

# Utility and the Survival Lottery

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In an ingenious article John Harris has proposed a 'survival lottery' which would minimize the total number of deaths in a community by sacrificing randomly chosen individuals so that their organs could be transplanted to other people, each of whom needs to have an organ replaced. Since, assuming the perfection of transplant technology, the parts of one 'donor' (if that is the right word) could save the lives of four or five others, the proposal appears to be a rational one. If we had the option of joining such a scheme it seems, at first glance anyway, that we would be imprudent to refuse to join. More lives will be saved by the transplants than will be lost by the sacrifices required; hence our prospects of living to a ripe old age are better if we join.<sup>1</sup>

Rational as Harris's idea seems, it will no doubt evoke numerous objections based on the idea of the sanctity of human life and the wrongness of killing an innocent human being.<sup>2</sup> It is not my present purpose to discuss such objections, although my inclinations are to side with Harris against them, on the ground that if human life is valuable, a scheme that saves human lives must be desirable. To say that one violates the sanctity of human life by killing one person to save four, while one does not violate it if one allows four to die because one refuses to kill one, invokes a very dubious notion of moral responsibility. Moral responsibility, as Harris and others have argued, must apply to what we deliberately allow to occur as well as to what we directly bring about.<sup>3</sup>

Similarly, the charge that it is arbitrary or unfair to be called upon to die just because one's number has been drawn in a lottery can be met by pointing out that it is arbitrary and unfair to die just because one has contracted a kidney disease; and if the only way to prevent four arbitrary and unfair deaths is to inflict one arbitrary and unfair death, that procedure is itself neither arbitrary nor unfair.

In any case, the charge of unfairness, or of infringing individual rights,

<sup>1</sup> John Harris, 'The Survival Lottery', *Philosophy* 50 (1975), 81.

<sup>2</sup> Alan Ryan has suggested (though not necessarily endorsed) some of these objections in 'Two Kinds of Morality', *The Hastings Center Report* 5, no. 5 (1975), 5.

<sup>3</sup> See, for instance, Jonathan Bennett, 'Whatever the Consequences', *Analysis* 26 (1966); Michael Tooley, 'Abortion and Infanticide', *Philosophy and Public Affairs* 2, no. 1 (1972); and Jonathan Glover's forthcoming book, *Causing Death and Saving Lives*.

can be overcome by the stipulation that the scheme be a voluntary one. Instead of simply giving everyone a lottery number, as Harris suggests, we could invite applications for membership in a kind of mutual benefit society, benefits and risks being restricted to members only. Provided people consent to the arrangement, in full knowledge of what it is to which they are consenting, it seems difficult to hold it unfair or an infringement of their rights if they are later selected to be sacrificed.

The major drawback to the survival lottery seems to be, then, not that it infringes some justifiable moral prohibition against killing; rather, I shall suggest, it is a problem of a utilitarian kind. This is surprising, for the scheme looks like an example of utilitarian planning carried to a new extreme. Harris himself says that utilitarians ought to favour it, and devotes most of his article to meeting absolutist objections. But the survival lottery faces a problem that is faced—though in a milder form—by a wide range of social welfare schemes: by transferring the consequences of imprudent action from the imprudent individual to society at large, the scheme removes the natural disincentive to imprudent action. Thus if I like rich food, and am a member of the survival lottery, I can eat what I like without worrying about growing obese and straining my heart; when it fails, I can always get a new one from a healthier person. My obesity does not increase my chances of being selected by the lottery, and so does not decrease my expected life-span; nor does another person's sensible diet and regular exercise increase his expected life-span. There may even be a tendency toward the reverse, since unhealthy people whose organs have already deteriorated to some extent will be of little use as donors and so presumably would be eliminated from the draw, leaving the healthy to bear the burden of providing organs when required.

Harris is aware of this kind of problem, but perhaps not of its full ramifications. He makes an exception to the application of the lottery, on the ground that it would be unfair to allow people who have brought their misfortune on themselves to benefit from it. He gives two examples, of a heavy smoker with lung cancer and a heavy drinker who has destroyed his liver; it would, he says, be unjust to preserve such people to over-indulge again. Moreover when, at the close of his article, Harris considers the practical difficulties in the way of implementing the scheme, he admits that it would be 'agonizingly difficult' to decide whether a person had brought his misfortune on himself, because of the numerous ways in which a person may contribute to his predicament.

Excluding from the lottery all those who in any way contribute to their own need to have their organs replaced would, of course, be a way of retaining the natural disincentive to imprudent actions which the survival lottery would otherwise eliminate. But is such exclusion at all feasible? When we consider this proposal in detail, it rapidly becomes clear that it is not. Smoking, for instance, appears to be a factor not only in lung cancer,

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but also in bronchial diseases and perhaps certain heart conditions as well. Should we therefore exclude anyone who smokes (no matter how little?) from assistance in respect of any of these organs? Alcohol, too, has damaging effects on the body beyond the destruction of the liver. We might try to exclude all those who drink from replacement of any organ that can be damaged by alcohol consumption; but again there is the problem of excluding all who partake of alcoholic beverages, or else trying to draw a line.

Regrettably, the list of harmful forms of consumption can be extended almost indefinitely beyond tobacco and alcohol. Most people consume considerable quantities of sugar, and hardly anyone eats no sugar at all; but there is evidence linking sugar with diseases of the heart, stomach, liver and kidneys, and at least one prominent nutritionist has urged that we consume no sugar at all.<sup>4</sup> The American Heart Foundation has warned against eating more than two eggs a week, and has suggested we reduce our meat consumption, while another study has linked meat with cancer of the intestine and bowel.<sup>5</sup> Then there is the whole problem of chemical and pesticide residues, which has led some people to purchase only the more expensive 'organically produced' foods. With all this on our mind we are unlikely to overeat; but if we do, and consequently grow fat, that could be another reason for exclusion from the lottery.

Already the task of deciding who is to be excluded from the lottery has become virtually impossible, if we are serious about excluding those who have brought their need for new organs upon themselves; yet diet is only one among many factors that need to be considered. Others include automobile use (care taken when driving, use of safety belts, maintenance of the vehicle in a safe condition, etc.), nature of occupation (coal-mining is more dangerous than teaching philosophy, and the stress of being a top corporation executive may lead such a person to the transplant centre more often than the person running a small farm), type of recreation (regular exercise might be considered a requirement, but the practice of a dangerous sport as a reason for exclusion) and so on.

I could go on—the topic is a hypochondriac's dream—but the point should be clear by now. It is not, of course, that no one should drink alcohol, smoke, eat omelettes, or drive at more than 10 m.p.h. Normally, each person should be free to choose for himself in these matters, provided information about the risks he is running is available. A person who knows that his gluttonous disposition may shorten his life-span but thinks the pleasure he gains worth the risks he is taking may safely be left to eat himself to death. John Stuart Mill's dictum that 'each is the proper

<sup>4</sup> John Yudkin, *Pure, White and Deadly: the Problem of Sugar* (London: Davis-Poynter, 1972).

<sup>5</sup> *Lancet*, 30 December 1972.

guardian of his own health' is apt here.<sup>6</sup> But once we institute a survival lottery the situation changes. Previously both the benefits and the costs of gluttony fell on the glutton, and we had no reason to interfere with the way in which he balanced the two; now the benefits of gluttony are still the glutton's, but the costs may fall on someone else, who is called upon to sacrifice his heart to replace the glutton's overstrained one. What was once, in Mill's terminology, a self-regarding act, has now become an other-regarding one.

If I am right in believing that it is impossible to sort out those who have brought their need for a new organ upon themselves from those who have not, it seems we must choose between allowing the imprudent to benefit at the cost of the prudent, or enacting stringent regulations governing almost every aspect of the lives of those admitted to the scheme. The former, quite apart from questions of justice, would lead to a progressive deterioration in the health of the community, and thus in the long run to the very opposite of what the scheme was intended to ensure, namely the saving of lives; while the latter would be a new and greatly extended form of the Prohibition experiment, and conjures up visions of illicit cake-shops providing huge revenues for the Mafia.

I can think of no solution to these problems, nor of any third possibility, and hence conclude that the survival lottery cannot be justified on utilitarian grounds.

If I have read Harris correctly, my conclusion is an extension of his own position, rather than a refutation of it, since his prime concern seems to be to show that there is something defective in our moral views about killing and letting die; and with this, as I have already said, I agree. But the reason why a survival lottery is unlikely to succeed in practice has a significance that extends beyond this particular case, though it should not be extended too far. Whenever there is a risk of loss, and the risk can be reduced by precautions taken by those who will bear the loss, a scheme to pool the risk with others reduces the incentive to avoid loss and therefore carries with it a danger that the total loss will be greater than it would otherwise have been. The phenomenon is of course well known to insurers as well as to the designers of social welfare schemes, and in most cases it can be disregarded or else overcome in some way. Motor insurance companies use no-claim bonuses or higher premiums for drivers who have accidents to make sure that the incentive to avoid accidents is not eliminated by insurance. Social welfare schemes are often criticized because they diminish the incentive to be self-supporting; here the problem is partially overcome by keeping the level of benefit below what most people find necessary for a comfortable existence. Some reduction of incentive to work may still remain for a few people (particularly those who can find no work of a kind

<sup>6</sup> J. S. Mill, *On Liberty* (London: J. M. Dent, 1910), 75.

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that is intrinsically satisfying) but the added burden this places on the taxpayer is considered tolerable, in view of the benefits the scheme provides for those in unavoidable need.

The difference between the survival lottery and other schemes which encounter the same general problem is that while people may accept some wastage of, say, taxation revenue, if there is no way to aid the genuinely needy without allowing a few to benefit undeservedly, they would not feel the same about a scheme in which a similar 'wastage' increases the chances that they will be called upon to die. So while there are many risks which people may decide to pool, despite the prospect of greater overall losses, there are going to be limits to what risks can be pooled. The survival lottery, perhaps the most extreme form of risk-pooling imaginable, goes well beyond these limits.

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