

Commercialization of organs

The traders are on their way. We should allow the sale of organs. A strictly regulated market for organs can ensure a fair distribution of organs and proper treatment of the donor. Is this true?

There is a large and constantly growing need for organs. Transplantations are considerably cheaper than dialysis, and the risk is comparable to that of Caesarean sections, which are widely accepted. The growing need for organs has not been paralleled by a corresponding growth in the number of available donors, and an illegal practice has emerged which is widely seen as undesirable. One suggestion for increasing the availability of organs is to allow buying and selling, and weighty arguments have been put forward in favour of financial incentives (1–6). The proponents of such arguments claim that a strictly regulated trade in organs is fundamentally different from the illegal organ market – here, the standards of the treatment provided can be ensured, and organs can be justly distributed. Pricing the organs at the level of an average annual salary will also render this an attractive option for everybody so that it is not only the poorest people who act as donors. A strictly regulated trade in organs could also serve to defuse the tensions that may occur if there are strong expectations within a family regarding donations by relatives. Another argument in favour of a regulated trade in organs draws attention to the fact that live anonymous donation (which is legal in the UK and Sweden, but not in Norway) clearly shows that people donate organs not only on family-related or social grounds. Thus it is clear that when we accept other incentives, such as social and altruistic motives, financial incentives must also be accepted (7).

Six questions on purchase and sale

It is therefore too easy to claim that a commercialisation of organs necessarily will entail exploitation – and that it is immoral (8). Because of our concern for patients in need we should take these arguments seriously. However, the use of financial incentives to promote organ donation gives rise to hard questions. Do the arguments in favour of financial incentives meet the fundamental challenges and outweigh well-founded arguments to the contrary? Six questions which are often overlooked in this debate demand answers.

Question 1. Are the incentives effective? We have little knowledge about this. Some empirical studies show that financial incentives may work (9), but that the sellers often tend to be dissatisfied (10). A few studies indicate that incentives are important for a decision to donate, but that financial incentives are less important than other incentives (11).

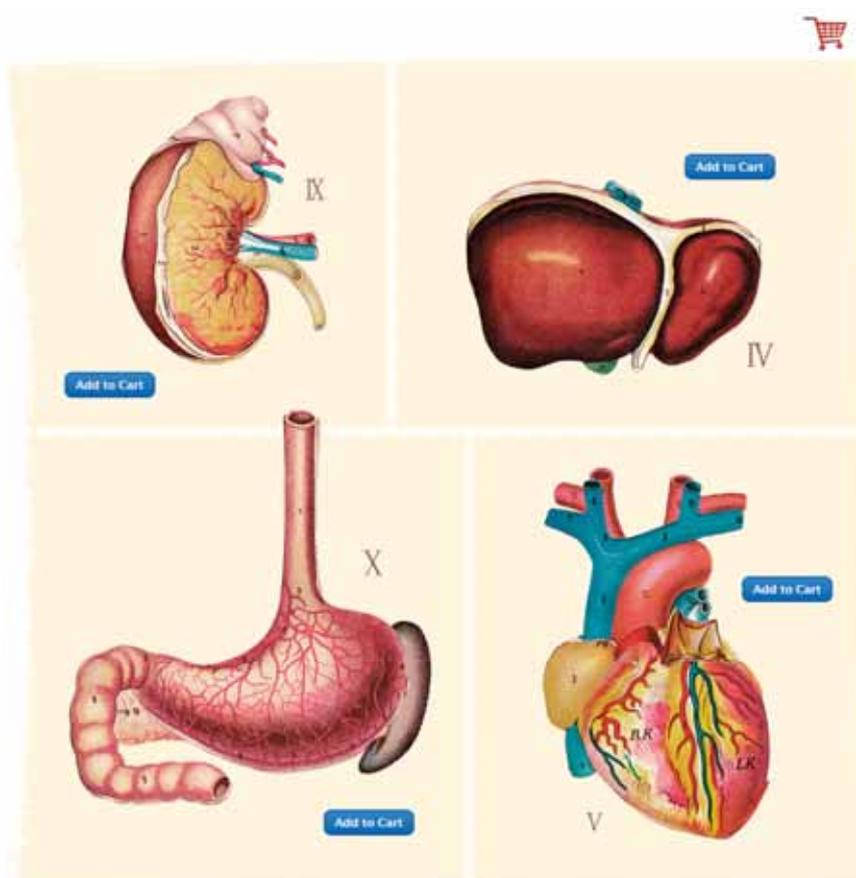


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Question 2. What actions can the health services allow vis-à-vis healthy people? Organ donation (with a living donor) presupposes a medical intervention on a healthy person, and hence violates a basic (Hippocratic) principle: *Primum non nocere*. The fact that health personnel may undertake actions that are otherwise prohibited (the medical exception) is based on the precondition that the action must be beneficial to the individual concerned. Exceptions from basic norms require special care. It is far from obvious that a (financially motivated) consent ensures *carte blanche* for all types of interventions.

Question 3. Are there any social and cultural obstacles to commercialisation of organs? European studies show that people regard donation of organs as a social and cultural phenomenon, characterised by reciprocity within personal relationships, which is not well adapted to commercialisation (12, 13). The risk of losing people's trust is also emphasised by the adherents of commercialisation (6).

Question 4. Who owns the organs in my

body? The property rights to organs in «one's body» remain undetermined. We may own objects and products of our intellect (intellectual property rights), and the law deals with objects, actions and persons, but cells and organs are not objects, intellectual products or persons. The sale of organs will therefore require breaking new legal ground, and whether one can sell oneself or parts of oneself is a fundamental philosophical question.

Question 5. How will removal of organs affect a person's identity? Organs are more than objects, they also constitute the individual as a person. Human life is given in and of a community, and is not bought. Therefore, it may not be sold freely (14).

Question 6. As autonomous beings, can we decide to reduce our own autonomy? How much of our own body can we allow to be removed, and still claim to have moral status and self-determination? We do not allow people to remove an arm or a leg, even if they wish to do so. Human dignity and rationality are often invoked to justify restrictions on the self-determination over

our own bodies (15), and economic rationality appears to have no such boundaries.

Unconvincing arguments

The debate over trade in organs is characterised by many forthright views: people are either in favour or against, on principle. A new trend is the attempt to identify alternatives that will enable us to avoid known disadvantages while keeping the advantages: more organs means saving more lives (3–4, 6–8).

We owe it to patients to reflect on the arguments that justify our practice, so that we are not surprised by discovering that it lacks a solid foundation – and that many lives could have been saved. Thus far in the debate, however, I remain unconvinced: It is far from obvious that the invisible hand of the market will provide us with more organs. A considerable number of the basic challenges involved in the trade in organs have not been addressed (questions 2–6). In addition, there are numerous effective methods that can be used to increase the availability of organs (16): media campaigns, information work targeting specific groups and organisations, training programmes and public debate. We have seen a (biased) entertainment series on Norwegian television (17), but there is obviously more that can be done. For the time being we must roll up our sleeves and trust the

visible hands: We need to inform, discuss and fill in donor cards, and we must be cautious not to put pressure on families and friends. If we fail, the traders will come.

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