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ON JEWISH LIFE

Organ Donor Law Hits Orthodox Opposition

Controversial ‘presumed consent’ will have to go

By [Mark Bergen](#) | May 27, 2010 3:04 PM | [Print](#) | [Email](#) |



N.Y. Assemblyman Richard Brodsky.

[Richard Brodsky for New York Attorney General](#)

Four years ago, Richard Brodsky, a Democratic Assemblyman from Westchester County, New York, abandoned his bid for state Attorney General after his ailing teenage daughter needed a kidney transplant. Last month, Brodsky (again [trying](#) to be New York’s top cop) stood with his daughter to [announce](#) his plan to significantly alter the state’s organ donor laws in a way that would dramatically increase the number of donors. But his proposal met swift opposition from several influential Orthodox organizations that, along with the Catholic League, are already working to squash the proposal.

Joined by representatives of the Orthodox communal organization Agudath Israel, Brodsky’s fellow Democrat, Dov Hikind, an Orthodox Assemblyman from Boro Park, Brooklyn, voiced his concerns to Brodsky in a congenial and productive discussion, according to both legislators. By meeting’s close, Brodsky made it clear that he would not push for the bill’s passage.

All the meeting participants, Hikind told Tablet Magazine, agreed that organ donation is “a huge mitzvah, a good deed.” The primary concern of the Orthodox community, he said, are “situations where the onus is put on the individual citizen.” And the bill’s proposal for “presumed consent” would do just that: Require a state resident who is opposed to being a donor to affirmatively indicate so, most commonly on a driver’s license. The legislation, Hikind said, “was tantamount to entrapment.”

For Brodsky, “presumed consent” is the point: It is a necessary step to reform and expedite the organ donation process. He cited the gap between those who are willing to donate, and those that are registered donors. The concern from the Orthodox community, Brodsky said, centered on the “opt-out” provision and its potential “unintended consequences.”

Presumed consent, a measure in place in 24 European countries but not the United States, has faced criticism over [privacy](#) and [bioethical](#) concerns. Add to that the dense religious and cultural baggage surrounding organ donation, particularly amongst Orthodox Jews in [Brooklyn](#).

A central objection to the proposal, for Hikind, is the state’s intrusion into private lives. “I’m not talking about taxes,” he said solemnly, “but part of your body.” This mirrors the response from the Catholic League, a large opponent of the measure, along with the Rabbinical Alliance of America and the National Council of Young Israel. In a staunch statement of support for Hikind, Catholic League President Bill Donohue [wrote](#): “The state does not have a lien on our bodies.”

Hikind also shared his worry with another portion of the proposal, one which would wipe away the right of next of kin to determine donor status. “Everyone close to this person would have absolutely no input,” he cautioned, “which is quite incredible.” For him, the solution is further education on organ donation in the Orthodox community (since most organ donation is Halakhically okay), rather than a blanket law.

Brodsky, however, is not surrendering his cause. He plans to work with leaders from Agudath Israel to craft new legislation; their objections, he said, were “all perfectly reasonable things that the legislative proposal needs to consider.” He mentioned modeling the proposal after Israel’s organ donation laws. Of course, those laws are not without [their complications](#). And Israel’s proposal to compensate donor’s families is unimaginable in a state like New York, with its dire budget problems.

Still, both lawmakers seemed positive about the odds of arriving at a consensus to move the efforts forward. Brodsky is committed to protecting the rights of those who prefer not to donate. But he also wants organ donations to increase. It is, he said, “a moral imperative in the Jewish community.”

[N.Y. Lawmaker Wants Presumed Organ Donation Consent](#) [NYDN]

Earlier: [Israel’s New Organ Donor Policies](#)

More in: [Dov Hikind](#), [Halachic Organ Donor Society](#), [organ donation](#), [Richard Bordsky](#)

7 Responses to “Organ Donor Law Hits Orthodox Opposition”

1.  *Daniel* says:

[May 27, 2010 at 3:28 PM](#)

The goal of encouraging organ donation is of course worthwhile. But would presumed consent be a violation of the “Nuremberg Code” principle of “informed consent”?

2.  *Dave Undis* says:

[May 28, 2010 at 8:08 AM](#)

If we're going to presume people are organ donors unless they opt out, we should also give people a reason to NOT opt out. Donated organs should be allocated first to those who haven't opted out. People who opt out of organ donation should go to the back of the transplant waiting list. The United Network for Organ Sharing, which manages the national organ allocation system, has the power to make this simple policy change. No legislative action is required.

Americans who want to donate their organs to other registered organ donors don't have to wait for UNOS to act. They can join LifeSharers, a non-profit network of organ donors who agree to offer their organs first to other organ donors when they die. Membership is free at <http://www.LifeSharers.org> or by calling 1-888-ORGAN88. There is no age limit, parents can enroll their minor children, and no one is excluded due to any pre-existing medical condition.

Giving organs first to organ donors will save more lives by convincing more people to register as organ donors. It will also make the organ allocation system fairer. People who aren't willing to share the gift of life should go to the back of the waiting list as long as there is a shortage of organs.

3.  *Judith Nusbaum* says:

[May 28, 2010 at 1:23 PM](#)

I applaud Richard Bordsky in his effort to increase the number of organ donations in the US. I agree that consent should be assumed with the right of the individual to opt out. I also feel strongly that living donors should be financially compensated for their donation. It is a win-win situation. Education is needed to explain that organ donation is not only approved of in Judaism, it a mitzva. As is written in the Talmud, 'To save a life is to have saved a world'.

4.  *Rachel* says:

[May 28, 2010 at 9:03 PM](#)

So...when one of the Orthodox Jews or Catholics needs a kidney transplant and has a successful life-saving surgery, aren't they going to be happy this system was in place?

Judith is right to evoke that Talmudic quote; it's not like by being an organ donor the world will succumb to a future depicted in "Repo! The Genetic Opera", where people are "repossessed" by a company that harvests organs.

<http://www.imdb.com/title/tt0963194/>

5.  *Iris Carrucini* says:

[May 31, 2010 at 9:43 AM](#)

I do agree that there should be more organ donations, but this thing about putting it on your drivers licenses is a little ifi. Greedy and Malintentionate people might use this information to commit crimes just to get these organs for profit. Is is without advertisement and see how many people are lured specially young ones and left in a tub full of ice after someone has removed their kidneys of liver. They should come up with better ideas.

6.  [Ross Mayori](#) says:

[Sep 29, 2010 at 12:02 AM](#)

There is definite opposition when we don't listen to good words of advice and just do what we think is better for us. This is the same case.