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Jerusalem - Does Radical New Way to Boost Organ Donation Discriminate Against Ultra-Orthodox Jews?

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In this photo made Feb. 24, 2010, an orthodox Jewish man walks past an ambulance next to a hospital in central Jerusalem. Israel is launching a potentially trailblazing experiment in organ donation: Sign a donor card, and you and your family move up in line for a transplant if one is needed. The new law is the first of its kind in the world, and international medical authorities are eager to see if it boosts organ supply. But it has also raised resistance from within Israel's ultra-Orthodox Jewish minority. (AP Photo/Dan Balilty, File)

Jerusalem - Israel is launching a potentially trailblazing experiment in organ donation: Sign a donor card, and you and your family move up in line for a transplant if one is needed.

The new law is the first of its kind in the world, and international medical authorities are eager to see if it boosts organ supply. But it has also raised resistance from within Israel's ultra-Orthodox Jewish minority.

These opponents say it discriminates against them because their religious convictions forbid the donation of their organs, and while they are unlikely to get the law reversed, they have the political clout to slow its implementation.

Only 10 percent of Israeli adults hold donor cards, compared with more than 30 percent in most Western countries. The actual rate of families donating a deceased's organs is 45 percent, but in other countries it rises to 70 percent, according to Jacob Lavee, director of the heart transplant unit at Israel's Sheba Medical Center.

The low rate of organ donation is thought to be partly driven by religious considerations. Most rabbis have no problem with transplants to save lives; their objection is to profiting from or needlessly mutilating cadavers. But 99-year-old Rabbi Yosef Sholom Elyashiv takes a different view, and he is one of ultra-Orthodox Jewry's most influential leaders, claiming 100,000 followers among Israel's 6 million Jews. Elyashiv forbids organ donation before cardiac death, but allows his followers to receive lifesaving donations.

Lavee, the doctor who helped draft the law, hopes that a broader pool of organs will ultimately benefit everyone, but he acknowledges that one of his primary motivations is "to prevent free riders."

"This is the first time that a non-medical criterion has been established in organ allocation," he said. "It will rectify the unfairness of the situation where people who are unwilling to donate wait in the same line as those who are willing."

The measure opens a new dimension in the worldwide quest to overcome organ shortages. One solution — a legalized organ market — is ethically fraught. Another is called "presumed consent," where whoever doesn't opt out is considered a donor.

Spain, France, Austria and Belgium have adopted the latter model and rank among the top European nations in percentage of deceased donations, according to a U.N. study. But experts here say "presumed consent" would have been much trickier to get through the Israeli Parliament.

Writing in the December issue of *The Lancet*, the British medical journal, Dr. Paolo Bruzzone of Sapienza University in Rome said the Israeli initiative made more sense.

"Certainly, giving holders of donor cards priority in organ allocation sounds more acceptable than the introduction of organ conscription or financial incentives for organ donation," he wrote.

Luc Noel, coordinator of clinical procedures at the World Health Organization in Geneva, praised the Israeli law for its educational value and for introducing a "community spirit" to the field of organ donations.

"The bottom line here is doing to others as you would like others to do to you and that is where the community has a role," he told *The Associated Press*.

Arthur Caplan, director of the Center for Bioethics at the University of Pennsylvania, said the Israeli measure was ethically sound — he called it "reciprocal altruism" that would benefit society as a whole. But he doubted those signing donor cards would gain a significant advantage, because their queue would become much longer.

The only place where a limited version of the Israeli measure has been tested before is in Singapore, whose 1987 law introduced incentives for donors such as waivers for hospital charges and partial coverage of funeral expenses.

Israel's parliament passed its far more comprehensive legislation in 2008 by a wide margin, including votes from Shas, the mainstream ultra-Orthodox party, and it is to take effect after a huge campaign to explain the new regulations and their complicated point-based system to the public.

But Israel's unwieldy system of coalition government makes implementation uncertain. One of its members is an ultra-Orthodox party made up of Elyashiv's followers. Among its lawmakers is Yaakov Litzman, who happens to be the deputy health minister (the top post is vacant).

Another is Moshe Gafni, who said the law is "antidemocratic."

"If I can't contribute organs because of my religious beliefs, the state shouldn't be allowed to harm me," he told The AP.

The Health Ministry's legal adviser, Meir Broder, seemed to suggest the final formula was unsettled, saying it was still being fiercely debated among ethicists, lawyers, doctors and religious leaders.

"We are trying to find the point of balance between encouraging people to sign donor cards and not penalize those who don't," he said, but didn't elaborate.

The debate derives from Judaism's tricky definition of death.

Most leading Orthodox rabbis — as well as Israeli law — agree that a person dies when his brain-stem stops functioning. A minority opinion, endorsed by Elyashiv, holds that as long as a person's heart beats he or she is alive and therefore the organs cannot be harvested. Donation in Israel after cardiac death is rare and only done in special circumstances.

One prominent ultra-Orthodox Jew who endorses the law is Yehuda Meshi-Zahav, head of Zaka, a widely admired first aid and rescue service. He says everyone should obey his rabbi, but he carries a donor card and says "Preservation of life overrides everything."

Robby Berman, founder and director of the Halachic Organ Donor Society, a Jewish organization based in New York, said ultra-Orthodox Jews can't have it both ways.

"My position is if you are not part of the solution, you are part of the problem," he said. "Every Jew has a right to be against an organ donation, but then you can't come and say 'give me an organ.'"

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