

Forced Organ Extraction Loophole: Children

New York Times Best Selling author Jodi Picoult's most popular novel, *My Sister's Keeper*, tells the story of a child who was conceived in order to harvest her blood and tissue for her older sister who suffers from leukemia. At 13 years old, she sues her parents for medical emancipation when they want her to undergo major surgery to donate a kidney. This popular novel points out a form of compelled organ donation that has some questionable moral and legal foundations.

In the United States, organ donation has to be completely altruistic, and an organ donor may not receive any form of compensation, even for expenses or lost wages. Reimbursement will automatically result in jail, as imposed by the National Organ Transplantation Act. Such a law forbidding reimbursement may seem inappropriate at first, but it works to prevent the rise of illegal organ trading. However, such a law keeps the supply of organs very limited. According to an article by Michele Goodwin, titled, "My Sister's Keeper?: Law, Children, and Compelled Donation," Over 95,000 Americans need organs at the beginning of 2006, but less than 14,000 donors supplied organs. The mismatch between supply and demand causes thousands of deaths as patients are forced to wait an average of 10 years for an organ.

As stem cell research still remains controversial, some families address this problem by choosing to conceive another child, who will most likely be a matching organ donor as a relative, and use that child's organs and tissue. Parents have the legal authority to consent to medical procedures for their children due to the assumption that parents will make the best decision for the good of their children, but Goodwin argues that children become commoditized to a greater degree in this case than in the model where organ donors are allowed to be compensated.

The idea of using and creating children to provide spare parts for the living is morally wrong. This compelled donation subjects the child to unnecessary medical procedures and imposes a lifelong burden on the child, who grows up knowing that he or she was born with a purpose, but what is the alternative? Any quick study of human nature shows that as long as there is hope, parents will go to the ends of the earth to save their child. A parent with a sick child will not allow him or her to die while there clearly is a viable solution.

The No Duty Rule, derived from negligence theory, protects individuals from a legal obligation to rescue someone else, but how many siblings would refuse to save their brother or sister when given the opportunity? The younger sister in *My Sister's Keeper* was impelled by her older sister to sue for medical emancipation. While she suffered physically and psychologically for the compelled donations, as she grew up and understood the consequences, she still wanted to save her older sister, so does this legal and moral question even make a difference in practice? Should we implement a law that prohibits compelled donations from children, even more people will suffer and die, for the sake of preventing possible future privacy and tort lawsuits from children harmed psychologically or physically by compelled organ, tissue, or cell removal.