



COMMENTARY: DISPARITIES OF IMMIGRATION STATUS AND INSURANCE COVERAGE AMONG SOLID ORGAN TRANSPLANT DONORS AND RECIPIENTS

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The recent U.S. presidential campaign, quickly followed by the initial days of the Trump presidency, have brought immigration policy front and center for Americans. This publication's readership is typically comprised of Christian healthcare professionals and bioethicists—not politicians, lawmakers, or immigration attorneys. Our voices may be able to articulate what it is in general that constitutes just practice in immigration policy, but our input would be more constructive if we as a group approach justice at the interface between immigration law and selected aspects of medical care, specifically organ donation and transplantation.

Solid organ transplantation allocation policy and its relation to immigration policy is one discussion that has critical life-altering ramifications for immigrants and foreign nationals as well as for American citizens in need of a donation. Such a dialogue includes the stance of voters on the many undocumented persons presently residing in America. Fundamental questions, such as the fairness of undocumented immigrants

receiving organs donated by American citizens, beg for thoughtful reflection and, consequently, informed policy. In what follows I explore three questions regarding the conversation of medicine-immigration-cost and contextualize this in a broader conversation on solid organ donation and just allocation.

First, though, we should briefly clarify terminology. Recent discussion of immigration has given prominence to “undocumented persons” residing in the U.S.¹ However, it is important for our discussion (specifically, our third question) to note that foreign nationals are occasionally labeled as “transplant tourists,” which has significant implications for immigration policy and organ allocation. In general terms a transplant tourist is an individual from another country who is here legally to await allocation of an organ for transplantation. Such an individual's presence may be justified by the inability to receive the same medical care in that person's country of residence. Some Americans are also transplant tourists in other countries.

Should Undocumented Immigrants in the U.S. Receive Organs Donated by American Citizens?

In contrast to a more stark approach such as suggesting a border wall to prevent undocumented immigrants access to the U.S., an ethical “frame” for American organ allocation policies should not begin with the “crime and punishment” of undocumented persons among us. A better frame to appraise the just allocation of organs for a target demographic is to ask whether undocumented persons, or other foreign citizens as a group, donate organs to American citizens, thereby sharing the “gift of life.” The answer is a resounding yes! In fact, undocumented immigrants and other foreign nationals living in the U.S. account for approximately 3.3% of donated organs in the U.S. (from March 2012—December 2013).² Since the organ pool for transplantation in the U.S. is enriched with the “gift of life” donated voluntarily by undocumented and to a lesser extent by other immigrants (such as visiting foreign nationals), justice would seem to dictate a 2-way street. As a result, American organs should be allocated to undocumented immigrants and foreign nationals. In fact, the United Network for Organ Sharing (UNOS) is cognizant of the impact undocumented

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immigrants and other foreign persons have on the supply of organs in the United States and therefore permit organ allocation to these persons in an effort to match the number of their gracious donations. As a result, UNOS placed an approximate 5% ceiling for organs donated by American citizens and allocated to non-U.S. citizens. According to the policy, exceeding this threshold was to trigger an audit of the individual transplant centers by the Organ Procurement and Transplantation Network (OPTN)/UNOS. However, in addition to confusion regarding the policy and its implementation, no disciplinary proceedings appear to have been pursued for any individual transplant centers. In fact, no program in the U.S. has ever been punished for excessive contributions to non-U.S. citizens.³ Reviewing the relevant statistics, organs allocated to non-U.S. citizens and/or “transplant tourists” from abroad, 2012–2013, were well under the proposed ceiling, with hearts, kidneys, and livers all less than 1% of the total pool of organs allocated in the United States.⁴

Should Persons Without Adequate Insurance Receive Heart Transplants?

The cost of a heart transplant is astounding. In 2011, the first year average cost for a transplanted heart—with the necessary care that follows—was \$997,700.⁵ Subsequent years after the transplant averaged approximately \$30,300 per year for maintenance costs (immune suppression medications and careful follow up).⁶ Although *prima facie* it should be clear that discussion regarding the remarkable costs of transplantation is not limited to undocumented immigrants (often disadvantaged in terms of costs) and other foreign nationals, as one might expect, prohibitive expenses may also impact un- and underinsured American citizens. Such a line of inquiry engages important principles impacting the vulnerable “have nots” that are fundamental to just allocation.

Applying an ethical frame similar to the one utilized for undocumented immigrants and other foreign nationals in answering the question, *how many*

hearts in the donated pool come from individuals who are uninsured? Although statistics are not kept to answer this question, plausible estimates are available. Utilizing Census Bureau statistics from 2004, King et al. noted that of the approximately 2,350 hearts donated per year in the U.S., it was estimated that 14% (approximately 330) came from uninsured donors. They further suggest that as many as 1 in 4 hearts may be donated by an uninsured donor.⁷ Of course these estimates were made prior to the passage of the Affordable Care Act, which has decreased the overall percentage of uninsured patients. Even accepting these decreases, in the specific context of hearts for transplantation, both undocumented immigrants and disadvantaged Americans (uninsured or otherwise underinsured) are sources of the “gift of life”—with only the latter not receiving reciprocity. Although the costs of renal transplantation fall under the aegis of Medicare which is available for older Americans, other solid organs such as liver and heart do not. As expected, most Americans are probably not aware of the potential inequity that characterizes the allocation of organs to vulnerable groups. I suggest that excluding these persons from available organs—be they foreign citizens or U.S. citizens—does not seem just.

Do Foreign Nationals with Financial Means Game the American Transplant System?

Although it may be apparent that foreign nationals contribute to the organ donation pool, there is more to this demographic story. From 1988–2005 there were 2,724 kidney and 2,072 liver nonresident or alien candidates (NRAs) listed with UNOS.⁸ NRAs had more self-pay and more foreign sources of monetary support than comparable American citizens who were listed at the same time. Transplants to NRAs were more frequent than deceased donations from NRAs and liver transplants were accomplished more rapidly and frequently in NRAs than in simultaneously listed U.S. Citizens.⁹ What do these statistics mean, especially in regard to just allocation? Recognizing

economic diversity among the NRAs, this group generally was more affluent than their American counterparts. How is their affluence relevant to this conversation? Listing with multiple transplant centers increases the potential recipient’s opportunity to access an organ. However, in order to list with more centers, one must have the means to travel greater distances in shorter periods of time.¹⁰ This ability presupposes private jets and other monetary advantages. In the context of transplantation/organ allocation policy, or more accurately the need for policies (in plural) addressing various advantages and inequities, Occam’s Razor fails—a simple explanation or single policy will not suffice.

Conclusion

There are approximately 11 million or more undocumented immigrants residing in the U.S. The Affordable Care Act presently excludes them from its safety net, although the future is uncertain.¹¹ Their vulnerable predicament may not improve. Compassionate immigration reform may not be forthcoming. Transparency and education regarding inequities already present in the allocation system must be incorporated into debate and future policy decisions. Doctors treat vulnerable patients, not their immigration status.

The reality of life as an undocumented person in the U.S. can be “nasty, brutish and short,” and this is no less true in their healthcare. Richard Nuila, a physician in Texas who cares for these vulnerable persons tells an empathetic story. A Guatemalan migrant worker (who had overstayed his visa) could not continue working, so his boss dropped him off at the local hospital and left. There it was discovered he had metastatic cancer. Nuila observed, “For many undocumented immigrants, terminal illness is a revolving door: they are admitted from the emergency department with severe pain or organ failure, we stave off death well enough for them to be discharged, and very soon, they return . . . until the day they don’t.”¹²

One of the most compelling narratives engaging transplantation, *Whither Thou Goest*, was written by the late Richard Selzer.¹³ As you already may have guessed, the title is no accident; the metaphors of “harvesting” and “gleaning” in the book of Ruth are applied to the transplantation of a heart. I was privileged to discuss Dr. Selzer’s love for the book of Ruth with him before he died. The “gift of life” in his short story is given with *hesed*, loving kindness, from the donor and donor family at a time of tremendous loss and grief. It also appears to be more than coincidence that Ruth was from Moab and resided in a foreign land. Yes, it is time to consider the alien among us. It is time to appreciate the *hesed* we share with others while giving and receiving the gift of life—a gift transcending any walls built to separate us. ●●●

1 For our purposes here, I will use the terms “undocumented persons” and “undocumented immigrants” interchangeably, though in technical discussions these along with other terms such as “nonresident aliens,” “undocumented

aliens” and others may carry specific distinctions and rhetorical nuances beyond the scope of this essay.

- 2 Alexandra Glazier, Gabriel Danovitch, and Francis Delmonico, “Organ Transplantation for Nonresidents of the United States: A Policy for Transparency,” *American Journal of Transplantation* 14, no. 9 (2014): 1743; Aaron Wightman and Douglas Diekema, “Should an Undocumented Immigrant Receive a Heart Transplant?” *AMA Journal of Ethics* 17, no. 10 (2015): 910.
- 3 Glazier, Danovitch, and Delmonico, “Organ Transplantation for Nonresidents,” 1741.
- 4 *Ibid.*, 1742.
- 5 Wightman and Diekema, “Should an Undocumented Immigrant,” 909–910. Bentley and Hanson suggest the cost has increased to \$1,242,200 as of 2014. T. Scott Bentley and Steven Hanson, “2014 U.S. Organ and Tissue Transplant Cost Estimates and Discussion,” Milliman Research Report, December 2014, page 3, http://www.milliman.com/uploadedFiles/insight/Research/health-rr/1938HDP_20141230.pdf (accessed February 14, 2017).
- 6 Wightman, and Diekema, “Should an Undocumented Immigrant,” 909–910.
- 7 Louise King et al., “Health Insurance and Cardiac Transplantation: A Call for Reform,” *Journal of the American College of Cardiology* 45, no. 9 (2005): 1389.
- 8 Jesse Schold et al., “Deceased Donor Kidney and Liver Transplantation to Nonresident Aliens in the United States,” *Transplantation* 84, no. 12 (2007): 1551.
- 9 *Ibid.*, 1548.
- 10 *Ibid.*, 1554–1555.
- 11 Nancy Berlinger and Rajeev Raghavan, “The Ethics of Advocacy for Undocumented Patients,” *Hastings Center Report* 43, no. 1 (2013): 14.
- 12 Ricardo Nulia, “Home: Palliation for Dying Undocumented Immigrants,” *New England Journal of Medicine* 366, no. 22 (2012): 2047–2048, doi:1056/NEJMp1201768.
- 13 Richard Selzer, *Imagine a Woman and Other Tales* (East Lansing, MI: Michigan State University Press, 1990), 1–21.

COMMENTS?

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