

**[Author] Professor Rabbi Avraham Steinberg, MD**

**The [Kneset] Law of Brain-Respiratory Death – The Opinion of Rav Ovadiah Yosef**

- 1) At the meeting that took place in the house of Rav Ovadiah Yosef, on the 17<sup>th</sup> of Adar II, 5768<sup>1</sup> (March 24<sup>th</sup>, 2008), in the presence of Rav Shlomo Amar, [the author] Rabbi Dr. Avraham Steinberg, Rabbi Yigal Shafran, and Minister Eli Yishai, I explained to Rav Yosef the main points of the proposed bill “Establishing Brain-Respiratory Death” that is to be voted upon in the Kneset for the 2<sup>nd</sup> and 3<sup>rd</sup> reading. [The bill was subsequently passed]
- 2) Rav Ovadiah Yosef inquired as to the opinion of Rav [Shlomo] Auerbach on the subject of brain death. I explained his position. Rav Yosef was bewildered as to why he [Rav Auerbach] felt the need to require the death of every brain cell, as it would be enough that the person is not breathing and that his brain [as an organism] is dead.
- 3) I showed Rav Yosef the handwritten letter of Rav Dovid Feinstein concerning the opinion of Rav Moshe Feinstein on the subject.

I informed Rav Yosef of my meeting in the home of Rav Shalom Yosef Elyashiv together with Member of Kneset Moshe Gafni. Rav Yosef wondered why Rav Elyashiv does not accept brain-respiratory death since according to the Talmud Yoma [85.] death is determined by [cessation] of [autonomous] breathing and not the [lack of] heartbeat. {Rav Yosef, however, did agree to add an addendum to the law to accommodate families that do not accept brain death according to halacha allowing them to request [and receive] further ventilation until cessation of heartbeat. But he [Rav Yosef] was surprised that the Degel Hatorah party representatives were instructed to vote against the law but allow the law to pass [by not causing the government to fall], because Rav Yosef felt one must decide one way or the other.}

- 4) Rav Yosef ruled vehemently that brain-respiratory death is death according to halacha, and he instructed Minister Eli Yishai that all Shas members of Kneset need to vote in support of this law.
- 5) Minister Yishai requested to receive in writing the ruling of Rav Yosef out of concern for criticism and doubt [lit: disturbances and posters criticizing their decision], but Rav Yosef said there is no concern about these things and said that his opinion should be widely disseminated.

[Two days after the meeting described above] On the 19<sup>th</sup> of Adar II, 5768 (March 26, 2008) Rav Amar asked Rav Yosef about a specific case of organ donation from an 18 year old woman (Chana Chovev) who was brain dead from Meningococcal Meningitis (I was closely involved [with the case] and I reviewed the protocol [that they were properly followed] for determining her brain death and the TCD [Trans-cranial Doppler test results] that were done confirming her brain death). Rav Ovadiah Yosef permitted the removal of her critical organs to save the lives of other people who were in danger of dying.

---

<sup>1</sup> On the morning of the vote on this law in the second and third reading [in the Kneset].