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Mitzvah, not murder

By [Shahar Ilan](#)

One of the strangest experiments ever conducted at the Hebrew University of Jerusalem took place in January 1992, when a pregnant sheep was anesthetized and connected to life-support machines. Its brain was removed, but the machines kept the sheep's other organs functioning. Three hours later, the rest of its head was removed and, half an hour after that, physicians performed a Caesarean section on the ewe. A healthy, newborn lamb emerged and began walking around unassisted within a short while. The experiment aroused worldwide attention and Israeli experts in medicine and halakha (Jewish law) visited the laboratory to monitor the procedure.

Why did the sheep have to be decapitated? The experiment was one of the local medical establishment's desperate attempts to persuade two ultra- Orthodox rabbinical authorities, Rabbi Yosef Shalom Elyashiv and Rabbi Shlomo Zalman Auerbach, to recognize brain death as the moment of death, to pave the way for ultra-Orthodox Jews to donate organs for transplants. During the previous decade, Auerbach and Elyashiv had published a rabbinical ruling, according to which organ donations are tantamount to murdering the donor. That ruling was one of the main reasons for the low number of such donors in Israel. The experiment aimed to demonstrate to the two rabbis that machines could keep a dead sheep alive and even allow physicians to deliver its offspring.

The mother sheep sacrificed its head for a lofty cause; however, in the short run at least, its sacrifice was in vain. Rabbi Auerbach refused to recognize brain death as the moment of death until he could be given proof that every brain cell was dead.

One of the reasons behind last week's breakthrough in this realm - the passage of a law by the Knesset, which won the support of Shas leader Rabbi Ovadia Yosef - was the development of sophisticated instrumentation capable of determining brain death. But just as he opposed the "beheaded sheep" experiment, Rabbi Elyashiv opposes Rabbi Yosef's halakhic ruling that brain death signifies the moment of death. "The only result was the sheep's needless suffering," Elyashiv was quoted saying in 1992.

Last week, ultra-Orthodox publications recalled the beheaded sheep. According to Mishpacha, two experiments were actually conducted and two sheep died, while Bakehila reported that a film documenting one of the experiments was screened at one of the consultation meetings attended by Rabbi Yosef and Chief Sephardic Rabbi Shlomo Amar. Those present at the meeting said the film gave them goose bumps. However, after the screening, Rabbi Yosef ruled that brain death could be recognized as the moment of death, thus opening the door for organ donation by religious and ultra-Orthodox Jews. Regarding organ transplants, it is important to remember that, according to Jewish law, there is no middle road: Transplants are either murder (because the donor is still considered alive) or they constitute performing a supremely important mitzvah (commandment) - namely, the saving of human life.

The sheeps' apparent sacrifice has been given belated recognition. In their death, they may have provided us with many more organ transplants.

Last Monday, with Shas' support, the Knesset passed a law intended to ensure that organ transplants are conducted in accordance with halakha, which could save the lives of dozens of people every year. The law, which defines brain and respiratory death, was proposed by MK Otniel Schneller (Kadima). Before the bill became law, a unique, protracted dialogue was held among physicians and rabbis, inasmuch as it received the backing of leading rabbis of Israel's modern Orthodox and Sephardic ultra-Orthodox communities.

Brain vs. cardiac death

The new law states that a committee be established to monitor the organ- donation situation and certify physicians. The committee, which will include rabbis, doctors and ethicists, will authorize the physicians who will determine brain death through a series of tests, which will ascertain that potential donors have completely ceased breathing and that their brains are no longer functioning. A religious or traditionalist family who accepts the rabbinical rulings permitting organ donations can now agree to donating their loved one's organs, knowing that they will save the lives of up to seven people.

Brain death usually precedes cardiac death. Most internal organs used for transplants (kidney, heart, lung and liver) must be harvested during the brain-death stage, so they can be used for transplantation. Once the heart dies, they are either completely unfit or in an inferior state. Nonetheless, after cardiac death, physicians can still use a donor's heart valves, corneas, bones and skin. In some cases, even kidneys and liver have been harvested after cardiac death, but they will be in a deteriorated state and their quality of prolonging the life of

organ recipients will be reduced.

In recent years, the Yachad Council for reconciliation between secular and religious Jews has held negotiations aimed at creating transplant units in accordance with Jewish law, so religious Jews who view organ donation as a mitzvah can agree to donate their organs after cardiac death. The assumption was that it is preferable to harvest another few dozen kidneys and livers, even if in relatively poor condition, than to dispense with them altogether. Talks on the creation of these units have been protracted, partly because of the debate concerning whether inserting tubes into dying patients hastens their death. But in the meantime, Schneller's legislative initiative has rendered these negotiations void.

Tamar Ashkenazi, who heads the National Transplant Center, notes that 55 percent of families asked to donate the organs of a family member refuse. The number of potential donors is small to begin with. Donors are mostly victims of road accidents or acts of violence. Their organs must be in good condition and they must still be alive when arriving at the hospital. Of the 145 families asked to agree to organ donations in 2007, only 61 agreed. The organs received as a result were transplanted in 231 people, which means that every donor saved an average of four individuals. According to Ashkenazi, half of the families that refused cited religious reasons, with some saying they wanted to preserve the body intact.

The Web site of ADI, the private local association that promotes organ donation, notes: "There are those who believe that organs must not be removed from a dead body because the deceased will need them when the dead are resurrected. In the view of most rabbis, when the dead are resurrected, God will return all our organs to us, just as he will see to our resurrection. Furthermore, it must be pointed out that organs begin to decay from the moment of death and that they totally disintegrate after only a few weeks. Nothing has been found in classical Jewish sources to back the argument that human organs are required in the ultimate resurrection of the dead."

The site adds: "There are those who believe that signing the ADI donor card could cause them to suffer from the evil eye. If that, God forbid, were true, and the evil eye caused donors to die, we would not be facing a shortage of organs for transplants today."

The HOD Society encourages organ transplants in conformity with Jewish law and deals, inter alia, with the fear of some donors that the organs in question will be transplanted in Arab patients. The organization cites several reasons for donating organs to both Palestinians and Jews: "Donation of organs allows those Jews in need of transplants to move to the top of

the list... Many Arabs have donated organs that have saved Jewish lives. It should be remembered that discrimination works both ways... An Arab who cannot obtain an organ donation and who has only a short time to live is an ideal candidate for recruitment as a suicide terrorist bomber, because that person has nothing to lose."

About 400,000 Israelis - 8.4 percent of Israel's adult population - carry an ADI organ-donor card, stating that their organs can be donated after death. HOD encourages religious and ultra-Orthodox Jews to sign an ADI card, specifying the following condition: "A rabbi chosen by the family will authorize the donation after my death."

Among those with an ADI donor card is the founder and director of the ZAKA rescue and recovery service, Yehuda Meshi Zahav who, not long ago, organized demonstrations for the extreme ultra- Orthodox Jewish faction Edah Haredit. He has come a long way since then. Not only does he have an ADI donor card; he was also one of those who lit a torch as part of Israel's official Independence Day celebrations. Another ADI card-bearer is MK Avraham Ravitz (United Torah Judaism), who himself received a kidney transplant. His children competed for the honor of donating a kidney to their father, and he actively promotes organ donations.

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