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July 24, 2009

### **Background: Ultra-Orthodox Jews and Organ Donation**

**Ultra-Orthodox Jews will take organs but usually will not donate organs. Why? Does the answer explain the haredi organ smuggling ring broken up yesterday by the FBI?**



I answered that question last year in my Jewcy column. That answer also explains the background for the Israel-based organ trafficking ring busted (in part) yesterday by the FBI:

### **[The Heretic: How Jewish Law Killed Rabbi Yossie Raichik](#)**

**Shmarya Rosenberg** BY [SHMARYA ROSENBERG](#), SEPTEMBER 25, 2008

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On Sunday, Jewish law killed a 55-year old American-Israeli man. Rabbi Yossie Raichik died of a lung infection. He was waiting in Israel, where he had lived for almost 30 years, for a transplant to replace his irreversibly damaged lungs. It could have saved his life. It did not because the donor organs that matched him did not arrive.

Raichick headed [Chabad's Children of Chernobyl](#) project. Children of Chernobyl took children from the area around Chernobyl's exploded nuclear reactor and brought them and their families to Israel for medical treatment. Raichik brought more than 2500 children to Israel during the 22 years since the disaster. He is said to have played a role in airlifting Jewish children out of Iran just after the revolution ushered in what became the Islamic regime.

Raichik's transplant didn't come because the donor's family insisted on consulting with an unnamed leading

Israeli ultra-Orthodox rabbinic expert before allowing the transplant. While the rabbi investigated, the woman's heart failed and the organs – including the lungs that could have saved Raichik – were lost. Raichik died soon after.

Unlike kidneys and livers, which if necessary can be removed immediately after cardiac death, lungs must be taken while the donor's heart is still beating. This means the only way to get lungs for transplant is to take them from patients who are brain stem dead, or from Chinese political prisoners killed by the government for their organs.

Orthodox rabbinic interpreters of Jewish law seem united in their opposition to the Chinese option, as everyone should be. But they are divided on the validity of brain stem death, and it was this divide that killed Yossie Raichick.

The Jerusalem Talmud, the older brother of the commonly studied and followed Babylonian Talmud, defines death as the complete, irreversible cessation of breathing. This is defined in two ways: 1) No discernible air exhaled or inhaled through the nose, and 2) No respirations discernible by intently studying the navel area (i.e., the diaphragm).

Manuscript versions of the Babylonian Talmud follow this reading, including the versions used by leading medieval scholars like Isaac Alfassi, Nachmanides, Rabbi Asher ben Yechiel, and many others.

But one medieval scholar living in what was then the remote hinterland of Jewish communities had a manuscript with a different reading. Unfortunately for Raichik and many others, that scholar was Rashi, and Rashi wrote what is considered the seminal commentary on the Talmud. When the printing press came into use hundreds of years after Rashi's death, Rashi's commentary was printed alongside the main text of the Babylonian Talmud.

Rashi's version of the Talmud replaced the word "navel" with the word heart, so death was defined by complete cessation of breathing and heartbeat. Printers apparently amended the text of the Talmud to match Rashi's commentary.

Rashi's opinion makes most transplants impossible.

For hundreds of years, Jews determined death by placing a feather at the nostrils and intently watching for signs of breathing. If there were none after a few minutes, the person was declared dead.

(This was by no means foolproof. Rarely, faint breathing was missed by the observers. This sometimes led to 'corpses' "coming back to life" in their coffins.)

With the advent of modern medical technology came ventilators and cardiac resuscitation devices. Suddenly, stopped hearts could be restarted and lungs too weak to breathe adequately on their own could be assisted.

These and many other advanced medical treatments have allowed very physically compromised people to live, and some eventually to recover.

Eventually, improved medical technology brought the potential for organ transplantation. But along with organ transplantation came a renewed concern about how to determine when a person is really, truly dead.

Medical science uses brain stem death to define death in applicable cases. Brain stem death is like decapitation. Without a living brain stem, a person can never breathe independently. He can never regain consciousness. He can never function in any way, however compromised. And, like decapitation, brain stem death is irreversible.

If a brain-stem-dead patient is removed from his ventilator, his body will make no visible or measurable effort to breathe, and his heart will fail.

Based on this, Rabbi Moshe Feinstein (d. 1986), the leading American ultra-Orthodox rabbi of his era, accepted brain stem death as death, allowing viable organs to be taken from brain-stem-dead patients.

But many Israeli ultra-Orthodox rabbis disagreed. Even with special tests devised to prove lack of both spontaneous breathing and lack of brain function, these rabbis refused to accept brain stem death as death.

Why?

In the words of nonagenarian ultra-Orthodox leader Rabbi Yosef Shalom Elyashiv – posted across Jerusalem and published in ultra-Orthodox papers in late March after Israel passed an organ donation bill recognizing brain stem death as death – “[A]s long as the heart is still pumping blood, even in the case of 'brain death,' it is not permitted to remove any organ from the patient.” And, under banner headlines proclaiming, “Thou Shalt Not Murder!,” Elyashiv and his followers called reliance on brain stem death “murder.”

It was those words that apparently caused the donor’s family to delay donation, and it was those words that apparently caused the leading ultra-Orthodox rabbi they asked for advice to himself delay.

Taking Elyashiv’s position to an illogical extreme, it could be argued that a decapitated person with a beating heart and a surgically closed neck wound is fully alive, even though headless. Indeed, two rabbis, Hershel Schachter and J. David Bleich, both associated with Manhattan-based Yeshiva University’s right wing, have done just that. To them, the complete absence of a head does not signify death. Schachter is to Modern Orthodoxy what Elyashiv is to ultra-Orthodoxy – the top guy.

Speaking at an Orthodox medical ethics conference in 2006, Schachter makes significant errors of medical fact, avers that heart and lung transplantation is murder – even though he acknowledges the donor’s entire brain may be irreversibly dead – and misrepresents the original decision of Israel’s Chief Rabbinate permitting such transplants. In response to a question from a physician, who asks Schachter if he permits Jews to take a donated heart when that heart has come from, in Schachter’s opinion, a “murder,” Schachter answers by saying many rabbis permit taking these organs because the “doctors” will “murder” the patient anyway.

The truth, however, is significantly different. The only organs removed from a donor are organs for which there is a recipient match within the immediate geographic area. If no such match exists, no organs are taken. Schachter and many of the other rabbis who permit taking organs but not donating organs must be aware of this. They simply ignore the truth out of expediency.

It would be one thing if Elyashiv, Schachter, and their followers refrained from accepting donated organs. But they don’t. While forbidding donating organs, Elyashiv and Schachter have said nothing about not taking them. Their followers who need organs take organs, often displacing people on recipient lists who are, themselves, potential donors registered with various organ donation programs, including the Halachic Organ Donation Society.

This, along with the traditional Jewish desire to bury the body intact, has caused a dire shortage of organs in Israel. This shortage is made worse because Israelis cannot get organs from many other countries. Why? Because of the shortage, Israel cannot provide those countries with anything like reciprocity. Israelis are seen as takers of organs but not as givers. If not for the unusual generosity of the United States, Israelis would have few places to turn.

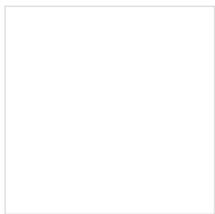
This perception of Jews as organ takers but not givers extends to communities worldwide with large Orthodox communities. This has sparked fears that countries will start banning all Jews, not just Israelis,

from receiving donated organs.

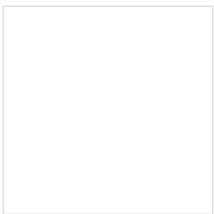
Elyashiv and his fellow travelers claim they object to brain stem death because they want to protect the sanctity of life, and this may be the case. But medical science has advanced exponentially since the Talmud was compiled in the 8th century. Just as Orthodox Jews benefit from those advances, the Jewish law they follow needs to take these advances into account. Just as we do not mix the potions described in the Talmud to cure illness, and we do not follow its diet recommendations to promote health, we should not be basing something as important as death on 1300 year old Talmudic science – or on a 500 year old printer’s error.

Yossie Raichik’s donor died. So did Yossie Raichik. It didn’t have to be that way.

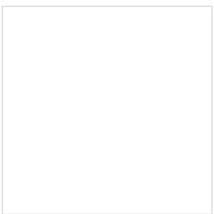
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The Rubashkins should send a nice 'thank you' note to all of those arrested yesterday, for helping get them off the headlines of the Jewish blogs.

Posted by: [WoolSilkCotton](#) | [July 24, 2009 at 03:31 PM](#)



I grew up in an ultra-orthodox community where almost nobody contributed anything of substance to society at large. Doctors,engineers, scientists, even garbage men? Nope. Save for the odd Bal Teshuva, not a one. It seemed to me that the world was our candy store, and we did not have to pay.

You just walk in, take what you want, and bitch when you get cavities.

The parasitical nature of many ultra-orthodox Jews both in the US and Israel is obvious, but the naked selfishness, cloaked in pious self-righteousness when it comes to organ donation, only highlights this even more.

Posted by: [Formerly](#) | [July 24, 2009 at 04:05 PM](#)



The Rubashkins should send a nice 'thank you' note to all of those arrested yesterday, for helping get them off the headlines of the Jewish blogs.

And if the kidneys turn out to be incompatible, Rubashkin can sell them as Glatt.

Posted by: Yochanan Lavie | [July 24, 2009 at 04:28 PM](#)



A yung Chabad shaliach in Teaneck, NJ has volunteered to donate his kidney recently. Not all Orthodox Jews fit your title.

Posted by: Stan | [July 24, 2009 at 06:27 PM](#)



I became an organ donor because of this article. My wife is an organ donor as well. I don't believe God will punish us for doing a חסד for someone on our way out of this world.

Unfortunately, I was diagnosed with Type 1 diabetes on the last day of Passover this year. I hope I can keep my organs in shape with this stupid disease.

Posted by: Nigritude Ultramarine | [July 24, 2009 at 06:51 PM](#)



*A yung Chabad shaliach in Teaneck, NJ has volunteered to donate his kidney recently. Not all Orthodox Jews fit your title.*

I'll be really impressed if he's donating it to a goy.

Posted by: Nigritude Ultramarine | [July 24, 2009 at 06:58 PM](#)



Organ trading is a world wide phenomenon, in India they pay people routinely very low amounts of money for kidneys, this is a not-so-hidden secret. The transplants aren't usually done in the USA, but in Saudi Arabia and other such places.

My question is whether there is data that these guys were harvesting organs for Jews/Israel or just making "easy money" as part of the international organ trade.

Posted by: maven | [July 24, 2009 at 07:41 PM](#)



I donated stem cells to a little girl who was dying of Fanconi's Anemia. I got myself on the HLA registry after Rosemarie got leukemia.

While I was unable to help Rosemarie (there's a 1 in 5 million chance a non-sibling will be a match for any specific individual) that little girl is alive and well six years after I donated.

She wasn't even Jewish, but Hispanic.

Posted by: Mr. Apikoros | [July 24, 2009 at 09:13 PM](#)



Mr. A, with that donation you did a much greater religious mitzvah than any frumbag in a black hat ever did.

When you register to donate stem cells, you enter the national HLA registry, and could be called upon to help any total stranger in need. You can't insist that your stuff go only to a specific person.

Posted by: WoolSilkCotton | [July 24, 2009 at 09:25 PM](#)



Some interesting ideas halachically; because harvesting when the person is dead is an issue but when alive.. If the person can survive the surgery no problem with the issue of a brain dead breathing person being harvested (which might constitute murder). In this case

the donor is clearly alive and could be "resurrected".

Posted by: Radical Feminist | [July 24, 2009 at 10:06 PM](#)



MA you did a mitzva regardless of whether she was a Jew in my book.

Posted by: Radical Feminist | [July 24, 2009 at 10:08 PM](#)



I didn't get a dime for this. Just gas money and parking for the repeated trips to Philly where the stem cell collection was done.

I never contacted the family, even though I know who they are, because of two reasons: I don't want them to feel obligated in any way, and because this little girl's brother had the same problem and the family might ask me to donate for him. BTW I produced enough stem cells for 10 adults so I hope the hospital which transfused this girl kept some around for future use. Who knows, maybe some day I'll need some stem cells, and my own won't be rejected.

I'd be happy to redo the procedure, which is painless and doesn't require any anesthesia except there's a cutoff of 60 years of age imposed by HLA and I'm almost 62. The only problem was that I REALLY needed to use the john once the 5 hour procedure was finished.

Posted by: Mr. Apikoros | [July 25, 2009 at 10:20 AM](#)



The portrayal of the sources in the above article is misleading, it clearly shows the author's ignorance of the topic.

Example: there is little evidence for claiming that respiration is the sole criterion of the establishment of death, as prior to artificial respiration, all common symptoms used, both old and new, were for all intents and purposes simultaneous. Also, there is evidence that Rihonim did not feel that there was any meaningful difference between the two versions in the Babylonian Talmud. See Meiri Yoma 85, who mixes both versions in his commentary, without missing a beat.

Furthermore, secular ethicists aren't all that sure that brain stem infarctus = death. See the paper by the President's Council on Bioethics, entitled [Controversies in the Determination of Death: A White Paper by the President's Council on Bioethics \(January 2009\)](#). The paper defends the Harvard Criteria, but also cites a number of scientists and philosophers who demur, one claiming that a brain dead patient far more resembles a live person than a dead one.

Also, as far as I know, no one, no one, claims that a decapitated patient whose heart is beating is alive. What they did write about, is so called "virtual decapitation," which is an argument claiming that a brain dead patient is as good as decapitated. That is the subject of controversy.

It is very tragic that Rabbi Yossie Raichik died, but, as the President's Council paper states (and this reflects the consensus among scientists and ethicists, though there are also who disagree), we cannot decide who is dead *in order* to make more organs available. These should, for good ethical reasons, be treated as two separate successive questions.

However, this story does show that we should do all we can to increase the number of ethically available organs. The short term solutions have been addressed by many, and is subject to well documented controversy, so I want to stress the long term issues. Long term, this probably means more stem cell research and xenotransplantation, which will require more research in viruses and other illnesses that may jump from pigs to people.

Also, there are a number of kinds of transplant that do not depend on the question of brain death. Most notably, corneas, kidneys, increasingly also liver, marrow. Some of these can be given after cardiopulmonary death, others can be given by a live donor (without duress, unlike what is being reported about some slimebag who was recently arrested).

Mr. A, what you did is commendable, and indeed, poskim, such as Rabbi Bleich, encourage all anatomical donations that are either given by a healthy, live donor, or after cardiopulmonary death, regardless of ethnicity and religion of the recipient. So, despite his rejection of the Harvard Criteria, he is in favor of anatomical donation, as long as they do not kill the dying patient.

Posted by: PulpitRabbi | [July 25, 2009 at 04:41 PM](#)



*A yung Chabad shaliach in Teaneck, NJ has volunteered to donate his kidney recently. Not all Orthodox Jews fit your title.*

That may be so, but the issue at hand is cadaveric donation, not living donation, which apparently is now being touted as a big mitzvah.

Posted by: Ed | [July 25, 2009 at 08:57 PM](#)



Medicalsecience cannot determine when a person is dead. It can only describe where he is and possibly predict where he is going. "Death" is a metaphysical concept, which science has nothing to say about.

Whatever the Halacha is, this article misses the point entirely.

Posted by: Clue | [July 25, 2009 at 09:42 PM](#)



Just for the record, saving the life of a Jew and goy are both mitzvahs.

Posted by: God | [July 25, 2009 at 09:44 PM](#)



*The portrayal of the sources in the above article is misleading, it clearly shows the author's ignorance of the topic.*

Actually, your comment shows your ignorance.

You could, for example, as Rabbi Moshe Dovid Tendler or HODS, or Rabbi Michael Broyde, or, well, you know, real sources in the Jewish community.

But that would end your apologetics.

Posted by: Shmarya | [July 25, 2009 at 09:49 PM](#)



Mr A: Good on you!

Posted by: Yochanan Lavie | [July 25, 2009 at 09:51 PM](#)



God my understanding is breaking the Shabbat to save a gentile is a different issue then breaking shabbat for a Jew. Does anyone know this controversy? I was taught this discussion in Neve Yerushalayim but can't remember the ruling.

Posted by: Radical Feminist | [July 25, 2009 at 11:03 PM](#)



B'kitzur: We save the non-Jew for the sake of peace.

Posted by: Shmarya | [July 25, 2009 at 11:06 PM](#)



MrA: Your story doesn't make sense. You didn't match the girl but they collected stem cells from you? If they did, it was likely they used them for someone else, the chance of you matching a Hispanic girl is zero, plus the NMDP would not allow you to know who you were donating for. If they actually did collect stem cells from you, then it was almost certainly for a Jewish patient (maybe even a Charedi!)

WSC, transplant is one area where the chareidim are far better than the general population. We would not be able to run the transplant

centers in Israel were it not for the chareidim, who routinely donate blood and platelets whenever we'd call them, particularly through groups such as Ezer Mitzion. Yeah, its your "frumbags" that make it possible, for all patients including Arabs (famous story about that with King Hussein).

Posted by: alternative childcare | [July 26, 2009 at 01:41 AM](#)



I should clarify that I mean stem cell transplant in the above posting. It has nothing whatsoever to do with time of death, etc, and a large percent of the Israeli (and charedi) population is typed.

Posted by: alternative childcare | [July 26, 2009 at 01:43 AM](#)



*WSC, transplant is one area where the chareidim are far better than the general population.*

This is simply false and you must know it.

That haredim donate blood is true. But with very few exception, they do not donate organs.

Rabbi Michael Broyde notes the problem with low organ donation rates in Israel in Friday's Slate. Rabbi MD tendler has done so in various venues for years now, pointing out that haredim don't donate.

Try restating you case accurately.

Posted by: [Shmarya](#) | [July 26, 2009 at 01:47 AM](#)



I see your clarification beat my comment!

Posted by: [Shmarya](#) | [July 26, 2009 at 01:48 AM](#)



There you go again, you detestable schmendrick. You've proven, once again, that you're an "expert" on everything from Aaron to Abramowitz.

You've called me a Nazi, you've called me a Holocaust denier, and now you're denying that I donated stem cells to a Hispanic child. What you're saying is literally a blood libel. It happens that this kid and I were six out of six matches. They'll do a transplant if one matches five out of six, and occasionally even four out of six.

At the time I donated, I had no idea of the kid's ethnicity. Moreover, after a 1-year period, if both sides agree, you can get the name of the donee, and the donee can get the name of the donor. This is what happened in my case, although it was closer to two years than one. You can look it up, you lying sack of shit.

While it's more likely that an Ashkenazic Jew will match the genotype of another Ashkanazic Jew than someone else (except the Amish who actually make the best matches), anyone on the planet is a potential match for anyone else on the planet. The odds are extremely low in any case except if you're a sibling, in which case they're about one in three.

You claim to be a Sephardic Jew. Where any of your relatives among those who were arrested last Thursday?

Posted by: [Mr. Apikoros](#) | [July 26, 2009 at 02:28 AM](#)



Shmarya wrote:

*Actually, your comment shows your ignorance.*

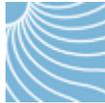
*You could, for example, as Rabbi Moshe Dovid Tendler or HODS, or Rabbi Michael Broyde, or, well, you know, real sources in the Jewish community.*

At issue were the basic sources. You claimed that it was a slam dunk that respiration is the only criterion of death. It isn't. There may be

good arguments in favor of accepting whole brain infarctus as the onset of death, but there are also good arguments against it. Reasonable people disagree, and I have no beef with that. However, that wasn't the direction in which the author of that article went. Instead, he portrayed the non acceptance of whole brain infarctus as something made up out of thin air, unsupported by any but the weakest source, and it is that I argue against.

(I only touched upon the accusation that Rabbis Hershel Schachter and J. David Bleich were claimed to rule a decapitated person could still be alive, which is ridiculous).

Posted by: PulpitRabbi | [July 26, 2009 at 03:00 AM](#)



In Houston Texas this past couple of weeks, was a story of a ~22 year old who binged drinking alcohol since age 13 and suddenly went sick and needed a liver transplant.

He was told in effect 'Fxxk yxu, you get to die, you did it to your self!' And he did die.

ALL recipients for organ transplants must have volunteered to be organ donors! On the Israeli National Identity card [Todat Zahoot] There should be a space permitting one to be a organ donor if no is the answer, then NO should be the answer when THEY need a transplant. If one lives by a Chumra then I guess they should die by it too. Guess how long the rabbis will change their rulings?

Posted by: Isa | [July 26, 2009 at 07:16 AM](#)



I agree with Isa. It is unethical (by general, not haredi ethics of course) to accept organ donation but prohibit donating organs.

Posted by: Ben | [July 26, 2009 at 08:38 AM](#)



A yung Chabad shaliach in Teaneck, NJ has volunteered to donate his kidney recently. Not all Orthodox Jews fit your title.

Posted by: Stan | [July 24, 2009 at 06:27 PM](#)

chabad? but, isn't it "chesed chabad chatat"

Posted by: Yosef ben Matitya | [July 27, 2009 at 04:24 AM](#)



when THEY need a transplant. If one lives by a Chumra then I guess they should die by it too. Guess how long the rabbis will change their rulings?

why change their ruling, isa? when they can just, buy, steal or coerce? ruling stays the same!

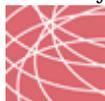
i suspect they donate to each other, but not to the secular or gentiles!

Posted by: Yosef ben Matitya | [July 27, 2009 at 04:27 AM](#)



I've heard the accusation twice from Israeli Arabs that young men beaten by IDF had their organs stolen after death. does anyone know this rumor? I have heard of the Israeli's stealing organs from young Arabs a few times. Any evidence this is true?

Posted by: Radical Feminist | [July 27, 2009 at 11:55 AM](#)



Radical Feminist: Not only did they steal the organs, but they bake them annually into matzos for Passover. The chareidim in particular insist on the blood and organs of the Arab children. Then they inject AIDS into the mothers, especially those still breast feeding other children.

I do recall one real case, where a young woman from Nablus was about to get a donor kidney from a deceased Israeli, who was yelling and shouting through the ER that all the Israelis should die so that they can get their organs like her.

Posted by: alternative childcare | [July 27, 2009 at 12:44 PM](#)



Childcare: Being VERY pro Israel I am still getting this data from reliable sources. One whose brother's organs were donated against family wishes. I am assuming this is happening both with Jews and Muslims and shows yet again another rift between the secular community and the religious ones (not Jew against Muslims). Though I support organ donation I suspect we have new laws in effect that have done away with this type of grey area in organ donation. the two cases I know of happened well over 20 years ago; and I am inclined to believe it as haredi friends have made the same accusations.

Posted by: Radical Feminist | [July 28, 2009 at 05:06 PM](#)

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