

Kidney Donation Scandal Sparks New Debate Over Specter's Organ Legislation

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WASHINGTON — Attempts to fix the nation's organ donation system have attracted new interest following the recent arrest of a Brooklyn rabbi accused of illegally buying kidneys from live donors and selling them at a huge profit to desperate patients awaiting transplant surgery.

While human organs trafficking of the sort allegedly conducted by Rabbi Levy Izhak Rosenbaum is widely condemned, the notion of providing compensation as an incentive for organ donors is being examined seriously in Washington.

Media reports since Rosenbaum's arrest have highlighted in particular a proposed bill that would allow organ donors and their families to receive non-cash benefits from state or federal governments.

The difficulties facing the legislative initiative reflect the mixed emotions among experts, patient advocacy groups and religious leaders on the morality of providing material compensation for what has been seen, so far, as one of the greatest manifestations of human altruism.

Known as the Organ Trafficking Prohibition Act of 2009, the legislative proposal, sponsored by Democratic Senator Arlen Specter of Pennsylvania, currently has two co-sponsors. It has yet to be officially introduced, and so far it lacks a counterpart in the House of Representatives. But drafts are already circulating in the Senate. The bill's goal is to boost organ donations by providing donors with benefits. It emphasizes that governments cannot offer cash incentives to donors.

Among the benefits being discussed are coverage of burial costs for living donors, as well as health insurance, life insurance and other benefits comparable with those granted to military veterans. At the same time, the proposal would increase supervision to avoid the buying and selling of human organs.

"The sovereign's provision of a gratuitous benefit to organ donors is not commercial in nature and does not constitute a commercial sales transaction," the draft states.

The proposed language cites Israel as a model of a country that has enacted a law providing benefits for organ donors. Israel's law, passed in March 2008 to address a notoriously low rate of donation in that country, provides living organ donors with about \$5,000 in compensation and increased health care and social security benefits. Studies to document the law's impact do not yet exist.

Critics of Specter's legislation point to the case study of Iran, which has allowed the regulated sale of organs since 1996. Studies there indicate that a majority of donors subsequently regretted selling their organs. Many suffered medical complications.

Specter's proposal has been endorsed by the American Medical Association and by advocacy groups for kidney patients, and is seen as a lifeline for patients fighting an increasing shortage of organs for transplant. According to 2007 statistics, there are more than 100,000 individuals in America waiting for organ donations, with only 14,000 people donating organs during the year. More than 6,000 patients died in 2007 while on the transplant waiting list.

But critics view any material incentive given to organ donors as morally wrong and practically counterproductive. A paper published in June by two leading activists from the Coalition for Organ-Failure Solutions argues that while

Specter's bill does not offer cash compensation, it nonetheless entails all the risk of a commercialized organ donation system: targeting poor donors, encouraging donations from unfit donors in financial need and changing the structure of the American organ donation system "by abandoning our altruistic system and replacing it with a system based on calculated materialism."

The issue is also vexing for a Jewish community still struggling to overcome the wide exposure of Rosenbaum's arrest. Beyond that, there have long been complaints that Jews are underrepresented among organ donors because of Jewish religious restrictions. The reaction of Jewish activists to the proposed legislation, which could move forward in Congress this year, has been cautious so far.

Rabbi Richard Address of the Union for Reform Judaism's Department of Jewish Family Concerns said that while organ donation is considered a modern mitzvah, it should not be reduced to a "business transaction." Address said that the proposed legislation touches on a gray area.

"If this legislation goes through, it is incumbent on the [Jewish] community to create guidelines that will give our people sensible ways of coping with this situation," Address said.

The Rabbinical Assembly of the Conservative movement also strongly supports organ donations, while warning against the commercialization of human organs. It has taken no stand on Specter's specific proposal.

Rabbi Abba Cohen, Washington director of Agudath Israel, a leading ultra-Orthodox organization, said that compensation for organ donations raises many concerns for Jews who adhere to standards set by Halacha.

"We need to make sure it is done within the accepted parameters," Cohen said.

The concerns of the ultra-Orthodox community focus on defining the "presumed consent" of organ donors and ensuring the definition of death according to halachic rules. Cohen said there is a need to make sure that any legislation does not infringe on religious rights of Jewish groups to use their own definition of death for purposes of organ donation.

But Rabbi Eddie Reichman, a leading voice in the Orthodox community on issues of bioethics, sees no problem with fully supporting Specter's proposed legislation. Reichman, an associate professor of emergency medicine at Yeshiva University's Albert Einstein College of Medicine, recently completed a detailed study of Jewish law's approach to the issue. His conclusion: "From a Jewish standpoint, there is no reason not to receive compensation for organ donation."

Most concerns about the bill have to do with policy and implementation, not with the principle of compensating those who fulfill the mitzvah of organ donation, Reichman said. When it comes to fulfilling mitzvahs, he said, "altruism is not a dimension in Jewish law."

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