

“If you should be allowed to do it, then you should be allowed to do it for money”

Continuing the prohibition of kidney markets

Dyone Bettega

The fundamental reason for establishing kidney markets is to address and overcome the ever-increasing organ shortage. I will be examining the argument for establishing kidney markets through Jaworsky and Brennan’s theory that ‘if you should be allowed to do it, then you should be allowed to do it for money’, and discuss why this theory should not be applied to support this argument. I believe that market trading in kidneys will inevitably result in the commodification of people and I will validate this position by discussing three key arguments with reference to Beauchamp and Childress’ (1985) ethical framework of principlism. Principlism comprises four bioethical principles, justice (the equal distribution of goods), nonmaleficence (do no harm), respect for autonomy (self-governance and moral independence), and beneficence (do good)¹. I will start by exploring the existing socioeconomic inequality between poor organ sellers and wealthy organ buyers and how kidney markets will amplify this divide. Further, I will examine why kidney markets do not promote autonomous choices but merely legally allow the destitute to sell their organs due to their poor financial position. Finally, I will outline the conditions that commonly lead to end-stage renal disease, and subsequent kidney transplantation, and how the health and fitness markets can help combat the organ shortage by reducing the number of people in need of a kidney through better nutrition, fitness and health practices.

In theory, a kidney market can be established, as both high-bidding organ buyers and poor, financially driven, organ sellers will exist, thus creating the economic preconditions for an economic equilibrium where demand meets supply. In such a market, demand is expected to be price inelastic (unlikely to decline substantially following price increases) thus providing a further incentive that encourages and sustains organ supply. These market forces are likely to foster social inequality by pricing out the majority of the population, thus amplifying the divide between the wealthy and the poor. This scenario contradicts the ethical principle of justice proposed by Beauchamp and Childress’ because organs will not be fairly allocated and distributed². Further, kidney sellers are almost always poor people who have limited

¹ Murphy, D., 2020. *An Absurdly Short Introduction to Ethical Theory*

² Ibid

means to provide for themselves or their family but to sell a kidney³. The one-off payment from a kidney sale has been shown to have little influence on a vendor's financial independence and may actually even lead to their worsened financial and psychological position in the long-term.⁴ For example, a study of kidney vendors in Pakistan confirmed that the most disadvantaged and destitute people resort to selling kidneys and consistently experience feelings of remorse, regret and hopelessness after the kidney sale⁵. These outcomes are contrary to Beauchamp and Childress' ethical principle of nonmaleficence⁶. This is because kidney markets will not only amplify socioeconomic divides, but also result in short-term financial relief and long-term psychosocial harm to individuals who have sold organs as their last resort.

Establishing kidney markets will unlikely increase individual autonomy but instead, may permit the destitute to easily - and often irrationally - sell their kidneys under duress from extreme poverty. In theory, markets can be beneficial, as they provide buyers and sellers with the autonomy and the opportunity to choose what goods they will value free from external influences. However, the severely impoverished are identified as the demographic most vulnerable and most likely to resort to selling their kidneys⁷. This underprivileged demographic typically does not have access to extensive education regarding the risks of kidney procurement surgery, nor do they have many means to earn money and be financially self-sufficient. The interaction of these two factors can therefore lead to irrational and regrettable decisions. Bakdash categorises this situation as coercion from poverty because the decision to sell kidneys is a direct product of an individual's dire economic situation, not a freely informed choice.⁸ By legalising the commodification of kidneys, society would allow the destitute to contribute to the needs of the wealthy by disguising their involvement as an autonomous 'right' or 'free will' that they can exercise⁹. By contrast, Beauchamp and Childress define personal autonomy as "self-rule that is free from both controlling interference by others and from limitations, such as inadequate

³ Danovitch, G. and Delmonico, F., 2008. The prohibition of kidney sales and organ markets should remain. *Current Opinion in Organ Transplantation*, 13(4), pp.386-394.

⁴ Ibid

⁵ Moazam, F., Moazam Zaman, R. and M. Jafarey, A., 2009. Conversations with Kidney Vendors in Pakistan: An Ethnographic Study. *Hastings Center Report*, 39(3), pp.29-44.

⁶ Murphy, D., 2020. *An Absurdly Short Introduction to Ethical Theory*

⁷ Moazam, F., Moazam Zaman, R. and M. Jafarey, A., 2009. Conversations with Kidney Vendors in Pakistan: An Ethnographic Study. *Hastings Center Report*, 39(3), pp.29-44.

⁸ Bakdash, T. and Scheper-Hughes, N., 2006. Is It Ethical for Patients with Renal Disease to Purchase Kidneys from the World's Poor?. *PLoS Medicine*, 3(10), p.e349.

⁹ Moazam, F., Moazam Zaman, R. and M. Jafarey, A., 2009. Conversations with Kidney Vendors in Pakistan: An Ethnographic Study. *Hastings Center Report*, 39(3), pp.29-44.

understanding, that prevent meaningful choice”¹⁰. Autonomy can only be truly exercised when poverty and lack of education are not controlling influences on one’s decisions. Thus, it is clear that kidney markets will likely facilitate the irrational, uninformed and coerced decisions made by the destitute, and will not increase individual autonomy, but only disguise it.

The health and fitness markets can help combat organ shortage by incentivising people to lead healthier lives, thus reducing the prevalence of lifestyle diseases that commonly lead to end-stage renal disorders and kidney transplantation. Diabetes and hypertension are two lifestyle diseases that are the most common causes of end-stage renal disease¹¹. These lifestyle diseases arise from obesity, poor eating habits and inactivity but their severity can be reduced, and even reversed, through lifestyle changes¹². Government actions to further grow health and fitness industries can incentivise obese and inactive people to improve their health by exercising regularly and maintaining a healthy diet. These measures have been proven to effectively reduce the incidence of lifestyle diseases and prevent their progression to end-stage renal disease¹³. The resulting improvement in collective health will minimise the number of people on kidney transplant waiting lists, thus ensuring a sustainable supply of organs through altruistic and cadaveric kidney donors. This action will remove the need for a dedicated kidney market and associated negative psychological and financial impacts commonly experienced by the disadvantaged and vulnerable. Health and fitness markets satisfy Beauchamp and Childress’ ethical principle of beneficence¹⁴ because they can reduce the number of people in need of a kidney by improving the health of society, while simultaneously rendering the commodification of kidneys redundant, as ongoing organ demand can be met through altruistic and cadaveric supply. Thus, it is clear the organ shortage can potentially be addressed by proactively preventing kidney disease through the growth and support of health and fitness markets. This will render the development of ethically problematic and non-sustainable kidney market solutions redundant.

In summary, Jaworsky and Brennan’s theory, ‘if you should be allowed to do it, then you should be allowed to do it for money’ does not support the establishment of kidney markets because it violates Beauchamp and

¹⁰ Varelius, J., 2006. The value of autonomy in medical ethics. *Medicine, Healthcare & Philosophy*, 9(3), p.377.

¹¹ Kidney.org.au. 2018. Kidney Fast Facts. [online] Available at: <https://kidney.org.au/cms_uploads/docs/kidney-fast-facts-fact-sheet.pdf> [Accessed 20 June 2020].

¹² Kumar, V., Abbas, A., Aster, J., & Perkins, J. (2013). *Robbins Basic Pathology* (9th ed., p. 713). Elsevier Saunders.

¹³ Ibid

¹⁴ Murphy, D., 2020. *An Absurdly Short Introduction to Ethical Theory*

Childress' well-established bioethical framework of principlism. This was demonstrated by discussing the ethical concerns that are raised by the establishment of these markets, including the increased socioeconomic divide between the wealthy and the poor leading to diminished justice and increased potential for harm. The reduced autonomy of market participants further extended the list of ethical problems attributed to kidney markets. Finally, I proposed novel approach that uses existing health and fitness markets to drive a campaign to prevent lifestyle diseases, which are the major causes of kidney disease. Undoubtedly, not everything that can be done, should be done for money.

References

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