
In Defense of a Market in Kidneys

Dr. Cansu CANCA
University of Hong Kong
canca@hku.hk

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Background: Waiting List

- In the United States only*:
 - 122,579 patients are currently waiting for an organ.
101,283 of them are waiting for a kidney as their conditions deteriorate.
 - In 2014:
 - 8,094 patients waiting for a kidney transplant died or became too sick to survive the procedure.
 - only 17,107 kidney transplants were performed

Background: Global Rate

- Globally, total number of organ transplants cover only about 15% of the waiting list.*
- 5-10% of all kidney transplants are done with organs from commercial donors.*
 - illegal organ trade

**UN and CoE joint study on trafficking in organs, tissues, and cells, 2009*

Background: Transplant vs. Dialysis

- 5 year adjusted survival probability:
 - living donor transplant: 87%
 - deceased donor transplant: 73%
 - peritoneal dialysis: 49%
 - hemodialysis: 40%*
- Dialysis patients are expected to live less than one-thirds of their counterparts without ESRD. Transplant patients have expected remaining lifetime at 83-87% of those of general population.*
- Risks for the donor:
 - 0.031% mortality rate in first 3 months, and no increase in mortality or morbidity in the long-run**

*US Renal Data System

**Segev et al., "Perioperative Mortality and the Long-term Survival Following Live Kidney Donation," *Journal of the American Medical Association*, 2010.

Policy

■ Increase donations

- cadaver donation: opt-in vs. opt-out

DBD vs. DCD

- living donation: directed donors

altruistic anonymous (*3% of all living*)

chain transplant (*longest: 34 kidneys*)

■ Prohibition of *any* commercial transaction of kidneys (*world-wide except Iran*)

- market incentives for almost all other goods and services – including life saving drugs and research, and health care professionals
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Illegal organ trade vs. Regulated market

- Illegal organ trade is immoral.
 - deception, fraud, harm, medical malpractice
 - both parties are often worse-off
 - A regulated market in kidneys
 - standard medical practice (pre- and post-op), legal protection, informed consent
 - regulated system for buying and allocating (ex: single buyer, waiting list system)
 - financial feasibility
 - more available kidneys!
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Utilitarian Argument for a Market

- Incentives are most likely to increase number of kidneys available for transplantation.
 - Less time spent on waiting list means more successful transplants and less come-back's to the list.
 - Larger pool of organs means better matches.
 - Donation option remains.
 - Enables seller to gain benefits as well.
 - A prohibition is wrong because it prevents these benefits and allows harm to persist.
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Objection: The Crowding-out Effect

- “Allowing commercialization will drive away altruistic donors leading to a worse outcome.”
 - Would there be less kidneys available?
 - studies on incentives: negative effects can be compensated
 - altruistic non-directed donations from the living make up 3% of all living donations and 1% of all donations
 - directed donors: either there are enough organs or the same motivation to donate holds
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Objection: Altruism / Solidarity

- “The appropriate motive for organ donation is altruism. Commercialization would destroy essential values in the society.”
 - Realistic? Letting people die for altruism?
 - Altruism as a virtue:
 - Would a truly altruistic person not care once the system changes? Should a virtue be forced by “death threats”?
 - What is special about organs?
 - solidarity/altruism in food? healthcare services?
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Objection: Justice

- “In a market system, the sellers will be dominantly from worse-off groups. They will not be on the receiving end.”
- Health care system design
 - Studies suggest that those who can receive dialysis/transplant under the current system, could still be covered
- Personal relationships as main determinants
 - one gets to live if one has a large and altruistic social circle
- Better matches for minority groups

Autonomy Argument for a Market

- Respecting the autonomy of those who need a kidney and those who want to sell a kidney require allowing the market.
 - In fact, since there already is an illegal market, valuing autonomy would entail protecting participants' autonomy by regulating the market.
 - A prohibition is morally wrong because it disrespects and fails to protect autonomy.
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Objection: Coercion

- “Participants are *coerced* into selling due to their extreme poverty. These sellers are not making an autonomous decision to sell.”
 - Are all actions that the seller would not want to do if the circumstances were different coerced?
 - If better off won't do X, should we also prohibit them for the vulnerable? Jobs? Enlisting in military?
 - Risk: 0.031% in first 3 months = logging/fishing
(transplant: same risk and more than double the benefit)
 - Further marginalizing/disadvantaging the vulnerable
 - Are they more “coerced” than a donor?
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Kantian Argument for a Market

- In buying and selling between rational, voluntary, and informed participants, each of them treat the other and herself as ends in themselves.
 - protecting and furthering one's rational capacity
 - respecting the seller's rationally set goals
 - saving the recipient's life
 - in line with the rational will's purpose understood as its freedom and effectiveness to set and pursue its goals
 - In fact, a prohibition would be illegitimate within a Kantian framework.
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Objection: Treating People as Means/Objects

- “Buying and selling organs treats people as mere means and as replaceable objects. This violates their humanity, and dignity, according to Kant.”
 - Neither party is treated as *mere* means.
 - humanity as capacity for rationality and morality
 - their autonomy is not adversely affected
 - Donation and chain transplants (barter method) also treats body parts as replaceable.
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A Case against Prohibition

- A regulated market in kidneys does not necessarily involve immoral actions, granted
 - kidney transplantation has high success rate
 - regulations can reasonably ensure rational, voluntary, and informed participation
 - In fact, a prohibition is morally impermissible because it (1) fails to minimize the harm and maximize the benefits, (2) fails to respect and protect autonomy, and (3) fails to treat people as ends in themselves.
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THANK YOU!

canca@hku.hk