Judaism’s perspectives on Organ Donation After Death

Although many Jews believe that Jewish law forbids organ donation, most rabbinical authorities not only permit it, but also encourage it. In 1990, the Rabbinical Assembly of America approved a resolution to "encourage all Jews to become enrolled as organ and tissue donors by signing and carrying cards or driver’s licenses attesting to their commitment of such organs and tissues upon their deaths to those in need." Organ donation during life is generally permitted as long as there is little risk for the donor and great benefit for the recipient, but in the case of an already deceased donor, the risk is not an issue. For already deceased donors, the main issues are Kavod Ha-met (honor of the dead) Nivul Ha-met (disgrace if the dead), and the definition of death.

Kavod Ha-met is the reason for the extensive Jewish laws regarding burial customs. The body must be treated with respect since it is God’s property; we are simply borrowing our bodies for the duration of our lives and we must return them at death unblemished. This is the reason that permanent tattoos and piercings are forbidden. Because of Kavod Ha-met, delaying the burial of the deceased or gaining benefit from a dead body are considered Nivul Ha-met, disgrace to the dead, and are therefore forbidden. This obviously poses a problem since organ donation can delay the burial and allows us to benefit from the dead body.

This problem with delayed burial and benefits from the dead body, however, is superceded by the commandment Pikuach Nefesh, saving a life, which takes precedence over every other commandment excluding murder, idolatry, incest, and adultery. The Talmud Tractate Yoma 64b says, “If you shall live by them, but you shall not die by them.” This means that we should not "stand idly by the blood of [our] neighbor" (Lev. 19:16) because of the less important commandment of Kavod Ha-met. In fact, not only does this commandment cancel the Nivul Ha-met, it gives Kavod Ha-met because it enhances the respect for the deceased since it allows the donor to fulfill the mitzvah of Pikuach Nefesh. Donating organs is therefore an honor to the deceased. In addition, the transplanted tissue will ultimately be buried with the recipient, so the burial would not be an issue even if it were forbidden by Pikuach Nefesh. Finally, Pikuach Nefesh is even more important to donors since they are thereby saving the lives of both the recipient and any potential living donor whose life might be at a slight risk due to the surgery involved in donating organs. Because of the organ shortage, the Conservative movement’s Committee on Jewish Law and Standards ruled in 1995 that organ donation is an obligation because not doing so would be murder to the potential recipient and endangers the lives of living donors.

Besides Pikuach Nefesh, Hesed is another reason supporting organ donation. Hesed, acts of kindness, are not mandatory, but we are commanded to “walk in God’s ways” and this would include helping those in need. Such progress has been made in transplants in the past fifty years that they are now acceptable therapeutic options instead of experimental procedures, and therefore Hesed, in addition to Pikuach Nefesh, is more secured. In 1954, the first kidney was successfully transplanted followed by a liver in 1967, a heart in 1968, a lung in 1983, and a pancreas in 1996. New genetic engineering techniques will soon enhance the immune system’s ability to accept alien organs and immunosuppressant drugs. In 1998, 21,000 transplants took place including kidneys, livers, hearts, pancreases, and bone marrow. Success is now measured in terms of years and quality of life following transplant instead of survival of the surgery. When organ transplantation was still very experimental and endangered life, Jewish law restricted it much more; however, with all this recent progress in organ transplantation and with the organ shortage, donated organs are sure to be an act of Hesed as well as Pikuach Nefesh.

In addition to following God through acts of Hesed, we must practice Kiddush Ha-Shem, sanctifying God’s name, by acting in a way to honor God and the Jewish people. With the current organ shortage (in 1998, according to Lamm’s book The Jewish Way in Death and Mourning, 4,855 people died waiting for donors, most of whom were cadaveric donors. Every sixteen minutes on average, one more person joins the 63,000 on the waiting list of the United Network for Organ Sharing), Jewish organ donations would make the Jews look more honorable, and it would therefore sanctify God’s name. On the other hand, if Jews were to refuse to donate organs, this would look bad for God and the Jewish people, and a forbidden Hilul Ha-Shem, desecrating God’s name. In fact, this is exactly what is happening now, and that is one of the many reasons that rabbinical authorities permit and even encourage organ donations.

As Dorff explains in his book When God Calls: On Death, Dying, and Organ Transplantation, "a person who has died is dead since they may simply be unconscious or in some other state resembling death. However, waiting would obstruct organ donation since the heart must be collected immediately, and the heart must be beating to keep the other tissues alive. This problem..."
Donate

was solved by sphygmomanometers and electrocardiograms, which can measure breath and heartbeat and remove the need for waiting. The issue of donating a heart is further complicated, however, if a person whose heart is beating is considered alive, yet the heart must be beating to collect organs. So how can it be that the Chief Rabbinate of Israel approved heart transplants in 1998?

The answer is progress in medicine and more advanced ways of diagnosing death being developed. Instead of using a feather or trying The answer is progress in medicine and more advanced ways of diagnosing death being developed. Instead of using a feather or trying to hear a heartbeat, a flat electroencephalogram is used to declare someone officially dead. If someone has a flat electroencephalogram, that person is and forever will be unable to breathe or pump his or her heart himself or herself. Almost all Jewish authorities agree that a flat encephalogram can be used to determine death. It indicates the cessation of spontaneous brain activity and qualifies the patient as being brainstem-dead instead of heart-dead or breathing-dead. Brainstem-dead should not be confused with brain-dead, however, which is the cessation of higher cerebral functions like intellect and memory that are lost in Alzheimer’s or a vegetative state – in such cases the patient is considered alive and organ donations are therefore not permitted. Going by the heart-death definition would make less sense because a decapitated animal’s heart still beats for a short while, and because the heart can beat even without a body as long as it is nourished. Both The Conservative and Reform movements accepted electroencephalograms (since they indicate the cessation of brain activity) as the moment of death, and the Orthodox chief rabbi followed suit twenty years later, as did the Rabbinical Council of America in 1991. Since brainstem death was approved and is the major rabbinic opinion (although some rabbis reject this halachic decision), heart transplants and organ transplants can take place.

However, there are other impediments to organ donations besides rabbinical concerns: donors often have misconceptions about the process and cost of donating organs, and sometimes other psychological factors come into play. Donors sometimes wrongly believe that the donor’s body will be mutilated and the funeral will be delayed a long time. On the contrary, the body is sewn up quickly, and the funeral can occur without much delay. In addition, closed caskets would prevent any surgery from being noticed. Secondly, some donors assume that they must pay to donate organs. The truth is that the recipient (or their insurance) pays for the organ transplant, not the donor. Other donors believe that if their doctors know that they have agreed to donate organs, the doctors would not try as vigilantly to keep them alive. This too is a myth since the physician team for the organ transplant is entirely separate from the physician team that would normally care for the patient, to serve this exact purpose. Still other potential donors are hesitant due to an aversion to even contemplate death, let alone things that would happen afterwards. People also tend to imagine donating organs as though they would be conscious when the donation would take place, and they imagine what the surgery would feel like for them the body, during which it comes and goes to and from the body. Finally, there are spirits who live on after death in bodily form. If the although they would have to be brainstem-dead and therefore could not feel it.he body for three days after the death, during which the soul hovers over the grave. Even for the first twelve months, while the body disintegrates, the soul has a fleeting connection with the body, during which it comes and goes to and from the body. Finally, there are spirits who live on after death in bodily form. If the soul comes to the body, one might be uneasy with the idea of the body "not being complete."

Incompleteness of the body is also an issue to people when they contemplate resurrection; they believe that in order to be resurrected in one piece, they must be buried in one piece. Two main arguments contradict this thought. First, organs which are not donated simply disintegrate in the ground (unless the body is preserved, which is forbidden). Secondly, if God could make the world from nothing, it should be relatively easy for God to make something from something that once existed but just decomposed. When resurrection occurs, Jews will be resurrected regardless of parts missing or even whole bodies missing. Maimonides further explains that people should not even consider a bodily resurrection since resurrection is of the soul, not the body, since the world to come will have no bodily functions of eating, drinking, anointing, or sexual intercourse. Regardless of ones beliefs about resurrection, however, the overriding rule is again Pikuach Nefesh: saving a life immediately is far more important than beliefs about what lies ahead.

But what if donating organs is not saving any life at all? What about donating one’s body to science? As long as the body parts are preserved to bury, the deceased’s (and his or her family’s) wishes are respected, and the family can return to their lives even without the psychological closure of an immediate burial, most rabbinical authorities permit donating one’s body to science for the same reason as they permit organ donation. It is considered Kibud Ha-Met, not as Nivul Ha-met, since dissection, necessary to train physicians, facilitates the performing of Pikuach Nefesh, which is a great honor. Also, it is Hillul Ha-Shem for Jews not to do it and Kiddush Ha-Shem for Jews to do it, unless there is already ample supply of bodies to dissect, in which case Jewish donations are unnecessary and therefore unjustified. Some orthodox rabbis, however, again reject donating a body to science as a justifying reason, since there is no specific patient who is to gain from the donation.

Another question that is brought up concerning organ donation is whether the donor can be paid. Even the United States is hesitant to condone such a practice, although Pennsylvania does allow payment of renewable tissues such as blood, hair, and semen. While the United States does not favor such practice because vulnerable populations could be abused and exploited (while not being able to afford organs which they may need), Jewish law does not favor such practice, although we cannot sell what is not ours. The Halachic Organ Donor Society in New York City, whose mission is to spread information about Jewish legal matters and rabbinic beliefs about organ donation, helps Jews donate organs in accordance with their specific halachik beliefs. They try to raise awareness about the importance of organ donation and to combat the myth that organ donation is contrary to Jewish law.

There are numerous reasons for Jews to become organ donors; most reasons against that choice are simply misconceptions. Jews should consult their own rabbi to discuss the issue of organ donation. Most rabbis agree, however, that it is our responsibility as Jews to honor God’s name and to save lives by giving the gift of life even after lives have terminated through the act of organ donation. As Mishnah Sanhedrin 4:6 says, “Whoever saves one life, it is as if he saved the entire world.”

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