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The case against a regulated system of living kidney sales

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The number of individuals on a waiting list to receive a kidney currently exceeds 100,000 globally. In the developing world, access to health care and financial issues are the major barriers to renal replacement therapy, but in the advanced industrialized nations, shortage of transplantable organs is the chief reason for continued growth of the waiting list. This gap between supply and demand could be reduced by allowing willing individuals to sell their organs. Donation of organs for money, however, was made illegal in most countries following the emergence of large-scale organ marketing operations supported by unscrupulous brokers and middlemen, especially in the developing countries of South Asia.

The arguments supporting organ sale need to be examined carefully. The differences between the sale of irreplaceable organs and that of essentially renewable tissues such as blood or sperm must be appreciated. Removal of a kidney involves major surgery under anesthetic, which is far more invasive than obtaining any of the aforementioned tissues. Furthermore, it is imperative that we recognize the immorality of allowing people to do serious damage to themselves for the sole purpose of making money. In some instances, individuals who have already sold a kidney have expressed their willingness to donate a second one and take the risk of living on dialysis.[1]

Unacceptably high recipient mortality and transmission of infections, including HIV and hepatitis, have been consistently reported following transplantation of purchased kidneys.[2–4] There is, however, a remarkable paucity of outcome data from such transplantations. Some reports from Iran have claimed success rates equivalent to living related donor transplantations;[5] however, these have been published only in review papers, and the data not rigorously peer-reviewed.

There are few data to show that the financial compensation received by organ donors in developing countries has helped improve their lives. It is common knowledge that donors are underpaid, and that their postoperative medical care is absent or suboptimal. Reports in the lay press have documented high rates of donor mortality and morbidity. Interviews with over 300 kidney sellers near Chennai, India[6] revealed that about 75% of participants whose motive for selling the kidney was payment of debts continued to be in debt and almost 90% reported significant deterioration in their health after donation. Zargooshi[7] documented widespread practice of extralegal financial transactions, coercion and blackmail between donors and recipients in Iran, where financial reward through an independent agency is legal. Although others dispute Zargooshi's observations, independent observations have supported his findings.[8]

So far, financial compensation for kidney donors in most places has been arbitrary, subject to bargaining between the donor and the middleman and dependent on the donor's level of awareness about the value of a kidney. Accurate figures are not available, but in South Asian countries it is estimated that of US$2,000–2,500 paid by the recipient for a kidney, only about $1,000–1,200 reaches the donor. US estimates of appropriate purchase price of a kidney vary from $45,000 to $90,000.[9,10] Once money enters the equation, the argument of allotting the purchased kidney only on medical grounds in an open market economy stands on thin ice. Why should a desperate recipient willing to pay the price not be allowed to go to the top of the waiting list, or the degree of 'matching' between the donor and the recipient not decide the price? Why should the price not be decided at auction so that the seller gets the highest value for an asset that he or she can sell but once?

Enforcement of current transplantation legislation is uneven in many countries. The presence of illegal middlemen or brokers is not doubted.[8] There have been allegations of active collusion of transplant surgeons, nephrologists and members of the regulatory bodies in facilitating commercial transplantations, often with the help of forged documents, and the failure of the law in preventing this activity is well-documented.[11,12]

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A charitable view could be that these transplantations are performed out of a sense of pity for the recipients; however, there is a strong suspicion that financial gain is the main motivation. It is hard to imagine that in societies where there is a combination of desperate individuals, greedy and unscrupulous facilitators and poorly developed justice systems, transplantation would remain untouched by all-pervasive corruption.

Schemes for setting up government-funded and regulated paid kidney donation programs that give equal opportunity to rich and poor people, and guarantee health care to the donors, have been proposed. Getting such programs to work, however, would be a major challenge. Even the proponents of regulated sales concede that such models can apply only to Western countries that have well-established systems of implementation and monitoring to ensure fair and equitable distribution through existing domestic networks. Inherent in such schemes is the assumption that strict geographical containment is possible.

Once the initial rush of domestic donors is exhausted, the globalization of organ trade, whereby donors would come in large numbers from the developing world to supply organs to the industrialized world, is inevitable. The acceptance of even a limited domestic organ market in the advanced nations will act as the proverbial thin end of the wedge and encourage adoption of commercial donation in the developing world. This view was endorsed by the National Kidney Foundation in a testimony to the US Congress where Dr Francis Delmonico argued that "…a US congressional endorsement for payment would propel other countries to sanction unethical and unjust standards…".

Paid transplantations negatively affect living related and cadaveric transplantation in developing countries.[13] When cheap organs are available, people often opt to buy one rather than subject a loved one to the risk of donation. There are other strategies apart from organ sales that can increase donation rates, such as public awareness campaigns, a 'presumed consent' law, use of marginal donors and performing ABO-incompatible or paired-exchange transplantations. An element of reciprocity could also be injected into the system, so that—for example—people can choose to donate organs only to those who have in turn indicated their willingness for the same.

The arguments supporting a regulated organ market are extremely simplistic, and ignore the ground realities. Allowing such an activity in any corner of the world would open the doors for rampant exploitation of the underprivileged in areas that are already plagued by vast economic inequalities. It is important that the transplant community approaches this issue with a sense of responsibility towards society that is equal to the compassion it shows towards its patients.

Competing interests
The authors declared they have no competing interests.

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