

## Brain Death is Death According to New Organ Donation Law



March 25, 2008



The Knesset has voted into law a new bill that declares brain death is indeed classification of death for purposes of organ donor transplants.

The bill was authored by Kadima MK Otniel Schneller, who identifies with the Dati Leumi (National Religious) camp, has obtained a Knesset majority and organ donor officials believe it will bring relief to the estimated 900 Israelis who annually await organ donations.

Speaking on Galei Tzahal (Army Radio) on Tuesday morning, Degel HaTorah MK Rabbi Avraham Ravitz stated the law does not bring anything new to the organ donor arena, explaining it could have been passed 20 years ago if the medical community would have been willing to consult with leading Torah authorities.

Rav Ravitz, who maintains close ties with Rav Yosef Sholom Elyashiv Shlita, stated that the fears are the medical establishment will not adhere to the guidelines, adding when the new law refers to "brain death," it refers to the total cessation of function of the brain stem.

Ravitz, who about 8 years ago received a kidney from one of his sons, stated he too has an Adi Organ Donor card, adding he and other have just made certain to check the option which states "A clergyman chosen by the family of the deceased will have the final say regarding a organ transplant".

The law also makes provisions to pay NIS 18,000 to cover medical expenses of an organ transplant.

(Yechiel Spira - YWN Israel)



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1. Really? Is the following article comparable to: "Ba Horeg B'raglav"?

Dead man says he feels pretty good!  
By staff writers  
March 25, 2008 03:30am

AN Oklahoma man who was about to have his organs removed by doctors --> after they declared him brain dead

*Comment by PloniAlmoni — March 25, 2008 @ 1:41 am*

2. Isn't against halakha to donate organs?

*Comment by Oncefrum — March 25, 2008 @ 3:10 am*

3. If brain death is the determining criteria for organ transplants, several politicians and other public figures in E"Y will be able to put their organs to good use while still "living"!

*Comment by Itzik\_s — March 25, 2008 @ 3:55 am*

4. Imagine opening Shimon Peres and discovering he has no heart!

*Comment by kahane\_was\_right — March 25, 2008 @ 8:57 am*

5. Don' tknow why the restof the article didn't appear. Here it is again!

Dead man says he feels pretty good  
By staff writers  
March 25, 2008 03:30am

AN Oklahoma man who was about to have his organs removed by doctors after they declared him brain dead says he feels "pretty good" four months on.

Zach Dunlap, 21, was pronounced dead at United Regional Healthcare System in Wichita Falls, Texas on November 19 after he was injured in a quad bike accident.

His family gave approval for his organs to be removed for donation.

But, as family members were paying their last respects, they were shocked to see him move his foot and hand, the Daily Mail reported today.

After 48 days in hospital, he was allowed to return home.

He and his family appeared on on NBC's Today morning show overnight.

"I feel pretty good. but it's just hard ... just ain't got the patience," Mr Dunlap said.

Mr Dunlap said he had no recollection of the crash.

"I remember a little bit that was about an hour before the accident happened. But then about six hours before that, I remember," he said.

But Mr Dunlap said he did remember hearing doctors pronounce him dead.

"I'm glad I couldn't get up and do what I wanted to do," he said.

His father, Doug, said he saw the results of the brain scan. "There was no activity at all, no blood flow at all."

Zach's mother, Pam, said that when she discovered he was still alive, "That was the most miraculous feeling."

She said her son was doing "amazingly well," but still had problems with his memory.

*Comment by PloniAlmoni — March 25, 2008 @ 8:57 am*

6. It is not against halacha to donate organs where a life can be saved immediately. The difficulty comes because doctors have been too anxious to declare the patient dead so they can immediately harvest organs. That constitutes murder. As long as the patient is really dead, then there is no problem with donating organs to save another life, in fact it may be a mitzvah. Normally the rule requires an "immediate need" for the organ. But according to the former Chief Rabbi of the British Commonwealth, even if we do not know of a specific emergency, it is permitted to donate organs or blood to donor banks provided that there is a 'reasonable certainty' that they will eventually be used in life-saving operations.

Sources:

–Nachum L. Rabinovich - What is the Halachah for Organ Transplants?, Jewish Bioethics, edited by Fred Rosner and J. David Bleich, Hebrew Publishing Company.

–Fred Rosner - Organ Transplantation in Jewish Law, ibid.

–J. David Bleich - Establishing Criteria of Death, ibid.

*Comment by baruchgershom — March 25, 2008 @ 9:27 am*

7. The dangers on relying on the medical profession alone to regulate who is actually brain dead is not just theoretical but actually quite real see this story from YESTERDAYS NEWS!

<http://www.cnn.com/2008/US/03/24/NotDead.ap/index.html>

The hospitals and doctors have a very strong invested interest to move patients out, free up extra services and beds and deliver organs. They cannot be relied on alone! Therefore EVERYONE MUST HAVE A LEGAL LIVING WILL!

*Comment by nucha\_deah — March 25, 2008 @ 9:53 am*

8. I wonder how much of this legislation is in reponse to the news reports of Israelis traveling to China to obtain organ transplants (according to the Wall Street Journal, some of the "donors" were political prisoners) and the publicity that resulted.

*Comment by anon for this — March 25, 2008 @ 11:11 am*

9. Isn't against halakha to donate organs?

NO NO NO, many can and do donate kidneys, parts of liver, etc..

*Comment by zionflag — March 25, 2008 @ 11:50 am*

10. LiHalacha, isn't the patient considered living as long as the heart is beating, regardless of brain activity?

*Comment by HaKatan — March 25, 2008 @ 12:02 pm*

11. ????? Rav Eliashiv said a person is ONLY to be pronounced "dead" when the heart stopped pumping. So...: brain dead, is NOT dead!!! (as we see again and again in these maasiem!!!)

*Comment by Levi613 — March 25, 2008 @ 12:37 pm*

12. 9, those can be donated by living donors. The question is, after death. I guess that's addressed by 6's references.

*Comment by tzippi — March 25, 2008 @ 1:18 pm*

13. I thought a Jew must be buried with his physical remains intact...otherwise why can't one choose to be cremated?

*Comment by Oncefrum — March 25, 2008 @ 3:39 pm*

14. Many of you have questioned "Isn't ONLY Heart dead considered Dead and not Brain dead?". I had the same question and so I asked a posek. He told me that there is a big machlokes amongst the poskim whether brain dead is considered halachicly dead or ONLY when the heart stops. Rav Eliashiv, shlita poskins the later while I believe he said that Rav Ovadia Yosef, shlita poskins even brain dead is also halachicly dead.

I hope this clears things up for everyone. 😊

PloniAlmoni - Thanks for the GREAT story! 😊

*Comment by Softwords — March 25, 2008 @ 6:35 pm*

15. baruchgershom thanks for the Sources its nice to see that here

*Comment by thegreatfixer — March 26, 2008 @ 1:21 pm*

16. Accroding to Rov Moshe, heart transplants are murder on two accounts... both to the donor and the recipeient. A heart must be beating in order for them to use it for a transplant. Hence, taking a "live" heart is in essence killing the donor according to halacha. Death according to halacha is cardiopulmonary malfunction not brain stem failure!

*Comment by LayoM33 — March 26, 2008 @ 8:50 pm*

17. "Death according to halacha is cardiopulmonary malfunction not brain stem failure!"

LayoM33 - Although there is no question of Reb Moshe's, ztl, greatness, nonetheless, it is wrong to totally negate the opinions of other Poskim Hador just because Reb Moshe and Rav Eliashiv are greater.

For example: Rav Yehoshua was greater than Rav Gamliel and nonetheless the prior acquiesced to Rav Gamliel's psak when put to the test.

I assume that Rav Eliashiv will win this battle, but it is not a case of good verses evil (at least not concerning the poskim). This is Eilu V'Eilu...

*Comment by Softwords — March 27, 2008 @ 6:19 am*

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