

The INDEPENDENT

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C-SPAN Repeatedly Airs Policy Forum

The Civil Rights revolution was a pinnacle of American history, freeing African Americans from centuries of disenfranchisement. Yet, according to U. of California-Berkeley linguist **John H. McWhorter** (author, *Losing the Race: Self-Sabotage in Black America*), it has also had a tragic side effect: as racism recedes as a serious obstacle to black advancement, many have been misled into a self-destructive detour that has dramatically slowed black progress.



John McWhorter's Independent Policy Forum presentation was repeatedly aired on C-SPAN2.

At his March 20th Independent Policy Forum address, repeatedly aired on C-SPAN2, McWhorter discussed attitudes in the African American community that he believes have widened America's racial divide, what he calls "the cults of black separatism, victimology, and anti-

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Szasz Headlines *The Independent Review*

Until 1917, the federal government played no role in medicine. Today, we are subject to a "therapeutic state" in which government dominates medicine not only via licensing requirements, pharmaceutical regulation, research funding, Medicare and Medicaid, and the War on Drugs, but also in promoting faddish (and often highly dubious) approaches to mental health and in stifling dissent on medical issues.

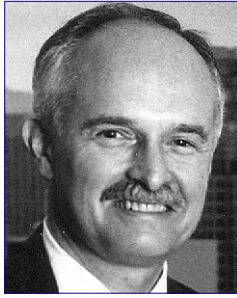


The Independent Review, Spring 2001.

Government intervention is becoming so ubiquitous that it may well *reduce* our health and liberty, argues world-renowned psychiatrist **Thomas S. Szasz** (Health Science Center, State University of New York, Syracuse) in *The Independent Review* ("The Therapeutic State: The Tyranny of Pharmacracy," Spring 2001).

"We have become a prosperous nation by separating the economy and the state, not by making the state the source of employment, as

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President's Letter:

The Power Politics of Electric Energy

In an age of incredible technological progress and enormous innovation in entrepreneurship and competitive markets, one wonders why so many people somehow find comfort in making the complexities and subtleties of the "New Economy" subject to the incompetence, waste, ignorance, and duplicity of government bureaucracies and politicians.

Such has been the case with electric power in California and around much of the U.S. For years, electric rates were set by governments in a cozy relationship with power utilities to give subsidized rates to business and government entities, while shifting the real costs onto the masses of ignorant, residential consumers.

Then in response to competitive pressures to liberalize power markets, California politicians from both major parties, in conjunction with the major utilities and other interests, agreed unanimously to reform the system *not* to end the cost shifting but to continue with fixed rates for customers while mandating that all power supplies be sold through the state government on a daily spot market. Such an inflexible system was designed to protect utility interests from real competition, and could not possibly adapt to changing prices amidst growing demand.

Now, burdened by yet another egregious example of government folly, what should be done? While a predictable chorus of luddites, power brokers, and economic illiterates call for even greater political bungling, The Independent Institute seeks real solutions.

Recent **Independent Policy Forums** (see page 1), our books, our quarterly journal, *The Independent Review* (page 1), our media programs (page 4), our student programs (page 8), and more demonstrate the power of The Independent Institute to challenge the reality of power politics on all public issues.

In so doing, The Independent Institute is illuminating the real issues.

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Independent Policy Forums: African-American Progress • Privacy • Friedrich A. Hayek*(continued from page 1)*

intellectualism.” Examples, he explained, include black students holding separate college graduation ceremonies, interpreting every injustice as a case of racism, and labeling academic effort as “acting white.” But perhaps the most destructive attitude is one that is never fully articulated. “That,” said McWhorter, “is the very simple misconception that the fact that there still exists residual racism means that all black achievement is a chance affair, or is something that only extraordinary people can do.” This common, unspoken assumption has paralyzed much progress in the lives of many African Americans, he said.

McWhorter also explained why he believes “dialogues” on race are often more divisive than unifying, why the writings of NAACP co-founder W.E.B. DuBois are still timely 100 years later, and why the real message of Tulsa, Oklahoma’s race riot of 1921 (destroying the city’s prosperous Greenwood District, a.k.a. “The Black Wall Street”) is not “Don’t get too comfortable because white racists might burn something down,” but “See what a wonderful



David D. Friedman (Santa Clara University School of Law) addresses the Independent Policy Forum.

community we had built in the midst of a completely racist society.”

(For the transcript and RealAudio file: <http://www.independent.org/tii/forums/events.html>.)

● **WILL ENCRYPTION PROTECT PRIVACY AND MAKE GOVERNMENT OBSOLETE?** (April 24): New advances in information technology allow the possibility of greater privacy, but they also make it easier for government bureaucrats, criminals, and other unwanted intruders to snoop into your private

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The Independent Review: Therapeutic State • Federal Budgets • Kidney Shortages*(continued from page 1)*

have the communists, with the disastrous results now known to all,” writes Szasz. “We can become a healthy nation only by separating medicine and the state, not by making the state the source of health care, as have the communists, with similarly disastrous results.”

Indeed, the politicization and government takeover of medicine and psychology—what Szasz terms “pharmacracry”—may pose a worse threat than communism, theocracy, mob rule, or other rationalizations for state coercion because so few people have spoken against it.

“Americans’ love affair with pharmacracry now transcends traditional distinctions between left and right, liberal and conservative, Democrat and Republican. Physicians, who ought to know better but for the most part don’t, are perhaps the most naive and at the same time the most zealous advocates of medical interventions for all manner of human problems. “We are building a society based on the false premise that if x is a ‘leading cause’ of death, then x is a disease and a public-health problem whose prevention and treatment justify massive infringements on personal freedom.”

“Formerly, people rushed to embrace totalitarian states. Now they rush to embrace the

therapeutic state. By the time they discover that the therapeutic state is about tyranny, not therapy, it will be too late,” Szasz concludes.

(For full article: http://www.independent.org/tii/content/pubs/review/tir54_szasz.html.)

● **“How Transparent Is the U.S. Budget?”** Although the U.S. budget is currently in surplus, the federal government still carries a worrisome debt load—a whopping \$5.6 trillion or about 60 percent of gross domestic product—that taxpayers will eventually be forced to pay.

Budget observers have offered dozens of explanations for why the federal government has favored debt finance so heavily over the past five decades. The underlying cause may be simply that the federal budget has grown too complex, too obscured by government jargon and accounting tricks, for the public to carefully scrutinize. In other words: no budgetary transparency, no fiscal accountability.

“Many budgetary processes and practices lack transparency and accountability,” explains economist **Jody Lipford** (Presbyterian College) (Spring 2001). A list of budgetary sleights-of-hand is enough to suggest why the public is discouraged from closely inspecting the federal budget.

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The Independent Institute in the News

- **AMERICAN HEALTH CARE** editor and research fellow **Roger Feldman**'s op-ed outlining the tough choices on Medicare, patients' bill of rights legislation, and other health care issues appeared in *The Washington Times* (3/7). **CUTTING GREEN TAPE** coeditor and author **Roger Meiners** was interviewed on KLPW (4/11) in St. Louis and WIXC (4/12) in Orlando. Research Fellow **Randall G. Holcombe**, author of **WRITING OFF IDEAS**, discussed his book on the "Mike Thomas Show" on KWRE (4/30) in St. Louis.
- **Donald A. Downs**, who is working on an Institute book about civil liberty on America's campuses, authored an op-ed which appeared in the *Chicago Sun-Times* (4/24) and the *Milwaukee Journal-Sentinel* (4/19) about the student newspaper he advises at the Univ. of Wisconsin-Madison, which resisted censorship efforts after publishing Salon.com columnist David Horowitz's ad opposing reparations for slavery.
- In *The University of Chicago Law Review* (Spring 2001), reviewer Andrew Morriss wrote that **TO SERVE AND PROTECT** by Senior Fellow **Bruce Benson** "is a clear case where economics has made a clear contribution to the study of law," represents "what economists ought to be doing about the law (and other topics)," and "makes an excellent start at bringing the insights of economics on criminal justice issues to a wider audience."
- On the eve of the Academy Awards, an op-ed by Research Fellow **Jeffrey Miron** nominating the movie, *Traffic*, as "The Most Important Movie of the Year" for popularizing truths about the war on drugs, appeared in the *San Diego Union-Tribune*, *Orange County Register*, *Bergen (NJ) Record*, and *Idaho Press-Tribune* (3/25).
- Following President Bush's decision to oppose the Kyoto Protocol's call for caps on carbon dioxide emissions, Research Fellow **Fred Singer**'s commentaries have appeared in the *Washington Times* (2/2, 2/20) *Wall Street Journal* (3/16), and *National Post* (3/17). Nationally syndicated columnist Charley Reese called **HOT TALK, COLD SCIENCE**, the Institute book authored by Singer, "a sensible and unbiased discussion of [global warming]" (April). The book also received high praise from writer Rory Leishman in the *London (Ontario, Canada) Free Press* (4/3).
- Shortly after "Tax Day," an op-ed by **TAXING CHOICE** editor and Research Fellow **William F. Shughart II** and two of his colleagues appeared in the *Lewiston (ME) Sun Journal* (4/22). The op-ed summarized the group's finding that taxpayers living in congressional districts with representatives on IRS oversight committees have a 30 percent lower risk of IRS audits than do other citizens. A related story quoting Shughart appeared on WorldNetDaily.com (4/21).
- **WINNERS, LOSERS & MICROSOFT** received kudos from *Silicon Alley Reporter* columnist Arthur Fleisher (April) and *Financial Times* columnist Amity Shlaes (3/6). Coauthor **Stephen Margolis** was the selected speaker for the 2001 Stranahan National Issues Forum at the U. of Toledo College of Law (*Toledo [OH] Blade*, 3/9). Margolis was also interviewed by Jim Horne, host of the nationally syndicated NPR program, "The Law Show" (5/29), and his coauthor, **Stan Liebowitz**, was interviewed on WorldNetDaily radio by Geoff Metcalf (2/28) and KFNN (Phoenix, 5/30).
- An op-ed by **Can Teachers Own Their Own Schools?** author and Senior Fellow **Richard Vedder** in the *Plain Dealer* (OH, 3/9) echoed the call for "reduced barriers to entry into the teaching profession." The **Independent Scholarship Fund** (ISF) was prominently featured among a group of articles about private schools in the *Oakland Tribune* (5/13), and ISF Director, **Katherine Shearer**, was interviewed about the program on KSBT (4/11) in Oakland, Calif.
- California's Little Hoover Commission heard from Research Director and Vice President **Alexander Tabarrok** on the issue of immigrant integration (5/24). Founder and President **David J. Theroux** was a guest on the San Jose, Calif. cable TV program "Issues Today" (4/5). Public Affairs Director **Rob Latham** was a guest on the KFJC-FM program "Sez Who News" (3/9) in Los Altos, Calif.
- The Institute has recently exhibited at numerous events, including the American Political Science Association in Washington, D.C., American Geophysical Union in San Francisco, Press Freedom Conference in San Francisco, and The Lindesmith Center/Drug Policy Forum Conference in Albuquerque. ●

*Independent Institute Book:***Is Self-Defense a Constitutional Right?**

Few issues ignite such impassioned debate as the Second Amendment to the U.S. Constitution. Does it really give citizens the right to possess firearms, or is that right restricted to a “well-regulated militia” such as the National Guard? In recent years, legal scholarship has come to favor the *individual right* interpretation, thanks partly to **Stephen Halbrook’s** landmark book, *That Every Man Be Armed: The Evolution of a Constitutional Right*, recently updated by The Independent Institute.

“Whatever the future holds,” writes Halbrook, “there is no turning back to the days when a judge could say with a straight face that the Second Amendment protects only National Guardsmen, and then only when on duty.” For example, *That Every Man Be Armed* was favorably cited in Supreme Court Justice Clarence Thomas’s concurring decision in the landmark 1997 case *Printz v. United States*—argued by Halbrook, a leading Second Amendment attorney—which struck down parts of the Brady Act.

Comments on *That Every Man Be Armed*:

“That Every Man Be Armed provides indefatigable research into the Second Amendment, and all serious scholars will eternally be in its debt.”

—**SANFORD V. LEVINSON**

Professor of Law, University of Texas

“Comprehensive and well-written.”

—**GEORGE WASHINGTON LAW REVIEW**

“In-depth and suitable for a very wide audience.”—**JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY**

“Highly recommended.”—**CHOICE**

“The definitive book on the historical and legal development of the Second Amendment and our right to bear arms.”

—**SENATOR ORRIN G. HATCH**

Halbrook begins by showing that the idea of an individual right to keep and bear arms is found throughout Western thought. From Plato to Locke, philosophers have recognized that an armed populace is a safeguard against the imposition of tyranny. This idea became embodied in the English common law tradition, which for a time even *required* Englishmen to keep and bear arms for the common security.

American colonists took for granted that they were entitled to the same rights as Englishmen. They regarded gun control—first imposed on them during Bacon’s Rebellion in 1676—as an outrageous violation of a fundamental right. The framers of the U.S. Constitution were conscious of their legal and intellectual heritage when they drafted the Second Amendment and clearly in-

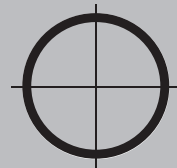
tended to allow gun ownership not just to defend personal life and property but also to prevent the government from becoming a tyranny.

From the ratification of the Constitution to the Civil War, keeping and bearing arms, including firearms, was virtually unquestioned as a right of each citizen. That the Second Amendment recognized an individual right to keep and bear arms was not an issue for partisan politics, and the courts consistently so held. The only exception appeared in the Southern states, where

THAT EVERY MAN BE ARMED

The Evolution of a Constitutional Right

STEPHEN P. HALBROOK



THE INDEPENDENT INSTITUTE

*Newly updated edition of the widely acclaimed book, **That Every Man Be Armed.***

African Americans were prohibited from owning firearms for fear of a slave insurrection.

After the Civil War, judicial commentators continued to interpret the Second Amendment as protecting an individual right. The right to keep and bear arms, and other freedoms in the Bill of Rights, were viewed as common-law rights explicitly protected by the Constitution. The Fourteenth Amendment, ratified in 1868, was intended partly to protect former slaves from abridgement of their right to bear arms.

Halbrook concludes by surveying the most important court decisions since Reconstruction, demonstrating the swings of judicial decisions toward, and away from, the right to bear arms. (*That Every Man Be Armed*: 275 pages, (\$22.95 postpaid); unabridged audio, 7 cassettes (\$62.95 postpaid); order at http://independent.org/tii/catalog/cat_TEMBA.html.)●

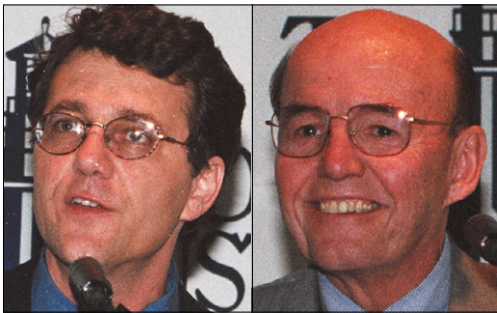
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life. Will privacy-enhancing technology outpace privacy-threatening technology? Or will the new technology strengthen the rule of Big Brother?

Economist, physicist, and legal scholar **David D. Friedman** (Santa Clara University Law School; author, *Law's Order: What Economics Has to Do with Law and Why It Matters*) addressed these and related issues in his Independent Policy Forum talk.

Over the next few decades, public key encryption, a young technology increasingly used in e-commerce, is likely to promote privacy and limit government abuses—unless the government acts immediately to control its use, Friedman said.



(left to right) **Alan O. Ebenstein** and **Charles W. Baird** address the Independent Policy Forum.

Public key encryption lets individuals decide with whom to share personal information, rather than attempt to control the use of information that has already “gotten out.” It will better ensure that financial information, health records, and other information will go only to those whom the user deems are on a need-to-know basis. And it will also promote anonymity in e-commerce transactions, placing some entirely beyond the grasp of the taxman.

Further, public key encryption will also help curb political abuses, according to Friedman. Just as the Second Amendment institutionalized citizens’ self-defense against federal tyranny, so public key encryption will help citizens defend themselves against government propaganda. Information about government encroachment will be easier to spread and thereby keep it in check. (For a transcript and RealAudio file: <http://www.independent.org/tii/forums/events.html>.)

● **FRIEDRICH HAYEK AND THE FUTURE OF LIBERTY** (May 16): The rich intellectual legacy of Austrian School economist and social philosopher Friedrich A. Hayek

(1899–1992) was the subject of talks by author **Alan O. Ebenstein** (*Friedrich Hayek: A Biography*) and economist **Charles W. Baird** (California State University, Hayward) at an Independent Policy Forum co-sponsored with the Smith Center for Private Enterprise Studies.

Hayek, Ebenstein explained, left such a profound mark on social thought that *The New Yorker* has called the 20th century, “The Hayek Century.” After converting to free-market capitalism and classical liberalism in the 1920s, Hayek became a leading critic of socialism and statism. His 1944 bestseller, *The Road to Serfdom*, warned of the authoritarian, and even totalitarian, tendencies of central-government planning and helped re-ignite worldwide interest in the philosophy and practice of freedom.

Although Hayek’s 1974 Nobel Prize in Economic Science brought renewed interest in his ideas, it wasn’t until the collapse of the Soviet Bloc (which Hayek predicted) that his vast writings on economics, political philosophy, law, history, culture, and other fields became broadly recognized as essential to achieve a prosperous, humane and free society.

“Hayek’s brilliant insight is that there is a division of knowledge among all of the members of a society,” said Ebenstein. “Hayek’s idea is very simple, but it has potentially profound consequences.

“Hayek thought that the division of knowledge precludes the possibility of classical socialism, of the central management of a nation’s economy from one place. The division of knowledge, he thought, requires capitalism. Only under a system—whatever its other flaws—in which the reality of divided knowledge is accommodated is a materially productive society possible.”

Baird complemented Ebenstein’s presentation by discussing Hayek’s work in economics and his influence—often unacknowledged—on other economists, the prospects for a more Hayekian, freedom-embracing society, and several amusing anecdotes about his encounters with the brilliant and charming Austrian.

(For a transcript and RealAudio files: <http://www.independent.org/tii/forums/events.html>.) **Independent Policy Forums can also be ordered as transcripts @\$5.00, audio tapes @\$18.95, and video tapes @\$27.95.●**

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Giving Through Your Will

Every year, The Independent Institute has had the privilege of receiving bequests from the estates of deceased friends, and these gifts make a tremendous difference as we move into the future. When you revise or create your will for the first time, we hope you will include The Independent Institute. Your estate gift will help us serve current and future generations.

Bequest Options: In considering an estate gift, it may be useful to know the options.

- You can make your bequest as an unrestricted gift. This permits The Independent Institute to use your bequest where it is needed most.
- A second type of bequest is designated or restricted to a specific purpose. For example, a gift may be earmarked for programs you feel passionately about (e.g., subjects such as economic freedom or the environment, student programs, etc.), or for capital improvements. You could even designate a bequest to establish an endowment.
- A third type would be a combination of the first two. That is, part of the bequest might be used as the Board sees fit and the restricted part for the predetermined purpose.

Methods of Making Bequests: Once you've decided on the kind of bequest, you must determine how the bequest will be identified. You have at least three options:

1. You can identify a specific amount or item. For example, you could bequeath a vacation home to The Independent Institute, certain securities, or a set amount of money.
2. You can name The Independent Institute to receive a percentage of the residue of your estate—the amount that is left after the bills and specific bequests have been made.
3. You can name The Institute as a contingent beneficiary to receive that part of your estate that would have passed to another person had he or she been living. For example, a will can indicate that everything is to go to your spouse unless your spouse predeceases you—in which case all or part of the assets could be assigned to The Independent Institute.

As you think through your estate giving plans, you may want to speak with our director of development, **Rod Martin** (RMartin@independent.org), who as an attorney has worked with many people concerning their bequest plans and can explain the available giving options. In addition, he will supply you with the correct legal name of The Independent Institute, as well as suggested wording for the various bequest types and methods mentioned above. All of this will assist your attorney when you meet with him or her to discuss and finalize your will.

As you proceed with your estate plans, we strongly encourage you to inform us about any bequest decisions affecting The Independent Institute. This will help ensure that we can honor any restrictions you have placed in your bequest and helps our long-range planning efforts if we know where future resources are being directed. Best of all, it gives us the opportunity to thank and honor you in advance, and to include you in our exclusive **Lighthouse Society**.

For a **free Planned Giving Kit** and, if you wish, to request a visit from **Rod Martin**, please call The Independent Institute's planned giving office at 510-632-1366 x114. ●

The Independent Review: Therapeutic State • Federal Budgets • Kidney Shortages

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Examples include: the use of off-budget Social Security surpluses to reduce total-budget deficit figures, baseline budgeting, the backloading of politically unpopular spending cuts and tax increases in multiyear budget deals, the specification of unrealistic and unattained deficit targets in the Gramm-Rudman-Hollings Act and 1990 Omnibus Budget Reconciliation Act, an inflated defense baseline in the 1990 budget, violations of spending caps in the 1997 Balanced Budget Act, and avoidance of significant entitlement-program reform in all budgetary legislation.

How does this affect political spending decisions and the national debt? “Regardless of the budget’s balance, politicians will continue to use budget legislation and practices that ob-

fuscate citizens’ ability to understand budgetary provisions, monitor compliance, or hold politicians accountable.”

(For full article, http://www.independent.org/tii/content/pubs/review/tir54_lipford.html.)

● **“A Free Market in Kidneys: Efficient and Equitable”** Thousands of Americans in need of kidney transplants die each year because of a shortage of kidneys. This tragedy is all the greater because the shortage is manmade and potentially easy to fix. All that lawmakers need to do is repeal the laws that created the shortage, according to Loyola University (New Orleans) economists **William Barnett II**, **Michael Saliba** and **Deborah Walker** (Winter 2001).

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2001 Summer Seminars for Students

This year, co-sponsored by **Holy Names College**, The Independent Institute will hold *two* of its annual, very popular, five-day **Summer Seminars in Political Economy** for high school and college students at the Institute's Conference Center in Oakland, California. The first of the seminars—which are led by **Joseph Fuhrig** (Professor of Economics, Golden Gate University)—will be held **July 9-13**, and the second will be held **August 13-17**.



(left to right) **Joseph Fuhrig**, seminar students, and the Bay Area view from Holy Names College.

The seminars offer students an excellent instruction/discussion program in what economics is, how it affects their lives, and how learning its laws can help them understand and deal with the world in which they will soon enter. Nearby Holy Names College is offering a one-hour of college course credit in economics, as well as affordable overnight room and board accommodations on its campus, which overlooks the beautiful San Francisco Bay Area.

The seminars run daily from 8:30 a.m. to noon. The enrollment fee is \$175/person, room/board for the week is \$300/person, and for the college course enrollment, add \$125/person.

For further information and to make reservations, visit <http://www.independent.org/tii/students/SummerSeminar.html>, or contact Mr. Carl P. Close, Academic Affairs Director • Phone: 510-632-1366 x117 • Fax: 510-568-6040 • Email: CClose@independent.org. •

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The Independent Review

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The law that ensures a shortage of kidneys is the National Organ Transplant Act of 1984, which bans the purchase and sale of kidneys in the United States. Economists who have studied the issue are well aware that the government ban causes needless deaths, but lawmakers show no eagerness to reform the law. Why?

One reason is that lawmakers believe that in a free market, only wealthy patients would receive transplants. However, according to the authors, this belief is mistaken; in the U.S., the federal government is the de facto payer-of-last-resort for virtually all kidney transplants. And with a free market in kidneys, with a third-party payer such as the federal government, no one who needed a kidney would go without one.

In fact, argue Barnett, Saliba and Walker, a free-market in kidneys would improve both the quantity and quality of kidneys supplied, as more people would be financially induced to donate kidneys. "It is the current system of kidney procurement that is immoral, not the proposed free market for kidneys," conclude the authors.

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