

Should we establish a
market for human
organs?



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There are a number of arguments with regards to organ commodification, which is the subject of hot debate. I will purposefully be limiting the scope of the argument to kidneys, as kidneys are paired organs that can be safely removed with minimal impact to the health of the donor. Although this topic is heavily related to philosophical and ethical issues, I would first like to discuss certain relevant aspects of background information with regards to a few simple and basic economic concepts, specifically related to supply and demand as it relates to the buying and selling of organs in an economic forum. The fact is that there are sick people who will die without transplants, and the number of organs available through donation, whether live donations from friends, relatives, or anonymous persons or donations through the harvest of organs from people who die, fall far short of the required number. This raises the question whether it is justifiable to provide financial incentives for organ donors to donate their kidneys in order to help narrow the gap between excess demand and shortage in supply. A variety of concerns and arguments have been raised regarding whether a legal market permitting the commodification of kidneys should exist. Many countries, including Singapore, still prohibit the sale of human organs. In the United States, the National Organ Transplant Act officially bans the selling of human organs. Would such a legal market encourage an increase in black market activities, as some individuals in dire need of organs might not be able to afford the price on the legal market? I will discuss the reasons why a legal market permitting the commodification of kidneys should exist. Some contend that allowing kidneys to be commodified would cheapen our humanity. I believe, however, that the intrinsic value of our humanity would not be cheapened even if we were to put a "price tag" on our organs, as

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such a price would only signify that we are trading kidneys at a specific rate. Finally, I will address some of the concerns that have been raised regarding commodifying other human organs and body parts, such as the heart, hair, and blood. I will conclude with the assertion that a legal market could mitigate the large number of black market activities that already exist, and that commodification would in no way devalue our humanity or our culture of liberty, but would rather place a greater value on freedom by demonstrating a respect for individuals' rational choices regarding kidney donation.

Introduction

Before getting into the heart of the argument about whether there should be a legal system established for allowing commodification of organs, I would first like to draw on literature from Gill and Sade in order to address a few preliminary points. The pro-market argument we will be considering is a prima facie argument which, unless rebutted, would be sufficient to support the permissibility of the practice. On the other hand, the reason I'm purposefully limiting the scope of the argument to kidneys is because the kidney is paired organ that can be safely removed with the minimal impact of the health of the donor.

Here is a quick background behind the argument: It is that there are sick people who will die without a transplant and that the number that becomes available through donation either live or cadaveric fall far short of the numbers that are required. In many countries, thousands of candidates on organ transplant waiting lists die each year due to the lack of donor availability. According to the U. S. Department of Health & Human Services,

there are currently 86, 445 people waiting for kidney transplantation, while only 7, 000 people are available as kidney donors. This huge shortage of organs has led to a thriving black market trade in human organs, especially kidneys. People who advocate legalization believe that selling their organs might create a solution to the shortage; additionally, sellers make generous financial gains from the sale of organs. Therefore, a market solution, one where people are given a financial incentive to part with their organs, would procure more of them than a donation-only scheme and narrow the gap between supply and demand. Because black market trade has become so widespread, some concerns and hot debates have been raised regarding whether there should be a legal market permitting the commodification of kidneys. Many countries, including Singapore, still prohibit the sale of human organs. In United States, the National Organ Transplant Act officially bans the selling of human organs. This essay will discuss why there should be a legal market permitting the commodification of kidneys. A legal market could mitigate the black market activities that already exist, and commodification would not devalue our humanity or our culture of liberty; rather, it would place a greater value on freedom by respecting individuals' rational choices regarding kidney donation.

According to Gill and Sade, the prima facie pro-market argument addresses two points: first, donation is permissible. It is, and ought to be legal for a living person to donate a kidney to someone else who needs one in order to survive. From its point of view, we actually don't just allow people to do this. However, we praise and encourage this. In Singapore, the government makes it harder than other countries not to donate. Citizens are presumed to

be organ donors and have to opt out, rather than the reverse. In either case, though, donation is typically taken to be a case of saving a human life and morally unproblematic. It implies that it should be legal for a living person to decide to transfer one of his or her kidneys to someone else.

Second, commodification of tissue is permissible, according to Gill and Sade. It is, and ought to be, legal for a living person to buy and/ or sell certain body tissues such as hair, sperm, eggs, blood products, etc. For instance, the Singapore Cord Blood Bank (SCBB) has facilitated over 40 cord blood transplants according to Cord Blood Bank of Singapore (for the SCBB, cord blood is donated but then sold to recipients, unless the recipient was also a donor). In other countries, though, people who give blood are financially compensated. Of course we would not typically praise people who sell their body tissue as we do people who donate it to save a life, but, at the same time, most people do not brand commercial blood banks as moral abominations, rather than an acceptable means of procuring a resource that is needed to save lives. It implies that it should be legal for a living person to decide to transfer part of his or her body to someone else for money. As a result, it thus seems initially plausible to hold that the two claims together imply that it should be legal for a living person to decide to transfer one of his or her kidneys to someone else for money.

There are some responses, according to Gill and Sade's literature, to the prima facie argument. First of all, the argument attempts to establish a moral difference between selling and donating. One thinks that commodification of body parts is wrong in itself because if one commodify oneself by selling oneself or part of oneself as a mere means which is as an

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object to be used, bought and sold for a price. It is thus disrespectful of one's humanity to treat oneself as a mere means as it cheapens us and takes away from the meaning and significance of humanity. Therefore, commodifying oneself violates a duty one has to oneself to respect what makes us morally significant creatures. Secondly, commodification of body parts leads to undesirable social consequences, according to Julia Mahoney. We would view others as commodities rather than as persons, according to Kass. We don't have to say that this is intrinsically wrong, but it would definitely affect the quality of social life. One may argue that legalizing kidney sales would promote an everything-is-for-sale mentality that will lead to the degeneration of civil society. It may make it more likely that we would legalize live-donor heart sales in the future, or it may promote a mindset where people are more commercial minded, and less generous, loving or friendly to each other. Thirdly, commodification of body parts unjustifiably infringes upon the freedom of certain people. As a result, some suggest that prohibiting commodification is necessary to protect certain liberties, according to Wolf. Criminalizing kidney sales infringes upon the freedom of potential buyers and sellers, but it protects the freedom of donors who have an interest in making 'pure' gifts which "to give something that cannot be bought" (Lomasky, p. 252-255). The latter freedom is the more important one and infringing upon the freedom to buy and sell is necessary to protect it. However, according to Lomasky on sex, his argument is a reduction ad absurdum of the Titmuss-inspired argument against kidney sales. If prohibiting kidney [human tissue] sales is necessary to protect the freedom of someone who wants to make her kidney a 'pure' gift, then prohibiting marriage is necessary to protect the freedom of someone who wants to

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engage in sex outside the context of any contractual format. However, this is a terrible reason to prohibit marriage obviously, so it must also be a terrible reason to prohibit a market in kidneys or even human tissues. Therefore, it evokes my deeper curiosity to take somewhat in-depth analysis about what justifies legalization for commodifying body parts, especially kidneys in this essay.

Many people claim that the growth of black market activity is induced by financial incentives of kidney transplantation, but I would argue that an equal force driving the expansion of the black market is the lack of a legitimate market. Clearly, the current donation system is unable to meet overall demand. The countries with a huge shortage of kidneys that have outlawed commodification have inadvertently stimulated the growth of black market activities because there are always wealthy people who will strive to preserve their own lives even if it means exploiting the poor. For example, one recent headlined article from Singapore reads, " Two Indonesian men who agreed to sell their kidneys for more than S\$20, 000 (\$14, 814 U. S. dollars) each were given light prison terms and fines after a judge blamed syndicates for exploiting them" (Earth Times News). If a legal market were to be established, law enforcement would be better able to protect the poor from such exploitation. Kidney transplantation would also be formally and properly regulated within a legitimate market, thereby protecting the sellers and guaranteeing the quality of the organs for the recipients.

On the other hand, one of the most prominent concerns about legalizing the commodification of kidneys is that it would, in effect, evoke financial incentives. Thus there are some anti-market rebuttals that try to address <https://assignbuster.com/should-we-establish-a-market-for-human-organs/>

why commodification of organs is not allowed. First of all, people argue that with the differences between the motive of the individual in selling a kidney and donating one. Sellers are motivated by financial incentives, self-interest, or the interests of their families if they sell in order to provide for their families. Donors are motivated by benevolence or altruism. However, I would argue that if self-interest was so bad then the commodification of, for instance, blood products would be ruled out. As a result, the self-interested motive does not rule commodification of other body parts. On the other hand, parting with a kidney is different than parting with blood. The latter is simple and quick while the former requires the risks of major surgery and living the rest of one's life with just one kidney. However, if kidney transplant was so dangerous because of its invasiveness, then donating them would be ruled out. Thus, these risks are not judged great enough to justify prohibiting donating kidneys. So, there are arguments about these differences which don't suggest the market for commodification of organs. However, these differences do not make any moral difference.

If we oppose the sale of kidneys because we think it is too dangerous, then we should also oppose live kidney donations. On the contrary, we do not oppose live kidney donations because we realize that the risks are acceptably low and worth taking in order to save lives. So, it is inconsistent to oppose selling kidneys because of the possible dangers while at the same time endorsing donating kidneys is permissible. Similarly, if we oppose kidney sales because we think people should not commodify body parts, then we should also oppose commercial blood banks which I mentioned before. However, most people would not oppose the existence of commercial

blood banks because they realize that these blood banks play an extraordinary role in saving lives. Therefore, it is also inconsistent to oppose selling kidneys since it involves payment while at the same time endorsing commodification of tissue is a permissible act.

It seems that if people would ban the market for commodification of organs, they should also oppose the ideas either the donation of kidneys isn't permissible due to the risk attached to the surgery or commodification of other tissues isn't permissible. I think both of them are neither plausible nor have very wide support. Indeed, most nations are trying to encourage more donation as well as more supply in order to save more people. The failure to generate adequate supply is why market solutions are beginning to get more traction in certain countries including Singapore. In addition, it might still be fine to sell hair. One might argue that there is a moral difference to be made between hair on one hand and kidneys are blood products on the other hand. Obviously, people need blood and kidneys in order to live due to physical necessities, so one might say that it is only impermissible to sell human tissue that aren't physical necessities. I, however, think that there's something wrong with the claim about commodifying stuff like that.

In fact, legalizing commodification could itself convince people to participate in kidney transplantation. Because communitarians emphasize that individual rights and interests should be compatible with those of the community as a whole, they believe this could change society's moral sense. Thus, setting up a law to allow the commodification of kidney transplantation could lead people to believe that giving a kidney to others is not only moral but expected.

Setting aside the communitarian perspective, poor people risk their own lives by giving up their kidneys in order to save another's life, which is justified by their altruism, according to our class discussion. They are all rational people who are self-governed and able to weigh the risks of kidney donation against their own propensity toward altruism. Some poor people may attempt to receive compensation for their organ donation, thus blaming their decision on the financial incentives. However, they still had the option to make money in other ways. Even the current system of organ donation may contain a form of coercion in that a prospective donor may feel extremely uncomfortable refusing to donate his or her kidney to someone who is in such desperate need due to the vast shortage of donors. In the end, we should respect the decisions of individuals who make rational choices about kidney donation regardless of whether these choices are made with consideration of the financial incentives. Also, anti-commodification about kidneys can't be just a knee-jerk antipathy towards markets. We shouldn't spurn markets without stopping to think of how much markets in goods do for our general welfare. In other words, it would be improper to be anti-commodification about everything. Moreover, we should not spurn markets in the name of the poor and oppressed without stopping to think of how getting rid of these markets would affect the poor and oppressed. People do not sell spare kidneys or turn to prostitution for fun. They make such choices only when their alternatives are even worse. Therefore, it seems to me that rejecting commodification may be a luxury that not everyone can afford.

There are also some arguments that claim that the commodification of kidneys would cheapen our humanity. I, however, think that the intrinsic

value of our humanity would not be cheapened even if we put a “ price tag” on our organs, for the price only signifies that we are trading kidneys at a specific rate.

A price tag does not indicate the total value of a commodity. Rather, a price tag should be seen as an attempt to “ quantify some aspects of [the] usage” (de Castro, 2003, p. 145) of something’s infinite value ... No one would ever say that this method “ capture[s] the full value that we ascribe to human life” (de Castro, 2003, p. 145). Such a method never aims to capture that infinite value (Julia Joseph).

Thus, creating financial incentives to encourage people to sell their organs to the needy does not devalue humanity. Moreover, as I mentioned in the class discussion, we accept donors giving up their kidneys on the basis of altruistic motivations, so we should likewise not rule out the possibility that donors would like to give up their kidneys for financial incentives, especially when we strongly believe that such motivations could save a significantly greater number of lives. Thus, commodification should be permissible, as it would neither devalue the intrinsic worth of humanity nor be limited by the “ boundary” of altruism. Even in a commodified system, each individual can give his or her kidney on the basis of “ pure” altruism; the financial reward would merely be a secondary benefit to altruists. A legal commodified system would ultimately save more lives, as people would be donating for altruistic as well as financial reasons, and the system would be stringently regulated by law.

This essay focused on arguments regarding a legitimate market for the commodification of kidneys as well as misconceptions about the consequences of permitting this commodification. Above, I discussed three rebuttals to anti-market arguments, all of which demonstrate that black market activities are thriving due to the lack of legitimate market regulation of human organ procurement. Fortunately, our culture of liberty places great value on individuals' rational decisions; in this sense, people should be allowed to weigh the potential risks against their own propensity toward altruism. Commodification encourages such deliberation by respecting people's decisions to seek money for their available organs, in addition to seeking spiritual reward, on the basis of rationality. Moreover, a legal financial incentive would encourage more people to donate. Saving more lives through allowing the selling of kidneys does not devalue a human's dignity any more than does our current practice of selling other medical services. The key to the safe and effective commodification of kidneys may ultimately depend on proper regulation of the system by law enforcement. In order to more quickly start saving more lives, we should prioritize the creation of a legal market of properly regulated commodification of kidneys instead of arguing over the possible undesirable consequences of such a market.