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The Case For Selling Human Organs

by Robby Berman
Special to the Jewish Week

I am responsible for the needless deaths of more than 100 Jews. All were victims of kidney disease, literally and figuratively dying on dialysis. They pleaded with me to introduce them to people willing to sell their kidneys, and I refused to do so because it is illegal.

If media reports are true, however, Isaac Levy Rosenbaum of Brooklyn did work as a kidney shadchan - saving hundreds of lives. His motives weren't pure. It took lots of money to get him to break the law and risk prison. So who acted morally and who did not? To me the answer is obvious. Isaac is a hero even if he became wealthy in the process.

A recent Gallup poll survey shows the majority of Americans support

buying and selling of kidneys as long as it is government-regulated and supervised precluding the slippery slope situation that is rampant in China. A growing number of think-tanks, economists, philosophers and ethicists support amending the National Organ Transplant Act (NOTA) that makes it a crime for people to receive "valuable consideration" for giving up a part of their body to save a person's life.

The proposed program would ensure adequate compensation, full disclosure of risks, and life-long health insurance for the donor, and equitable distribution of the purchased kidneys to poor and wealthy recipients alike. But certain medical organizations and politicians insist such an amendment would be morally repulsive.


History is replete with examples where "repugnant" actions later became considered moral. In the early 19th century, for example, the concept of life insurance was taboo. Placing a monetary value on a life, or an arm, was considered revolting. Yet today life insurance is considered moral because society realized the end result: the value it provides to orphans and widows.

The National Kidney Foundation, for example, claims that a donor for his kidney is an affront to 'human dignity,' yet we relegate human dignity for fertility when we allow the indigent to sell their sperm and eggs and rent out their wombs as surrogate mothers.

Preferring to preserve the dignity of the would-be kidney seller at the cost of the death of the



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would-be kidney buyer is morally absurd. It does not withstand serious reflection. And to prevent poor people from selling their kidney out of concern for the health risk involved is misplaced paternalism, as silly as forbidding poor people from working in coalmines.

Isn't autonomy another human value? Let the poor decide what they want to do with their kidneys as they do with their sperm and eggs. The surgical risk of donating a kidney is about the same as undergoing childbirth, and living with only one kidney does not shorten the lifespan of the donor.

Opponents love to suggest that this logic dictates we allow the poor to enter prostitution and sell illegal narcotics. Yet this analogy merely proves my point. Remove money from the equation and these acts performed for free are still considered by society as being immoral, the end result providing a temporary pleasure, and not in the public's best interest. But the end result of donating a kidney for free saves a human life and is currently encouraged by society.

Many firefighters are paid for their work. When they run into a burning building and risk their lives to save a child are they any less of a hero because they receive a paycheck? People become physicians to help others as well as to make a good living; does this make their act of healing morally tainted?

Quite the opposite. Depriving the kidney-donor from "valuable consideration" is an insult to his dignity. When a soldier loses a leg in Iraq and asks for financial compensation from the government, no one bristles. No one demands that his motives be pure - serving his country out of a sense of duty - not expecting anything in return. Society knows the soldier deserves compensation for what he sacrificed.

Where does halacha stand on this issue? While there are positions on both sides of this debate, the overwhelming majority of major rabbinic decisors, such as Rav Shlomo Zalman Auerbach and former Chief Rabbis Goren, Lau, and Ovadia Yosef, are in support of paying for organs. Their logic: donating a kidney saves a life. It is a mitzvah. There is nothing wrong with giving someone money as an incentive for him to do a mitzvah. Receiving money does not change the nature of the act.

I ask the public to write their Senators and Congressmen. If the lawmakers won't change the law, then let us change our lawmakers. At the very least, it should be legal to remunerate families for the donation of cadavers because most of the objections refer only to living donors. Over 100 Israelis and 7,000 Americans die every year as a result of the dearth of organ donors. We need to act now. Judaism is supposed to be a light unto the nations: let it be so.

Robby Berman is founder and director of the Halachic Organ Donor Society. Halachic organ donor cards may be obtained from www.hods.org.

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