

Sociology 321: Sociology of Markets
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By submitting this essay, I attest that it is my own work, completed in accordance with University regulations.—Cynthia Hua

Preserving Values in a Market for Kidneys

by Cynthia Hua

The prevailing system of donation-based kidney exchange results in supply shortages, suggesting that mechanisms of market exchange, being inherently supply-demand clearing, should be reconsidered as a means of kidney transfer. Based on sociological understandings of markets and embedded concepts of exchange, the cultural, moral and even “sacred” values associated with human body parts can be preserved even when organ exchanges involve monetary compensation.¹

A market with values. As Debra Satz acknowledges, the long waitlists for kidneys — over 50,000 in the U.S. — make increases in supply economically and even morally preferable, since more donations would save lives.² Many anti-market arguments suggest social or cultural values would not be preserved during the process of commodification. For example, Ronald Dworkin writes that a prophylactic line should be drawn around the body making it off grounds as a social resource.³ The pricing of a good so closely tied to human life might also be undesirable because of certain religiously influenced values and conceptions of appropriate uses for money, as Georg Simmel observes.⁴ However, these objections might be resolved by considering how market

¹ Almeling, 337

² Satz, 269.

³ Satz, 278.

⁴ It should be noted that opposing historical precedence exist for the monetary valuation of human lives, which constitutes the bulk of Simmel’s focus.

⁵ Simmel.

forces impact even altruistic kidney donations and how a kidney sale program could be assembled that is sensitive to cultural conscience, taking example from existing markets for similar bodily or risky goods.

A ban on sales does not entirely separate kidney exchanges from surrounding market forces. The coordination of kidney transplants yields financial compensation for medical personnel and all other staff involved.⁶ Sociologists have shown how money and exchange are always embedded in existing structures, so that attempts to ‘shield’ human organs from market processes fail to account for the pre-existing conflation between social and economic spheres. For example, Dworkin’s case is weakened given the ubiquity of market goods that already impact the body such as plastic surgery or food. Exchanged goods that put lives at risk include cigarettes and skydiving while the military relies on payment to recruit for a high-risk occupation. In short, the body is always under market influences.⁷ Another anti-market argument concerns the unequal distribution of kidney sales since they may result in lopsided transfers from the poor to the rich. Yet existing socioeconomic equalities are already perpetuated through other basic necessities on the market, for example through better medical care and drug regimes available to those able to pay. Market forces are surrounding and acting on kidney donors or potential sellers regardless of whether they are monetarily compensated.

Existing markets for similar goods demonstrate how systems of financial payment can still take into account non-economic considerations. Michel Anteby details how the cadaver industry has developed to become socially acceptable⁸ and Rene Almeling reviews how egg and sperm agencies conform to social and moral values.⁹ For practical reasons, legalizing a kidney

⁶ Erin, 137.

⁷ Satz, 283.

⁸ Anteby.

⁹ Almeling.

market makes regulation much easier, allowing governments to monitor for the type of exploitation, underpricing and coercion that might exist in underground markets.¹⁰ While an illicit market almost inevitably undermines the values a society hopes to achieve through a ban, these same values can be ensured through nuanced regulation within a legal system of sale.

As an additional note, the libertarian argument goes that a kidney sale is an exercise of individual autonomy.¹¹ In brief, existing literature concedes that this case is not entirely convincing since people are often irrational decision makers, possessing behavioral fallacies such as illogical behavior or imperfect information. Moreover, the existence of autonomy in financial decisions is debatable for those with limited economic opportunities, such as the poor or those in positions of weak agency due to gender or racial discrimination. The market scheme proposed below seeks to allow some degree of autonomy for potential sellers of all income levels while considering these potential holes in the libertarian argument.

Proposed solution. An optimal kidney market results in higher supply by offering compensation to donors while employing a narrative of altruism to help sustain legitimacy. A single organizing body purchases and distributes kidneys such that payments are priced to encourage supply and distribution is based on medical need with subsidy and insurance to help fund buys. The organization will be a non-profit or non-governmental body to discourage monopolistic pricing at the expense of recipients. A single organizer monopsony is preferable to a free market system of unrestrained competition, to discourage deceptive marketing schemes or illegal cost-cutting measures such as trafficking. Sustaining an altruistic giving rhetoric encourages donations, in particular for reasons other than monetary need alone, and even helps

¹⁰ Satz, 278.

¹¹ Satz, 269.

ensure quality since donors give partially out of charity, as Richard Titmuss reasons.¹² Strict quality tests should also be implemented. This market is ideally is confined to a single country where a governing body is able to adequately monitor transactions and where cultural similarities make the perpetuation of a coherent narrative through marketing or program language easier.

A modified system of purchase should be used for donors below a certain income level who may be driven to kidney sale as a last resort or “desperate exchange.”¹³ For this income bracket, kidneys should be sold through a futures market where donors should receive some payment upfront and their organ is harvested after they die. If their kidney is successfully harvested upon their death, an additional payment is made to designated family or friends. This type of exchange prevents the poor from paying the physical costs of kidney donation in the event they are driven to it by coercion or extreme circumstances.¹⁴ The two-part payment system recognizes that organs harvesting post-death can only be made within a short time frame and under certain circumstances so not all sold future kidneys will be successfully collected.¹⁵ The lower chance of a successful harvest, and therefore the greater cost and lower supply in a futures market, is also why future purchases is not used for all incomes in this proposal. However, poor sellers still receive some payment upfront, which increases the options available to those seeking funds, providing a legal pathway for sale and thus deterring illicit transfers. The immediate short-term payment versus the long-term cost also incentivizes supply by playing into decision-making heuristics as outlined by Marianne Bertrand.¹⁶ Bertrand’s work demonstrated the human tendency to take a myopic perspective in decision making, over-emphasizing immediate gains.

¹² Satz, 271.

¹³ Satz, 278.

¹⁴ Satz, 281.

¹⁵ "The Facts About Donation."

¹⁶ Bertrand.

While supply has not caught up to demand, kidneys should be offered using a list prioritized by medical need as the U.S. has currently. Buyers can be required to pay in order to fund the payments being made to kidney sellers (unless a government has to funds to sustain a program entirely). Subsidies and insurance should be available to those below a certain income level to cover this purchase and make a person's access to a kidney independent of wealth.¹⁷

The particularities of implementation are crucial, as “*how* goods are traded, not only *what* is trade, proves integral to constructing legitimacy.”¹⁸ The organization of institutions is central to procurement schemes for blood and organs as Titmuss, Kieran Healy and Viviana Zelizer discovered.¹⁹ Categorically, goods related to life and death are typically taboo for sale but Anteby proposes a cultural approach where markets are “active social projects” within which legitimacy can be established through practices such as sourcing, aesthetics and language.²⁰

A narrative of altruism should be sustained to reduce the effects of crowding out, avoid exploitation of the poor and help deter deception on the part of donors seeking purely financial payment. Almeling cites Healy's finding that “altruism and the social organization of procurement are... two aspects of the same process” because organ sales can be conducted within a context for giving.²¹ Donation coordinators and medical agents should adopt a rhetoric that suggests charity. Altruistic jargon in egg agencies for example refer to paid sellers as “donors,” who received acknowledgements of thanks in addition to monetary payment.²² In fact, egg agencies were actually able to select out from a crowded supply pool specifically those women allegedly donating for more altruistic reasons, suggesting payment may not preclude

¹⁷ Satz, 279.

¹⁸ Anteby, 606.

¹⁹ Almeling, 319.

²⁰ Anteby, 607-609.

²¹ Almeling 322.

²² Almeling, 335-336.

intrinsic motivation (or at least does not decrease supply).²³ This altruistic narrative should be reflected in the program's informational material, throughout discussions with coordinators and the program's in marketing, with careful attention to how minor details of design and framing can impact perspective.²⁴

Additionally, the organization should be required to inform participants of associated risks, with particular emphasis on potential low-income sellers who may already have less access to information. Fully informed consent, to the degree that it is possible in kidney donations, is necessary to preclude problems of weak agency and to sustain program legitimacy.

Potential pitfalls and solutions. Specific aspects of program design can resolve many of the potential issues with an organ market pointed out by Satz and other authors. The crowding out argument proposes that financial compensation would partially destroy intrinsic motivation. However, even if intrinsic motivation is partially destroyed in spite of the altruistic narrative outlined above, raising payments could still increase the supply of organs donated.²⁵ Satz notes that intrinsically motivated donors may be replaced by a greater number of extrinsically motivated donors, accomplishing the moral goal of saving lives through increasing supply.²⁶

The problem raised by Satz of choice set reduction, where making kidneys available for sale forces those unwilling to sell their kidneys pay a cost, is dealt with through the differentiated selling scheme for the lower-income. A futures market for the poor allows for the autonomy of making the sale as an option to acquire funds, without coerced surgical extraction. A poor person who did not wish to sell their kidney on the futures market may still find the price of capital increased in their environment, but this "pecuniary externality" would be true of their decision

²³ Almeling, 327.

²⁴ Bertrand.

²⁵ Satz, 273.

²⁶ Satz, 273.

not to sell any possession.²⁷ Their trade-off would not be a surgery motivated by desperation, which is the repugnant aspect of the choice set reduction argument due to societal values of providing basic life necessities and cultural values surrounding one's relationship to the body.

Agent failures like the lack of adequate information about the repercussions of kidney donation or the inability to fully comprehend the loss of a kidney before experiencing it are another commonly raised objection. It should be noted that these failures in decision-making apply in altruistic transfers also. Meanwhile, policies requiring fully informed decisions and truthful marketing help guard against these potential failings. Adequate monitoring might reduce issues of agent autonomy that are non-financially related, such as the case of a wife forced into kidney sale by her husband. The sale process could include questioning by a psychologist or other professional, like the egg donation process does, to preclude this type of coercion.²⁸

The market outlined here depends heavily on proper implementation, requiring adequate government monitoring, a competent and well-funded organization, and a functioning judicial system that helps citizens keep these institutions in check. Developed nations such as the U.S. are the ideal settings for the described kidney market. Less developed nations may not have the resources or political willpower to shape a market that adheres to these rules while constructing an altruistic framing narrative. Officials in a corrupt government might take advantage of such a market to make profits by skimming off the top of sales. A monopsony in a country without adequate monitoring and sanctions might underprice, coerce sales, fail to properly inform sellers and neglect the altruistic narrative described, in addition to potentially taking bribes in its distribution process. In addition to these political and economic pitfalls, poorer countries are particularly susceptible to the issue of choice set reduction. These countries might consider

²⁷ Satz, 275.

²⁸ Almeling.

adopting a full futures market, but it is unlikely that developing countries would have the funds to sustain a futures market for its entire population. A country without sufficient medical infrastructure might also find a futures market a useless cost if they are unable to harvest enough organs post-death. Therefore existing political and economic infrastructure is integral to the success of the scheme described.

Conclusion. Building off of arguments going back to Zelizer about the compatibility of money and existing social structures, the way cultural values have shaped markets for other bodily goods such as egg and sperm suggest that any market for kidney can be shaped by similar moral, ethical and sacred values.²⁹ The proposed market for kidney exchange provides sellers with financial compensation and requires payment from buyers through a single organization. Separate programs for the poor involve a futures market for sales and subsidization or government-funded insurance for purchases. Throughout the program, a narrative of altruism is emphasized to contribute to the program's legitimacy and encourage donations for non-financial reasons. In a setting with adequate monitoring and infrastructure, this proposed market would increase kidney supplies in a financially sustainable way while also preventing exploitation of sellers and address other value-based and practical concerns.

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²⁹ Satz, 337.

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