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'Making a choice'

Orthodox Forum explores organ donation and Jewish law

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The issue of organ donation is one that concerns the most fundamental aspects of human life, according to the participants in a panel discussion on organ donation and Jewish law at Congregation Ahavas Achim in Highland Park Nov. 14.

"Organ donation is a special topic that covers many issues of halakha and ethics to the extent that those two are different including our relations with society at large," the evening's moderator, Dr. Albie Hochhauser, said in his opening remarks.

The event, "Organ Donation--Making a Choice," was sponsored by the Orthodox Forum of Edison/Highland Park.

The three panelists included Dr. Michael Eleff, the medical director of the Cancer Institute of New Jersey in Hamilton and an assistant professor of medicine at University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School in New Brunswick; Robby Berman, the founder and director of the Halachic Organ Donor Society; and Rabbi Dovid Goldwasser, a lecturer, author, and the spiritual mentor of Congregation Bais Yitzchok in Brooklyn.

Eleff, who was the evening's first speaker, provided the medical background on organ transplants.

There are two main categories of organ donations, according to Eleff; those who come from a living donor and those from a deceased one.

The former category includes liver, kidney, and bone marrow transplants while the latter includes these as well as heart, lung, liver, pancreas, intestinal, and cornea transplants.

Generally, in order for organs from a cadaver to be viable, they must be harvested within 30-60 minutes of death.

"First thing you have to have is a dead body," Eleff said. "The second thing is that the organs need to be good enough to transplant. That limits the time and the place."

The question that arises is how you define death, for which Eleff said there are two main definitions.

One is cardiac death, which is when the heart stops beating, and the other is brain stem death, which is recognized as death in the United States by the medical community and federal law.

"But again, if you wait for the heart to stop and you wait until it really has stopped you may start to have trouble harvesting the organs," he said.

Berman, whose organization seeks to increase organ donations among Jews, acknowledged that there are divergent points of view in the Orthodox community on whether a person who is brain stem dead is dead.

"It's a valid halakhic debate and there are many rebbayim on both sides of the divide," he said.

Berman said that while he understood and respected those who believe that a person is alive until his heart stops beating, he said that some Orthodox Jews have a double standard.

Berman recounted the true story of a 54-year old rabbi who, needing a liver transplant to survive, located a woman that was brain stem dead and a match.

The woman's family went to their rabbi and asked if it was permissible for them to donate her liver, to which the rabbi responded that it was not.

"At that point I can't really blame the family," Berman said, "They went to their rabbi, their rabbi said no, they viewed their mother to still be alive, don't donate the organs."

The next day the rabbi died, followed by the woman the day after.

A journalist subsequently looked into the situation and discovered that two years earlier the woman herself had taken a kidney from a brain dead patient.

"And I've asked people, I said: I don't understand this, how can you, as an Orthodox Jew -- I can understand you not wanting to donate organs because you believe your mother is alive, you believe that a brain dead person is alive, that's your right, but for you to put yourself on a list to take a kidney, a heart, a pancreas, a liver from a brain dead patient, you're now having someone murdered," he said.

Berman said that in these cases he has often heard the notion of "Ein Shaliach (messenger) L'dvar Aveirah (sin)" raised as a defense; that because it was the doctor and not them personally who committed the murder, they were not responsible.

"If I asked a Mafioso guy to kill someone in Brooklyn and they kill him, I'm absolved from this? I bear no responsibility?" he said. "I pay \$2,000 to kill someone, halakha doesn't hold me accountable at all? I don't know if that's halakha. I would doubt it and I would hope not, but I really don't know because I'm not knowledgeable in that area."

Berman detailed what he sees as good and bad developments regarding organ donation in Israel.

The good news, according to Berman, is that after a 23-year stalemate, the rabbinate and the medical community in Israel have come to a compromise over how organ donations should be handled.

In 1986 the Chief Rabbinate and a halakhic committee concluded that a beating heart was not a sign of life and that brain stem death was death, and that one could consequently donate organs. However, the decision also said that rabbis must be present with the doctors in this situation, to which many doctors in Israel objected.

Just this year, a compromise was reached that doctors and other health professionals in Israel who deal with organ transplants must undergo a three-day training program about the halakhic issues involved. With this compromise, the Chief Rabbinate has reaffirmed their 1986 ruling.

The bad news, Berman said, is that Israel ranks 22nd out on a list of 24 countries that are on the low end of donating organs.

"When I started the organization the Halachic Organ Donor Society about eight years ago, only 3 percent of Israelis had organ donation cards," Berman said. "With all of my efforts and [others'] efforts the number is now closer to 9 percent, which is a huge increase but is no where near the number in America or other countries, where are about 35-40 percent of the people have organ donation cards."

Goldwasser told the story of a young woman who was inspired to donate her kidney after one of her family members passed away and wanted to help another who was currently in her deceased relative's situation.

When she found someone who was a match, but whose situation was not quite the same as her relative's, she came to the rabbi to seek his advice.

"The degree of self-sacrifice you have right now is already way, way over the limit. That little more degree should be for you nothing at all," Goldwasser recalled telling the woman. "Before I was able to answer, she said: Rav, you gave me the answer to the question and I'm going do it."

"An individual who can reach such a level, who understands what the human healing that we all can play a part in, that person is a person that I will stand by for when they come in the door because that individual is a person who is strong in giving," he added.