

Volume 3 | Number 1 (Spring/Summer 2017)  
www.jheaonline.org  
ISSN 2474-2309  
doi:10.224621/jhea.10.7162



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**STUDENT PAPER**

## **The Ethics of Buying and Selling Kidneys**

SIMONNE BRISSENDEN

*sbrissen@villanova.edu*

*School of Nursing, Villanova University, Villanova, Pennsylvania, U.S.A.*

\*Address correspondence to: Simonne Brissenden, School of Nursing, Villanova University, 800 Lancaster Ave, Villanova, PA 19085, U.S.A. E-mail: sbrissen@villanova.edu

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# **The Ethics of Buying and Selling Kidneys**

SIMONNE BRISSENDEN

*sbrissen@villanova.edu*

*School of Nursing, Villanova University, Villanova, Pennsylvania, U.S.A.*

*Keywords: Organ transplant, illegal kidney market, selling kidneys, and social distributive justice.*

## **INTRODUCTION**

The demand for kidney donors is consistently rising throughout the world. There is a shortage of donors and an extensive list of those in need of a transplant due to end stage kidney failure. Consequently, the patient must choose between life-long dialysis treatments or to undergo a kidney transplant. Kidney failure can be caused by many diseases such as diabetes, kidney disease, chronic hypertension, and chronic glomerulonephritis.<sup>1</sup> These diseases can force people to wait on average from three to five years before receiving a kidney and often these patients die while undergoing the transplant. The transplant surgery involves removing the old kidney, placing in the new one, and then reattaching blood vessels and the ureter.<sup>2</sup> Recovering patients are given many expensive medications such as immunosuppressants to prevent infection and rejection. There are two forms of rejection: acute rejection can be treated with immunosuppressants, while chronic rejection can develop months to years after the surgery without a cure.

In most countries, to obtain a kidney one must wait until a matching donor becomes available, and the donors must go through an extensive process to ensure they satisfy specific donation criteria. This creates long waiting lists for a kidney transplant. In the U.S. alone, “over 3,000 new patients are added to the kidney waiting list each month. 13 people die each day while waiting for a life-saving kidney transplant . . . In 2014, 4,761 patients died while waiting for a kidney transplant. Another, 3,668 people became too sick to receive a kidney transplant.”<sup>3</sup> Kidney shortage, indeed, is a global problem. However, many countries still rely on voluntary donation despite the apparent imbalance between the kidney supply and demand. This is primarily because the buying and selling of kidneys in and of itself are considered unethical, and legalizing a “kidney market” can lead to the exploitation of the poor. Therefore, many countries have made this illegal, but this is not the case in all countries. Iran is the only country in the world that allows the buying and selling of kidneys. The country legalized an organ market in 1988, and since then there has been a steady increase in the number of transplant surgeries performed.<sup>4</sup> In this paper, first, I will introduce an actual case related to kidney selling that occurred in Iran. Second, I will engage in the ethical analysis by elaborating views from the proponents and opponents of the legalization of a kidney market. Lastly, I will render my verdict to say that it is ethically unjustifiable to legalize selling kidneys.

## **CASE**

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<sup>1</sup> “Key Points: About Dialysis for Kidney Failure” National Kidney Foundation, accessed April 29, 2017, <https://www.kidney.org/patients/peers/dialysis>

<sup>2</sup> Ibid

<sup>3</sup> “Organ Donation and Transplantation Statistics,” National Kidney Foundation, accessed April 29, 2017, <https://www.kidney.org/news/newsroom/factsheets/Organ-Donation-and-Transplantation-Stats>

<sup>4</sup> Ruper Major, “Paying Kidney Donors: Time to Follow Iran?” *McGill Journal of Medicine* 11, no.1 (2008): 68.

In 2015, The Guardian reported that a twenty-four-year-old Iranian man named Ghaffar Naghdi was waiting for a kidney donor. He was studying to become a teacher before he had to terminate his studies because of kidney failure. He called seventy-two donors, but all of them ended up being rejected by doctors.<sup>5</sup> Finally, he found Narin, a poor woman who had just gotten married. She needed money so that she and her husband could move out of their parent's home, as it is considered shameful to live with your parents once married in Iran. After meeting and agreeing on the price of the kidney, Ghaffar's family sold their farm and most of their belongings to pay for the surgery. Ghaffar and Narin then underwent their respective surgeries. Unfortunately, a month after Ghaffar received his kidney it was rejected and he passed away. Narin was distraught by this news and suffering from her own surgical complications. She was told that her kidney was too large for Ghaffar but the doctors failed to inform him, and in turn, Narin felt the doctor's negligence killed him. Thus, despite the sacrifices made and the prospect of a better life, both parties suffered losses.

### ETHICAL ANALYSIS

For the defenders of the legal kidney market, the case above may be understood as a typical case of medical error or a minor ethics violation. The doctor should have informed the patient about the size of the kidney at the time of or before the surgery. However, it seems that the case shows the complex ethical reality of the legal kidney market. For the defenders, the kidney market is justified by reference to the ethical principles of autonomy, nonmaleficence, and market distributive justice. It is ultimately up to individuals whether they want to sell their organs (autonomy). In addition, it is the doctor's duty to do no harm by providing the medical services for the patient who needs the life-saving surgery (nonmaleficence). Furthermore, there cannot be an ethics violation when the seller and buyer settle on the price of the kidney together, as supply and demand determine prices according to the capitalist market economic principle (market distributive justice). Finally, the legalization of kidney selling dramatically decreases the patient wait-list and prevents the rise of the kidney black market and its related crimes, which have become perennial social problems in the countries where kidney selling is not legalized.

On the other hand, for the opponents, the case addresses the unfair place of the poor from the perspective of social distributive justice. The poor often sell their kidneys because they need money, although they cannot receive kidneys when they are in need. Although the government offers free medical insurance for one year post-donation, many sellers experience complications for longer than this. After the initial year, most of them are not able to pay for the necessary medical treatment. Coupled with this, many of them live in rural areas making it extremely difficult to access health care. Therefore, the poor are left with very few ways, if any, of obtaining the healthcare they need for their acute and chronic problems.

Lastly, we must look at how the ethical principle of beneficence can be used to support both sides. Beneficence for the poor manifests itself as banning the voluntary organ selling. By making this practice illegal, the poor will not be exploited by the rich for their organs. Additionally, they do not have to risk further financial difficulties if medical complications were to arise. On the contrary, beneficence can also be viewed as doing good towards the sick patients who are in need of a kidney transplant. The legal organ selling will stop the misery of the patients dying while waiting for the kidneys. Therefore, beneficence affects both sides.

### VERDICT

When weighing both sides against one another, one must look at the large-scale effects. On one hand, there is significant harm being done to the poor members of society. First, I would argue that their autonomy is compromised. Despite the advocates' claim, the poor do not sell their organs with a neutral voluntary will. The poor feel pressured to sell their kidneys because it is a quick way to make a substantial amount of money. In other words, they do not have the option to not sell. Thus, their autonomy is violated which makes absurd the proponents' claim that there is a just transaction between the sellers and buyers on the kidneys. Also, many of these donors do not fully understand the length of recovery time because the doctors depict the entire process as quick and easy. Furthermore, the donor may not fully understand the risks associated with donating a kidney and may encounter a decrease in quality of life. This is the violation of informed consent, another rule-level specification of the principle of autonomy.

Second, there is an insurmountable concern of social distributive justice. In many cases, the recovery is a long and complicated process which prevents the seller from working and can perpetuate financial difficulties. Additionally, if medical complications do arise, it can leave donors unable to work decreasing their income despite having sold the kidney. As is seen in Ghaffar's case, this can affect the individual and the entire family. Consequently, selling a kidney can have severe repercussions for poor communities. Thus, the proponents' justification that beneficence sides with the poor because they earn money is invalid.

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<sup>5</sup> Francesco Alesi and Luca Muzi, "Kidneys for Sale: Iran's Trade in Organs," *The Guardian*, May 10, 2015, accessed June 1, 2017, <https://www.theguardian.com/society/2015/may/10/kidneys-for-sale-organ-donation-iran>

Third, kidney selling demotes the human body to merchandise. The people of Iran are selling kidneys in the same way other people sell couches or phones. This concern is justified theologically. Our body is God's divine gift. When we treat our body as a commodity to be sold, we are degrading our own distinctive value as human beings which God has willed upon us. A similar argument can be made for those who are not religious. Almost all human beings identify themselves to be important, worthy, and special, compared to a commodity that can be bought and sold. Hence, many people think that the system that allows for buying and selling human beings, slavery, is ethically wrong. Although selling the kidney is not identical to selling a whole person, it has a parallel concern. In both cases, we are selling what is essentially inseparable from our physical existence, the vital human organs. Therefore, I argue that kidney selling should not be legalized.

#### ACKNOWLEDGEMENT

This work would not have been possible without the help of Marvin Lee, Ph.D. His feedback helped me to further develop my ideas and aided with the editorial process.

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