

Analyze This: Vital organs

Calev Ben-David , THE JERUSALEM POST

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Robby Berman, director of the Halachic Organ Donor Society, a non-profit organization that seeks to encourage organ donation from Jews here and abroad to the general population, is glad that the Knesset has now passed landmark legislature dealing with this issue.

But he is skeptical that the new law will do what its backers claim - spur families of brain-dead loved-ones to allow their organs to be donated.

To understand why requires some background about what exactly the new law does, and doesn't, address.

What it does do is break a long-standing deadlock between the Rabbinate and the medical establishment over the exact role of rabbis and doctors in deciding whether a patient is brain-dead (that is, the cortex and brain stem no longer function and the brain cells begin to liquefy, with the most immediate result being failure of the lungs).

What the law doesn't do is alter in any way existing medical or religious standards in defining death.

According to the National Transplant Society, a little more than 50 percent of Israelis with family members suitable to be organ donors refuse to give permission for a donation to be carried out.

There are two main reasons for this, says Berman. First, many people do not understand the nature of brain-death, and second, they (including much of the secular public) believe that the procedure is absolutely forbidden by Jewish religious law.

"People in general don't give permission for organs to be donated from themselves or their loved ones, because they confuse brain-death with a coma, and hope for a miracle that the person will wake up," he says.

"But brain-death is irreversible, and even if somebody is put on a ventilator, there will still be complete systemic failure, including of the heart, in typically no more than a few days.

"Unfortunately, lay people, and even many journalists, confuse the issue by referring to ventilators as 'life-support' machines. All they do is pump air into the lungs; you can take a corpse and hook it up to a ventilator and pump air through its lungs, but that doesn't mean it's not dead.

"So when families hear that their loved ones are hooked up to a 'life-support' system, they are under the mistake impression they are alive." he says.

As for the religious issue, Berman notes that "many leading Orthodox rabbis, including the Rabbinate, have long approved organ donations from brain-dead patients, while there are also haredi authorities who still do not. Most religious families who are asked for organ donations consult their rabbis before giving their decision, and I don't foresee this changing as a result of this new legislation.

"What's really needed," he continues, "is a broader educational effort to make the public more aware of the need for organ donors, and of the actual medical and halachic issues involved."

Unfortunately, one part of the bill that was dropped prior to its passing, at the demand of Finance Minister Ronnie Bar-On (Kadima), was a provision providing NIS 5 million to fund a public relations campaign informing about and encouraging organ donation.

The bill's principle sponsor, Kadima MK Othniel Schneller, believes that the media coverage given its passing will in part help in this regard.

"This is a certainly a positive thing and I applaud the effort," responds Berman, who sat in on the subcommittee discussions crafting the bill. "But there are about 1,000 Israelis a year who are left waiting for the organ transplants they need, and about 100 of them die as a result of not getting them. I doubt this legislation by itself will significantly change that."

And what about organ donations from healthy donors?

"I get calls every week from Israelis in financial distress, asking about the possibility of donating their kidneys for financial remuneration," says Berman; "But of course I tell them this is against the law."

A secondary law passed in conjunction with the legislation on brain-death organ donations stiffens the penalties for those who look to broker such transactions, including arranging for organ donations abroad.

Yet the issue is not so simple; the law does in fact allow for certain financial incentives: compensation organ donors with NIS 18,000; covering any medical costs during and after the donation procedure; permitting them to gain the status of "chronic patient" from the national health funds; and - somewhat absurdly - exempting them from paying the entrance fee to national parks and nature reserves.

This was already too much financial inducement for some opponents of the bill, most notably Labor MK Shelly Yacimovich, who claims it will unfairly promote a trade in human organs from among the working and lower classes.

What she doesn't take into account is that wealthier Israelis already can and do take advantage of laxer organ-donation laws abroad - for example, payment for kidney donations is legal in the Philippines - to obtain life-saving transplants elsewhere.

According to reliable sources, this group includes the relatives of two current cabinet members - one who recently received a kidney transplant abroad, and another who is in the process of doing so.

But those less well-off Israelis who Yacimovich is rightly concerned about don't have that option; their only hope is to increase the organ donor pool here in Israel.

Whether this new legislation will actually succeed in doing so should become clearer over the coming year. If it doesn't, the Knesset and the rabbis will have to look again at this contentious issue, and make some difficult decisions for the sake of the dozens of Israelis who face certain death each year if they cannot obtain the necessary organ transplants.

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