The case against kidney sales

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"The philosophers have only interpreted the world in various ways; the point is to change it."

Karl Marx: Theses on Fuerbach

I am one of those who, according to Radcliffe-Richards et al, oppose the practice of buying kidneys from live vendors from a feeling of "outrage and disgust." (1) These feelings are by no means irrational. They are based on a bedrock of moral principle: that no human being should exploit another. The opponents and proponents of the trade in human organs are divided by this (perhaps unbridgeable) chasm – the one side is wedded to the belief that not only are all human beings born free, but that they should stay free; the other is not so sure. The evolution of human civilisation has witnessed several periods of gross exploitation of human beings. Slavery, the extermination of six million Jews, and today the transfer of body parts from one living human being to another, for a financial consideration, are part of a continuum of values which sees some human beings as less valuable than others. It is this value system that those of us who oppose the sale of kidneys, seek to change. All arguments in favour of the trade are attempts to clothe, in the garb of reason, the concept that it is all right to remove a body part from a poor person and put it into a rich one. But even these arguments will not bear scrutiny and I will deal with them below.

First, the argument that the prohibition of organ sales worsens the position of the poor because it removes an option in their already deprived lives: Here the authors **(1)** of the paper have cleverly stated the most potent contrary argument themselves: the solution is the removal of poverty. They, however, appear to consider this a distant possibility, and in the meantime advocate the selling of kidneys as one option available to the poor to better their circumstances. It would have been useful if the authors had adduced material to show how and how long this so-called option works. In the absence of any sustained means of livelihood, it is quite probable that the money obtained by the sale of one organ will soon be gone. What shall the seller do next? Sell another organ? An eye? A lung? And when all the paired organs are gone?

Let us accept that the risk involved in nephrectomy is not high. But is it not a fundamental tenet of medicine that the risk must be in the medical interest of the patient? What medical advantage does the donor obtain? Undoubtedly the risk is the same for those who sell and those living donors who do not sell but donate out of regard for the recipient. Radcliffe -Richards et al move from this fact to the inference that therefore there should be no difference between the two groups with surprising facility. What matters here is motive: the implicit coercion in the case of the poor who sell out of financial compulsion. Radcliffe - Richards equating of the motives of the better off, and comparing the risks of nephrectomy with the risks of dangerous sports can only be described as callous. No one prevents them from campaigning against these sports if they are so moved, but for us activists in the Third World there are more pressing matters than looking after the well - being of the jet- set. A profile of the sellers would be revealing. It will come as no surprise that they all belong to the Third World. And it will also come as no surprise that besides the wealthy in the Third World, the potential buyers will be from the rich, white, First World and from the petroleum driven nouveau - riche! No wonder a veritable industry of philosophers has risen in these countries to justify this horrible practice. And in the honourable tradition of colonialism there will always be locals ready to aid and abet the conquerors. He who pays the piper calls the tune!

Radcliffe-Richards et al (1) seem fixated on the belief that legalising and controlling the trade in human organs will protect the exploited. The situation in other fields shows that this is naïve indeed. In Hamburg, legal commercial sex workers throng the glittering Reeperbahn, while in the sad, sordid, shadowy bylanes the illegal commercial sex workers have no shortage of clients. This in a country where social conditions ensure much closer adherence to the rule of law than is the case in most developing countries, which are the main source of people willing to sell their organs. In India, child labour is a reality. Poverty is the main reason for its existence. The efforts of numerous groups have succeeded in making it illegal. Have they removed an "option" for the poor? After all, the poor consciously send these children to work. Would it be a good idea to legalise the practice and control it on the theoretical basis that it would improve the lot of these unfortunate children? There are many reasons why such trades will always be open to exploitation. The most potent one is that the victims are poor and voiceless while the beneficiaries are generally rich and powerful.

The argument that organ selling is acceptable because some services are available to the rich, which are not available to the poor, is extremely strange. Do the authors believe that the presence of undesirable practices justifies adding a few more? What will the limit be? Who will decide how many more are to be allowed? No prizes for getting it right. The answer is: the rich and powerful. Permit whatever is in their interest. They can always hire a motley crew of philosophers and technicians to justify it and make it possible.

Why is altruism necessary in organ donation? It is because it will ensure the absence of exploitation. It is nobody's case that unless some useful action is altruistic it is better to forbid it altogether. Altruism removes the profit - making element. It will help ensure that organ transplantation is done in the best possible way and thereby achieve the best possible medical result. It will also ensure that no vital organ is removed from a living person. On the other hand, trade in kidneys definitely puts one on the slippery slope to selling vital organs as documented elsewhere. (2) Here,

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the authors utilise the familiar stratagem of positing and demolishing imaginary weak arguments against their stated position, while ignoring the real and powerful argument.

The authors end with an emotional appeal that feelings of repugnance among the rich and healthy cannot justify removing the only hope of the destitute and dying. A powerful statement indeed, but on whose behalf? Is the only hope for the destitute the sale of body parts? Is this modern form of slavery where one sells oneself piecemeal, as opposed to the old form where the entire person was sold the only hope for the poor of the 21st century? Or are the authors unaware that there is enough for all if only the rich were not so greedy? (3) Although they themselves state that the real solution to selling is the removal of poverty, they quickly move on to the reasons why selling is acceptable today. The entire tenor of their article suggests that they are not interested in this the real option. Perhaps it is difficult to push this idea in the West where the dominant paradigm is to maintain the current wasteful level of living, never mind that it is at the direct cost of millions of other human - beings living elsewhere. How much easier to go for the soft option of buying kidneys from the poor and making this appear as good for both the seller and the buyer. As for the dying, it is clear that the authors are not concerned about the poor who are dying, as they cannot afford transplantation and all the costs after transplantation. As for those who can afford transplantation, is the transfer of a kidney from a poor person really the best option? People who have undergone dialysis do not seem to think it such an unpleasant experience, as the authors would have us believe. (4) Let us not forget also that transplantation is not the end of the story but that the patient has to be on lifelong immunosuppression, which is quite an expensive proposition. However, it is true that many who would be helped by transplantation are unable to get an organ. The real solutions lie in popularising cadaver transplantation and increasing the donation rate from the brain-dead, and working on technology to make dialysis cheaper and more (tolerable). Radcliffe - Richards et al state that a vendor will never be a potential donor even after death. This is by no means certain. Methods can be found to increase donation rates from the brain - dead and from cadavers. One has only to see the amazing success of the Sri Lankan eye donation programme to understand what can be achieved. This is the difficult option but the only sustainable one. Nothing can justify using one human being as an organ farm for another.

References:

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Excerpts from the World Medical Association statement on human organ and tissue donation and transplantation, adopted by the 52nd WMA General Assembly in Edinburgh, Scotland, October 2000

Physicians' obligations

"The WMA considers that policies and protocols concerning organ and tissue donation and transplantation must be developed in recognition of the medical ethics that underlies the practice of medicine and the patient-physician relationship…"

Values

"The expression of compassionate concern for others suffering from ill health and disability through voluntary altruistic giving," "free and informed decision making about medical treatments," "Privacy and the dignity of the patient," "timely access, on just and equitable terms and conditions, to necessary and effective medical treatment … "

Social aspects to organ and tissue procurement

"Awareness and choice should be facilitated in a coordinated multi-faceted approach by a variety of stakeholders and means... "

Institutional and individual obligations

"Physicians have an obligation to ensure that interactions at the bedside, including those discussions related to organ donation, are sensitive and consistent with ethical principles and with their fiduciary obligations to their patients…"

Free and informed decision making

"… the potential donor's wishes are paramount. In the event that the potential donor's wishes about donation are unknown and the potential donor is …unable to express his/her will, the family or a specified other person may serve as a substitute decision-maker …"

"In order for the choice to donate organs or tissues to be duly informed, prospective donors or their substitute decision makers should, if they desire, be provided with meaningful and relevant information..."

"Protocols for free and informed decision making should also be followed in the case of recipients..."

Living donors

"special efforts should be made to ensure that the choice about donation is free of coercion... Individuals who are incapable of making informed decisions, for example minors or mentally incompetent persons, should not be considered as potential living donors except in very limited circumstances, in accordance with ethics committee review or established protocols…the physician who obtains informed consent from the living donor should not be part of the transplant team for the recipient…"

Justice in access

"… there should be explicit policies open to public scrutiny governing all aspects of organ and tissue donation and transplantation, including the management of waiting lists for organs and tissues to ensure fair and appropriate access..."

"Payment for organs and tissues for donation and transplantation should be prohibited. A financial incentive compromises the voluntariness of the choice and the altruistic basis for organ and tissue donation. Furthermore, access to needed medical treatment based on ability to pay is inconsistent with the principles of justice… However,