



MARTIN-LUTHER-UNIVERSITY HALLE-WITTENBERG

Faculty of Law and Economic Sciences
Chair of Economic Ethics
Prof. Dr. Ingo Pies

Ethics and Economics of Institutional Governance

Lecture 8
Winter Term 2025/26

Overview

Ethics and Economics of Institutional Governance: 14 Lectures (L)



Introduction (L 1)

1. The Ordonomic Approach (L 2 + 3)
2. The Social Structure of Modern Society (L 4 + 5)
3. The Semantics of Modern Society (L 6)
4. Societal Learning Processes for the Reciprocal Adaptation of Social Structure and Semantics (L 7 + 8 + 9)
5. Case Study on Climate Policy (L 10 + 11)
6. Applications: The Ordonomic Line of Argumentation (L 12 + 13)

Summary and Outlook (L 14)



Structure of Last Lecture

1. Tradeoff thinking as a problem

2. What triggers tradeoff thinking in the environmental field?

3. Reaction analysis: Deconstruction of the perpetrator-victim scheme

4. Interaction Analysis: The consumers' dilemma

5. Growth analysis: Environmental protection through innovation

6. Sustainability Semantics

7. Material for David Deutsch (2011), Chapters 9 and 17



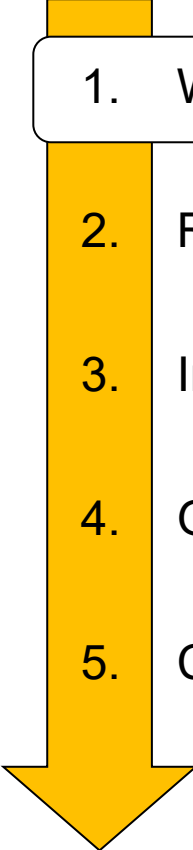
What Have We Learned?

The most important lessons of the seventh lecture are:

- Discourse failure typically stems from semantic misalignments caused by tradeoff thinking: blockades of thought lead to blockades of action. Therefore, a discourse failure can lead to a political failure and even a market failure.
- There are basically three approaches to transcend tradeoff thinking by means of orthogonal positioning: reaction analysis, interaction analysis and growth analysis.
- In terms of reaction analysis, it is important to systematically consider all opportunity costs. Environmental problems are problems of scarcity caused by a societal conflict in which the parties to the conflict are symmetrically involved.
- In terms of interaction analysis, it is important to identify the relevant social dilemmas: the dilemma of companies is based on a dilemma of consumers (and a dilemma of citizens as taxpayers).
- In terms of growth analysis, it is important to use the right concept of growth. It is true that "extensive" growth must necessarily reach ecological limits. However, this does not apply to "intensive" growth, which is driven by knowledge, by innovation, so that it becomes possible to reduce the input of resources and still generate more output.
- David Deutsch: Problems can be solved by generating new knowledge. The open society depends on innovation – and it is designed for innovation: through a tradition of rational criticism.

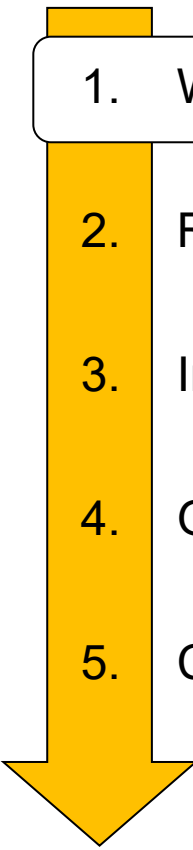


Structure of Today's Lecture

- 
1. What triggers tradeoff thinking in the social field?
 2. Reaction analysis: possible misconduct due to misincentives
 3. Interaction analysis: The dilemma of the insured
 4. Growth Analysis: Baumol's Cost Disease
 5. Case Study: Kidney transplantation

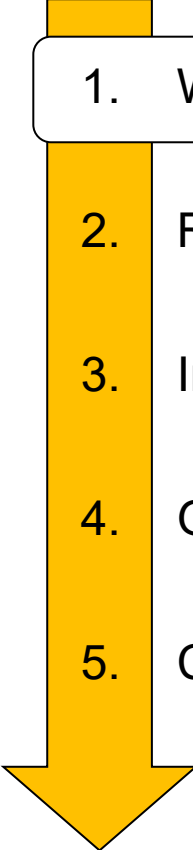


Structure of Next Lecture

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1. What triggers tradeoff thinking in the technology sector?
 2. Reaction analysis: On the criticism of the precautionary principle
 3. Interaction analysis: The dilemma of innovators
 4. Growth analysis: On the diffusion of innovation effects
 5. Case Study: Glyphosate



Structure of Today's Lecture

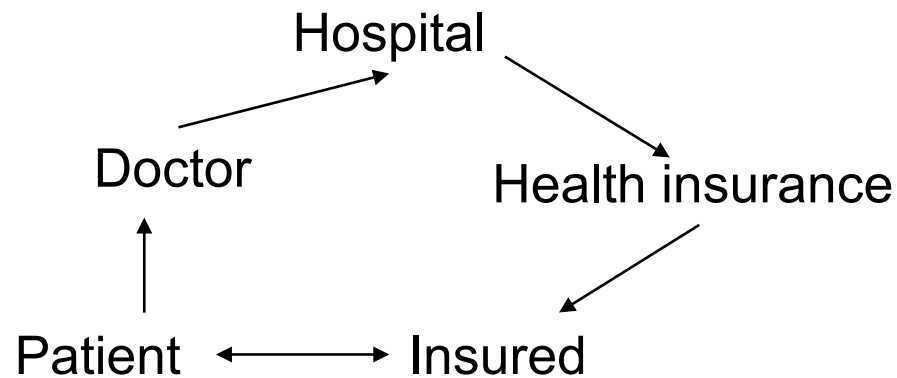
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Anecdotal Evidence

There are many one-sided perspectives that can be substantiated with (any amount) of anecdotal evidence. The basic problem is to get a comprehensive overview without being biased and misled by personalized stories. Let's take the example of the health system, where nearly everybody complains about "economization":

- Patients complain because doctors don't take enough time
- Doctors complain because hospitals impose cost pressure on them
- Hospitals complain because health insurers insist on cost containment
- Health insurers face resistance if they want to increase premiums
- Insured people complain because contributions are rising and benefits are rationed

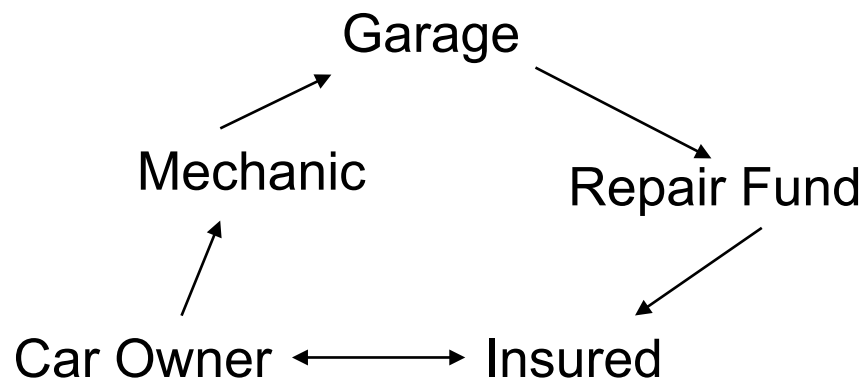


A Thought Experiment

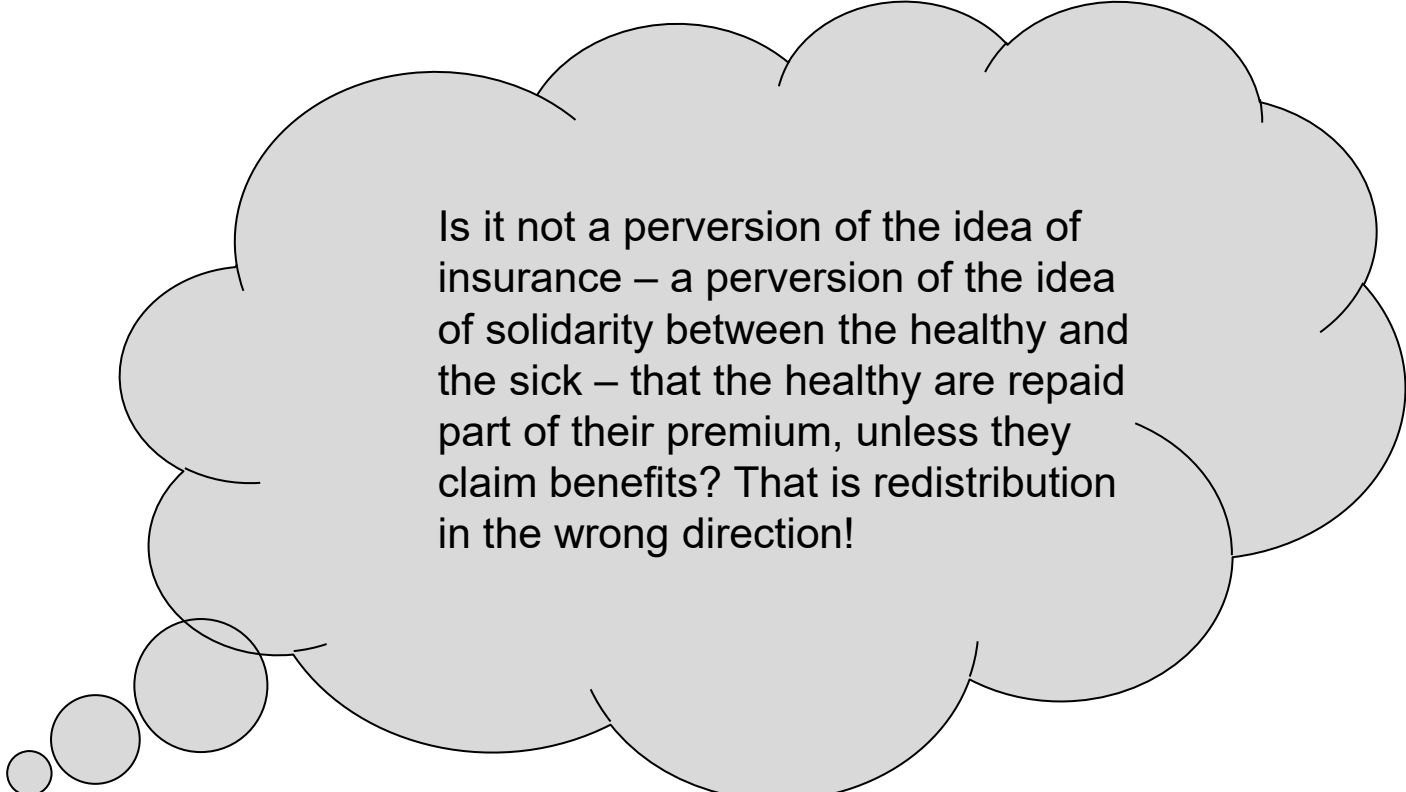
Let us imagine that we are organizing the repair market for cars in the same way as the “repair” market for people, in other words the health sector: instead of having the car repaired on our own account, there is a repair fund that covers the costs and is financed by compulsory insurance. What would be the result? Owners and mechanics would have a common interest in expanding the catalogue of services. To put it bluntly, none of those directly involved would have an interest in reducing costs!

If the insured use their repair fund to influence the car dealerships not to let the costs explode, then the mechanics and owners perceive this as patronage and scold “economization”.

Diagnosis: We have a governance problem of systemic misincentives that invites intervention spirals.



Example of Tradeoff Thinking



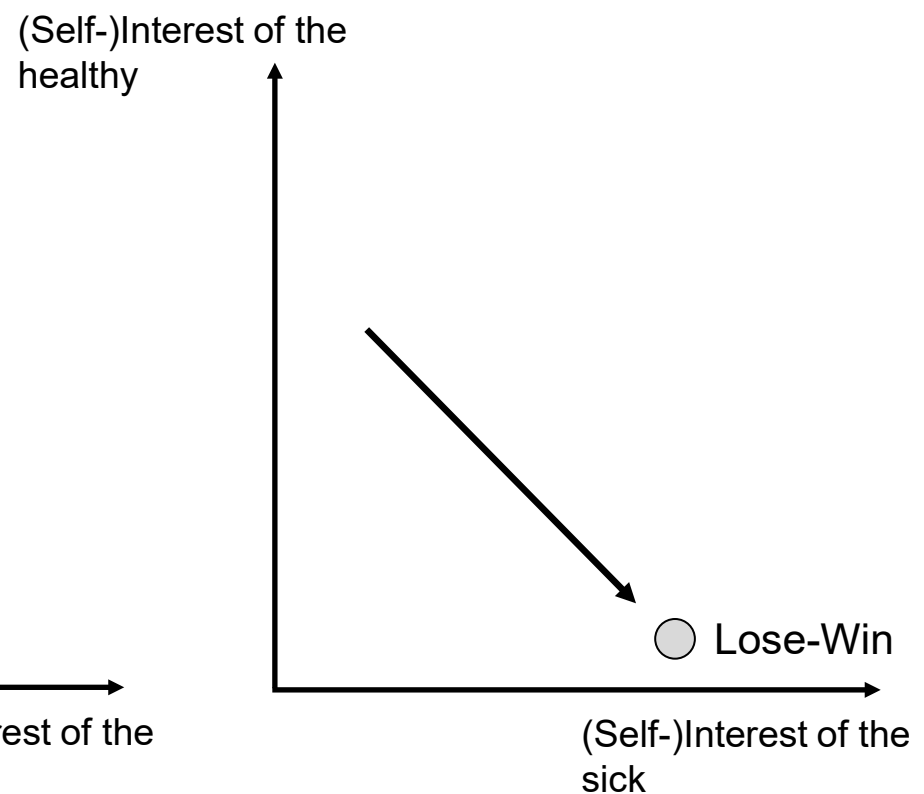
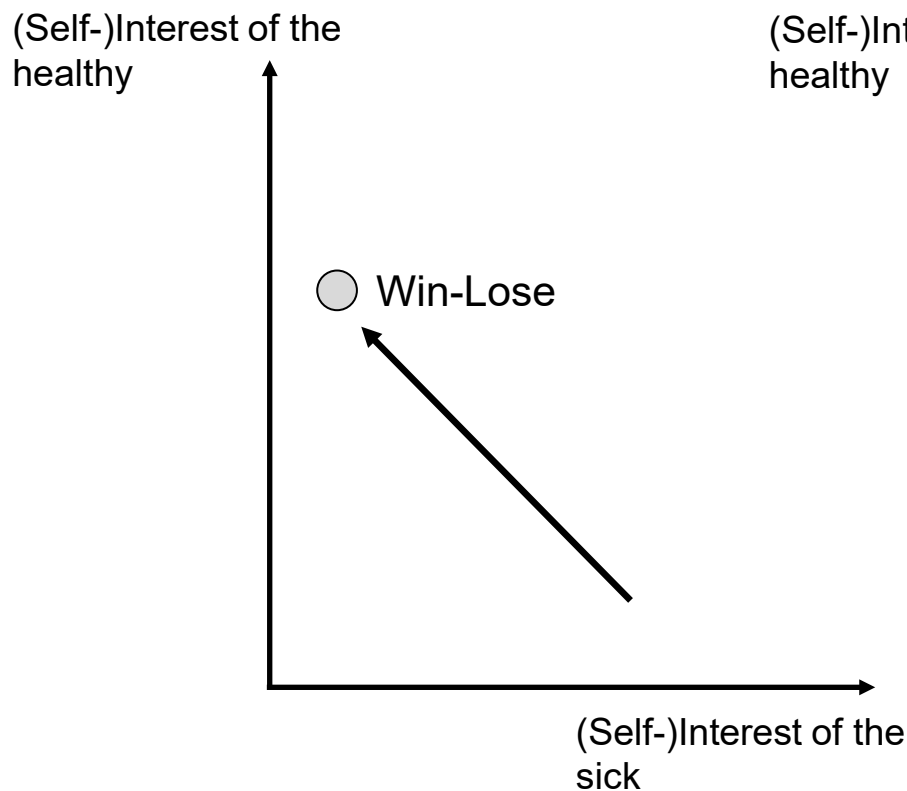
Is it not a perversion of the idea of insurance – a perversion of the idea of solidarity between the healthy and the sick – that the healthy are repaid part of their premium, unless they claim benefits? That is redistribution in the wrong direction!



Perception Within Tradeoff

Left diagram: The reimbursement of insurance contributions is perceived as perverse redistribution – and rejected.

Right diagram: People call for prohibition of reimbursement to protect the interests of the sick.

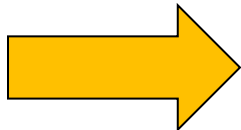


Lesson

With Thomas Schelling, we can argue that it makes a big difference whether you take an ex-post perspective or an ex-ante perspective. And then we have to ask ourselves: is there perhaps a problem that can be solved by rebating insurance contributions?

Insight: The rebate is a brake on “moral hazard”. It is not a lack of solidarity, but a contribution to solidarity because it counteracts the tendency for the insured to collectively harm themselves!

The relevant conflict is not (ex post) a conflict between the healthy and the sick, but (ex ante) a conflict between the insured. They are in the social dilemma (2-PD) of a cost explosion. They can partially free themselves from this dilemma if they collectively impose a regime that provides individual incentives to save costs.



Interesting additional information: Private health insurance companies have always made use of this tool. In contrast, for statutory health insurance it had long been prohibited to reimburse insurance contributions.



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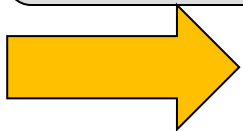
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The paradox of assistance (= Samaritan's dilemma)

Assistance to people in need changes expectations and thus the systemic equilibrium of behaviour. That can have undesirable consequences. This means: If you want – for good reasons! – not to refrain from providing aid, it is also necessary to deal with the consequential problems. Here are some examples:

- State aid for flood victims strengthens the incentive to settle in floodplains.
- Fire insurance weakens the incentive to prevent fires.
- Unemployment insurance increases the unemployment rate.
- Aid for single mothers reduces the marriage rate and weakens the family structure of long-term partnerships.
- Humanitarian support for drug addicts lowers the inhibition threshold to drug use.
- Free medicines increase the incentive to abuse medication.
- Maternity protection provides incentives for professional discrimination against young women.
- Parental protection incentivizes professional discrimination against young men and women.
- When solidarity benefits are shifted from the family to the state, the birth rate decreases because cost and benefit considerations are (seemingly) decoupled: the benefit of children is socialized.



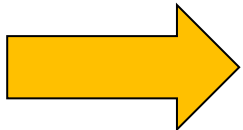
The logic: a price reduction (through partial cost subsidies) increases demand. Or, in other words, assistance weakens individual responsibilities and encourages misconduct.



Risk Productivity

The undesirable consequences are often referred to as "moral hazard". But there may also be desirable consequences. The most important example of this is risk productivity: insurance reduces risk, so you can afford more risk. This effect is important when it comes to productive investments.

- The case of physical capital: The remuneration of managers is specifically designed in such a way that risk-averse individuals behave in a risk-taking manner, for example by rewarding successes without symmetrically punishing failures.
- The case of human capital: the massive subsidization of investment in education encourages young people to invest longer and more riskily in their stock of skills.
- The case of car traffic: without a brake, cars would have to drive more slowly. Ditto without liability insurance.



Important conclusion: Social security arrangements can serve as a hammock or as a springboard, depending on their design.

Moral hazard occurs when the insurance leads to insured persons taking more risks to destroy value.

Risk productivity occurs when insurance leads to insured persons taking more risks to create value.

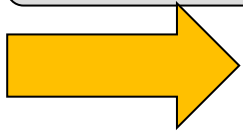


Regulatory Problems and Intervention Spirals

Agricultural policy, based on social arguments, offers a rich range of misincentives and interventions which ensue further misincentives.

Examples:

- If milk is subsidized, milk lakes are created.
- If milk is then rationed, for example by limiting the number of cows, this gives the wrong incentive to maximize the milk yield per cow via breeding technology – at the expense of animal welfare.
- If milk exports are subsidized, then every euro for the farmers supported is offset by much more than one euro in costs to the taxpayer.
- If cereal farmers are supported by premiums, the rent of land owners increases.



Important conclusion: If you really want to help people, you should help them directly through personalized transfers, not indirectly through product subsidies: support subjects, not objects!

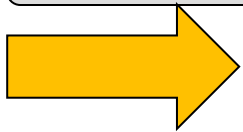


The Animal Welfare Paradoxon

We assume three food markets: (a) a meat market with low-quality animal protection (and low prices), (b) a meat market with high animal welfare (and high prices), and (c) a vegetarian food market.

Two effects are to be distinguished:

- When consumers switch from the first to the second market, they promote animal welfare. In the long term, there will be a reallocation: fewer animals will be kept for the first market and more animals for the second market.
- When consumers who see themselves as radical animal rights activists switch from the second to the third market, they **reduce** animal welfare: the first market remains untouched. Fewer animals will be kept for the second market in the long term.



Important conclusion: You always have to keep an eye on the unintended effects!

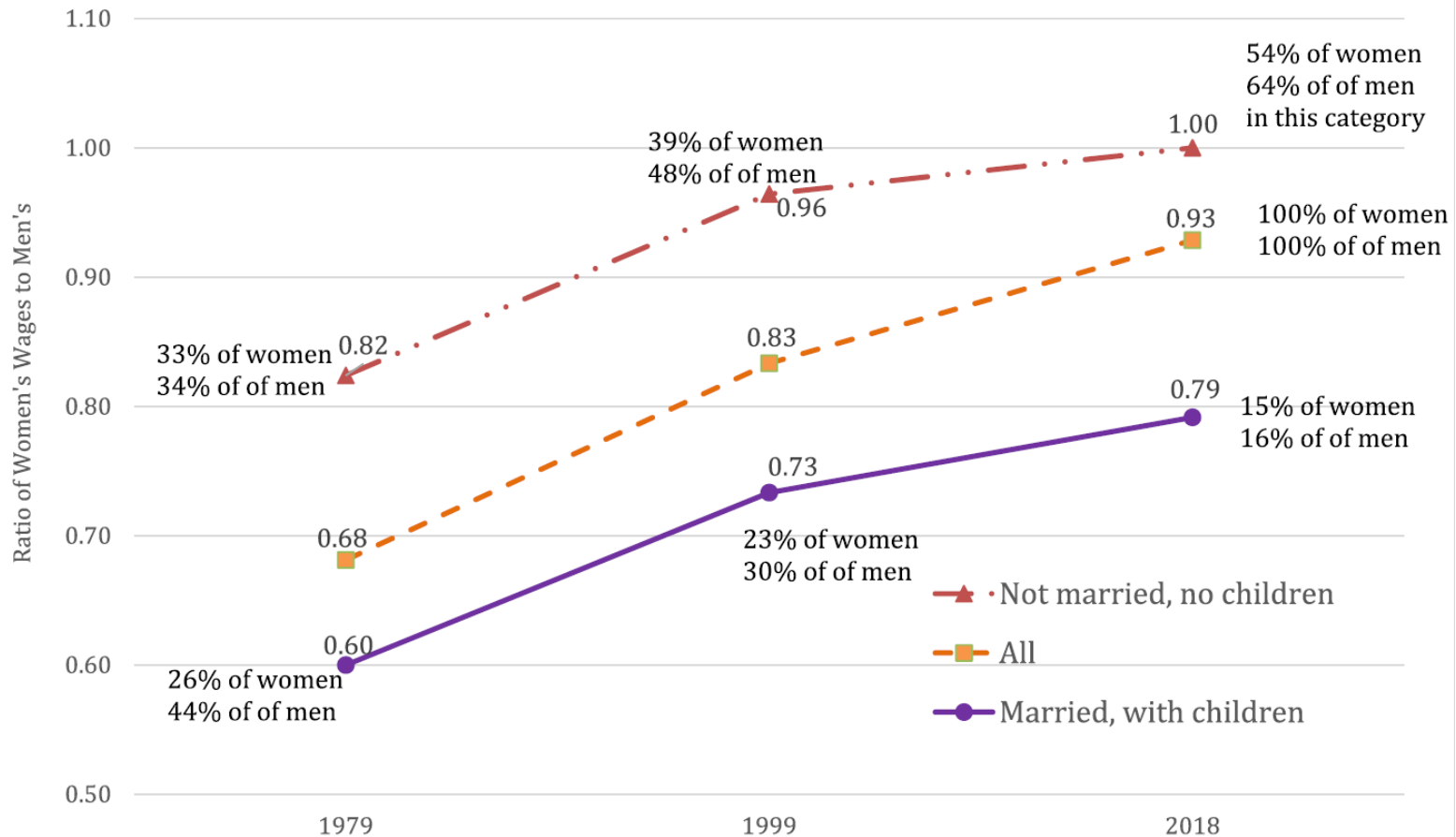


Digression on Gender Pay Gap: Data for the US

Source: Iceland und Redstone (2020): *The declining earnings gap between young women and men in the United States, 1979–2018*, <https://doi.org/10.1016/j.ssresearch.2020.102479>

Fig. 1, p. 7

Ratio of Women's Earnings to Men's Among 25 to 29 Year Old Full-Time Workers, by Marital Status and Presence of Children: 1979-2018



Iceland und Redstone (2020): Key Conclusions (I)

The study looked at full-time working men and women aged between 25 and 29. Here are some important findings (emphasis added, I.P.):

- „Among our key findings is that **gender earnings gap declined over time**, as the ratio of women's to men's median earnings increased from 0.68 in 1979 to 0.93 in 2018. The gap declined for men and women in all types of family situations. It was largest between men and women who were married with children (the ratio of women's earnings to men's among this group was 0.79 in 2018, up from 0.60 in 1979). Notably, we find that there was earnings parity among one group in particular: men and women who were unmarried and childless, where the ratio of women's earnings to men's was 1.00 in 2018, up from 0.82 in 1980. Also noteworthy is that only 16 percent of men and 15 percent women in the 25–29 age range in 2018 were married with children, down from 44 percent of men and 26 percent of women in 1980. In contrast, a majority of both men and women (64 percent and 54 percent, respectively) in 2018 were unmarried and without children—the **category with earnings parity**.“ (S. 9 f.)
- „**[M]edian earnings fell for most groups of young men, except among those who were married, while they rose for all groups of women**.“ (S. 10)
- „Overall, our results are consistent with the notion that discriminatory barriers to women in the labor market have declined, as indicated by the reduction in the gender earnings gap ... Our finding that there is earnings parity among unmarried and childless men and women, but greater gaps among those who are married and with children, suggests that family considerations and selection into such family living arrangements play a major role in the remaining disparity. **Childbearing in particular is associated with lower earnings**.“ (S. 10)



Iceland und Redstone (2020): Key Conclusions (II)

The study looked at full-time working men and women aged between 25 and 29. Here are some important findings (emphasis added, I.P.):

- „Our analyses are consistent with an overall **long-term trend of a declining earnings gap** among the young adult population.“ (S. 10)
- „With our cross-sectional data, **we cannot discern whether marriage and/or childbearing has a direct effect on earnings and the gender gap, or whether there is selection into different kinds of living arrangements, which explains the apparent earnings differences.** In either case, we do find that marriage no longer appears to confer any earnings disadvantage to women, as it once did ..., and instead it is associated with greater earnings for both men and women. Because there does not seem to be a strong theoretical causal connection between marriage and earnings among women, we venture that the effect likely reflects a selection effect. The literature suggests that while many young women (and men) aspire to getting married, many feel it's either out of reach, or delay getting married until they are financially secure ... The positive association between marriage and earnings for men also likely reflects this process, plus the long-held view that high-earning men are viewed as desirable partners for marriage“ (S. 10)
- „Our finding that children continue to be associated with reduced earnings especially among women could reflect a causal mechanism, as taking time to care for children can take away time spent at work ... But **it could also reflect selection—those who choose to have children may have an inclination to prioritize family over work.** ... [W]e see a growing negative association for men. [Data] suggests that men are spending more time caring for their children than in the past, especially as women are themselves more engaged in the labor market, or again selection, with an increase in the number of men who prioritize family over work as a function of changes in gender norms and cultural values toward childrearing“ (S. 10)



Iceland und Redstone (2020): Key Conclusions (III)

The study looked at full-time working men and women aged between 25 and 29. Here are some important findings (emphasis added, I.P.):

- „The cost of raising children and their association with lower wages, especially among women (along with the lack of positive impact among men by 2018), may help explain the **steep decline in the proportion of both young men and women being married with children** over the time period. Thus, the extent to which policy makers would like to reduce the costs of raising children, a number of policy approaches could be explored, such as providing family allowances or greater child tax credits“. (S. 10)
- „In conclusion, **our study indicates that men and women increasingly enter the labor market on more even footing, but many likely struggle to find a balance between work and family**. They also are postponing marriage and childbearing until they are better established in the labor force. Our study of the young adult population brings into focus the lack of formal labor market barriers that differentially affect women among those who are unmarried and without children. However, our results are consistent with evidence suggesting that the earnings gap continues to deepen for young people as they proceed through the life course ..., an important point given that a majority of men and women will likely end up getting married and having children.“ (S. 10)
- „These findings have implications for how we think about and discuss labor market disparities between men and women. ... At a minimum, **the current analysis suggests that the narrative around gender pay differences needs more nuance than a simple focus on labor market discrimination**. As stated at the outset, as with any social problem, progress depends on having a clear understanding of its patterns and causes.“ (S. 11, emphasis added)



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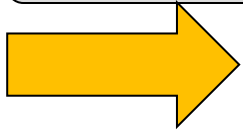


The Economic Justification of the Welfare State

After the rule of law was invented, the further development into a welfare state was a natural consequence. In both cases, it is a question of overcoming social dilemmas.

Many important life risks cannot be hedged in private insurance markets because the risk has already occurred at birth. In this case, the state can intervene as an insurance regime: as an association of citizens for mutual insurance.

In addition, the state can be seen as an instrument for financing public goods, which without the state monopoly on violence would fail due to the free-rider problem: all the rich want to help the poor – however, no one wants to do this alone, but only on the condition that everyone else participates.



Important conclusion: The state and the market are not substitutes, but complementary institutions.

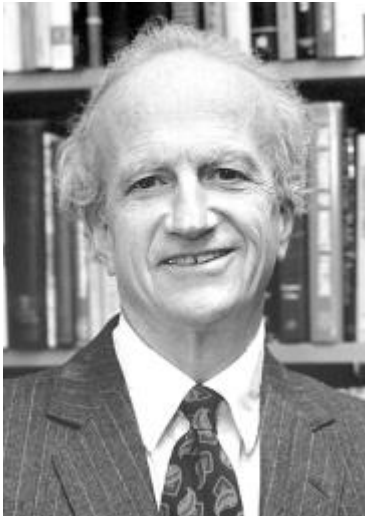
Investments in public infrastructure (legal order, transport systems, basic research, education, health, etc.) increase the productivity of market economy value creation – and can be financed from this increased productivity.



Becker and Murphy (1988)

In the important essay "The Family and the State", Becker and Murphy (1988) develop the argument that there is an intrafamilial opportunism problem between parents and children that rich families can solve relatively easily by using inheritance as a binding mechanism for disciplining children. Poor families can't. That is why they suffer from a systematic tendency to invest too little in children. Against this background, government education can increase efficiency.

Gary S. Becker



http://www.nobelprize.org/nobel_prizes/economic-sciences/laureates/1992/becker_postcard.jpg

Kevin M. Murphy



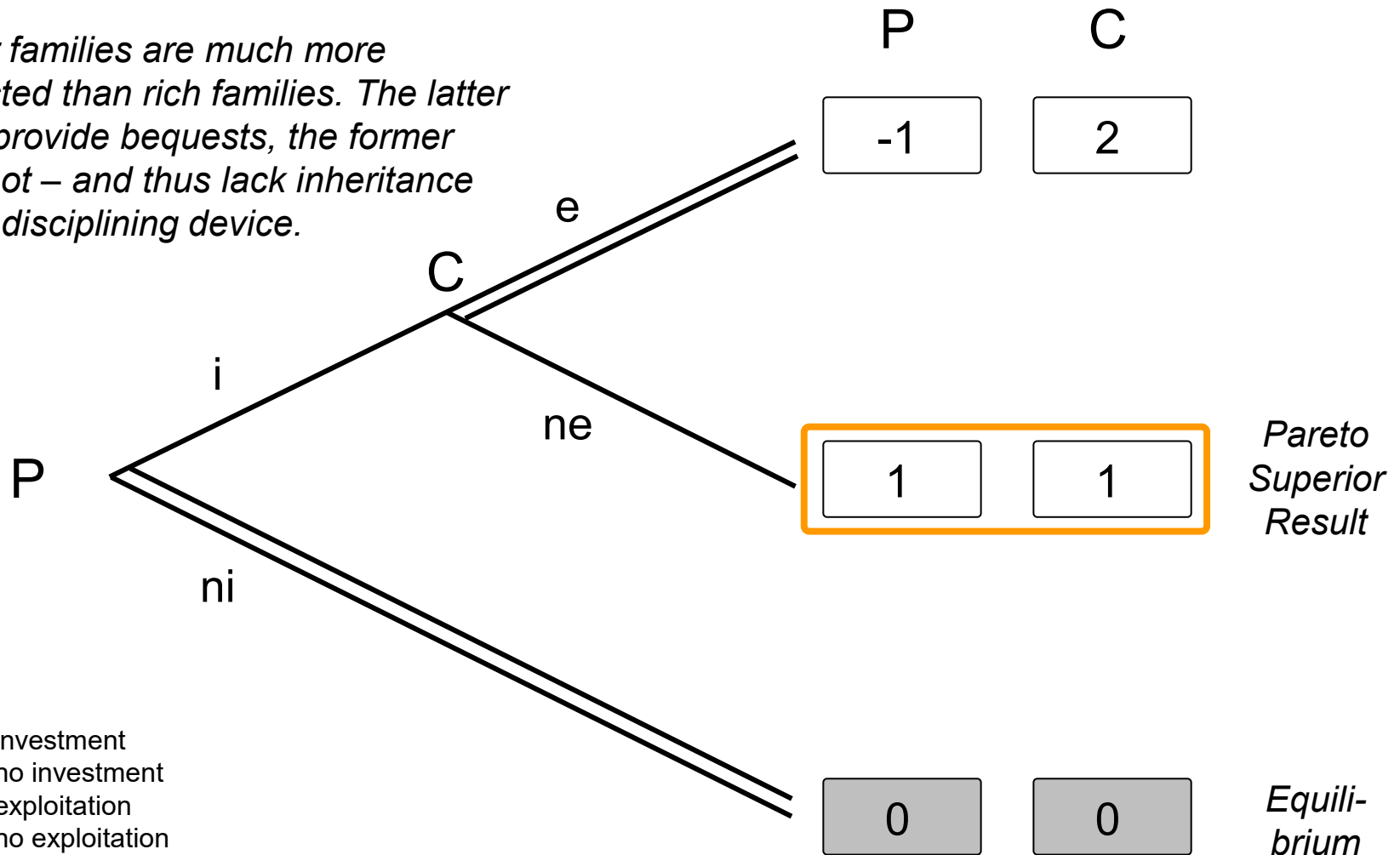
<https://goo.gl/F7SV5C>



The One-Sided Dilemma between Children (C) and Parents (P)

Result: Underinvestment in children.

Poor families are much more affected than rich families. The latter can provide bequests, the former cannot – and thus lack inheritance as a disciplining device.



i = investment
ni = no investment
e = exploitation
ne = no exploitation

Eigene Darstellung



State vs. Market:

No contradiction, but mutually supporting institutions

State function: Promoting societal cooperation

- Task of **legal policy**: overcoming social dilemmas (e.g. by defining property rights and guaranteeing private-law contracts under the rule of law)
- Task of **economic policy**: establishment of social dilemmas (e.g.: by fighting cartels under competition law)
- Task of **social policy**: overcoming social dilemmas (e.g. in the form of social security or crediting assistance) for inclusion in market processes
- Task of **environmental policy**: overcoming social dilemmas (e.g. via simulating or stimulating market prices for natural resources) and establishment of social dilemmas (in the form of innovation and imitation competition)

Social policy **not against**, but **for** the market.



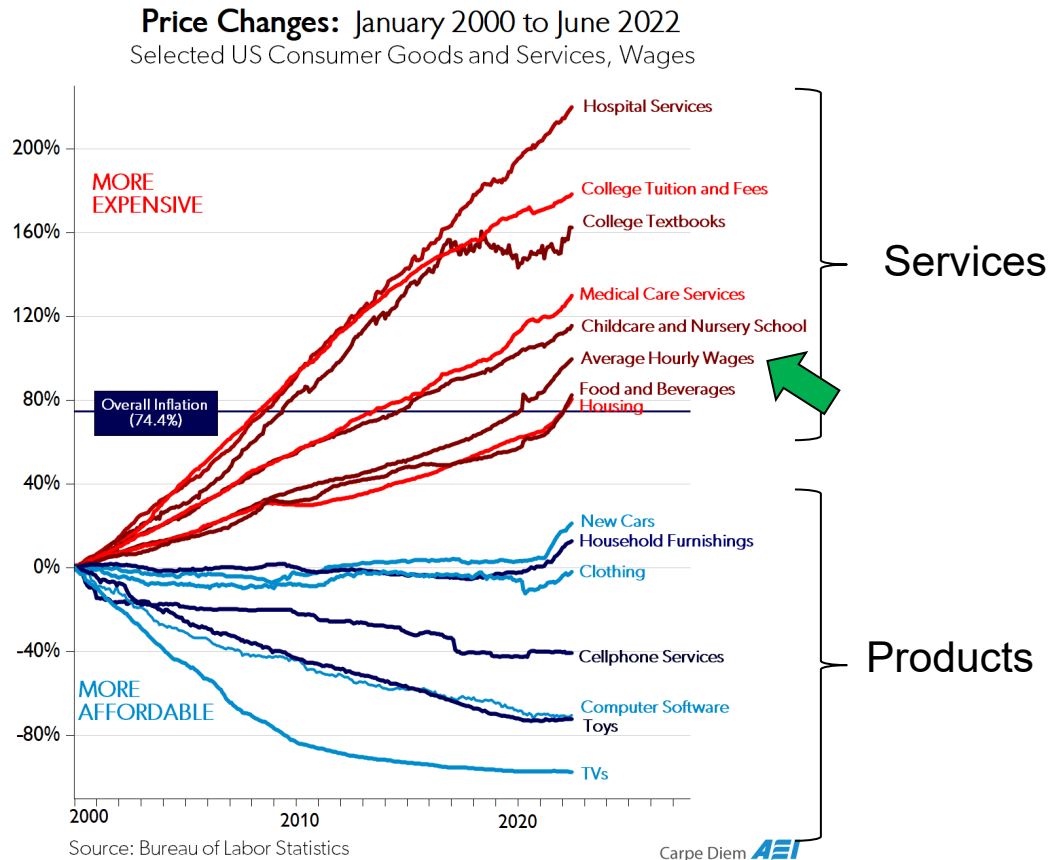
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Empirical Finding

During the last 20+ years, many goods have become more expensive, while other goods have become cheaper. Many of the former are delivered by state agencies, many of the latter by private firms. Why?



Mark Perry (2022): „During the most recent 22.5-year period from January 2000 to June 2022, the CPI for All Items increased by 74.4% and the chart displays the relative price increases over that time period for 14 selected consumer goods and services, and for average hourly wages. ... Average hourly **earnings** have also increased more than average inflation since January 2000 — by nearly 100% — indicating that hourly wages have increased 25% more over the last two decades that the average increase in consumer prices.“

<https://www.aei.org/carpe-diem/chart-of-the-day-or-century-8/>



Example

In the 18th century, a quartet took overall three hours of labour to perform a 45-minute piece of music. In the present, it is still three hours of labour.



<https://pixabay.com/de/photos/quartett-tokio-b%C3%BChne-streicher-87084/>



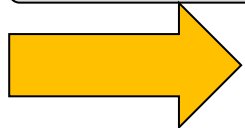
<https://pixabay.com/de/photos/mozart-quartett-in-c-notizen-904374/>



Thought Experiment

Imagine if there was a closed economy (excluding external trade) with only two sectors: an innovative industrial sector and a non-innovative service sector. What would be the consequences?

- Productivity in the industrial sector is constantly increasing. As a result, wages are rising there.
- In the services sector, higher wages must now also be paid so that not all workers (want to) leave.
- The higher wages in the service sector cannot be compensated by cost savings due to lack of innovation. As a result, the prices of services are rising (= Baumol's cost disease)



Important conclusion: Expenditure on services is increasing disproportionately. Nevertheless, people can afford services on a permanent basis because they benefit – directly or indirectly – from the higher productivity of the innovation sector.

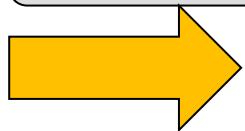
Nota bene: With foreign trade, it is above all the sector of local and personal services (that is naturally shielded against competition via imports) which suffers from the cost disease (examples: cultural enterprise, care services, etc.)



The Mental Model of Redistribution as Tradeoff Heuristics

If you look ex post at an insurance arrangement that meets consensus ex ante, it looks like redistribution: between rich and poor, between the healthy and the sick, etc. If you want to justify this from an ex-post perspective, you have to take recourse to strong normativity and, for example, promote a right to redistribution or a general aversion to inequality. This promotes aspirational demands. Such a heuristics creates three problems:

1. Redistribution discourses are programmed for dissent. They propagate the idea of win-lose. This creates **resistance**. Moreover, any corrections of misincentives are easily discredited as perverse redistribution.
2. Empirically, it is not only inequality aversion that can be observed, but above all **equality aversion**: people feel unfairly treated and even exploited when free-riders receive benefits without making their own contributions.
3. The normative claims propagated by redistributive thinking in the national context are generally **not universalized**. They apply to nationals, but not to foreigners, even though they are formulated as human rights. (This creates **radicalization** and/or **frustration**.)



Important conclusion: Solidarity is based on reciprocity!





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Case Study: Kidney Transplantation

Modern medicine enables organ transplants. Many organs are removed after deaths. Kidneys, however, can be donated alive. There is controversy over this. Many believe that you should be allowed to give away a kidney for free, but not to sell it. What is to be said of this moral judgment?

Organspendeausweis nach § 2 des Transplantationsgesetzes		Für den Fall, dass nach meinem Tod eine Spende von Organen/Geweben zur Transplantation in Frage kommt, erkläre ich:	
 Organspende Name, Vorname _____ Geburtsdatum _____ Straße _____ PLZ, Wohnort _____ FÜRS LEBEN FÜR ORGANSPENDE  Organspende schenkt Leben. Antwort auf Ihre persönlichen Fragen erhalten Sie beim Infotelefon Organspende unter der gebührenfreien Rufnummer 0800/90 40 400.		<input checked="" type="radio"/> JA , ich gestatte, dass nach der ärztlichen Feststellung meines Todes meinem Körper Organe und Gewebe entnommen werden.	
		oder <input type="radio"/> JA , ich gestatte dies, mit Ausnahme folgender Organe/Gewebe: _____	
		oder <input type="radio"/> JA , ich gestatte dies, jedoch nur für folgende Organe/Gewebe: _____	
		oder <input type="radio"/> NEIN , ich widerspreche einer Entnahme von Organen oder Geweben.	
		oder <input type="radio"/> Über JA oder NEIN soll dann folgende Person entscheiden:	
		Name, Vorname _____ Telefon _____ Straße _____ PLZ, Wohnort _____	
		Platz für Anmerkungen/Besondere Hinweise _____	
		DATUM _____ UNTERSCHRIFT _____	

Erklärung zur Organ- und Gewebespende

<https://www.bing.com/images/search?view=detailV2&ccid=7uk46eBc&id=39A39948477E89DD5F8CB33182E2FFDAEA3C1672&thid=OIP.7uk46eBcLdGh6sDMZmfRwHaCx&mediaurl=http%3a%2f%2fwww.chip.de%2fii%2f9%2f2%2f6%2f9%2f1%2f2%2f6%2feeee938e9e05c2dd1.jpg&exph=326&expw=872&q=organspendeausweis+zum+ausdrucken&simid=608027770011191645&ck=9F60168FBF6FD2F72D6D872A76262B45&selectedIndex=0&FORM=IRPRST&ajaxhist=0>



The Argument Contra Kidney Markets

The physicians Jha and Chu are among the opponents of a market solution.

VIEWPOINT

www.nature.com/clinicalpractice/neph

The case against a regulated system of living kidney sales

Vivekanand Jha and Kirpal S Chugh*

V Jha is Additional Professor of Nephrology and KS Chugh is Emeritus Professor of Nephrology at the Postgraduate Institute of Medical Education and Research, Chandigarh, India.

The number of individuals on a waiting list to receive a kidney currently exceeds 100,000 globally. In the developing world, access to health care and financial issues are the major barriers to renal replacement therapy, but in the advanced industrialized nations, shortage of transplantable organs is the chief reason for continued growth of the waiting list. This gap between supply and demand could be reduced by allowing willing individuals to sell their organs. Donation of organs for money, however, was made illegal in most countries following the emergence of large-scale organ marketing operations supported by unscrupulous brokers and middlemen, especially in the developing countries of South Asia.

The arguments supporting organ sale need to be examined carefully. The differences between the sale of irreplaceable organs and that of essentially renewable tissues such as blood or sperm must be appreciated. Removal of a kidney involves major surgery under anesthetic, which is far more invasive than obtaining any of the aforementioned tissues. Furthermore, it is imperative that we recognize the immorality of allowing people to do serious damage to themselves for the sole purpose of making money. In some instances, individuals who have already sold a kidney have expressed their willingness to donate a second one and take the risk of living on dialysis.¹

Unacceptably high recipient mortality and transmission of infections, including HIV and hepatitis, have been consistently reported following transplantation of purchased kidneys.^{2–4} There is, however, a remarkable paucity of outcome data from such transplantations. Some reports from Iran have claimed success rates equivalent to living related donor transplantations;⁵ however, these have been published only in review papers, and the data not rigorously peer-reviewed.

There are few data to show that the financial compensation received by organ donors in developing countries has helped improve their lives. It is common knowledge that donors are underpaid, and that their postoperative medical care is

absent or suboptimal. Reports in the lay press have documented high rates of donor mortality and morbidity. Interviews with over 300 kidney sellers near Chennai, India⁶ revealed that about 75% of participants whose motive for selling the kidney was payment of debts continued to be in debt and almost 90% reported significant deterioration in their health after donation. Zargooshi⁷ documented widespread practice of extralegal financial transactions, coercion and blackmail between donors and recipients in Iran, where financial reward through an independent agency is legal. Although others dispute Zargooshi's observations, independent observations have supported his findings.⁸

So far, financial compensation for kidney donors in most places has been arbitrary, subject to bargaining between the donor and the middleman and dependent on the donor's level of awareness about the value of a kidney. Accurate figures are not available, but in South Asian countries it is estimated that of US\$2,000–2,500 paid by the recipient for a kidney, only about \$1,000–1,200 reaches the donor. US estimates of appropriate purchase price of a kidney vary from \$45,000 to \$90,000.^{9,10} Once money enters the equation, the argument of allotting the purchased kidney only on medical grounds in an open market economy stands on thin ice. Why should a desperate recipient willing to pay the price not be allowed to go to the top of the waiting list, or the degree of 'matching' between the donor and the recipient not decide the price? Why should the price not be decided at auction so that the seller gets the highest value for an asset that he or she can sell but once?

Enforcement of current transplantation legislation is uneven in many countries. The presence of illegal middlemen or brokers is not doubted.⁸ There have been allegations of active collusion of transplant surgeons, nephrologists and members of the regulatory bodies in facilitating commercial transplantations, often with the help of forged documents, and the failure of the law in preventing this activity is well-documented.^{11,12}

„[I]t is imperative that we recognize the **immorality of allowing people to do serious damage to themselves for the sole purpose of making money.** In some instances, individuals who have already sold a kidney have expressed their willingness to donate a second one and take the risk of living on dialysis.“ (p. 466, emphasis added, I.P.).

„Once the initial rush of domestic donors is exhausted, the **globalization of organ trade**, whereby donors would come in large numbers from the developing world to supply organs to the industrialized world, is inevitable. The acceptance of even a limited domestic organ market in the advanced nations will act as the proverbial thin end of the wedge and encourage adoption of commercial donation in the developing world. ... **Allowing such an activity in any corner of the world would open the doors for rampant exploitation of the underprivileged in areas that are already plagued by vast economic inequalities.**“ (p. 467, emphasis added, I.P.).

Correspondence

*National Kidney Clinic and Research Centre
601, Sector 18
Chandigarh 160 018
India
chughks_chd@dataone.in

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The Argument Pro Kidney Markets (I)

The philosopher Michael Huemer is one of the proponents of a market solution (emphasis added, I.P.)

Michael Huemer



„It's illegal to pay anyone for a kidney donation, so people who suffer kidney disease have to rely on a loved one to donate a kidney. But usually, your loved ones are not biologically compatible, so you can't use their kidney. Roth's idea was that your loved one can donate a kidney to someone else who needs a kidney, and in return, that person's loved one can donate a kidney to someone else who needs a kidney, etc., until it gets to someone who can donate a kidney to your loved one. **Kidney donation chains like this are now being used. Needless to say, this was a great innovation — Al Roth is now responsible for saving probably thousands of lives**“.

„Also perhaps needless to say, we need to do more. 100,000 people need kidney transplants; most will die waiting for it. **5,000 die every year, waiting for a kidney transplant** (<http://lkdn.org/mission.html>). Yet there are millions of people who have two healthy kidneys and could donate one and save someone else's life. **The cost to the donor would be minimal, compared to the value of a life saved. But almost no one does it, because there is still some cost and risk, and there is no benefit to the donor.** And the reason there is no benefit to the donor is that it is illegal to pay the donor for giving a kidney. (The donor can be compensated for medical bills, transport, and the like, but not for the personal risk involved in going into major surgery, or the general disutility of donating a kidney.)“

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The Argument Pro Kidney Markets (II)

The philosopher Michael Huemer is one of the proponents of a market solution (emphasis added, I.P.)

Michael Huemer



„I think this law is basically a form of mass murder. The government is not merely *allowing* 5000 deaths a year, or *failing to save* 5000 people; it is *killing* 5,000 people a year. Since the killing is unjustified (it is not, e.g., done in self-defense, or defense of an innocent third party, or as just punishment for a heinous crime, or as a form of euthanasia), it is murder.“

„I don't know what “commodification” is or why anyone should care about it. But it would have to be incredibly terrible to justify imposing death on people to prevent them from doing it. Again, even if there is this terrible crime of commodifying, it's bizarre to threaten imprisonment of the supposed victims of this commodification.

I think these attempted justifications are rationalizations for an emotion-based reaction. This is nowhere clearer than in the case of the argument that the poor will be disadvantaged due to inability to afford organs. The poor are also disadvantaged in the housing market. Some people think the government should therefore subsidize housing for the poor; no one, however, concludes that housing sales must be banned. Likewise, **no one claims that all housing should be provided for free by altruistic carpenters who work purely for the good of others. That is as realistic as the idea that all organ donations should be provided for free by altruists.**“

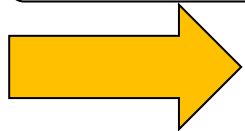
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The Call for Prohibition: Reconstruction in Syllogism

Opponents of a market solution that balances supply and demand through free pricing see human dignity at risk. Their argument is that whoever person sells one of her two kidneys degrades herself and loses her human dignity.

- | | |
|--------------------------|---|
| 1a. Normative Premiss: | Human dignity should be inviolable. |
| 1b. Normative Premiss: | The state should ban behaviors that undermine human dignity. |
| 2. Positive Premiss: | Whoever person sells one of her two kidneys degrades herself. |
| 3. Normative Conclusion: | The state should ban the sale of kidneys. |

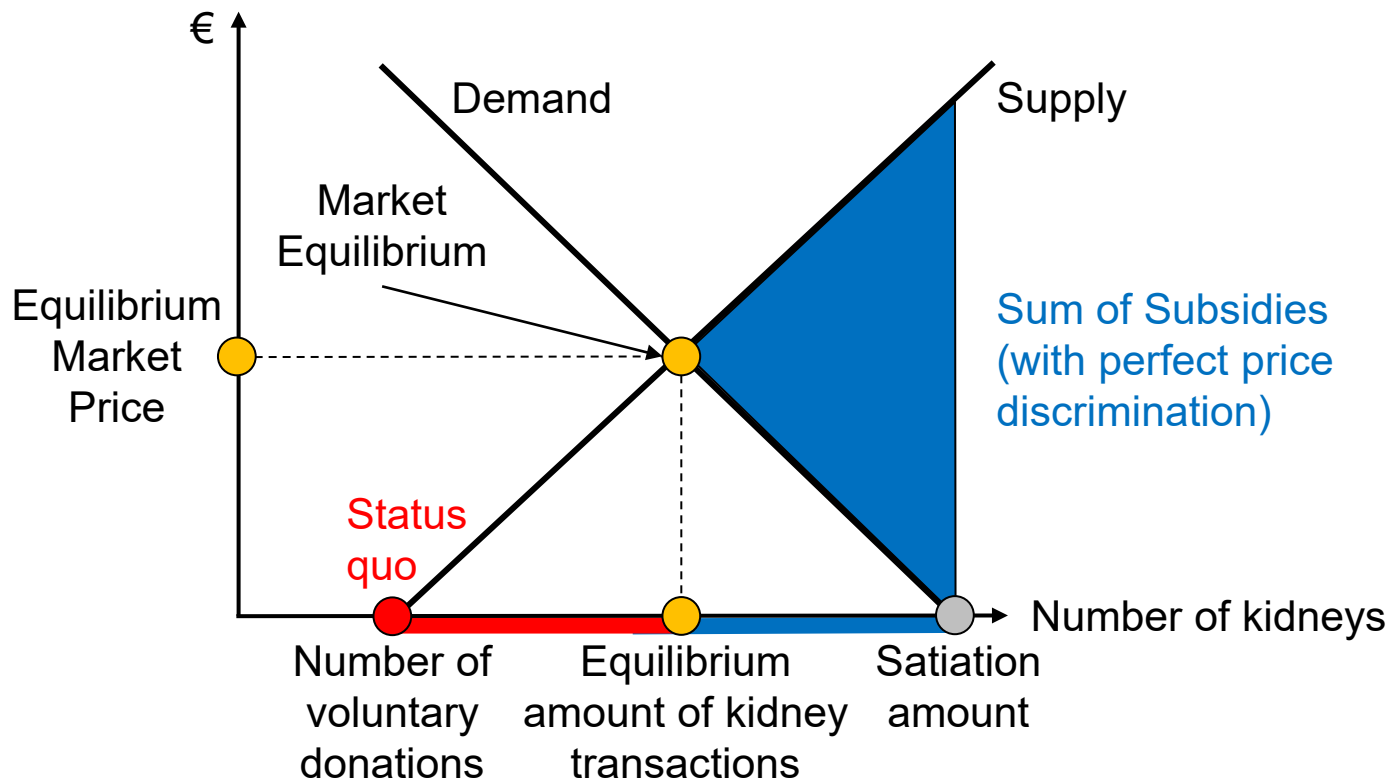


This contra position currently corresponds to the legal situation in Germany (and in large parts of the world).
Exception: Iran. There is a domestic market solution.



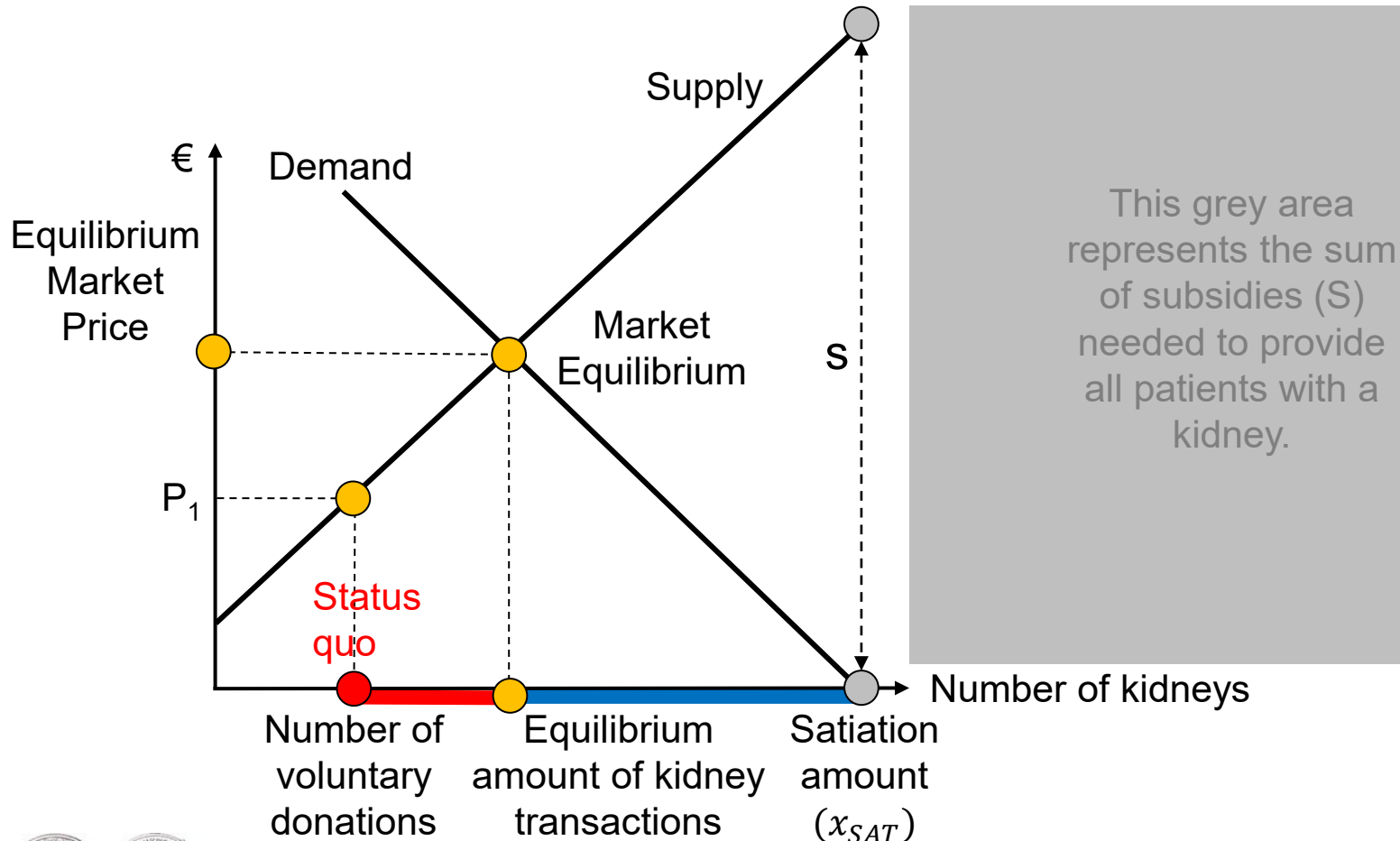
Analysis of Status Quo in Market Diagram

In the status quo, some organs are donated without financial compensation. But that is not enough to meet demand. The length of the red line corresponds to the number of lives that could be saved with a pure market solution. In addition, there is the blue line. Its length corresponds to the number of lives that could be saved with additional subsidies.



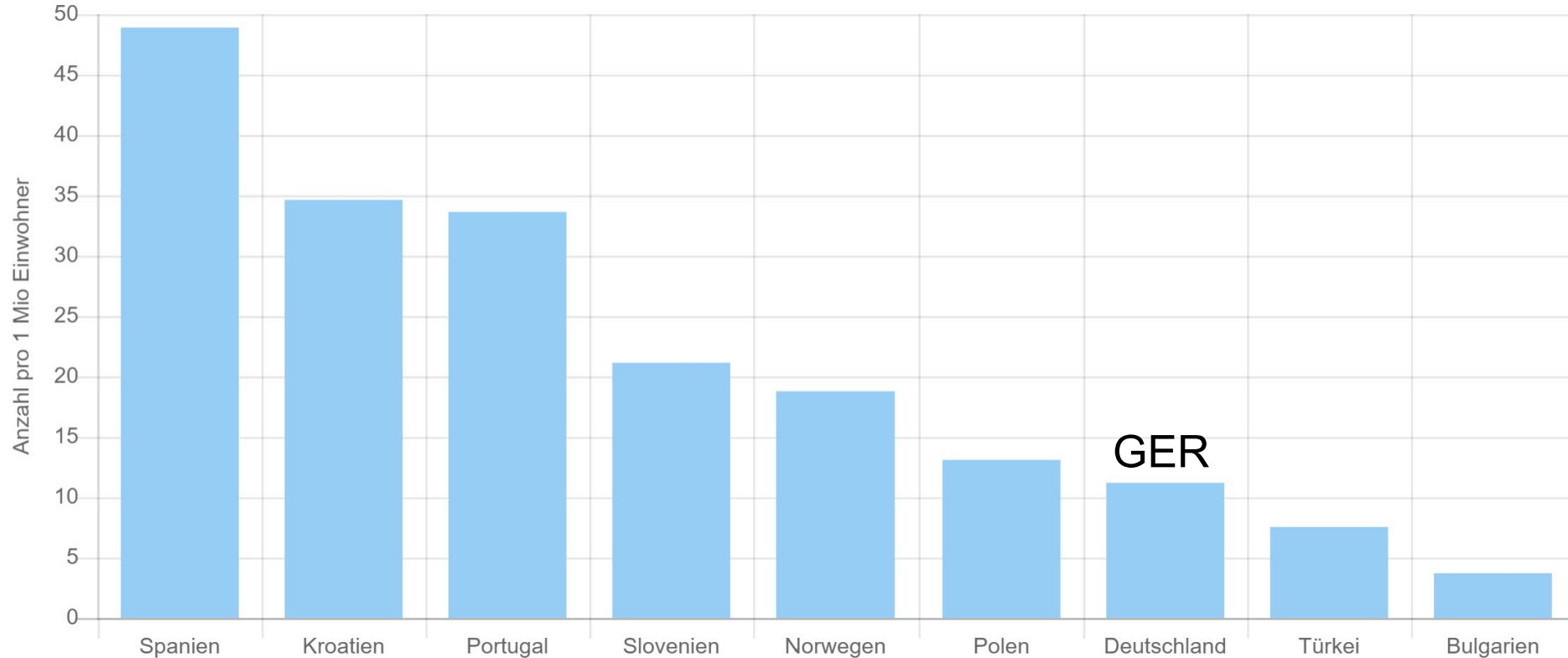
Analysis of Status Quo in Market Diagram

Let us assume that the introduction of legal market exchange crowds out free donations. Then the supply curve intersects the ordinate. P_1 is the price that leads to the same amount of kidneys as voluntary donations. The subsidy rate s is necessary to incentivize enough suppliers to reach the satiation amount x_{SAT} . Finally, $S = s \cdot x_{SAT}$



Number of Organ Donors per 1 Million Inhabitants in 2019

In Europe, Germany is far below average for organ donation (living and post-mortem). We import organs from neighbouring European countries (and thereby reduce their domestic supply).

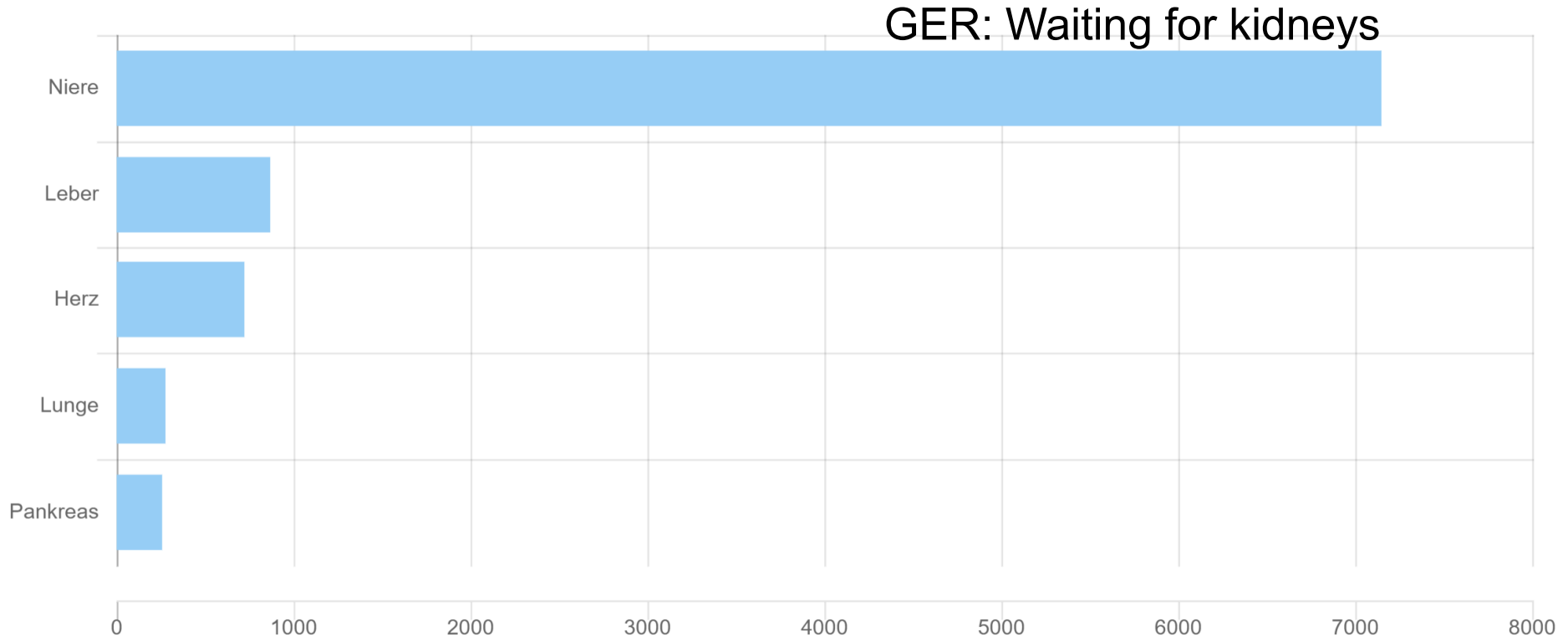


Quelle: <https://www.organspende-info.de/zahlen-und-fakten/statistiken.html#:~:text=Die%20meisten%20Patientinnen%20und%20Patienten%2C%20die%20auf%20der,756%20Personen%20auf%20der%20Warteliste%20sind%202019%20verstorben.>



Waiting List for Organ Transplants (Effective 31.12.2019)

In Germany, more than 7,000 people are waiting for a donor kidney in early 2020.



Quelle: <https://www.organspende-info.de/zahlen-und-fakten/statistiken.html#:~:text=Die%20meisten%20Patientinnen%20und%20Patienten%2C%20die%20auf%20der,756%20Personen%20auf%20der%20Warteliste%20sind%202019%20verstorben.>



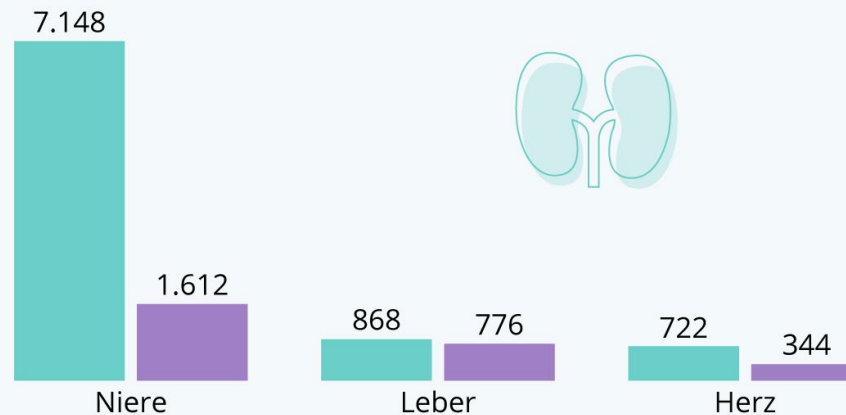
The Status Quo

The demand surplus for kidneys amounted to 5536 in 2019. 77.4% of patients were not cared for. They rely on dialysis. Many of them will die.

So viele Patienten warten auf ein Spenderorgan

Patienten auf der Organspender-Warteliste und transplantierte Organe in Deutschland 2019*

■ Warteliste ■ Transplantationen



* Transplantationen nach postmortaler Organspende inkl. Spenderorgane aus dem Ausland; Warteliste: Stand 12/2019

Quelle: DSO



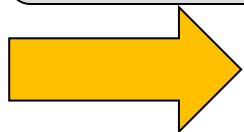
statista



The Call for a Market Solution: Reconstruction in Syllogism

Proponents of a market solution that balances supply and demand through free pricing assume an effectively regulated market, so that there is no external damage. Their argument can be reconstructed as follows:

- | | |
|--------------------------|---|
| 1a. Normative Premiss: | Human dignity should be inviolable. |
| 1b. Normative Premiss: | The state should ban behaviors that undermine human dignity. |
| 2a. Positive Premiss: | Whoever person sells one of her two kidneys (without coercion, i.e. voluntarily) does not degrade herself. |
| 2b. Positive Premiss: | Those who are not provided with a donor kidney as early as possible due to the moral prejudices of third parties are violated in their human dignity. |
| 3. Normative Conclusion: | The state should allow the sale of kidneys (and support them with subsidies). |



The human dignity of organ recipients dominates all moral concerns of voluntary degradation of organ donors.

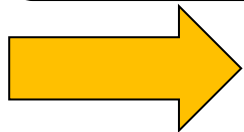


This Argument can be Further Developed in Two Directions

As a reminder, we distinguish between individual ethics, constitutional ethics and order ethics (see lecture 3). The prohibition requirement argues from the perspective of individual ethics. In doing so, it enters into a tradeoff because the dignity of the donor is opposed to the dignity of the recipient (which is ignored in the argument!).

Argumentation Strategy 1: One accepts the moral judgment that some people consider the sale of a kidney to be degrading (for the seller). But these people are not allowed to use their moral judgment to prevent a voluntary act of exchange between adults. Instead, they are required to show an act of tolerance: they may refuse a kidney sale for themselves, but not for others. This strategy employs the argumentation mode of **constitutional** ethics that seeks to strike a balance between competing moral conceptions.

Argumentation Strategy 2: One criticizes the moral judgment that some people consider the sale of a kidney to be degrading (for the seller). The starting point for this is the finding that gifts are allowed and only sales raise concerns. Here, emotions must be adapted to the needs of a modern society. To put it plainly, the requirement for a ban requires a high toll of blood and must therefore be deconstructed. This strategy employs the argumentation mode of **order** ethics.



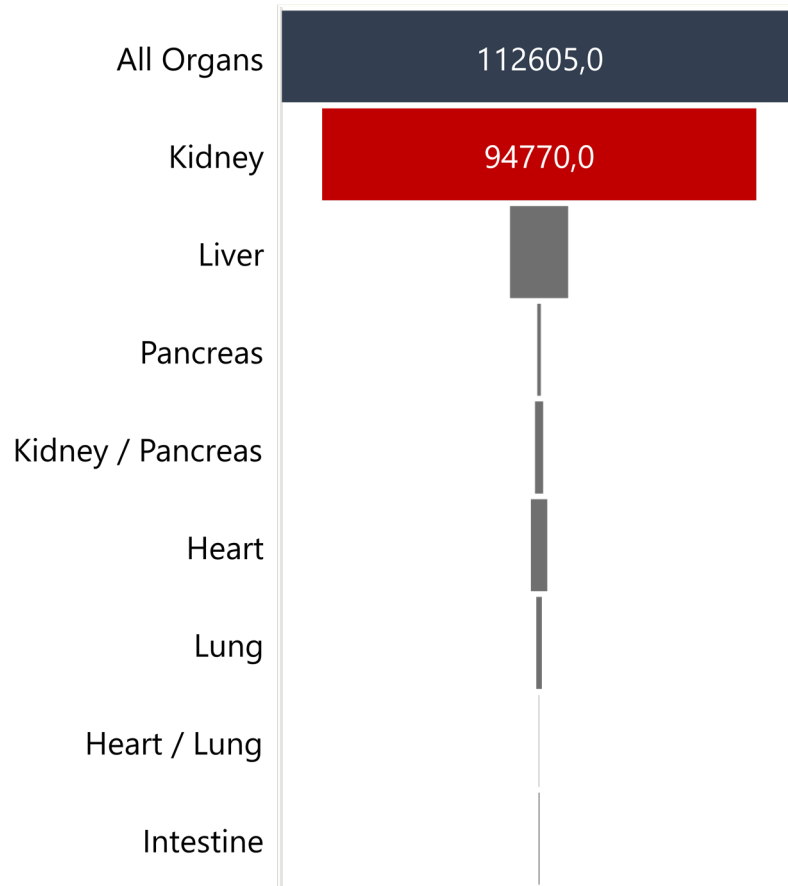
Both strategies are possible. However, orthogonal positioning can only be found with strategy 2 of order ethics reasoning .



Appendix with US Data on Kidney Transplantation



Organ Wait List in the United States: 2020



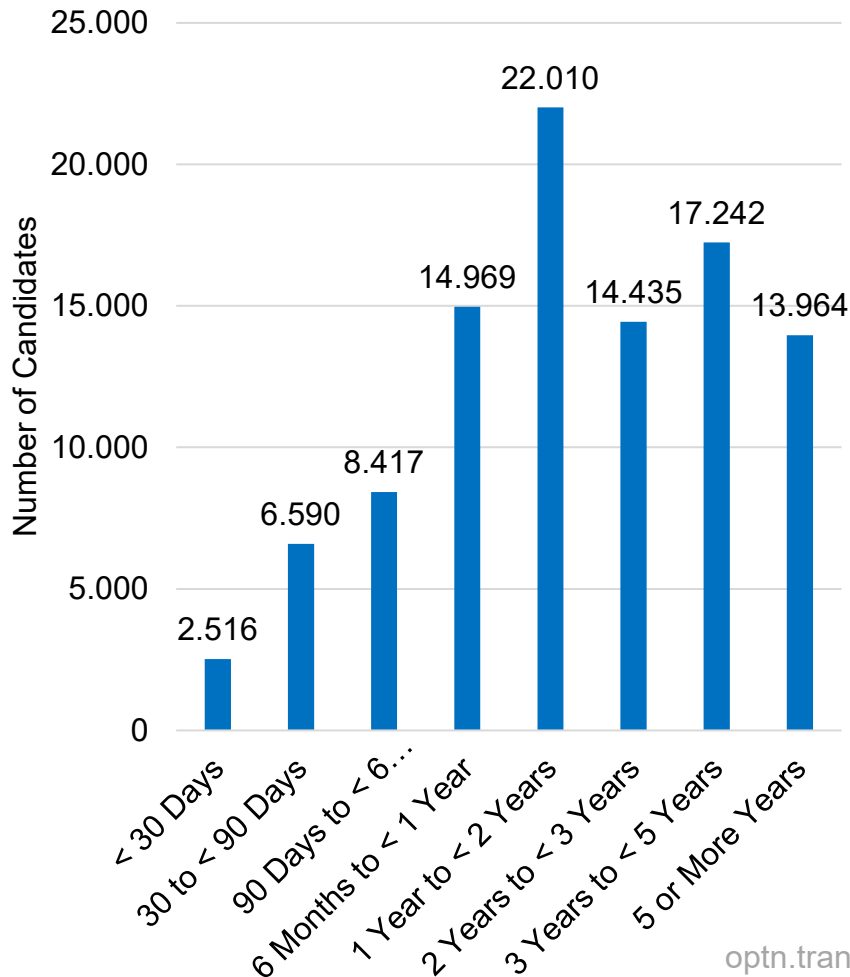
Currently, 84 % of candidates on the organ waitlist in the US are looking for a kidney transplant.

optn.transplant.hrsa.gov



Time is Key!

Candidates on Kidney Waitlist (US) versus Time



Dialysis is a lifesaving treatment, but not a permanent option.

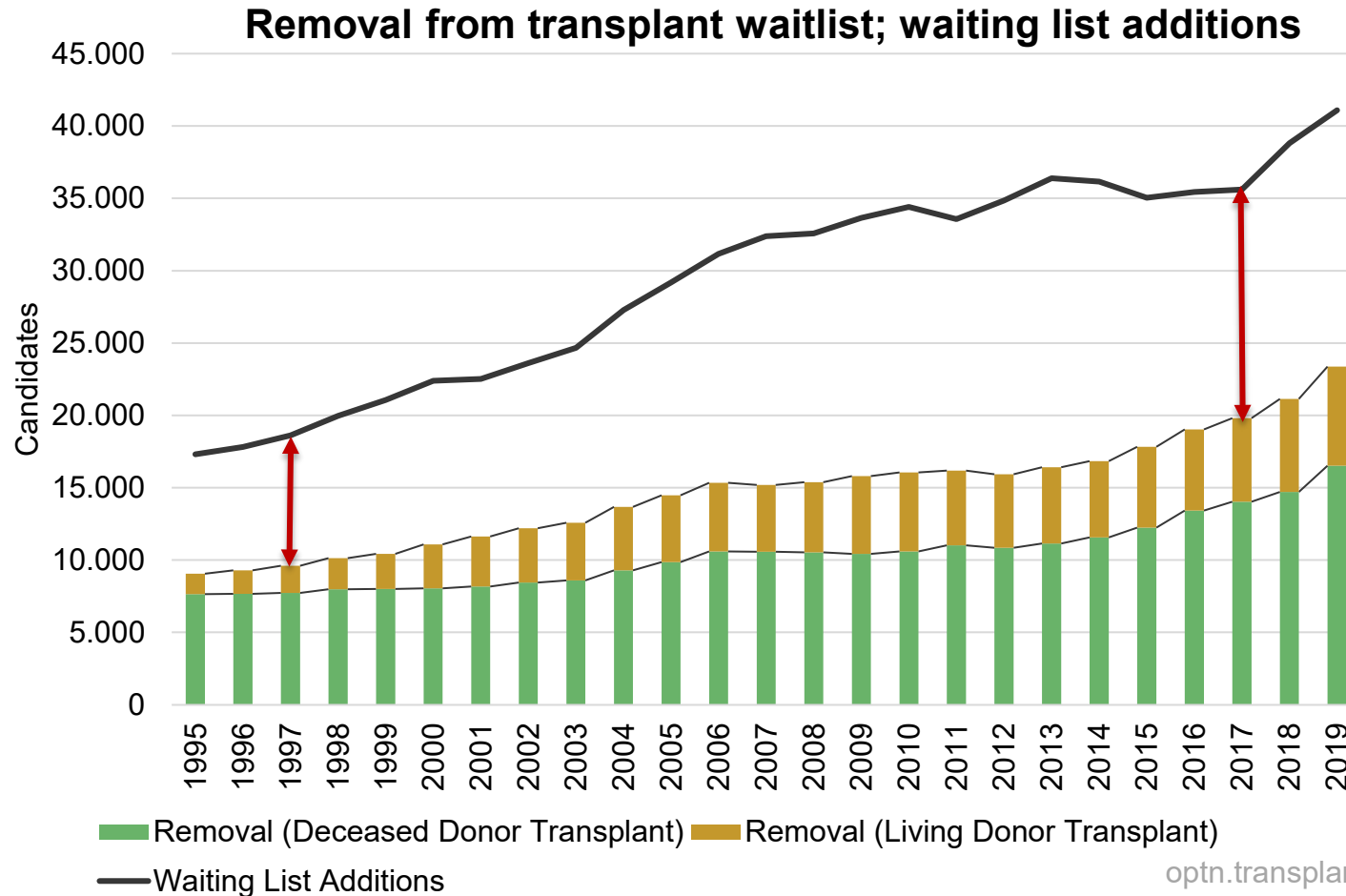
- The average life expectancy for kidney patients on dialysis is approximately five years.
- The average life expectancy is increased by 10 to 15 years if patients can get kidney transplant before dialysis treatment.
- The longer patients are waiting on dialysis, the higher are the chances that the kidney transplant will fail.

BIDMC.org



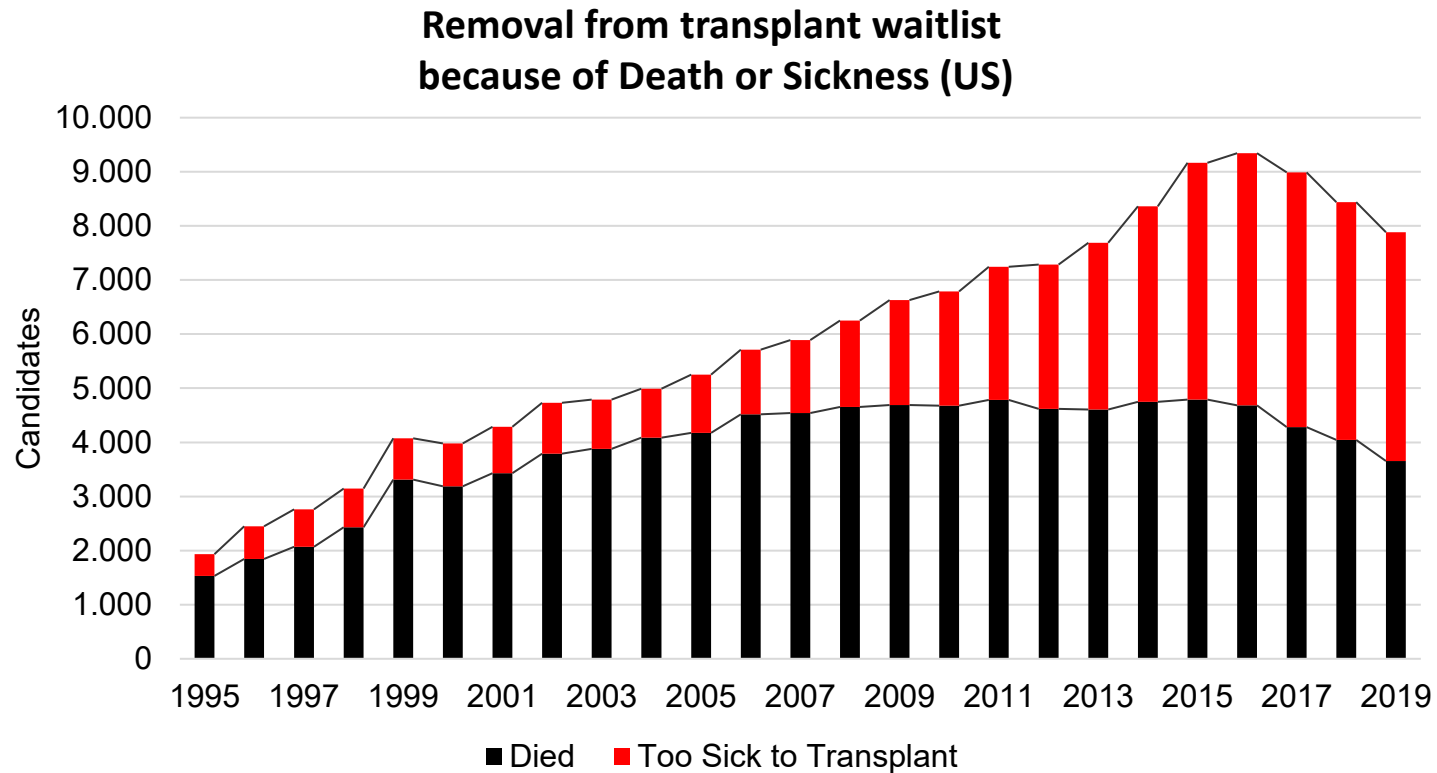
Kidney Transplant Shortage (I)

Despite ongoing kidney transplantations, the kidney shortage is increasing.



Kidney Transplant Shortage (II)

Around 8,000 patients annually either die on the waitlist or are removed for sickness.



optn.transplant.hrsa.gov



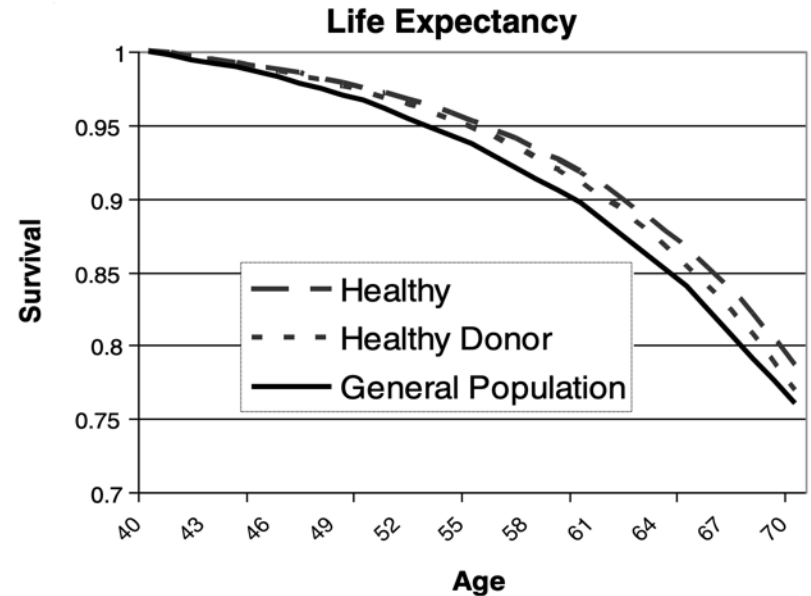
Long-Term Impact of Kidney Donation on Donors' Health

Long-term studies of live kidney donation do not show evidence of appreciable risks to the donor.

The impact of nephrectomy on white males

	20 years	40 years	50 years	60 years
Healthy normal without donation				
LE years	56.6	38.53	29.95	22.05
Cum ESRD %	3.51	2.60	1.96	1.44
Risk difference after donation				
Δ LE years	-0.92	-0.83	-0.77	-0.72
Δ Cum ESRD	+1.01	+0.89	+0.67	+0.50
Added Risk of ESRD	1/99	1/112	1/150	1/200

Cum, cumulative; ESRD, end stage renal disease; LE, life expectancy.



Kiberd, B. A. (2013). Estimating the long term impact of kidney donation on life expectancy and end stage renal disease. *Transplantation Research*, 2(1), 2. <https://doi.org/10.1186/2047-1440-2-2>



More Food for Thought

A single reform that could save 100,000 lives immediately

<https://www.latimes.com/opinion/story/2023-07-09/kidney-donation-disease-transplant-ethics-national-organ-transplant-law>



*“We’ve run out of options.
The supply is nowhere near
the demand for kidneys, and
the gap is widening.
Why not pay people to
donate a kidney?”*

