

2009

# Commodification, Exploitation, and the Market for Transplant Organs: A Discussion of Dirty Pretty Things

Clark Wolf  
jwcwolf@iastate.edu

Follow this and additional works at: [http://lib.dr.iastate.edu/philrs\\_pubs](http://lib.dr.iastate.edu/philrs_pubs)

 Part of the [Bioethics and Medical Ethics Commons](#), [Other Film and Media Studies Commons](#), and the [Other Philosophy Commons](#)

The complete bibliographic information for this item can be found at [http://lib.dr.iastate.edu/philrs\\_pubs/15](http://lib.dr.iastate.edu/philrs_pubs/15). For information on how to cite this item, please visit <http://lib.dr.iastate.edu/howtocite.html>.

---

This Book Chapter is brought to you for free and open access by the Philosophy and Religious Studies at Iowa State University Digital Repository. It has been accepted for inclusion in Philosophy and Religious Studies Publications by an authorized administrator of Iowa State University Digital Repository. For more information, please contact [digirep@iastate.edu](mailto:digirep@iastate.edu).

---

# Commodification, Exploitation, and the Market for Transplant Organs: A Discussion of Dirty Pretty Things

## **Abstract**

In the film *Dirty Pretty Things* (Fears 2002), one of the main characters, Okwe (played by Chiwetel Ejiofor), discovers that his employer, "Sneaky" (played by Sergi Lopez), is running a peculiar business. During the day Sneaky seems an ordinary hotelier. But on the side he runs a service to provide counterfeit passports for illegal immigrants who wish to remain in Britain. He arranges for poor immigrants to "donate" one of their kidneys, which he sells to people in need of a transplant. In return, he provides the "donors" with forged passports or immigration documents. Unfortunately he employs an incompetent physician to perform the surgery. We never discover how many of those who participate in Sneaky's scheme die after their kidneys are removed. But what we discover about the procedure gives us reason to believe that few could survive.

## **Disciplines**

Bioethics and Medical Ethics | Other Film and Media Studies | Other Philosophy

## **Comments**

This is a book chapter from *Bioethics and Film* (2009): 170. Posted with permission.

## Commodification, Exploitation, and the Market for Transplant Organs

A Discussion of *Dirty Pretty Things*

Clark Wolf

.....

The hotel business is about strangers. And strangers will always surprise you, you know? They come to hotels in the night to do dirty things, and in the morning it's our job to make things all pretty again.

SNEAKY, *Dirty Pretty Things*

In the film *Dirty Pretty Things* (Frears 2002), one of the main characters, Okwe (played by Chiwetel Ejiofor), discovers that his employer, "Sneaky" (played by Sergi Lopez), is running a peculiar business. During the day Sneaky seems an ordinary hotelier. But on the side he runs a service to provide counterfeit passports for illegal immigrants who wish to remain in Britain. He arranges for poor immigrants to "donate" one of their kidneys, which he sells to people in need of a transplant. In return, he provides the "donors" with forged passports or immigration documents. Unfortunately he employs an incompetent physician to perform the surgery. We never discover how many of those who participate in Sneaky's scheme die after their kidneys are removed. But what we discover about the procedure gives us reason to believe that few could survive.

In the course of the film, we discover that Okwe is in fact a surgeon from Nigeria. Over time, Okwe finds himself drawn further and further into Sneaky's world: Sneaky uses Okwe's own goodness as a weapon to manipulate him by showing him pictures of a little girl he (Sneaky) says will be saved by the pending kidney transplant (Mills 1995). Okwe is also drawn in because of his friendship with a Turkish immigrant, Senay

(played by Audrey Tautou), and his concern to protect her from Sneaky's incompetent surgeon. It is Okwe's own virtue that tempts him to participate in Sneaky's scheme. As Okwe's friend Guo Yi (played by Benedict Wong) says, "There's nothing more dangerous than a virtuous man."

The film raises many different issues, only some of which will be discussed here. One important issue that occupies center stage is the specific problem of whether it is morally permissible for people to sell and buy transplant organs. While the arrangement described in the film is horrific, some people urge that the main problem with the existing transplant organ system is the *absence* of a legitimate market, rather than the existence of a black market. Another issue addressed in the film is that of commodification or marketization: Are there some things that simply should not be bought and sold on an open market, even when the participants are consenting adults? Can we legitimately prohibit people from selling things they own or control, like their kidneys? Like sex? Finally, there is the problem of exploitation: Sneaky exploits people who are willing to take an enormous risk only because they are desperate. Is their choice to sell their kidneys *voluntary*, or do the circumstances in which the choice is made undermine its freedom? If one judges that the risk of selling her kidney is worth taking, do we nonetheless have a right to interfere?

### A Market for Transplant Organs? (Is Sneaky Selling Happiness?)

---

If you were just some African, the deal would be simple. You give me your kidney; I give you a new identity. I sell the kidney for 10 grand, so I am happy. The person who needs the kidney gets cured, so he is happy. The person who sold his kidney gets to stay in this beautiful country, so he is happy. My whole business is based on happiness.

SNEAKY, *Dirty Pretty Things*

As I write this sentence, more than 90,000 people in the United States are waiting for transplant organs (Institute of Medicine 2006). About 66,000 of them are waiting for kidneys (Postrel 2006a, 2006b). By the time you read it, the number will almost certainly be much larger, because people are added to the list much faster than they leave it. Some people leave the

list when they receive a transplant. But many more will leave the list because they will die waiting for one. Every year between four and six thousand people in the United States die waiting in vain to receive the transplant they would have needed to survive. Today alone more than a dozen people will die in the United States because they were unable to acquire an appropriate organ for transplant. We have a shortage of transplant organs, and because of this shortage people are dying every day.

Where might the missing transplant organs come from? Some transplant organs, like hearts, can come available only at the death of the donor. Others, like kidneys, can be donated by living individuals. As long as one's remaining kidney is functioning normally, a person can live as well with one as with two. Donation does increase the donor's risk, however: in the event that a donor herself later develops kidney disease, she may have given away what would have saved her life. But every year, more than ten thousand people die whose organs would be appropriate for transplant, but of these only about half actually donate their organs. The problem might be solved and lives saved if we could provide a motive or an incentive for those who have *not* made arrangements to donate their organs.

What are your options if you are one of those people whose survival depends on getting a transplant organ? If you need a kidney transplant, you can get on the waiting list and hope that a kidney becomes available before your situation becomes critical. If you are fortunate, you may have a friend or family member willing to donate an organ to save your health or your life. But what if you can't wait that long? What if you know that you are among the four thousand who will die this year if you don't receive a transplant, and what if the likelihood that you will receive what you need is slim?

If you are wealthy, then you may not need to wait and hope. There is an alternative available for you: you could purchase your kidney in a thriving international black market. In 2004, the *New York Times* published a detailed account of an international market that connects poor organ donors with wealthy Americans in need of organ transplants:

When Alberty José da Silva heard he could make money, lots of money, by selling his kidney, it seemed to him the opportunity of a lifetime. For a desperately ill 48-year-old woman in Brooklyn whose doctors had told her to get a kidney any way she could, it was. At 38,

Mr. da Silva, one of 23 children of a prostitute, lives in a slum near the airport here, in a flimsy two-room shack he shares with a sister and nine other people. "As a child, I can remember seven of us sharing a single egg, or living for day after day on just a bit of manioc meal with salt," Mr. da Silva said in an interview. He recalled his mother as a woman who "sold her flesh" to survive. Last year he decided that he would, too. Now, a long scar across his side marks the place where a kidney and a rib were removed in exchange for \$6,000, paid by middlemen in an international organ trafficking ring.

(ROTHER 2004)

The movie *Dirty Pretty Things* is a work of fiction. But the problems it addresses are real problems that real people face every day. Is it morally defensible to allow poor people to sell their organs to rich people? We might object that such arrangements are exploitative in the sense that they take advantage of the unfortunate predicament of the donors. But some might respond that these donors would be better off if they were able to sell their kidneys than they would be if they were unable to do so. Those who accept payment must value the cash more than they value what they're giving up, or else they wouldn't be willing to make the exchange. Are there some things that just shouldn't be bought and sold on the market? And what right do we have to interfere in a voluntary exchange between consenting adults? Should people have a right to decide for themselves which risks they should take and which they should avoid, or do we have a right to intervene and make the decision for them?

Perhaps the reason we prohibit people from selling their kidneys for transplant is that this procedure involves risks for the donor. Still, under most circumstances people are responsible for their own risks, and other people have no right to intervene to prevent them from taking risks they themselves have considered and accepted. If I wish to run risks by biking to work (which involves much greater personal risk than driving a car would), or to spend my leisure time climbing cliffs, the decision is my own. In these cases, you could pay me to take the risk in question without violating the law. But in the United States, if you pay me to have my kidney removed, you (and I) have violated the law. What is the difference between these cases? If the risks are comparable, why do we allow the law to intervene in one case and not in the others?

Consider the arrangement from the perspective of the donor: Albery da Silva received six thousand dollars for his kidney. As long as he was appropriately informed about the risks he undertook, what right have we to tell him that the risk is too great? The woman who received Mr. da Silva's kidney was apparently out of options. She told Larry Rother, of the *New York Times*, "My doctors told me to 'get a kidney any way I could' or expect to die" (Rother 2004). Several economically strapped countries now advertise themselves as good places for surgical operations; large numbers of wealthy Americans and Europeans now go abroad to South Africa or to India for surgery that would be prohibitively expensive in their home countries (Alsever 2006). This facilitates the flow of money and resources from the developed world toward cash-strapped nations in the global South. Economists urge that such trade arrangements are more effective than international aid packages that seek to promote economic security in poor countries. If these arrangements are advantageous for everyone involved, if they save the lives of people who would otherwise die, then what justification can we give for the laws that prevent them? No justification for such prohibitions seems immediately apparent; however, if these trade arrangements involve organ donation from the desperate to the well-heeled, the practice in this case seems exploitative.

According to John Stuart Mill's famous "harm principle," state intervention in individual behavior is justified only to prevent harm to others. When other people make choices we disapprove of, we may let them know; but if their questionable choices are harmless, or harm no one but themselves, we have no right to interfere. However, one need not accept Mill's harm principle to think that legislation that limits people's liberty must be justified by very good reasons, especially when we are preventing people from doing things that will save lives. The prohibition on kidney sales interferes with people's voluntary choices and prevents them from engaging in a life-preserving exchange. Unless there are very strong reasons to justify interference with such exchanges, we should not interfere.

Persuaded by this argument, many economists and bioethicists urge that we should change the existing practice by opening up a legal, regulated market for transplant organs (Boudreaux and Pritchard 1999; Morley 2003; Roth et al. 2004). In the case of organs like kidneys, which can be given by living donors, this could involve a direct market linking donors who would sell their organs to the recipients who would buy them. But

arrangements could also be made for the post-mortem sale of transplant organs: donors could arrange for payment to be made to their families and heirs at the time of death. In this way, organ donation could become an additional life-insurance policy benefiting bereaved families who may need resources to help compensate from lost income due to a wage-earner's death. For some families, such a benefit could be very important indeed, so this might provide a powerful incentive to donate for people whose organs would otherwise be buried with them.

Sneaky claims, in the quotation at the head of this section, that his "whole business is based on happiness." Of course, he is lying: his business is based on blood and death, not on happiness. Because he doesn't care about the welfare of the penniless and powerless donors, he is able to exploit them for their organs without concerning himself with their welfare. Some—perhaps most of them—pay for their forged passports and identification papers with their lives. But defenders of a legal and regulated market for transplant organs would not regard this as an objection to their position: if we leave such arrangements to the black market, or force them underground with legislative prohibition, we should expect that the market will be managed by unscrupulous criminals like Sneaky. To avoid this, we would need to regulate the practice of organ transfer and to insure appropriate care for donors and recipients. But regulation will only become possible when the practice itself becomes legal.

If these arguments are correct, then the following would be true: (1) An appropriately regulated market for transplant organs could improve the situation of everyone involved in it. (2) Only if such markets are legal can they be appropriately regulated. (3) Unregulated markets will exist even if the sale of transplant organs is declared illegal, because some desperate people will do whatever they can to preserve their lives, and because there are plenty of people who would be willing to provide transplant organs on the black market.

These considerations constitute a powerful argument in favor of a policy that would open up a legal and legitimate market for transplant organs. To evaluate the argument more fully, we would need to articulate the details of the policy with precision. Then we would need to compare it with the status quo and with other plausible alternatives. We would also need to address specific objections that would apply to any such policy—objections that are brilliantly explored in the film under consideration.

Here we will consider two such objections: the first urges that some things simply should not be bought and sold—should not, by their very nature, be turned into commodities. The second common objection appeals to considerations of justice: it urges that a market for transplant organs would facilitate the exploitation of the weak and poor by the strong and the wealthy. The next two sections of this chapter will address each of these concerns.

### Questionable Commodification of Sex and Kidneys (Selling What Should Not Be Sold?)

---

TRANSPLANT ORGAN COURIER: How come I've never seen you people before?

OKWE: It is because we are the people you do not see. We are the ones who drive your cabs, who clean your rooms, and suck your cocks.

It is often argued that there are some things that just shouldn't be bought and sold—shouldn't be turned into "commodities" (Radin 1996). Consider sex first: Juliette (played by Sophie Okonedo) is a "sex-worker," a prostitute who provides sexual services to anyone who can afford to pay. Like a kidney, sex is often regarded as something that should not be exchanged for money, and indeed many nations and states have laws prohibiting prostitution for just this reason.

Different reasons can be given in defense of laws prohibiting prostitution: Sometimes it is argued that such laws promote gender equality, because women who are prostitutes do not interact on equal terms with those who pay them for sex. Or it may be argued that prostitution often involves serious risks to health, and other risks as well, because prostitutes are often the victims of criminal violence. It may also be argued that prostitution alienates people from their own sexuality, changing the meaning of sex from an expression of tenderness and affection into a mere market exchange (Nussbaum 1999).

The character of Juliette invites us to question all of these assumptions: she is presented as a strong and sensitive person with a powerful sense of self-respect. Her strength, humor, and compassion make it possible for her to comfort Senay after Senay has been abused and (arguably)

raped by Sneaky. In many respects, Juliette appears to be the strongest and most well-adjusted person in the film.

Of course, Juliette is a fictional character and represents a common stereotype: a well-adjusted “hooker with a heart of gold” appears in many films. The stereotypic image may be appealing in part because it provides false comfort for people who would rather not think about the squalid, dangerous, and unfortunate lives many prostitutes endure. In the real world, prostitution exposes women to very serious risks, both physical and psychological. And it seems plausible that these dangers do stem from the problematic commodification of the body that prostitution involves. It would be better from the moral point of view if people expressed tenderness and affection in their sex lives instead of turning them into mere exchanges. But even if we grant all of these points it would not follow that laws prohibiting prostitution are justifiable: In most circumstances, people have a right to engage in mutually consensual though morally questionable relationships with each other, and third parties do not have a valid claim to interfere. Beyond this, it is quite clear that laws prohibiting prostitution “punish the victims,” because the penalties fall hardest on those who engage in it, not on their customers (Nussbaum 1999). Laws criminalizing prostitution cannot possibly be justified on grounds that they protect or benefit the women who are or who would otherwise become prostitutes.

In a similar vein, it can be argued that people should not commodify their bodies and their internal organs. This reasoning is often used to justify the prohibition on organ sales. Arguably, there is something morally problematic about viewing our bodies or body parts as commodities to be bought and sold. But to urge that commodification is morally problematic is not enough to show that other people are justified to interfere with those who are forced by circumstances to make tragic choices. Just as it seems to be worse for poor women when prostitution is made illegal, it may be worse for poor people when they are unable to make their own decisions whether or not to turn their spare kidneys into cash.

Perhaps there really is something morally problematic about the commodification of bodily organs. Maybe people shouldn't consider their body parts as marketable items ready to be sold to the highest bidder. But if so, then the badness of such commodification must be set against the competing reasons that militate in favor of legal and regulated markets for

transplant organs: in particular, the possibility that such markets might improve the situation of everyone involved and might save the lives of thousands of people who need transplants. It is not obvious that this point about commodification provides any conclusive reason against either laws prohibiting prostitution or laws prohibiting a market for transplant organs. It is legally and socially permissible to sell some body products, including human eggs, blood, and sperm. If we are not bothered by markets for these items, then isn't the concern about the commodification of transplant organs overblown?

Some things should not be available on a market at any price: the prohibition on slavery means that we can't buy people. The prohibition on some other things, like child sex, is uncontroversial. It seems clear that people and children should not be commodified in these ways, and we have good reasons that underlie our concerns in these cases. But where we object that it is inappropriate to commodify some item, we should be able to articulate the moral reasons that lie behind our objection. It is not enough to use the commodification objection as a conversation stopper, especially where people's lives and well-being are at stake. In this case, since people are literally dying every day because of the lack of transplant organs, the commodification argument must be supported with the strongest underlying reasons and argument. Unless we have such an argument, the claim that we should not commodify our bodies is not by itself a strong enough reason to forbid a market for transplant organs.

### Injustice and Exploitative Offers (Leveraging Personal Advantage from the Poor and Desperate?)

---

For you and me, there is only survival.

OKWE

Financial incentives [for transplant organs] might disproportionately affect the poor or other marginalized groups, and might also cause a drop in donations for altruistic reasons if people see donated organs as goods with a certain market value. And nonfinancial incentives, such as reciprocity agreements, might disadvantage those who are less informed about organ donation and therefore increase existing social inequality.

INSTITUTE OF MEDICINE REPORT

Why does Senay consent to trade her kidney for a passport? It is because she is absolutely desperate. Why did Alberty da Silva sell his kidney for six thousand dollars? Because he was very poor and needed the money. It is worth asking whether such exchanges are impermissibly exploitative in the sense that they take advantage of people who are very poor and who would not be willing to put their lives and health at risk if they were not desperate. When Okwe tells Senay “For you and me, there is only survival” he drives home the point that they have few options. Senay’s life in London is intolerably bad. She concludes that her only option, the only thing she can do to pursue her hope for a decent life, is to sell her kidney to Sneaky. If people are willing to sell their kidneys only because they have no other options, is their decision even voluntary? In such a situation, is a purchase offer exploitative?

To understand the sense in which these arrangements may be impermissibly exploitative, we need to distinguish between at least two different senses of the term *exploitation*, which will be explored below.

*EI-Exploitation:* A exploits B when A intentionally causes B to fall into an unfortunate predicament, and then uses B’s misfortune as a lever to manipulate B into doing what A wants B to do.

EI-exploitation is the classic sense of the term found in the writings of Karl Marx (1818–1883). Marx regarded capitalists as not only the cause of the misery of workers but also as persons who take advantage of the misery they have created to increase their own wealth and power. An example may help to make the moral objection to EI-exploitative arrangements clear:

*Example:* Alph meets Beth at a bar, and she tells him she’s planning to drive out into the desert. While she’s in the bathroom, Alph sidles out to Beth’s car, slashes the spare, and puts a slow leak in one of the tires. Then as Beth heads out for the desert, Alph quietly finishes his beer, planning to go out to find Beth after the tire goes flat and after enough time has passed that her life is in danger from the heat. On finding desperate Beth, Alph offers to sell her his spare provided that she signs over the deed to her house and pays him all the money in her savings account.

The existing black market for kidneys is not E<sub>1</sub>-exploitative unless those who arrange for the sale of transplant organs intentionally put the prospective donors into the desperate predicament that renders them willing to sell. In the case of Alberty da Silva and others involved in the South African transplant ring discussed above, da Silva's poverty was not caused by those who offered to buy his kidney. And in *Dirty Pretty Things*, the desperation of the poor immigrants who sell their kidneys is not caused by Sneaky; he just takes advantage of their plight. We need another sense of exploitation to identify the problem:

*E<sub>2</sub>-Exploitation:* B is in an unfortunate predicament, for which A is not responsible. But A takes advantage of the unfortunate predicament of B, using B's misfortune as a lever to manipulate B into doing what A wants B to do.

Once again, an example may make this clear:

*Example:* Alph is driving through the desert and by chance finds Beth stuck on the road in a desperate and life-threatening situation with a flat tire and no spare. Alph offers to sell Beth his spare tire provided that she signs over the deed to her house and pays Alph all the money in her savings account.

In this case, Alph does not intentionally *cause* Beth's misfortune; he just takes advantage of it. While his offer may save her life, clearly he doesn't deserve any praise for making it. While there is clearly something seriously wrong with arrangements like this one, it does not follow that anyone else has a right to interfere with E<sub>2</sub>-exploitative arrangements unless they are also willing to do something to improve the predicament of the person who is exploited (Sample 2003). Legislative prohibition of E<sub>2</sub>-exploitative arrangements would certainly be misplaced if the object of such legislation were to improve the situation of the exploited.

One might be inclined to regard Sneaky's exploitation of poor immigrants as E<sub>2</sub>-exploitation. Sneaky doesn't directly or intentionally cause the poverty and desperation of those he exploits. If their predicament is unjust (as it certainly is), he is no more responsible than others—no more responsible than we are, for example—for the initial injustice that leaves

them willing to take an enormous risk. E2-exploitation leaves its victims better off than they would otherwise be. But because his surgeon is incompetent, because Sneaky doesn't care whether the donors live or die, those who sell their kidneys to him are much worse off as a result. So even if we accept the view that third parties usually have no business interfering with E2-exploitative arrangements, it would certainly not follow that we should leave Sneaky to continue to exploit (and murder) his victims.

What is peculiar about E2-exploitation is that the exploitative offer actually improves the situation of the person who is exploited. This is not the case for E1-exploitation. If we were to prohibit Alph from selling the tire to Beth in this outrageous offer, as a result she will be even worse off than she already is. Some people take this fact as a conclusive argument that E2-exploitation is not unfair to those who are exploited. Thus, Sally Satel writes, in the *New York Times*:

Some critics worry that compensation for kidney donation by the living would be most attractive to the poor and hence exploit them. But if it were government-regulated we could ensure that donors would receive education about their choices, undergo careful medical and psychological screening and receive quality follow-up care. We could even make a donation option that favors the well-off by rewarding donors with a tax credit. Besides, how is it unfair to poor people if compensation enhances their quality of life? (SATEL 2006)

Satel's argument radically understates the moral problems involved. We should be troubled by the case of Alberty da Silva, whose poverty drove him to give up his kidney. It is certainly unfair in an ordinary sense that some people are born to poverty and cruelly limited opportunities. A world that includes unfairness of this kind is *unjust* in a significant sense. If we could eliminate the injustice that left Mr. da Silva in this predicament, then perhaps he would be less willing to sell his kidney. We should at least expect that he would demand a higher market price.

The relatively well-off citizens of wealthy nations do not intentionally cause the poverty of people like Alberty da Silva. It follows from this that their interactions with him are not E1-exploitative. But it would be a mistake to assume that the wealth and security enjoyed by people in economically strong nations is unconnected with the predicament of people

in poor countries. As Thomas Pogge (2002) pointed out, our wealth is supported in part by institutions that impose serious disadvantages on poor people in authoritarian nations.

One such institution is the “international borrowing privilege,” which allows dictators in poor countries to obtain money and credit on the international market and to assign the debt to their *nation*. Thus, a dictator might borrow money in the name of the nation and use these funds to secure power and to forcefully eliminate political opposition. Obviously the people of the nation gain no benefits from this borrowing: the benefits are entirely private and enjoyed by the dictator. But if he is later deposed, the subsequent regime inherits the obligation to pay off the debts of the previous regime. Thus, the system of international lending and debt can sometimes operate to fund the oppression of the poor people in a poor country, who then inherit the obligation to pay for the cost of their own earlier oppression.

While we may not participate directly in this institution of international lending and what is known as odious debt, these lending practices have a decisive impact on the strength of First World economies and the rate of interest available within the United States. If you have a credit card or pay a mortgage, then in a direct way you enjoy benefits that are created, in part, by an institution that facilitates the poverty and oppression of poor people who live under repressive political regimes. While we do not directly or intentionally cause these people’s poverty and desperation, neither are we unconnected or uninvolved third parties. Our situation relative to people who live in poor countries would seem to be intermediate between the two concepts of exploitation identified above. This fact is significant from the moral point of view: to the extent that we are implicated in the poverty of those with whom we interact—that is, to the extent that our wealth depends on institutions that cause them harm—we have positive obligations to rectify the injustices involved. But if we take advantage of the poverty of people who are badly off because of institutions that benefit us, our relationship with them comes much closer to being *Ex-exploitation* and is even more problematic from the moral point of view.

Ideally, we might wish to provide Mr. da Silva with opportunities that his life does not now present. Arguably, justice requires that we do this. But if we are unable to address the underlying injustice that caused his

poverty and the poverty of millions of others like him, then we are not justified in stepping in to prevent him from exercising the problematic opportunity that presented itself to him—the opportunity to sell his kidney in a problematic and (probably) exploitative arrangement. If he is appropriately informed about the risks involved (Rother 2004 provides evidence that da Silva was not appropriately informed), if he nonetheless judges that the risk associated with donating a kidney is worth six thousand dollars to him, who are we to tell him that he is making the wrong choice? Unless we are willing to step in and eliminate the initial injustice that leaves him in a situation where he is willing to accept this problematic offer, we have no right to prevent him from improving his situation by accepting such an offer.

If we were to put in place a legal and regulated market for transplant organs, we would need to insure that those participating in this market had a clear understanding of the risks involved. We would need to insure that people whose kidneys (or other organs) are removed must receive proper follow-up care and that the arrangement in which they participate does not take advantage of their ignorance or poverty. Those who would argue for the elimination of the present system should be prepared to offer a specific proposal to insure appropriate regulations to protect the interests of everyone involved in such transactions.

## Conclusion

.....

Where do these considerations leave us? If you are one of the 66,000 people who are waiting for a transplant organ, the current situation is bad indeed. Unless the system is dramatically changed, most of the people who are presently waiting on that list will die waiting. Their deaths, inevitable under the current U.S. system, could be avoided if we could increase the number of transplant organs available. Providing financial incentives for donors would almost certainly accomplish this.

Above we have considered several important reasons that are typically used to justify the current system. Some of these reasons are significant from the moral point of view: perhaps it *is* unfortunate and undesirable for people to commodify their bodies. And certainly we should do what we can to promote justice and to avoid exploitative arrangements.

However, we need to decide whether these reasons are sufficiently weighty to justify the deaths of those who die every day waiting for a transplant organ.

Paying for organs, from the living or deceased, may seem distasteful. But a system with safeguards, begun as a pilot to resolve ethical and practical aspects, is surely preferable to the status quo that allows thousands to die each year. As the International Forum for Transplant Ethics put it: “The well-known shortage of kidneys for transplantation causes much suffering and death. If we are to deny treatment to the suffering and dying, we need better reasons than our own feelings of disgust.” (SATEL 2006)

Those who argue against the development of a market for transplant organs must face the fact that the system for which they argue is responsible for a massive number of unnecessary deaths. But those who regard the present system as unjustifiable also have a burden to bear: It must be shown that a market for transplant organs can effectively and appropriately protect the interests of everyone involved in it. Then we need to persuade our politicians to put it in place.

#### QUESTIONS FOR CONSIDERATION

.....

1. *If you were in Senay’s shoes, would you sell your kidney given the nature of the bargain in the film? To what extent is Senay’s choice free or coerced? In what way would you say that she is being exploited by the arrangement?*

2. *If permitting a legal, regulated market in kidney sales would, for reasons given by Pogge, constitute a legal sanctioning of the exploitation of poor persons in the developing world, wouldn’t this be reason enough to prohibit such a market? Explain why or why not.*

3. *Are there some things that just shouldn’t be commodified, like kidneys or sex? Come up with the best moral argument you can make for why some things should not be allowed to be bought and sold. Should the law also prohibit such commodification, on the moral grounds you describe? Why or why not?*

REFERENCES

.....

- Alsever, J. 2006. Basking on the Beach, or Maybe on the Operating Table. *New York Times*, October 15.
- Boudreaux, D. J., and Pritchard, A. C. 1999. Organ Donation: Saving Lives through Incentives. *Viewpoint on Public Issues*. Midland, MI: Mackinac Center for Public Policy. 99(34).
- Frears, S. 2002. *Dirty Pretty Things* [motion picture]. London: British Broadcasting Corporation.
- Institute of Medicine of the National Academies. 2006. *Organ Donation: Opportunities for Action*. Washington, DC: National Academies Press.
- Mills, C. 1995. Goodness as a Weapon. *Journal of Philosophy* 92(9):485–99.
- Morley, M. T. 2003. Increasing the Supply of Organs for Transplantation through Paired Organ Exchange. *Yale Law and Policy Review* (Winter 2003):221.
- Nussbaum, M. 1999. Whether from Reason or Prejudice: Taking Money for Bodily Services. In *Sex and Social Justice*, ed. M. Nussbaum, 276–98. Oxford and New York: Oxford University Press.
- Pogge, T. 2002. *World Poverty and Human Rights*. Cambridge: Polity Press.
- Postrel, V. 2006a. Cash for Kidneys. *Los Angeles Times*, June 10.
- . 2006b. “Unfair” Kidney Donations. *Forbes Magazine*, June 6.
- Radin, M. J. 1996. *Contested Commodities*. Cambridge, MA: Harvard University Press.
- Roth, A., Sonmez, T., and Unver, M. U. 2004. Kidney Exchange. *Quarterly Journal of Economics*, May: 457–88.
- Rother, L. 2004. Tracking the Sale of a Kidney on a Path of Poverty and Hope. *New York Times*, May 23.
- Sample, R. 2003. *Exploitation: What It Is and Why It's Wrong*. Lanham, MD: Rowman & Littlefield.
- Satel, S. 2006. Death's Waiting List. *New York Times*, May 15.

# Bioethics at the Movies

---

*Edited by*

SANDRA SHAPSHAY

The Johns Hopkins University Press

*Baltimore*

*2009*