



# The market for kidneys, livers and lungs

It already exists, but unwise laws push it dangerously underground.

Sally Satel | The Wall Street Journal

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## Article Highlights

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Last month, Levy Itzhak Rosenbaum, a 60-year-old Israeli who made his home in Brooklyn, pleaded guilty in federal court to illegally brokering kidney sales. Between 2006 and 2009, he arranged transplants for three New Jersey patients with renal failure. The donors, poor Israelis, were flown to the U.S. The surgeries took place at American hospitals where doctors had no knowledge that each patient had paid Rosenbaum about \$160,000.

Rosenbaum is the first person convicted for violating the 1984 National Organ Transplant Act (NOTA). But with 90,000 people in need of kidneys and 12 dying daily while waiting, it's surprising there aren't more Rosenbaums doing business in the U.S.

Overseas, his counterparts are thriving. Roughly 10% of all organ transplants in the world are obtained on the black market, according to the World Health Organization. A new investigation by Bloomberg Markets puts a brutal face on that underground world. It describes a transcontinental network of criminal rings in former Soviet republics such as Azerbaijan, Belarus and Moldova, along with South America, Israel, Egypt, the Philippines and South Africa.

Sometimes patients come from one country, donors from another, and the transplant occurs in a third. Impoverished and illiterate donors are often misinformed about surgery that awaits them, cheated out of promised payment, and deprived of medical follow-up.

Even more chilling, according to the Bloomberg report, the brokers' strongmen threaten prospective donors with violence if they change their minds about selling.

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--Sally Satel, M.D.

But whether in New Jersey or Belarus, the drama is the same: a patient frantically trying to save his own life and a poor donor trying to salvage his own.

This morbid fraternity is the result of a near-universal ban on organ trading. Organs should be a "gift," goes the government-approved narrative, an act of selfless generosity. A beautiful sentiment, yes; but for those without a willing loved one to donate or years to wait on an ever-growing list, altruism can be a lethal prescription.

The only solution is more organs. In the U.S., we need a regulated system in which compensation is provided by a third party (government, a charity or insurance) to well-informed, healthy donors. Rewards such as contributions to retirement funds, tax breaks, loan repayments, tuition vouchers for children and so on would not attract people who might otherwise rush to donate on the promise of a large sum of instant cash in their pockets.

With private buying kept unlawful, available organs would be distributed not to the highest bidder but to the next needy person according to a transparent algorithm. For organs that come only from deceased donors, such as hearts, or those that are less often given by loved ones, like livers and lungs, a pilot trial of government-paid or charity-financed funerals makes sense. (Britain's Nuffield Council on Bioethics suggested a model like this last month.)

The idea almost came to pass here. In 1994, Pennsylvania's governor, Robert P. Casey, who had received a heart-and-liver transplant a year earlier, signed a burial-benefit law. But the state didn't implement it for fear of violating NOTA.

Were donor compensation legal, it might have been a good option for Donna Barbera of California. Last week, she wrote me asking how she could sell her kidney. She sent her phone number and blood type. "I do not find anything immoral about helping someone get a kidney and in return they help me out of a financial bind," she said by email, noting that she faces foreclosure on her house. "I have a donor card on my license, so my intentions have always been to help. I just thought maybe someone could help me too."

Revising NOTA would allow healthy people like Donna to save a life in exchange for bettering their own. As countries provide for their own needy patients, they will keep future clients from patronizing people like Levy Rosenbaum—and they'll keep brokers from preying on the vulnerable.

The U.S. attorney who prosecuted the Rosenbaum case did not bring charges against the patients who purchased the organs or the surgeons who performed the transplants. I choose to read this wise action as an acknowledgment that society should not punish a person for trying to save his own life. And here's hoping that Congress will soon demand innovation to our transplant system so that sick people are not driven to such desperate cures.

*Dr. Satel, a resident scholar at AEI, is editor of "When Altruism Isn't Enough: The Case for Compensating Kidney Donors" (AEI, 2009). In 2006, she received a kidney from a friend.*

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