
Last update - 10:49 25/03/2008

With top rabbis' blessing, Knesset approves organ donation law

By [Shahar Ilan](#), Haaretz Correspondent

The Knesset approved a law Monday intended to regulate organ donations in compliance with Jewish Law. The bill was passed with the support of the ultra-Orthodox Shas Party.

The new law on brain and respiratory death was introduced by MK Otniel Schneller (Kadima), and it was accompanied by an exceptional process of discussion between rabbis and doctors. The bill enjoyed the support of senior rabbis from the Sephardic ultra-Orthodox community as well as from the National Religious camp, including Shas' spiritual leader Rabbi Ovadia Yosef and Chief Sephardic Rabbi Shlomo Amar. This was despite disagreements among Ashkenazi decisors of Jewish law.

Politicians say the real test of the new law will be the publication of calls by rabbis for the public to donate organs - saying that such donations are a religious obligation. The real question is whether the rabbis can succeed in convincing the religious and traditional public to support organ donations.

MK Chaim Amsellem (Shas), who was involved in the bill behind the scenes, described the passage of the law Monday as making history.

"The law passed Monday regulates Israeli organ donations for the first time. The law determines, among other things, that brokering sales of organs, whether in Israel or overseas, is a criminal offense punishable by up to three years in jail."

55% of families asked to donate the organs of a family member refuse, said Tamar Ashkenazi, the head of the National Transplant Center - and the number of potential donors is also quite small already. Donors are mostly accident victims, and not those who die of disease. Such potential donors usually have organs in good condition and arrive at the hospital while still alive.

Out of the 145 families asked to permit organ donations in 2007, only 61

agreed. The organs from these 61 donors were transplanted into 231 people.

This means every donor saved about four others.

According to Ashkenazi, half of those who refused said they did so for religious reasons, and some said they wanted to preserve the wholeness of the body. In practice, it is very difficult to differentiate between the two explanations.

The new law is expected to add dozens of donors a year, and should save the lives of another 100 to 200 people every year.

Brain death usually precedes cardiac death. Most of the internal organs used for transplants: hearts, lungs and livers need to be removed during the brain death stage, since after the heart stops they will no longer be fit for transplantation.

The religious and ultra-Orthodox publics have almost completely refrained from donating organs until now. In the case of the ultra-Orthodox, their rabbis had not recognized the status of brain death, and therefore extracting such organs would be equivalent to murder.

As to the Natinal Religious community, there was a serious crisis of faith vis a vis the medical community, which led to a lack of agreement on determining the moment of death.

Schneller lead a process to overcome this problem. According to the proposed law, a committee will be established to follow the situation and reach agreement. The committee will include rabbis, doctors and ethicists. It will also authorize doctors who will be responsible for determining brain death.

The doctors will determine brain death by using a series of different tests that will verify complete cessation of breathing and brain activity. The family can object to tranplanting the organs, and in such a case the patient will not be disconnected from life-support apparatus, despite the state of brain death.

Amsellem explained Monday that in recent years there have been great advances in medical instrumentation which enabled Monday's breakthrough.

"For the first time there is a clear and final statement of rabbis that the end of brain activity is death. The minute he is declared dead, it is clear that the donation is life-saving and a religious commandment," explained Amsellem.

The United Torah Judaism (UTJ) party objected to the law. Its

spiritual

leaders and legal decisors, led by Rabbi Yosef Shalom Elyashiv, insist that religious law states brain death is not death. MK Moshe Gafni (UTJ) told the Knesset plenum Monday: "A brain dead person is a living being." Such opinions are expected to make the promotion of organ donations difficult.

The law passed Monday by 38 votes to 17.

Until now, the rules governing transplants were ordinances set by the director general of the Health Ministry. The courts have ruled a number of times that there was a need to legislate the matter in law. One of the results of a lack of a legal basis was the inability to prosecute organ brokers, said Ashkenazi. Instead, such cases usually were prosecuted on peripheral issues, such as tax evasion.

What was controversial was the acceptance of two amendments proposed by Finance Minister Roni Bar-On, which canceled budgets intended to encourage donations.

The main funding was to be for educational and promotional activities, at a cost of NIS 5 million a year.

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