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## Paying for Body Parts: A Dilemma Obamacare Doesn't Have to Confront -- Yet

Should a person be allowed to sell his or her body parts?

That was the question being debated several nights ago at the New York Academy of Medicine. The discussion followed a preview screening of a new HBO documentary, "Tales from the Organ Trade." The consensus answer was as surprising as the documentary's point-of-view: yes.

The auditorium was filled with transplant surgeons, nephrologists, bio-ethicists, several kidney-transplant recipients, and the EU's head prosecutor for Kosovo, responsible for going after organized crime both inside and outside the former Yugoslavian territory. Jonathan Ratel, a British-Canadian citizen, is featured in the documentary for prosecuting two doctors – one Turkish and the other Israeli – for jointly operating a black-market clinic where kidney transplants cost approximately \$100,000. Ratel was thoughtful and his argument simple: international law prohibits the selling of body parts based on the presumption that "The moment someone accepts money, they lose the ability to grant consent."

That presumption is not only the basis of legal prosecutions, but is the fundamental question posed in the *Organ Trade* documentary. It is explored through the eyes of potential recipients and donors in the U.S., Canada, the Philippines and the former Soviet Union.

Since the first live human-to-human organ transplant in 1954, the demand for donor organs has soared. Just in the United States, there is a waiting list of 120,650 people who need new organs. In 2012, there were 28,052 organ transplants from 14,013 donors; plus an additional 46,000 cornea transplants. Nearly 80% of all transplants come from deceased donors. And while 90% of Americans say they are in favor of organ donation upon death, fewer than 30% actually sign up.

Worldwide, the total number of organ transplants was 112,631 in 2011 according to the World [Health](#) Organization. That represents less than 10% of the global need.

So, with more than 80% of people on the waiting list need a kidney, the demand side of the equation is pretty clear. Surprisingly, so is the supply side. Because most people have two healthy kidneys – and need only one to lead normal lives – there is a growing awareness of economic opportunity

among potential donors. *Organ Trade* Producer-Director Ric Esther Bienstock gained access to several black-market donors; and the price of a (presumably) healthy kidney can range from \$1500 (in the Philippines) to over \$20,000 in Philadelphia. The former was arranged by a black-market broker and the latter via an ad on Craig's list.

The film shocked most of the people in the audience. Not because of lurid images of exploitation, but because of head-shaking depictions of high-minded paternalism. The most gruesome footage showed not butchered donors but desperate people attached to high-tech dialysis machines. Most of the audience left the screening with a profound belief that the current system of high-minded voluntary donations serves neither donors nor recipients particularly well.

"When money is the main motivation to donate a kidney, a potential donor is less likely to be forthright about their health and medical issues," said Dr. Bruce Gelb, the Director of Renal Transplantation Surgery at NYU Langone Medical Center, and another panel participant. "This can have dangerous consequences to both the donor and the recipient."

"The rhetoric around this issue screams exploitation, but what I found while filming and meeting dozens of people who both bought and sold kidneys, is that it's desperation on both sides that drives the trade," said Bienstock. "And in many ways, both sides benefit from the transaction. But leaving it to the black market is what makes it dangerous and exploitative. We need to provide solutions or the black market will continue to flourish and move even further underground."

"The black market "money for organs" trade preys on the poor and desperate," said Gelb. "The money donors receive is rarely what is originally promised. They rarely end up better off in life. If there are complications, the donor will likely end up in a worse situation."

Medical societies have almost universally opposed paying donors for their organs. The National Kidney Association has called payment "an affront to those who have already donated, and it may prove similarly offensive to future donors as well."

"One of the questions I explore in the film is: If people are making the choice to sell a kidney out of economic desperation, does it invalidate this as an act of free will?" said Bienstock. "And do they have the right to make this decision about their own bodies? Also, if the act of selling can liberate them from poverty, do we have a right to condemn them to the poverty they are trying to escape?"

NYU's Gelb focused on the lack of safety in an unregulated black market: "The black market organ trade is driven by desperation – for both the donor and recipient. The donor is virtually always someone who is in desperate need of cash, and the recipient is in a desperate medical situation facing years waiting for a kidney with a real possibility of not surviving during the wait."

"When people in the developed world want to sell a kidney, sometimes to prevent their children from dying or descending into prostitution, I hear people in the developed world – often multimillionaire doctors – saying that you cannot trust the decision making of poor people when there is money involved" said Simcha Jacobovici, one of the film's producers, and himself an Emmy-winning documentarian. "They say that poor people are being

'coerced' by their poverty. How condescending! That's the argument they used to use against giving women the right to vote. They used to say that you can't trust a woman's vote because it will be 'coerced' by her husband or father. It's time we stop condescending and start protecting."

So where does the debate go from here? Once, the notion that we ought to even consider legitimizing trade in organs was dismissed out of hand as "unethical." Illuminated by facts, "Tales from The Organ Trade" suggests we at least consider doing otherwise.

The trailer for "Tales from the Organ Trade" can be seen here: <http://www.hbo.com/#/documentaries/tales-from-the-organ-trade/video/trailer.html> Trailer for "Tales from the Organ Trade"

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