

OP-ED CONTRIBUTOR

Why Selling Kidneys Should Be Legal

By Alexander Berger

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On Thursday, I will donate one of my kidneys to someone I've never met. Most people think this sounds like an over-the-top personal sacrifice. But the procedure is safe and relatively painless. I will spend three days in the hospital and return to work within a month. I am 21, but even for someone decades older, the risk of death during surgery is about 1 in 3,000. My remaining kidney will grow to take up the slack of the one that has been removed, so I'll be able to do everything I can do now. And I'll have given someone, on average, 10 more years of life, years free of the painful and debilitating burden of dialysis.

If kidney donation is this easy, why do the stereotypes about heroic sacrifice persist? Part of the problem is history: before modern medical advances, organ donation used to be quite painful and dangerous. But organ donation advocates also deserve some of the blame. In a misguided attempt to make the families of brain-dead patients consent to the posthumous donation of their organs, advocates treat donors like saints. But deifying donors only serves to make not donating seem normal. When I first told some friends and family that I wanted to donate a kidney, they assumed I'd gone off my rocker. They saw it as a crazy act of self-sacrifice, rather than what it is — one of the many ways a reasonably altruistic person can help others.

This is a serious problem, because there aren't nearly enough saints in the country to tackle the growing waiting list for a kidney. More than 34,000 people joined the waiting list in 2010; fewer than 17,000 received one. Thousands of people die

waiting each year.

This is a tragedy, but it doesn't have to be this way. The people waiting for kidneys aren't dying because of kidney failure; they're dying because of our failure — without Congress's misguided effort to ban organ sales, they would have been able to get the kidneys they desperately needed.

It has been illegal to compensate kidney donors in any way since 1984. The fear behind the law — that a rich tycoon could take advantage of someone desperately poor and persuade that person to sell an organ for a pittance — is understandable. But the truth is that the victims of the current ban are disproportionately African-American and poor. When wealthy white people find their way onto the kidney waiting list, they are much more likely to get off it early by finding a donor among their friends and family (or, as Steve Jobs did for a liver transplant in 2009, by traveling to a region with a shorter list). Worst of all, the ban encourages an international black market, where desperate people do end up selling their organs, without protection, fair compensation or proper medical care.

A well-regulated legal market for kidneys would not have any of these problems. It could ensure that donors were compensated fairly — most experts say somewhere in the ballpark of \$50,000 would make sense. Only the government or a chosen nonprofit would be allowed to purchase the kidneys, and they would allocate them on the basis of need rather than wealth, the same way that posthumously donated organs are currently distributed. The kidneys would be paid for by whoever covers the patient, whether that is their insurance company or Medicare. Ideally, so many donors would come forward that no patient would be left on the waiting list.

In the end, paying for kidneys could actually save the government money; taxpayers already foot the bill for dialysis for many patients through Medicare, and research has shown that transplants save more than \$100,000 per patient, relative to dialysis.

There's no reason that paying for a kidney should be seen as predatory. Last week, the Ninth Circuit Court of Appeals issued a ruling legalizing compensation for bone marrow donors; we already allow paid plasma, sperm and egg donation, as well as

payment for surrogate mothers. Contrary to early fears that paid surrogacy would exploit young, poor minority women, most surrogate mothers are married, middle class and white; the evidence suggests that, far from trying to “cash in,” they take pride in performing a service that brings others great happiness. And we regularly pay people to take socially beneficial but physically dangerous jobs — soldiers, police officers and firefighters all earn a living serving society while risking their lives — without worrying that they are taken advantage of. Compensated kidney donors should be no different.

When I first heard about altruistic kidney donors, I, too, thought they sounded crazy, a little too good to be true. But two years ago, for a philosophy class I was taking, I read a paper that mentioned offhand how safe the procedure had become. I was intrigued, and the more I learned about how much it would benefit the recipient, the more reasonable it seemed.

I thought about going to a Web site where people who need a kidney post profiles, but I didn't trust myself to pick fairly. Instead, the summer before my senior year of college, I filled out some forms on the National Kidney Registry Web site. The registry will use my kidney to start a donor chain: it will go to someone who has a willing but incompatible donor, who in turn will donate to the recipient in another incompatible pair, and so on indefinitely. This can be anonymous, but if my recipient would like to meet me someday in the future, I think I'd like to meet him or her too.

Soon after filling out the forms, I visited my doctor and told my parents about my plans. They were nervous, of course, and so am I. I'm not really looking forward to having surgery, or to taking time off from a job I love. But in the scheme of things, I know this is a relatively easy way to really help someone.

People should not have to beg their friends and family for a kidney, nor die while waiting for one. Donating a kidney is one way to help. But it isn't enough. The only way to really change the terms of the debate and end the waiting lists is to end the ban on compensation and create a legal market for kidneys.

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