

Organ Transplant: Using the Free Market Solves the Problem

Scott Andrew V and Walter E. Block

Harold E. Wirth Eminent Scholar Endowed Chair and Professor of Economics, Joseph A. Butt, S.J. College of Business, Loyola University New Orleans, USA

Abstract

To date 80,000 Americans have died on organ transplantation waiting lists. The current organ procurement and transplantation network is outlined in the National Organ Transplant Act. This act has given a handful of organizations total control in the procurement and transplantation industry. It is imperative to repeal this act and to let the free market drive organ procurement and transplantation with the buying and selling of organs. This would increase the total number of quality organs to the level of demand and reduce the total cost of transplantation. The sooner this happens the better the chances of survival for the tens of thousands of Americans on waiting lists today.

Keywords: Markets; Used body parts; Transplantation; Buying; Selling human organs

Introduction

Suppose you go to the hospital after experiencing several days of nausea, fatigue and trouble urinating. After having test after test run on you and spending your week in and out of the hospital, you are told that you are in need of a kidney transplant. The news would be devastating; however the journey to receiving a transplant has just begun. Your first step would probably be to contact the finest transplant facility and the best doctors. They would evaluate you and put you on the organ transplant waiting list. On this list you could sit and wait a very long time. You undergo dialysis often and feel weaker by the day. Are you ever going to get a kidney? You ask yourself the question a thousand times. It is a question that has no definitive answer. Thousands of Americans die every year while on organ transplant waiting lists. The system in place today allows some of those on waiting lists to wither away and die. This seems incredulous due to medical technology advances and increases in transplant surgery survival rates. So are there even enough organs out there to go around? The answer is a simple *yes*. However, under the current government regulated system, in which organs cannot be sold by the donor, the number of people dying on waiting lists is sobering. Every year over 1,300 people die awaiting heart transplants and over 3,000 people die awaiting kidney transplants (United Network for Organ Sharing, 2010). The problems are the lack of quality donated organs. The government has only allowed a select handful of organizations to run the transplant industry. The solution: repeal the National Organ Transplant Act and allow the free market to work for the sick and dying, instead of against them, as at present.

The system today

In 1984 the U.S. Congress passed the National Organ Transplant Act (NOTA) to regulate and help organize the growing field of organ transplants (U.S. Congress 1984). The act laid out the requirements to organize a qualified organ procurement agency, the requirements to join the organ procurement and transplantation network, accounting practices within the organ procurement and transplantation organizations, and prohibited the purchase of organs or tissue [1]. The act called for an Organ Procurement and Transplantation Network, or OPTN, to be run by private, non-profit organizations under federal contract. The only organization of this kind is the United Network for Organ Sharing or UNOS. UNOS was the first certified in 1986 by the U.S. Department of Health and Human Services as part of the OPTN [1]. UNOS works in conjunction with organ procurement

agencies and transplant centers. Under the federal contract, UNOS has established an organ sharing network that the organization claims to “maximize the efficient use of deceased organs through equitable and timely allocation” [1]. UNOS also “guided persons and organizations” concerned with transplants in order to increase the number of possible organs for transplant. UNOS allocates organs using a centralized computer system linking organ procurement agencies and transplant centers to improve efficiency in the transplantation process, bringing organs to those who need them most and are the best candidates for the transplant surgery [1].

Today, in order for a person to be a donor, they must fill out a donor card, often done through DMV’s, to specify donor status and the organs or tissue that could be transplanted in case of sudden death. However, to be a donor one also needs to be in good health (for obvious reasons) and the family must consent to the donation [2]. The organ procurement agencies receive the organs and through the OPTN the organs are used where needed. The big problem in the system is that there are simply not enough organs to satisfy the demand for them. According to national surveys, more than 85% of the public support organ donation, but only one third of all possible organs (those that can be used) are ever donated [3]. There is no cost to the donor or donor’s family, but the recipient must pay for the procurement and transplantation organizations, such as UNOS, and also for the surgery itself (including hospital stay). By no means is receiving an organ cheap.

Critiquing the current system

Fallacy One: Zero Price Means Transplantation is Affordable to the Poor. Organ transplantation is not free. In fact it is very expensive. According to UNOS, the average price for transplantations are as follows: Heart - \$787,700; Single Lung - \$450,400; Heart and Lungs - \$1,123,800; Kidney - \$259,000. The cost of procuring the organs alone

Corresponding author: Walter E. Block, Harold E. Wirth Eminent Scholar Endowed Chair and Professor of Economics, Joseph A. Butt, S.J. College of Business, Loyola University New Orleans, 6363 St. Charles Avenue, Box 15, Miller Hall 318, New Orleans, LA 70118, USA, Tel: 504-864-7934; Fax: 504-864-7970; E-mail: wblock@loyno.edu

Received April 11, 2011; Accepted May 18, 2011; Published May 20, 2011

Citation: Scott Andrew V, Block WE (2011) Organ Transplant: Using the Free Market Solves the Problem. J Clinic Res Bioeth 2:111. doi:10.4172/2155-9627.1000111

Copyright: © 2011 Scott Andrew V, et al. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

are as follows: Heart - \$94,300; Single Lung - \$53,600; Heart and Lungs - \$151,900; Kidney - \$67,500 (UNOS 2010, Transplant Living). It is clear that this process is already very expensive and thus restrictive to the poor.

Currently there are a handful of agencies procuring organs and a small number of doctors actually performing the transplantations; entry into this industry is strictly limited by law. The entire business is thus monopolized⁴. The American Medical Association (part of the OPTN) has been compared to the medieval guild system in which potential professionals are “frozen” out of the industry, in order to increase the economic returns from those fortunate enough to be permitted in [4]. In the same way, UNOS has completely taken over the OPTN and therefore can pay employees whatever it chooses and give its executives extravagant salaries. By opening up a free market for organs, competing businesses would start up to procure and sell organs at lower prices.

If the selling of organs was allowed, there would be an increase in the supply. This can be thought of on a simple supply and demand curve. The demand for transplant organs today exceeds the supply. This means that selling your organs or tissue would bring in a significant amount of money. The supply of organs would increase until it hit equilibrium with the demand^{5,6}. At this time, as competition to buy organs increased, the prices for them would decrease. This is because more people would be willing to sell their organs or their deceased family member’s organs; thus supply would begin to exceed demand. Therefore, the companies buying/selling the organs would be forced to sell organs for less because of the surplus. In turn, companies would pay less for organs. This would continue until the market reached equilibrium. The competition would push down the prices. Therefore, the argument that the free market would increase the price is really a fallacy. In fact, the opposite would be true. Organs would be cheaper than today in real terms.

The price of a transplant surgery would also decrease due to the larger number of transplantation procedures performed every year, based on economies of scale [5]⁷. As the number of doctors and hospitals increased to meet the demand of more transplantation surgery due to the greater number of organs available, competition would ensue. This would tend to negate the present ‘medieval guild system’ and drive procedure costs downward. This is yet another reason that the free market would make transplantations more affordable to the poor.

Fallacy Two: Free Market System Would Lower the Quality of Organs. Using the free market system, the companies that would be buying the organs could have the option to pick the best candidates to buy from. Likewise, the recipients would also want the higher quality possible. There would be a large number of people willing to sell organs or deceased family member organs. Only the ‘best’ organ candidates would be chosen for purchase of the organs. So, not only would the quality organs we do have today be on the market, but so would many more, some of even higher quality than some used today. There would be incentive (money) to stay healthy because of the possible gain for one’s family in case of sudden death, or in the case of kidneys, to stay healthy to be a possible donor.

It is theoretical that the quality of organs could actually increase under the free market system. However, the total number of organs at today’s standard would most definitely increase because today only one-third of all possible organs (that can be used) are ever donated [3].

If selling were possible, more of those unused good organs would be used. Family members of the deceased would be more inclined to look into selling because of the monetary incentive. Certainly, with a greater quantity of used bodily parts being offered for sale than at present, with only donations, the organ transplant intermediaries would have more resources to choose from. That alone suggests that quality will increase.

Fallacy Three: Organ markets Leads to the Poor Forced into Selling too Cheaply. Many of those in favor of the current system believe that if the free market was to run the organ transplant industry that it would “resemble a bad used car lot” [5]. The fear is that the poor would be preyed upon by the organ procurement companies and “forced” into selling their organs for very low prices. Critics of the free market compare the possible free market system of buying and selling organs to exploitation that preys on people’s weakness and needs [6]. However, a better comparison is to a fast food restaurant. The restaurant makes cheap food that may be unhealthy, but is affordable for the poor. But is the fast food purveyor trying to take poor people’s money and leave them unhealthy? No, it is simply trying to bring a less expensive product to the marketplace, concentrating their marketing and sales efforts on those who can’t afford to buy steak or lobster every day.

As in the case of all other goods and services, supply and demand would set the price. A company would not be able to force the poor to sell dirt cheap⁸. The demand for quality organs would only ensure that the very best organs would be bought and sold. This means regardless of social status, the higher the quality of the organ, the higher the possible return from the sale of the organ. Just as in the argument used for Fallacy One, the company that paid the poor little for quality organs would be run out of business. This is because another company would offer slightly more money for the quality organs obtained from the poor. Then yet another company would offer slightly more. This would continue until the price for the quality organs obtained from the poor was at the equilibrium price.

Fallacy Four: With a Free Market in Used Body Parts, Criminal Activity Would Increase. Many people fear that with the institution of free enterprise operating in the field of human organ transplantation, “body snatchers” would be motivated to capture innocent people, anesthetize them, remove their body parts without their permission, and sell them to rich buyers. Offering superficial plausibility to this

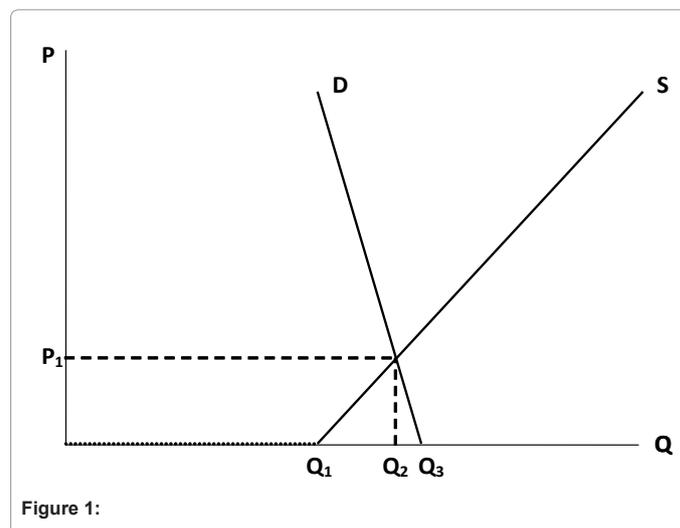
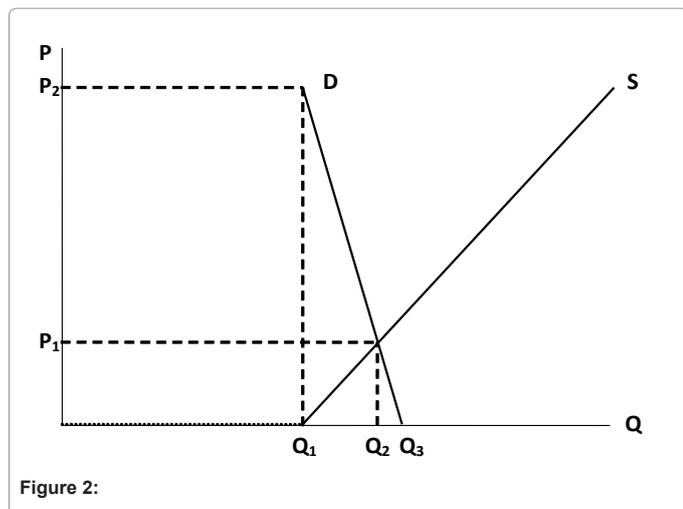


Figure 1:



horror scenario is that, whatever the flaws of the present system, at least organs are transferred free of charge. With a legal prohibition of this market, there is no profit for “body snatchers.” However, under free enterprise organs would now be bought and sold on an open market, where they would command a positive price. This, in turn, would encourage organ thieves, at least according to this objection.

This argument may be couched in terms of Figure 1. There, at present, organ donors receive no money⁹ and supply a quantity of Q1. Similarly, Q1 organs are transferred to recipients, and they pay nothing for this benefit. (There is a shortage of Q1Q3 organs; would-be receivers of these used body parts are just plain out of luck.) In contrast, were there to be a market in this item, the price would rise from zero to P1. (Disappointed recipients would decrease from Q1Q3 to Q2Q3.) Since P1 is higher than zero, those make this objection claim that this amount of money would give rise to the body snatchers; they would not be active at a zero price, but, they would at P1.

However, this objection fails to reckon with Figure 2. There, it is shown that the present *black market* price for an organ is P2, higher than P1. How is this derived? Simple. We ask how much would demanders be willing to pay given that only Q1 is offered for sale. That amount is P2. And, since P2 is greater than P1, if there is any body snatching that takes place, the impetus for it is greater *at present* than under the hypothetical situation of a free market in human organs. QED. The point we are making, shorn of supply and demand analysis, is that the profits for criminal transfers of human body parts are actually higher now than they would be under a regime of free enterprise. This is because, given upward sloping supply, ¹⁰ *more* organs will be offered if donors have a financial incentive, in addition to the benevolence, and motivations to donate, than if the latter, alone, is in operation. The quantity of organs offered for transmittal in our example rises from Q1 to Q2. But, given downward sloping demand¹¹, the lower the quantity, the higher the price.

There would also be legal remedies to this end. In the free market system, there would be, as we have seen, a temptation for some evil people to acquire organs from the unwilling in the hopes to make money [7], even though it would be reduced, compared to the present institutional arrangements. This could be solved using a tracking system with detailed documentation along with the use of independent auditing firms to ensure organ purchasing companies were obtaining

organs only from willing individuals. There would also have to be laws to make it a serious crime to obtain an organ from those who were unwilling to sell or donate them. This would mean that organs of homicide victims could not be sold by the family until foul play is ruled out by law officials in the case that a family member killed the victim in order to receive money. In addition, very large fines would be dealt to any company that intentionally transplanted questionable organs. This would serve as an incentive for the companies to double check origin of organ and documentation.

The rights to organs after death would also be an issue. The free market system could theoretically cause families to fight over organ money. Therefore, organ rights would be specified in wills. For individual who die intestate, the organ money would go to the spouse or be divided evenly between children just as estates are now split up.

A viable proposed free market system

The new system would come with some needed regulation to ensure quality of organs, to prevent organ or tissue theft from the unwilling, to determine organ rights in case of death, and to educate the general public about the risks of organ selling (in the case of a kidney sale). We propose that this needed regulation would be carried out by the organ intermediaries, who are poised between buyer and seller as well as by independent certification firms along the lines of *Consumers Reports*, *Kosher foods* or *J. D. Power*¹². This system would be very similar to an auditing agency combined with a blood testing lab. There would be no need to increase government spending,¹³ or, indeed, for any expenditures at all from this source, any more so than for any ordinary industry.

The quality of organs would also be enhanced by the organ purchasing companies themselves. This way only the highest quality organs would make it to the transplantation stage. This would be incentive for the organ companies to only buy the best quality product.

The organ purchasing and selling companies would find it in their interest to educate the general public about the risks of selling organs such as selling a kidney. The kidney removal process is still a risky procedure. Therefore, it would be imperative that the seller be aware of all risks before the surgery to remove one of his kidneys. These companies would also learn it will be a profit enhancing policy to show average prices paid for organs. This would lessen the ability of these companies to take advantage of a grieving family (in the case of a death) or a desperate person (in the case of a kidney).

Conclusion

Evidence suggests that over 80,000 lives have been lost while on waiting lists for organ transplants on an annual basis [8]. The current OPTN system for organ and tissue procurement and transplantation is not saving the maximum amount of lives. The companies involved in this network are few in numbers and have little incentive to innovate. There is no competition. In order for the U.S. to save its citizens’ lives, it must allow the free market to do what it does best. *Laissez faire* capitalism would provide the highest number of quality organs at the lowest possible prices. These needless deaths will continue until the medical community and the U.S. Congress decide to end the exclusive UNOS controlled system and allow the great entrepreneurs of this nation to reduce the inefficiency.

The case for a free market in human organs has been made over and over and over again¹⁴. Why has it not yet been implemented? We

suspect that opposition stems mainly from the fact that most people deem it unseemly to rely on the free marketplace to allocate resources in this arena. But, "medical correctness" must no longer be allowed to result in the needless deaths of tens of thousands of people.

References

1. UNOS (2010) United Network for Organ Sharing. Retrieved October 31, 2010.
2. Block, Walter, Whitehead, Roy, Johnson, Clint (2000) Human organ transplantation: Economic and legal issues. *Quinnipiac Health Law Journal* 4: 87-110.
3. Noyes, Lori (1998) "Organ Donor and Transplant Facts". *Organ Transplant Ring* (pp 2-3).
4. Johnson, Clint, Block, Walter, Oxner, Thomas (1998) Notes on health care financing and free markets. *Journal of Accounting, Ethics & Public Policy* 1: 489-501.
5. Barnett Andy 1999 "Die Waiting." *Mises Daily*. February 15; retrieved October 31, 2010.
6. Cullen, Shay (2010) Selling organs sinful exploitation of the poor. *Asia Observer* 10: 327.
7. Barnett II William Saliba, Michael, Walker, Deborah (2001) A free market in kidneys: Efficient and equitable. *The Independent Review* 3: 373-385.
8. Beard T Randolph Jackson, John D, Kaserman, David L (2008) The failure of U.S. organ Procurement Policy. *Regulation* 28: 22-30.
9. Adams AF, Barnett Andy Kaserman, David (1999) Markets of Organs: "The Question of Supply." *Contemporary Economics Policy* 17: 147-155
10. Anderson WL, Barnett, Andy H (1999) "Waiting for Transplants." *The Free Market* 17: 1-2.
11. Barnett Andy, Beard T Randolph, Kaserman, David L (1993) "The Medical Community's Opposition to Organ Markets: Edsytchics or Economics?" *Review of Industrial Organization* 8: 669-678.
12. Barnett Andy, Blair RD, Kaserman, David L (1992) "Improving Organ Donations: Compensation Versus Markets." *Inquiry* 29: 372-378.
13. Barnett Andy, Kaserman David L (1995) "The 'Rush to Transplant' and Organ Shortages." *Economic Inquiry*. 33: 506-515.
14. Barnett II William (1988) "The Market in Used Human Body Parts." *The Free Market*. 6: 5.
15. Barney Jr D, Reynolds L (1989) "An Economic analysis of Transplant Organs." *Atlantic Economic Journal*. 17 (September): 12-20.
16. Blair RD, Kaserman, David L (1991) "The Economics and Ethics of Alternative Cadaveric Organ Procurement Policies." *Yale Journal on Regulation* 8: 403-452.
17. Caplan AL (1992) *If I Were a Rich Man Could I Buy a Pancreas? And Other Essays on the Ethics of Health Care*. Bloomington and Indianapolis: Indiana University Press.
18. Carey D (2002) *Let the Market Save Lives*. *Mises Daily*. February 21.
19. Cherry, Mark J, ed. (1999) *Persons and Their Bodies: Rights, Responsibilities, and the Sale of Organs*. Kluwer Academic Publishers.
20. Garner, Richard, Walter Block (2008) "Harvesting organs on the final frontier: a critique of Star Trek." *Issue 2*; pp. 65-xx. *Ethics and Critical Thinking Journal*.
21. Hansmann H (1989) "The Economics and Ethics of Markets for Human Organs." *Journal of Health, Politics, and Policy and Law*. (Spring): 57-85.
22. Healy, Kieran (2006) *Last Best Gifts: Altruism and the Market for Human Blood and Organs*. Chicago: University of Chicago Press.
23. Hippen, Benjamin E (2008) "Organ Sales and Moral Travails: Lessons from the Living Kidney Vendor Program in Iran" *Cato Policy Analysis* 614.
24. Liebowitz, Stan J (2008) "Anatomy of a Train Wreck: Causes of the Mortgage Meltdown," *Independent Policy Report*, Independent Institute, October.
25. National Organ Transplantation Act of 1984. U.S.C. Title 42. Section 273-274. (2010)
26. Richards, Janet Radcliffe (1996) "Nephrarious Goings On: Kidney Sales and Moral Arguments." *The Journal of Medicine and Philosophy* 21: 375-416.
27. Richards, Janet Radcliffe (2001) *Indian Journal of Medical Ethics*. Vol. 9, No. 2, April-June.
28. Taylor, James Stacey (2005) *Stakes and Kidneys Why Markets in Human Body Parts are Morally Imperative* Ashgate Publishing.
29. Taylor, James Stacey (2006) *Why the 'Black Market' Arguments Against Legalizing Organ Sales Fail*. *Res Publica* 12.
30. Taylor James Stacey (2007) A "Queen of Hearts" Trial of Organ Markets: Why Scheper-Hughes's Objections to Markets in Human Organs Fail. *Journal of Medical Ethics* 33: 201-204.
31. *Transplant Living: Organ Donation and Transplantation Information*. (2010). United Network for Organ Sharing. Retrieved November 8, 2010, from <http://www.transplantliving.org/beforethetransplant/finance/costs.aspx>
32. Wilkinson, Stephen (2003) *Bodies for sale: ethics and exploitation in the human body trade*. Routledge.

Footnotes

1. "It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for the use in human transplantation if the transfer affects interstate commerce" (U.S. Congress Title 42 Section 274e Subsection A).
2. UNOS also has a system to collect, store, analyze and publish data pertaining to the waiting lists and transplants.
3. This could be due to the lack of awareness because of the ineffectiveness of awareness programs run by UNOS and other organizations to reach the whole public and/or because there is no incentive for an individual to go out of their way to sign up to donate.
4. It is an elementary economic idea that monopolies lead to decreased innovation.
5. No company would continue to buy organs if they were not selling them, unless Company A's intent was to hold the organs off the market to raise the price. This could be possible, but not likely because the competition, Company B, would have a better turnover ratio. The better turnover ratio would mean more profit for Company B and thus more money to expand and drive Company A out of business.
6. We never reach equilibrium, except on the blackboard of economics courses, but, market forces are always heading us in that direction.
7. There would be more surgeries per year because everyone who needed an organ transplant would be able to get one. Today there is a gap as stated earlier in this paper.
8. There is one exception to this. If the market clearing price of organs dropped below a few thousand dollars or even a thousand, then it is possible that organ purchasing companies could be buying organs for dirt cheap prices.
9. In actual point of fact they are paid for "expenses." This diagram abstracts from that phenomenon, so as to make our analysis more clear.
10. Sorry, we are unable to keep to our promise and jettison all mention of supply and demand.
11. We again offer our apologies for bringing into polite company the dread concepts of supply and demand.
12. We would dearly have loved to cite as examples Fitch, Moody's or Standard and Poor, but for the fact that they have been suborned by government (Liebowitz, 2008).
13. The new system would reduce government spending because the OPTN regulated by government officials along with UNOS would fall under the supervision of the private organ purchasing companies who have monetary incentive to make the network better.
14. For the philosophical literature on this point, see Cherry, 1999; Healy, 2006;

Hippen, 2008; Richards, 2001; Taylor, 2005, 2006, 2007; Wilkinson, 2003. For the complementary economic literature, see Adams, Barnett, and Kaserman, 1999; Anderson and Barnett, 1999; Barnett, Beard, and Kaserman, 1993;

Barnett, Blair, and Kaserman, 1992; Barnett and Kaserman, 1995; Barnett, 1988; Barney and Reynolds, 1989; Blair and Kaserman, 1991; Caplan, 1992; Carey, 2002; Hansmann, 1989; Richards, 1996; Richard and Block, 2008.