Handout: Arthur Matas — “The Case for Living Kidney Sales”

Context of the Article

Arthur J. Matas, a transplant surgeon, argues that due to the widening gap between kidney supply and demand, we should seriously consider a **regulated system of compensated living kidney donation**. This paper surveys the medical background, ethical arguments, and practical concerns surrounding such a system.

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1. The Medical and Policy Background

Key Developments in Kidney Transplantation

- Advances in immunosuppressive drugs have made transplantation far more successful than in the past.
- Survival rates for kidney transplant recipients are **significantly higher** than for patients who remain on dialysis.
- Waiting times for deceased-donor kidneys have risen from ~1 year historically to **over 5 years** today.
- More than **6% of candidates die each year** while on the transplant waiting list.

The Organ Shortage

- Living donation has increased in recent decades, but still falls far short of demand.
- Deceased-donor supply has plateaued.
- Even if every potential deceased donor became an actual donor, supply would still be insufficient.

Existing Innovations (Insufficient Alone)

- ABO-incompatible transplant protocols.
- Paired exchanges.
- List-paired exchanges.
- Nondirected (altruistic) donation.

These strategies help but cannot close the supply gap.

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2. Matas's Proposal: A Regulated System of Kidney Sales

Core Features of a Regulated Market

- **Fixed payment** to the vendor from the government or a designated agency.
- **Standardized allocation** of kidneys (not to the highest bidder).
- **Uniform evaluation and follow-up** protocols for vendors.
- **Strong safeguards** to protect the vendor's health, autonomy, and long-term well-being.
- Payment is structured so that it does not reduce welfare benefits or increase tax burdens.

How This Differs from Unregulated Markets

- No private brokers or bidding.
- No exploitation through lack of medical oversight.

- Vendors receive full payment; standards of care are enforced.

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3. Ethical Framework

Matas engages the four standard principles of biomedical ethics:

1. **Respect for Autonomy**
    - Individuals should have the right to make choices about their own bodies, including selling an organ.
2. **Beneficence**
    - Kidney sales could save lives and greatly improve quality of life for transplant recipients.
3. **Nonmaleficence**
    - Since risks for living donation and compensated donation are medically identical, banning sales on grounds of harm would imply we should also ban living altruistic donation.
4. **Justice**
    - A regulated system could expand access and potentially decrease socio-economic disparities in transplant outcomes.

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4. Arguments in Favor of Kidney Sales

A. Saving Lives and Reducing the Shortage

- Most direct argument: more kidneys become available, reducing deaths on the waiting list.

- Empirical studies show transplant recipients have lower mortality than dialysis patients.

B. Consistency With Existing Practices

- Society already permits:
    - Living kidney donation (more medically risky than donating blood or sperm).
    - Sale of bodily materials (blood, sperm, eggs).
    - Compensation for surrogate motherhood.
- If donation is allowed, Matas argues compensation should not suddenly make it immoral.

C. Respect for Autonomy

- Prohibiting sales is paternalistic and denies individuals the freedom to make decisions about their own bodies.

D. Eliminating Harmful Underground Markets

- Unregulated kidney sales already occur globally in dangerous conditions.
- A regulated market could:
    - Eliminate brokers.
    - Improve safety and payment fairness.
    - Prevent medical exploitation.

E. Cost-Effectiveness

- In the U.S., paying vendors (up to ~$100,000) could be **cost-neutral** compared with long-term dialysis expenses.

5. Arguments Against Kidney Sales (and Matas's Responses)

A. Exploitation of the Poor

Objection: The poor will feel pressured to sell.
Matas's Response:

- Hard choices are not the same as coercion.
- Society already permits risky jobs disproportionately filled by the poor.
- Selling a kidney may improve a vendor's quality of life.
- A regulated system could include safeguards (income thresholds, screening for voluntariness).

B. Commodification of the Body

Objection: Treating the body as a commodity undermines human dignity.
Matas's Response:

- No evidence that individuals who sell eggs, sperm, or gestational services lose dignity.
- "My kidney is not my humanity": dignity resides in rational agency, not in retaining all body parts.
- People who value bodily integrity can simply refuse to participate.

C. Harm to the Vendor

Objection: Vendors might die or suffer complications.
Matas's Response:

- Risk is the same as for living donors, whose actions are widely accepted.

- Death of a vendor may be emotionally unsettling, but the medical risk is not ethically distinguishable from donor risk.

D. Lack of Genuine Consent

Objection: Financial incentives undermine voluntariness.
Matas's Response:

- Payment is not coercion; coercion requires threats.
- Screening and informed consent processes already exist for living donors and could be extended to vendors.

E. Negative Effects on Altruistic Donation

Objection: Payment would reduce altruistic donation.
Matas's Response:

- Evidence does not show this.
- Some people prefer known donors; others will still seek preemptive transplants.
- A vendor system could actually reduce family coercion.

F. Loss of Trust (in Physicians or Government)

Objection: Physicians or the government would be seen as exploiting the vulnerable.
Matas's Response:

- Proper regulation and transparency can preserve trust.
- Comparable sensitive programs (e.g., surrogacy) have not undermined medical trust.

6. Practical Challenges in Implementing a Regulated System

Key Design Questions

1. **Vendor eligibility criteria**
    - Minimum age?
    - Geographic limitations?
2. **Vendor follow-up and long-term health care**
    - Who pays for complications?
    - How to track long-term outcomes?
3. **Payment logistics**
    - Lump sum vs. structured payments.
    - Interaction with taxes, welfare, debt obligations.
4. **Health verification and fraud prevention**
    - How to ensure accurate reporting of medical history?
5. **Organ allocation procedures**
    - Maintain fairness similar to deceased-donor allocation.
6. **Setting a uniform price**
    - Fixed vs. variable prices?
    - Higher payment for higher-quality kidneys?
7. **Limiting sales to kidneys**

- Should markets include partial liver or lung donations?
- Higher risks make these ethically more complex.

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7. Insights on Public Opinion

- Surveys show the **general public is more open** to organ sales than medical professionals.
- Physicians' and nurses' reluctance is a barrier, since transplantation cannot occur without clinical participation.

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8. Matas's Conclusion

Matas does not claim that kidney sales are unquestionably ethical. Instead, he argues that:

- The current ban results in preventable deaths.
- A regulated system **could** be ethically justified and may be preferable to the status quo.
- The debate must include transplant professionals and the broader public, not just bioethicists.