

Tuesday, December 14, 2010

Why I Signed Up To Be An Organ Donor



I am normally loath to publicize my opinion on topics that I have not thoroughly researched. And I have not thoroughly researched the topic of organ donation. But there is no "*shev v'al taaseh*" on this topic, since lives are potentially at stake. And although I have not thoroughly researched the topic, I do think that the basis for my decision to sign up with the Halachic Organ Donation Society has weight.

First, I should disclose that I have personal experience with the loss of an immediate family member (my father) which involved difficult end-of-life decisions, as well as a friend whose life was saved via receiving a liver donation. While some might argue that this means I am emotionally biased towards saving lives, I think that it means that I have a better understanding of the value of life than someone who has never experienced real life-and-death scenarios.

My reasons for considering that those advocating for the halachic permissibility (indeed, preferability) of organ donation are correct, are as follows:

Those who claim that organ donation is halachically prohibited are basing themselves on the idea that a brain-dead person is not truly dead (and thus his organs cannot be recovered), which in turn is based on various inferences from the Gemara that only cardiac death is considered true death. But based on my research, it is abundantly clear to me that Chazal, consistent with standard belief in the ancient world, mistakenly believed that the mind and soul are housed in the heart and kidneys, not in the brain. It is for this reason that Chazal considered the status of the heart to determine whether one is alive or not. Now, ordinarily, I follow the approach of those who say that halachos canonized by Chazal are binding even if based on mistaken beliefs about the natural world. Being an Orthodox Jew means subscribing to the halachic authority of Chazal. But I would not adopt that approach in this case, since (a) it is a matter of saving lives, and (b) it was never formally canonized that cardiac death rather than brain death defines true death.* (My impression is that those who do not accept brain death will not declare that Chazal and Rishonim had a mistaken understanding of physiology in this area; I would be very interested if someone can demonstrate otherwise.)

Another reason why it seems to me that one should be an organ-donor is that it is a case where fundamental Torah values take precedence over technical halachic discussion. I recall learning somewhere (perhaps someone can recall the source) that if one is stranded on a desert island, and the choice is to eat crabs or one's dead co-travelers, then even though from a strictly halachic perspective there are less prohibitions involved in eating a dead human being, nevertheless fundamental Torah values dictate that one should eat crab instead. Similarly here; when we are talking about saving multiple lives at the "cost" of someone who is effectively dead, I think that fundamental Torah values cry out to save those lives - and I think that if Chazal were alive today, they would certainly agree.

Finally, someone that I know and respect greatly has written on this topic at [Rationalist Medical Halachah](#). His analysis appears sound; I know him to be scientifically knowledgeable (he is a physician) as well as a *talmid chacham*; I trust his honesty; and we share the same epistemology, i.e. the rationalist approach.

You can learn more about being an organ donor, and sign up, at www.hods.org.

* Note that the Gemara speaks about cessation of brain function such as breathing, and not about the brain per se.

Posted by Natan Slifkin  

Reactions:

65 comments:



[Aryeh](#) said...

> I recall learning somewhere (perhaps someone can recall the source) that if one is stranded on a desert island, and the choice is to eat crabs or one's dead co-travelers, then even though from a strictly halachic perspective there are less prohibitions involved in eating a dead human being, nevertheless fundamental Torah values dictate that one should eat crab instead.

I actually heard second-hand that Rav Lichtenstein said this explicitly. And you might have it slightly wrong, because according to the Rambam both are assur m'doraiysa. Rav Lichtenstien was explaining that even though, according to the Rambam, both are d'oraiysa, cannibalism outweighs it with moral repugnance.

My question about this, is why is cannibalism morally repugnant? Shouldn't it only be because the Torah or the rabbis said so? How do you put rationalism into morals (besides stuff that hurts others -killing, stealing etc)?

[December 14, 2010 12:36 PM](#) 



[Yisrael](#) said...

??I seem to recall Rav Kook in his [השלום והצמחונות והזיון](#) discusses the issue of cannibalism as opposed to eating a more forbidden food with a similar nimuk to that which describe. I don't recall crabs being mentioned.

[December 14, 2010 12:56 PM](#) 

[Garnel Ironheart](#) said...

Can I have your brain when you're done with it then?

[December 14, 2010 3:17 PM](#) 

Anonymous said...

There's much to say on this -see also the dor revii who asks if the house is on fire and the only thing a man who is sleeping naked can grab is a woman's garment, would he run outside naked?

However all that being said, it is a really slippery slope - determining "natural ethics". For example there are certainly societies that don't find cannibalism abhorrent etc.

Sometimes we just have to suck it in,, even though we don't like the result. I'm sure R'HS (for example) would've rather have been able to say he felt brain death was usable.

KT
Joel Rich

[December 14, 2010 3:24 PM](#) 

yakov said...

Wow. Rabbi, you must understand, posts like these that demonstrate such ignorance of the mechanics of deciding halacha really hurts your credibility.

I know you have tried to section off a field of the torah that is not related to halacha and declare yourself an expert in that field, but the torah does not work that way. There is enough crossover between the different fields in the torah that you cannot declare yourself to be an expert in any field and still put out posts like this.

Here are a number of examples.

1. There is shev v'al taaseh on the topic when lives are at stake. See gemaras just about anywhere on the topic of why the issur retzichah is yaharog ve al yaavor. See the mishna in terumos that says "better that all of them die so that no one should be given over". See the gemara in sanhedrin about a woman in danger of dying while giving birth.

2. when we are talking about saving multiple lives at the "cost" of someone who is effectively dead, I think that fundamental Torah values cry out to save those lives - and I think that if Chazal were alive today, they would certainly agree.

You must know a lot more torah before you can claim to know what fundamental torah values dictate. To decide matters of life and death based on such a claim is astonishing.

[December 14, 2010 3:38 PM](#) 



[Natan Slifkin](#) said...

Yakov - you are correct that shev v'al taaseh is sometimes the prescribed course of action. However my point was that with organ donation, not making a decision is itself a decision.

[December 14, 2010 3:42 PM](#) 

yakov said...

And how is that different from any case where shav ve al taaseh is the prescribed course of action?

[December 14, 2010 3:53 PM](#) 



[Natan Slifkin](#) said...

Because there it is prescribed - i.e. the situation has been analyzed, and it has been determined that this is the correct course of action. I was talking about the problem of not signing up as a donor due to simply not having looked into it.

[December 14, 2010 3:57 PM](#) 



[Yitz](#) said...

Wow. Rabbi, you must understand, posts like these that demonstrate such ignorance of the mechanics of deciding halacha really hurts your credibility.

That Rabbi Slifkin is ready willing and able to withstand such gratuitous abuse and answer the critique matter-of-factly greatly enhances his credibility in my book.

R' Yakov - the content of your is well placed. You mention the torah concept of "be killed rather than kill", a mishna, a gemara.

I also resonate with your concern about declarations of "fundamental torah values".

But why can't you just be respectful? Also consider that respectful intercourse enhances your persuasive power.

[December 14, 2010 4:19 PM](#) 

yakov said...

Well, I thought the tone of my comments was kind of normal for the internet.

Rabbi Slifkin has not legitimately answered my comments. This was either deliberately or due to a lack of understanding of shav ve al taaseh.

The truth is I'm not really trying to be all that "persuasive" or "abusive". I was trying to make the point that I made. When the controversy started 6 years ago I was from the Slifkin camp. I was cheering him on as he ventured to expose the mass manipulation of the gedolim.

Then one day, he switched tracks. (This was probably due to Rav Feldmans verification of Rav Elyashiv's support of the ban). The gedolim weren't manipulated, they were paskening for their own community. Natan Slifkin is writing for a different community.

Now on this blog he is defining his community's ideals and at the same time showing in what way his community is superior to the chareidi community. This involves treading on a lot of mainstream chareidi values. While doing so he usually exposes a lack of skill in learning torah which is problematic considering his new "head on" approach. Basically he is blogging himself into irrelevance and it's a little disappointing.

[December 14, 2010 5:21 PM](#) 

Eddie said...

" I recall learning somewhere (perhaps someone can recall the source) that if one is stranded on a desert island, and the choice is to eat crabs or one's dead co-travelers, then even though from a strictly halachic perspective there are less prohibitions involved in eating a dead human being, nevertheless fundamental Torah values dictate that one should eat crab instead. "

Aren't fundamental Torah values decided by the halacha? One cannot determine on their own what the Torah wants of them if the halacha tells them what to do otherwise. The halacha is a way of life.

[December 14, 2010 5:32 PM](#) 



[Yaacov Prupis](#) said...

I recall a friend of mine explaining that there is another issue involved.

Practically, when a person holds the donor card, a doctor might decide, without talking to the family, to take an organ even before the person is brain-dead.

I'm not sure if cases like this actually have occurred, but this is what I once heard and something worth considering.

[December 14, 2010 5:37 PM](#) 

Greg said...

How could Chazal mistakenly believe the soul to be located in the heart or kidneys? Isn't it just up to them to decide?

[December 14, 2010 5:45 PM](#) 



[Natan Slifkin](#) said...

Greg, I think it's a given that the soul is connected to the mind. And the mind is certainly seated in the brain, not in the heart and kidneys.

[December 14, 2010 5:50 PM](#) 



[Yitz](#) said...

I thought the tone of my comments was kind of normal for the internet.

Very true and very unsatisfying, but I see that I have been heard.

Now on this blog he is defining his community's ideals and at the same time showing in what way his community is superior to the chareidi community. This involves treading on a lot of mainstream chareidi values.

Ein hachi nami and good point! I consider myself a fence sitter in many ways and sometimes bristle at RNS's postings.

While doing so he usually exposes a lack of skill in learning torah which is problematic considering his new "head on" approach.

I encourage you in earnest to aspire to be persuasive by emphasizing the lumdus and leaving it to the reader to make judgement about RNS's skill in learning.

[December 14, 2010 5:50 PM](#) 

David Meir said...

@Yakov - R. Slifkin specifically went out of his way to say that he DOES NOT have expertise in this area. What more do you want from the guy??

There's a place to speak/act from conscience, especially when there are respectable halachic opinions and organizations to rely upon.

By the way, for all your halachic smugness, you should know that it's "**yehareg** v'al ya'avov", not "yaharog" which would mean "he should *kill* and not transgress."

[December 14, 2010 6:05 PM](#) 

David Ilan said...

I recall a friend of mine explaining that there is another issue involved.

Practically, when a person holds the donor card, a doctor might decide, without talking to the family, to take an organ even before the person is brain-dead.

I'm not sure if cases like this actually have occurred, but this is what I once heard and something worth considering.

Yaacov, Your friend is wrong. Take a careful look at the "UNOS" website (United Network for Organ Sharing) Even when someone holds a donor card a close relative or health proxy must give permission. No one can take organs from a donor until two independent exams are done by experienced neurologists to establish brain stem death. And finally, no, there are no cases in the United States, or any civilized country where the above ever happened. There are many, many safeguards built into the system to prevent such occurrences.

How do I know? Because I am a medical professional with many years experience in Transplant Medicine.

[December 14, 2010 6:07 PM](#) 

David Meir said...

FYI, about the "soul" being in the brain, the tefila before putting on tefillin says explicitly:

"the neshama that is in my brain"

I'm guessing this tefila was composed a long time after Chazal, but the centrality of the brain has certainly entered into the mesorah.

[December 14, 2010 6:13 PM](#) 



[Yaacov Prupis](#) said...

To David Ilan

Thank you.

[December 14, 2010 6:35 PM](#) 

Eric said...

Rambam paskens in Laws of Forbidden Foods 2:3 that cannibalism is not a Biblical prohibition (lav) and a person does not receive lashes. In the same halacha he writes that one is in violation of a positive commandment (Lev 11:2). The Re'ah on Kesubos 60a argues that human meat is indeed a negative prohibition, but most other Rishonim do not see a Biblical transgression (positive or negative) including Raavad, Ramach, Ramban, Rosh. Ran and Maggid Mishneh pasken like Ramban.

A detailed discussion is found in "Iyunim B'parshat Hashavua" second series Parshat Shemini, Elchanan Samet.

[December 14, 2010 6:40 PM](#) 

Ari Abramson said...

Re: The source for eating a non kosher animal rather than human flesh:

Seridei Eish, 3:127

R. Moshe Shmuel Glasner, in the introduction to his book "Dor Revi'i" on masechet Chulin, Se'if Bet.

[December 14, 2010 7:02 PM](#) 

Daniel said...

I am not an expert in this field, to say the least, but it strikes me that this discussion has left out an entire issue. Setting aside the question of Does Brain Death = Death, isn't it possible that there is a flat prohibition on donating organs – dead, alive, or otherwise? That there is an imperative of maintaining the integrity of the dead body that might actually outweigh the intuitively more important imperative to save a life?

Or, even if there is no explicit prohibition, should it be assumed *assur* in the absence of an explicit *heter*?

Again, I don't know for sure, I don't have any sources to cite, I've got nothing. But I think the question has to be addressed, at least.

[December 14, 2010 7:56 PM](#) 

Sholom said...

"I thought the tone of my comments was kind of normal for the internet."

""Very true and very unsatisfying, but I see that I have been heard.""

I agree with Yitz. Yakov, I think that many of the issues that Rabbi Slifkin brings up are too important to introduce a lack of civility into the discourse, as they distract from thoughtful discussion of the issues. I know I've failed at this, so I'm reminding myself as well.

[December 14, 2010 9:23 PM](#) 

Ameteur said...

I became an organ donor when I learned that the process has changed greatly over the past 30 years, and it can now be done with respect and 100% certainty that your organ if taken, will be used to save somebody's life, and not just for research.

[December 14, 2010 10:30 PM](#) 

Anonymous said...

Now, ordinarily, I follow the approach of those who say that halachos canonized by Chazal are binding even if based on mistaken beliefs about the natural world. Being an Orthodox Jew means subscribing to the halachic authority of Chazal. But I would not adopt that approach in this case, since (a) it is a matter of saving lives, and (b) it was never formally canonized that cardiac death rather than brain death defines true death.*

This is a mind boggling declaration. I have been a big supporter of R Slifkin and have argued vehemently against my friend who has said that the Gedolim had a sixth sense about R Slifkin and understood that he was coming from the wrong place. I did not accept this at all, but now need to reconsider.

It is clear that with this post, R Slifkin has put himself into another category. Halacha is no longer important if it is an issue that R Slifkin has decided was based on faulty logic. Of course, R Slifkin qualified it by saying that this case is different even though he normally agrees that we must follow halacha even if based on incorrect assumptions. How can someone who believes in the halachic process decide that based on his purview of the matter, he can make an exception? Do you follow halacha or not?

This is way out of the norm of orthodox practice and totally negates R Slifkin as a legitimate voice in the orthodox community - even more than Avi Weiss who did not blatantly go against a halachic issue.

[December 14, 2010 10:30 PM](#) 

J. said...

It is clear that pikuach nefesh of a chole yisrael is doche nivul hame'is - which is not yehareg ve'al ya'avov. The only question is for a nachri. This question is discussed here: <http://www.ou.org/publications/ja/5764/5764fall/ORGANDON.PDF> (note 24)
<http://www.ou.org/publications/ja/5764/5764spr/COUNTERP.PDF>

As I once wrote elsewhere:

"I find the stuff about not violating nivul hameis for the sake of saving lives of nachriim very troubling. If I held that brain death was death, and there was a nachri in front of me who needed an organ urgently, I'd have a hard time believing that God would rather I let the nachri die than take out an organ from a dead guy who is going to rot anyway."

I think the approach of the medical halachic rationalist to breaking shabbos for nachriim (i.e. justifying this intrinsically, both halachically and morally should certainly be used here - indeed not to use it would be the height of immorality)

[December 14, 2010 10:31 PM](#) 

Ameteur said...

"Again, I don't know for sure, I don't have any sources to cite, I've got nothing. But I think the question has to be addressed, at least."

Agreed. I always saw problem with how the situation was handled, or what was done with the organs, or when they were used etc etc. That is, the question was regarding the details of what signing an organ donor card meant, not a question of halachic death.

[December 14, 2010 10:37 PM](#) 

Mir bachur said...

Here's another one to consider: According to pure halacha, we should urge non religious male Jews to intermarry! After all, if they marry a Jewess, each biah is a chiyuv kares, but a non Jew is only a lav!

[December 15, 2010 1:15 AM](#) 

yitzi said...

What is even more troubling is the extent Rabbi Slifkins approach breaks down the Halachic system. We were always told that as long it doesn't touch on Halacha, we are free to point out the errors of Chazal. But now we have non experts deciding matters of life and death (either way), possible prohibitions of murder, because the matter wasn't

canonized. This is a misunderstanding of the role of canonization and leads to (or really already is) a breakdown of the Halachic system.

Seems pretty inevitable and the direction he has been heading for a while. But pretty troubling from an Orthodox perspective.

[December 15, 2010 1:59 AM](#) 

yitzi said...

And I will add that I also dealt with painful end of life issues of close relatives. And seeing them suffer led me to think that it is all nice in theory in Bais Medrash but the reality is terrifying. At times I thought what really is wrong with Kevorkian - it really did look like a Chesed. And the patient asked to die. But that doesn't mean it would have been anything less than murder. So experiencing it should give you an added sensitivity and understanding. But it is not remotely decisive. In fact prominent Posekim write that sometimes close family should not decide because they are too close and emotional to think properly.

[December 15, 2010 2:06 AM](#) 

Avi said...

" , it is abundantly clear to me that Chazal, consistent with standard belief in the ancient world, mistakenly believed that the mind and soul are housed in the heart and kidneys, not in the brain"

True, but I think unrelated. They _correctly_ associated life and breathing. This doesn't negate the possibility that brain death is also death (and I happen to agree it is) but Chazal were speaking about removing people from collapsed houses, not nuclear medicine scans (not that I'm holding in the sugyah).

"Being an Orthodox Jew means subscribing to the halachic authority of Chazal. But I would not adopt that approach in this case, since (a) it is a matter of saving lives"

I wonder if this is really consistent. Would you bow down to an idol to save a life? Do you believe Chazal were correct in proscribing the idol but not brain death? Do you just pretend that we should do what they said when they were demonstrably incorrect, but when push comes to shove, not really?

[December 15, 2010 2:49 AM](#) 

Student V said...

I don't get it. The organ harvesting strikes me as a type of cannibalism, and either way seems to me the preferred way - (ie, eat the dead person's flesh rather than eat crabs, and

harvest the dead person's organs to save lives rather than, well, dying - both strike me as permissible).

Btw, isn't it possible to hold that brain death is death based on an understanding of the Meiri? I know a great rabbi who does.

[December 15, 2010 2:54 AM](#) 



[Natan Slifkin](#) said...

I am a little puzzled at those who think that i am advocating going against halacha. There are major poskim on both sides of the issue.

[December 15, 2010 2:57 AM](#) 

Avi said...

"Aren't fundamental Torah values decided by the halacha? One cannot determine on their own what the Torah wants of them if the halacha tells them what to do otherwise. The halacha is a way of life."

Only if you are the most narrowminded Israeli brisker. Otherwise, you might tell yourself this but probably don't really believe it. Whether the issue is being prohibited from freeing a slave, killing an amaleki child, saving a non-jew on shabbos, killing jewish heretics, or even something as commonplace as women's jewish education, we all know that because a plain reading of our traditional sources is a moral abomination, that we will do violence to the texts instead of to the people. (Although some fool themselves so well they honestly think the apologetics was the original intent.)

I do concede your point in one respect, we don't know killing amaleki babies is wrong from the torah; we know it despite the Torah.

[December 15, 2010 3:07 AM](#) 

Avi said...

"Greg, I think it's a given that the soul is connected to the mind."

I don't know what soul means. If it means "mind" then I guess that's a tautology. If it refers to some undefinable hee bee gee bee (sp?) then I don't know how one determines its connections.

Of course, I don't know what Greg means either. Up to them to decide? Make up your mind, man! If you actually believe in the soul then it's real and, no, they can't just decide.

[December 15, 2010 3:14 AM](#) 

Avi said...

"Here's another one to consider: According to pure halacha, we should urge non religious male Jews to intermarry! After all, if they marry a Jewess, each biah is a chiyuv kares, but a non Jew is only a lav!"

Mir bochur, it's an issur derabannan. But you can add yours to the list; lots of things come before halacha even if many people don't want to admit it.

[December 15, 2010 3:19 AM](#) 



[Charles P. Cohen](#) said...

[quote]Another reason why it seems to me that one should be an organ-donor is that it is a case where fundamental Torah values take precedence over technical halachic discussion.
[/quote]

Please forgive a comment by a liberal, halachically-ignorant Jew.

I've been taking a "Jewish Ethics" course, and the quote above -- using "fundamental Torah values" -- puts the ethical decision into a "Jewish values" framework, not a "halachic" framework.

As I understand the halachic framework, it assumes that a "technical halachic discussion" will always give the "right answer". There is no "exemption" for problems where "fundamental Torah values" give one answer, and "technical" consideration give another.

Those "fundamental Torah values" are supposed to be an integral part of the halachah, and the halachic process is supposed to ensure that they're adequately considered. If that halachic process results in an answer that "feels wrong" (according to fundamental Torah values), the answer must be accepted in spite of that feeling.

So RNS, in denying the ultimate decisiveness of "technical halachic discussion" on this question (of organ donation), is aligning himself with non-Orthodox ways of thinking.

I also believe that halachah on this question has been changing over the past 30-40 years, as (a) medical techniques have advanced, and (b) the IDF has really needed donated organs during wartime. The halachah discussion includes some "cost-benefit tradeoffs", and the costs and benefits have been changing in favor of organ donation.

I don't know what the "current halachic opinion" is, on organ donation, or if there is a unified opinion. With luck, it will be favorable, and RNS can donate his organs without appealing to "fundamental Torah values".

Otherwise, RNS must choose between:

- a) doing the right thing for the wrong reason -- using "fundamental Torah values" -- or
- b) doing the wrong thing (_not_ donating organs) for the "right" reasons (following the mechanics of halachic dispute).

In case (a), a bunch of rabbis might be upset, but somebody's life might be saved.

In case (b), the rabbis would be happy, but a patient might die.

I suppose I'm letting my liberal bias show.

Charles Cohen
Richmond, BC,
Canada

[December 15, 2010 4:10 AM](#) 



[Natan Slifkin](#) said...

OK, they are some serious misunderstandings going on here. I will attempt to clear them up in a separate post.

[December 15, 2010 5:09 AM](#) 

Yakov said...

1. Yakov's style was offensive to me and I am voicing my protest. Obviously I am a different yakov).
2. I would take an organ from a jew or a nochri and therefore I feel I should be willing do donate one myself. I use the same logic regarding the army service and paying taxes. I benefit and should contribute my share.

RS, this was an important post. Tnx.

[December 15, 2010 5:13 AM](#) 



[Natan Slifkin](#) said...

now we have non experts deciding matters of life and death (either way), possible prohibitions of murder

I'm not paskening anything. Like everybody else, I have to make a decision as to whether to become an organ donor or not. I am not currently qualified to make a truly informed

decision, so I shared my views on what currently makes me willing to be a donor and to align with those Poskim that permit it. You, too, have made a decision, as has everyone else - in most cases, without giving it any serious thought.

[December 15, 2010 5:15 AM](#) 

Yakov (anti-poshuter) said...

This is getting bizarre! There r halachic authorities that support RS. What is the problem with using human values as a consideration to side with these authorities?

[December 15, 2010 5:21 AM](#) 

Carol said...

Not fundamental jewish values but fundamental human values! What's that? From whose beis midrsh? Avraham avinu's! Who says? Rambam! More(iii, 53) on the posuk veheemin bhashem veichshevea lo lzdaka ayen shom!

It amazing how much good one can do when leaving this world by being a donor.

[December 15, 2010 5:43 AM](#) 

Yakov (anti-poshuter) said...

No, I mean this is really bizarre! Rs signs up with Halachic Organ Donor Society, explains his position adequately in a carefully worded post and finds himself under attack. The attackers are just looking for problems. All the answers r in the post just read it!

Carol, you really have a Rambam for anything! What beis midrash r u from?

[December 15, 2010 6:21 AM](#) 

yakov said...

I didn't realize that there were so many yakovs out there. I thought that every one spelled their name Yaakov or Yacov.

[December 15, 2010 6:23 AM](#) 

Anonymous said...

http://www.rabbis.org/pdfs/Halachi_%20Issues_the_Determination.pdf

It seems the majority of poskim do not accept brain death but IMHO the issue that R'NS needs to address is the psak process one. That is - do you have a poseik whom you follow in all issues? If so, the HODS issue is simple-ask your poseik. If the answer is no, then how do you pick who to ask a shailah or do you study the various opinions and pick for yourself?

There are pros and cons of each approach but in general I would say that one shouldn't mix and match (i.e. bash others for picking minority opinion to follow and then do so themselves when it's an issue close to their heart {I am not saying R'NS did this})

KT

Joel Rich

[December 15, 2010 9:06 AM](#) 

Eliyahu said...

Avi, it's not an issur derabannan if it's "lshem hatnut", i.e. if you marry. Even HaEzer 16.

[December 15, 2010 9:26 AM](#) 

TRex said...

HaRabanut HaRashit dealt with the issue some 25 years ago. R Eliyahu and R Shapira concluded that brain death is final and halachically allows organ transplants. The psak appears in *ה"צק' לב יכדרמ רמאמ*. They reached that conclusion without getting involved in the issue of cannibalism vs. crabs.

I personally believe that the torah could teach us a thing or two about ethics, so I'm not sure crabs is the preferred menu in the above dilemma.

[December 15, 2010 10:26 AM](#) 

TRex said...

R Mordchai Eliyahu also recalls in his psak the story of the rabbis who got cold feet when asked to research the issue for the Rabanut. Quite interesting, I wonder if Askanim were a consideration.

[December 15, 2010 10:34 AM](#) 

Adam said...

Honestly I think that the blog text itself is somewhat ambiguous, and could easily be interpreted as advocating "sometimes human values trump halacha". It is clear from the comments that R. Slifkin did not mean this. I'd suggest making this absolutely clear in the blog text itself - not everyone reads the comments, and they may be left with the idea that you truly crossed an orthodox line. Such a thing would really hurt your cause.

It doesn't matter that upon (an even slightly more) careful reading it isn't what you are saying; communication is meant to communicate - don't leave people with the wrong impression.

[December 15, 2010 10:44 AM](#) 

Daniel said...

1. Can I ask why you chose HODS instead of ADI being that you live in Israel?
2. R. Z.N. Goldberg publicized a ruling that one is permitted to get an ADI card. He did not publicize his pesak regarding when the organs can be harvested, but he said that the card just allows the question to be asked. The rav who receives the query will pasken.
3. Even if a person is not sure about the definition of death, and would leave it up a rav to decide. There is NO reason not to get an ADI card, and select the option that a rav that the family chooses needs to be consulted. It simply instructs medical personal that pending the approval of a religious authority of the family's choosing the organs can be used.
On HODS one can choose between two definitions of death.
ADI is free. HODS charges a small fee.

It is at least worth looking into one or both of the options.

To the person that asked for Rabbi Slifkin's brain, does that imply that the one you have needs to be replaced? :)

[December 15, 2010 11:24 AM](#) 



[Natan Slifkin](#) said...

I had never heard of ADI. I assumed that HODS was for Israel too, since many Israelis are signed up with them.

[December 15, 2010 11:28 AM](#) 

Mordechai Gordon said...

I have to say that my gut reaction to the post was also one of surprise that you were getting into such a halachically weighty topic.
However on reflection and after reading the comments I am convinced that it is essential to discuss these things in a forum like yours.
When it comes down to it each individual bears responsibility for his decision (either the decision to decide or the decision to ask someone and WHO to ask).
This is the value of these discussions to me - people are learning to think. I mean the

maturation of humanity as a whole and the availability of information today forces us to take a stance. There is no more just doing what you're told. You are either taking responsibility or offloading it by asking someone else.

This is the central theme of your blog and the watershed between us and the charedim: who decides? Me or the Rabbi?

I claim that either way I answer that question, I am deciding.

Therefore the personal discussion of organ transplants, even by non-halachists is essential!

Thank you!

[December 15, 2010 12:19 PM](#) 

Anonymous said...

Adam,

In a way R'NS did cross an "orthodox" line, at least to some versions of orthodoxy. He reviewed the evidence and opinions and came to a determination on his own which to follow.

In the US there is a very frum Rabbi who has unique ideas about kashrut - can everyone review his thinking and decide to follow his opinion and eat kraft cheese? If not, where is the line? This is a real l'maaseh question, I think the story is well known concerning the advice R' A Lichtenstein gave to ask someone else since the family was noteh to donate organs.

BTW I share R'NS's evaluation right up to actually signing the card and the whole "ethics outside of halach issue" continues to confound me.

KT

Joel Rich

[December 15, 2010 3:21 PM](#) 

Benzion said...

For those who hold like R'HS that brain death is not death, signing an organ donor card is giving license for people to kill you. What is troubling is that R'NS did not say that he sides with those poskim who hold brain death to be death because he considers their arguments superior (certainly he should be able to take out the time to study the issue before making a life-and-death decision). He actually agrees that the talmud holds that heart function is the definition of life but decides that he can dismiss that opinion based on his own theory that the only reason they didn't accept brain death is because they had a mistaken notion about the functions of the brain and heart. We who know better can dismiss their opinion. This is shocking because R' NS is not following the opinion of those who advocate that brain death is death, but he is following his own opinion based on a very weak premise.

[December 15, 2010 3:38 PM](#) 



[Natan Slifkin](#) said...

Benzion - And you believe that Chazal were not mistaken about the functions of the brain, heart and kidneys? Have you studied this topic?

[December 15, 2010 3:43 PM](#) 

Anonymous said...

I think one needs to differentiate between the Existential definition of death, the real world criteria for determining death and the actual tests used to see if the criteria for death are met. The challenge imho of reviewing the talmudic cases is they did not have the technology/knowledge (unless you are of the chazal knew everything school) and so did not really give us clarity on how to define/test in our world. IMHO the majority of poskim seem to be saying - we can't tell exactly what chazal would do today so it's a safek and this we don't want to take chances on murder.

KT

Joel Rich

[December 15, 2010 3:51 PM](#) 

Benzion said...

Benzion - And you believe that Chazal were not mistaken about the functions of the brain, heart and kidneys? Have you studied this topic?

They may have had mistaken ideas, but to speculate that that is the reason for death to be determined on heart function and not brain function seems a stretch - especially to make such an important decision. It's not like the idea that you're not dead until your heart stops is so unreasonable that we have to say it was based on a false scientific idea like we might say about other scientific statements of chazal.

[December 15, 2010 4:45 PM](#) 



[Natan Slifkin](#) said...

It's far more reasonable to presume that Chazal had no experience of people who were brain-dead but not cardiac-dead, and that if they would have, and would have known that the mind is in the brain and not the heart, they would have seized at the opportunity to save lives by using the organs of someone who has already died!

[December 15, 2010 4:59 PM](#) 

Benzion said...

But we don't know that the reason chazal said that death is determined by the heart is because that is where the mind is. It could be even if they did know that the mind is in the brain they would still say that death is determined by the heart. After all, a brain dead person can still "live" because his heart is beating! And even if they would be told that 2000 years in the future it would save lives if brain death was death, I don't think they would simply say "well in that case we change our minds".

[December 15, 2010 5:24 PM](#) 



[bachrach44](#) said...

If anyone is curious about the brain death controversy and wants to read more, there is an excellent article by Rb. Breitowitz here:
<http://www.jlaw.com/Articles/brain.html>

[December 15, 2010 5:42 PM](#) 

Mike S. said...

To Mir Bochur and Avi:

Just the opposite--while that might be true for women, for men there is a yehoreig v'al ya'avor. See the Ramba"n in Milchamos to Sanhedrin 84.

[December 15, 2010 5:48 PM](#) 

Michapeset said...

Perhaps the cause of the extreme reaction to this post was due to the fact that it was not 100% clear in the above post that Rabbi Slifkin's FIRST decision was to follow reliable poskim who ruled on the halachic details of this matter and allow or advocate for organ donation and that only after that, the SECOND part of his decision process was to choose those poskim who ruled in favor of organ donation, for the reasons he explained above.

[December 15, 2010 7:57 PM](#) 

Phil said...

"Chazal, consistent with standard belief in the ancient world, mistakenly believed that the mind and soul are housed in the heart and kidneys, not in the brain."

Thinking about my previous business, here's a possibility: the Headquarters for the soul could be in the heart, and Operations could be in the brain.

[December 15, 2010 11:37 PM](#) 

Y. Aharon said...

I have commented about my understanding of the relevant gemara, Rambam, and Shulchan Aruch in the "life or death" post. In that comment, no mention is made of the talmudic understanding of brain function. It's just a question of a practical determination of death being the cessation of breathing. When the lack of spontaneous breathing is coupled with a total cessation of brain function, then a declaration of death has both a medical and halachic basis - it seems to me.

I don't wish to appear to refute the views of many Rishonim on human cannibalism. However, I should point out that some latter day Acharonim such as Rav Kook, Seridei Eish (R' YY Weinberg), Rav Glassner (Dor Revi'i), and Rav Amital have argued against the alleged preference for human flesh consumption over treif meat. For me, however, the biblical prohibition is clear. The biblical laws of kashrut refer to what foodstuffs are permitted or forbidden. Human flesh, however, is not a foodstuff - it is in a totally different category. While unkosher food is permitted and even commanded in case of impending starvation, eating a dead person is another matter. There the inhibition stems from it being an act of sacrilege since man is in the image of his Creator. That is also the given rationale of why an executed criminal is only hung for display until evening. That is also the given reason that murder can in no way be overlooked - a Noachide command that immediately follows the permissibility to treat living things as foodstuffs. Humans, in that context, are placed in a different category, i.e., they are not foodstuffs. If human flesh consumption is forbidden to Noachides, it is also forbidden to Jews. In addition, there is the prohibition of "lo teshaktzu et nafshoteichem" on eating something which induces a natural revulsion. At any rate, that is my understanding of the issue. Others may differ.

[December 16, 2010 7:50 AM](#) 



[robert](#) said...

[Chief Rabbi Allows Organ Donations of Brain-Dead Soccer Icon](#)

[December 28, 2010 10:46 PM](#)