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About That New Jersey Organ Scandal

It's not surprising when 80,000 Americans are waiting for kidneys.

By SALLY SATEL

Even by New Jersey standards, Thursday's roundup of three mayors, five rabbis and 36 others on charges of money laundering and public corruption was big. But what put this FBI dragnet head and shoulders above the rest are the charges of trafficking in human body parts.

According to a federal criminal complaint filed in district court in New Jersey, Levy Izhak Rosenbaum of Brooklyn conspired to broker the sale of a human kidney for a transplant. The cost was \$160,000 to the recipient of the transplant, of which the donor got \$10,000. According to the complaint, Mr. Rosenbaum said he had brokered such sales many times over the past 10 years.

"That it could happen in this country is so shocking," said Dr. Bernadine Healy, former head of the Red Cross.

No, it isn't. When I needed a kidney several years ago and had no donor in sight, I would have considered doing business with someone like Mr. Rosenbaum. The current law—the National Organ Transplant Act of 1984—gave me little choice. I would be a felon if I compensated a donor who was willing to spare me years of life-draining dialysis and premature death.

The early responses to the New Jersey scandal leave me dismayed, though not surprised. "We really have to crack down," the co-director of the Joint Council of Europe/United Nations Study on Trafficking in Organs and Body Parts told MSNBC. That strategy is doomed, of course. It ignores the time-tested fact that efforts to stamp out underground markets either drive corruption further underground or causes it to flourish elsewhere.

The illicit organ trade is booming across the globe. It will only recede when the critical shortage of organs for transplants disappears. The best way to make that happen is to give legitimate incentives to people who might be willing to donate. Instead, I fear that Congress will merely raise the penalties for underground organ sales without simultaneously establishing a legal mechanism to incentivize donors.

Al Gore, then a Tennessee congressman who spearheaded the National Organ Transplant Act, spoke of using "a voucher system or a tax credit to a donor's estate" if "efforts to improve voluntary donation are unsuccessful." After 25 years, it is clear they have been unsuccessful.

More than 80,000 Americans now wait for a kidney, according the United Network for Organ Sharing. Thirteen of them die daily; the rest languish for years on dialysis. The number of donors last year was lower than in 2005, despite decades of work to encourage people to sign donor cards and donate to loved ones.

Sen. Arlen Specter (D., Pa.) is circulating a draft bill (the Organ Trafficking Prohibition Act), cosponsored by Sens. Bob Casey Jr. (D., Pa.) and Tom Harkin (D., Iowa), to enable governmental entities to offer donor benefits while raising penalties for brokering. States could offer health and life insurance to living donors, or funeral

benefits to families of posthumous donors. Donors could also be offered a tax credit or perhaps a very generous contribution to a charity of their choice.

The rewards could come from state governments or approved charities, not from individuals, and the organs would be distributed according to formulas already in place. That means organs will not be available only to the wealthy.

What Mr. Rosenbaum is accused of doing is indeed against the law, and if he is found guilty he will be held accountable. But his alleged actions were a symptom of a deeper problem: the dire organ shortage.

Congress must permit donors to accept third-party benefits for saving the life of a stranger. Otherwise desperate patients and donors will continue to be reluctant co-conspirators in crime.

Dr. Satel is a resident scholar at the American Enterprise Institute and the editor of “When Altruism Isn’t Enough: The Case for Compensating Kidney Donors” (AEI, 2009). She received a kidney from a friend in 2006.

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