vulnerable migrants and the 'pretty' side of the happenings - sexual gratification, cheap labour and the ultimate gift of life itself - as they favour the bourgeoisie. "The invisibility of these forces to the consumer of body parts," writes Davidson, "like Marx's version of the laborer's body in the commodity, maintains the surface glamour of touristic London and finesses the illegal traffic in body parts." (21: p 198)

However, the strong anti-commodification view does not seem to hold water within the anti-essentialist paradigm of Levinas, for whom ethics does not draw from a divine or rational imperative. He is concerned with the nature of ethics after the anti-essentialist recognition of incessant contingency and difference without stable identity - in short, the secular break, Nietzsche's death of God. Moral sensibility gives rise to values, rather than absolute values giving rise to the ethical impulse. Ethics "preserves difference in the non-indifference of the Good" (6: p 123). There are manifold ways in which we can be good in a situation. Levinas' goal is to free ethics from enchainment to self-interest. Values and norms express in their difference the ineluctable ambiguity of our originary responsibility for the other. Beyond being, essence and absoluteness, ethical language, enshrined in norms and laws, gives imperfect witness to this responsibility, contingent upon the finite existential imperative of human relations. Ethics is as fluid and indeterminate as a human relationship itself is. Levinas' point is about the culture or cultivation of a sense of responsibility for the other that is self-constitutive. Rather than an obsession with formal absolutes, ethics is attention to human difference.

The logic of global capital, untiringly pursued by most nations, is the resourcification of all beings, as Heidegger laments. For meaningful non-commodified relations and exchanges to freely emerge, the all-encompassing current culture of resourcification and capitalisation of all beings, including embodied persons and their intimate body parts, has to change. Without rethinking neoliberal market relations, singling out the sale of organs as absolutely dehumanising is disingenuous. Assuming this global context, De Castro argues

that there could be multiple motivations - ethical, unethical and ambivalent - both to donate as well as to sell organs (22). Critics point out that emotional despair can drive relatives to donate organs just as economic despair can drive nonrelatives to sell them. The system of donation cannot be considered always already fair. Further, donation and trade of organs are both unfair against disadvantaged patients, who are less likely to get a donor (23). Economic and cultural compulsions often coerce financially dependent, uneducated women to be the typical 'altruistic' kidney donor in India for typically men-receivers (24), which is also the global trend (25). De Castro lists various possible uncompensated and compensated organ giving scenarios, which are not morally transparent. We can multiply such scenarios almost infinitely and our intuitive moral reaction to different scenarios of organ donation and sale vary. From the Levinasian anti-essentialist perspective of the ethics of relation, it is difficult to see what is wrong with compensated donation, provided it does not harm oneself and fosters a vulnerable other. In this paradigm, lawmaking is a response to the moral situation rather than abstract, essentialist, universal, rational discovery of a principle.

Indeed, it might be possible, even from the Kantian perspective of not treating humanity merely as an exchangeable commodity, to imagine an ideal scenario of compensated organ donation in a Rawlsian well-ordered society of the global North. In this vein, Samuel Kerstein argues that we do not consider a well-off person selling an organ under due care to another such person who is unwell, as a case of exploitation, though trading in organs of the poor, even in a legally regulated market, we might consider so. Kerstein shows that the humanity principle is a guide for contextually mediated empirical judgement, not an absolute imperative (12). In other words, if compensated donation is reasonably possible, it is possible in the global north, which today is unfortunately the beneficiary of the black market in organs. A future is perhaps coming when a publicly mediated system of altruism as well as reciprocation (which is but a compensation) will draw the moral boundaries of transplant ethics. At present, however, the traditional romanticisation of unadulterated flesh is powering the popular refusal of both cadaveric and living donation.

Hence, what calls for ethical attention from the anti-essentialist perspective are vulnerabilities of the typically subaltern organ seller/donor in the global organs bazaar, whether black or white. Since not even a partially ideal context for free and fair regulated and compensated donation system is prevalent in the global South today, and since consent in such contexts could often mean tacit succumbing to vulnerabilities, it is morally problematic to blindly rely on the instrumental feasibility of informed consent documentation to ease legally permissible unrelated donation. At the same time, although the donation system itself is beset with problems and ambiguities, an anti-essentialist (cyborg) perspective cannot be blind to the new medical possibilities available for the body and the legitimate human desire for a longer lifespan. In this context, rather than letting two unjust and legally validated systems of compensated and purely altruistic systems of donation to

come into operation, it is reasonable to experiment with and improve the donation system a somewhat controllable, small-scale system to begin with. The argument is certainly one of choosing the lesser evil in order to honour the legitimate human desire for 'materialistic immortality'. Injustices in the nonmarket system of donation and the black market for organs show that a market system of donation such as the Iranian one can further endanger rather than ameliorate the plight of vulnerable persons. Overcoming organ shortage is not a morally justifiable reason to jeopardise the lives of vulnerable individuals. Compensated donation is morally problematic not because it is an absolute, universal evil but because we are encountering suffering bodies in the global market for organs.

The new anti-essentialist (cyborg) ontology of the body, hidden in the popular notion of body parts as exchangeable socio-cultural resources, which is supporting the new global transplant culture, is manifesting both the possibilities of materialistic immortality as well as new ways of unjustly treating vulnerable others, couched in a discourse of saving lives. While the tenacious refusal of death, the animalistic survival instinct, is understandably human, the right of survival can be truly honored only when Haraway's cyborg imagery of artificial devices replacing human organs with ease becomes feasible for all, assisted by medical technologies and egalitarian politics. Scheper-Hughes observes that a highly visible, media-driven 'surplus empathy' for suffering patients, and the existence of fairly ideal donor care conditions in the global north, give rise to the inaccurate public perception of an invasive surgical procedure as simple and harmless for all. It is unethical to accept organs from vulnerable persons, she argues, because ideal conditions for donating or selling organs do not exist in their case (16). She sees insinuations of the ancient rite of human sacrifice in the language of exchange, gift and donation (26). Blatant, capitalistic exploitation of vulnerable others is the moral question in the new transplant culture for Scheper-Hughes: "the flow of organs follows the modern routes of capital: from South to North, from Third to First World, from poor to rich, from black and brown to white, and from female to male" (7: p 193). A non-moralistic and anti-essentialist conception of the body can claim moral legitimacy only when it steers clear of exploiting vulnerable bodies.

Surrogacy, prostitution and exploitative employments, though legal, are not morally unproblematic because they too can involve exploitation of vulnerable others, but unlike these, organ sale involves an invasive surgical procedure, leading to permanent removal of an intimate body part, possible health complications, and requirement of elaborate post-surgery care (27). The exploitative conditions persist even in the legal organs market of Iran, where organ-sellers are found to be neglected victims (28). The repeated empirical finding in India is that individuals who sell their kidneys for profit do not actually benefit from the sale in a way that enhances their living conditions. Money received was spent on clearing debts, and average family income came down after the sale, as did average health indicators (29). In *Al Jazeera's* recent episode of

the current affairs investigative programme *101 East* on kidney trafficking, the reporter, Steve Chao, focuses on several people in Hokshe Village, known as Nepal's Kidney Valley, where most adults, persuaded by preying organ traffickers and forced by ignorance and poverty, disposed of their organs in Kolkata's transplant clinics (30). "I agreed to give a kidney to the agent," tells a donor. "But I didn't even know what a kidney was." The interviewees are typically men in tears, regretting their moment of error and reporting health complications, inability to work, guilt and stigma, and fear of the organ mafia. Scheper-Hughes clarifies that men who sell their kidneys are frequently labeled weak and disabled, and are rebuffed by fiancées, potential employers and coworkers (16). The well-known Villivakkam episode of the 1990s - India's kidney village - is a classic case of livelihood desperation pushing a tsunami-hit fishing community's women to sell off their kidneys to pay off debts. A probe in 2007 did not reveal desirable change (31). All recent kidney racket exposés in India continued to validate the morally shocking vulnerabilities of victims. What a Nepalese official told the *Time Magazine* reporter in 2014 appears to be the truth: "I've not found a single person who sold their [sic] kidney who is rich." (32)

Vulnerable victims of organ trafficking in the Global South, however, are preyed on not only by rich westerners. Organ predators are typically rich and privileged citizens. In other words, there could be foreign as well as domestic colonisation or exploitation of vulnerable bodies. The clever hybrid possibilities of cyborg ontology, in this instance, show their ugly side. Lawrence Cohen paints the re-inscriptions of caste coding in transplant culture with reference to the classic 1959 Hindi film *Sujata*, directed by Bimal Roy. In the film, modernity is characterised as nationalistic decoding of caste difference, as a Dalit girl's rare blood group gives another lease of life to her conservative foster mother and she is romantically engaged with a Brahmin boy. But for Cohen, more than 'decoding', modernity is often about a different form of re-inscribing and recoding traditional prejudices. What is eulogised as the disappearance of regressive differences of caste is not a Levinasian welcoming of the face but another form of exploitation, for the sake of materialistic immortality, made possible through transplantation technology. This biopolitics of late capital is the morally worrying factor in the emerging transplant culture (33). Karen De Looze observes that there are powerful Indian mores, which consider gifts as polluting, especially those coming from the lower castes. Payment is considered as negating the gift's polluting effect, and thereby encouraging organ sale rather than donation. Other culturally coded prohibitory practices for donation that de Looze mentions are the funeral ritual of whole-body cremation and associating the partitioning of body with spirit possession, impurity and unwholesome birth in the next life (34). Family bonds, again, discourage donation by relatives. These social mores and practices, and the existence of a lively black market, make the lower castes further vulnerable in the organs bazaar. Indeed, social and racist prejudices act in various ways to complicate transplant ethics globally. Scheper-Hughes cites

kidney tourism to India from conservative Gulf countries as an example of traditionalists targeting more liberal regions of the world for transplant tourism (7). Clandestine practices of conditional-nationalist living kidney donation are encouraged in Israel (35). Organ donation activists like Sunil Shroff, head of Multi Organ Harvesting Aid Network, Chennai, argue that poor infrastructure and inadequate awareness, rather than culture, are the reasons for India's low donation rates (36). Nevertheless, a 2014 study of 352 relatives of patients, health exhibition attendees, college students and teachers in Delhi quotes lack of awareness, religious beliefs and superstitions, and lack of faith in the Indian health system as reasons for donation hesitance (37). However, cultures are never static. They change with new possibilities, discourses and interventions.

Conclusion: New moral cultures

To sum up, taking an anti-essentialist ethico-ontological perspective, I have argued that both the moralistic anti-commodification stance towards body parts as well as the triumphalist pro-commodification stance are morally problematic. While compensated donation in ideal conditions need not be foreclosed, the present transplant culture of gross exploitation of vulnerable donors does not warrant a system of compensated donation in the global South. I have, at the same time, maintained throughout the paper that cultures are fluid and do change with new possibilities and appropriate interventions. Ethical public cultures seldom emerge naturally; rather, they call for careful responses to new realities. Hence, I conclude with the suggestion that the emerging new ways of approaching one's own and the other's dying in the global south may be critically reconsidered. As for one's dying, while human desire and medical technology to prolong life the new materialistic immortality are morally praiseworthy, the widely prevalent and repugnant transplant culture of affluent persons preying on the body parts of vulnerable individuals in the global south, in the name of free market ethos and their right to refuse death, is morally reprehensible.

Our approach towards the other's dying can be reimagined in terms of our own 'moral immortality' of living in the bodies of others as organ donors, as the speleologist in *The Ship of Theseus*, which, I think, is the most appropriate way of describing the moral dimension of cyborg ontology, of Levinas 'other in the same.' In this direction, (i) a counterculture of willing donation may be publicly encouraged among invulnerable citizens under a regulated scheme of necessary medical support and care for donors, (ii) the unrelated donor system may be carefully monitored so that vulnerable citizens are not exploited, (iii) the black market in organs may be eliminated, and (iv) a regulated cadaveric donation system may be set in place to make sure that organs are distributed justly to those in transplant queues, without which public trust in the practice cannot be nurtured. Needless to say, the role of the State, civil society, and institutions of medicine, education, media, and religion, is absolutely central to these countercultures. Because new theologies of cadaveric and

living donation can be enormously effective in the context of India, the role of religion in such countercultures cannot be overstated, and fortunately such cultures of change are already on the anvil (38).

Note:

¹ 'Unicity', in Calvo and Sanchez, means a coherent identity or oneness

References

- Shroff S. Current trends in kidney transplantation in India. *Indian J Uro.* 2016; 32(3): 173-4.
- Kant I. *Practical philosophy*. Gregor MJ, translator. Cambridge: Cambridge University Press; 1996.
- Nietzsche F. *The will to power*. Kaufmann W, Hollingdale RJ, translators, Kaufmann W, editor. New York: Vintage; 1968.
- Hoofst S. *Life, death, and subjectivity: Moral sources in bioethics*. Amsterdam: Rodopi; 2004.
- Haraway DJ. *Simians, cyborgs, and women: The reinvention of nature*. New York: Routledge; 1991.
- Levinas E. *Otherwise than being, or beyond essence*. Lingis A, translator. Pittsburgh, PA: Duquesne University Press; 1998.
- Scheper-Hughes N. The global traffic in human organs. *Current Anthropology*. 2000; (41)2: 191-224.
- Chowdhry P. Enforcing cultural codes: Gender and violence in northern India. *Econ Pol Wkly*. 1997; 32 (19):1019-28.
- Campbell AV. Why a market in organs is inevitably unethical. *Asian Bioethics Review*. 2016; 8(3): 164-76.
- Fabre C. *Whose body is it anyway? Justice and the integrity of the person*. Oxford: Oxford University Press; 2006.
- Garry A. Pornography and respect for women. *Soc Theory and Practice*. 1978; 4(4): 395-421.
- Kerstein SJ. Kantian condemnation of commerce in organs. *Kennedy Inst Ethics J*. 2009; 19(2): 147-169.
- Moen OM. The case of cryonics. *J Med Ethics*. 2015; 41(8): 677-81.
- Thomas L. Dying as failure. *Ann Am Acad Pol Soc Sci* 1980; 447: 1-4.
- Heidegger M. *Off the beaten track*. Young J, Haynes K, translators. Cambridge: Cambridge University Press; 2002.
- Scheper-Hughes N. The ends of the body: Commodity fetishism and the global traffic in organs. *SAIS Review*. 2002; XXII(1): 61-80.
- Nozick R. *Anarchy, state, utopia*. Oxford: Blackwell; 1974.
- Svenaues F. The body as gift, resource or commodity? Heidegger and the ethics of organ transplantation. *Bioethical Inquiry*. 2010; 7(2): 163-72.
- Zeiler K. With Levinas against Levinas: Steps towards a phenomenological ethics of bodily giving in medicine. In: Gunnarson M, Svenaues F, editors. *The body as gift, resource, and commodity: Exchanging organs, tissues, and cells in the 21st Century*. Huddinge: Södertörns; 2012. pp. 31-57.
- Calvo AMMM, Sanchez JB. *Hospitality in American literature and culture: Spaces, bodies, borders*. Abingdon: Routledge; 2017.
- Davidson M. *Concerto for the left hand: Disability and the defamiliar body*. Ann Arbor, MI: The University of Michigan Press; 2008.
- De Castro LD. Commodification and exploitation: Arguments in favour of compensated organ donation. *J Med Ethics*. 2003; 29(3): 142-6.
- Canca C. The unjustified policy against a market in kidneys. *Asian Bioethics Review*. 2016; 8(3): 177-194.
- Bal MM, Saikia B. Gender bias in renal transplantation: Are women alone donating kidneys in India? *Transplant Proc*. 2007; 39(10): 2961-3.
- Biller-Andorno N. Gender imbalance in living organ donation. *Med Health Care Philos*. 2002; 5(2): 199-203.
- Scheper-Hughes N. Commodity fetishism in organs trafficking. *Body & Society*. 2001; 7(2/3): 31-62.
- Shroff S. Legal and ethical aspects of organ donation and transplantation. *Indian J Urol*. 2009; 25(3): 348-55.
- Khatami MR, Nikravan N, Alimohammadi F. Quality and quantity of health evaluation and the follow-up of Iranian living donors. *Transplant Proc*. 2015; 47(4): 1092-5.
- Goyal M, Mehta RL, Schneiderman LJ, Sehgal AR. Economic and health consequences of selling a kidney in India. *JAMA*. 2002; 288(13): 1589-93.
- Chao S. Asia's kidney black market. *Al Jazeera* [Internet]. 2016 Sept 7 [cited 2016 Sept 28]; ["101 East" Programme Video]. Available from: <http://www.aljazeera.com/programmes/101east/2016/09/asia-kidney-black-market-160906082726065.html>
- Colwell JN. Livelihoods re-examined: The distribution of fisheries-sector aid and its impact on women's livelihoods in post-tsunami, Tamil Nadu, India. In: Racioppi L, Rajagopalan S, editors. *Women and disasters in South Asia: Survival, security and development*. Abingdon: Routledge; 2016. p. 80-98.
- Wade F. Nepal's impoverished kidney village, where organs come cheap. *Time* [Internet]. 2014 July 9 [cited 2016 Sept 28]; [about 3 p.]. Available from: <http://time.com/2968341/organ-trade-trafficking-nepal-kidney-removal-nephrectomy-hokshe-village/>
- Cohen L. The other kidney: Biopolitics beyond recognition. *Body & Society*. 2001; 72(2-3): 9-29.
- De Looze K. India's kidney belt and medical tourism: A double-edged sword. In: Jox RJ, Assadi G, Marckmann G, editors. *Organ transplantation in times of donor shortage: Challenges and solutions*. Heidelberg: Springer; 2016. p. 271-284.
- Epstein M. Living kidney donation and masked nationalism in Israel. *Indian J Med Ethics* [Internet]. Online First: 2016 Dec 13 [cited 2016 Dec 16]; [4 p.]. Available from: <http://ijme.in/articles/living-kidney-donation-and-masked-nationalism-in-israel/>
- Robinson S. India's black market organ scandal. *Time* [Internet]. 2008 Feb 1 [cited 2016 Sept 27]; [about 2 p.]. Available from: <http://content.time.com/time/world/article/0,8599,1709006,00.html>
- Panwar R, Pal S, Dash NR, Sahni P, Vij A, Misra MC. Why are we poor organ donors?: A survey focusing on attitudes of the lay public from Northern India. *J of Clinical and Experimental Hepatology*. 2016; 6(2): 81-6.
- Coperman J. Cadaver donation as ascetic practice in India. *Social Analysis*. 2006; 50(1): 103-26.