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Commodification of Human Tissue

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Introduction

Commodification is an important topic in ethics generally and in bioethics in particular. In ethics, it is prominent in debates about the self, prostitution, slavery, and labor conditions and practices in the global market (such as child labor and sweatshops). In bioethics, it is salient in the discourse on the sale of body parts, surrogacy, and genetic therapy and enhancement. In short, since commodification deals with the possible (it need not be actual, as will be discussed below) transformation of "people" into "commodities," it is relevant to all issues that threaten to encroach upon the boundaries of personhood, and in particular to those where there is a risk that the body or relationships will fall prey to such treatment. The concerns of commodification also relate to several of the provisions in the Universal Declaration on Bioethics and Human Rights, most notably on equality (Art. 10), human vulnerability (Art. 8), autonomy (Art. 5), and consent (Art. 6). The debate, for instance, is firmly rooted in the need to safeguard the bodily dignity and integrity of persons – particularly of the most vulnerable – by treating them justly and equitably. In addition, it highlights how, though autonomy and informed consent are central in bioethics, some conceptions fail to provide adequate protections for individuals, and justice requires extra precautions be put in place. Thus, commodification is a far-reaching and pressing issue in global ethics and bioethics.

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These discussions, however, have been fraught with disagreement with regard to what constitutes commodification, whether commodification occurs, and (if it does) whether it is ethically significant. In order to clarify these questions, this chapter will focus exclusively on commodification in bioethics, and in particular in the sale of body parts, though the discussion parallels the contours of the wider commodification debate.

To do this, the chapter will first explore what constitutes commodification; second show, using examples of kidney, reproductive tissue, and reproductive organ sale or "rental," that there is evidence of commodification in bioethics; and third argue that a market in these areas is ethically impermissible, because it leads to exploitation, because some things should not be for sale, and because commodification is destructive of social goods. Thus, this chapter defines commodification, highlights instances of commodification that are symptomatic of a wider trend, and concludes that commodificatory practices should be resisted.

What is Commodification?

The first section will provide a working definition of commodification. Although there are slight differences in the way the term is used in bioethical debates, this chapter regards two interconnected elements as central to any concept of "commodification": First that it transforms "persons" into "things"; and second that it changes "relationships" into "contracts." These will be considered in turn.

The first aspect of commodification is that it turns "persons" into "things." Instead of taking human beings to be ends in themselves that ought to be respected as such (a broadly Kantian position), it takes persons and their parts to be objects and commercializes them – or, as Marx puts it, it attributes a "use" and "exchange" value to them. To elaborate, a "use value" typically relates to the physical properties of an external object, whereas an "exchange value" is an expression of the worth of that object if it were traded (Marx, 1875). A commodity (or to commoditize) requires both use and exchange value, whereas an object (or to objectify) only needs use value. However, the Marxist categories do not map directly to how the term is employed in bioethics, where a commodity need not always pertain to a fully tradable *product* (such as diamonds or wheat), but rather can refer to objectifying and commercializing *processes* (as discussions on commodifying children using sex-selective technology have shown – Widdows, 2009). Thus, in this discipline, use and exchange value (separately and/or together) are regarded as indicative of moves toward commodification in some form. Drawing this all together, to commodify is to take something of intrinsic worth (such as "persons") and to objectify it by giving it a use value (so it has – or is subjected to processes that liken it to – the status of "things") and to commercialize it by giving it an exchange value, or by implying that it *could* be sold, (further degrading it to the level of tradable "things"). Thus, individuals and their parts become thought of not as "persons" but as "things."

The second feature of commodification is that it reduces bonds with other human beings to formal covenants; it moves "relationships" into the territory of "contracts," in a parallel way to which "persons" become "things" and are for sale relationships between people enter the market place. A view in which relationships are for sale runs counter to most philosophical accounts of persons, and most especially to those where individuals are intrinsically social beings, embedded in complex relations with others, as philosophers such as Aristotle (2004), Taylor (1992), and Sandel (1998) have argued. In the market, however, according to Marx (1844), workers are alienated (to maximize profits), not just from their labor, and its products, but from others, such that the market converts relationships between men to relationships between property owners. Taking this as a whole, to commodify, is to de-emphasize that individuals are, constitutively, relational beings and have interdependent ties to others and particular needs and wants, and instead is to shift toward seeing the connections between individuals as interchangeable, established and disestablished as the market requires, and valued only in extrinsic monetary terms. That is "relationships" between individuals become mere services for "contracts."

Importantly, for both elements of commodification, it need not be the case that these kinds of trades are *in fact* happening to qualify as commodificatory. What matters is *how* persons and relationships are regarded; if they are treated (through language or conception, for instance) as being objects where trade could legitimately occur, then commodification has occurred. That is, moving from "persons" to "things" and "relationships" to "contracts," "includes *not only actual buying and selling, but also market rhetoric, the practice of thinking about interactions as if they were sale transactions*" (Radin, 1987, 1859, original emphasis). Though one may not partake in buying and selling of body parts or services, for instance, engaging in the view that they could be bought and sold is itself to endorse a commodificatory shift; it is to treat something which is not a "thing" or subjectable to "contract" *as if* it were. Thus, it is not only the act but the "social practice for treating things as commodities, i.e. as properties that can be bought, sold, or rented" (Resnik, 1998, p. 388) which amounts to commodification.

This section sought to provide a working definition of commodification. It has stated that commodification is the (actual or implied) transformation of: first "persons" into "things," and second "relationships" into "contracts."

Is Commodification Evident in Bioethics?

The second section of the chapter uses this definition to explore the extent to which commodificatory practice is apparent in bioethics, paying particular attention to kidney and reproductive tissue and organ sale or rental as indicative of a general trend in this field. It does this in two subsections: First it sets out key developments in organ and reproductive technologies, and second it considers whether or not commodification is occurring in these areas by examining whether "people" are

becoming "things" and whether "relationships" are becoming "contracts." It argues that commodification is occurring in these instances, and by extension in bioethics, since new technologies encourage parts of human beings to be seen as objects, which are – or are spoken of *as if* they are – "for sale," and thus that this makes it more likely that relationships are regarded as similar to commercial transactions rather than complex human connections between people.

Advances in Kidney and Reproductive Technologies

First, this subsection briefly describes the technological and medical developments relating first to kidneys and then to reproduction. Starting with kidneys, successes in transplant technology and anti-rejection drugs have, most obviously, led to the possibility of kidney transplants and a prolonged and better quality of life, free from cumbersome dialysis. Many individuals with end-stage renal disease have benefitted from these advances. In 2010, for instance, at least 73,180 kidney transplants were performed in 95 countries across the world, with the USA, Norway, and France among those carrying out the most transplants per million of the population (Global Observatory on Donation and Transplantation [GODT], 2010a), and the USA, China, and India the top three in absolute terms (16,898; 5,540; 5,000 transplants, respectively) (GODT, 2010b). These developments have, therefore, helped numerous people. However, currently, demand for kidneys still outstrips supply in almost every country of the world; in the UK, in 2010, 6,871 (UK Transplant Support Service Authority, 2011), in the USA, in 2012, 92,749 (Organ Procurement and Transplant Network, 2012), and "globally, at least 200,000 people are on waiting lists for kidneys and many more have no access to transplantation or dialysis services" (Garwood, 2007). Undoubtedly then, there is an unmet desire for kidneys worldwide. Nonetheless, the breakthroughs in this area have led to the chance for successful transplants, with many lives extended and improved.

There has been similarly marked progress in reproductive technologies and the potentials they offer. Advances in in vitro fertilization (IVF) in particular have meant that eggs can now be fertilized externally and then implanted in a uterus for gestation. Individuals have taken advantage of these procedures. By 2009, for instance, 170,000 babies were born using IVF treatment, which accounted for around 2 % of all babies in the UK (HFEA, 2010), and between 1978 and 2010, approximately 3.75 million babies had been born through assisted reproduction methods worldwide (European Society of Human Reproduction and Embryology, 2010). Such technologies have enabled additional possibilities; for instance, while during pre-IVF, only traditional surrogacy (using the surrogate's egg) was achievable, post-IVF, gestational surrogacy (categorically not using the surrogate's egg) became realizable. Again, this has led to an uptake in gestational surrogacy globally; the Permanent Bureau of the Hague Conference on Private International Law's (PBHCPIL) *Preliminary Report* (2012), for instance, states that international arrangements are growing at a "rapid pace" (PBHCPIL, 2012, p. 5) and that across a sample of five agencies between 2006 and 2010, there was an "increase of nearly

1,000 %" (PBHCPIL, 2012, 8, original emphasis) in such agreements. Such technologies have made new procedures in reproduction viable and they are increasingly being used.

Along with these new technologies and procedures have come ever more sophisticated notions of what is possible and desirable, as well as greater expectations of entitlement: for instance, there are now assumptions with regard to both having children when infertile and with regard to the type of children one might have (Widdows, 2009); and, similarly, the fact that kidneys can be transplanted leads to the belief that individuals are entitled to these organs. Such expectations are understandable from the individual's perspective; a kidney transplant is life altering – it can provide some 50 % of the function of two healthy kidneys, compared with just 5 % by dialysis (UK National Kidney Federation, 2011) – and having a child is an urge felt by many. However, meeting the expectations of individuals is not the only factor to bear in mind; other pressing ethical issues, such as commodification, must also be considered.

Commodification Relating to Kidneys and Reproduction

This subsection will explore the claims of commodification, paying attention to examples of kidney and reproductive tissue and organ sale and rental (and it is trading in, rather than donating, body parts that commodification arguments typically object to – see Dickenson, 2007). It discusses both elements of the working definition above – first whether "persons" are made into "things," and second whether there is a move from "relationships" to "contracts" – and argues that there is indeed a commodifying trend in both these areas, and by extension in bioethics.

"Persons" to "Things"

First, then, the transition from "persons" to "things" will be explored. As discussed, two elements are identified in the commodification process – how far persons are becoming: first objects (objectified); and second for sale (commercialized). It is important to remember, as noted above, that these are connected and bioethicists are often concerned not with whether sale *actually* occurs or (to use Marxist language) with whether there is an exchange value (though often it does and there is – as will be discussed), but with when the language of the market enters the debate and persons (and their parts) come to be regarded *as if* they could be sold. With this in mind, this section will consider the extent to which "persons" are assuming the form of "things."

New technologies have permitted parts of the body to become thought of as distinct from the person from whom they come in a way that was not feasible before. Kidneys, for instance, can be removed from one body and reissued to another, and likewise, gametes can be extracted from one person, manipulated using artificial fertilization methods, and implanted in the womb of a third party in order to create a child. Only because it is possible to separate these parts from

people is it possible to consider them as "objects" and "objects of potential trade" at all. Objectification is beginning to occur then with this ability to "detach" parts and see them as disembodied.

On this characterization, objectification happens – or arguably happens – in donation as well as sale. However, in donation, even though "parts" are removed from persons, commodification does not occur because such parts are not thought of as being saleable. Moreover, because of the nature of donation, donating contradicts the assumptions of the market model and may, in fact, be something that reduces commodification (a point to which this chapter will return in the discussion on social goods). By contrast, in sale, commodification is evident in the practices of trade and in the market rhetoric that surrounds it. The discussion on body parts, for instance, is suffused with the language of the market: It *assumes* that one's (or another's) body and its parts are saleable. An Indian woman, for example, reported that she wished she had, "a third kidney, [so she had] *two* to sell" (Scheper-Hughes, 2002, p. 3), and surrogates are described as having a "womb for rent" (Armour, 2012, p. 231) with one seeing herself as ". . .strictly the hotel" (Ragone's study in Van Zyl & Van Nierkerk, 2000, p. 405) in the arrangement. These examples show both objectification and commercialization (together clearly commodification) happening, as terms such as "hotel" and the wish of having more to sell are undoubtedly market rhetoric. Thus, transplant and reproductive technology have enabled new procedures and also made it much easier for parts – kidneys and wombs (which of course cannot be "detached" from the person) – of "persons" to be conceptualized as tradable objects, as "things."

Commodification is even more conspicuous in instances where markets – which trade "things" – have been formalized or are practiced, since kidneys and the reproductive parts or services that are exchanged become, by definition, commodities with a price. For instance, in Iran, kidney sale is legal with "compensation" fixed at 10 million Rials (USD $1,090) (Bagheri, 2006), and in other jurisdictions, including some US states, the Ukraine, and India, there are open markets in reproductive parts – in the USA, for example, some agencies buy eggs for $7,000, with this fee increasing by $500 for each sale (up to six times) (Family Creations, 2008) and others literally offer male college students an on-campus mobile vehicle in which to ejaculate and sell their sperm (Sperm Mobile, 2007). In addition to such obvious markets, there are many unofficial "black" and flouting "gray" markets. For instance, despite exact figures being difficult to come by and varying, reports suggest that, on average, kidneys can fetch up to $5,000 on the "black" market, though this stoops to as low as $650 in some countries, like Kenya (Havoscope, 2012); and, to bypass laws, some infertility clinics in the Mediterranean offer "all expenses paid holidays" that also provide opportunities for egg-selling under the guise of "donation" (Cyprus IVF, 2007) on the "gray" market. Here, as in all markets and practices of sale, body parts are commodities, "things" sold at a "price." Where there are markets then, there is overt evidence of the objectification and commodification of human tissue and organs.

Thus, commodification occurs to some degree both when body parts are treated *as if* they could be traded and by *literally* trading them on a legal or illegal market.

Where body parts and the use of bodies are objectified and commercialized, "persons" are moving toward being "things"; they are deemed commodities – as simply objects to buy and sell.

"Relationships" to "Contracts"

The second element of the definition of commodification to apply to the sale of body parts is whether "relationships" are being transformed into services for "contracts." There are two aspects to consider – the extent to which relationships are becoming: first artificially fragmented, and second saleable. As with "persons" to "things" above, evidence of commodification in relationships is not limited to the existence of actual markets but extends to regarding them as though they were tradable. The possible shift from "relationships" toward "contracts" will be discussed in this light.

Developments in technology and seeing "persons" as "things" have begun to alter the form and structure of relationships. For instance, reproductive technologies and various types of surrogacy make it possible to create numerous parenting relationships (genetic, gestational, or social), but these are often crudely determined and demarcated through contracts, with the gestational relationship in particular relegated to a specific functional role with a start and finish. One surrogate, for example, reports, "it's like a contract and it severs it completely at the end because it's a job done and you're paid for it and that's the end of it" (Baslington, 2002, p. 64). The language of the market enables gestation to be considered a discrete task. Yet, it is unclear that such intimate relationships – even without a biological tie – could be so easily compartmentalized. Indian surrogate, Sonal, for instance, reports about her first child as a gestational mother, "When they took her away I cried for 3 days. I missed her so much" and of her second pregnancy, "I will feel like I am giving my child to someone else" (BBC News, 2011). Despite such feelings, and her pleas to help look after the child, the nature of the contract meant that she was expected to relinquish all bonds, and, Carolina, the Irish intended "mother," was adamant that a relationship between Sonal and her child should not be maintained: "I will always be eternally grateful to Sonal for what she has done, but I felt there has to be a cut off point" (Baslington, 2002, p. 64). The connections between the surrogate and child, which would normally continue, are artificially severed in surrogacy contracts of this kind, and it is treated as a finite nine-month "job," rather than an interaction of a different order, one which involves human relationships and feelings. Some surrogates may be different to Sonal and express a preference not to maintain ties with the child, though this in itself is not an argument for labeling surrogacy as mere paid work (and, if fact, studies indicate that mechanisms, such as "support" strategies and payment, are important in discouraging an attachment to the child – Baslington, 2002; Ragoné, 1994). Either way, the "boxing-up" of "relationships" in this manner is to start thinking of individuals as resources and as providers of "contractual" pregnancy services rather than bearers of "relationships." It is to treat parenting and the ties with the children involved as if they were not "relational," but "fixed term contracts," equivalent to other work.

In a different, but somewhat parallel, way, current "relationships" of kidney donor and recipient are being transformed too. The combination of medical advances, desires for prolonged lives, and the "person" to "thing" shift generates a want for kidneys which, when compounded by market rhetoric, makes it possible to regard acquiring a kidney as a service. For example, one Israeli man preferred to pay for a live kidney from a peasant in Georgia rather than wait for one, claiming, "I chose a better way. I was able to see my donor. . .He was young, strong, healthy. Just what I was hoping for" (Scheper-Hughes, 2002, p. 52). Having the option to buy is reflected in the language here, which is like that of a purchaser inspecting a prospective kidney provider rather than that of a receiver of a gift from another human being. At the same time, potential vendors are encouraged to sell, but left to face the consequences once the onerous operation is over (Aman, 2009; Zheng, 2011). In sale rhetoric, once the service is fulfilled and payment made, all relations are terminated, but this disregards the particular human responses that envelop this arduous procedure and treat it like any other "service." In these examples, whether a buyer or seller, the physically and psychologically demanding process of getting a kidney is reduced to an isolated act in the framework of sale, and the language of the market facilitates this by making the complex relationship of gift a delimited transactional affair. Thus, through the language of the market, the act of selling a kidney is artificially enclosed, separated from the person, and thought of as being sellable as a service in that distinct form to another. This makes it easier to begin to think of persons not as relational beings but as kidney sources, and with it comes a shift from "relationship" to a model that implies services for "contract."

This move is more apparent in practices of sale where "services" are formally priced, as they are for both commercial surrogacy and kidney sale. Where gestational surrogacy is legal, for example, costs to the intended parents to cover the entire arrangement (including fertilization, surrogate's fees and costs, legal and agency fees) can range from $70,000–150,000 in the USA (Ellis, 2012; Campbell, 2010) to $12,000–35,000 in India (Delhi IVF, 2012; Medical Tourism Corporation, 2012). That these elements, and in particular the surrogate's "job," have a formal cost associated (usually a fraction of the overall amount) is unambiguous evidence of seeing her as providing a service. Similarly, since kidneys on "black" and "gray" markets have a price attached – buyers can pay, on average, $150,000 and up to $250,000 (Havoscope, 2012), though again brokers, middlemen, gangs, and doctors receive the lion's share of the fee (Smith et al., 2011) – this indicates the exchange is a formal "contractual" service. Financial compensation at these rates moves away from thinking of the seller as giving an invaluable gift (of life) to providing a purchasable (kidney or child creation) service. Thus, the relationship of donor/recipient is changing into that of buyer/service provider by being allocated a formal monetary value and by being brought into the contractual model. "Relationships" are becoming "contracts."

This section has considered whether, and the extent to which, commodification is occurring in bioethics using the examples of kidney and reproductive tissue and organ sale or rental. There are indeed grounds for claiming that "persons" are being turned to "things" when body parts are being objectified and then turned into

objects for sale, either by being bought and sold in the market or by being treated *as if* these body parts and services become commodities. Likewise "relationships" become "contracts" in similar conditions; kidney sale and gestational surrogacy contracts diminish the relationship of "givers" of "gifts of life" to those of "sellers" of a "product" or "providers" of a "service." In presenting such interactions as transactions in the market, the complexity inherent in these human relationships is reduced. These products and services are presented as *mere* commodities – exchangeable with other products and services or with money – and assumed to be equivalent in nature. Thus, rather than seeing persons fundamentally as human beings with whom others have relationships, including ties of gift-giving, friendship, and love, with *an intrinsic value*, in the extremes of the market model "bodies of persons are regarded as resources" (Chadwick, 1989, p. 137) and nothing more (instrumental value). Therefore, there is evidence of commodification in the two senses defined earlier – turning "people" into "things" and "relationships" into "contracts" – in the sale or rental of human tissue and organs, so claims that there are commodifying practices present in bioethics seem to be well founded.

What Is Wrong with Commodification?

The previous section explored how commodification is a common phenomenon in bioethics. Implicit in this discussion was the assumption that commodification is ethically problematic – that people should not be things and that human relationships suffer if they come to resemble the exchanges of the market. However, these claims merit justification, as they are often contested. This section will, therefore, explore and respond to arguments from those who dismiss commodification as an ethical concern and instead advocate a market model. Two grounds for a pro-market approach – first valid consent, and second fair price – will be briefly outlined before the insufficiencies of such views, and the persisting ethical problems of commodification, are exposed.

First then the market model rejects misgivings about commodification in one of two ways. In one set of rebuttals, some contend that sale is unproblematic as long as people have the right to consent. If there is demand and supply, then individuals ought to be able to trade whatever they wish, including body parts and services, since this respects their autonomy. Julian Savulescu, for example, argues, "...to ban a market in organs, paradoxically, is to constrain what people can do with their own lives" (2003, pp. 138–139), and Carmel Shalev takes a similar line for paid surrogacy adding, to disallow enforceable contracts, "implies that women are not competent, by virtue of their biological sex, to act as rational, moral agents." (1989, p. 11) This view asserts that a "market approach plus consent" allows maximal respect for individual choices, and that allowing such choices is ethically important, and certainly more urgent than paternalistic worries that restrict what individuals can and cannot do with their own bodies.

Others also deny that commodification, or the sale of body parts per se, is particularly problematic. They argue that a market is permissible in principle, but

that safeguards must be in place to ensure that such a market is ethical. For instance, Erin and Harris propose that the market be a confined geopolitical area (perhaps, the European Union) in order to alleviate the worst forms of exploitation that comes from inequality. Likewise they suggest single fair price could be ensured by having a single purchaser (like the National Health Service) who would also be responsible for testing organs for disease and verifying their origins before distributing them according to medical need (Erin & Harris, 2003, p. 137). Others argue that ethics requires improvement of the current market conditions. Accordingly, they argue that rather than criminalize transactions in human tissue and organs – a practice already ongoing – it would be much better to properly regulate and to create "fair-trade" (Humbyrd, 2009, p. 116): sale which is safer and more equitable (a familiar argument in ethics, whether for drugs, prostitution, or any illegal practice). The claim is that non-sale models are patently less fair than sale as everyone but the donor benefits in donation, whereas the donor – who takes the biggest risks – is only rightly financially rewarded in the sale (Matas, 2004). On this account, regulation of the present system would be better than disallowing sale altogether and a "market plus fair price" model is one that could be ethical.

However, these pro-market arguments fail to address broader ethical concerns which arise from commodification and which cannot be tackled simply by insisting on consent, by setting a fair price or by seeking a fair-trade: First that of exploitation; second that some things should not be for sale; and third that contractual relationships destroy other social goods. The rest of the chapter will focus on bringing out these key commodificatory harms.

Exploitation

The first commodificatory concern which is not addressed by consent or fair price is that once persons can be considered resources (things or providers of services) – rather than persons deserving of respect in themselves – they are far more open to exploitation. While market proponents might claim that the risk of exploitation can be mitigated and absorbed by competent adults (the consent view) or the possibility reduced by the introduction of an equitable fee (fair price), this underestimates: first the vast global inequalities within and between countries that distort notions of consent and fair price, and second the way market rhetoric and market models make exploitation more likely precisely because they encourage the conception of persons as things and relationships as contracts.

First, exploitation is made likely simply by the fact of inequality, both globally and within societies. Such inequality is feature of the market. The market is not a "neutral" system of exchanging goods or services between free and equal agents, but inherently skewed to favor some more than others. This is so for any market but, as Anne Phillips argues, "more so, and more intrinsically than other markets, markets in bodies rely on inequality" (Phillips, 2011, p. 14). It is more likely, for instance, that those who sell kidneys or rent wombs are poor and buyers affluent, and in a global market, the gap is even greater. As Nancy Scheper-Hughes argues,

"In general, the flow of organs follows the modern routes of capital: from South to North, from Third to First World, from poor to rich, from black to white, from female to male" (Scheper-Hughes, 2000, p. 193). This is a pattern of market biases toward the global rich at the expense of the global poor, and the market in body parts and services is sustained by these disparities (for its supply of buyers and sellers), and the market model ignores this partiality (asserting that trades happen between supposedly free and equal parties).

Within this context, both the fair price and consent arguments begin to look ineffectual. For those who believe consent alone is enough, the fact that the seller has consented, and is not physically shackled or compelled, to engage in the transaction, does not equate to making a "free autonomous choice" in the usual meaning of this term. For someone who is poor, for example, the "choice" often can be "desperate" and so "inherently undesirable, chosen only when the range of possible choices is extremely limited" (Widdows, 2011, p. 89). Agreeing to a desperate choice then does not seem as if it provides the ethical protection that the doctrine of consent is intended to provide. For instance, Fatolaa F, an Iranian kidney-seller, opted to sell, but post-sale states, "like a cigarette end we have been thrown out. We are crushed by poverty and exploited by parasitic mercantile capitalism that press us to sell our only remaining belongings – our kidneys" (Zargooshi, 2001, p. 1791). In this example, the sale was agreed to but only reluctantly because of the dire economic circumstances, and thus is hard to regard as full "consent." To pin an argument for the sale of body parts and services exclusively on the agent's consent disregards factors that led to that consent (such as poverty) and exposes individuals to exploitation.

Likewise, for those who think a fair price is the way forward, just because there is a "reasonable fee," it does not mean that the arrangement is equitable or that the seller has a "good deal." Rather, once the economic disparities are taken into account, offering money at all can smack of a coercive force – an "offer that is too good to be true" – and this is especially the case for those in extreme poverty. That is, even if a "fair price" could be established, the inequalities serve to exacerbate the vulnerability of the sellers to this kind of contract in particular because, in contexts where buying basic amenities is the primary (if not sole) financial struggle, money in exchange for anything – including human tissue, organs, and services – can begin to look appealing. In this vein, the World Health Organisation (2004) acknowledged the risk of exploitation, given global inequalities, and urged Member States to "protect the poorest and vulnerable groups from transplant tourism and the sale of tissue and organs." Allowing the sale – "fairly priced" or otherwise – of body parts at all, therefore, will lead to exploitation.

To claim that a market model is unproblematic and commodificatory concerns unfounded so long as there is a sufficiently "fair price" paid to a seller or insofar as the seller "freely chooses" to do so then seems disingenuous in the context of vast global inequalities. Neither the "market plus" consent nor fair price approach will counteract the exploitation of impoverished sellers (a key commodificatory issue) under such conditions.

The second reason why the market model is inappropriate is because it encourages commodification, which in turn enables exploitation. Permitting the sale or rental of body parts facilitates a view of them as tradable "things" and as services for "contract." The inherent value of persons and relationships are degraded and, exploitation becomes easier and impoverished views of persons, including the self, are encouraged. For instance, if market rhetoric is entrenched, then it is likely that individuals might think it plausible that they can legitimately use their bodies and sell an organ or sign a paid surrogacy agreement and without this harming their personhood more broadly. Yet, by thinking of organs as "not really me" but a discrete and sellable part of oneself, it is easier to fall into subordination for that "part" without recognizing it as a domination of the whole person (Phillips, 2011, p. 8). A single kidney might be sold in a transaction, but the advantage is over the entire individual since "persons" cannot ethically be thought of as "things" with component parts to trade. Similarly, by assuming that relations with a child can be neatly "carved-up" into a separate gestational service when a "smoothly completed surrogacy contract and an unconcerned 'surrogate' mother" (Pateman, 1988, p. 215) is a fiction, make it more likely that such an arrangement falls short of adequate protections for the surrogate. It is not just services that are being bought, but relationships between people that are unethically subjected to the market and misused. Thus, it is false to adopt the view that one can consensually exploit particular parts or services, such as kidneys and wombs, and equally mistaken to think such exploitation excludes damage to the self.

The market model, therefore, is inappropriate since it cannot properly deal with ethical concerns relating to exploitation in two ways. First, it is unable to diminish a context of global inequalities that make it highly probable that persons in desperate circumstances might "consent" to do anything – including sell body parts – for money – even if set at a "fair price." Such individuals are often the most vulnerable, yet it is precisely these individuals that tend to become sellers in the market. To present the sale of body parts as a genuine and neutral economic option given this, is simply exploitative. Second, the market approach perpetuates the myth that parts of the self can be sold without this impacting the self in general. This is false picture because, in the process of commodifying discrete parts, the whole self suffers exploitation too. Thus, the market model does not overcome the problem of exploitation while arguments against commodification – with their worries about turning "persons" into "things" and "relationships" into "contracts" – are underpinned by concerns about degrading selves and taking unfair advantage of the most vulnerable, and so are better able to preempt this ethical problem.

Some Things Should Not Be for Sale

A second issue commodification raises that the pro-market approach cannot account for is that some things should not be for sale at all (Marx, 1844; Sandel, 1998; Walzer, 1983). Sometimes referred to as the "theory of 'blocked exchanges'"

(Wolff, 2011, p. 176), this view suggests that the nature of a particular good determines whether it should be put on, or kept off, the market; if selling would destroy the essential character of the good, then it ought not be for sale (Wolff, 2011, p. 176). A case in point is love or friendship; these are inherently valuable goods because of the deep bonds (of trust, affection, generosity, shared histories, and more) between individuals that they intrinsically involve, and selling love or friendship would eliminate these features (Sandel, 2012). Returning to "relationships" becoming "contracts," this can be explored by considering the expectations and entitlements of the parties in either case (Widdows, 2009). By way of example, if "friendship services" were purchasable, all the ties and connections that exist in relationship mutate into the enforceable, but relationally detached, set of expectations and entitlements of contract; checking up on a "friend's" welfare stems not from a loving bond but from what is expected by her in the arrangement, and likewise cooking a meal for a "friend" who has recently received some bad news is based not on sympathy with her plight but on what she feels entitled to by paying for this service. Thus, the very nature of "relationships" as deep bonds with others disappears in "contracts," so friendship *cannot* be put on the market.

Similarly, it seems like the market is not an appropriate way in which to govern human tissue and organs, since this is qualitatively different from objects like cars, and it does not work well with relationships, since these are different to being parties to contracts. That is, sale is an improper structure for bioethical matters because it ignores that the substance of the agreement is the body itself (Dickenson, 2007) – physically extracting organs and gametes, or implanting embryos for gestation, or carrying a child. Further the market is not the best approach for bioethics because it ignores that there are different "spheres of justice," each regulated by distinct principles (Walzer, 1983) – so organs and reproductive parts might be better dealt with by relationships of gift-giving than sale. For instance, receiving a kidney or a child after gestation is not a transactional matter that other individuals *should* expect or feel entitled to; rather, it is more appropriate to think of them as gifts they are lucky to receive and which the donators or volunteers might change their minds about giving. Thus, managing body parts and services by using the language of sale, with its concomitant expectations and entitlements, instead of (say) gift, with its relational roots, appears to be the wrong sphere for the substance of the good.

To illustrate, if the kidney one "orders" or the child one "commissions" through IVF sex-selection and gestational surrogacy turns out to be less than what was expected (say by being incompatible with the body in the case of the kidney, or a girl instead of a boy with the child) and one cannot return the "item," does one feel disappointed with the organ or child and entitled to compensation for not getting what was paid for? And, in the case of the child in particular, does it fundamentally alter how one views her as somehow less than ideal (Widdows, 2009)? Thinking about the language of "contract" rather than "relationships" in these examples highlights how expectations of fulfillment and assumptions of entitlement that are the norm for buying cars or painting houses seem inappropriate when applied to

relationships or bodies. This suggests that inanimate objects on the one hand and human tissue or relationships on the other are not comparable, and though sale might be permissible in the former, it is not the correct sphere for the latter, because market rhetoric destroys the nature of the donating and parenting relationship. Thus, such goods should not be for sale, and this is a further concern that a commodification analysis exposes but which is invisible on the market model.

Therefore, while the market fails to acknowledge that sale alters the essential makeup of a good, commodification arguments recognize how the fundamental constitution and purpose of inherently valuable human goods (like "persons" and "relationships") become distorted when sold, and it is this that commodification debate seeks to avoid.

Social Goods

The final reason why commodification is ethically problematic but which the market approach misses is that it has a detrimental effect on social goods and communal relationships (Titmuss, 1970). The position is that valuable societal attitudes which are encouraged by practices of "gift" and "donation" are eroded by sale; essentially that "financial incentives and other market mechanisms can backfire by crowding out nonmarket norms" (Sandel, 2012, pp. 113–114). Sale should, therefore, be rejected in order to preserve these broader goods.

To elaborate, the market, "creates relationships of trade, exchange and contract rather than relationships of gift, participation and shared endeavour" (Widdows, forthcoming), and this is so not only at an individual level but a communal one too. These differing approaches – contract and gift – carry with them sets of values that can lead to two distinct pictures of society, and in particular of social capital. For example, Richard Titmuss, in his research on blood sale and blood donation (1970), argued that blood that was donated led to attitudes of sharing and solidarity in contrast to blood that was sold which invoked a sense of individualism and a prevalence for the rights of ownership. Further, he contended that the blood donor's belief (that a system of collective goods would be beneficial) and the wider healthcare context (the UK's nonmarket model) were mutually reinforcing:

> The ways in which society organises and structures its social institutions – and particularly its health and welfare systems – can encourage or discourage the altruistic in man; such systems can foster integration or alienation; they can allow the "theme of gift" – of generosity towards strangers – to spread among and between social groups and generations. (Titmuss, 1970, p. 255)

In a self-fulfilling cycle, a context of gift and participation leads to equivalent attitudes in individuals, from which they are more likely to contribute to and support social goods; by contrast, a background of sale leads to feelings of social disengagement in persons, which reduces the opportunities for developing the kind of virtues that could bolster common goods. Thus, the social costs – alienation and selfishness, for instance – of a market model are too great.

Such arguments have been drawn on widely. Similar claims, for instance, have been advocated for state funding of particular goods; allowing nonmarket provision in many areas of citizen's lives (including free concerts and universal health care) can be socially beneficial by opening up the possibility of social cohesion, solidarity, and trust (Wolff, 2011). Again, the communal benefits are vastly more important than allowing a free market in these areas. Most recently, this approach was reiterated by the Nuffield Council on Bioethics in their report *Human Bodies: Donation for Medicine and Research*, where they noted, "departure from the altruistic model. . .could run the risk of irreversible damage to important communal virtues" (Nuffield Council on Bioethics, 2011, p. 147), and so payment for organs, such as kidneys, (although not gametes), should continue to be prohibited. Thus, while market rhetoric erodes social capital, the language of gift enhances it. Sharing, solidarity, and common goods, therefore, are part of a gift model whereas they are not at the forefront or even existent in contract, and donation is more likely to generate attitudes of altruism and trust than sale. These are significant social goods that ought to be protected and cultivated.

A market model then does not give weight to social goods but concerns about commodification in bioethics – how individual "contracts" for service undermine "relationships" of gift-giving in society – highlight, from the outset, how shared goods and virtues are important for persons and communities alike. It is not just the effect on individual cases of selling or renting human tissue and organs but – and importantly – to society as a whole that matters. That is, "[i]t is likely that a decline in the spirit of altruism is one sphere of human activities will be accompanied by similar changes in attitudes, motives and relationships in other spheres" (Titmuss, 1970, p. 224). It is these kinds of shifts that society should resist. These harms, which commodification arguments illuminate, are again obscured in the market model.

This section has discussed how pro-sale arguments are unable to deal with concerns about inequality and exploitation, or the intuition that some things should not be for sale, or the importance of fostering social goods. By contrast, an approach which focuses on commodification can recognize and critique the inequality of the market and the impossibility of a fair price and the pretensions of "free choice" in a context of global disparities; it can account why some things, including body parts and types of relationships, should not be for sale; and show that allowing sale is detrimental to common goods and destructive of social capital. Thus, commodification in bioethics remains a problem that needs to be combated by circumventing sale: because the market is unjust and, even if it was not; because "persons" and their parts and "relationships" should not be sold; and because common goods, if tradable, would have devastating effects on social cohesion and solidarity.

Conclusion

This chapter sought to explore the nature of commodification, to map its occurrence in bioethics and to consider its ethical significance. Commodification was defined as having two key features: first that of turning "people" to "things"; and second of

transforming "relationships" into "contracts." Using this framework, commodification in two areas of bioethics – that of kidney sale and reproductive tissue and organ sale and rental – was investigated. In both cases, "persons" were regarded as if "things" with kidneys, reproductive tissue, and wombs to rent all available as purchasable "products" on the market, and "relationships" considered "contracts" with donating and parenting relationships "carved-up" and sold as discrete services with an artificial start and end point. From here, it was argued that pro-market counterarguments about "free choices" to sell or rent or allowing a "fair-trade" in human tissue and organs were ethically unsustainable: There is, given vast global inequalities, a high risk of the most vulnerable being exploited by a market scheme; some goods, like bodies and relationships, should not be on the market at all as this destroys their intrinsically valuable nature, and the detrimental effect of sale over gift on social goods, such as solidarity and trust, is neglected in market rhetoric. Since commodification is a trend in bioethics, and since having a fair market will neither stop the worries relating to commodification itself nor its consequences, this chapter concludes that a trade in human tissue and organs is not ethically permissible, because to allow a market commodify "persons" and "relationships" is exploitative, damages their nature, and erodes common goods. Commodification and commodificatory practices should, therefore, be resisted.

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