

## Punishing people for their beliefs

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Written by Rabbi Avi Shafran  
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In a letter to the Jewish weekly Forward, a medical doctor from Long Island expressed chagrin over an advertisement that had appeared in an earlier issue of the paper. The ad was sponsored by a non-profit organization dedicated to assisting people suffering from kidney disease, including facilitating kidney transplants, with "special attention given to the Jewish community to address specialized issues and concerns."

The letter-writer was "astounded" by the ad. It sought a donor for a "pious Jew" suffering from kidney disease.

To be sure, the doctor took pains to note, "A kidney transplant can miraculously transform a person's life, freeing him from the shackles of the dialysis machine."

But the ad nevertheless outraged him. It is "the height of chutzpah," he explained, to solicit "altruistic donors for an act that is seldom, if ever, reciprocated by the Haredi community."

"The vast majority of gedolim, decision makers about Jewish law and policy, in the Haredi community," he continued, "have refused to endorse halachic procedures to take organs from either normal living or brain-dead people to heal chronically ill patients."

And so, he contended, "Although altruism, by definition, is an act performed without any reward," the "wider Jewish community" should recognize that "it is unseemly and cynical to recruit potential donors when there is no theoretical potential for paying the good deed forward."

For starters, the doctor is seriously misinformed. Although there are halachic considerations regarding any organ donation, there have in fact been many Orthodox kidney donors, including haredi ones, and all made their decisions with the full blessings of their rabbinic decisors. What presents qualitatively different halachic issues is the bequeathal, for removal after death, of other vital organs, like hearts, lungs and livers.

That is because organs are most successfully transplanted when "harvested" from a stillbreathing patient, whose blood is still oxygenated and circulating. Thus, many hospitals routinely take vital organs from people who are what has come to be called "brain dead":

- who have received a diagnosis of irreversible cessation of brain-stem function, which modern medicine and secular law consider sufficient to permit the removal of organs even from a patient with a still-beating heart. Increasingly common, too, in many countries, is "donation after cardiac death"
- the procurement of organs from people who are purposely disconnected from the ventilators helping them breathe, causing their hearts to stop. After a short wait, sometimes less than 30 seconds, the organs are taken.

Merely "brain-dead" human beings, in the judgment of major halachic decisors, are still alive. And so, while saving another's life is a most weighty imperative, Jewish religious law, or halacha, does not permit one life to be taken to save the life of another – no matter how diminished the "quality" of the life of the former, no matter how great the potential of the life of the latter. And halacha forbids any action that might hasten death, including the death of a person in extremis.

The letter-writing doctor presumably does not advocate ending the lives of conscious terminal patients in order to harvest their organs. What rankles him is that halacha, in the opinion of many of its most respected decisors, considers a "brain dead" patient still alive. He is entitled to his personal opinion, of course, but if anything truly qualifies as the height of chutzpah, it would be insisting that halachic decisors hew to one's own personal point of view.

Perhaps more disturbing still is the doctor's odd ethical calculus, by which only the ability to donate an organ qualifies one to receive one. At first thought, that might seem logical. But that's why we're blessed with the ability to have second thoughts.

There are many reasons one might be unable to donate a vital organ. If a non-terminal patient has only one functioning kidney, for instance, no one would fault him for not offering it to a dialysis patient. If a patient was diagnosed with kidney disease, no one would want him to donate a compromised organ, even post-mortem. Would anyone deny such unable-to-donate patients freely donated organs that they needed? One hopes not.

The letter-writer surely sees religious convictions as a less valid reason for an inability to bequeath vital organs. Is it, though? Is logic behind the doctor's view? Or might it be disdain for a community of whose beliefs he doesn't approve? Is reason at work here, or a desire to punish people for their beliefs?

If anything is "unseemly and cynical" – the doctor's characterization of the effort to match kidney donors with Jewish patients committed to halacha – it is the attitude that such Jews are, for their deep-seated and sincere beliefs, less worthy of life than others.

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