Opt Out of the Black Market for Organ Transplantation

Sander S. Florman, M.D.

The system for organ transplantation in the United States is in drastic need of reform, and not just because the disparity between supply and demand continues to increase at an alarming rate. More than 105,000 men, women, and children await organ transplantation in the United States, and nearly 20 of them die every day without the opportunity for transplant.

More alarming is that a black market for human organs exists—right here and worldwide. While buying and selling organs is illegal in almost all countries, enforcement of the laws has been weak. In some nations, prisoners are executed and organs are procured for transplantation. In others, impoverished, illiterate, and desperate people sell their organs for a pittance.

The 1984 National Organ Transplant Act established a framework for a national system of transplantation and prohibited the buying and selling of human organs. Before being approved for transplant, living donor candidates must undergo rigorous medical evaluations, and their case must be reviewed by a multidisciplinary committee. Despite the law and the intense approval process, a black market for live-donor organs operates in the United States, undermining the very basis and sanctity of the doctor-patient relationship: honesty and trust. Since donor compensation is illegal, patients must lie to the very medical teams responsible for their lives by denying any financial arrangements.

It is easy to pass judgment on the practice of commercializing body parts, but it is not hard to understand what is behind it. For example, the harsh reality is that of the 83,000 people in the United States awaiting kidney transplantation, most will never get one. For those who do, the benefits are well established. Compared with dialysis patients, transplant recipients enjoy a longer lifespan and a dramatically improved quality of life.

To save and improve many more lives, we need to increase our nation’s supply of organs for transplant. Changing our deceased-donor system is one way to do so. Many countries have adopted a “presumed consent” model that considers all citizens to be donors upon death unless they specifically register to “opt out” of donation. In contrast, our current “informed consent” system encourages donation through awareness, primarily by inviting people to “opt in” when they sign their driver’s license.

The majority of Americans do support donation, but despite aggressive national appeals, actual donation rates remain low. Whether presumed consent would eliminate a black market is debatable. That such a system increases organ availability has been overwhelmingly proven true: in nations with presumed consent, fewer than 5 percent of citizens register to opt out.

It is clear that our efforts to increase organ availability have not worked. We need innovative ideas and strong legislation that will allow us to save lives, protect donors, and end illegal black market practices. Choosing an “opt out” system for organ donation is a much better solution than allowing ourselves to opt into the black market.

Sander S. Florman, M.D., is Director of the Recanati/Miller Transplantation Institute at The Mount Sinai Medical Center.

One in a series of commentaries by prominent Mount Sinai physicians and scientists.