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The recently released study by the Vaad Halacha of the Rabbinical Council of America that may reverse the RCA's 1991 halachic acceptance of brain death as death may have serious consequences for Orthodox Jews needing organs from brain-dead donors ("RCA Backs Off Stand On Brain Death For Transplants," Dec. 3).

In addition, the study will raise questions about the ethical integrity of halacha among Jews and non-Jews.

By not recognizing brain death as halachic death, the document indicates that brain-dead patients are murdered in order to remove their organs for use in transplantation. Rather than conclude that such an organ may not be used by Jews, the document states: "All agreed that even if an organ was removed beissur [in violation of a halachic law], it may still be used."



To the public at large, the willingness of Jews to use organs that halacha indicates were obtained by murder, coupled with their refusal to donate organs of brain-dead relatives, will be viewed as morally repugnant.

Jews are already viewed in a bad light because of their poor participation as organ donors in contrast to their aggressiveness in seeking out organs for their needs. Israelis have been prominently represented among organ traffickers who exploit poor people in developing countries by purchasing their kidneys for a pittance. The long-term adverse medical and economic consequences for many of these donors have been well documented. We have yet to hear any committee of rabbis decrying this ethically abysmal practice. Or is this halachically permitted as well? Israel finally outlawed paying for “transplant tourism” several years ago partly in response to the infamous reputation it had gained in the transplant community.

Even if the rabbis who were responsible for the RCA study were tone deaf to the ethical implications of their conclusions, they should have considered the societal ramifications. Gentile anger — eivah — has figured in halachic responsa in the past. As chairman of the Organ Donor Council of Columbia University Medical Center, and as chairman of its Pulmonary Division, we can vouch for the negative repercussions the Vaad’s decision will have.

Finally, the question of whether halacha recognizes brain death as death does not have an obvious answer. Halachic experts have ruled on both sides of the question. One need only consult the website of the Halachic Organ Donor Society to see how many esteemed Orthodox scholars do accept brain death as halachic death. One would think that when there are powerful halachic arguments on both sides of the question, societal issues would play an even more important role in reaching a decision.

One of us is a member of a synagogue affiliated with the RCA, and both of us are physicians in one of the largest organ transplant medical centers in the U.S. Because we have both repeatedly seen the dramatic lifesaving results of organ donation, and work to promote this noble act among Jews and non-Jews, we fervently hope that the RCA will not overturn its 1991 halachic acceptance of brain death. There is simply no wiggle room on this issue.

If the Vaad cannot accept brain death as death, it should not hide behind a halachic smokescreen to permit Jews to benefit from the organs obtained from brain-dead donors. It should have the moral courage and common decency to prohibit Jews from obtaining this gift of life from those who donate.

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