

Opinion & Comment

Robby Berman and Jacob Lavee

Turning morality on its head

More than a hundred Israelis die needlessly each year because not enough people donate organs for transplant. Yet the same Israelis who refuse to donate organs are willing to take them when their lives depend on it. In an attempt to stop this social parasitism, the Knesset recently passed a law that gives priority in organ allocation to transplant candidates who are organ donor cardholders. The law is the epitome of fairness, representing the ethical principle of reciprocal altruism – those who try to help others will be helped themselves. Yet Rabbi Dr. David Shabtai, in a recent oped in Haaretz English Edition (“An immoral incentive,” May 4, 2012), turned the moral aspect of this law on its head, and described it as “unfair” and an example of “religious discrimination.”

Some Orthodox Jews do not accept that brain death constitutes death. They believe that a brain-dead body is a living human being so long as its heart is still beating, even if that’s with the help of a ventilator. These religious people claim that to agree to have their organs removed when their heart is still beating would be like agreeing to be murdered. They just can’t do it.

The new law does not target religious people; it targets behavior.

It is true that religiously observant people should not be punished for their convictions, but we believe they should be held accountable for their behavior. What kibbutz, for example, would allow a member to eat communal food

if the member refuses to work?

In truth, the new law is not as severe as it should be. In accordance with principles of strict justice, the law should dictate that, if you don’t give, you don’t get. But the new law is more merciful, saying: If you don’t give, you still will get – but only after others have gotten first.

Shouting “religious discrimination” in a liberal society is a sure way to attract attention. But it is a faux cry. The new law applies to everyone, and not just to a group of people affiliated with a specific religious sect. It applies to people who act (or in this case don’t act) in a certain way. Many Orthodox Jews accept brain death as death and have organ donor cards – and they will benefit from this new law. It is people who are not ready to help others who will be “discriminated” against and “punished.”

The law does not target religious people; it targets behavior. It also targets secular Israelis who are too squeamish to sign a donor card, or too lazy to type www.kartisadi.org.il into their Web browser to register for an organ donor card.

Moreover, consider the immorality of someone who rejects the concept of brain death as death, but who is willing to take an organ from a brain-dead patient for themselves or their loved one. In effect, this individual is asking the medical establishment to commit – what he or she believes to be – murder. The argument that the organs are being taken out in any event, so why not make use of them to save lives, is simply based on a false assumption. Organs are only removed once an appropriate recipient has been identified. This is because they have very limited viability outside the human body, and need to be matched

with a specific recipient (based on tissue, blood and size compatibility) before they are removed. Make no mistake about it: The organs are being removed for the person who put his name on the organ transplant waiting list.

Even if you don’t think you are an accomplice to murder, putting yourself on the waiting list for organs and taking a beating heart means you are at the very least participating in commerce in ill-gotten goods (because you believe the donor was alive and murdered). An analogy can be made to the purchase of stolen goods, which is prohibited by halakha (Mishnah Torah, Hilchot Gneivah, 5:1). Even if the goods weren’t stolen specifically for you, halakha (Jewish law) still forbids you from buying them because you are encouraging immoral activity. In the same way, for a religious person to put his name on the organ transplant waiting list, asking physicians to remove organs from what he believes to be a living person, would be akin to encouraging a market for immoral activity.

The bottom line is that some Israelis are contributing to society in the field of organ donation while others are willing to sit back and reap the benefits from it. The situation is as untenable as it is repugnant. People have a right not to sign an organ donor card – but they should have the courage to bear the consequences of their own conviction.

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