Me or Mine?
On Property from Personhood, Symbolic Existence and Motivation to Donate Organs

Daniel Sperling
Professor of Philosophy of Law and Bioethics, Netanya Academic College, Netanya, Israel

Empirical studies show that before they die, people interpret and apportion cues to their personal identities for those who will survive. Dying people begin to make sense of their lives by accentuating portions of their personal histories for which they wish to be remembered. One way to supply survivors with such information is planning for disposal of one’s body and donating organs after death. Following Margaret Radin’s notion of property from personhood, I argue for a proprietary interest in one’s body parts once they are separated from the body and capable of representing one’s self. I further argue that through some of her major organs, one continues to symbolically exist in the world and that the decisions whether, which and to whom donate organs are influenced by the attitudes and beliefs one holds with respect to one’s symbolic existence. By using Russell Belk’s idea of the extended self and some recent empirical studies supporting my argument I call for the expansion of our knowledge on the reasons and motivations for organ donation as part of a more general effort to construct national and international policy in this area.

Transplantation surgeries are relatively successful processes. No doubt, the donation of organs saves lives and improves the quality of lives of many people. Yet, only few are willing to donate organs for transplantation, and interestingly their number has not risen significantly over the years. In Israel, for example only 7.5 percent of the adult population holds a donor card. Furthermore, since 2002 the number of people joining the Israeli Transplant Center decreased dramatically: from 41,607 people in 2002, to 29,726 in 2003 and only 25,000 in 2005. The general phenomenon of refusal to donate organs is disturbing and makes one to be uneasy about it. Why does a significant part of the population refuse to donate organs for transplantation? Do ethical, religious or social considerations prevent the public from donating organs or should such a phenomenon be attributed to lack of finan-

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cial, emotional or other incentives to donate? Alternatively, should refusal to donate organs be explained by failure to convey the importance of donation?

The legal and ethical debates on organ donation are usually not concerned with the reasons for willingness or unwillingness to donate organs. Rather, these debates focus on two major concerns, according to which participants in the debates seek to encourage donation in order to reduce the gap between low supply of and high demand for organs for transplantation without seriously inquiring about the reasons for that gap. The first area of concern is pedagogical-informative emphasizing the benefits of donation (especially to the recipient) and seeking to encourage the feeling of solidarity and altruism amongst people in the society and to increase people’s volunteer identity. The other area involves the creation of some incentive, usually financial, to the donor, thereby increasing the motivation to donate organs for transplantation.

However, both areas of concern are limited in their effect. Empirical studies show that motivation to donate organs is influenced more by the negative attitudes of people who oppose donation than by the positive beliefs donors have in regards to donation. It follows from these studies that the contribution of imposing values such as altruism or solidarity to the motivation to donate organs is relatively insignificant and that a better way to deal with refusal to donate organs is to refute myths and false beliefs concerning donation and the circumstances surrounding it.

The debate relating to financial incentives to donors or their family members is also limited in its effect. Such a debate raises serious moral objections and evokes weighty sentimental responses: How can one sell his or her liver or heart? Do financial incentives not lead to exploitation of the poor who will sell their organs in order to survive? Will these incentives not result in broadening the social gaps in society and increase injustice and inequality in access to health? In addition, advocating for financial incentives to donors may not be practical within legal systems already prohibiting commerce in organs making this action criminal.

In this paper, I argue that our understanding of the motives for and motivation to donate or not donate organs should be a precondition to any public debate on organ donation. It will be argued that the motivation or lack of motivation to donate organs mainly stems from the symbolic meaning of the act of donation, the specific organ to be donated and the relationship between the donor and the recipient. I first will support my argument by reference to Margaret Radin’s theory of property from personhood, Russell Belk’s thesis of the extended self and the idea of symbolic existence which I developed elsewhere. Then, I will exemplify my argument by pointing to some empirical studies concerning the motivation to donate organs for transplantation.

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4 Roger D. Blair & David L. Kaserman, "The Economics and Ethics of Alternative Cadaveric Organ Procurement Policies" (1991) 8(2) Yale Journal of Regulation 403-452
Property from Personhood

Willingness to donate organs is, in fact, acceptance to give up that which constitutes part of one’s body and permanently transfer it to someone else. Donation of organs is an act under which one agrees to give what was “hers” to the ownership of another person. One can regard such an agreement as governed by the area of property law. If the relation between a person and a person’s body or bodily organs is proprietary, than she can do whatever she pleases with her body or organs, just like an owner is free to do with any of her objects owned. If the relation between a person and a person’s body or bodily organs is proprietary, than such a relation has effect on third parties as well, it may end upon a person’s death, and it may also result in the possibility of transferring the proprietary interest to another, selling it, using it as security, etc.

One of the justifications for private property, which is highly appealing in the context of the right to ownership of the body and its parts, is that relating to Hegel’s theory from personhood and its application by Margaret Radin. According to such a justification, property is an extended idea and a realization of personhood. The right to property not only enriches one’s personal traits and characteristics but also manifests one’s personal identity and self-expression through the object owned. Hegel, for example argued that property is created when the free will projects itself on an external object, thereby making the holder of the right to property from an abstract entity to a legally and politically sophisticated person, which is different from any other person.

Inspired by Hegel, Margaret Radin argues that in order to achieve a full state of self-development, which allows one to become a “person”, one has to exercise her control over external objects and to own them. Radin distinguishes between two categories of external objects: personal and fungible. Objects in the first category are personal because they express aspects in the self of their owner which is so great that one would regard them as an extension of that person. These objects are irreplaceable by others and no monetary compensation may overcome their loss or be equated to the real value determined by their owners. Examples for such objects include a wedding ring or a house.

Objects in the second category include ones which do not belong to the first category and for which there exist other objects which can replace them in case of loss or extinction. The personal relation between the property owner and her object will be determined by a subjective inquiry of the pain and suffering, which the owner would feel in losing the object. The greater such pain is, the more we tend to regard the relation between the owner and the object as personal. It follows from such an inquiry that external objects are not subjected to binary classification of “personal” or “fungible”. Rather, the way we should refer to these objects is by locating them in sequence between being “more personal” to being “more fungible”. The practical outcome would be that a right to property over a personal object has prima facie justification to be protected from the state intervention or from its abolishment by an alternative right belonging to another property owner.

A person’s body – as a whole – is one of the strongest manifestations for and the constitution of the person’s personality and it is also the mirror through which she communicates to and by others. The body allows one to express her unique characteristics and personal traits,

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7 Hegel, Philosophy of Right, T.M.Knox trans. (Oxford: Clarendon: 1952)
distinguishing her from the very others. This important role of the body makes it difficult to regard it as our property, let alone the property of others. At best, it results in the argument that the body is what Radin calls a personal object, and that any interference with the body is unjustified without our approval.

In contrast to the whole body, different parts of the body, used as "replacements" for other bodies, have double meaning. On the one hand, they are part of a "natural tree", the tree of personality and personal identity of the person whose whole body it is. On the other hand they function as fungible objects, and have the same function whether they are in my body or yours. They are not special and in that sense are not unique. When body parts are extracted from one’s body we will tend to regard them ambiguously. Their function will make us refer to them as property. Their origin will force us to classify them as parts of one’s personality. The way we will resolve this ambivalent attitude toward body parts will ultimately be determined by examining their relationship to the whole body, or in other words by the question of whether (and if so, how much) these body parts express and reflect one’s extended self - that which is mirrored through one’s body from which they were extracted.

The Extended Self

It was Russell Belk who developed the idea of the extended self, namely the psychological fact that knowingly or unknowingly, purposely or accidentally, we tend to regard objects which we own as part of our self. According to this view, people express their personal and social characteristics through ownership over objects and see such objects as extension and manifestation of their self. Belk supported his claim by reference to empirical studies examining the extent to which different objects relate and are close to one’s self. These studies show that out of 160 different items, people regard their body and body parts as closest and with the strongest connection to one’s self. Another study performed by Bell and Austin explores that people tend to give different meaning to their body parts in accordance with the way they regard them as related to one’s self. Hence, for example on a 1-4 scale, while “4” representing very much self and “1” representing “non self”, it was found that eyes received 3.5, hair – 3.2, heart – 3.1, while kidneys and liver only 2.6.

If different parts of our body are central to the perception of our self and the idea of the extended self, then the donation or receipt of organs for transplantation are actions which may create a serious threat to our sense of self. Indeed, further empirical studies show that people who lose an organ or donate organs for transplantation express a feel of losing part of one’s self identity. Alternatively, people who receive organs fear some personal traits of donors will be merged with their self. For example, a dark-skinned organ recipient fears she may become “white” as a result of donation from such person, and a person from the opposite-sex of a donor is afraid he would become homosexual having received the organs.

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Studies show that the more an organ is perceived central and close to one’s sense of self such as eyes, brain or heart, the more there is an objection to donate that organ. Studies also show that people who give a relatively low weight to their bodily perception and do not regard their bodily image as central to their sense of self, are more likely to donate organs than people whose bodily image is more central.\textsuperscript{10} According to the extended self thesis the strong connection between the identity and sense of self of the property owner and the object owned, known as cathexis, survives the death of that person. The custom of burying the dead with their personal belongings or the avoidance from wearing the clothes of the deceased may testify for society’s resistance of controlling the deceased possessions, representing their extended selves. Other empirical studies suggest that before they die, people interpret and apportion cues to their personal identities as will be captured by survivors.\textsuperscript{11} It follows that the theory of the extended self can explain not only our motivation or lack of motivation to donate organs while alive, but also after death.

**Symbolic Existence**

How can one justify the protection of the idea of the extended self when such an extension is made possible by organ donation or by the meaning one attaches to one’s organs? One can argue that a person (whether dead or alive) has an interest in the law and society’s recognition of her symbolic existence. The idea of “symbolic existence”, which I developed elsewhere,\textsuperscript{12} assumes that there are various ways by which one’s existence may be described and conceptualized. One can exist materially, as an aggregate of organs, tissues and cells, functioning together under a sophisticated process controlled by the nervous system. In addition or alternatively, one can exist immaterially as a “man”, a “human being” or a „person“. Symbolic existence is an immaterial existence of second order existence (whether material or immaterial) usually taking place in the mind, memory, conversation of another existing creature or through an action or ownership of that creature which exists symbolically. An example for the first situation of symbolic existence would be the existence of a person X in the minds of his wife or the memories of his daughter. An example for the second type of symbolic existence would be my existence in the writing of this article or in (or through) the house I own.

Symbolic existence is made possible, inter alia through one’s body and bodily organs which are separated from her for transplantation. The closer are one’s organs to one’s self and personality, the more powerful is one’s symbolic existence through these organs, and the more likelihood that such organs will not be donated to others, and vice versa. Furthermore, one can anticipate that the closer is the relationship between the donor and the recipient and


\textsuperscript{12} Daniel Sperling, Posthumous Interests: Legal and Ethical Perspectives (Forthcoming with Cambridge University Press: 2008)
the more this relationship provides for the extended self of donor, for example when there exist familial ties between the two or when both belong to the same ethnic or cultural group, the more likelihood that the donor will give consent to donation, and vice versa.

Support from Empirical Data

The arguments of the relation between organ donation, property from personhood, and the extended self and symbolic existence theses can find support in empirical studies examining the motivation to donate organs. For example, a study in the USA from 1987 reveals that people tend less to donate organs which they regard closer to “self” such as eyes, brain or heart.13 A study from 1990 shows that there is a relatively small inclination to donate genitals, brain tissues and to donate the whole body without specifying any organ whereas there is a bigger inclination to donate organs which are less identified with or constitute one’s perception of self.14 Preference to donate specific organs relating to one’s self and opposition to donate other organs is also observed with regards to donation to strangers. A study from 1997 arranged the order of preference to donate as follows (from 0-10 when “10” represents highly willing to donate and “0” represents total objection to donate): kidney - 7.27; heart - 7.14, liver - 7.1, lungs - 7.02, skin - 6.97, corneas - 7.03, bones - 6.62, all organs - 6.32, brain tissues - 6.27, genitals - 5.41. Another study from 1990 shows that campaigns for organ donation are less successful with regard to donation of genitals or brain tissues than to donation of other organs.15 Studies also show that emphasis on the influence of organ donation on the donor’s sense of self, such as with the sentence “people will regard you a nice and caring man”, is more effective to create motivation to donate than emphasis on the existence of some general and impersonal values in the society such as altruism and the care for others,16 or on an appeal to logic and reason referring, for example to the gap between demand and supply of organs or to the high costs of dialysis treatments.17 Other studies show that when asked, donors mention immortality and the continuance to exist in the body of another as a second reason for donation (after helping others).18

18 Skowronski, 1990 (note 15 supra)
The influence of organ donation on the donor’s sense of self and the possibility to control such sense can also be explained by a feel of guilt, sorrow and responsibility for the organ’s failure to function in the recipient,19 and by the small tendency to donate specific organs to the donor’s child (among unwilling donors) after death, in comparison to a greater tendency to donate those organs while alive.20 These different tendencies reflect the fact that people fear that after death they will have less control over their organs, representing their extended self.

The application of the extended self and symbolic existence theses to organ donations may also be observed in other studies. Empirical data support the argument that the more personal the relationship between the donor and recipient, and the more it is likely that the recipient will express an aspect in the donor’s self or that there is some similarity between donor and recipient, the more the donor is likely to donate organs.21 A 1997 study reveals that order of preferences to donate organs is as follows (from strong to weak preferences): donation to one’s child, sibling, friend and only then to a stranger.22 Same order was observed with regard to all organs (with relatively few differences in blood donation) and among all participants (donors, willing to donate, not sure and not willing to donate).23 Moreover, studies indicate that potential donors may at the same time idealize both the recipient and the shared relationship with them, linking their own egoistic expectations to the altruistic act of donation as a means of protecting the self.24 A recent study reveals that women considered donating to children considerably more often than men. This was explained by the unique relationship between mothers and their infants.25 Other studies show that people are more likely to donate organs to relatives while they are alive and they are more likely to donate organs to strangers after they die.26 One reason for the greater tendency to donate to relatives while alive than after death would have to do with the effect of organ donation on the donor’s sense of self and symbolic existence. When organ donation is made during life and the organ is donated to a person with whom the donor has some close relationship, the donor may experience and witness the results of donation and its positive effects. Such an experience potentially contributes to the donor’s self of sense and in that respect serves as a psychological incentive for donation.

19 Ulla Haljamae et al., "Remaining Experiences of Living Kidney Donors More than 3 Years after Early Recipient Graft Loss" (2003) 17 Clinical Transplantation 503-510.
21 Christina Papachristou et al., "Motivation for Living-Donor Liver Transplantation from the Donor’s Perspective: An In-Depth Qualitative Research Study" (2004) 78(10) Transplantation 1506-1514.
22 Skowrons,ki, 1997 (note 20 supra).
23 Shanteau and Skowrons,ki, 1990 (note 14 supra).
26 Shanteau and Skowrons,ki, 1990 (note 14 supra) at 62.
Conclusions and Practical Suggestions

Motivation to donate organs for transplantation is connected to the contribution of the specific organ to donor’s sense of self, its symbolic role in extending the existence of donor and her appearance to others, and to the assessment of the possibility that through this organ or the body of this recipient the donor will continue to exist symbolically. Such a claim can be justified theoretically and can also be supported by various empirical studies on motivation to donate organs. If the argument suggested here is sound then it may have some practical implications:

1) More research on motivation to donate organs should be performed. Only after the understanding of the reasons to donate organs for transplantation can one think of the ways to encourage organ donation.

2) Some of the messages to encourage organ donation should change. In order to be effective, these messages should focus more on the positive effects donation has on the donor’s sense of self, and perhaps less on reference to reason or the attempt to impose some societal values through the act of organ donation.

3) Efforts should be made to provide for a closer relationship between potential donors and organ recipients. One way to achieve this goal would be to highlight the similarities between members of the two groups and emphasize a shared sense of self. Another way would be to provide follow-up information and allow communication between the two following the transplant surgery.

4) People who engage in organ donation must adopt a model according to which the body and its organs should be seen as an extension of one’s self and an important and central expression of its owner. The act of organ donation should be regarded as enhancing the autonomy and self-expression of the donor and expanding – not abolishing – the self.

It is hoped that the argument raised in this article will open up the possibility for constructing an effective policy to encourage organ donation, so that the gap between demand and supply of organs for transplantation will significantly decrease.

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27 With the exception of emotional pressure and provided there are no cultural or language barriers: Nikola Biller-Andorno and Henning Schaufnburg. "It’s Only Love? Some Pitfalls in Emotionally Related Organ Donation" (2001) 27 Journal of Medical Ethics 162-164.


29 Tom Farsides, "Winning Hearts and Minds: Using Psychology to Promote Voluntary Organ Donation" (2000) 8(2) Health Care Analysis 101-121