

# Selling yourself

## 1. Getting a Green Card

Some years ago, I applied for status as a Permanent Resident in the United States – i.e. I applied for a ‘Green Card’. I had in the course of the process to make a formal declaration, in front of a lawyer, that I was not intending, if I became a permanent a resident of the United States, to support myself by means of prostitution.<sup>i</sup> This is not something that had ever occurred to me, and I suspect that, if I had tried, I would not have attracted any customers! The issue, however, does pose some interesting problems about the boundaries between the self and what it is appropriate to sell.

We live in what could be called a commercial society. For us, there is the advanced division of labour, mechanization, the extensive use of information technology and robotics. Many of our activities are coordinated by means of prices rather than by face-to-face arrangements. As John Locke noted in his *Second Treatise of Government*, in 1690,<sup>ii</sup> if we consider an item such as a loaf of bread, a vast number of actions performed by many different people are involved in one way or another in making it. Locke considers not just the activities of the baker, but also those involved in the growing of the corn, and, beyond that, those who were involved in making all the things used in the production of the corn. Locke talked about those who trained the oxen used to plough the field, though who manufactured the plough, and so on. We can today multiply such lists – as ecologically-minded critics have often argued, when talking, say, about just what goes into the making of a laptop computer.

There has been much argument about the pros and cons of all this. Adam Smith was struck by the way in which the advancement of the division of labour not only led to increased wealth and well-being,<sup>iii</sup> but also exhibited impressive human cooperation. By contrast, Jean-Jacques Rousseau, in his ‘Discourse on Inequality’ was highly critical of the effects of the division of labour.<sup>iv</sup> G. W. F. Hegel, for example in his *Philosophy of Right*, noted the way in which, in the kind of society which was coming about, our ‘needs’ develop; something which he welcomed.<sup>v</sup> Karl Marx, notably in some of his earlier writings, was critical of both the division of labour and commodification.<sup>vi</sup> In more recent times, Karl Polanyi, the influential author of *The Great Transformation*,<sup>vii</sup> was critical of commodification. Indeed, an extensive discussion has taken place about the pros and cons of this, from the Eighteenth Century up to debates centered on issues to do with ecology, which are taking place today.

All this leads to many issues. I will, here, be concerned with just one: The possibilities of the commodification of the personal – and to problems of different kinds to which it may lead.

## 2. What are you worth?

Imagine that you were mugged, your house was burned down, your identity was stolen, anything you had in the bank taken, and you lost all your material possessions. Suppose

that, as a consequence of being mugged, you had lost command over any of the kinds of skills that would normally have enabled you to earn a living. What, then, are you worth? It will depend in what country you are located (or to which you can get access), but there are markets that you might be able to enter.

Currently, should you have long hair in good condition and are a woman, you might be able to get up to \$US1000 for it. The prices offered will also depend on its colour and length. Egg Donation Inc and the Egg Donor program in the US are keen to get suitable women to sell their eggs to them. Commercial companies are a bit coy about what you will get, but you might manage \$7-8,000 US (one web site which I consulted recently mentions a range between \$6,500 and \$30,000.) You may get a higher figure if you have a postgraduate degree or other positive features (but you'd need to be 20-29, healthy, and under 72 kilos).

Equal opportunities? There *are* opportunities for men, but as was commented in the *New York Times*,<sup>viii</sup> 'Your odds of getting into Harvard or Stanford are higher than your chances of being accepted as a donor at the major sperm banks.' You would need to be tall, and will have to undergo a battery of physical, genetic and psychological tests, and also come up with the right answers to questions about your sexual history, talents and so on. As of 2016, it was reported that someone who produces two appropriate samples a week, might get \$1,500 a month. But I have seen much lower figures quoted.

While once you are dead, there is a market in the U.S. for body parts, to be used for research and education. A source in 2006 gave the following breakdown of prices: For fresh/frozen parts, in \$US: Head: 550-900; Brain: 500-600; Torso: 1200-1300; Hand: 350-850; 'Miscellaneous organs': 280-500 (each); while a whole cadaver was priced at: 4,000-5,000. A report by Reuters published in 2017 gives roughly comparable figures.<sup>ix</sup>

### **3. Blood, Plasma and Kidneys**

Today, you typically cannot sell blood in 'Western' countries. (You can sell blood plasma in the US. The current rate seems to be around \$30 a donation, of which you can give two a week.) People used to be able to sell blood in the US. But this stopped during the 1970s, as a result of bad publicity given to the transmission of hepatitis through some purchased blood, and the enforced labelling of blood as to whether it came from unpaid donors or was paid for.

Currently, there is a significant shortage of kidneys. If people's kidneys fail, they may have a miserable time on dialysis. This is time-consuming, and in the longer term is not good for people's general health. As it is expensive to provide, patients may have to go through bureaucratic assessment procedures as to whether or not their general medical condition is good enough for them to be put on dialysis. The situation will get markedly worse, as a result of the dramatic increase in the number of people suffering from type 2 diabetes, which over time often has bad consequences for people's kidneys.

There is already a considerable gap between the number of kidneys that are needed and the number that is donated. Donations may come from corpses or from live donors. There are complications about getting kidneys from corpses. Consent is typically required to use a person's organs. A usual arrangement, here, is that people, while they are alive, may give an indication as to whether or not they consent to their body parts being used when they die, although the actual decision, after their death, is often in the hands of their relatives.<sup>x</sup> Different systems may be used – for example, in the UK one has to say positively that one wants, say, one's kidneys to be available to others; while in other countries it may be assumed that one's kidneys will be available, unless one has positively opted out from this. There are also different practices with regard to getting the consent of relatives: there is obviously a problem if medical people treating someone have to switch suddenly from trying to keep them alive, to asking their relatives if they can use the kidneys. Spain has the reputation of having the best arrangements, and is often taken as a model for how these matters should be handled. But this seems, in part, to be a product of their getting more kidneys from elderly people (the older people are, the more problems there are about using their kidneys); and they can't currently meet demand just from donated kidneys.

The most favoured source from the point of view of the recipient of kidneys, or the medical people who assist them, are young road accident victims. However, they don't come in sufficient quantity to meet the needs of patients (and they also need to die with their kidneys intact, and not too far from a suitable hospital). I recall discussion of these issues with a kidney surgeon in Buffalo, NY, and the comment that he made to me (I hope in jest!). 'Ah, it is spring, the time of the year that I like best: it is when the young men again start to go out on their motorbikes...'

What about live donors? People can – and do – make donations of their kidneys. But these tend to be restricted to relatives and close friends. It is possible in some countries to give to strangers. In Australia, such donations tend to be ruled out by law. The reason for this, is that, as giving a kidney is a significant matter, it is thought that donation to a stranger is likely in fact to mean that a sale is taking place. This then led to controversy concerning the activities of the members of a small religious sect who called themselves the 'Jesus Christians'.<sup>xi</sup> Members of this group considered that they had an ethical obligation to give a kidney to those in need of one, including strangers. But they sometimes found that they ended up breaking the law!

#### **4. Why not buy kidneys?**

In the face of these problems – and given that, if there is not an adequate supply of kidneys, people will die – one might ask: why should we not buy them? To raise this issue is apt to bring to mind grim stories about people being drugged in seedy bars, and waking up to find themselves in a cheap hotel room, without any kidneys. But on the face of it, things would not *have* to be like that. It is, here, worth bearing in mind that to maintain people with kidney problems on dialysis is expensive, and that this cost is, in many cases, being covered by the taxpayer. While if people don't get treatment, they are likely to die a miserable death. Would not the humane thing to do, be to purchase kidneys?

One problem, here, is that there may be concerns about the commodification of the human body. But the issue need not be raised in such crass terms. For relatives of a deceased person in hospital might be asked, for example (assuming that the person's kidneys were suitable for transplant): would you consent to these body parts being used, and told that, if they would, the hospital would cover all the reasonable expenses of the funeral. While, in countries where students attending university have to pay significant fees, and may expect to go onto the job market with large education-related debts, they might be offered the relief of these, in return for the donation of a kidney. (They might say: but what if my remaining kidney fails? To this it could be responded: we will guarantee to purchase a replacement for you!)

A strong source of objections to such ideas stems from the work of the British theorist of social administration, Richard Titmuss.<sup>xiii</sup> In 1970 Titmuss published a book called *The Gift Relationship*.<sup>xiii</sup> In it, he criticized the US system of blood provision, and, especially, that aspect of it which, at the time, relied on buying blood from people who were 'down and out'. This turned out to pose a particular risk for the transmission of hepatitis. Titmuss argued that using donors – as in the UK (and also in those areas of the country supplied by the American Red Cross) – was not only morally preferable, but also was safer, more economical, and made for enhanced feelings of community. Many writers have built further on his arguments.

Since Titmuss wrote, however, his case has been considerably undermined. While there is *something* to be said for it – blood donors are indeed admirable people, and Titmuss highlighted the 'adverse selection' problem that those most ready to sell you blood are not the people from whom you would wish to buy it.<sup>xiv</sup> However, Titmuss's empirical claims about cost have been badly hit by issues raised in the subsequent critical discussion of his work.<sup>xv</sup> While the case of HIV-AIDS, and subsequently of Mad Cow Disease (vCJD), have shown that you will not always get the best blood from regular blood donors. That is to say, Titmuss's argument was made in relation to hepatitis, where there was, indeed, a problem that those who sold blood in the United States gave an enhanced risk of the transmission of the disease. But other illnesses could be transmitted by people who were fully altruistic blood donors.

## 5. What should be done?

In my view, there is no good knock-down argument against commerce of the kind that Titmuss was hoping for. But what about commerce as intruding on our concerns for the distinctly human? Should there be free markets in all the fields to which I have referred? And what, say, of the case of babies for adoption (as the economists Landes and Posner suggested?<sup>xvi</sup>) Or should the sale of human body products be banned? Let us look at some options?

One possibility would be for us to have completely free markets. We are familiar for the case for this, from other fields. But are there distinctive problems here? One concern might be: what would the consequences of unrestricted commodification be for us? E.g.

if we were confronted, upfront, with information of the kind that I have discussed in the early part of this talk about prices, on billboards etc? What might it do to how we would see and value one another? (And, in the case of adoption, how might someone feel, if they found that their natural parents had sold them for a particular sum?)

Another concern might be about the effect of the commercialization of these things and as a consequence of this, their normalization, and what this might mean for people who are vulnerable. It would seem from the academic literature that it is difficult to generalize about prostitution. There are people who seem able to manage it without damage to themselves (e.g. to their relationships). But not everyone can cope equally well, and there are plenty of people involved in these things who cope only with some difficulty. There is a risk that with all-out commodification of the personal, some of these vulnerable people might get badly hurt.

A second option is suggested by what might be called legal quasi-sale of kidneys in Iran.<sup>xvii</sup> By this, I mean a scheme in which the Iranian government gives people a sum of money (in ways that Sharia law there indicates does not constitute sale), in return for a kidney. The kidneys can go only to other Iranian citizens. And this quasi-sale seems to have made a significant impression on the shortage of kidneys there. At one level, it has been successful, and *The Economist* has commended the scheme.<sup>xviii</sup> At another level an Iranian critic has claimed<sup>xix</sup> that – for those involved – it seems to be a disaster. His argument, backed up by evidence from the area in Iran in which he was working, is that such ‘sale’ is heavily stigmatized. The result is that those who sell – typically driven by people to whom they are in debt – may suffer very badly, psychologically.

Another way to go, would be to ban commodification – to make it illegal. But the problem here, is that just because something is illegal does not mean that it will not occur (especially when it creates so-called ‘victimless crime’; i.e. when there are willing buyers and sellers). Indeed, all kinds of things that it is illegal to sell are, in fact, sold. And this can lead to disasters. E.g. to, say, sex workers working without legal protection, with problems about violence against them, under-age workers, health problems, coercion, and so on, with police corruption in the background. Indeed, in the face of shortages of kidneys, there is a wide-ranging black market, in countries including India, Nepal, Bangladesh, Pakistan, and Sri Lanka.

A third option is something that has been adopted with regard to the sale of sexual services, in Sweden. There, prostitution is perfectly legal. But, as a result of legal initiatives by feminists, the *buying* of the services of prostitutes isn’t legal. This appears to have decimated the extent to which street prostitution takes place. There have, however, been complaints about the law from those who continue to work as prostitutes – not least as, to make money, they report now having to deal with people they would otherwise have avoided, and to work in dangerous locations.<sup>xx</sup> While the law only seems to be effective with respect to the low-priced sector: expensive call-girls still advertise on the internet. (I was struck when doing research for this paper, as someone who taught philosophy, by one young woman selling her services, proudly listing that she had an arts degree from a local university!)

An approach which has been influential is that advocated by Margaret Jane (Peggy) Radin of the University of Michigan Law School. She has argued for what she calls ‘incomplete commodification’.<sup>xxi</sup> The core idea here is that there should be legalization, but only of the sale of some things, and with regulations, inspections etc to make sure that abuses are controlled. This sounds good, and may work well in some cases. But there are a couple of problems. First Radin does not offer a general theory as to what should be treated in this way, and what, say, shouldn’t be commodified at all. Second, one needs to look at what actually occurs: i.e. is there actually an inspection regime; does licensing actually drive out illegal activity, and so on.

Let me give a couple of examples of each, drawn from my time in Australia, when I taught a course which dealt with these issues. Canberra, the Australian Federal Capital, located in its own state-like area of the ‘Australian Capital Territory’, had a fair measure of political autonomy. It made its own laws. It was, historically, more liberal – e.g. on matters like the sale of pornography – than was the rest of Australia. It enacted laws which allowed for the sale of a wide range of pornography, but banned the sale of violent pornography, and of pornography involving children. If a company was going to sell pornography, they had to purchase a quite expensive licence from the government. I asked someone who was a professional political lobbyist for the sex industry (who was invited to visit my class): how did this work: was there not an illegal market in banned material? She said: no. For, she explained, those who had paid their expensive licence fee kept an eye open for anyone selling such pornographic material, and would report them to the police! By contrast, another visitor was a former policeman, who handled the issue of issuing licences to prostitutes. He said that, at the time when he was doing this work, there were big problems because the law which had been enacted was not well-drafted. There was no proper requirement for those applying for a licence to document their age properly. Indeed, he said that he used to impose his own rules which were stricter than what the law required. He was asked: but why was this problem not sorted out – and he explained that no politician was willing to be involved in delving into the details of the administration of the law relating to prostitution that would be needed to sort this out.

What, in the end, should we make of this rather complex issue? Different moral concerns pull us in different directions. At one level, the commodification of the body seems problematic. We may be led to view one another in ways that we are likely to think are best avoided. There is, on the face of it, something horrible about a man with money looking at a young woman or man as something the sexual services of which he can just purchase, and at those with kidney problems looking at the poor in much the same way. Some people may be happy to sell their blood, a kidney or their sexual services. But this needs to be matched against the problems of those who really don’t want to do this, but who find themselves in situations where they feel that they have to do it. (It is striking that, in reports of kidney sale in Iran and in India, it looks sometimes as if women have this course of action forced on them by pressure from their families.) It should also be noted that while we may be horrified by, and wish to make illegal, the commodification of the person, other things rather like it are typically tolerated. Think, for example, of the

way in which attractive young women – and men – are able to benefit from their physical appearance, in terms of offers of employment or, indeed, what takes place in relationships that they might have with people who are not so attractive, but are wealthy, including some marriages. And consider also the use that is made of the human body in magazines and on the internet and social media. (It is, here, important to bear in mind that it is not just the ‘male gaze’ that is the problem: consider the degree to which female celebrities are constantly monitored by newspapers, magazines and social media targeted *at women*, for any sign of unattractive ageing, weight gain, and especially cellulite!)

Second, we need to bear in mind that while things may be problematic, it may not be easy to address them by means of legislation. Legislation may – as in the past, in Canberra – not be well-formulated and there may be problems about getting it improved. Or well-intentioned legislation may, as in the case of Sweden, have unintended consequences which are problematic. That these occur does not, in itself, mean that the legislation is on balance a bad thing: there may be no ideal course of action, and anything that we do may have some bad consequences. But I’d have thought that while it is fine to be motivated by strong moral concerns – e.g. about liberty, or about a concern for the exploitation of the poor or of women – we would do well to be aware of the fact that there are a variety of issues at play, rather than thinking that invoking one simple moral principle should settle everything. It also seems to me that we should pay a great deal of attention to how things have actually worked out, in different places and at different times, and to be ready to change our views in the light of information about these, and in the light of problems that may crop up, if our preferred ideas are put into operation.

Finally, to come back to the issues of blood, blood plasma and kidneys, we need to keep in mind that people are suffering, and that we may face difficult balances between moral ideals and people’s well-being. I am struck in this context by a comment made in an oral history by Herbert Perkins, who was the medical director of a major blood bank in San Francisco at the time of HIV/AIDS.<sup>xxiii</sup> Perkins, when faced with the question: why did he not reject gay men as blood donors?, argued that, at the time, the evidence linking gay men with the transmission of HIV was not clear-cut, and that while there was clearly a risk, if he did not supply blood to hospitals that depended on his blood bank, he could be sure that people would die.

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<sup>i</sup> I suspect that it might have served, had I subsequently broken this undertaking, to enable the US government to easily throw me out of the country – a bit like the way in which Al Capone was successfully prosecuted not for gangsterism but for income tax evasion.

<sup>ii</sup> See John Locke, *Second Treatise of Government*, §43.

<sup>iii</sup> Smith argued for this in his *Wealth of Nations*. Others who have been enthusiastic include Leonard Read, whose ‘I, Pencil’ (<https://fee.org/resources/i-pencil/>) is widely used in introductory courses in economics, and Milton Friedman in his *Capitalism and Freedom* and *Free to Choose*.

<sup>iv</sup> See, for example, Rousseau’s *The Discourses and other early political writings*, ed. Victor Gourevitch (Cambridge: Cambridge University Press, 1997). An interesting picture of the contrasting views of Smith and Rousseau is given in [Michael Ignatieff’s ‘The Market and the Republic’, in his *The Needs of Strangers* (London: Chatto & Windus, 1984).

<sup>v</sup> *G. W. F. Hegel, Outlines of the Philosophy of Right*, tr. Know, intro. Houlgate (Oxford: Oxford University Press, 2008); see §§190ff.

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- <sup>vi</sup> See, for a useful treatment, Ali Rattansi, *Marx and the Division of Labour* (London: Macmillan, 1982)
- <sup>vii</sup> Karl Polanyi, *The Great Transformation* (Boston: Beacon, 1944). It would seem to me clear, from material in the Karl Polanyi archive, that his concerns about commodification were rooted in ideas related to his religious beliefs, about its being ethically problematic for human labour to be treated as a commodity.
- <sup>viii</sup> <https://www.nytimes.com/2016/11/08/health/sperm-donor-facts.html>.
- <sup>ix</sup> <https://www.reuters.com/investigates/special-report/usa-bodies-brokers/>
- <sup>x</sup> It is not clear to me why the individual's judgement should not, here, settle the matter.
- <sup>xi</sup> [https://en.wikipedia.org/wiki/Jesus\\_Christians](https://en.wikipedia.org/wiki/Jesus_Christians)
- <sup>xii</sup> See, for example, J. Koplin, 'From blood donation to kidney sales: the gift relationship and transplant commercialism', *Monash Bioethics Review* 33, 2015, pp. 102-22.
- <sup>xiii</sup> Richard Titmuss, *The Gift Relationship* (London: Allen & Unwin, 1970).
- <sup>xiv</sup> I.e. as sale is stigmatized, it was thought that people would only sell blood if they were desperate, and there were issues about desperate people lying, which is important if they are possibly infected, but where the infection is not yet detectable.
- <sup>xv</sup> See for example my 'Koplin, Titmuss and the social tail that wags the dog', *Monash Bioethical Review*, 33, 2015, pp. 123-9 and for fuller discussion my 'The Gift Relationship Revisited', *HEC Forum* 27, 2015, pp. 301-17.
- <sup>xvi</sup> Elisabeth M. Landes and Richard A. Posner, 'The Economics of the Baby Shortage' *The Journal of Legal Studies* 7, No. 2 (June, 1978), pp. 323-348
- <sup>xvii</sup> See for a recent account, <https://www.latimes.com/world/middleeast/la-fg-iran-kidney-20171015-story.html>. It indicates both what the features of the 'official' scheme are, and also some other associated problems.
- <sup>xviii</sup> See 'Psst, wanna buy a kidney', Leader, *The Economist* November 16<sup>th</sup>, 2006; <https://www.economist.com/leaders/2006/11/16/psst-wanna-buy-a-kidney>
- <sup>xix</sup> J. Zarghooshi, 'Iranian kidney donors: motivations and relations with recipients', *Journal of Urology*, 165(2), February 2001, pp. 386-92, and his 'Quality of life of Iranian kidney "donors"', *Journal of Urology* 166(5), 2001, pp. 1790-9. It has, however, been contested how typical the cases on which he reports are.
- <sup>xx</sup> See the material at [http://www.bayswan.org/swed/swed\\_index.html](http://www.bayswan.org/swed/swed_index.html)
- <sup>xxi</sup> See her *Contested Commodities* (Cambridge, MA: Harvard University Press, 1996).
- <sup>xxii</sup> Herbert Perkins, in *Oral Histories on the AIDS Epidemic in San Francisco*, volume 5: Perkins, Herbert C., M.D. Director, Irwin Memorial Blood Bank: Transfusion AIDS and the Safety of the Nation's Blood Supply, Bancroft Library, UC Berkeley, 1997.