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Prisoners as Living Kidney Donors: Unlocking the Potential

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Abstract

Living-donor kidney transplantation makes up a large proportion of kidney transplantation in the UK. Kidney donation by prisoners is lawful, and the British Transplantation Society recently compiled guidelines to help indicate the situations in which it is currently considered acceptable and manageable for prisoners to donate. Three main perspectives, that of the transplant recipients, the donating prisoner and the victims of the prisoner's crime, are of particular value and are discussed in this article considering the acceptability of prisoners becoming kidney donors. Ultimately understanding the perspectives of these cohorts would benefit from further research as much of the discussion of literature and views in this article are speculative. This work should be carried out in a timely fashion so that, should the practice of living kidney donation by prisoners be acceptable to these cohorts and the wider public, the British Transplantation Society guidelines can be implemented and a sustainable practice established.

Background

In the UK, 243 people died waiting for a kidney transplant in 2014-15.[1] In the same year, living-donor kidney transplantation made up 34% of kidney transplants in the UK.[2] The shortage of deceased-donor organs for transplantation means living kidney donation is now a major part of transplan-

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1 NHS Blood and Transplant, *Kidney Activity* (2015), http://nhsbtmediaservices.blob.core.windows.net/organ-donation-assets/pdfs/kidney_activity.pdf (last accessed 26/9/2015).

2 NHS Blood and Transplant, *Organ Donation and Transplantation – Activity Report 2014/15*, http://nhsbtmediaservices.blob.core.windows.net/organ-donation-assets/pdfs/activity_report_2014_15.pdf (last accessed 25/9/2015).

tation practice.[3] The increasing practice and awareness of living donation has been accompanied by requests from prisoners to be considered as kidney donors.[4]

As with the general population, there may be a number of physical and mental health reasons that could exclude a prisoner from becoming a donor. However, this exclusion may be over-represented in the prison population due to the health inequalities experienced by offenders.[5] Beyond these basic health-related exclusion criteria, the British Transplantation Society recently compiled some draft guidelines to assist healthcare practitioners and the Ministry of Justice in dealing with requests from prisoners to become living donors.[6] The current guidelines are represented in Figure 1. This article aims to consider the potential responses of transplant recipients, prisoners, victims of crime and the wider society to these guidelines, considering:

1. The limitation of prisoners' autonomy, and the appropriateness of permitting or denying donation.
2. The perspective of crime victims on punishment and potential objections about prisoners being allowed the option of donating.
3. The importance of directed and non-directed recipients' access to transplants, and reservations they may have about prisoners donating.

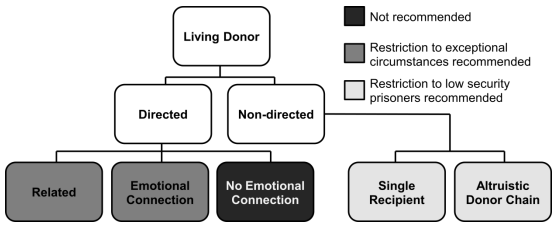

Figure 1: Current British Transplantation Society recommendations for prisoner living kidney donation in the UK. Unrelated directed donation is not recommended. Directed donation to a genetically or emotionally related recipient is possible for prisoners of any security category if the recipient is at high risk without the transplant or no other donor is available. Non-directed altruistic donation is

3 Houses of Parliament, 'Organ donation and Transplants', POST Note, Number 441 (September 2013).

4 British Transplantation Society, *UK Guidelines for Living Organ Donation from Prisoners, Consultation Version 2014-01-14*, www.bts.org.uk/Documents/UK%20Guidelines%20for%20Living%20Organ%20Donation%20from%20Prisoners%20Consultation%20version%20January%202014.PDF (last accessed 26/9/2015).

5 Public Health England, *Offender health* (2015), www.nepho.org.uk/topics/Offender%20health (last accessed 26/9/2015).

6 British Transplantation Society, *op. cit.*

possible for only low security prisoners if the donation cannot be delayed until after release from prison.

Figure adapted from O'Brien et al. (2012)

B. O'Brien & M. Koertzen, 'Anaesthesia for living donor renal transplant nephrectomy', *Continuing Education in Anaesthesia, Critical Care & Pain* 12:6 (2012), 317-321.

The Law Regarding Living Donor Transplantation

Transplantation is regulated by the Human Tissue Authority, through their enforcement of the Human Tissue Act 2004.[7] The Act requires informed and uncoerced consent from the living donor. The Mental Capacity Act[8] and common law stipulate the conditions that identify an individual as mentally competent to give consent.[9] Additionally, the act of donation must be altruistic; no tissue can lawfully be procured and transplanted if the donation will result in any kind of reward for the donor.[10] As long as these statutory and common law requirements are met, prisoners are not categorically excluded from living kidney donation. However, historically, donation by prisoners has been restricted.[11]

As living kidney donation by prisoners is not prohibited by law, restrictions in place are due to a combination of moral and practical issues. Practical difficulties include:

- Logistical complications in ensuring safe and secure management of donors – i.e. not allowing escape of the prisoner during hospital visits and stays, or any other potential compromise of public and staff security.
- Ensuring donor screening to rule out transmissible disease is valid at the time of surgery, given the high transmission rates of blood-borne diseases in prisons.[12]
- Ensuring valid, uncoerced consent can be obtained from the prisoner.

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7 Human Tissue Act 2004, part 2, section 33.

8 Mental Capacity Act 2005, part 1.

9 Human Tissue Authority, *Code of Practice 2. Donation of Solid Organs for Transplantation* (March 2013).

10 Human Tissue Act, *op. cit.*, part 2, section 33.

11 British Transplantation Society, *op. cit.*

12 Department of Health, *Tackling Blood-Borne Viruses in Prisons. A framework for best practice in the UK* (May 2011), www.nat.org.uk/media/Files/Publications/May-2011-Tackling-Blood-Borne-Viruses-in-Prisons.pdf (last accessed 26/9/2015).

There are concerns that meeting these requirements in order to allow the few cases of prisoner donation would require allocation of resources, potentially above and beyond that already provided. This could raise moral reservations about directing such valuable resources towards prisoners and for gains that may be outweighed by the public risk (and therefore not in the public interest).[13]

Prisoners

A major concern regarding prisoner living donation is uncertainty about prisoners' ability to give unpressured, uncoerced consent.[14] The concern arises particularly from the need to avoid exploitation of vulnerable prisoners. Because imprisonment takes away autonomy and causes great psychological strain, it may be thought that imprisonment itself limits a persons ability to give valid consent. Prisoners have a high level of dependence on the institution as they are forced to relinquish their autonomy[15] and most of their actions are watched over by prison staff. Prisons also create a large, closed community with their own hierarchy which may make the monitoring and avoidance of coercion difficult to guarantee. However, in the context of psychological treatment of prisoners that benefits others (reduces future offending), which requires consent from the prisoner, it has been found that the treatment does not have to be coercive, even in the context of court-mandated treatment within the prison setting.[16] Hence, donating a kidney or otherwise becoming a living donor can be beneficial to others (and is outside the remit of the courts), and can be considered as unlikely to be directly coerced by the donor being imprisoned.

A further concern is to prevent donation by those with inappropriate motives or unrealistic expectations of the outcomes of donating. The (incorrect) expectation of reward for donation may serve as an inappropriate and possibly coercive motivation for donation. It is illegal for any reward for donation to be monetary,[17] however most would see it as a selfless, 'good' act. The prisoner may therefore expect organ donation to act as 'good behaviour' and potentially be counted towards shortening their prison sentence. This, of course, cannot be the case,

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13 British Transplantation Society, *op. cit.*

14 A. Caplan, 'The Use of Prisoners as Sources of Organs-An Ethically Dubious Practice', *The American Journal of Bioethics* 11:10 (2011), 1-5.

15 C. Haney, 'The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment', *Working papers prepared for the 'From Prison to Home' Conference* (30-31 January 2002).

16 J. Rigg, 'Measures of perceived coercion in prison treatment settings', *International Journal of Law and Psychiatry* 25:5 (2002), 473-90.

17 Human Tissue Act, *op. cit.*, part 2, section 33.

and both this situation and concerns about coercion can be addressed by ensuring adequate explanation to any potential donors of what they can and cannot expect as a result of donation.

Yet another inappropriate expectation may be that the donation has a positive effect on the relationship between the donor and recipient in circumstances where the two are related. Imprisonment puts considerable strain on relationships with friends and family, and the prisoner may hope that donating their kidney would help to compensate or alleviate this strain. However, such a positive outcome from kidney donation cannot reliably be predicted, as it has been found that directed donation may have no effect or even in some cases a negative effect on relationships.[18] The compulsory independent assessment process required for all living donors assesses each donor on an individual basis, thereby identifying these potential unrealistic expectations. However, when the donor is a prisoner, the assessor needs to be mindful of the extra stresses and strains the individual and their family are under, providing them with the necessary information to ensure their decision is based upon informed consent.

When considering the extra resources that may be implicated in utilising prisoners as donors, a counterargument to supporting prisoners as donors is that it may be more appropriate to suggest waiting until the prisoner has been released. Based on a Freedom of Information request in 2013,[19] 42 prisoners at the time were serving life sentences in prison, meaning the vast majority of prisoners will serve their sentence then be released, making donation after release an option. However, after their release from prison, integrating back into society and rebuilding their life may be difficult enough without the added burden of undergoing complex medical assessments and procedures. In addition, it has been found that incarceration strongly affects people's health, predominantly caused by stigma associated with imprisonment, and that these effects are most pronounced after release. The timing of these negative health effects is partly attributed to diminished wage growth and marital instability.[20] It may therefore be more appropriate for people in prison to donate whilst still in the relatively stable environment of their prison stay. Countering this, it may also be argued that if they are not prepared to commit to the level of effort required to become a donor after their release, then perhaps they are not highly motivated enough to donate in the first place.

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18 G. Heck, J. Schweitzer & M. Seidel-Wiesel, 'Psychological effects of living related kidney transplantation – risks and chances', *Clinical Transplantation* 18:6 (2004), 716-21.

19 Ministry of Justice Freedom of Information Request, Reference 82302 (May 2013).

20 J. Schnittker & A. John, 'Enduring stigma: the long-term effects of incarceration on health', *Journal of Health and Social Behavior* 48:2 (2007), 115-30.

While much of the discussion around prisoners as organ donors in this article has so far been based on theoretical risk, history has unfortunately shown numerous situations in which prisoners have been exploited in the context of organ donation. For example, in China, there has been long-term reliance on the use of organs for transplantation without consent from executed prisoners, although they are said to have since worked towards an ethical and sustainable organ donation system.[21] In the USA, there has been a case of 'kidney for parole'.[22] In the Philippines, a 'kidney for parole' scheme was considered (it was not implemented because it was considered coercive and unethical).[23] However, it is worth reiterating that it has not been suggested that any type of scheme in which parole is offered in return for donation should be implemented in the UK, despite instances of such proposals elsewhere.

Overprotection (with the aim of protecting those vulnerable to coercion or who are motivated by unrealistic expectations of reward) through unnecessary and paternalistic prevention of all prisoners from donating can be as damaging as underprotection.[24] Where it is possible to know that a person is making their own decision to become a living donor, it is logical to support them to accomplish this decision. The British Transplantation Society guidance should assist this process.

After thorough screening, the prisoner donor will be granted or denied the opportunity to donate. We have so far considered the potential harm to the prisoner if permission is granted, but refusal of donation also has the potential to be harmful. However, there is a lack of information on the potential negative effects of refusing donation[25] and it has been suggested that thorough explanation is needed in the case of refused donation, in order to help manage reactions of disappointment and distress.[26] Guidance supporting the donation of organs from prisoners should also cover this.

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21 World Health Organization, 'New era for organ donation and transplant in China', *Bulletin of the World Health Organization* 90:11 (2012), 793-868 [online].

22 A.M. Goldberg & J. Frader, 'Prisoners as Living Organ Donors: The Case of the Scott Sisters', *American Journal of Bioethics* 11:10 (2011), 15-16.

23 L.D. de Castro, 'Human organs from prisoners: kidneys for life', *Journal of Medical Ethics* 29:3 (2003), 171-75.

24 *Ibid.*

25 M.B. Allen, P.L. Abt & P.P. Reese, 'What Are the Harms of Refusing to Allow Living Kidney Donation? An Expanded View of Risks and Benefits', *American Journal of Transplantation* 14 (2014) 531-537.

26 *Ibid.*

Transplant recipients

There are two groups of recipients to consider in the context of prisoner living donation:

– Recipients of a directed donation from an imprisoned friend or family member.
– Recipients of non-directed altruistic donation.

Directed Donation

As represented in Figure 1, the recently prepared *UK Guidelines for Living Organ Donation from Prisoners* do not recommend directed donation from a prisoner to any individual with whom they have no prior emotional or genetic relationship, because of the 'potential risk of inappropriate and/or complex attachment issues arising from the donation'.[27] Avoidance of this consequence is a clearly stated reason not to allow prisoners to donate directly to a named stranger. To those drafting the guidelines, the risks outweighed the potential benefit in this situation.

The guidance also places restrictions on living kidney donation by a prisoner to a named individual they are already emotionally or genetically related to (related directed donation). The guidance recommends related directed donation can be considered for any prisoner if the circumstances are exceptional, meaning specifically if the recipient has no other possible donor or is at unacceptably high risk of 'severe morbidity or mortality' without the transplant.[28] This implies that a related directed kidney donation from a prisoner is considered a last resort and has the potential to delay the donation.

In general, living-donor kidney transplantation has the advantage of a shorter waiting time between starting dialysis and receiving the transplant, and can even allow pre-emptive transplantation – before the recipient's kidney function deteriorates to the stage where dialysis is required.[29] These factors can improve the likelihood of transplant success.[30] Where the donor is a prisoner and the donation is delayed due to the need not being medically urgent – as per the current recommendations – this could negatively impact the recipient's

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27 British Transplantation Society, *op. cit.*
28 *Ibid.*
29 The British Transplantation Society and The Renal Association, *United Kingdom Guidelines for Living Donor Kidney Transplantation* (3rd edn, May 2011), www.bts.org.uk/Documents/Guidelines/Active/UK%20Guidelines%20for%20Living%20Donor%20Kidney%20July%202011.pdf (last accessed 27/9/2015).
30 S.W. Yoo, O.J. Kwon & C.M. Kang, 'Preemptive Living-Donor Renal Transplantation: Outcome and Clinical Advantages', *Transplantation Proceedings* 41 (2009), 117-120.

quality of life and may even reduce their chance of a successful transplant. This can be construed as punishing the potential recipient for the past unlawful behaviour of their potential donor.

The situation could also arise where the recipient has two possible matches; a 'perfect' match in an imprisoned donor and a 'less than perfect' match in a donor who is not imprisoned. Should the donor have to wait for the perfect match? Should they have to accept the less than perfect match because of time and cost savings? Any situation where the best medical option might be influenced by the incarceration status of the donor seems untenable, yet one can envision the difficulty of the decision-making process in this situation.

From a societal perspective, the restriction on the situations in which a prisoner can become a directed donor has the potential to contribute to unequal access to living-donor kidney transplants already experienced by people from socially deprived backgrounds.[31] As well as being less likely to receive living-donor kidney transplants, people from socially deprived communities are more likely to have family or close friends in prison.[32] Therefore, although the guidlines to include prisoners as donors act generally to support organ donation from prisoners, these restrictions on related donation may be contributing to inequality. To promote social equality in organ donation (and potentially increase the number of donations) the guidance should allow related directed donation by a prisoner to be considered with an equal level of importance to if they were not in prison.

Non-Directed Altruistic Donation

If prisoners were to be able to be non-directed kidney donors, the point of view of those who may become recipients of such anonymous donations needs to be considered. There is a certain amount of stigma associated with imprisonment and potential recipients may feel that they do not want to be associated with a prisoner, even if it meant having to wait longer for a donation (or perhaps never receiving a transplant). However, it is also possible that potential non-directed recipients of prisoner kidney donation may value the importance of their access to organs for transplantation more highly than whether the donor is a prisoner or not.

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31 U. Udayaraj, Y. Ben-Shlomo, P. Roderick, A. Casula, C. Dudley, D. Collett, D. Ansell, C. Tomson & F. Caskey, 'Social deprivation, ethnicity, and uptake of living kidney donor transplantation in the United Kingdom', *Transplantation* 93:6 (2012), 610-16.

32 F.C. Bruce, 'Reinvesting in Communities: Community Justice as a Viable Solution to Mass Incarceration', *Internet Journal of Criminology* (November 2012).

There is some evidence to suggest that the opportunity of receiving a transplant would be valued more highly than the background of the donor. In the USA, 13 out of 16 patients on an active waiting list for lung transplants responded that they would accept organs from a death-row inmate.[33] The same survey showed patients waiting for transplants, or who have already benefited from transplant, felt that if even just one person was helped, then donation by a prisoner on death-row would be acceptable.[34] Beyond this, there is a lack of evidence on specific attitudes towards prisoners as living kidney donors, and carrying out this research in the form of opinion polls, questionnaires or interviews would be a valuable source of information on the views of the general public and, specifically, potential recipients.

Current practice relating to altruistic non-directed kidney donors ensures the recipient is not aware of who their donor is.[35] Therefore, the recipient would not be aware that their donor was a prisoner and this should eliminate any decision-making (and associated stress) to do with accepting an organ donated by a prisoner. However, the uncertainty of not knowing one way or the other could be an issue for some recipients.

It is also known that there is a higher rate of blood-borne virus transmission in prisons than in the general population,[36] and therefore an increased risk of blood-borne virus transmission upon transplant due to new infection between donor screening and surgery. Either the screening system would need to be suitably adjusted to be certain the increased risk was ruled out, or recipients would need to be made aware of the increased risk during the operation consent process. In the latter case, this would mean that even though the origin of the organ had not been explicitly divulged, the recipient might infer that the donor was a prisoner. This would then re-open the issues mentioned above and could put an unnecessary burden on the recipient by having to accept or reject the organ if they had moral or other personal beliefs that would question their willingness to accept an organ from a prisoner.

While the choice between good health and personal concern about the origins of an organ might seem easy to some, it is worth considering that if the transplant is successful, the organ will remain in the recipient's body for the rest of their life. A common perception of the imprisoned criminal is of someone of

33 S.S. Lin, L. Rich, J.D. Pal & R.M. Sade, 'Prisoners on death row should be accepted as organ donors', *The Annals of Thoracic Surgery* 93:6 (2012), 1773-79.
34 *Ibid*.
35 The British Transplantation Society and The Renal Association, *op. cit*.
36 Department of Health, *Tackling Blood-Borne Viruses in Prisons*, *op. cit*.

low social status who is cruel in nature and disliked by the public.[37] Therefore it is a reasonable speculation that the idea of receiving an organ from such a person could be troublesome for the recipient and lead to complex and long term internal emotional conflict should they accept the organ donation.

Looking into this, the way a recipient would feel about having a prisoner as a kidney donor may depend on the crime committed. It could be speculated that (if information on a donor's criminal record was available to them) a recipient may be more reluctant about receiving a kidney from someone convicted of one type of crime over another. To address this gradation of type of crime without revealing the exact nature of the donor's crime it may be argued that prisoner living kidney donation should not be permitted beyond low risk prisoners. The reality however, is that prisoners are categorised based on current likelihood of escape and danger to the public, not by the crime committed. This means low risk category prisoners can include, for example, those serving life sentences for murder.[38]

A counterargument to this concern is that people who have been in prison in the past, or committed crimes and not been convicted or imprisoned, are currently free to become non-directed kidney donors if willing and medically able. In reality, considering that these individuals are not excluded from becoming living donors, the recipient accepting a non-directed altruistic living kidney donation has the chance of receiving a kidney from someone who has committed a serious offence even if prisoners were not included as living donors at all.

Crime victims

Living organ donation involving a prisoner introduces a third party not present when the donor is not a prisoner. This third party is the prisoner's victim(s). There could be several possible reasons for those affected by 'victimful' crimes[39] to be against permitting prisoners to become living kidney donors. These include:

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37 C. Côté-Lussier, 'The evil, poor, disliked and punished: criminal stereotypes and the effects of their cognitive, affective and behavioural outcomes on punitiveness toward crime', *PhD thesis* (The London School of Economics and Political Science (LSE), 2012).

38 Ministry of Justice, National Offender Management Service, *National Security Framework*, Categorisation Function – Categorisation and Recategorisation Of Adult Male Prisoners. August 2011, www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi-40-2011-categorisation-adult-males.doc (last accessed 1/12/2015).

39 L. Ellis, 'The Victimful-Victimless Crime Distinction, and Seven Universal Demographic Correlates of Victimful Criminal Behaviour', *Personality and Individual Differences* 9:3 (1998), 525-48.

- Not wanting the person who victimised them to be able to feel they have redeemed themselves.
- Not wanting the person who victimised them to be able to help another (often their own friend or relative).
- Not wanting the prisoner to be able to exercise autonomous control over their own body.
- Not wanting to allow the prisoner to achieve improved self-worth as a result of donation.

A prisoner's lack of freedom is accompanied by an inevitable loss of opportunity to make autonomous choices. The liberty of choice prisoners may have over becoming a living donor may be perceived as affecting the completeness of their punishment. It could be argued that as a part of punishment, prisoners' autonomy should be restricted to exclude this type of decision. This could work in two ways, one being to remove their choice to donate and make it compulsory to 'donate' a kidney once imprisoned. The implications and moral arguments for and against this go beyond the scope of this essay. The alternative would be to deny the prisoner the choice of becoming a voluntary donor.

Victims may be motivated by revenge, to deny prisoners the choice of donating a kidney because of the possibility that this will cause prisoners distress, or at least prevent them from experiencing a positive outcome. However, there is evidence suggesting revenge is not a highly important punishment outcome for victims. In one study, revenge as an outcome of punishment was rated of intermediate importance by victims of violent crime.[40] This is shown in Table 1.

Categories	**'M'**
'Just desserts'	3.8
'Revenge'	3.3
'Recognition of victim status'	3.5
'Deterrence of offender'	4.6
'Rehabilitation'	2.9
'General deterrence'	3.9
'Positive general prevention'	3.8
'Victim security'	4.3
'Societal security'	4.3

Table 1: In a study by U. Orth in 2003, 171 victims of violent crime were asked to rate the importance of 18 statements relating to punishment goals with

40 U. Orth, 'Punishment Goals of Crime Victims', *Law and Human Behavior* 27:2 (2003).

regards to the criminal case they were involved in. '*M*' is the rating from 0 – 'not at all important' to 5 – 'very important'.

Table adapted from U. Orth, 'Punishment Goals of Crime Victims', *Law and Human Behavior* 27:2 (2003).

A limitation of the study was questionable representativeness of the results. The response rate to the victim survey which was used to collect information was low, and the demographics of respondents was not explored to determine if there was a difference between those who did and those who did not respond.[41] Individuals' responses to being victimised are highly variable, and clearly those responding to the study survived the offences against them. The opinion of someone whose family-member, friend or associate has been murdered for example, could be dramatically different. In the case of a Belgian prisoner who wanted to be euthanised,[42] the sisters of one of his victims were reported as saying he should 'languish in prison' rather than being given what he wanted, and they pointed out that though a huge amount of consideration was put into whether his wishes would be carried out, no experts asked either their opinion or if they needed help dealing with the situation.[43]

Limitations aside, the cohort who responded to the survey in Orth's paper placed offender deterrence and security of the victim and society as the most important aims of punishment. Revenge was the second-lowest rated of the punishment goal categories. As the safety of others in society was an important concern, this could be tentatively extrapolated to suggest victims would be considerate of the needs of potential transplant recipients. However, a wide range of crime victims would need to be asked to find a more representative viewpoint.

At the same time, victim and societal safety could be seen as a counterargument to allowing prisoners to be living kidney donors. The British Transplantation Society guidelines recommend that prisoner donation can be permitted from even high risk prisoners (in certain circumstances)[44] where it can be demonstrated that the process can be appropriately managed, maintaining public and employee safety. As prisoners' risk categories are based on their risk

41 *Ibid.*

42 R. Spencer, 'Belgian rapist and murderer to be put to death by lethal injection', *The Telegraph* (4 January 2015), www.telegraph.co.uk/news/worldnews/europe/belgium/11324579/Belgian-rapist-and-murderer-to-be-put-to-death-by-lethal-injection.html (last accessed 3/10/2015).

43 B. Waterfield & A. Marszal, 'Belgian serial rapist will not be euthanised, *The Telegraph* (6 January 2015), www.telegraph.co.uk/news/worldnews/europe/belgium/11327541/Belgian-serial-rapist-will-not-be-euthanised-as-planned.html (last accessed 3/10/2015).

44 British Transplantation Society, *op. cit.*

of escaping incarceration, harming others or themselves[45] this guidance seems to actively seek putting victims and society at risk – contrary to the victims' values of punishment.

Restorative justice is a process in which people affected by a specific offence work together to deal with its aftermath, and aims to ensure the victim feels 'paid back' for the harm done to them, give the perpetrator the opportunity for redemption, and increase public confidence in the criminal justice system.[46] This was not covered in Orth's paper, but has been reported in the media to be beneficial for many victims of crime.[47] Money recovered from offenders is being used to deliver restorative justice in the UK, in order to help find ways to positively move forward from crimes.[48] Victim participation in restorative justice suggests people wish to help a positive situation arise from a negative one.[49] This not only indicates that there are victims who want a better outcome for themselves and the offender, but it demonstrates a preference to prevent continuing misfortune. Therefore, victims who support restorative justice would likely be in favour of allowing prisoners to become living kidney donors.

Conclusion

It is possible that, if carefully managed, allowing living donation by prisoners who are motivated and able to do so could increase the potential population of living donors by a small number. However, this is a controversial consideration and there are a lot of perspectives which could challenge the idea of allowing of prisoners to become donors. It would be beneficial to research people's current perspectives on prisoner living donation, including the points of view of transplant recipients, people who have been victims of crime, and prisoners themselves, in order to get a clearer idea of whether those directly affected and members of society in general are accepting of the concept of

45 Offenders' Families Helpline, *Prisoner Category*, www.offendersfamilieshelpline.org/index.php/prisoner-category/ (last accessed 27/9/2015).

46 The Crown Prosecution Service, *Restorative Justice. Legal Guidance*, www.cps.gov.uk/legal/p_to_r/restorative_justice/ (last accessed 13/10/2015).

47 J. Lopez, 'Crime victims find healing through restorative justice', KALW Local Public Radio 91.7FM in San Francisco 7 October 2013), http://kalw.org/post/crime-victims-find-healing-through-restorative-justice#stream/0 (last accessed 27/9/2015).

48 Ministry of Justice, *New victims' funding for restorative justice*, Press Release (19 November 2013), https://www.gov.uk/government/news/new-victims-funding-for-restorative-justice (last accessed 27/9/2015).

49 National Offender Management Service, *Better Outcomes through Victim-Offender Conferencing (Restorative Justice)* (November 2012), http://webarchive.nationalarchives.gov.uk/20130128112038/ www.justice.gov.uk/downloads/about/noms/better-outcomes-victim-offender-conferencing.pdf (last accessed 27/9/2015).

prisoners donating. However, collecting information about people's opinions on the subject presents another possible issue. Drawing public attention to the subject of prisoner donation could possibly lead to 'backlash' and negative publicity. However, prisoner donation has historically been restricted, so it is unknown what people's responses will be to the concept of officially including prisoners as living donors until the topic is explored further, regardless of the potential and perhaps unsubstantiated reactions. This work should be carried out as soon as possible to aid discussion and decision-making when consulting the currently available guidelines.