

PRINT



# BLOGS & STORIES

## Take My Kidney, Please

by *Sally Satel*

READ THIS SKIP THAT

January 8, 2009 | 3:40pm

**Divorce settlements have always cost an arm and a leg, but as the shocking Batista case demonstrates, vital organs are now fair game. Can altruism ever be regulated?**

She stole his heart so he gave her his kidney. And now he wants it back.

So goes the story of 49-year-old Long Island physician Richard Batista and his estranged wife. In 2001, Batista gave one of his kidneys to Dawnell, 44, who had suffered from renal disease for many years. According to the [NY Daily News](#), he said that Dawnell initiated an affair with her physical therapist two years later. She then filed for divorce in 2005 to end their 15-year marriage. "I saved her life," Batista told the Daily News. "But the pain is unbearable." At a news conference in Garden City on January 7, Dr. Batista's lawyer said his client was demanding return of the kidney or \$1.5 million (its estimated worth).



**Howard Schnapp / Newsday / MCT / Landov**

It is not difficult to sympathize with Dr. Batista. He is having an extreme form of donor remorse. While the vast majority of donors report a lasting feeling of self-worth and experience a deep sense of gratification from the act—according to surveys, about 95 percent of donors say they would do it again—some regret having donated. It may be that a hoped-for closeness with the recipient failed to materialize, an anticipated demonstration of gratitude was not forthcoming, or the donor felt he did not get the social recognition he deserved. These dynamics prompted sociologists to coin the phrase "the tyranny of the gift." It represents the dark side of altruism; the sense of entitled reciprocity that can be a burden to both donor and recipient. This is not part of the standard gift-of-life storyline, however, and few people are aware of it.

**It is easy to get carried away with the comic potential of the Batista drama. Should pre-nuptial agreements now specify the fate of a kidney given during the marriage?**

For Dr. Batista, the betrayal he felt led to outrage and a demand for restitution. But it is easy to get carried away with the comic potential of the Batista drama. Should pre-nuptial agreements now specify the fate of a kidney given during the marriage? Should human organs be counted as marital assets akin to bank accounts and property? The cynical side of organ donation was laid bare two years ago with the Dutch television program *The Big Donor Show* which had the feel of a sick parody of *Survivor*. In the show a terminally ill woman, Lisa, was to select which of three needy contestant-patients would receive one of her kidneys after she died. Viewers could express their preference by voting over the Internet. Dutch lawmakers were outraged.

To international relief, the show was a hoax. As Lisa was about to announce her choice, viewers learned that she was really an actress, not a cancer patient looking for a worthy recipient. Lisa and the potential recipients, all of whom were real people in need of kidney transplants and aware of the subterfuge, were part of an enactment to dramatize the shortage of transplantable organs.

The Batista tale touches the same issues highlighted on *The Big Donor Show*. There are now over 100,000 Americans waiting for a new kidney, liver, heart or lungs. Kidney patients represent more than three-fourths of the national waiting list, according to the United Network for Organ Sharing, which collects and distributes organs from the newly deceased under contract with the Department of Health and Human Services.

Only one in four people on the list will get a kidney transplant this year. The rest will languish on dialysis while their names crawl to the top of the list, an ordeal that can take five to eight years in big cities. Every day, 12 people die waiting for a kidney that never arrives.

Last year 6,000 people gave a kidney to a loved one—the lowest number since 2000. Policy makers must face the fact that altruism alone isn't enough. The government should devise a safe, regulated system in which would-be donors are offered incentives to donate a kidney. The sick person would not personally reward the donor; rather the government would provide the benefit, perhaps a tax credit or lifelong health insurance. And, in keeping with the current system for distribution of organs from the newly deceased, the kidney would go to the next person in line.

Organ brokering and remuneration to donors from patients are illegal, but there has never been an explicit prohibition on the government's use of incentives to encourage organ donation. These misconceptions have prompted Sen. Arlen Specter (R-PA) to draft the Organ Donor Clarification and Anti-Trafficking Act. The bill clarifies that it is not a criminal offense for state and federal governments to encourage organ donation through the use of non-cash incentives, and maintains existing bans on organ brokering and direct patient-donor payments.

Which brings us back to the Batistas. Within hours of Dr. Batista's news conference, his story was making international tabloid headlines. But if this episode is to serve any purpose greater than satisfying our inevitable thirst for the scandalous, we need policy makers willing to press for reforms in transplant policy that can bring hope and life to thousands in need.

*Sally Satel is a resident scholar at the American Enterprise Institute and a practicing psychiatrist. In 2006 she received a kidney from a friend. She is editor of When Altruism Isn't Enough—The Case for Compensating Kidney Donors (AEI Press, 2009)*

URL: <http://www.thedailybeast.com/blogs-and-stories/2009-01-08/take-my-kidney-please/p/>

**PRINT**

---