Is it time to reconsider the ban on the compensation of kidney donors in the United States?

**Introduction.** Kidney transplants have saved countless lives across the globe. Despite the high success rate of such operations, 116,000 patients are stuck on the waiting list to receive donated kidneys in the United States.\(^1\) These patients are forced to suffer through painful and costly dialysis treatments. It is important for the United States to push for increased donation of kidneys from living donors. This campaign should focus on providing incentives to people who donate their kidneys.

The lack of available kidneys in the United States has forced many patients to consider seeking a kidney through the black market. Middlemen often locate young adults from less-developed countries willing to sell their kidneys. The two parties are brought together for a surgery during off-peak hospital hours. These surgeries frequently take place in the Middle East and South Asia, but have also occurred in the United States.\(^2\) The price of a kidney on the black market can be upwards of a hundred thousand dollars, yet the donor frequently receives a small fraction of this money. “The broker takes a modest cut…The majority of the cash is paid to the surgeons. It has to be big money, or they won’t be willing to risk their careers.”\(^3\) The sale of kidneys on the black market is a dangerous reality.

Even organizations such as the Transplantation Society who are outspoken opponents against the sale of kidneys realize the negative potential of the developing black market. “The dramatic increase in such (illegal) transplants around the world attests to the utter failure of

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\(^1\) Rizvi, S.A.H.; et al.; “Improving Kidney and Live donation Rates in Asia: Living Donation” pp 1894
\(^2\) Daar, A.S.; “Paid Organ Donation and Organ Commerce: Continuing the Ethical Discourse” pp 1207
\(^3\) Finkel, M.; “Complications” pp 4
adopting this position without taking into account the complexities of culture, human need, greed on the part of middlemen, and potential for criminalization of clinical practice when attitudes encourage a black market." Donors who sell their kidneys this way are taken advantage of and not well cared for. Kidneys on the black market are only available to the wealthy and post-surgical care is not adequate. The proposed regulation of kidney donation offers incentives to increase donation rates and calls for improved care, which will increase the welfare of both the donor and the recipient and eliminate the waiting list for kidneys in the United States.

The Welfare of the Donor. Currently in the United States there are thousands of people on the waiting list to receive a kidney, but few donors have emerged despite recent marketing campaigns. Most legal donors are motivated to offer one of their kidneys to save a loved one, frequently a blood relative. Kidneys are also made available by organ donors following their death. A major concern of these cadaver kidneys is that the organ may be “worn out” from a lifetime of usage. Preliminary research suggests that those who receive kidneys from living donors live longer, healthier lives. Richard Rohrer a leading transplant surgeon at the New England Medical Center states that, “A person who receives a living-donor kidney has a reasonable hope of a lifetime of kidney function. A person with a cadaveric kidney has a reasonable hope of a decade of kidney function.”

If donors were compensated for their gift the waiting list could be essentially eliminated. The regulation of the transplant surgeries would remove the risk to doctors’ careers and allow for more cash to be paid directly to the donor. This increased compensation would provide a greater payoff to potential donors and increase donation rates. Furthermore, required monthly checkups

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4 Daar, A.S.; “Paid Organ Donation and Organ Commerce: Continuing the Ethical Discourse” pp 1207
5 Finkel, M.; “Complications” pp 6
6 Finkel, M.; “Complications” pp 3
would guarantee the long-term health of the donor. Also, counseling would ensure the donors understood smart ways to invest their new capital. Finally, the government should provide paid leave so that the donor can have time to recuperate from the surgery.

The less-fortunate in this country seek ways to improve their welfare. The government and medical community has no right to inflict it’s values upon another the lower-classes. The former editor of the New England Journal of Medicine wrote that, “the patient experiences the outcome and it is his values, not the physicians that should be incorporated.”

Michael Friedlaender an outspoken Israeli doctor in favor of offering incentives for kidney transplants writes, “The paternalistic role of doctors in which they make all the decisions for patients is long outdated. With improved communication and access to information, patients now often have more information than their physicians and ask for advice, not decisions.”

By not offering incentives for kidney transplants the government has decided to restrict the upward mobility of the poor and limited the ways the poor can help themselves.

Critics of the proposal to incentivize kidney donations have claimed that the wealthy will take advantage of the poor. They argue that the poor can not make rational decisions and will see selling their organs as their only option. An additional concern is that women and children will be taken advantage of and forced to sell their kidneys in some areas of the world. The best way to prevent this type of exploitation of the poor is to regulate paid kidney donations. The poor can be counseled to ensure that they make rational choices. The less fortunate should be allowed to choose their best option to improve their welfare. Friedlaender writes, “It (depriving the sellers a chance to profit) implies that the sellers are ignorant and that they are endangering

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7 Friedlaender, M. M.; “The right to sell or buy a kidney: are we failing our patients?” pp 973
8 ibid
9 Mani, M.K.; “The case against buying organs and a futures market in transplants.” pp 2198-2202
10 Radcliffe, R.; et al.; “The case for allowing kidney sales.” pp 1952
themselves. I believe it is paternalistic for us to judge the motivations and values of other people and other cultures.”\textsuperscript{11} Furthermore, the health of donors would be improved by monthly medical checkups, free health care, and a post-surgical period of paid leave. Additionally, these donors would receive sound financial advice helping them jump start their lives.

Other opponents of offering incentives to increase kidney donations argue that evidence from the sale of kidneys in India suggests that the health of the donor declines after donation. Nancy Scheper-Hughes, a professor of medical anthropology at the University of California, writes, “It is not exactly clear that poor people can really live safely with one kidney. People who sell their kidneys usually live in abject conditions and face greater-than-average threats to their health, including poor diets, low-quality drinking water and increased risk of infectious disease, all of which can easily compromise the remaining kidney.”\textsuperscript{12} I believe her arguments represent a genuine concern in third-world countries, but do not apply to the proposal outlined for donation of kidneys in the United States. First, the United States is a first world country with top medical care. In the proposal above the donor would be provided with paid leave and regular medical checkups to guarantee the continued health of the donor. In India donors are paid less, disregarded after the surgery, and not given time off to recover from the surgery. For these reasons the donors in the United States will have analogous health to donors who are not compensated financially.

Detractors have argued that kidneys should not be “for sale.” I am not outlining a proposal for the sale and distribution of peoples’ organs. What I am arguing for is just compensation for the donors. Why should the donor who gives the most, be compensated the least? The recipient, doctors and hospitals involved are all well compensated from the operation.

\textsuperscript{11} Finkel, M.; “Complications” pp 7
\textsuperscript{12} Finkel, M.; “Complications” pp 8
Why can we not recognize an individual’s courageous donation? I find these arguments against compensation to be hypocritical, because all the parties involved receive substantial benefits from the operation, except the donor.

**The Welfare of the Recipient.** The waiting list for a kidney in the United States is long and it can take years to make it to the top. If a medical condition in a patient emerges they can be “dropped” to the bottom of the list. When patients believe they will not receive a kidney, because they are too low on the list they often look for alternative treatments. One such a treatment is an “underground” transplantation of a kidney from the black market. Only the wealthy can afford to seek these expensive kidneys. It has been estimated that 4000 underground transplants take place per year.

The poor do not have the same options as the wealthy and the dialysis treatments themselves are frequently very costly. The government should regulate the cost associated with kidney transplants. These transplants may become more cost effective than continued dialysis treatments. A recent study at the University of Maryland School of Medicine found that, “it took just 2.7 years for patients to recoup the cost of a transplant compared with dialysis costs. For patients who did not require readmission to the hospital during the first year after surgery, the breakeven point was 1.7 years. A decade ago, studies elsewhere showed the breakeven point was 3.6 years.”

Kidney transplants are cost effective, and government regulation that provides benefits to potential donors would allow both poor and wealthy citizens alike the opportunity to receive a kidney transplant. The extra money that is saved by insurance companies from successful kidney transplants could be used, to provide better medical care for the donor. The

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13 Finkel, M.; “Complications” pp 1
14 Daar, A.S.; “Paid Organ Donation and Organ Commerce: Continuing the Ethical Discourse” pp 1207
15 Voelker, “Cost of Transplant vs Dialysis” pp 2277
regulation of kidney transplants would make transplants a reality for all classes in the United States.

When Americans go abroad for underground kidney transplants the surgeries are often performed in inadequate conditions. Small medical staffs are frequently paid exorbitant amounts of money for the quick operation. The lack of available and sufficient post-operation care is a major cause for concern. In fact medical complications have been seen in some of these black market operations and patients have nowhere to turn for help.\textsuperscript{16} The regulation of kidney transplants would allow for significantly improved medical conditions compared to the black market, as well as better follow up care.

\textbf{Reasons for Optimism.} Following the Gulf War in the early 1990’s there was a highly regulated system for kidney transplants in Iraq. The right officials were paid off and the transplants were done under the close supervision of large medical staffs. Both donor and recipient were kept in the hospital for several weeks allowing them to recover from the operation. The success rate for these surgeries were comparable to non-compensated kidney transplant surgeries in the United States.\textsuperscript{17} Additionally, the donor and recipient were allowed to meet and get to know each other. The Iraqi system of kidney transplants was very successful, in part because it was highly regulated by the corrupt Iraqi regime. The Iraqi system, “offers kidney transplants performed by excellent surgeons, with careful screening of sellers, extraordinary postsurgical care and a success rate that evidently rivals even the finest U.S.

\textsuperscript{16} Finkel, M.; “Complications” pp 5
\textsuperscript{17} Finkel, M.; “Complications” pp 11-12
hospitals."\textsuperscript{18} The success of transplants with such high government regulation provides an optimistic outlook for an analogous system in the United States.

**Conclusions.** The current system of soliciting kidney donations in the United States needs revision. Over a hundred thousand people are waiting for a kidney transplant in the U.S. and 2,851 Americans died last year waiting for kidney.\textsuperscript{19} Those numbers do not even touch on the terrible pain associated with dialysis. The government’s intervention with the free market has prevented those on the long waiting list from receiving a kidney. Furthermore, the lack of compensation has kept prospects for increased kidney donation bleak despite recent efforts to reverse the trend. The cost effective transplant surgery could offer benefits to a prospective donor including a one-time cash stipend, free health care and consultation visits, as well as help with financial planning. The proposed regulation of kidney sales will offer increased welfare to both the donor and the recipient.

\textsuperscript{18} ibid
\textsuperscript{19} Finkel, M.; “Complications” pp 4
Selected References


Voelker, “Cost of Transplant vs. Dialysis” *Journal of the American Medical Association*; 1999; 281; 2277