



BIO-ETHICS

PROGRAM/CASE STUDY

UJAHHC COMMITTEE

Program Guide IX

ORGAN DONATION

AND

TRANSPLANTATION

Spring 1997

Union of American Hebrew Congregations

1511 Walnut Street, Suite 401

Philadelphia, PA 19102

U.S. Department of Health & Human Services



Health Resources & Services Administration

WITH GRATEFUL APPRECIATION

This ninth educational and program guide came to be as a result of the work, dedication and support of many people. The sub-committee of the UAHC Bio-ethics committee that began to create the UAHC's "Matan Chaim" program of organ donation awareness provided the spark that helped develop this guide as well as our donation brochure. The continued support of Organ Procurement Organization presidents such as Richard Luskin and Howard Nathan was crucial. Likewise, the entire program benefitted from the support and guidance of Judith Braslow. Judith heads the Division of Transplantation for the United States Government's Department of Health and Human Services. A grant from that Division has made this document possible.

In addition, special thanks are also due to Rabbi Deborah Pipe-Mazo who helped in the preparation of the Guide and was instrumental in contributing program suggestions. Rabbi Pipe-Mazo was assisted by Randi Musnitsky and Arnold Meshkov in the development of the section on ritual. This idea emerged from a suggestion by Dr. Lawrence Hoffman of the Hebrew Union College-Jewish Institute of Religion.

The compiling of the Guide was enabled and assisted with the invaluable help of Rie Brosco and Gail Simon and as always, Esther Rhode, of the UAHC regional office in Philadelphia.

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**With love and affection we dedicate
this Guide to the memory of a friend
to our UAHC committees and family**

EILEEN KOBRIN z"l

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Shalom,

The issue of organ donation and transplantation has recently occupied a larger role on the debates and discussions having to do with ethical decision making. Spurred on by the secular world's celebrity role models, such as Mickey Mantle; the Jewish community's focus intensified following the involvement of the Flatow family following their daughter Alisa's death in Israel.

Gradually, more and more people began to ask as to how Judaism treated the issues of donation and transplantation. The continuing growth of medical technology allowed much of this discussion to take place with renewed interest and gave rise to the reality of a continuing evolving scholarly tradition which seems to continue to find ways to honor life. In 1996, the UAHC Committee on Bio-ethics, along with the Committee on Older Adults, was asked to look at this issue and pursue a possible program which would be aimed at raising the awareness of and need for organ donation and transplantation within our UAHC community. In the summer of 1996, plans were developed for what would become "Matan Chaiim": the Gift of Life! Co-sponsored by the Women of Reform Judaism and working with the U.S. Department of Health and Human Services Organ Transplant Division and the Organ Procurement Organizations, the UAHC Committee on Bio-ethics developed a model program which was launched at the High Holiday season of 1996. The UAHC Organ Donation Brochure and Card continues to be distributed around North America. This congregational education and program guide adds to the materials scheduled for development for this program. It is, like the previous eight in the series, designed to serve as a resource for teaching and programming in your congregation.

At the foundation of "Matan Chaiim" is the fundamental Jewish belief in life and the ultimate affirmation of the value of saving life. Within your congregation

and community there are people who can give witness to the reality of organ donation and transplantation. The effect, on the donor family and the recipient, is literally life altering and filled with profound aspects of holiness. Arnold Meshkov, a recent recipient, wrote of his experience for his synagogue bulletin. Part of what he wrote speaks to the transformative power of his experience. "In times of difficulty, one comes to understand the true meaning of caring, the importance of community of family and friends. Friday night services become a key respite from the stress and anxiety of day to day, and the conversations with friends, their concern and support, even if momentary, are of great comfort. The words and melodies of the prayers take on a new meaning, as I search for some understanding and hope for the future.

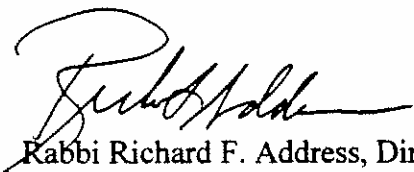
It has now been almost four months since my miracle happened... so far a successful transplant. It is time to think of others, and for me to thank my synagogue, faith, family and friends for the strength to deal with the prolonged time of need. My reading tells me that for a Jew, to save one person is to save the entire world. The waiting list for organ transplants grows every day, in large part due to the success of these procedures. Organ transplantation is far beyond the point of experimental surgery -- the major problem is the shortage of donors. Although 99% of people when surveyed would want a transplant for themselves or a family member, the donation rate is much lower..."

The United Network for Organ Sharing (UNOS) tells us that there are more than 40,000 people in the United States now waiting for organs and that every 20 minutes a new name is added to the list. The need continues to grow. Curiously, there still exists within our Jewish community perceptions that Judaism does not embrace the concept of organ donation and transplantation. In fact, the denominations are together in affirming the need for our participation in what is

really a modern "mitzvah." The first section of this guide presents a selection of texts from contemporary denominational sources which take us through the arguments for validating organ donation and transplantation. They address the various issues that are often raised such as, the dignity of the dead, the belief that the body parts must be buried with the deceased and the changing definitions of when death takes place. Subsequent sections deal with the overviews of the subject from a wide variety of positions including a selection from the UNOS clergy manual which outlines the variety of religious positions. As usual, there are programmatic ideas and some sample sermons. We have also included model rituals for use by donor families and recipients as an idea with which you may want to experiment.

Finally, it is our hope that this guide be used to teach the value of life and the importance of the mitzvah of saving life. We are fortunate to live in a time when technology can make it possible to act on the concept of *p'kuach nefesh* in ways hardly dreamed of just a few years ago. For this we say "amen" and wish you well.

B'shalom,



Rabbi Richard F. Address, Director



Dr. Harvey Gordon, Chair

UAHC Committee on Bio-ethics

CONTEMPORARY JEWISH POSITIONS ON ORGAN DONATION AND TRANSPLANTATION

The mood of contemporary Judaism, across the denominational line, favors organ donation and transplantation. Indeed, it has become for many, a modern *mitzvah*. The basis for this belief is rooted in the value of saving a life (*p'kuach nefesh*). Strengthened by the developments in modern medical technology, the acceptance of organ donation and transplantation has been affirmed by modern Judaism.

There have been a variety of CCAR responsa dealing with many aspects of the donation issue. Indeed, they were an important foundation in the creation of the UAHC "Matan Chaiim" project. The selections reproduced here outline a time line that notes the CCAR's involvement in the issue over several decades. The 1968 Freehof Responsa "Surgical Transplants" sets the groundwork for subsequent CCAR deliberations and develops interesting and exciting interpretations that deal with deriving benefit from organs of the dead and the conflict between honoring the dead and the thrust to save a life.

This same discussion, enhanced by the progress of technology and informed by the heightened awareness of the issue, is witnessed in a recent report of the Committee on Jewish Law and Standards of the Rabbinical Assembly (Conservative Judaism). Rabbi Joseph H. Prouser developed a "teshuvah" entitled: *Chesed or Chiyuv?: The Obligation to Preserve Life and the Question of Post-Mortem Organ Donation.* Published in December of 1995, this document also traces the Jewish value and textual approach to our issue. It likewise concludes that organ donation becomes a modern *mitzvah* bringing various types of healing to both donor family and recipient.

The issue of not burying the donated organs with the dead body (an often heard concern and a popular misconception as to why Judaism would not favor donation) is discussed by Prouser in a note from the former Chief Rabbi of Israel, Isser Yehuda Unterman: "As to the question of burial, Rabbi Unterman discusses only the particular organs or tissue being transplanted. In this regard, he considers transplanted tissue to be restored to life and thus not requiring burial with the donor's remains."¹

Likewise, the overriding belief in the saving of life also drives the

contemporary Orthodox community to support organ donation and transplantation. As you will see from the CCAR and Rabbinical Assembly pieces, texts underscore the saving of life as a basic theological foundation for the Orthodox community. These positions also reflect the growth of medical technology and the impact of that technology on Judaism's reinterpretation of the definition of death. The Rabbinical Council of America (Orthodox) approved organ donation as this modern *mitzvah* to save a life in a landmark decision in 1991. The decision noted that "...no halachic barriers exist to donation of the deceased if they are harvested in accord with the highest standard of dignity and propriety... Vital organs such as heart and liver may be donated after the patient has been declared dead by a competent neurologist based upon the clinical and/or radiological evidence... since organs that can be life saving may be donated, the family is urged to do so. When human life can be saved, it must be saved... The halacha therefore looks with great favor on those who facilitate that procurement of life-saving organ donations."

An examination of the following selections will show the interesting similarity amongst contemporary Jewish scholars across denominational lines in calling organ donation and transplantation the modern *mitzvah* that it has become. At the foundation for it all remains the belief in the saving of life. Embracing it all is Judaism's willingness to understand that in the growth of medical technology we can find the tools to make real the belief.

SURGICAL TRANSPLANTS²

Question:

What is the attitude of the Jewish legal tradition to the growing surgical practice of transplanting parts of a dead body into that of a living person?

Answer:

It should go without saying that Jewish tradition and feeling would be absolutely opposed to hastening the death of a potential donor by even one second, in order that the organ to be transplanted into another body be in good condition. Nothing must be done to hasten the death of the dying. This scrupulousness about preserving the last few moments of life is also the concern of modern medicine. There are serious discussions today among doctors--especially with regard to obtaining organs for transplanting without delay--as to exactly when the potential donor is to be considered actually dead. At first the rule was: when the heart has stopped beating. Now they are considering a further test: when the brain stops functioning. As the discussion in medical circles continues, they will devise more, and even stricter tests.

As far as deciding when the potential donor is actually dead, modern scientific opinions are much stricter than Jewish tradition. The controversy arose a century ago as to whether the Jewish law of immediate burial was too hasty an action or not. Various governments in central Europe decreed that there must be a delay of three days before the burial. The great Hungarian authority, Moses Sofer, defended the Jewish custom of immediate burial (on the same day) and said that our traditional judgment, embodied in the knowledge of the Chevra Kadisha, was sufficient proof of death (see his responsum in Chatam Sofer, Yoreh De-a 338). Let us therefore say at the outset that -- at least according to the spirit of Jewish law -- the stricter the test as to the time of death which physicians will arrive at, the better it is. We therefore agree with the strict judgments of modern medicine that it must be absolutely clear that the patient is dead.

But it is from this point on that the real problem begins. Is it morally or legally permissible to take away parts of the body of the dead, and is it further permissible to insert such parts into a living body? The problem is difficult, first of all, because transplanting of organs is an entirely new surgical procedure, and

therefore there could be no direct parallel or discussion of such a procedure in the older literature. Whatever opinion is arrived at on this matter must be derived as the underlying ethical principle behind related discussions in the literature.

There is a second and more direct difficulty in analyzing this question. When we begin to study the ethical implications of related ideas in the Talmud and in the writings of later scholars, we discover that the relevant basic principles seem to be mutually contradictory. Since this fact constitutes an initial difficulty, let us consider it first.

There is a general principle as to healing and the materials used for healing which, on the face of it, is so general as to make all further discussion of this problem unnecessary. The Talmud says (Pesachim 25a): "We may use any material for healing except that which is connected with idolatry, immorality, and bloodshed." These are the three cardinal sins which a person must avoid, even if it would lead to martyrdom. But aside from three such sources of healing methods or materials, any material or any method would be permitted. Maimonides, himself a great physician, makes this Talmudic statement even clearer. He says (Hilchot Yesodei Torah 5.6): "He who is sick and in danger of death, and the physician tells him that he can be cured by a certain object or material which is forbidden by the Torah, must obey the physician and be cured." This is codified as a law in the Shulchan Aruch, Yoreh De-a 155.3.

Considering this general permission to use anything we need, no further discussion would seem to be necessary, except for the fact that the body of the dead has a special sacredness in Jewish law. There is a general principle that the body of the dead may not be used for the benefit of the living ("Met asur bahana-a," based on Sanhedrin 47b). if the two principles are taken together, the general permissiveness would then need to be restated as follows: We may use all materials except those involved in the three cardinal sins mentioned above and except, also, the body of the dead.

But this apparent prohibition of using parts of the body of the dead depends upon a closer definition of the word hana-a (benefit). Later scholars understand the word hana-a to mean not "general benefit," but rather "satisfaction" (in the sense chiefly of the satisfaction derived from food). Therefore, they speak of materials taken into the body in ways different from the way of eating, and they call such absorption of material (other than eating) "not in the way of benefit, or

satisfaction" ("Lo kederech hana-ato"). For example, the eating of blood is forbidden, but taking a blood infusion by means of the veins is described as not by the way of hana-a, or satisfaction, and therefore is permitted. Thus, the question of getting hana-a (satisfaction) from the body of the dead depends now on whether it is taken as medicine or by way of food. If the parts of the body of the dead retaken "not by the way of satisfaction" (derech hana-a) but inserted into the body in another way, the law forbidding "benefit" from the dead is usually much more permissively interpreted.

There is another aspect of the principle that the dead may not be used for the benefit or satisfaction of the living. That has to do with the distinction between Jewish dead and Gentile dead. In general, we are in duty bound to heal the sick, bury the dead, comfort the mourners of Gentiles, just as we do with the bodies of Jewish dead (B. Gittin 60a). But with regard to the Jewish dead, Jewish law adds certain special regulations. For example, a kohen may not be in the same building with the Jewish dead because he may not defile himself except for his own relatives. There are detailed burial requirements as to washing, shrouds, etc., which are required for the Jewish dead. These extra requirements do not apply to the Gentile dead. We are, of course, in duty bound to bury and console, but neither Gentiles nor Jews are required to obey these additional minutiae of Jewish burial laws in the case of Gentile dead. It is sufficient if Gentile dead are respectfully buried and their mourners consoled.

So there is a debate in the law as to whether the body of the Gentile dead may or may not be used for the benefit of the living. The Shulchan Aruch, Yoreh De-a 349, is inclined to the belief that the body of the Gentile dead may not be so used, but the majority of opinion inclines to the opinion that such bodies may be used for the benefit of the living (see the authorities marshaled by Moses Feinstein, Igerot Mosheh, #229 and #230). Since, therefore, the majority of the available bodies as sources of organs for transplant are Gentile bodies, this doubt as to whether "benefit to the living" may come from the body of the dead does not have heavy weight.

There is, of course, a third consideration, and that is the duty of burying the whole body of the dead. This duty is the source of the basic objection of Orthodox authorities to autopsy. Therefore, the question now is whether a part of a body which is inserted into a living body is still to be considered part of the

dead (which must be buried), or is it now to be considered a part of a living body.

All, or almost all, of these rather complex contradictions which needed to be harmonized or discussed in the Talmud and by its early commentators, but of course they have no definite statement about the actual consuming or using the body of the dead for the healing of the living. The discussion of such methods of healing begins to appear in the literature in later centuries.

One of the strangest discussions concerning the medical use of the dead for healing the living is found in the responsa of David ibn Zimri (Egypt, 1479-1589). He is asked a question which seems bizarre to us, who are no longer aware of medieval popular medical superstitions. It seems that mummies from the ancient Egyptian tombs were in David ibn Zimri's time a regular article of commerce. They were sold for medical purposes. People would actually eat those mummies to heal certain diseases. He is asked whether it is permitted to get benefit (*hana-a*) or satisfaction from these bodies of the dead (Responsa Radbaz III, 548). He states the general principle that one may not have *hana-a* from the flesh of the dead (based on Avoda Zara 29b). Then he says that these bodies, embalmed so long ago with various chemicals, are no longer human flesh but are now another product. The ancient embalming preserved merely the outlines of the features but transformed the flesh into something else entirely. Furthermore, he says, these were once the bodies of the ancient Egyptians, and, of course, the law is less strict than the laws about "benefit" from the Jewish dead.

As far as I am aware, there is no other discussion in responsa literature of the use of parts of a dead body for healing. There are references to the use of tanned skin, but that was not for medical purposes. But in our time there are two detailed discussions of precisely our problem. They are by Moses Feinstein of New York, who may well be considered the prime Orthodox author of responsa (although, indeed, some extreme Chasidim recently denounced him for an allegedly liberal opinion with regard to artificial insemination). Feinstein, in his *Igerot Mosheh* (volume *Yoreh De-a*) has two successive responsa on the subject (#220 and #230). These responsa, although only four or five years old, do not yet know of heart and liver transplants, but the author already knows of bone transplants, and that is sufficient for him to marshal all the relevant opinions.

He discusses -- as was indicated above -- the exact definition of the term "*hana-a*" (benefit) and explains it as literally meaning "satisfaction of food".

Hence, that which is taken into the body not by way of food (i.e., not by mouth) is to be considered more leniently. Furthermore, he speaks of the fact that most bodies available for organ transplants are Gentile, and therefore the stricter prohibitions do not apply to them. Finally, he comes to a conclusion which is vital to the whole discussion, i.e., that when a part of a body is taken by a surgeon and put into a living body, it becomes part of a living body; its status as part of the dead which needs to be buried is now void (babel).

There is a confirmation of the permissive opinion of Feinstein in the responsa of Nahum-Kornmehl, published in 1966 in *New York Tif-eret Tsevi*, #75. His explanation is really charming. He says with regard to the prohibition of hana-a from the dead in transplants that when the operation occurs there is certainly no hana-a for the patient, only misery for days. The hana-a comes when the transplant comes to life and becomes part of his body. But now it is alive, and therefore, this has nothing to do with benefit from the dead.

To sum up the discussion: The exceptional nature and rights of the dead body do not stand in the way of the use of parts of the body for the healing of another body. The part used is not taken into the living body as food, hence it is not considered *derech hana-a*. The part becomes integrated into a living body and therefore the requirement of its burial has lapsed. Therefore, the general principle stated first remains unimpugned, i.e., that "we may heal with any of the prohibited materials mentioned in Scripture." This is especially true, as Maimonides indicates, because the patients about to receive these implants are actually in danger of death, and for such patients any possible help is permitted by Jewish tradition.

KIDNEY TRANSPLANTS³

Question:

One of two sisters in middle life needs a kidney transplant. The doctors prefer to implant a kidney from a close relative (such as a sister because the similarities of the bodies will make the danger of the rejection of the kidney by the recipient's body much less likely. Is the healthy sister ethically or legally in duty bound, according to the Halachah, to donate her kidney to her sister? Also, is the sick sister entitled to demand that donation? The problem is complicated by the fact that the two sisters are not on friendly terms. (Asked by Rabbi David Polish, Chicago, Illinois.)

Answer:

As far as the ethics of the Halachah is concerned, this question goes back to the Biblical verse in Leviticus 19:16: "Stand not idly by the [shedding of the] blood of thy neighbor." The Talmud (in *Sanhedrin 73a*) makes this general command more specific and says: If you see your neighbor drowning in the river or being attacked by robbers and you do not come to his help, you have violated the Biblical mandate, "Stand not idly by."

The post-Talmudic scholars realize that the Talmud is not specific as to just how much the potential rescuer is in duty bound to endanger himself. The post-Talmudic discussions on this question revolve around the question whether the victim is in real and *imminent* danger or only in *potential* danger (*s'fak pikuach nefesh*), and as to the potential rescuer, whether he would put himself in imminent danger or only in potential danger. These alternatives are discussed, and the general conclusion is that the potential rescuer must exert all means by the expenditure of money (example: hiring people to overcome the robbers, etc.) but is *not* in duty bound to put *himself* in serious physical danger.

Recently there has developed a good deal of halachic discussion and decision as to how this interpreted Talmudic dictum applies to the specific problem of kidney transplants. Most of this discussion is connected with the historic Orthodox hospital in Jerusalem, Shaare Zedek. This hospital maintains a scholar whose task it is to study all the modern medical problems in the light of Halachah. This scholar is Eliezer Waldenberg, whose responsa works (*Tzitz*

Eliezer) have reached thirteen volumes. In addition to this monumental work of Eliezer Waldenberg, many of the physicians connected with the hospital are themselves Halachic scholars, and they have developed an ongoing symposium on all the new medical-Halachic questions. They publish these symposia in a series called "Healing" (*Assia*). Thus we are now fortunate in having a considerable body of decisions on questions such as the one asked here and on other new questions, such as artificial insemination, heart transplants, life-maintaining machinery, etc.

As to our question here, Eliezer Waldenberg has two responsa. The more important one is in Volume X, #7. In this responsum he cites a responsum from David ben Zimri, who was brought as a child from Spain in 1492, became rabbi of Egypt, and after he reached the age of ninety, left Egypt and continued his rabbinate in Safed. In the responsa of David ben Zimri (*Radbaz*), Vol. III, #625, he discusses a question which may have had actual reality under the rule of the Egyptian pashas. It is as follows: The ruler tells a certain Jew that he is going to kill another Jew unless this (first) Jew allows him to cut off his arm or his leg. The question, then is as follows: Is a man required by Jewish law to sacrifice one of his own limbs to save another person, a question which, of course, comes close to our question about kidney transplants. *Radbaz* decides that while one is in duty bound to do what one can to save one's neighbor, one is not in duty bound to endanger his own life (as might well happen with the crude amputation surgery of those days). In fact, says *Radbaz*, if he does indeed risk his life to save the other man, he is just being foolishly righteous (*chasid shota*). This in effect becomes the present-day decision of Waldenberg. He says that one is not in duty bound to risk his own life in order possibly to save another. As for the case cited by *Radbaz*, we do not actually know what the outcome would have been - after the first Jew had given up his limb, the pasha might nevertheless have killed the Jew whose life he had threatened. Similarly, we are not sure that the kidney transplant will be successful. Thus this would be a case of a person risking his life for the *potential* (not sure) saving of another.

After deciding that a man is not required by Jewish ethics to risk his own life for the potential saving of another life, Waldenberg moves on to a further question, namely, that not only is the potential donor not *required* to give his kidney, but it may even be said that he is really *forbidden* to do so, since, as

Waldenberg indicates, we are not the absolute masters of our own body. Actually one's body is a God-given loan to us, and we have no right seriously to harm it. In support of this latter idea, he quotes the *Shulchan Aruch* of Schneir Zalman of Ladi, who says (in *Sh'miras Ha-Guf* #14), "You are in duty bound to protect your body and do it no harm."

However, Waldenberg himself somewhat mitigates this completely negative conclusion. He considers the probability of some future changes in the situation, based on the possibility of medical progress. If, he says, medical science so advances in the future that the danger to the donor is largely eliminated and the likelihood of benefit to the donee is greatly enhanced, then such a gift of the kidney may be permitted, provided the potential giver does it of his own complete and full-hearted will.

This subject is further discussed in the symposium *Assia* mentioned above. There the physicians have a somewhat more permissive attitude than Eliezer Waldenberg, being more confident of the success of the surgical procedures involved. In the complete Volume I, p. 186, there is an article by Professor Kahn, who says that of course the donation has a better chance for success if the kidney is from a close relative, but the kidney may only be taken from him "if he in truth wishes to give it from the depth of his heart and has no hesitation or limitations to his intention."

Of course, if the donor has serious doubts about giving up his kidney, or has to be too heavily persuaded to do so, then, as Waldenberg says, if some damage occurs through the operation, the doctor or those who persuaded the donor are the ones who have incurred guilt.

Applying all this to the specific question asked, we can say that if the sister who is asked to give the kidney is not completely willing to do so, it is against Jewish ethics to try too insistently to persuade her. After all, the operation on the potential donor to remove the kidney involves danger and may not go well, and also the operation of implanting it may not be quite successful, and it is clear that Jewish ethics does not require us to enter into potential personal danger, especially when the benefit of the one to be rescued is itself not absolutely certain.

BANKS FOR HUMAN ORGANS⁴

Question:

Is there any objection to the establishment of repositories for organs like kidneys, heart, liver, cornea, and segments of skin, so that they can be used to help victims at the proper time? It is now only possible to store organs for a short period. Would Reform Judaism object to long term storage as it becomes feasible in order to save lives? Skin banks now help burn victims survive. (Rabbi M. Belfield, Jr., Raleigh, NC)

Answer:

Tradition has demanded the quickest possible burial of the dead and considers it shameful to leave a body unburied overnight unless the delay is for the honor of the dead (Deut. 21:23; San. 46b; M. K. 22a; *Shulhan Arukh* Yoreh Deah 357.1). Burial according to the Talmudic discussion in *Sanhedrin* is an act of atonement and also prevents any dishonor to the corpse. The thought of atonement through burial is based on the Biblical verse, "And he makes atonement for the land of his people." In other words, burial in the earth will make atonement for the individual (Deut. 32:43). In addition it prevents the ritual impurity of the priests (*kohanim*) who are to have no contact with the dead (Lev. 21:2 ff; *Shulhan Arukh* Yoreh Deah 373.7f; Greenwald, *Kol Bo Al Avelut*, pp. 249 ff).

Burial of limbs is carried out by extension and was known by Talmudic sources (Ket. 20b). However, almost all authorities who discuss burial of limbs indicate that it is done only to prevent ritual impurity of the *kohanim* (M. Eduyot 63), and that the other two motivations for general burial, i.e., atonement and the honor of the dead, are not applicable (Jacob Reisher, *Shevut Yaaqov*, Vol. II, #101; Ezekiel Landau, *Noda Biyehudah*, Vol. II, Yoreh Deah #209). Maimonides limited the possibility of ritual impurity to a limb which had been completely preserved with skin, sinew, etc. and felt that other sections of the human body like liver, stomach, or kidneys, did not transmit ritual uncleanness (*Yad Hil. Tumat Hamet* 2.3).

It is clear from this discussion as well as recent responsa that there is no obligation to bury the internal organs as they do not transmit ritual uncleanness.

That is true for traditional Jews, and of course, for us as Reform Jews. As the *kohanim* have no special status among us, the precautions connected with them have no significance for us.

There are no problems about the removal of the organs, however we must now attempt to define the turning point when "independent life" has ceased and can best do so by looking carefully at the traditional Jewish and modern medical criteria of death. The traditional criteria was based on lack of respiratory activity and heart beat. (M. Yoma 8.5; *Yad Hil. Shab.* 2.19; *Shulhan Arukh* Orah Hayim 329.4). Lack of respiration alone was considered conclusive if the individual lay as quietly as a stone (*Hatam Sofer* Yoreh Deah #38). All of this was discussed at some length in connection with the provision by the *Shulhan Arukh*, that an attempt might be made to save the child of a woman dying in childbirth even on *Shabbat*; a knife might be brought to make an incision in the uterus in order to remove the fetus (*Shulhan Arukh* Yoreh Deah 339.1). If one waited until death was absolutely certain, then the fetus would also be dead.

Absolute certainty of death, according to the *halakhic* authorities of the last century, had occurred when there had been no movement for at least fifteen minutes (*Gesher Hayim* I, 3, p. 48) or an hour (*Yismah Lev* Yoreh Deah #9) after the halt of respiration and heart beat. On the other hand, a recent Israeli physician, Jacob Levy, has stated that modern medical methods permit other criteria, and the lack of blood pressure, as well as respiratory activity, should suffice (*Hamayan*, Tamuz 57.31).

This discussion was important in connection with the preparation for burial, as well as other matters. When death was certain, then the preparation for burial must begin immediately (*Hatam Sofer* Yoreh Deah 338; Y.Z. Azulai, *Responsa* Hayim Shaul II, #25). In ancient times, it was considered necessary to examine the grave after a cave burial to be certain that the individual interred had actually died. This was recommended for a period of three days (M. Semahot 8.1). This procedure was not followed after Mishnaic times.

In the last years, it has been suggested that Jews accept the criteria of death set by the ad hoc committee of the Harvard Medical School which examined the definition of brain death in 1978 (*Journal of American Medical Association*, Vol. 205, pp. 337 ff). They recommend three criteria: (1) lack of response to external stimuli or to internal need, (2) absence of movement and breathing as observed

by physicians over a period of at least one hour, (3) absence of elicitable reflexes, and a fourth criteria to confirm the other three, a flat or isoelectric electroencephalogram. They also suggested that this examination be repeated after an interval of twenty-four hours. Several Orthodox authorities have accepted these criteria while others have rejected them. Mosheh Feinstein felt that they could be accepted along with turning off the respirator briefly in order to see whether independent breathing was continuing (*Igrot Mosheh Yoreh Deah* II, #174). Moses Tendler has gone somewhat further and has accepted the Harvard criteria (*Journal of American Medical Association*, Vol. 328, #15, pp. 165.1 ff). Although David Bleich (*Hapardes*, Tevet 57.37; Jacob Levy, *Hadarom*, Nisan 57.31, Tishri 57.30; *Noam* 5.30) vigorously rejected these criteria, we can see that though the question has not been resolved by our Orthodox colleagues, some of them have certainly accepted the recommendations of the Harvard Medical School committee. We are satisfied that these criteria include those of the older tradition and comply with our concern that life has ended. Therefore, when circulation and respiration only continue through mechanical means as established by the above mentioned tests, then the suffering of the patient and his family may be permitted to cease, as no "natural independent life" functions have been sustained.

In addition to this, we may be well guided by the statements on medical ethics made by the Committee of the Federation of Jewish Philanthropies of New York. They have suggested that the following criteria be used:

"1. Acceptance of total cessation of brain-stem function as a criterion of death is in keeping with *halakhic* standards for determining death, provided the Harvard Criteria are met.

"2. The Committee expressed confidence in the medical profession's ability to provide needed safeguards and to set proper standards.

"3. Our support of this new legislation is necessary to correct the lack of uniformity presently found among hospitals and staff in determining the fact or moment of death. This legislation is, therefore, viewed as a 'tightening up' of standards.

"4. The neurological definition of death serves an important function in view of the widespread introduction of respiratory-assist

technology in hospitals.

"5. Radiological methods for determining cessation of blood flow to the brain's respiratory centers are considered a particularly valid test for neurological i.e., brain-stem) death," (M.D. Tandler, ed, *Medical Ethics*, 5th ed., 1975, with addendum 1981).

Hanaah, the problem of "benefiting from the dead," has been discussed by Solomon B. Freehof (W. Jacob, *American Reform Responsa*, #86). A transplant lies outside the scope of what tradition has normally understood as *hanaah*; This potential objection does not exist.

As we view the traditional reluctance in this matter, we feel that the desire to help a fellow human being, especially in these dire circumstances of *pikuach nefesh*, is of primary significance. From our liberal understanding of the *halakhah*, this is the decisive factor. The act of donating organs does honor to the deceased; many of those about to die would gladly forgo any other honor and donate organs for this purpose (Kid. 32; *Shulhan Arukh* Yoreh Deah 364.1, 368.1; Isserles *Responsa* #327). As the donation of an organ will help to save the life of another human being, storage until the time of proper use presents no problem. Progress in the future may raise now issues of use and lead us to reexamine this matter. At the present time we should insist that storage and handling be done with appropriate respect and that the disposal organs which are not used be done with reverence.

TRANSPLANTING THE EYES OF DECEASED PERSONS⁵

Question:

Is there any religious objection to the authorized removal of the eyes of a deceased person in order to use the cornea, by transplantation, to restore sight to a blind person?

Answer:

The ethics of Judaism are grounded in the doctrine that human life and the personality of each individual are sacred. The ancient Rabbis, resting on this fundamental principle, insisted that the very body of man, the temple of the soul, retain a measure of sanctity even when all life had departed from it, and that it must, therefore, be neither marred nor degraded in any way.

Yet, in Judaism, to save or prolong life is a supreme obligation. The law therefore permits a post-mortem examination if undertaken to ascertain the cause of death and thus absolve another person of the crime of murder alleged against him. And so, too, is the performance of an autopsy permitted, if another person, presumably afflicted with the same or similar disease, might be restored to health, by the findings of such a dissection (see CCAR Yearbook, vol. XXXV, pp. 130-134).

It would seem, therefore, that in Jewish law the dismemberment of a human body after death is not regarded as mutilation, if other lives -- now imperiled or seriously impaired -- might be rescued or preserved.

There is, of course, a difference between the act of dissection and the process of transplantation. But the difference springs from the nature of the means employed and not from the goal pursued. In either case, it is the life and health of a living person that stand to benefit by the operation.

We must, therefore, conclude that the authorized removal of the eyes of a deceased person in order to restore sight to the blind is not an act of mutilation, which is forbidden, but an act of healing and restoration, which in Jewish law takes precedence over almost all other religious injunctions.⁶

THE USE OF THE CORNEA OF THE DEAD⁷

Question:

Physicians in (sic) recent years have developed a technique of transplanting the cornea from the eyes of people who died recently onto the eyes of the blind, and thus -- in many cases -- restoring their sight. Is this procedure permitted by traditional Jewish law?

Answer:

This question has received considerable discussion in Jewish legal literature during the last two or three years. There have been a number of articles on the question in the Orthodox rabbinical magazine, *Hapardes*, and also a full discussion of it by the late Rabbi L. Greenwald, in his *Kol Bo Al Avelut*, p. 45.

It is necessary first to state the general attitude of Jewish law as to the use of normally forbidden objects (blood, trefa meat, etc.) in case of sickness. The law is in the fullest sense liberal and is codified in the *Shulchan Aruch*, *Yoreh De-a* 155.3. An invalid who is not in grave danger may make use in healing of all things which are forbidden by Rabbinic law, but not of such as are forbidden by the stricter law of the Pentateuch itself; whereas an invalid who is in imminent danger ("choleh sheyesh bo sakana") may make use for his healing even of such objects as are forbidden by the strictest Pentateuchal law. A man who is blind in one eye would be considered as an invalid not in immediate danger, but one who is blind in both eyes would be considered as one who is in imminent danger. Therefore, there is no question that a person totally blind or in imminent danger of becoming totally blind, may make use of anything that may bring him healing, in this case, vision.

There is no question that the invalid is permitted by Jewish law to make use, therefore, of the cornea of the dead. But the question which concerns the Orthodox writers in this matter is not whether the blind man may use it, but whether we have the right to provide it. This is another, and a more complicated matter. There is, first of all, the question of *Tum-a*, uncleanness. Part of the body of the dead makes one unclean by contact, and since it is the procedure to have that part of the body available, the touching of it makes one unclean. This part of the question need not delay us long, since uncleanness nowadays applies not only

to Kohanim, Priest, and the question of uncleanness would come up if the doctor himself were a Kohen. But even in his case it is not sure that he would become unclean by contact with the cornea of the eyeball. The doubt as to uncleanness involves the size of the object. Does an amount as small as this make one unclean? All of those who discuss the matter count this amount as "less than an olive," their usual measurement for the amount that can make one unclean. If, then, human flesh less than an olive in size must be buried, it does make one unclean if not buried. The two considerations are related to each other. Does less than an olive require burial? This is debatable. The Minchat Chinuch #537 (Joseph Babad) says that even such a small amount needs to be buried; but the authoritative commentator to the Yad, namely, the Mishneh Lamelech (Judah Rosanes), at the end of Hilchot Evel (the second paragraph before the end of his comment), says that it need not be buried. Thus, this is a question which can be decided either way.

But something further is involved. If only the cornea itself were removed from the body of the dead, it would be easy to decide this question permissively, but the practice is not to take out the cornea alone, but to remove the entire eyeball and to keep it under refrigeration until needed for the operation. If it were the cornea alone which is removed, then the cornea -- being, as its name implies, horny, skin-like material -- does not make unclean by contact. The law is clear that the skin of a dead human being without flesh does not make unclean, but that (practically or "Rabbinically") we treat it as unclean lest it be used irreverently (Nidda 55a). The Talmud states this figuratively: "Lest a man make floor coverings of the skin of his parents." But essentially, the cornea per se (being skin or horn) does not make one unclean and does not need to be buried.

However, in practice, the whole eyeball is taken out and kept. The question, therefore, depends upon whether the eyeball of the dead needs to be buried. If it does, then not burying it involves both the sin of "Bal talin," "do not delay the burial of the dead," and also uncleanness. Even if the whole eyeball may be considered by measurement as being below the mandated amount that some authorities require to be buried (i.e., less than an olive), nevertheless Greenwald in his discussion says that it should be buried for another reason. It is an *ever*, "a limb," of the body, and the "limbs" should be buried whatever their size. However, even that is doubtful, because it is not sure that the eye is counted

among the "limbs" of the body. The only clear indication in the older law that the eye is to be counted as a "limb" which requires burial, is based upon an Agadic statement in B. Nedarim 32b. There we find an Agadic discussion as to why God called the Patriarch first "Avram" and then later "Avraham." The name Avram totals the number two hundred forty-eight, the number of the "limbs" of the body. The Agadic explanation of the difference is that God referred (by the second name) to five more "limbs" of the body, and these five are then enumerated, the two eyes being counted among them.

But, directly contrary to this Agadic statement that the eye is to be considered a "limb" which must be buried, is the halachic implication of the Mishna in Oholot I.8, in which the limbs of the body which defile are enumerated, and the eyes are not enumerated among them. It is, therefore, debatable in the law whether the eye is to be considered a "limb" which requires burial or not.

How then can we decide when the following crucial facts are doubtful?-- Does a small amount less than an olive defile and is it required to be buried? Is the eyeball to be counted legally a "limb" (*ever*), which--whatever its size--is required to be buried? The decision can only be made on the basis of general attitude to the law. An Orthodox rabbi such as Greenwald--who in his introduction mentions the modern use of the cornea as another evidence of the laxity of our age, and who, therefore, feels obligated to guard against further laxities by being doubly strict--will decide all these doubts on the stricter side (*lechumra*). Whereas a more liberal teacher, more concerned with making the law viable for our changing age, will decide these doubts leniently (*lekula*).

My decision, therefore, which has adequate justification as seen above, is as follows: Since, the general spirit of the law is to allow the dangerously sick to use anything otherwise prohibited; and since there is justification in the law for not even being required to bury that which is "less than an olive"; and since it is doubtful whether the eye is one of the "limbs" which must be buried; and since at all events we have become accustomed to permit autopsies in which even limbs of the body are not buried for a while--we are justified in deciding that even though the entire eye is taken out and kept under refrigeration, the cornea may be used to restore the sight of the blind.

**"CHESED OR CHYUV?":
THE OBLIGATION TO PRESERVE LIFE
AND THE QUESTION OF
POST-MORTEM ORGAN DONATION⁸**

Question:

What is the halachic status of post-mortem organ and tissue donation?

I. Preservation of Human Life as Obligatory

The inestimable value of human life is a cardinal principle of Jewish law.

Human life is not a good to be preserved as a condition of other values but an absolute, basic and precious good in its own right. The obligation to preserve life is commensurately all encompassing⁽¹⁾.⁹

This obligation includes not only self-preservation, but the duty to save the life of one's fellow human being, should he or she be in mortal danger. The Torah's commandment: לא תעמוד על דם רעך -- "You shall not stand idly by the blood of your neighbor"⁽²⁾ ¹⁰ -- provides the halachic basis for this obligation.

In addition, the Talmud⁽³⁾ ¹¹ reformulates this prohibition מצוה לא תעשה into a positive, prescriptive obligation מצוות עשה by relating the duty to intervene in life-threatening situations to the commandment⁽⁴⁾ ¹² regarding restoration of lost property -- השבת אבידה. "Every individual, insofar as he is able, is obligated to restore the health of a fellow man no less than he is obligated to restore his property."⁽⁵⁾ ¹³

II. Who is obligated?

In codifying this mitzvah, Maimonides emphasizes how broadly its obligation devolves: כל היכול להציל ואינו הציל עובד על לא תעמוד על דם רעך

"Anyone who is able to save a life, but fails to do so, violates 'You shall not stand idly by the blood of your neighbor.'"⁽⁶⁾ ¹⁴ In describing the analogous duty to save the life of one being pursued by an assailant רודף Maimonides

leaves no room for exemption: כל ישראל מצווין להציל "All Israel are commanded to take life-saving action."⁽⁷⁾ 15 Indeed, not even the inability personally to save the life in peril relieves one of this obligation:

לא תעמוד על דם רעך לא תעמוד על עצמך משמע
אלא חזור על כל צדדין שלא יאבד דם רעך

"You shall not stand idly by the blood of your neighbor" means "You shall not rely on yourself, alone." Rather, you must turn to all available resources so that your neighbor's blood will not be lost.⁽⁸⁾ 16

III. Precedence of the Obligation

It is abundantly clear that the mandate to preserve life פקוח נפש takes precedence over other religious obligations and considerations. (The prohibitions against murder, sexual immorality, and idolatry are, under normal⁽⁹⁾ 17 circumstances, the only exceptions ואל יעבוד 18 יהרג Former British Chief Rabbi Immanuel Jakobovits articulates this principle in no uncertain terms:

It is obligatory to disregard laws conflicting with the immediate claims of life, and... it is sinful to observe laws which are in suspense on account of danger to life or health... it is not only permitted but imperative to disregard laws in conflict with life or health.⁽¹¹⁾ 19

Thus, the seriously ill are required to eat on Yom Kippur. Similarly, it is forbidden to circumcise a sick or weakened infant if this would further compromise his health. The circumcision must be delayed, for אין לך דבר "preservation of life overrides all other considerations."⁽¹²⁾ 20 This principle has many applications in regard to the Laws of Shabbat. The requirement to preserve life at the expense of Sabbath observance is unambiguous indeed:

מי שיש לו חולי שיש לו סכנה מצוה לחלל עליו את השבת והזריז הרי זה משובח והשואל הרי זה שופך דמים.

It is commanded that we violate the Sabbath for anyone dangerously ill. One who is zealous (and eagerly violates the Sabbath in such a case) is praiseworthy; one who (delays in order to) ask (questions about the Law) is guilty of shedding blood.⁽¹³⁾ 21

A noteworthy expression of this zeal is the recommendation (directed at Israeli society) in ספר שמירת שבת כהלכתה that when it becomes necessary to drive an ambulance on the Sabbath, it is preferable that Sabbath-observant Jews do the driving.⁽¹⁴⁾ 22

IV. Primary Objections to Post-Mortem Procedures

To be sure, post-mortem donation of human tissue is not without halachic difficulties. The halachic objections⁽¹⁵⁾ 23 to this practice include the prohibitions against ניוול המת (disgracing the dead body, as by disfigurement), הנאה מן המת (deriving benefit from a dead body), and הלנת המת (delaying burial).

All three of these concerns, collectively termed כבוד המת (Kevod ha-Met, the dignity of the dead), are addressed in a responsum by former Israeli Chief Rabbi Isser Yehuda Unterman. As to the first two issues, Rabbi Unterman rules succinctly:

השאלה היא אם מותר מצד הדין לעשות נתוח בבשר אדם מת ולהעביר ממנו בשר ... שיתקשר אח"כ באופן אורגני כחלק מן החי ... ופשוט בעיני הדבר שיש בהם משום פקוח נפש לא קמבעי לן שאסורי-תורה המורים נדחים מפני פקוח נפש, ולכן הנתוחים שעושים להצלת נפש ודאי מותרים.

Regarding the question of whether the Law permits surgical removal of tissue from a dead body... subsequently to be transplanted as an organic part of the living... I find the matter to be simple. Since these procedures constitute preservation of life there is no difficulty. After all, weighty Torah prohibitions are set aside for the preservation of life. Hence, such surgical procedures conducted to save a life are absolutely permitted.(16)24

Rabbi Efrayim Oshry rules with similar clarity: היכא דשייך ענין של "Where saving a life is involved, we are not concerned with the desecration of the dead."(17) 25 So, too, Rabbi Theodore Friedman: פקוח נפש גדול מכבוד המת "Greater is saving a life than the dignity of the dead (Kevod ha-Met)."(18) 26

As to the question of burial, Rabbi Unterman discusses only the particular organs or tissue being transplanted. In this regard, he considers transplanted tissue to be restored to life and thus not requiring burial with the donor's remains. The question of whether the donor's transplanted tissue will eventually be buried together with the recipient is not compelling, just as the requirement that blood be buried(19) 27 poses no obstacle to blood donation.

Rabbi Unterman does not discuss the issue of delaying burial to facilitate post-mortem procedures. Since, however, such delay is neither typical nor necessary,(20) 28 we should not consider it an impediment. In those few, rare cases where burial is delayed, we should rely on Rabbi Unterman's general approach: preservation of life takes precedence, and the prohibition of הלנת המת (delaying burial) is likewise suspended. אין לך דבר שעומד בפני פקוח נפש. Preservation of life overrides all other considerations."

While organ and tissue transplantation is a relatively new halachic quandary, the related question of autopsy has a longer general and halachic history.(21) 29 "Many medical practitioners regard autopsy as essential to maintaining high standards of medical knowledge, hospital care, and community health."(22) 30 The trend toward permitting autopsy under the rubric of פקוח נפש however, has

generally been conditioned by the stipulation that a specific beneficiary of information gained through the procedure be identified (חולה נמצא לפנינו)³¹ That is, theoretical medical knowledge alone does not constitute פקוח נפש. A demonstrable need for information required to avert immediate danger to a specific human life is necessary to render autopsy permissible. In the absence of such a need, autopsy remains prohibited. Indeed, Rabbi Unterman suggests organ donation as a desirable recourse when civil authorities mandate autopsies which would otherwise be halachically objectionable:

היכי שחתכוהו בלאו הכי עפ"י דרישת החוק לצורך
חקירה משפטית וכדומה אפשר שאין זה ניוול אם
נשתמשו בחלק מחותך לרפואה.

In cases where autopsy (one otherwise not in conformity with Jewish Law) is performed in accordance with the demands of civil law, as part of a criminal investigation or the like, it may no longer be considered a desecration (ניוול) if excised tissue is used for healing.⁽²⁴⁾ 32

So long as highly sophisticated, computerized, international organ registration networks readily identify prospective organ recipients, the requirement of חולה נמצא לפנינו is, in the case of organ donation, ipso facto satisfied. So immediate and specific is the need for organs that a prospective recipient typically "wears a pocket pager, waiting for a call saying that a new heart is available."⁽²⁵⁾ 33 (As Rabbi Unterman indicates, however, fulfillment of this condition remains considerably more difficult to establish in regard to autopsy, the benefits of which are generally far less direct and immediate. Autopsy thus remains prohibited unless it is deemed necessary for saving the life of a לפנינו.)

VII. Secondary Objections to Obligation

An objection, raised by some authorities,⁽⁴⁵⁾ 34 posit that while פקוח נפש may indeed be a privilege for the dead, it can not properly be ruled an obligation.

The dead are not bound by Jewish Law (חפשי מכל המצוות)⁽⁴⁶⁾ 35 This suggestion is mere semantics. The consent required for organ donation is given prior to one's death, or by surviving, responsible relative. The deceased is the means by which פקוח נפש is achieved. The act of consent while alive (or the consent of survivors) constitutes the fulfillment of the mitzvah itself.

It is curious, indeed, with the consistent historical penchant for unambivalent zeal in matters of פקוח נפש that the mandatory status of post-mortem organ donation has not previously been widely asserted. Various reasons for this apparent pattern of omission can be discerned. The first is that the technology of transplantation is still quite young. In the early 1940's "Sir Peter Medawar (Oxford, England) described the rejection phenomenon, for which he won the Nobel Prize. This discovery laid the foundation for the modern era of transplantation." ⁽⁴⁷⁾ 36 This era came into fruition ⁽⁴⁸⁾ 37 only in the late 1940's, precisely the time Rabbi Unterman was composing his responsa on this topic. This first successful kidney transplant did not take place until 1954, two years after publication of Rabbi Unterman's שבט מיהודה. Liver and lung transplants were first performed in 1963, and then only with limited success. The first recipient of a liver died within three weeks. The first successful heart transplant was performed in South Africa by Dr. Christian Barnard in 1967, and provoked years of debate and controversy. Successful lung transplants are an extremely recent achievement.

Thus, those responsa and rabbinic pronouncements issued early in the still short history of transplantation could not assert with confidence that the procedures were in fact life-saving.⁽⁴⁹⁾ 38 The first attempts at each new procedure met with only limited success. Immuno-suppressive therapy -- the technology whereby natural rejection of "foreign" organs is medically and chemically combated -- is still being perfected. However, this developing technology already accounts for "a near doubling in the numbers of heart, kidney and liver transplants performed. These advances also have increased the survival rates of kidney transplant recipients over age 60 by as much as 10 percent."⁽⁵⁰⁾ 39

Only with time and experience do transplant operations become sufficiently dependable to constitute clear פקוח נפש.⁴⁰ Kidney transplants currently enjoy an 80 - 90% success rate, heart transplants a success rate of 80 - 90%, liver

transplants 65 - 70%. Combined heart-lung transplants have a success rate of approximately 70%.⁽⁵²⁾ 41 Success implies restoration of the recipient's quality of life and normal life expectancy. "Post-mortem donor kidney transplantation function of more than 20 years is well-documented."⁽⁵³⁾ 42

Similarly, before the advent of sophisticated, coordinated and computerized national and international organ registries, mandating donation would have been premature. Recipients were more difficult to locate and identify. The requirement of *הולה נמצא לפנינו* (a specific recipient) could not always be fulfilled early on in transplant history. This, as discussed above, is no longer commonly the case. The United Network for Organ Sharing (UNOS), a government sanctioned organ registry, has replaced the less efficient methods for identifying recipients of earlier decades.

VIII. Determination of Death

Finally, there was a greater reluctance in the early years of the transplant era to mandate (indeed, to allow) donation due to fears regarding determination of the donor's death. Using brain-death as a medical, much less halachic, determinant of death dates only to the twenty-second World Medical Assembly held in 1968.⁽⁵⁴⁾ 43 Brain-death is defined as "permanent functional death of the centers in the brain that control the breathing, pupillary, and other vital reflexes."⁽⁵⁵⁾ 44 Rabbinic proponents of such a definition of death, that is, the total cessation of brain and brain-stem activity, as indicated (among other diagnostic methods) by an isoelectric or "flat" electro-encephalogram (EEG), include Rabbis Seymour Siegel *ל"ר*,⁽⁵⁶⁾ 45 Eliot Dorff,⁽⁵⁷⁾ 46 Avram Reisner,⁽⁵⁸⁾ 47 and David Golinkin⁽⁵⁹⁾ 48 (all of the Rabbinical Assembly), Rabbi Moshe Tendler,⁽⁶⁰⁾ 49 a preeminent Orthodox authority on Jewish medical ethics, as well as the Chief Rabbinate of Israel.

All rabbinic authorities agree that the classic definition of death in Judaism is the absence of spontaneous respiration in a patient with no other signs of life... Brain death is a criterion for confirming death in a patient who already has irreversible absence of spontaneous respiration.⁽⁶¹⁾ 50

It should be noted that the determination of brain-death is often made while the deceased appears to be breathing and to have a pulse, due to the use of a mechanical respirator. Where brain-death is determined, these misleading data in no way constitute life. Quite to the contrary, "it might be forbidden to continue artificial means of 'life' in these conditions, since it would, in fact, be halanat hamet, a delay in burying a dead person."⁽⁶²⁾ 51

Writing in 1975, Rabbi Jakobovits pointedly discusses the implications of this issue:

The question of defining the moment of death with precision has... been rendered both more difficult and more critically acute by... the demand for viable cadaver organs for transplant purposes. The lapse of only a few minutes may spell the difference between success and failure in such operations; on the other hand, the premature removal of organs from the dying may hasten death and constitute murder.⁽⁶³⁾ 52

Greater familiarity with the practice of transplantation, as well as a broader medical and rabbinic literature on determination of death and brain-death, have largely eliminated this concern. Prevalent pre-modern fears of "false death" are no longer compelling. The final moments of the donor's life are safeguarded by requirements that two physicians certify death, and that these physicians not be involved in the transplant procedure.⁽⁶⁴⁾ 53

IX. Kevod ha-Met: The Dignity of the Dead

Perhaps the most decisive factor in rabbinic reluctance to mandate post-mortem organ donation, however, has simply been "the widespread aversion to any interference with the dead among most Jews."⁽⁶⁵⁾ 54 In general, this "aversion" reflects entirely appropriate devotion to a venerable religious principle, and should be commended.

Man is created in the image of God, and thus possesses dignity and value... An indignity inflicted on man is a profanation of the name of God. The

body that housed the soul is sanctified by Judaism... Sanctity adheres to the body even after the soul has left. The care and consideration and respect that are bestowed upon the living must be accorded the dead as they are attended, prepared, and escorted to their final abode on earth.(66) 55

Kevod ha-Met -- the dignity of the dead -- is a weighty and cherished religious imperative. This is indicated by the designation given those charged with these religious tasks: Chevra Kadisha, the "Holy Society."

If the body is honored to the extent that it is in Judaism, even in death... one can easily understand how many Jews would hesitate to mutilate it -- or allow one's own body to be mutilated -- even when it is for the noble purpose of helping to save someone else's life.(67) 56

It is precisely a sensitivity to such well-intentioned sentiments which characterizes Rabbi Unterman's call "to influence relatives and to persuade them to consent" (להשפיע על הקרובים ולשדלם שיסכימו) to organ and tissue donation.(68) 57 Framing this teaching in terms of persuasion rather than coercion does not imply that this life-saving action is elective. Are not rabbis frequently engaged in educational endeavors and persuasive techniques aimed at generating compliance with clear halachic obligations? Persuading a Jew, for example, to comply with the Laws of Shabbat does not suggest that this observance is optional. Indeed, Rabbi Unterman's call for persuasive outreach reflects his recognition of the obligatory nature of פקוח נפש. So, too, Rabbi David Golinkin:

לא זו בלבד שמותר ליהודי לצוות את איבריו
להשתלה לאחר מותו אלא מצוה עליו לעשות כן כדי
להציל נפש אחת או נפשות רבות.

It is not merely permissible for a Jew to bequeath his organs for transplantation following his death, it is a Mitzvah for him to do so, in order to save one life, or several lives.(69)58

Rabbi Tendler similarly states that "if one is in the position to donate an organ to save another's life, it is obligatory to do so."(70) 59 The most sacred institutions and practices of Judaism may -- indeed, must -- be suspended for the purpose of saving lives. Does it not stand to reason that understandable but strictly subjective aversions and aesthetic objections to post-mortem organ donation likewise must be set aside?

As to the similar conflict between personal rights and the halachic obligation to preserve life, the general observation of renowned Israeli jurist Haim Cohn is instructive:

Jewish Law, as a system of law, knows no explicit rights... It is no accident that Jewish Law concentrates on duties and has no room for rights. It is the performance of duties by which God is served.(71) 60

Rabbi Unterman similarly considers individual liberties, to the extent they have any halachic status, to be included among those values set aside for פקוח נפש(72) 61 We affirm that אין לך דבר שעומד בפני פקוח נפש Preservation of life overrides all other considerations. We ought not, as our final act, glorify personal preference at the expense of other human beings' lives.

X. Emotional and Psychological Considerations

Rabbi Unterman's early call for educational outreach in regard to fulfilling the Mitzvah of פקוח נפש through organ donation was predicated not only on Halachic principle, but on the spiritual significance of such an act. His metaphysical speculation also reflects a concern with the emotional impact of organ donation on the bereaved. Rabbi Unterman thus offers reassurance to donors' families:

...זכות גדולה לו וקורת רוח לנשמתו שנעשית מצוה
גדולה כזו בגופו, ואין לזלזל בחשבון כזה.

It is a great merit to the deceased, and gratifying to his soul, that so great a Mitzvah is fulfilled with his body. One must not underestimate this consideration.⁽⁷³⁾ 62

It is essential that one undertaking the persuasive outreach advocated by Rabbi Unterman follow his example in sensitively placing organ donation into a constructive context. Referring to life-saving transplant procedures as the "harvesting" of organs, for example, evokes a sense of violence and disregard for the deceased, as indicated by a grieving father:

I'm a farmer and I know what harvest means. When we harvest corn, we tear the corn from the stalk -- it just gets trampled under the tires and then thrown away. Nobody is going to harvest my boy.⁽⁷⁴⁾ 63

"Recover" or "retrieve" are more appropriate terms to describe the donation process. It is similarly imperative that a ventilator not be referred to as "life support," as this implies that the patient is not yet dead. (The ventilator is used following brain death to maintain circulation of oxygenated blood to viable organs.) Referring to the deceased by name (rather than as "the donor") "shows respect and sensitivity for the family's grief over the loss of their loved one."⁽⁷⁵⁾ 64

Dr. Calvin Stiller, Chief of the Multi-Organ Transplant Service at University Hospital in London, Ontario, provides an inviting perspective on the transplant procedure:

When the decision to transplant is made, the donor and the recipient are taken to the operating room. The donor's body is treated with profound respect, because we are watching one of the most extraordinary acts that a human being can

accomplish. The surgical theatre is hushed and reverence for life prevails as the donor organ is removed and taken carefully to the sick, partially destroyed body of the recipient. The sick organ is removed to make way for the new healthy organ. We watch in silence as the retrieval of life from the donor occurs and the restoration of life in the recipient begins. We watch as the skin begins to clear, the body chemistry begins to improve and the brain gradually quickens as the new organ functions and restores life.(76) 65

Those contemplating organ donation should also be made aware that "studies have found that donation of the organs and/or tissue of a loved one who has died helps to shorten the time needed by members of a bereaved family to recover from their loss."(77) 66 Serving as an organ donor thus not only saves lives, but also provides comfort and healing to one's own loved ones... "a blessedness made more remarkable and unexpected precisely because of its association with an experience of such abysmal despair and suffering... It doesn't remove the pain or loss, but it allows something good to be salvaged from an otherwise horrible occurrence."(78) 67 The emotionally therapeutic impact of organ donation is illustrated by the experience of a family who mourned the death of an 18-year old, killed in a motorcycle accident:

We were so proud of Walter. Even in death his quiet, unassuming generosity was still alive. On the day of the funeral, a friend of ours on the police force called to let us know that the heart recipient was doing very well, and was setting records for recovery. This gave our whole family a lot of faith for getting through that day.(79) 68

In addition to the "redemptive comfort"(80) 69 inherent in the act of giving, donor families identify further emotional benefits of organ donation. These

include the sense that donors "will never be forgotten" by those whose lives they save. Relatives of donors also report a sense of "extended family" and "community" with other donors and recipients: "The giving and receiving of life is the peculiar essence of family, and the gift of life that is tissue and organ donation has extended my family in a very real sense.(81) 70

The adverse affect on the bereaved who are denied the opportunity to facilitate life-saving organ donations can also be profound. Donation may be precluded if the cause of death is unknown. Potential donors may also be disqualified for various medical reasons: malignancies, transmissible disease, hemophilia, auto-immune diseases, rheumatoid arthritis, etc.(82) 71 Often, however, missed opportunities are due to the timidity of hospital personnel in approaching families for consent. One Canadian woman, whose husband suffered a fatal brain aneurysm, anticipated the opportunity to facilitate organ donation with a measure of solace. Her husband had, on principle, registered as an organ donor. By the time she was informed of his death, however--some ninety minutes thereafter -- his organs were no longer viable.

A wave of grief swept over her. Grief exceeding that of loss. It was now laced with anger. Her husband had been denied an opportunity to carry out his last wish. Judy left the hospital filled with rage. She, too, had been denied. The grieving process was now doubly bitter for her.(83) 72

Jewish mourners, called upon to grant consent for the use of a loved one's organs in a transplant procedure are, by definition, אנינין--Onenim. This stage of mourning, Aninut, comprises the period between death and burial.

Aninut represents the spontaneous human reaction to death... Man responds to his defeat at the hands of death with total resignation and with all-consuming, masochistic, self-devastation black despair.(84) 73

It is little wonder that many individuals at this stage of grief are not naturally inclined to seek out opportunities for organ donation. Understandably, an Onen is emotionally ill-equipped to act selflessly and magnanimously for the preservation of human life. It is precisely the Onen who is least prepared to "carry the human-moral load"⁽⁸⁵⁾ 74 by opting for organ donation. For this reason, many bereaved families tragically miss a unique opportunity for an act of religious significance and personal therapeutic value. Such was the case of a mother mourning her twelve-year old son:

Anguish and grief at a time like that is such that all rational acts and thoughts are cast to the side... Time eventually restores you to reality and thoughts of what you could have done before and after the tragic loss... I wish that some or all of Jason's organs and eyes could have been used to help people less fortunate than himself... if only I could look at another human and know that my son lives on in them and that they have had another chance at life because of Jason.⁽⁸⁶⁾ 75

Consenting to organ donation provides an effective source of comfort and emotional healing. Mandating organ donation thus doubly exemplifies human sensitivity. It brings physical healing to the bereaved, while relieving them of an emotional burden they are temporarily unable to bear.

PRACTICAL MEDICAL HALACHAH⁷⁶

Subject:

Donation of cadaver organs for transplantation.

Question:

May a person will his organs for transplantation? Must a specific recipient be at hand? May one donate one's corneas to a cornea bank?

Answer:

The donation of specific organs from a cadaver, where death has been determined by halachic criteria, is not in violation of any halachic ruling.

Comment:

The overriding consideration of saving a life (*pikuach nefesh*) sets aside all biblical laws including the prohibitions of mutilation of the dead, deriving benefit from the dead, and delaying the burial of the dead. Hence to donate one's kidneys to save another's life is certainly permissible.

A blind person is considered by most rabbinic opinion to be in the category of the dangerously ill (*choleh sheyesh bo sakana*) and those for whom the principle of *pikuach nefesh* would apply. Hence corneal transplants are also permissible.

Heart transplants are now considered therapeutic and not experimental and are therefore halachically acceptable if the death of the donor has been halachically established and the risk/benefit ratio to the recipient meets halachic standards.

The voluntary donation removes all questions of dishonoring the dead and sets aside any concern for deriving benefit from the dead. It is also allowed to donate one's corneas to an eye bank without having a specific recipient in mind, since it is most probable the cornea will be used immediately. Hence the recipient is considered to be "at hand" (*lefanenu*).

Subject:

Donation of organs and blood from live donors.

Question:

Is a person allowed to subject himself to the danger, however small, of an operative procedure to remove one of his kidneys in order to save the life of another? May one donate a pint of blood to a blood bank?

Answer:

A living person may donate a kidney to save another's life. It is also permissible to donate blood to a blood bank.

Comment:

In a previous answer, we discussed the donation of cadaver organs for transplantation. Concerning the use of a living donor, the question arises as to the possible transgression of the biblical commandments *Take heed to thyself and keep thy soul diligently* (Deut. 4:9) and *Take ye therefore good heed unto yourselves* (Deut. 4:15). The Talmud (Berachot 32b) and Maimonides (*Hilchot Rotzeach 11:4*) interpret these verses to be biblical prohibitions against subjecting oneself to any physical danger, since it is not permitted to intentionally wound oneself (Baba Kamma 91b and Codes); and one may not forfeit a life to save another (Oholot 7:6 and Codes); can one therefore endanger one's life by donating a kidney in order to save another's life?

The answer, based on the Babylonian Talmud and adopted by most of the codes of Jewish law, is that one is allowed (or obligated, according to some authorities) to place oneself into a possibly dangerous situation to save his fellow from certain death. The donor endangers his life to save the recipient from certain death. Hence, a donor may endanger his own life or health to supply an organ to a recipient whose life would thereby be saved, provided the probability of saving the recipient's life is substantially greater than the risk to the donor's life or health.

Giving a pint of blood is akin to an organ donation. It is permissible to give blood to a blood bank even without a specific recipient in mind because there is a reasonable certainty of the blood being used. The danger to the donor is minimal while the benefit to the recipient may be life-saving.

BASIC QUESTIONS AND ANSWERS ON ORGAN DONATION AND TRANSPLANTATION

BASIC QUESTIONS AND ANSWERS ON ORGAN DONATION AND TRANSPLANTATION⁷⁷

Who can donate?

Individuals over the age of 18 can indicate their desire to be an organ donor by signing a donor card or expressing their wishes to family members. Relatives can also donate a deceased family member's organs and tissues, even those family members under the age of 18.

Donation of heart, liver, lung, pancreas, or heart/lung can occur only in the case of brain death. The donation of tissues such as bone, skin, or corneas can occur regardless of age and in almost any cause of death.

Can you donate an organ while you are still alive?

Certain kinds of transplants can be done using living donors. For example, almost 25 percent of all kidney transplants are performed with living donors. They are often related to the person needing the transplant, and can live normal lives with just one healthy kidney. Also, there are new methods of transplanting a part of a living adult's liver to a child who needs a liver transplant. Parts of a lung or pancreas from a living donor can also be transplanted.

Can you still choose to donate if you are younger than 18 years of age?

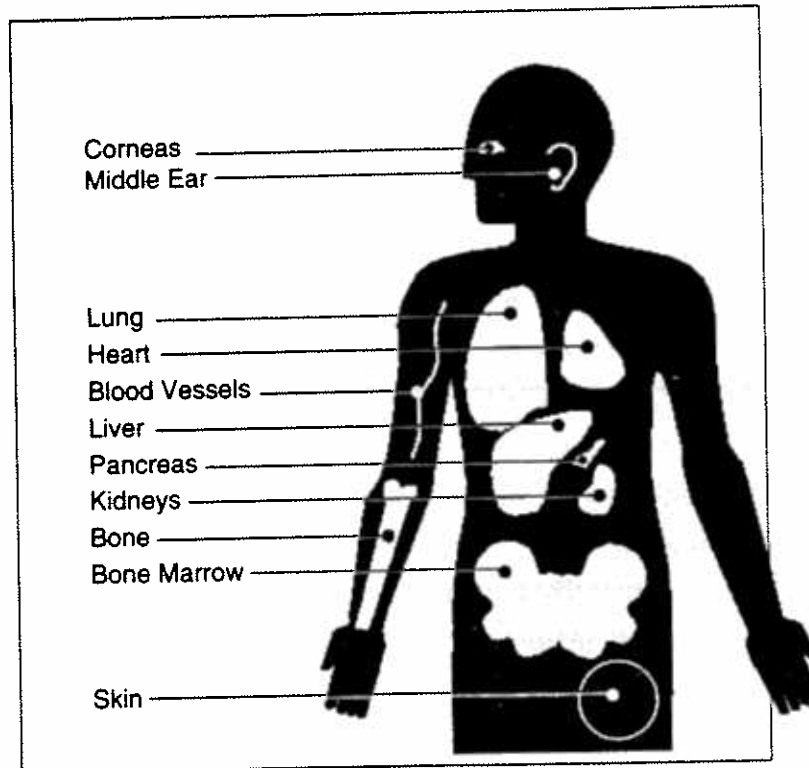
Yes, but only with the consent of an adult who is legally responsible for you, such as your parents or legal guardian. The adult or adults should witness your signature on a donor card.

What can be donated?

Organs that can be donated include: KIDNEYS, HEART, LIVER, LUNGS, AND PANCREAS. Some of the tissues that can be donated include: CORNEAS, SKIN, BONE, MIDDLE-EAR, BONE MARROW, CONNECTIVE TISSUES AND BLOOD VESSELS.

Total body donation is also an option. Medical schools, research facilities and other agencies need to study bodies to gain greater understanding of disease mechanisms in humans. This research is vital to saving and improving lives. If you wish to donate your entire body, you should directly contact the facility of

your choice to make arrangements.



Why should you consider becoming an organ/tissue donor?

Advances in medical science have made transplant surgery increasingly successful. Transplantation is no longer considered experimental, but a desirable treatment option. The major problem is obtaining enough organs for the growing number of Americans needing them. As of March 1996, more than 45,000 Americans were waiting for organs to become available. Approximately 2,000 more individuals are added to the waiting list each month. By contrast, in 1994 there were only 5060 donors in the United States. Even though most donors contribute multiple organs, there still are not enough to meet the need and many people die while waiting for an organ.

Everyone's help is needed to resolve the donor shortage. The best way to assure that more organs and tissues are made available is to sign and carry a donor card and encourage others to do so. It is especially important to let your family know of your wishes to donate if the opportunity arises. It will most likely be a family member who is in a position to see that your wishes are carried out.

How do you become a donor candidate?

Fill out a donor card [such as the one included in this manual] and carry it in your wallet. Most states have some way that you can use your driver's license to indicate your wishes to be a donor. Some states have a donor card on the back of the license; others have a place to check or a colored sticker to put on the license.

It is also extremely important that you let your family know that you want to become an organ and tissue donor at the time of your death. Ask family members to sign your donor card as a witness. When you die, your next-of-kin will be asked to give their consent for you to become a donor. It is very important that they know you want to be a donor because that will make it easier for them to follow through on your wishes.

It would also be useful to tell your family physician and your religious leader that you would like to be a donor. And, it would be a good idea to tell your attorney and indicate in your will that you wish to be a donor.

Below is a check list for you to use in making it known that you wish to be a donor.

Donation Check List

- Sign an organ and tissue donor card**
 - Ask family members**
 - to witness your card**
- Carry the card in your wallet**
- Indicate your intent to be a donor**
on your drivers license (if applicable)
- Discuss your wish to donate with**
 - your family**
 - your physician**
 - your religious leader**
 - your attorney**
- Indicate your wish to be a donor in your will**
- Encourage others to become donor candidates**

What is brain death?

Death occurs in two ways: 1) from cessation of cardio-pulmonary (heart-lung) functioning; and 2) from the cessation of brain functioning.

Brain death occurs when a person has an irreversible, catastrophic brain injury which causes all brain activity to stop permanently. In such cases, the heart and lungs can continue to function if artificial life-support machines are used. However, these functions also will cease when the machines are discontinued. Brain death is an accepted medical, ethical, and legal principle. The standards for determining that someone is brain dead are strict.

Tissue and bone may be usable in either type of death. Organs, however, are usable only in cases where brain death occurs.

What if members of your family are opposed to donation?

You can have an attorney put your request in writing. This document, along with your donor card may help ensure that your wishes will be honored. In any event, tell your family that you want to become a donor in the event of your death.

Is there a national registry of signed organ/tissue donors? What if you change your mind about donating?

There is no national registry of those who have indicated their willingness to be organ and tissue donors. If you change your mind, **TEAR UP YOUR DONOR CARD.**

If you have indicated your wishes to be a donor on your driver's license, ask your local office of the Division of Motor Vehicles (DMV) what steps you need to take to revoke your decision. An increasing number of states maintain registries of individuals who indicate on their drivers licenses that they wish to be donors. If your state has a registry, your DMV personnel can tell you how to get on or off the registry.

In all instances, be sure to let your family know whether you wish or do not wish to become a donor.

Does the donor's family have to pay for the cost of organ donation?

No. The donor's family neither pays for, nor receives payment for, organ and tissue donation. Hospital expenses incurred before the donation of organs in attempts to save the donor's life and funeral expenses remain the responsibility of the donor's family. All costs related to donation are paid for by the organ procurement program or transplant center.

Will the quality of hospital treatment and efforts to save your life be lessened if staff know you are willing to be a donor?

No. A transplant team does not become involved until other physicians involved in the patient's care have determined that all possible efforts to save the patient's life have failed.

Does organ donation leave the body disfigured?

No. The recovery of organs and tissues is conducted in an operating room under the direction of qualified surgeons and neither disfigures the body nor changes the way it looks in a casket.

Is it permissible to sell human organs?

No. The National Organ Transplant Act (Public Law 98-507) prohibits the sale of human organs. Violators are subject to fines and imprisonment. Among the reasons for this rule is the concern of Congress that buying and selling of organs might lead to inequitable access to donor organs with the wealthy having an unfair advantage.

What is "required request?"

"Required request" is a policy requiring hospitals to systematically and routinely offer the next-of-kin the opportunity to donate their deceased relative's organs and tissues. This policy enables hospitals and health care professionals to play a key role in increasing donation because families might otherwise not be aware of their right to donate. As of 1992 forty-eight states and the District of Columbia had enacted "required request" laws.

The Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509) established additional requirements for hospitals that participate in the Medicare

and Medicaid programs. It required each participating hospital to establish written protocols for identification of organ donors and to notify an organ procurement organization designated by the Secretary of Health and Human Services of any potential donors it identifies.

Since January 1988, the Joint Commission for the Accreditation of Healthcare Organizations has required its member hospitals, as a prerequisite for accreditation, to develop policies and procedures on the identification and referral of potential donors.

What are organ procurement organizations (OPOs)?

OPOs are organizations that coordinate activities relating to organ procurement in a designated service area. Evaluating potential donors, discussing donation with family members, and arranging for the surgical removal of donated organs are some of their primary functions. OPOs also are responsible for preserving the organs and making arrangements for their distribution according to the national organ sharing policies established by the Organ Procurement and Transplantation Network and approved by the U.S. Department of Health and Human Services.

In addition, OPOs provide information and education to medical professionals and the general public to encourage organ and tissue donation and increase the availability of organs for transplantation.

How many transplant programs and OPOs are there in the United States?

As of March 1996 there were 199 liver, 246 kidney, 167 heart, 124 pancreas, 93 heart-lung, and 90 lung transplant programs in the United States. Names and addresses of transplant programs can be obtained from the United Network for Organ Sharing at the following address:

United Network for Organ Sharing
100 Boulders Parkway, Suite 500
Richmond, Virginia 23225

As of March 1996, 66 OPOs were certified by the Health Care Financing Administration of the U.S. Department of health and human Services. Their names and addresses can be obtained from the following organizations:

Association of Organ Procurement Organizations
One Cambridge Court
8110 Gatehouse Road
Suite 101 West
Falls Church, Virginia 22042
(703) 573- 2676

American Congress for Organ Recovery and Donation
2111 Swann Avenue
Tampa, Florida 33606-2486
(800) 262 - 5775

What are the steps involved in organ donation and transplantation?

1. A potential donor who has been diagnosed as brain dead must be identified.
2. Next-of-kin must be informed of the opportunity to donate their relative's organs and tissues, and must give their permission.
3. An Organ Procurement Organization is contacted to help determine an organ's acceptability, obtained the family's permission, and match the donor with the most appropriate recipient.
4. Organ(s) and tissue(s) are surgically removed from the donor.
5. The donor organs and tissues are taken to the transplant center(s) where the surgery will be performed.

When a potential organ donor is identified by hospital staff and brain death is imminent or present, an organ procurement organization (OPO) is contacted. The OPO is consulted about donor acceptability and often asked to counsel with families to seek consent for donation. If consent is given, a search is made for the most appropriate recipient(s) using a computerized listing of

transplant candidates managed by the United Network for Organ Sharing which operates the National Organ Procurement and Transplantation Network.

It is increasingly common for donors and donor families to contribute multiple organs and/or tissues. Therefore, several recipients may be helped by a single donor. When a match is found, the OPO will arrange for the donated organ(s) to be surgically removed, preserved, and transported to the appropriate transplant center(s). A potential recipient(s) is also alerted to the availability of an organ and asked to travel to the transplant center where he or she is prepared for surgery. The recipient's diseased or failing organ is removed and the donated organ is implanted.

How are recipients matched to donor organs?

Persons waiting for transplants are listed at the transplant center where they plan to have surgery, and on a national computerized waiting list of potential transplant patients in the United States. Under contract with the Health Resources and Services Administration, The United Network for Organ Sharing (UNOS) located in Richmond, Virginia maintains the national waiting list. UNOS operates the Organ Procurement and Transplantation Network and maintains a 24-hour telephone service to aid in matching donor organs with patients on the national waiting list and to coordinate efforts with transplant centers.

When donor organs become available, several factors are taken into consideration in identifying the best matched recipient(s). These include medical compatibility of the donor and potential recipient(s) on such characteristics as blood type, weight, and age, urgency of need, and length of time on the waiting list. In general, preference is given to recipients from the same geographic area as the donor because timing is a critical element in the organ procurement process. Hearts can be preserved for up to 6 hours, livers up to 24 hours, and kidneys for 72 hours. Lungs cannot be preserved outside the body for any extended period of time.

SAMPLE ARTICLES FROM THE JEWISH PRESS

- 1) "All Take and No Give: Jews and Organ Donations," Moment Magazine, August, 1995.
- 2) "Jews Are Dying For Organs," Inside Magazine, Philadelphia, PA, Summer 1996.

Dr. Joel Rosh, a pediatric gastroenterologist and Orthodox Jew who for six years co-directed the liver transplant program at New York's Mt. Sinai Hospital, tells a story of an Israeli girl who flew with her family to the U.S for a liver transplant.

On the plane, the young girl, while on life support, was declared brain dead. The team that had been assembled to try to save her life now turned to her family and asked if they would donate her remaining healthy organs. They said no.

"The Israeli family explained, 'We feel for the other families and we want to help, but we have asked our rabbi and he has said that it is not permitted under Jewish Law.' "

That's one story about Jews and organ donations. Here's another:

Alisa Flatow, 20, a Brandeis University junior, took the year off to study in a Jerusalem yeshiva, deciding before Passover this year to travel by bus with a few friends to a hotel at Gush Katif, a Jewish settlement in the Gaza Strip. She never made it: A Hamas suicide bomber drove his van into the bus, mortally wounding her and many Israeli soldiers, seven of whom were killed instantly.

Arriving from his home in West Orange, New Jersey, at Sorokin Hospital in Beersheva, Steven Flatow confirmed that the brain-dead young woman on life support was his daughter. The staff asked him a question: Would he be willing to donate his daughter's organs? After consulting with his wife, and making a conference call with their rabbi, Alvin Marcus, and Rabbi Moshe D. Tendler of Yeshiva University, an authority on Jewish medical ethics, Alisa's parents decided to donate her organs to six people on a waiting list who were clinging to life.

"People have called it a brave decision, a righteous decision, a courageous decision. To us it was simply the right thing to do at the time," says Flatow. "I didn't know what all the media attention was about. As I was leaving Israel, at the airport, I mentioned this to a journalist who said to me, 'You really don't understand, do you?'"

Of the six, two are known to have died following the operation: Serena Shmuelevitz, 40 (kidney and pancreas) and Shabtai Rehamim, 23 (liver). The known survivors include Malka Nir, 48 (lung), and Jacob Salmas, 56 (heart). Alisa's corneas were saved for later transplantation.

What Flatow didn't understand was the emotional impact his family's gesture had on a grieving Israel—an impact captured by Prime Minister Yitzhak Rabin in May when he told American Jews that "Alisa Flatow's heart beats in Jerusalem." But the Flatow's decision also drew attention to a painful issue—a perception that Jews, Israeli and American, religious and secular, are more reluctant than most to donate their organs after death. Citing "religious objections," some Jews have allowed organ donation to become an exception to their well-deserved reputation for generosity.

For close to 30 years, transplants have been performed in the United States and Europe with ever-increasing success for kidneys, livers, hearts, pancreases and lungs, as well as bone marrow (see page 26). But not enough people donate organs. To date, over 40,000 people remain on waiting lists in the United States, desperate for organs. According to the United Network for Organ Sharing (UNOS), 40,233 people were registered for organs in 1994, but only 18,251 transplants were performed; 3,098 people on the waiting list died. Every month, 2,000 people are added to the UNOS register.

With few exceptions, the only viable organ donations are from brain-dead donors whose breathing and circulation are being maintained artificially. While polls show most Americans are willing to become

donors, too few families actually give their consent when a tragedy occurs; only 5,000 donors are available each year, out of a potential pool of 10,000 to 15,000 donors. Such shortages fuel frustration and suspicion, as when doctors for the ailing Mickey Mantle were erroneously criticized for giving the former Yankee star special treatment in his successful search for a new liver.

In the general community, families voice a number of familiar objections to donation: According to Jeffrey Protas of Brandeis University, the former chairman of the Organ Donor and Procurement Committee of the National Task Force on Organ Transplantation, they include misconceptions that the donating process will mutilate a loved one's body and an erroneous but persistent belief that the donor's family will be charged for the procedure. Others simply are unaware of their loved one's desires to become a donor.

For many Jews, particularly the Orthodox, this reluctance is compounded by several factors: concern about violating *halachic*, or Jewish legal, strictures against desecrating the dead or benefitting from a dead body (see Responsa, MOMENT, June 1995); the traditional view that the deceased be buried whole; and disagreement over whether to accept brain death as a halachic definition of the end of life (see box, opposite).

Organ banks do not keep track of donors based on religious identity, but my discussions with medical ethicists, experts, rabbis and doctors across the country support the view that too many Jews are reluctant to become organ donors. Isaac Newman, an Orthodox Jew and coordinator of the New York metropolitan area's organ procurement program, says that only about five percent of Orthodox Jews asked to be donors consent; as a group, Jews are only slowly beginning to match the general population's 60 percent consent rate. Many non-Orthodox and nonobservant Jews, who often tend to demur to Jewish tradition on end-of-life issues, are also reluctant to give. At Conservative and Reform congregations where I have spoken, I have often been told by members of the audience that Jewish law absolutely forbids being an organ donor.

In 1987, Dr. Thomas Starzl, an American pioneer in transplant surgery, warned at a transplant conference in Israel that if Jews do not start giving, they will not get organs (of course any attempt to bar an ethnic group from receiving organs would be challenged legally). Sure enough, in 1992, French health authorities barred all their hospitals from performing organ trans-

plants on Israelis, mostly because of Israel's "organ deficit" in Eurotransplant, the European transplant coordinating body (Israel and members of the European Community previously had joint agreements on health care; most Israelis seeking liver transplants travelled to France). And while France and Israel signed a two-year agreement last December to allow

Israelis to receive liver transplants under certain conditions, most other European countries still do not accept Israelis for transplants.

In 1994, 50 Israeli patients needed heart transplants, and only 12 hearts became available; 700 people were on lists for kidneys, but only 12 received transplants from people who had died. While 700,000 Israelis have signed donor cards this seems to have little impact on their surviving relatives. "I can only remember one or two cases in which donors actually had signed a donor card," says Nurit Shimron, national coordinator of the Israel Transplant Association.

This reluctance comes despite statements by rabbinic organizations representing the major denominations endorsing the concept of brain death and encouraging donations. In 1990, the Rabbinical Assembly passed a resolution urging all Conservative Jews to become donors. The Union of American Hebrew Congregation's

1991 health care proxy—a medical living will—likewise encourages Reform Jews to become organ donors.

The Orthodox Rabbinical Council of America's "Health Care Proxy" gives physicians permission to remove the signee's corneas, kidneys, lungs, heart, liver and pancreas "for the sole purpose of transplantation." The directive also stipulates that physicians obtain the "concurrence" of an Orthodox rabbi or a member of the RCA's Bioethics Commission.

"People come up all the time and say, 'I thought Judaism opposed this because of resurrection of the dead and the need to be buried complete,'" says Judith Abrams, a Reform rabbi in Missouri, Texas, who has written widely on medical ethics (see Responsa, MOMENT, December 1994). "I reassure them that most Orthodox authorities permit organ donations if the [standard] brain-death criteria are met. What's more, if you do this incredible mitzvah, God will somehow make it up to you in the world to come."

Rabbinic authorities are not, however, unanimous on the brain death standard. Agudath Israel, the ultra-Orthodox organization, does not recognize brain death and does not endorse organ donations. In Israel, prior to the Flatow tragedy, the *haredi*, or right-wing Orthodox rabbinic authorities opposed donations by Jews (a ruling by the late, revered Rabbi Shlomo Zalman Auerbach on brain death was considered ambiguous).

However, those who oppose donations do not prohibit Jews from receiving organs, a distinction that drives many ethicists and rabbis to distraction. "If a person is not dead by our halachic definition when he is brain dead, then to go and take an organ from a non-Jew means you are killing a non-Jew to save a Jew!" fumes Tendler. "I cannot imagine a more horrendous ruling." In 1992, Rabbi Marc Angel, then president of the RCA, called the all-take-no-give policy "morally repugnant."

Those who reject the brain death definition to permit donating but sanction receiving transplanted organs, including Rabbi Aaron Soloveitchik of Yeshiva University's Rabbi Isaac Elchanan Theological Seminary, see it differently. In their view the gentile donating the organ would do so anyway; the recipient is not responsible for this decision or

the organ's removal, and thus is in no way prohibited from benefiting from it.

The Alisa Flatow case may have broken the logjam on this issue. Within a few weeks of her death, a statement was issued by Rabbi Yehoshua Scheinberger, the "minister of health" for the Eidah Haharedit, an umbrella body for Israel's ultra-Orthodox. It allowed ultra-Orthodox Jews to accept the brain-death definition and donate organs but with several conditions: It is forbidden, he declared, to transplant Jewish organs into the bodies of "non-believers," gentiles or Arabs who hate Israel. (Most secular Israelis, he said, would not fall under the category of non-believers.)

In addition, he insisted that an Orthodox rabbi sit on the committee that approves the transplants. Both conditions were rejected by the Israel Transplant Association, but negotiations are underway.

Scheinberger's conditions were widely criticized. Rabbi David Feldman of the (Conservative) Jewish Center of Teaneck, New Jersey; and an expert on Jewish medical ethics, said Scheinberger was not speaking as an authority, and even if he was "he was wrong. There is no basis in halacha or in Jewish morality to support limiting a donation to a Jewish or an observant Jewish recipient, and it is important that people be disabused of the idea." Tendler regards Scheinberger's statement as an error "halachically, emotionally and sociologically" and a "hillul ha'Shem"—a desecration of God's name. Nevertheless, he calls Scheinberger's positive ruling on brain death "a great thing."

Israeli transplant experts like Nurit Shimron, however, say it is too early to tell what practical impact Scheinberger's views will have on donations. Dr. Mordechai Kramer, an Orthodox Jew and coordinator of the lung transplant program at Hadassah Hospital, believes that donations continue to lag because of misconceptions about brain death. "If you ask people on the street, will they give, the majority say yes. But when it comes to their family members, most are not ready to do it. With a brain-dead patient, people think he will get better. And that isn't only the haredim but non-Orthodox as well."

In the United States, a number of rabbis report an increased awareness of donations since Alisa Flatow's death.

"People have been talking about it a lot and it has brought another level of consciousness to the debate," says Rabbi Zahara Davidowitz-Farkas, coordinator of Jewish chaplaincy at New York-Cornell Medical Center.

"I was able to convince people who previously had said 'Isn't this forbidden?' to realize what Jewish tradition says about donating organs," says Rabbi Brian Zimmerman of Temple Beth Ami in Rockville, Maryland.

Those who continue to reject brain death are also being urged to remember another halachic concept, *mishum avivah*, "because of enmity," which holds that certain Torah laws can be suspended to prevent hatred between Jews and non-Jews. I don't believe that in our own age we have to worry about anti-Semitic outbreaks because of low organ donations from Jews. But we do have to reexamine our commitment to the larger community.

Jewish organizations should seize the momentum of the Flatow example and redouble their efforts to encourage donation. At the same time, they should help transplant teams make sure that Jewish law is followed, that *kevod ha'met*, respect for the deceased, is upheld, that the body of the donor is draped properly and that all blood and tissue is buried with the body in accordance with Jewish law.

The public has to be reassured that donating an organ doesn't mean death will be hastened in any way (for example, doctors involved in removing a patient's organs for transplantation are prohibited by law from cer-

tifying the patient's death).

Most of all, families need to talk to one another. For even if an individual signs a donor card, it is the family that makes the ultimate decision to participate in a lifesaving venture.

Says Rabbi Tendler: "Alisa Flatow will not only get credit in heaven above for the four people alive, walking around with her organs, but the many hundreds who will be saved because other people will be inspired to follow her example."

Jews Are Dying for Organs

In the United States and Israel, transplants are still controversial.

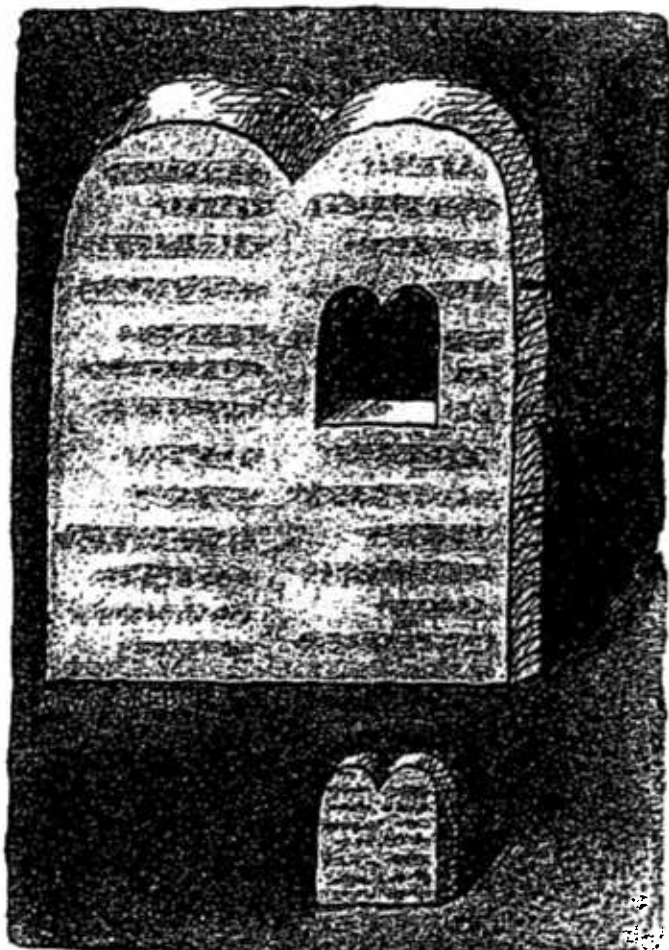
BY MICHELE CHABIN

In September 1993, two decades after contracting hepatitis C, a virus that can destroy the liver, Norman Banks, 41, collapsed at his home in Monmouth County, N. J., and lapsed into a coma. Rushed to the University of Pennsylvania Medical Center in Philadelphia, he was placed on life support. Doctors told Banks's family that without an immediate liver transplant he would not survive the week. Although he was not registered for a transplant prior to his collapse, he was immediately placed at the top of the organ recipient list.

Then, on Yom Kippur, a donor liver became available and Banks underwent 12 hours of transplant surgery. For more than a month, the liver barely functioned and Banks, riddled with infection, hovered near death. It was only after doctors operated a second time, to drain the infection and repair his bile duct, that he slowly began to recover.

Today, almost three years later, Banks calls his transplant a miracle. "I wasn't particularly religious and hadn't gone to shul very often since my Bar Mitzvah, but I think the timing of the transplant was a sign. On the Day of Atonement, God puts you in the Book of Life or strikes you from it. I got a chance at life."

Sadly, many others have not been so fortunate. In the United States, more than 40,000 people await life-saving transplants. Unless the number of organ donors, about 5,000 annually, rises sharply in 1996, many will die when their diseased organs finally give out. By the end of the year, another 2,000 names will be added to the waiting list.



In Israel, which has the lowest percentage of organ donors in the Western world, the problem is even more acute. With nearly 1,000 seriously ill people on the waiting list, there simply aren't enough hearts, livers and other organs to go around. In 1995, only 50 Israelis, mostly victims of fatal car accidents, provided organs. Another 60 people, all of them healthy, donated a kidney or part of their liver or lung to save a loved one. Due to this shortage, many Israelis go abroad for transplants. Unfortunately, in part because Israel rarely donates organs to patients elsewhere, foreign coun-

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tries have become more and more reluctant to provide organs for Israelis.

"It's becoming very difficult to send patients abroad," admits Dr. Ami Barzilai, chairman of surgery at Haifa's Rambam Hospital and president of the National Transplant Coordination Center (NTCC). "For the most part, because of the dwindling number of organs available, more countries are giving priority to their own citizens."

While reluctance to donate organs certainly is not unique to Jews, the belief—totally unfounded—that Judaism prohibits organ donation because it mutilates the body still persists throughout the Jewish community. According to the Talmud, however, *pikuah nefesh*, the act of saving a life, takes precedence over prohibitions against *nivul ha-met*, the disfigurement or mutilation of a body.

Halachic assurances notwithstanding, Jews lag behind non-Jews when it comes to donating organs. While it's impossible to determine what percentage of American Jews become donors—transplant registries don't request information about religious affiliation—Isaac Newman, coordinator of the New York metropolitan area's organ procurement program, estimates that only 5 percent of Orthodox Jews asked to donate organs consent to do so. Among the U.S. population as a whole, the consent rate is approximately 60 percent.

Even Reform Jews, often the first to embrace modern practices, are reticent, according to Rabbi Richard Address, director of the Union of American Hebrew Congregations' committee on bio-ethics in Philadelphia. "Although the Reform movement is accepting and encouraging of organ donations and transplantations, there's still a hesitancy [on the part of congregants] to put a heartfelt desire to donate into practice," Address says.

The prejudice against organ donations is even stronger in Israel. According to Dr. Pierre Singer, director of the intensive care unit at Beilinson/Rabin Hospital in Petach Tikva and director of education and information at the National Transplant Center, the rate of organ donation from brain-dead patients is very low: only 9.3 people per million,

compared to 16 and 25 per million in Europe and the United States respectively. Of those responding to a 1994 survey on attitudes toward organ donation, 54 percent asserted that Jewish law forbids such procedures.

Dr. Charles Sprung, director of intensive care at Hadassah Hospital in Jerusalem and an expert on organ transplants, says, "Despite the fact that Israel's Chief Rabbinate has long held that organ donations are permissible, we see both secular and Orthodox Jews who, when the time comes, will say that Judaism doesn't allow it. Many aren't interested in donating, and quoting halacha may or may not be an excuse. I encourage them to ask their own rabbi."

By most accounts, when it comes to questions about organ transplantation and Jewish law, the rabbi to ask is Moshe Tendler, professor of biology at New York's Yeshiva University. According to Tendler, a transplant may be performed if the potential donor meets the halachic criteria of brain death: there is no response to stimuli and the individual cannot breathe

independently. Tendler is careful to make the distinction between "brain death" (also known as "brain-stem death") and "cerebral death," where the individual is in a deep coma but can breathe on his or her own. Tendler believes that respiratory death is absolute death, halachically.

Not everyone agrees. Rabbi J. David Bleich, Tendler's colleague at Yeshiva University, insists that "brain death has no standing in Jewish law. Brain death is a misnomer, a medical myth and a halachic hallucination." According to Bleich and several other ultra-Orthodox rabbis, a donor's heart must stop beating before organs can be harvested. "There is no human being with a beating heart whose brain does not function on some level," Bleich says. "In true brain death, the heart stops," he says. Not so, according to Tendler who maintains that you can remove a person's heart, put it in salt water and it will beat for hours.

Some ultra-Orthodox rabbis contend that tests to determine brain-stem death, such as turning off a ventilator to see whether the patient can breath

independently, are inaccurate and harmful. Tendler, however, points to advanced testing methods in which doctors inject radioactive material into an IV line and scan to see whether there is blood circulating to the base of the brain. Tendler explains that this method of determining brain death is accurate and causes no harm to a comatose patient.

In Israel, Rabbi Yehoshua Scheinberger, who oversees health policy for the ultra-Orthodox organization Eida Haharedit, ruled in 1995 that a brain-dead patient may donate organs. The following conditions, however, must be met: an Orthodox rabbi must be a member of the hospital's transplant committee and organs must be donated only to "believers." His definition of a believer is broad enough to include most secular Israelis. While a National Transplant Coordination Center official called Scheinberger's second request "offensive" and "patently absurd," he acknowledged that the issue of placing rabbis on transplant committees might be open for discussion.

In the U.S., the rabbinical councils of

the Orthodox, Conservative and Reform movements have all issued guidelines permitting organ donations once brain-stem death is established.

"There's still much confusion," says Rabbi Tendler, adding that "not only halacha but superstition plays an important role." For example, some fear that a Jew will not be redeemed in the afterlife when the Mashiach comes if his body parts are not intact. "I tell them that if G-d can redeem Abraham, Isaac and Jacob [after the coming of the Mashiach], whose bodies don't have organs after thousands of years, he [can redeem] someone whose organs have been donated," Tendler says.

Despite rabbinical interpretations and rulings, emotional obstacles remain. "Most donor candidates have died suddenly—from aneurysms, strokes, gunshot wounds or car accidents. And all people, not just Jews, have a hard time accepting the traumatic death of a loved one," says Rabbi Deborah Pipe-Mazo, a chaplain at the University of Pennsylvania Medical Center. "Those left behind don't want to inflict more suffering on someone whose death they have not yet accepted."

There is far less ambivalence about receiving. "Even the most religious Jew will generally accept an organ donation," says Dr. Abraham Shaked, a liver transplant surgeon at the University of Pennsylvania Medical Center and The Children's Hospital of Philadelphia. But there is a distinct difference between getting and giving. In one well-publicized case, the family of an Israeli girl who died while being flown to the U.S. for a liver

transplant refused to donate her organs. "We have asked our rabbi and he has said that donating organs is forbidden by Jewish law," the parents said.

Though they concede that squeamishness about transplantation is deeply entrenched, not only in the Jewish community but elsewhere, transplant experts everywhere say they are determined to boost the number of donors. In Israel, the NTCC recently launched an aggressive TV, radio and print campaign intended to shatter taboos and encourage donations. Inquiries about donor cards and other transplant information rose to 2,500, up from a monthly average of 750. The NTCC also plans to expand its medical staff training programs, which already exist in 15 Israeli hospitals.

Dr. Pierre Singer of Rabin Hospital believes that much of the problem lies with health professionals. "In 1995, hospital staff approached only 90 to 100 families about donating a family member's organs. We could triple that, given the number of people who suffer brain death in Israel in any one year." Singer asserts that "hospital staff don't receive much education about transplants, and they aren't aggressive enough in procuring organs. Some look at a patient and say, 'He's an Arab, so we won't approach him; he's Orthodox, so we won't approach him either.' This is an unprofessional attitude."

In the U.S., national transplant organizations do the bulk of donor recruitment, but the various denominations within Judaism are also getting involved. Both the Reform and Conservative movements recently initiated transplant education programs in their congregations. Rabbis, who themselves have received training on organ donations, are delivering sermons on the topic and encouraging their congregants to fill out donor cards and to write living wills. Yet, even with advanced planning, transplant specialists concede that few families know how they will proceed until they are faced with a tragedy.

The most successful promoter of organ donations in the U.S. seems to be the media. "Every example of people donating enhances public awareness," maintains Rabbi Richard Address of the UAHC. "Weeks after the parents of Alisa Flatow [an American student killed in a terrorist attack in Israel in April 1995] donated her organs or Mickey Mantle received a liver, the newspapers were still filled with transplant articles. The public said, 'If these people can do it, so can I.'"

In Israel, attitudes toward organ donations tend to depend on other factors. Sometimes a tragedy will spark a wave of donations; at other times, it will stem the tide. "Prior to the assassination of Prime Minister Rabin last November, few people were requesting donor cards," notes Singer. "After the assassination, requests tripled. On the other hand, during terrorist attacks, people tend to turn inward and don't donate. When 20 soldiers were killed at Beit Lid by a terrorist bomb in February 1995, people stopped donating. The Flatow case sparked awareness here, but statistically it didn't lead to an increase in donations."

It did lead to a vastly improved quality of life for Aryeh Mendelsohn, a 44-year-old accountant from Metar, near Beersheba, who was one of six Israelis to receive Alisa Flatow's organs. Prior to his kidney transplant, Mendelsohn was severely debilitated and spent two hours a day on home dialysis.

For him, pre-operative negotiations went smoothly. Doctors approached Alisa's parents, Stephen and Roslyn Flatow, while their brain-dead daughter was still on life support and the viability of her organs had not been compromised. The Flatows, who are Orthodox Jews, had time to consult their rabbi, Alvin Marcus, who in turn consulted Rabbi Tendler at Yeshiva University. The rabbis deemed the transplant permissible under Jewish law.

Still thin and pale from years of ill health, Mendelsohn is making a slow but steady recovery. After spending three months fighting the rejection of his second donated kidney, he is at last free of dialysis machines and back at work.

A few months after receiving his new kidney, Mendelsohn met the Flatows in Israel. "The meeting was bittersweet," he admits. "They told me what a wonderful girl Alisa was and how her death was a huge loss to the family. It's difficult to describe my emotions," Mendelsohn says with a wavering voice. "I only wish others would follow the Flatows' example. They are very special people."

For their part, the Flatows refuse to acknowledge that their decision to donate Alisa's organs was something extraordinary. "People have called it a brave decision, a righteous decision, a courageous decision," Stephen Flatow says. "To us, it was simply the right thing to do."

To liver recipient Norman Banks, people like the Flatows are heroes. "I don't know the donor of my liver because the hospital keeps the information confidential, but donating an organ is a true act of courage," he says.

"Personally, I had never signed a donor card. I thought that Judaism

didn't allow Jews to donate or accept organs. Now I know better. I also know that you can be the richest person in the world, but if medical science can't save you, what use is it? I used to think that being successful in business and having possessions was important. Now, when I wake up every morning, I feel extremely grateful just to be alive." ■

A SAMPLING OF VIEWS OF THE WORLD'S RELIGIONS ON ORGAN DONATION AND TRANSPLANTATION⁷⁸

When death visits, it can call attention to the importance of the spiritual dimension of life. When faced with the decision of organ and tissue donation during the trauma of a family member's death, a person's religious group's position on the subject suddenly becomes very important. The question often arises, "What does my religious tradition believe about organ and tissue donation?" Recent surveys indicate that less than 10 percent of those surveyed were aware of their religious group's doctrine or position regarding organ and tissue donation. As a result, the decision maker often looks to his or her parish clergy person or hospital chaplain for an informed answer about a particular religious group's position.

Religious groups have been on both the "cutting edge" of biomedical ethics and on the "slow to accept" end of the issue. No one person or even an assembly of religious representatives can speak for numerous religious groups. The "connectional" religious groups appear more likely to have official positions on subjects such as organ and tissue donation. The "free Church" traditions champion the idea that no group can usurp the autonomy of the local congregation. Thus, the religious group's official resolution is not binding on the local congregation or individual persons. It is, therefore, difficult to state an official position for some of the nation's larger religious groups. Research shows, however, that the vast majority of religious groups do support organ and tissue donation and transplantation so long as it does not impede the life or hasten the death of the donor.

Research into the positions of various religious groups reveals the underlying attitude that unless the group has taken action to prohibit organ or tissue donation and transplantation, it is usually assumed that such donation is permissible. It is encouraged as a charitable act that saves and/or enhances life; therefore, it requires no action on the part of the religious group. Although this is a passive approach to affirming organ and tissue donation and transplantation, it seems to be the position of a large segment of the religious community. Some groups have taken a more pro-active stance in recent years, feeling that a resolution or adopted position encourages people to seriously consider the matter and plan accordingly.

This segment appears to be increasing in number with only a few religious groups actively opposing organ and tissue donation and transplantation.

Each congregational clergy person is encouraged to research his or her religious group's tradition and position on organ and tissue donation and transplantation, as well as other biomedical ethical issues. In addition, each parish clergy person should keep abreast of any new resolutions or positions adopted at his or her religious group's national assembly. The group's position is subject to change in any given year. It is important to be informed, since the family member suddenly faced with making a decision concerning organ and tissue donation of a loved one may be depending on the clergy to know the position held by his or her religious group. Inability to make an informed decision could leave the family member with a feeling of guilt regardless of the decision he or she may make.

The following summary statements concerning the various religious groups' positions on organ and tissue donation and transplantation may be of assistance to you. Perhaps you can help your religious group adopt a more clearly defined position. A pro-active position does, indeed, help clarify a group's attitude on the subject. Your knowledge and action may alleviate the suffering of the thousands of people who die annually due to a lack of available donor organs and tissues while a multitude of healthy organs are being buried every day. This dilemma is within itself an ethical issue.

AME & AME ZION (African Methodist Episcopal)

Organ and tissue donation is viewed as an act of neighborly love and charity by these denominations. They encourage all members to support donation as a way of helping others.

AMISH

The Amish will consent to transplantation if they believe it is for the well-being of the transplant recipient. John Hostetler, world renowned authority on Amish religion and professor of anthropology at Temple University in Philadelphia, says in his book, Amish Society, "The Amish believe that since God created the human body, it is God who heals. However, nothing in the Amish understanding of the Bible forbids them from using modern medical services, including surgery, hospitalization, dental work, anesthesia, blood

transfusions or immunization."

ASSEMBLY OF GOD

The Church has no official policy regarding organ and tissue donation. The decision to donate is left up to the individual. Donation is highly supported by the denomination.

BAPTIST

Though Baptists generally believe that organ and tissue donation and transplantation are ultimately matters of personal conscience, the nation's largest protestant denomination, the Southern Baptist Convention, adopted a resolution in 1988 encouraging physicians to request organ donation in appropriate circumstances and to "...encourage volunteerism regarding organ donations in the spirit of stewardship, compassion for the needs of others and alleviating suffering." Other Baptist groups have supported organ and tissue donation as an act of charity and leave the decision to donate up to the individual.

BRETHREN

While no official position has been taken by the Brethren denominations, according to Pastor Mike Smith, there is a consensus among the national Fellowship of Grace Brethren that organ and tissue donation is a charitable act so long as it does not impede the life or hasten the death of the donor or does not come from an unborn child.

BUDDHISM

Buddhists believe that organ and tissue donation is a matter of individual conscience and place high value on acts of compassion. Reverend Gyomay Masao, president and founder of the Buddhist Temple of Chicago says, "We honor those people who donate their bodies and organs to the advancement of medical science and to saving lives." The importance of letting loved ones know your wishes is stressed.

CATHOLICISM

Catholics view organ and tissue donation as an act of charity and love.

Transplants are morally and ethically acceptable to the Vatican. According to Father Leroy Wickowski, Director of the Office of Health Affairs of the Archdiocese of Chicago, "We encourage donation as an act of charity. It is something good that can result from tragedy and away for families to find comfort by helping others." Pope John Paul II has stated, "The Catholic Church would promote the fact that there is a need for organ donors and that Christians should accept this as a 'challenge to their generosity and fraternal love' so long as ethical principles are followed."

CHRISTIAN CHURCH (DISCIPLES OF CHRIST)

The Christian Church encourages organ and tissue donation, stating that we were created for God's glory and for sharing God's love. A 1985 resolution, adopted by the General Assembly, encourages "...members of the Christian Church (Disciples of Christ) to enroll as organ donors and prayerfully support those who have received an organ transplant."

CHRISTIAN SCIENCE

The Church of Christ Science does not have a specific position regarding organ donation. According to the First Church of Christ Science in Boston, Christian Scientists normally rely on spiritual instead of medical means of healing. They are free, however, to choose whatever form of medical treatment they desire-including transplant. The question of organ and tissue donation is an individual decision.

EPISCOPAL

The Episcopal Church passed a resolution in 1982 that recognizes the life-giving benefits of organ, blood and tissue donation. All Christians are encouraged to become organ, blood and tissue donors "...as part of their ministry to others in the name of Christ, who gave his life that we may have life in its fullness."

GREEK ORTHODOX

According to Reverend Dr. Milton Efthimiou, Director of the Department of Church and Society for the Greek Orthodox Church of North and South America, "The Greek Orthodox Church is not opposed to organ donation as long as the

organs and tissue in questions are used to better human life, i.e. for transplantation or for research that will lead to improvements in the treatment and prevention of disease."

GYPSIES

Gypsies are a people of different ethnic groups without a formalized religion. They share common folk beliefs and tend to be opposed to organ donation. Their opposition is connected with their beliefs about the afterlife. Traditional belief contends that for one year after death the soul retraces its steps. Thus, the body must remain intact because the soul maintains its physical shape.

HINDUISM

According to the Hindu Temple Society of North America, Hindus are not prohibited by religious law from donating their organs. This act is an individual's decision. H.L. Trivedi, in *Transplantation Proceedings*, stated that, "Hindu mythology has stories in which the parts of the human body are used for the benefit of other humans and society. There is nothing in the Hindu religion indicating that parts of humans, dead or alive, cannot be used to alleviate the suffering of other humans."

INDEPENDENT CONSERVATIVE EVANGELICAL

Generally, Evangelicals have no opposition to organ and tissue donation. Each church is autonomous and leaves the decision to donate up to the individual.

ISLAM

The religion of Islam believes in the principle of saving human lives. According to A. Sachedina in his *Transplantation Proceedings'* (1990) article, *Islamic Views on Organ Transplantation*, "...the majority of the Muslim scholars belonging to various schools of Islamic law have invoked the principle of priority of saving human life and have permitted the organ transplant as a necessity to procure that noble end."

JEHOVAH'S WITNESSES

According to the Watch Tower Society, Jehovah's Witnesses believe donation

is a matter of individual decision. Jehovah's Witnesses are often assumed to be opposed to donation because of their belief against blood transfusion. However, this merely means that all blood must be removed from the organs and tissues before being transplanted.

JUDAISM

All four branches of Judaism (Orthodox, Conservative, Reform and Reconstructionist) support and encourage donation. According to Orthodox Rabbi Moses Tendler, Chairman of the Biology Department of Yeshiva University in New York City and Chairman of the Bioethics Commission of the Rabbinical Council of America, "If one is in the position to donate an organ and to save another's life, it's obligatory to do so, even if the donor never knows who the beneficiary will be. The basic principle of Jewish ethics - 'the infinite worth of the human being' - also includes donation of corneas, since eyesight restoration is considered a life-saving operation." In 1991, the Rabbinical Council of America (Orthodox) approved organ donations as permissible, and even required, from brain-dead patients. The Reform movement looks upon the transplant program favorably and Rabbi Richard Address, Director of the Union of American Hebrew Congregations Bio-Ethics Committee and Committee on Older Adults, states that "Judaic Responsa materials provide a positive approach and by and large the North American Reform Jewish community approves of transplantation."

LUTHERAN

In 1984, the Lutheran Church in America passed a resolution stating that donation contributes to the well-being of humanity and can be "...an expression of sacrificial love for a neighbor in need." They call on members to consider donating organs and to make any necessary family and legal arrangements, including the use of a signed donor card.

MENNONITE

Mennonites have no formal position on donation, but are not opposed to it. They believe the decision to donate is up to the individual and/or his or her family.

MORAVIAN

The Moravian Church has made no statement addressing organ and tissue donation or transplantation. Robert E. Sawyer, President, Provincial Elders Conference, Moravian Church of America, southern Province, states, "There is nothing in our doctrine or policy that would prevent a Moravian pastor from assisting a family in making a decision to donate or not to donate an organ." It is, therefore a matter of individual choice.

MORMON CHURCH (CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS)

The Church of Jesus Christ of Latter-Day Saints believes that the decision to donate is an individual one made in conjunction with family, medical personnel and prayer. They do not oppose donation.

PENTECOSTAL

Pentecostals believe that the decision to donate should be left up to the individual.

PRESBYTERIAN

Presbyterians encourage and support donation. They respect a person's right to make decisions regarding his or her own body.

SEVENTH-DAY ADVENTIST

Donation and transplantation are strongly encouraged by Seventh-Day Adventists. They have many transplant hospitals, including Loma Linda in California. Loma Linda specializes in pediatric heart transplantation.

SHINTO

In Shinto, the dead body is considered to be impure and dangerous, and thus quite powerful. "In folk belief context, injuring a dead body is a serious crime...", according to E. Namihira in his article, *Shinto Concept Concerning the Dead Human Body*. "To this day it is difficult to obtain consent from bereaved families for organ donation or dissection for medical education or pathological anatomy.

The Japanese regard them all in the sense of injuring a dead body." Families are often concerned that they not injure the *itai*, the relationship between the dead person and the bereaved people.

SOCIETY OF FRIENDS (QUAKERS)

Organ and tissue donation is believed to be an individual decision. The Society of Friends does not have an official position on donation.

UNITARIAN UNIVERSALIST

Organ and tissue donation is widely supported by Unitarian Universalists. They view it as an act of love and selfless giving.

UNITED CHURCH OF CHRIST

Reverend Jay Lintner, Director , Washington Office of the United Church of Christ Office for Church in Society, states, "United Church of Christ people, churches and agencies are extremely and overwhelmingly supportive of organ sharing. The General Synod has never spoken to this issue because, in general, the Synod speaks on more controversial issues, and there is no controversy about organ sharing, just as there is no controversy about blood donation in the denomination. While the General Synod has never spoken about blood donation, blood donation rooms have been set up at several General Synods. Similarly, any organized effort to get the General Synod delegates or individual churches to sign organ donation cards would meet with generally positive responses,"

UNITED METHODIST

The United Methodist Church issued a policy statement regarding organ and tissue donation. In it, they state that, "The United Methodist Church recognizes the life-giving benefits of organ and tissue donation, and thereby encourages all Christians to become organ and tissue donors by signing and carrying cards or driver's licenses, attesting to their commitment of such organs upon their death, to those in need, as a part of their ministry to others in the name of Christ, who gave his life that we might have life in its fullness." A 1992 resolution states, "Donation is to be encouraged, assuming appropriate safeguards against hastening death and determination of death by reliable criteria." The resolution

further states, "Pastoral-care persons should be willing to explore these options as a normal part of conversation with patients and their families."

Samples of Major Denomination Policy Statements on Donation and Transplantation

PRESBYTERIAN

Commissioners' Resolution R-5-38.

Adopted by the 195th GA (1983)-PC (U.S.A.). p.46.

On Encouraging All Christians to Become Organ and Tissue Donors.

Whereas selfless consideration for the health and welfare of our fellows is at the heart of Christian ethic; and

Whereas organ and tissue donation is a life-giving act since transplantation of organs and tissue is scientifically proven to save the lives of persons with terminal diseases and improve the quality of life for the blind, the deaf, and the crippled; and

Whereas organ donation may be perceived as a positive outcome of a seemingly senseless death and is thereby comforting to the family of the deceased; is conducted with respect and with the highest consideration for maintaining the dignity of the deceased and his or her family, and

Whereas moral leaders the world over recognize organ and tissue donation as an expression of humanitarian ideals in giving life to another; and

Whereas thousands of people who could benefit from organ and tissue donation continue to suffer and die due to lack of consent for donation due primarily, to poor public awareness and lack of an official direction from the Church;

Therefore, be it resolved that the Presbyterian Church (U.S.A.) recognize the life-giving benefits of organ and tissue donation, and thereby encourage all Christians to become organ and tissue donors as a part of their ministry to others in the name of Christ, who gave life that we might have life in its fullness.

UNITED METHODIST
(1992)

Donation of organs for transplantation, or of one's body, after death to medical research.

The gift of life in organ donation allows patients and survivors to experience positive meaning in the midst of their grief. Donation is to be encouraged, assuming appropriate safeguards against hastening death and with determination of death by reliable criteria. Pastoral care persons should be willing to explore these options as a normal part of conversation with patients and their families.

JEWISH
SAVING A LIFE

The duty of saving and endangered life (*pikkuah nefesh*) suspends the operation of all the commandments in the Torah, with the exception of three prohibitions: no man is to save his life at the price of murder, adultery or idolatry. The sages of the Talmud interpret the words "he shall live by them," in Leviticus 18:5, to mean that the *mitzvot*, the divine commands, are to be a means of life and not of death. Specifically, the duty of saving a life supersedes the Sabbath laws. The humanitarian definition of the suspension rule signifies the duty to promote life and health. From a Jewish point of view, it is sinful to observe laws which are in suspense on account of the danger to life or health. One may do any work on Sabbath to save a life (Kethubboth 5a). "The Sabbath has been given to you, not you to the Sabbath" is a well-known statement in the Talmud (Yoma 85B). It has been noted that the German pessimistic philosopher Schopenhauer could not forgive Judaism for its affirmation of life.

In his *Mishneh Torah*, Maimonides discusses the duty of profaning the Sabbath when failure to do so is certain to endanger human life: The commandment of the Sabbath, like all other commandments, is set aside if human life is in danger. Accordingly, if a person is dangerously ill, whatever a skilled local physician considers necessary may be done for him on the Sabbath...When such things have to be done... they should rather be done by adult and scholarly

Jews...Similarly, if a ship is storm-tossed at seas, or if a city is surrounded by marauding troops or by a flooding river, it is a religious duty to go to the people's rescue on the Sabbath and to use every means to deliver them" (*Yad, Shabbath 2:2-3*).

CHRISTIAN CHURCH (Disciples of Christ)

Resolution No. 8548 Concerning Organ Transplants

Adopted by the General Assembly

WHEREAS, we were created for God's glory and for sharing God's love; and

WHEREAS, medical science has made vast improvements over the past few years making the success rate of organ transplants high; and

WHEREAS, in 1984, 97,000 Americans died who might have been saved by an organ transplant;

THEREFORE, BE IT RESOLVED, that the General Assembly of the Christian Church (Disciples of Christ) meeting in Des Moines Iowa, August 2-7, 1985, encourage members of the Christian Church (Disciples of Christ) to enroll as organ donors and prayerfully support those who have received an organ transplant.

SOUTHERN BAPTIST

Resolution No. 15

(Adopted 1988)

WHEREAS, Organ procurement for transplantation falls far short of demand; and

WHEREAS, Organ transplant technology has transformed many lives from certain death to vibrant productivity; and

WHEREAS, A Gallup poll reported in the New York Times May 3, 1987, that 82% of respondents would donate adult relatives' organs in appropriate situations, but only 20% had completed a donor card; and

WHEREAS, Complete resurrection of the body does not depend on bodily wholeness at death; and

WHEREAS, The values of a godless society promote self-sufficiency to such

a degree that people are indifferent to the needs of others, as seen in resistance to organ donations; and

WHEREAS, Organ donation for research or transplantation is a matter of personal conscience.

Therefore be it RESOLVED, that we, the messengers of the Southern Baptist Convention meeting in San Antonio Texas, June 14-16, 1988, encourage physicians to request organ donation in appropriate circumstances; and

Be it further RESOLVED, That we recognize the validity of living wills and organ donor cards, along with the right of next of kin to make decisions regarding organ donations; and

Be it finally RESOLVED, That nothing in the resolution be construed to condone euthanasia, infanticide, abortion, or harvesting of fetal tissue for the procurement of organs.

**IDEAS FOR ADDRESSING ISSUES OF
ORGAN AND TISSUE DONATION AND
TRANSPLANTATION WITHIN YOUR
CONGREGATION AND COMMUNITY**

- 1. NOTES FROM THE WORKSHOP ON
ORGAN AND TISSUE DONATION
PROGRAMMING FROM THE 1995
UAHC BIENNIAL CONVENTION**

- 2. A PROGRAM SELECTION FOR YOUNG
PEOPLE BY RABBI DEBORAH PIPE-MAZO.
THIS IS FROM A LARGER PROGRAM
ENTITLED: "MATAN CHAIM-GIFTS OF
LIVING, GIFTS OF LIFE" DESIGNED FOR
YOUNG PEOPLE AGES 14-18 IN CLASS OR
CAMPING SITUATIONS. THE PROGRAMS
STRIVE TO CREATE A BALANCE BETWEEN
TRADITION'S GUIDANCE AND RESPONSIBLE
INDIVIDUAL CHOICE.**

Union of American Hebrew Congregations
Biennial Meeting - Atlanta - 1995

Note: For assistance in organizing any of the programs suggested below, contact your local organ procurement organization (OPO). All areas of the U.S. are served by an OPO which coordinates all aspects of organ donation and distribution. OPOs also take responsibility for professional and public education on the topic. Their staff, affiliated transplant professionals and/or members of a volunteer speakers bureau organized by the OPO, are available to make presentations. The OPO also can provide informational brochures and donor cards.

1. Give a Sermon

Organ and tissue donation is a natural topic for discussion in the context of personal responsibility, mitzvah, end-of-life decisions, etc.

2. Schedule a Program on Organ and Tissue Donation

There are many opportunities for programs under the auspices of your congregation's sisterhood, brotherhood, or adult education group. These may take forms as diverse as a breakfast meeting speaker, a speaker at a regularly scheduled group meeting, or a congregational colloquy on Yom Kippur.

3. Write an Article

Synagogue newsletter editors are always looking for quality material for the congregation's monthly bulletin. Ask the local OPO director or knowledgeable congregational member to write a guest column.

4. Organize a Community Drive

The shortage of organ and tissue donors is a community-wide problem. You can take the lead in organizing a community based program in collaboration with other synagogues: reform, conservative, and orthodox. Or, join together with the churches in the your community through a local clergy council.

5. Put on a program at your Region's Biennial

The regional biennial meetings offer a wonderful opportunity to reach all the congregations in your region. However you decide to speak our on this topic, add the personal touch. Organ donation and transplantation are common enough that there is almost surely someone in your congregation who has been touched personally by this issue. Get them involved. There is nothing more moving than the personal story of someone you know.

Still have questions? Call or write one of us!

Richard S. Luskin
Executive Director
New England Organ Bank

Newton, MA 02158
(800) 446-6362

Temple Beth Shalom
Needham, MA

Judith Braslow
Director, Division of Transplantation
U.S. Department of Health and Human
Services
Room 7-18, 5600 Fishers Lane
Rockville, MD 20857
(301) 443-7577

Temple Beth Ami
Rockville, MD

Program
At the End There are Choices: Organ and Tissue Donation

- Goals:**
1. To demonstrate the element of personal choice in end of life situations
 2. To introduce organ and tissue donation as a mitzvah
 3. To teach the acceptance of organ and tissue donation within Jewish law
 4. To encourage the youth to sign, or consider signing, organ and tissue donor cards
 5. To emphasize the importance of discussing end of life choices and organ/tissue donation with one's family and rabbi
- Objectives:**
1. The youth will be able to define organ/tissue donation as a mitzvah
 2. The youth will be able to view a variety of end-of-life scenarios and choices
 3. The youth will be able to evaluate those choices which are meaningful for him/her
 4. The youth will be able to compose an advanced directive to share with his/her family (not intended to be considered a legal document)
 5. The youth will be able to sign an organ/tissue donor card if he/she considers this to be appropriate for him/her
- Materials:**
- Practical Medical Halacha, pp. 88-9 (also see materials from the main packet)
Skit topics and guidelines for actors
Paper and pencil for each youth
Sample Advanced Directives and Living Wills (see Program 5 resources)
Reform Judaism's Organ/Tissue Donation Cards (one for each person present)
- Procedure:**
1. Facilitator will introduce the topic and program. It is appropriate at this time to have a mini review of Program 5
 2. Group Discussion on the Jewish View of Organ Donation
 - a. it is a mitzvah: *pikuach nefesh* - saving a life
 - b. does not go against the prohibitions against mutilating the dead, deriving benefit from the dead, or delaying burial of the dead
 1. Practical Medical Halacha, pp. 88-9
 3. Presentation of skits by counselors/staff (please do not use youth)
 - a. What If.....
 1. "family" sitting around discussing end of life issues/decisions and what each person values and desires
 - b. To Sign or Not To Sign
 1. two teens talking about organ/tissue donation
 - c. Hey Mom and Dad!
 1. a teen goes home from this program and explains to his/her mom and dad why he decided to sign an organ/tissue donor card

d. Rabbi...Help!!!!

1. above teen's parents seek out the rabbi's counsel concerning son's/daughter's decision. Rabbi supports teen and explains
2. "family" consults rabbi concerning a loved one who is very sick
 - a. which medical decisions do we make?
 - b. If loved one dies, should we donate organs and tissues?
4. Distribute paper and pencil to each youth. Ask youth to write down what he/she might desire concerning medical treatment at the end of life (This is not intended to be a legal document)
5. Distribute Reform Judaism Organ and Tissue Donation Cards
6. Wrap up. Emphasize the need to share these choices/decisions with family and rabbi

Subject: Donation of cadaver organs for transplantation.

Question: May a person will his organs for transplantation? Must a specific recipient be at hand? May one donate one's corneas to a cornea bank?

Answer: The donation of specific organs from a cadaver, where death has been determined by halachic criteria, is not in violation of any halachic ruling.

Comment: The overriding consideration of saving a life (*pikuach nefesh*) sets aside all biblical laws including the prohibitions of mutilation of the dead, deriving benefit from the dead, and delaying the burial of the dead. Hence to donate one's kidneys to save another's life is certainly permissible.

A blind person is considered by most rabbinic opinion to be in the category of the dangerously ill (*choleh sheyesh bo sakana*) and those for whom the principle of *pikuach nefesh* would apply. Hence corneal transplants are also permissible.

Heart transplants are now considered therapeutic and not experimental and are therefore halachically acceptable if the death of the donor has been halachically established and the risk/benefit ratio to the recipient meets halachic standards.

The voluntary donation removes all questions of dishonoring the dead and sets aside any concern for deriving benefit from the dead. It is also allowed to donate one's corneas to an eye bank without having a specific recipient in mind, since it is most probable the cornea will be used immediately. Hence the recipient is considered to be "at hand" (*lefanenu*).

Subject: Donation of organs and blood from live donors.

Question: Is a person allowed to subject himself to the danger, however small, of an operative procedure to remove one of his kidneys in order to save the life of another? May one donate a pint of blood to a blood bank?

Answer: A living person may donate a kidney to save another's life. It is also permissible to donate blood to a blood bank.

Comment: In a previous answer, we discussed the donation of cadaver organs for transplantation. Concerning the use of a living donor, the question arises as to the possible transgression of the biblical commandments *Take heed to thyself and keep thy soul diligently* (Deut. 4:9) and *Take ye therefore good heed unto yourselves* (Deut. 4:15). The Talmud (Berachot 32b) and Maimonides (*Hilchot Rotzeach* 11:4) interpret these verses to be biblical prohibitions against subjecting oneself to any physical danger, since it is not permitted to intentionally wound oneself (Baba Kamma 91b and Codes); and one may not forfeit a life to save another (Oholot 7:6 and Codes); can one therefore endanger one's life by donating a kidney in order to save another's life?

The answer, based on the Babylonian Talmud and adopted by most of the codes of Jewish law, is that one is allowed (or obligated, according to some authorities) to place oneself into a possibly dangerous situation to save his fellow from certain death. The donor endangers his life to save the recipient from certain death. Hence, a donor may endanger his own life or health to supply an organ to a recipient whose life would thereby be saved, provided the probability of saving the recipient's life is substantially greater than the risk to the donor's life or health.

Giving a pint of blood is akin to an organ donation. It is permissible to give blood to a blood bank even without a specific recipient in mind because there is a reasonable certainty of the blood being used. The danger to the donor is minimal while the benefit to the recipient may be life-saving.

Sources: Shulchan Aruch, Orach Chayim 330:8 and Choshen Mishpat 426. See commentary *Pitchei Teshuvah* on the latter.

*RITUALS SURROUNDING ORGAN DONATION
AND TRANSPLANTATION*

1. UPON SIGNING AN ORGAN/TISSUE DONOR CARD

Created by Rabbi Randi Musnitsky and Rabbi Deborah Pipe-Mazo

*2. UPON DONATING A LOVED ONE'S ORGANS/
TISSUES.*

Created by Rabbi Deborah Pipe-Mazo.

Opening Family Prayer: CCAR Rabbi's Manual

*3. UPON RECEIVING AN ORGAN/TISSUE/MARROW
TRANSPLANT*

Created by Rabbi Deborah Pipe-Mazo and Mr. Arnold Meshkov
(recipient) of Elkins Park, PA.

Ritual Upon Signing an Organ/Tissue Donation Card

present: person(s) signing the donor card, two witnesses (non-family); at least one witness should be a person familiar to and close with the donor's family.

Person Signing Card: Our God and God of our ancestors, I am grateful for the gift of life and the blessings of good health and personal safety. I pray that you will continue to bestow upon me years of physical and mental strength and vitality. May I live all my days in accordance with Your teachings, striving to add meaning and purpose to my existence. Yet, should I come to physical harm, ending my presence on Earth, I offer my body's organs and tissues, that which I no longer need, so that another precious life might continue.

I recognize, *Adonai*, that my decision might prove difficult for my family. Be with them. Comfort them. Encourage them in their time of sorrow, grief and loss.

I sign this organ donation card comforted by the knowledge that I am fulfilling Your Will: to sustain a single human soul is equivalent to sustaining an entire world. Thus may I bring pride to myself and my family, setting an example of care, compassion and generosity for others in death as in life.

Witness #1: By my presence and with my signature, I lend my support and encouragement to _____.
I wish him/her many more years of life filled with health, meaning and purpose.

Witness #2 May _____ live until 120. May his/her life be full. If, however, that is not Your will, may my signature represent a promise to both _____ and _____'s family that I will comfort and support them through the process of donation.

Together: Sign the card at the appropriate places then recite:
ברוך אתה, יי אלהינו, סלך העולם, שהחננו וקיימנו והניצנו לזמן הזה.
Praised are You, Adonai our God, Source of All Creation,
Who has given us life, sustained us, and enabled us to reach
his moment. Amen.

Ritual for Donating a Loved One's Organs/Tissues
present: family members of the deceased, rabbi/chaplain, organ procurement representative,
physicians and nurses (optional)

Rabbi/Chaplain: The *mitzvah* of *pekuach nefesh* is valued in Jewish life above every other practice. Tradition teaches us that saving a single life is equal in measure to saving an entire world. Through the gift of _____'s organs/tissues (actual parts might be mentioned here, in full or in part) you are helping others to heal and live, whose lives, like _____'s life, impact an entire world. The reward for this deed is realized both in this world and in the world to come.

Zecher Tzadik L'ivracha. May the memory of _____ (English or Hebrew name) be for a blessing. May *Adonai* comfort and console you with all who mourn in Zion and Jerusalem

Family: *Adonai*, you give us loved ones and make them the strength of our days, the light of our eyes. They depart and leave us bereft on a lonely way, but You are the living fountain from which our healing flows. To You we look for comfort and consolation.

We thank You, *Adonai*, for the blessing of years shared with _____. (Although too few,) We are grateful for the paths we walked together and the love in which we grew, delighted and celebrated.

Comfort and sustain us as we offer others the chance to live and heal, even as we grieve _____'s death. We pray that _____'s spirit of care and generosity will become embodied through the gifts of his/her organs/tissues and that his/her memory will thrive through the immortality of his/her deeds.

בָּרַךְךָ יְיָ הָאֱמֶת.

Praised are You, *Adonai*, the True Judge.

(family signs the donation paper; Rabbi/Chaplain acts as witness, as does any medical staff present)

Medical Staff:

I/We am/are saddened that it was not possible to help _____ heal and resume the life he/she lived prior to becoming sick. I pray that those who receive these organs/tissues are sustained during their surgery and recover well to full strength and potential.

OPO Rep:

On behalf of the patients and families who will benefit from your generous gifts, thank you for *Matan Chaiim*, thank you for the Gift of Life.

All:

ברוך אתה, יי אלקינו,
מלך העולם, שהתנו
וקיימנו והיצינו לזמן הזה.

Praised Are You, Adonai our God, Source of All Creation, Who has given us life, sustained us and allowed us to reach this moment. Amen.

Ritual for Receiving a Transplant

present: organ recipient, family, medical staff

This ritual can be observed in the hospital, at home or in the synagogue within the context of a service.

If this ritual takes place with a public forum, the Rabbi might introduce the Organ Recipient and give a brief history of his/her illness.

Organ Recipient: Adonai, for release from the danger/grave illness through which I have recently passed, I thank You.

בְּרוּךְ אַתָּה, יי אֱלֹהֵינוּ,
מֶלֶךְ הָעוֹלָם, שֶׁגִּמְלָנִי בְּלֵטוֹב.

Praised are You, Adonai our God, Who has been so good to me.

All: May God who spared you continue to grant you all that is good.

Organ Recipient: Blessed is the Eternal God who has helped me find the strength to endure my illness, and has instilled in the human spirit the ability to provide the gift of an organ so that my life might be restored and renewed. Truly, the lives of my donor and donor's family have been a blessing, for to save one life is to save the world. May I be worthy of this greatest of gifts by appreciating each new day, and by being a source of compassion, strength and righteousness to my family, friends and community.

שְׁמַע יִשְׂרָאֵל: יי אֱלֹהֵינוּ, יי אֶחָד!

Hear, O Israel! Adonai is our God! Adonai is One!

All: בְּרוּךְ אַתָּה, יי אֱלֹהֵינוּ,
מֶלֶךְ הָעוֹלָם, שֶׁהַחַיִּים
וְהַיְצִיאוּנוּ לְזֶמֶן הַזֶּה.

Praised are You, Adonai our God, Source of All Creation, Who has given us life, sustained us, and enabled us to reach this day. Amen.

The Matan Chaiim Brochure

Multiple copies of this brochure are available from:

UAHC Committee on Bio-ethics
1511 Walnut Street Suite 401
Philadelphia, PA 19102

(215) 563 - 8183 (Phone)
(800) 368 - 1090 (Toll-free)

(215) 563 - 1549 (Fax)

UAHCCOACBE@aol.com (E-mail)

Before you sign, please discuss this with your family. Share this decision with them as they are an important part of the process. Discuss the decision with your rabbi. Make sure that your health care providers are informed. Carry the signed and witnessed donor card with you.

"The UAHC is proud to join the growing movement to raise awareness and involvement in this area of religious life."

*Rabbi Eric H. Yoffie:
President, UAHC*

"Women of Reform Judaism applaud the Gift of Life program as it responds to the urgent need for organ donation."

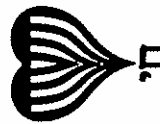
*Ellen Rosenberg:
Exec. Director,
Women of Reform Judaism*

"The need for organs and tissue for transplantation is great...Organ and tissue donation is a fundamental human responsibility and should be considered."

*Howard Nathani:
Pres. Coalition on Organ
and Tissue Donation*

"To see with my new cornea is like a miracle... If only people knew the difference their organ donation makes."

B. Spiegelman: Recipient



Matan Chaim: the Gift of Life

**A Program of the UAHC Committees
on Older Adults and Bio-Ethics**

co-sponsored by

Women of Reform Judaism

For further information:

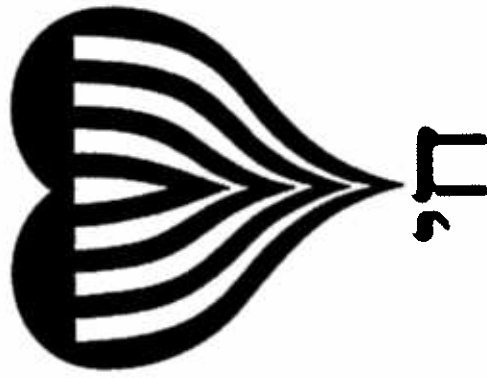
UAHC Committee on Bio-ethics
115 Walnut Street Suite 401
Philadelphia, PA 19102
1-215-563 8183 800-368 1090
1-215-563 1549 FAX
UAHCCOACBE@aol.com

an invitation from

Reform Judaism

to become part of the program on

Organ donation



**Union of American Hebrew
Congregations Committees on
Older Adults and Bio-Ethics**

co-sponsored by

Women of Reform Judaism

Matan Chaim: the Gift of Life

Organ & Tissue

DONATION

*Share your life. Share your decision.**

Matan Chaim: the Gift of Life

On behalf of the Union of American Hebrew Congregations and the entire family of Reform Judaism, we invite you to join in becoming an organ donor and thus to participate in the mitzvah of *matan chaim*: the gift of life.

Life, our tradition's highest value, is at the heart of our invitation. By becoming an organ donor you can join thousands who have placed themselves in a position to bring healing, hope and life to others. The UAHC invites you to choose to make this gift so that others may benefit. We invite you to share this discussion and decision with your family, friends and rabbi; as well as your medical, legal and additional health care providers.

Medical technology has given us the means to dignify, sanctify and sustain lives in ways that were impossible just a few years ago. We invite you to bring to that technology a response of holiness, purpose and life.

Jewish tradition teaches that we are partners with God in continuing and sustaining the daily miracles of creation. Organ and tissue donation are an extension of this partnership. Through donation, you have the unique and holy opportunity to give the gift of life and wellness from one of God's creations-you-to another. With your gift, you respond *hineni* to God's call.

Matan Chaim: the Gift of Life

**Organ & Tissue
DONATION**

Share your life. Share your decision.*

Frequently Asked Questions

Q: What does Reform Judaism say?

A: Reform Judaism has long been an advocate of Organ Donation. A 1968 Reform Responsa commented that the use of such body parts in order to heal or save life is in keeping with the mood of Jewish tradition and a positive act of holiness.

Q: Do other movements within Judaism agree?

A: Yes. The value of "*p'kuach nefesh*" (the saving of a life) underscores this belief within our entire community, regardless of denominational affiliation.

Q: Doesn't Judaism require us to be buried with our bodies intact?

A: Judaism does draw a distinction in the area of organ donation and transplantation in order to save a life.

Q: What parts of my body can be transplanted?

A: Heart, kidneys, lungs, liver and pancreas as well as bone marrow, tissue, skin and corneas.

Q: What about age?

A: Donors can range in age from newborn to 75 years.

Q: Can there be a conflict between saving my life and recovering my organs?

A: No. Donation can be considered only after every measure has been taken to save the patient's life and death has been declared.

Q: How do I become an organ donor?

A: The completion of the attached donor card will allow you to become an organ donor. The Uniform Anatomical Gift Act of 1969 (USA) gives you the right to sign such a card. Patients who receive organs are chosen based upon many factors and are matched via need through a computerized system. Organ Donation in Canada is covered under the Canadian Human Tissue Gift Act (revised 1990).

Donor Card

I _____
have spoken to my family about organ and tissue donation. The following people have witnessed my commitment to be a donor:

Witness _____

Witness _____

I wish to donate the following:

any needed organs and tissues

only the following organs and tissues:

Donor signature

Age

Date

Next of Kin Contact _____

**A SAMPLING OF RECENT SERMONS ON
THE SUBJECT OF ORGAN DONATION**

1. TRANSPLANTS--SOME INSIGHTS.
Rabbi Henry Bamberger
2. YOM KIPPUR MORNING 5757/1996
Rabbi Herman J. Blumberg
3. DON'T HANG UP THE PHONE, IT'S YOUR
COVENANT CALLING
Rabbi Brian Zimmerman
4. YOM KIPPUR 5759
Rabbi Irwin A. Zepowitz

TRANSPLANTS -- SOME JEWISH INSIGHTS*

by Henry Bamberger

In addition to sharing some Jewish thoughts on specific problems of medical ethics, this article will attempt to illustrate a methodology -- which, as we will see, presents its own kinds of problems. The methodological question is: Can we, or how can we, make use of old, classical texts, to solve, or at least illuminate, current medical ethical problems? We will concentrate on the field of transplants, which clearly was not envisioned by the Rabbis of old. If we can find some guidance in classic texts for this high-tech area, we may reasonably hope that insight is available for other new areas as well. Furthermore, if the Jewish sources can help us with modern concerns, those who come from other traditions should be encouraged to look into the work of their significant teachers, even from the distant past.

As historical note -- there are three bodies of material, other than the Bible, which will provide us with content and/or background. The first, the Talmud, is, as is well-known, a vast corpus of Jewish law and lore whose final editing may be conveniently dated at the year 500. While it is, in theory, arranged by topic, it is often very difficult to find needed material in it. Therefore, the completion of the Talmud was followed by the compilation of several law codes which dealt with only the legal material of the Talmud, arranging it by topic. The best known of these is the Shulhan Aruch, "The Prepared Table", of Joseph Caro.

However, even with these neat arrangements of Jewish law, there were still two major problems: 1) They differed on some points among themselves; 2) New situations arose in which it was difficult to know how to apply the law. This led to a body of material known as the Responsa. When faced with a question he could not answer, a rabbi would write for guidance to a colleague whom he considered more learned in the particular field. no one was appointed to answer questions; little by little, a person became recognized as an authority -- much as we might find in the medical field today. A scholar who received a question would respond, not with just a yes or no answer, but with a summary or discussion of the sources on which he was basing his reply -- not unlike a legal brief. When an individual had written enough responses, he would generally collect and publish them. This process continues to the present day.

One further problem -- at least for me -- is that the vast majority of this material is Orthodox in nature. Whatever the differences between Talmudic sages, compilers of codes, and Orthodox respondents might have been (or might be), they all agreed on the belief that the Bible and Talmud comprised a divinely revealed body of knowledge. This meant, among other things, that it was complete and authoritative. It contained the answer to every question, and that answer was binding. While sages might disagree with one another, they shared a single universe of discourse, and know, with certainty, that there was a single truth, if it could but be found and/or demonstrated.

As a Reform Jew, I do not share these certainties. I look to the past for guidance rather than governance. It is only in these years since World War II that any amount of material that might be of use to us has been written by Reform Jews, and that, too, I am free to question or reject. Therefore, I will be presenting material that I do not necessarily consider binding in practice.

A frequent theme in Jewish discussion of our subject is the concern that many transplants are risky for the organ recipient. Human life -- even a small amount of human life -- is of value. To what extent may a person put him/herself in danger? Should that be determined based upon the likelihood of cure? This goes somewhat beyond our modern dealing with risk-benefit ratios.

This is, of course, not a new question. Indeed, the discussion of the topic refers back to a narrative in the Bible (II Kings 7:3ff.). During a siege of Samaria, a group of lepers, starving outside the city, decided to go over to the enemy camp. Their reasoning was that death by starvation was certain if they stayed where they were, but that if they deserted, the enemy might feed them and keep them alive. They went to the enemy camp, even though they were taking the risk that the enemy might kill them at once. From this story, which seems to endorse taking a risk of immediate death in order to be saved from impending death, the Talmud enters into a discussion of when it is permissible to use a physician who is an idolater. There was, in ancient days, a strong presumption that many idolaters would murder a Jew if given the chance. Therefore, Jews were normally forbidden to submit to the ministrations of an idolatrous practitioner, even for a condition that might prove fatal. However, the Talmud rules that when the illness is such that it will certainly prove fatal if not properly treated, the idol-worshipper may be called in.

Later respondents expand this thinking to rule that in the case of a terminal patient, one may risk a short period of life for a chance of cure. Some authorities would insist on a 50-50 chance of recover; others would take one chance in a thousand. Still others avoid specific figures and suggest that one may accept even a "slim chance". An interesting approach distinguishes between procedures which, although very risky, are accepted treatments and those which, while no more dangerous in nature, are experimental. There is generally a presumption that hazardous procedures will not be tried unless non-hazardous approaches have been exhausted.

There are three considerations, perhaps unique to Judaism, which we may treat together, since they involve the corpse. One is the command to bury a body. The body, while lifeless, must be treated with reverence. Burial is to be prompt -- on the day of death if possible. Furthermore, all of the body, or, when that is impossible, as much of it as possible, must be buried. This means, for example, that the body of a person whose body is covered with his blood -- from a trauma, perhaps -- is not washed in the traditional manner, and his clothing, if blood-stained, is buried with him. Now, if organs are removed, the burial might be delayed, and certainly would be incomplete. A second consideration is the problem of mutilation of the corpse. As many of you know, Judaism strongly discourages autopsy, and the same arguments would apply here. Third, and less familiar, there is a general prohibition against deriving benefit from the dead.

In the case of saving life, these, like most commandments, may -- or even must -- be put aside. Thus, if death has been determined and a suitable recipient is available, kidneys may certainly be used. Transplants that are more experimental in nature would be questionable.

What of corneal transplants? Leading modern authorities, such as Rabbi Issar Yehuda Unterman have ruled that blindness is itself a life-threatening condition and that therefore the same permissive stance is appropriate. Rabbi Unterman has even found a basis for allowing corneal transplant in the case of a person who is blind in only one eye, although this ruling has been less widely accepted.

A related question is whether it is necessary to have previous permission from the deceased person or his/her family before organs may be removed. While this, too, remains a matter of some dispute, the prevailing feeling is that taking

organs without permission would -- or might -- constitute theft.

A striking use of old material solves a uniquely Orthodox Jewish concern -- though not an ethical one. A person of presumed priestly descent is not allowed to come in contact with the dead or even with a piece of a corpse. He should not attend a funeral or enter a cemetery, except for the funeral of a close relative. Indeed, rather complicated technical procedures have been instituted in some of the hospitals in Israel to assure that such a person is not forced to be in the same domain as the hospital morgue. The question arises whether he may be in the same room, or even the same building, with a person who has received an organ transplant from a corpse. The answer is that there is no problem because the engrafted or transplanted organ is considered an integral part of the recipient. The conclusion is based on a Talmudic passage. The remarkable parallel situation dealt with the case of a plant in which a young shoot is grafted onto an old stem. The details need not concern us, but the ruling is that the shoot loses its identity and becomes a part of the older, rooted plant!

Now what of transplants from the living? One may not normally wound oneself-- or have another person wound you, other than to effect a cure --and one is duty-bound to preserve one's well-being. To what extent, then, am I allowed to put myself at risk for another person? or, since there may be a threat to the other's life, am I required to put myself at risk? Here, the tendency is to consider the risk/gain benefit.

Let us start with the most common -- and, at least until recently --safest of all: transfusion -- the blood transplant. In this case, the risk to the donor is, essentially, zero. Some transfusions are, of course, directly life-saving, but even if my 500cc. are used in a way that does not involve a matter of life and death, the risk (or even the discomfort) involved is so minimal that I need not hesitate. (It is, perhaps, worth noting that I have been unable to find any Jewish sources which object to blood transfusions. One Orthodox authority, Hillel Posek of Tel Aviv, is even explicitly in permitting them even for sick patients whose lives are not in actual danger. It would, of course, be unacceptable to ingest blood orally -- animal blood no less than human blood -- based on the Biblical prohibition, but that which comes directly into the vein is not considered as having been eaten.)

What of the kidney? Here the donor faces abdominal surgery with its attendant risks, with the added reality that there is no redundancy in one kidney.

While the degree of risk may be small, it is real.

While the specific question is new, there are, once again, parallel situations in the past. If I see a person being attacked by a lion or by robbers or drowning, am I required to risk my life in attempting a rescue? Unfortunately, the sources do not give a clear-cut answer. There is a passage which concludes that one must place oneself into a potentially dangerous situation to save another's life; apparently the reasoning is that without intervention, one death is a certainty, while with intervention the rescuer's death is only a possibility. Alas, there is a real question of whether this passage is authentic, so many respondents will not consider it.

There is an interesting responsum by Rabbi David ben Zimri who lived in Egypt in the 16th Century. A "ruler tells a certain Jew that he is going to kill another Jew unless this (first) Jew allows him to cut off his arm or his leg. The question, then, is as follows: Is a man required by Jewish law to sacrifice one of his own limbs to save another person, a question which, of course, comes close to our question about kidney transplants." Rabbi David rules that he is not required to do so, and even indicates that if he chooses to do so he is foolish. Of course, in view of the level of surgery in the 1500's, the man would be seriously endangering himself. Rabbi Eliezer Waldenberg, a contemporary writer applies this reasoning to argue against kidney transplants today. He points out that in Rabbi David's case, even if the questioner had sacrificed a limb, the ruler might still decide to kill the person whom he had threatened. This would be, he feels, analogous to a body rejecting a transplanted organ.

It is generally accepted that while we may not be required to take risks to save others lives, we are permitted to do so. This is especially true where the risk to the one who gives aid is small and the danger to the other is great. Some writers are more hesitant than others. Thus Rabbi Waldenberg would allow an organ donation only if a group of trustworthy physicians testify that there is virtually no danger to the life of the donor -- which, I assume, means that in practice he forbids the living to donate -- and if the donor is not coerced into consenting. Others, too, are concerned with the question of coercion, but are less demanding concerning the guaranty.

An interesting case was addressed to a Reform respondent. A woman needed a kidney. The only relative available as a donor was the patient's sister. The potential donor had not been contacted, however, because the two sisters were

estranged and had not spoken for many years. The question was whether, despite the hard feelings of the family, she should be approached. The answer, after a review of the relevant sources, was that the sister had a right to make her own decision on the matter. She should be contacted, but that any attempt to pressure her would be in gross violation of Jewish tradition.

In fact, there are a few rabbis who would require a kidney donation to save life. However, the majority of authorities permit but would not require a person to put him/herself at some degree or risk to save the life of a person dying of kidney failure.

This brief overview shows clearly that when we need guidance in deciding modern medical-ethical problems, it is often possible to find reasonable analogies to our concerns in ancient Jewish texts. It is reasonable, therefore, to expect, or at least to hope, that members of other religious groups will also be able to find guidance in their traditions.

*This article was adapted from a paper delivered May 13, 1996 before the Institute of Applied Ethics at Utica College, Utica, N.Y. (citations omitted)

Yom Kippur morning 5757/1996
Herman J. Blumberg, Rabbi

This is the story of Jeffrey Wise, a member of our congregation. In 1992, when Jeff was 45 years of age he was diagnosed with Hepatitis C, a slow moving virus which attacks and can ultimately destroy the liver. There is no known cure. By early in 1994 the damage to Jeffrey's liver had begun to show signs of failure. His only hope for survival was a liver transplant.

For more than forty years transplants have been performed in the United State and Europe with ever-increasing success, a miracle of modern medical science. One year patient survival rates for various procedures range between seventy six and ninety two percent. On average a recipient lives more than eight years with his or her new organ. Fifteen year survival rates are not unusual. Cornea transplants save thousands each year from blindness. While arduous, risky, painful, subject to lengthy recovery, frequent set backs, and extremely costly (\$150,000 to \$300,000 is the range for a liver transplant) each year the transplanting of vital organs and tissue (including heart, lung, pancreas, kidney; bone marrow, cornea and other tissues) returns thousands of critical ill people to home, to family, to work place. This was Jeffrey and his wife Karen's fervent hope.

Jeffrey's name was added to the liver transplant waiting list in March, 1994. His place on the list didn't change very much because preference is given to patients based upon medically urgency. As the waiting continued Jeffrey began to experience increasing levels of fatigue, listlessness, difficulty concentrating and symptoms of depression.

At about this time Jeffrey also became a casualty of corporate down sizing, in his case an act reflecting extraordinary big business insensitivity. He devoted his limited energy to public advocacy for organ donations and to helping out with son Joshua at home. Karen took full time employment. Together they waited for the call.

That call, informing them that an appropriate donor liver was available, didn't come for twenty-five months. Following the surgery last April, Jeffrey told me that judging by the progressively deteriorating blood chemistries, without the transplant he felt that he probably would have died within two or three weeks. Jeffrey's recovery has had its difficult moments. Although he has not experienced any rejection problems, there have been some problems and he is unable to maintain a routine and seek employment. We are grateful that he is here with us at Shir Tikva today and we pray for his *refuah shelemah*, the completeness of his healing and for the well being of Karen and Joshua with him.

I share this story -- of course, with Jeffrey and Karen's permission and collaboration -- with two motives in mind. When Jeffrey and I first talked a year ago I resolved to find a way to raise our consciousness of the great need for organ donations. Hopefully, with awareness of the need will come your resolve to make provisions to become donors.

The reality is that year there is an extreme shortage of organ donors. Year after year many people die while waiting for their only hope; currently the number is 3000,

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more than nine deaths each day. Over 47,000 people are on waiting lists, more than 35,000 of them waiting for kidneys. In 1995 approximately 20,000 transplants were performed. The need grows by 2000 patients a month. This past Friday a news report suggested that 5,00 donors become available each year and the need is ten times that figure. Today only between twenty and thirty percent of the *potential* donors actually making organs available.

There is a particular Jewish dimension to this discussion. Last year Moment Magazine (August, 1995) published a major piece titled, "All Take and No Give." It suggests that while Jews are recipients of organ donations in proportion to our numbers, relatively few of us are willing to register as potential donors or to allow recovery of organs from deceased relatives. Only five percent of orthodox Jews asked to participate, consent to do so. In Israel the per capita rate of donations from brain-dead patients is almost one-third the rate of donations in the American population. I venture to say that if we were to survey our congregation we would discover a similar, widespread reluctance to become involved.

Some suggest that Jews think that Jewish Law prohibits organ donation. Others speculate that we use Jewish Law, otherwise ignored in their lives, as a polite or convenient way of begging off. Clearly, Reform and Conservative rabbinical authorities permit donations and have for some years.. Even in the orthodox community, where *halachah* is interpreted more narrowly, there are prominent and respected rabbinic decisors (traditional interpreters of Jewish Law) who permit and encourage donations. Jewish practice requires us to place *pikuach nefesh*, the saving of life, above all other commandments, even to violate other *mitzvot* in order to do so. While in traditional Judaism the burial of all body parts is a religious imperative, while not desecrating the body is critical, these rules are superseded by an act which results, directly or even indirectly, in restoring another human being to life. In response to this forceful command, both the Reform and Conservative movements -- and some within the orthodox community -- have begun to educate their constituencies and the UAHC is mounting a full campaign to encourage donor registration.

No one is seeking to create a generation of bionic people. Transplant surgery is not always appropriate. But so much can be done to give life, to save life. So much is in our power to do. For each of us who is able, participating in this enterprise becomes a sacred obligation of the first order.

Perhaps you remember the story of Alisa Flatow, a twenty year old Brandeis University junior. Her story tells it all. Alisa was spending junior year in Israel. Before Passover last April she boarded a bus to travel from Jerusalem to visit friends in the Gaza strip. A Hamas suicide bomber drove his van into the bus. Many were killed in the explosion. Alisa ended up brain-dead on life support at a Beersheba hospital. Literally hours later, her father, having consulted with orthodox authorities, decided to donate Alisa's organs to six people, clinging to life while waiting for transplants. The family's gesture had an emotional impact upon a shocked and grieving Israel. Then Prime Minister Yitzhak Rabin's poignant comment brought a measure of consolation and inspiration to all when he said, "Alisa Flatow's heart beats in Jerusalem." At that moment Rabin's words were literally true. Alisa's heart was alive

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in the body of fifty six year old man. Her kidneys vastly improved the quality of life for a 44 year old accountant. A young woman breathes the breath of life with Alisa's lungs. Figuratively her heart and her life substance continue to beat in the universe, bringing comfort to her family and inspiration to all.

Certainly it is my fervent prayer that each of us -- and all in our families -- will reach ripe old age without the kind of traumatic ending to life which makes many organ donations possible. But each of us should resolve that if this is our fate, we have a moral and religious obligation to bring forth life from that death. We should discuss our wishes with family members, include instructions in our living wills, sign and carry with us at all times the organ and tissue donor card which we have made available here today.

There are more practical steps that we can take to share our life substance with others. Most of us can donate blood regularly without any harm to our bodies. This is a gift of life, beyond monetary value. A greater urgency is the need for those of us who are eligible (from eighteen to sixty) to lend our names to the National Bone Marrow Donor Program which registers donors and facilitates matches, always very difficult to make, through a sophisticated international computer network. There is only slim chance (one figure suggests 1/20,000) that you would be called. But if you receive that call, it is because *you* have the potential to save a life. Surely, this is a personal offering with genuine religious significance.

I urge our congregation to facilitate our involvement in these efforts by conducting Bone Marrow registration and Blood drives. Perhaps someday our children will find another validation for their Jewish commitment in the realization that their synagogue -- our community -- actually helped to save a life!

What an extraordinary capacity rests within our grasp. From the essence of our beings, from the cells that sustain our lives, we can give strength and healing to others.

And we receive in return. When we donate blood or provide a bone marrow match or on those special occasions can become a live donor, we receive the profound gratitude of another -- probably unknown -- human being and his or her loved ones. We hear, without voice, a wife's whispered praise for our beneficence. We hear, without voice, a child's joy that his father is still alive to help with homework. And in that hearing our lives have become more worthy, purer, more beautiful.

There may be no more exalted moment in life than when, in death we share our still living tissue with those desperately ill. In that moment of most profound darkness we kindle a light. Out of decay comes regeneration. For some few of us a unique measure of immortality is possible as someone guards our living substance. For all of us this miracle of medical science adds new meaning to the idea of life after death.

Truth be told this is more than the story of Jeffery Wise, more than an attempt to capture our attention and move us to these special acts of giving. This story also serves as a metaphor for the task which is ours every day and in every realm of existence. Simply put:

-- to share that which is truly important in life with those around us;

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- to distinguish what is valuable and important from that which should not absorb all of our energy and attention;
- to find the precious, priceless gifts which rest within our souls and to share them with those we love;
- to allow our goodness to conquer our inclination towards selfishness, self righteousness and arrogance.

In fashion less dramatic than donating organs or tissue, but equally powerful, we can give the gift of life to those around us each day. Our words of kindness, our acts of goodness, our careful listening, our very presence can bring new energy to those around us. We cannot purchase these gifts. They have no monetary value. They rest within us. We can share then endlessly and once bestowed they never die. In our acts of love and kindness, in being human at our best we give life and, in return find holy blessing.

Why does it take the death of a peer, a loved one gravely ill or our own life threatening illness for us to realize how much of our lives we have wasted, withholding our most precious human gifts while pursuing...whatever? Why does it take a wrecked marriage to force us to acknowledge the mistakes we have made and to find a way to repair our faults? If only we could foresee the lifeless body of a friend on the gurney in the emergence room or our children's spirits' broken by our endless, vicious battles. We would resolve to caress every moment of life, to sift out and share the good and lasting and discard the rest.

Surely, this is one meaning of the enigmatic words we hear in the Yom Kippur Torah reading: "I have set before you life or death, blessing or curse. Choose life, therefore, that you and your descendants may live." (Deuteronomy 30)

Choose life, give of your life substance -- physical and non material to others. A myriad of opportunity is in your hands. If you ignore this sacred task: your life is lessened, less significant, less worthy, cursed.

If you choose to share this most precious of gifts, you will experience a quality of life not otherwise accessible to you: the life of sharing, the life of selflessness. You will touch your own inner core of goodness and revel at the beauty within you. "Choose life that you may live." Stop to sort out the good from the mundane, to let go of the trivial and allow the beauty to blossom. You will live a different kind of life. You will, I am certain, experience God's world of holiness.

We pray that this day finds our names written and sealed in the Book of Life. We pray that this day we may find new strength to choose life for ourselves and for those in whose midst we live.

I have read of recipients who have returned to full strength and celebrated accomplishment. The founder and chairman of MCI Communications Corporation received a heart transplant in 1987 and is back at work. A congressman from South Carolina returned from double lung transplant surgery to his work in the House of Representatives. But more to the point, beyond statistics and dramatic anecdotes, consider your joy if a loved one -- or you yourself -- could return from grave illness to enjoy normalcy and life's joys with family for a year or three or eight or fifteen!

Jeff reports that both while waiting for the operation and since, he has touched deep feelings of humility and gratitude before God accompanied by reassessment of his core values and new insights into himself. Understandably these months of uncertainty have taken their toll on all in the family with Karen and son Joshua at the top of the list. "Hero" is not a term he would choose for self description. He is an ordinary, middle aged guy, husband, father, son, brother, neighbor, friend like you or me...an incredibly optimistic person

We cannot purchase this treasure; nor can we have others act as donors on our behalf. Recipients cannot buy this gift. It is a gift which flows from one to another as an act of unconditional giving, an immeasurable act of kindness.

Those who work in the field report another benefit, now for those bereaved families who agree to permit recovery of a loved one's vital organs. There is some comfort in realizing that even in death -- usually tragic and unexpected -- there is light and life. To understand that in life's final moment we can help another human being live on can bring comfort to grieving hearts and provide some sense for the incomprehensible finality of death. Shir Tikva will become a better synagogue, more faithful to our Jewish ethical imperative if we facilitate our participation by conducting annual blood and bone marrow registration drives. Imagine the validation of Jewishness our children will experience if someday we can tell them: our synagogue helped to save a life.

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"DON'T HANG UP THE PHONE, IT'S YOUR COVENANT CALLING"

By Rabbi Brian Zimmerman
Beth Ami Synagogue
Rockville, MD

It was a little over a month ago; I remember the phone call quite well. I was settling into a comfortable position at my desk, reflecting on the holidays, thinking about what message I would offer this Rosh Hashanah. What fault would I force others to confront? What issue would I use to make the congregation squirm in their seats? And then the phone rang...on the other line was Judy Braslow, a member of our congregation who works with the United States Department of Health and Human Services as Director of the Division of Organ Transplantation. Why was she calling me?

The voice on the other end said to me, "I want to talk to you about a professional issue." Immediately I thought to myself, "Uh oh, what did I do now?" "No, no," she assured me. I wasn't in trouble. She was calling because she wanted me to give a sermon on organ donation. Had I thought at all about organ donation? And I must confess to you that only one thought went through my mind at that moment—hang up the phone. Suddenly, I didn't want to be talking about this subject at this time.

Ms. Braslow told me about the thousands of people across America that are waiting for transplants. About the many, many who will die because there are an insufficient number of donors to meet the need. She shared with me that Jews were among the two groups with the lowest number of organ donors, even though the strictest movements in Judaism permit donations in some cases.

She explained how there are many people who die tragically who would have wished to donate their organs to save a life but couldn't because they never shared that information with their families while alive. Well, I was feeling pretty overwhelmed now and more than a bit depressed, and then to prove her point she asked me if I knew what my wife's wishes would be if she were ever in an accident. And I quickly replied that it wasn't the type of question one liked to ask his wife over dinner at the end of a long day. And then I was overcome with an even stronger desire to hang up the phone, to leave the problem alone, to make the question go away.

Explain to me how I can sit in bed and read about thousands of people dying in Rwanda and be disturbed but not really have any trouble sleeping through the night, but I can't discuss the topic

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of organ transplanted in the middle of the day without wanting to jump out of my skin. Somehow this is different, isn't it? This is my life, my death, and who really wants to make decisions about that anyway? If we talk about it, then we make it real.

On Rosh Hashanah morning we read a strong and disturbing piece of liturgy, the prayer Unatenah Tokef, "Let us proclaim the sacred power of this day for it is awesome and full of dread...You, O God, are judge and arbiter...on Rosh Hashanah it is written, on Yom Kippur it is sealed...who shall live and who shall die; who shall see ripe age and who shall not; who will die by fire and who by water; who by hunger and who by thirst, who by earthquake and who by plague."

What is this prayer, that tells us that God seals our fate this day? What do we make of this list of ways to die? And yet we know that we are lucky to be here. We all know people who have died in the past year. We are aware of the random nature of our lives. And the prayer Unatenah Tokef says yes, our lives are random. We don't know who will live and who will die, so it is time to get serious. We have been given another chance. We stand here today alive, lucky to be alive, so what are we going to do about it? Hope that we get lucky another year or face up to the sacred responsibility that awaits us. This prayer reminds us that today is a day of decision, today is a day when we face the unpleasant, but real, decisions that we avoid the rest of the year.

Now you're thinking, "Rabbi, it's Rosh Hashanah. Some of us are here with our children. What are you talking about? Organ transplants? Death? You're scaring my kids. Just tell us a nice story about the round challah and let us go eat a happy holiday meal."

There is a legend about King David, that when he was a young man he learned that he would die on a Shabbat. And what do you think his favorite ceremony was? Havdallah, the ceremony that marks the end of Shabbat. The legend tells us that David couldn't get to Havdallah quickly enough.

Isn't that a lot like us? We say to ourselves, "We made it to another year, we're alive and hopefully healthy, Mazel Tov, L'chayim, let's give thanks and go eat some brisket." But Rosh Hashanah is not thanksgiving, and we do not live only for ourselves. We live in covenant with the people around us—our spouses, our children or grandchildren, our parents and grandparents or our brothers and sisters. We all have people we made covenants with, people who depend on us as we depend on them. Yes, Mazel Tov, congratulations to all of us, we've made it to another year, but now it's time to get serious. It's time to face up to some major decisions, it's time to honor our role in the covenants we have made with our many partners in life. These high holidays

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are called Yamim Noraim in Hebrew, Days of Awe. We need to use this time to successfully avoid the rest of the year.

And organ donation is a great example. Too often when asked about this issue we hide behind the answer that we don't think Jewish law allows that. But rather than pursue and study if this is true, we hide behind a vague answer that we think is true. In reality, there are many different opinions on this issue. But for the majority of Jews in America, there is agreement that organ transplantation is permitted to some degree when the saving of a life is involved. Pikuach Nefesh—the saving of a human life—is one of the most urgent Mitzvot in Judaism, and based on the statistics, you can rest assured that anything taken from you will be used to save a life. While organ donation makes us uncomfortable and forces us to think about what we want done to our bodies when we die, the truth is that it may be the closest thing we have to immortality. A part of us living on in the body of another person who has been given a miraculous second chance. And who knows, maybe one of us or our loved ones or friends will one day find themselves on the other end, surviving only because someone else had that conversation with a loved one in advance and said to him or her, "These are my wishes if something ever happens to me."

What about living wills? How many of us know someone who said in their lifetime, "If I were ever in a coma, I would want to die," only to later end up on a respirator, placing a burden on their family they desperately wanted to avoid. All because they didn't really discuss the issue properly with their family. It is amazing how you and I can worry about car pools and seat belts and other day to day safety details while we drive around with the future of our families in our hands. Because if, God forbid, something happens to us and our families don't know what to do, we will burden them financially and emotionally in ways that could ruin them for the rest of their lives. We warn our children about drinking and driving, and we beg them to behave cautiously. Then we proceed to drive around every day with unresolved issues that are just as dangerous to the security of their futures.

There are so many issues to be discussed, so many important decisions to be made. How have we managed to avoid them for so long? We put away money to help out those we love when we are gone, we take out life insurance policies, but how many of us have bought a cemetery plot? How many of us have confronted that terrifying reality of our own mortality and saved our own family thousands of dollars in the future? A future in which we will not be around to help out.

I recently read about a 22-year-old woman who had made clear to her family her intention to be an organ donor. It seemed unusual for a 22-year-old to have such a deep awareness of her

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own mortality and the foresight to deal with it. Little did she realize just how soon her own life would end. She was killed in an accident, and her heart was given to a man who had been waiting four years for lifesaving surgery. He was running out of time, and her gift kept him alive. The man who received her heart was her father.

We have the power to help the world, we have the power to help our families, but we won't help anyone if we don't talk about the decisions, if we don't make them real. When you put down the prayer book and leave this building, talk about these issues, make them real. On your way out, there are pamphlets on organ donation. Take one, read it, discuss it with your family or friends. It will offer clear answers to any of the questions you may have. There is another book printed by the UAHC called "A Time to Prepare". It is about living wills and funeral arrangements. It has forms and information to help you understand anything you may be unsure about writing a living will. It will make you uncomfortable now, but it will help your family later. Call us at the temple, tell us you want one and we will order it for you.

It's time to talk about these things. It's time to make them real. Let's face it. How many of us had moments in the last few years where we were worried about our own health? Where we had a real scare? And yet what have we done about it? If I had a car that broke down in the desert and I didn't have AAA or any other protection, wouldn't you expect me to purchase some as soon as possible afterwards? And yet, you and I keep living our lives on borrowed time, and we're not purchasing the proper insurance, we're not making another year. It is time to face our destiny while we are healthy. I know that this is painful, and I'm not trying to tell you what the right decisions are in each of the cases I have mentioned, but I know that we have to start asking the questions, we have to start making the decisions.

When I came home from that eventful phone call with Judy Braslow, I was very excited. I was fascinated by my reaction to our conversation and thought I had the makings of a great Rosh Hashanah sermon. I explained all this to my wife, Mimi. And when I was done, she looked at me cautiously and said, "So, are you going to make some big decision NOW?" I quickly answered, "No, No, I have to write this sermon first. I just wanted to let you know what I was going to speak about on Rosh Hashanah."

I know that these are not the easiest things to talk about, and I do not know what my final decision will be, but I do know that the time is coming when I must ask the questions. It is a covenant I made when I agreed to marry Mimi, and I intend to honor it. On this Rosh Hashanah, may we all find the strength to fulfill the covenants that we have made with our loved ones, may we find the courage to make the hard decisions that cry out for a response. AMEN.

Did you see the movie "Back to the Future," one of the big box office hits a couple of summers ago? In the movie a teenager, played by Michael J. Fox, travels back in time. Not to the distant past, only to the 1950's (though I guess for some that's more distant than for others). No matter, for him it is an astonishing age. Growing up in an era of self-service gas, Fox is dumfounded when he sees a car pull into a station and four attendants swarm around to pump gas, check the oil, put water in the radiator and wipe the windshield. Then they ask, "anything else?" Fox looks as if he didn't know there was anything else. He steps into a drugstore. When he asks for a "Pepsi Free" the man behind the counter says, "sorry, son, you have to pay." "No," Fox says, "you don't understand. You know, sugar free." "Sugar free? Now look -- you've gotta pay for that, too."

The real key to the movie's success is Fox's relationship with the teenagers he meets back in the past. You see, the young woman who has a crush on him is his mother. And through an unhappy circumstance he comes into the picture at the very moment she would have met his father. Somehow, in the course of his short stay, Fox must get his mother-to-be off his back and make sure she gets involved with his father-to-be. If he fails, of course, they will never go out together, they will never marry and he ... well, he will never be. His journey into the past, therefore, determines the fate of the future.

Understanding "Back to the Future" helps us make sense of the *parasha* we read this Yom Kippur morning. G is speaking with the People of Israel who lived millennia ago. But the people with whom G is concerned are not our distant forbearers. G is talking to us:

It is not with you alone that I make this sworn ברית / covenant: I make it with those who are standing here with us today before Adonai our God, and equally with all who are not here with us today.

Here we are then, in the present, looking back at the past, to better see the future ... which is our present. Thus, a kind of Jewish "Back to the Future."

Yom Kippur is a day which seeks to level time. We are urged to look into the past to change the future -- all the while living in the present. To say the ברית is eternal, then, is not simply to say that it will always exist. It is more subtle and profound than that. The ברית negates time; it erases it. It is eternal, because when we become partners with God -- past, present and future lose their meaning.

On this day we search out our own past. We turn within and face our errors. The direction, however, is not just backwards. The aim is to seek repentance now. We live in the

present -- it is there alone where the change can occur. Past and present, however, are but preparation for the real focus -- the future. Or, more accurately, of my future, for looking forward each individual "I" in this room comes to the realization that someday "I will not be."

It is something like the old joke about two friends who meet one another. The first says to the second: "Gee, you look awful. What are you so worried about?" "My future," the second replies. "Your future? What makes your future so hopeless?" "My past."

The central, underlying theme of Yom Kippur, then, is the future. During *Yizkor* we confront our mortality openly, but it is there on the rest of this day, too. It echoes in the poem ונתנה תוקף "who shall live and who shall die"; in the Torah portion which exhorts us to "choose life", but holds death as the only other option; in the *Haftara* of Jonah, in which the destruction of a city awaits those who do not repent; in the midrash that on Yom Kippur it is determined in which book we are written -- the Book of Life or Death.

Is this, then, a glorification of death? No. The goal is to sanctify the importance of every living moment. My death serves notice of the need to make a ברית not just with those in the past, not even with others in the present, but with the future -- my own and those not yet born.

The focus of my remarks this morning will be three ways in which you can become a partner with the future. I want to be honest with you. I am bit anxious about what I will be suggesting that you consider. It is not that I think these three issues are trivial or unimportant -- they are not. But they are concerns which many of you find uncomfortable discussing, for all of them touch upon death.

Some of you, I know, find such talk hard, but I hope you will listen carefully. First, because Judaism has never turned away from significant issues just because it hurts to talk about them. More than that, if we cannot talk about our mortality here, where can we talk about it? Where better than in *shul*, the place where we joyously celebrate life and shed tears which honor the dead. And most importantly -- while these issues may sound morbid, I believe that their goals are life-giving and life-affirming. Each of them represents a serious attempt to look beyond our lives -- to make a ברית with the future. So listen, please, to some words on living wills, organ donations and grief support.

One of the big debates in the medical ethics field a decade or so ago was over the moment

of death. It used to be that when one's heart stopped and that person was not breathing, a pretty reasonable assumption was that she was dead. Not anymore. These days you and I are alive until we are declared "brain dead," that is, with no brain activity, show no responsiveness, and have no reflex action. I would imagine that most of us would think this is a pretty good change, for people who once would have been left for dead are now routinely "brought back to life." Just last week a paramedic in our congregation told me how he helped save the life of a two year old girl who had been under water for more than 20 minutes! Advanced medical techniques have forced us to redefine the moment of death.

Answering "what is death?", however, has not helped us determine what it means to be alive. ובחרת בחיים, "choose life." But what kind of life? Feeding tubes, intensive care units, respirators, IVs, advanced drugs -- add to that mix the medical community's understandable fear of malpractice -- and what you have is a medical system which may be able to maintain a person physically, but without vibrancy or vitality or soul.

How often, upon hearing of someone's death after a prolonged illness, have the words "it's a blessing" crossed our minds? What we are saying, it seems to me, is that the person was no longer really living, that the "quality of life" had deteriorated so greatly that the line between death and life had blurred. Our traditions have always been wary of that kind of talk - and I am proud that they have been -- for it is difficult to measure the value of a person's days. But still there are people -- and you know them -- who exist, who linger on but are not alive. Rabbi Daniel Jeremy Silver understood the problem when he wrote, "of old when men lay sick and sorely tried, the doctors gave them physic and they died. But here's a happier age. For now we know both how to make men sick and keep them so." ["The Right to Die?" in Jack Riemer, Jewish Reflections on Death]

This paradox of modern medicine, existence without any real life, has necessitated the living will. A living will is a document which allows you to decide the extent of your medical treatment in a case when your death is imminent and gives you the right to have medical care withdrawn in such a situation. Since September 1983 the State of Illinois has had a Living Will act on the books. It is not the most far-reaching such act in the United States nor is it without its faults, but it does give the dying person the power to decide when death should come.

There are copies of the Illinois Living Will declaration in the lobby for you to pick up after services and copies will also be kept in the Temple office in the coming weeks. Please take it -- speak about it with your family, your attorney, your physician, your rabbis -- and

fill it out. Do not leave here thinking this is just for *bubbe* and *zaydeh*. It is something younger people ought to have, too, for it is, sad to say, not only the elderly who get in accidents and contract terminal illnesses.

Some fear the slippery slope of allowing someone to choose to have medical treatment withdrawn. They believe that the withdrawal of treatment to those "brain dead" may be extended to the semi-conscious elderly or to the mentally ill. J. David Bleich, one of the leading Orthodox thinkers in the area of contemporary bioethics writes, "withdrawal of treatment leads directly to overt acts of euthanasia, from there it may be but a short step to selective elimination of those whose life is deemed a burden upon society at large." [Jewish Bioethics, Sanhedrin Press, 1979, p.291]

Euthanasia? Selective elimination of the unwanted? I do not think so. I believe that we -- and our society -- are compassionate and intelligent enough to be able to distinguish between withdrawal of treatment in obviously hopeless situations and more radical acts. And more than that, I believe that a living will, admittedly a document which allows one to die, should, nevertheless, be considered a *כרית* with the future. First, it gives *you* the power over your own fate. And ultimately that is where I think such power should lie. Second, the living will is written at a time when you can think clearly, when you and those you care about reflect less on "what are the terms and implications of my death?", than on the much more important question "what is the meaning of my life?" Third, it truly is a gift to your family. A living will cannot erase the anguish of loss your loved ones may have to face, but it will allow them to move into the future unburdened by the guilt of wondering whether or not they made the right choice.

Look at the living will. Talk it over with the people you love.

Do you remember the television show, "The Millionaire"? I don't. But I asked in the office this week and they told me all about it. Each week different people in need received one million dollars. Somehow the millionaire had heard of a trauma in someone's life and sent the money to help them cope. Suddenly, there at the door, stood Mr. Michael Anthony -- the millionaire's *shaliach* -- with a million dollar check. Each episode examined the changes which took place in the recipients' lives. Sometimes the people were good, sometimes not such *mentschs*, but in every instance the money helped. How many people wished that Mr. Anthony would knock at their door?

Imagine that you had the power to give someone not just money, but 10 or 20 or 40

years of extra life. The cost to you would be absolutely nothing. The only stipulation, the only "catch", is that you could not say who would be saved.

That kind of power you hold it in your hands at this very moment. By making the choice to donate your organs for transplanting in another person, life and death hang in the balance. The millionaire saved lives with money. You can do it just by signing your name -- on an organ donor form. There are some of these available, too, for when you leave, but much closer at hand is the form on the back of your State of Illinois driver's license. You can approve the removal of any needed organs or tissues or only ones which you specify. Sign it and someone lives. Forego it, someone may die.

But wait, rabbi -- are we not told that there is "a time to be born and a time to die." [Ecclesiastes 3:2] What right do we have to interfere with the "natural" order of things? Should not the young woman about to receive a liver pass on at the time ordained for her? That man knew what overeating would do to him, so now that he needs a new heart should we not let him suffer the consequences of his habits? Jews have never taken the stance that medical intervention is contrary to will of God. Rather, the wisdom of the researcher who develops the medicine, the skill of the physician, the compassion of the nurse -- these are gifts from the Creator. If a life can be saved -- it is.

Only twenty years ago transplants were experimental -- and most often failed. No longer. Since the first kidney transplant in 1954 more than 70,000 have occurred worldwide. Skin grafts take place 100,000 times each year. There have been more than 800 heart transplants, well more than 500 liver transplants, between three and four hundred pancreas transplants. Many are successful. Each year a larger percentage of people survive beyond the critical first year after such surgery. [Parichehr Yomtoob and Ted Schwarz, The Gift of Life (St. Martin's Press, New York, 1986), pp.80 ff]

Is it hard to talk about this with someone you love? You had better believe it is. It is a bit disconcerting to think of this as an option. As supportive as I am of organ transplants, whenever I talk of taking bits and pieces from one body and putting them in another ... well (depending on whether my mood is light-hearted or ghoulish) I keep thinking of either the tin woodsman in the Wizard of Oz ... or of Frankenstein. OK, it is not easy. But easy or not, you must discuss this with the people closest to you. Organs need to be removed soon after death, permission of your next of kin is required and, more often than not, families are not very likely

to move quickly on a decision such as this having no idea what your feelings were about the matter. If you do not talk about it now – when it is necessary to discuss the issue it may be too late.

In the clearest possible way this is a *בְּרִית* with the future. It takes from death and gives life. It allows one to live when two would have died. I had the joy this year of seeing the results. This summer a member of our congregation was married. Wonderful, but not astonishing, except for the fact that two years ago he was supposed to have died. You see, at that time, not long before his physicians were sure his heart would fail, he received a new heart. He knows only that the young man who donated his heart was from Texas and died in a motorcycle accident. That death was tragic. But because that anonymous young man -- and his family -- loved life and the future so much, our fellow congregant stood on this *bimah* under our new *chuppah* two months ago. Can you imagine the rush of joy I felt when I said *שְׂהֵתֵינוּ* with that couple -- "for giving us life, for sustaining us" was never said with more feeling.

There are many such stories. Little girls who will live full lives because of a liver transplant; a 30 year old man whose transplanted kidneys will allow him to see his children grow to adulthood; a 78 year old woman who can see clearly for the first time in years because of a corneal replacement. Of course, those are the happy stories. Many people are not so lucky. Many die before a heart or a lung or a liver is available. The demand far outpaces the supply. And the only source for such organs and tissues is us.

So reach into your wallet or purse, fill out the card, feel like a millionaire and give to the future.

In 1967, in England, Cicely Saunders opened the first modern hospice. It was founded on the principles that dying is not a sin and that death can come with dignity [*Time*, Sept. 5, 1988] That her idea was shared by others is reflected in the fact that in the United States alone last year there were 172,000 people in nearly 1700 hospice programs. In a situation where death is inevitable and imminent, hospices and their staffs do wonderful, sustaining, healing work. Hospices not only help the person who is dying, they are often equally as involved in counselling and supporting that person's family cope with the trauma of their loved one's death.

It is admirable that there are so many programs to help the dying and their families. But the hospice is limited in scope. By its nature, the hospice can only offer succor where the death is anticipated. Most of the people in hospices, quite understandably, are men and women

who have cancer. The hospice can do nothing to help the family whose loved one dies suddenly and unexpectedly. Even more significantly, most hospices do not play a major role after death.

If the hospice cannot meet the needs of the mourner, can our Judaism? Well, there is a wisdom in the Jewish traditions which spell out the stages of grief. The *shiva*, with its numbers of people, helps one move through the numbness of the first week after the death. The month long *shloshim* helps the mourner return slowly into the daily routine. But all that was a wisdom which worked better in the smaller towns and villages and *shtetlach* of the pre-modern world. It would be wonderful if, for any death in our congregation, there was a group of people who would gather around the mourners and help with the details of the funeral and the *shiva*. But our synagogue has grown too large and we live in too many communities. Not only that, it is often after this time of formal mourning, in the weeks and months and, yes, even years later that the real anguish of a dear one's death sinks in.

Yet it is at that very point that the most crucial intervention may be required, for the pain and loss can be overwhelming. It is the anger in seeing couples holding hands or laughing and then feeling guilty for such thoughts. It is someone telling you, "come on, get out and enjoy life already. It's been long enough to grieve" -- and being hurt at such insensitivity; yet feeling equally upset when someone sees you at a show and looks surprised, as if to say "you are out of the house already?" It is going to bed alone and waking up alone. It is the lack of understanding others show when you still want to talk about the death of a mutual friend or a brother or a parent or a child -- and they just don't want to talk about it anymore. And it is the emptiness, the terrible feeling that even with family and friends around, I am utterly and totally alone for my best friend, my husband or my wife, is no longer at my side.

The hospice does not address the needs of the mourner; the traditional framework cannot work in a large suburban *shul*. For our times, then, something else is needed. That "something else", I would suggest, is a Grief Support group. Such a group would meet the needs of many of you and many people you know. In a powerful way it would serve as a *brit* with the future. Not the future of those who are young or yet unborn (not directly, at least) but with your own future. For until you can deal with the death of one dearly loved, you live without a future and in an endless present. A grief support group gives you your future.

If you agree, I hope that you will join with others who are dealing with a loss here at BJBE on Tuesday, November 1. The model for this group will be the "twelve step" program on which Alcoholics Anonymous, Overeaters Anonymous and the other Anonymous programs are

based. Since this will be a self-led support group, each weekly meeting will be run by different participants. For this Grief Support group to work only one, crucial component is missing. You. If you or someone you know would be willing to lead this Grief Support group for the initial one or two weeks, please let me know within the next few days. You will be trained in how to lead the group -- and in so doing will benefit yourself and others.

Help yourself -- help those you care about. Tell them about the Grief Support group meetings on Tuesday evenings, beginning here November 1st.

The hasidim say we should keep two truths in our pockets -- in one a reminder that we are little less than angels; on the other, that we are little more than the worms. On Yom Kippur we stand like this hands deep in both pockets. We know that we pass through life and that death faces us. But we are reminded, too, of the partnership we make with the future - - our own future, the future of those we love and the future of those yet to be. Give to that future -- give through living wills, organ transplants or overcoming your grief -- and grab hold of the immortal within your grasp.

END NOTES

- 1 Prouser, p. 3
- 2 Freehof, Solomon, *American Reform Responsa*, Volume LXXVIII, Hebrew Union College Press, Cincinnati, OH, 1968, pp. 118 - 121
- 3 Freehof, Solomon, D.D. , *New Reform Responsa*, Hebrew Union College Press, Cincinnati, OH, 1980
- 4 W. Jacob, *Contemporary American Reform Responsa*, Hebrew Union College Press, Cincinnati, OH, , March, 1986
- 5 Bettan, Israel, *American Reform Responsa*, Volume LXIII, Hebrew Union College Press, Cincinnati, OH, 1953, pp. 152 - 153
- 6 See also: S.B. Freehof, "Donating a Body to Science," *Reform Responsa*, pp. 130ff; "Bequeathing Parts of the Body," *Contemporary Reform Responsa*, pp. 216ff.
- 7 Freehof, Solomon, *American Reform Responsa*, Volume LXVI, Hebrew Union College Press, Cincinnati, OH, 1956, pp. 104-107
- 8 The following contains excerpts from the paper "*CHESED OR CHYUV?*": *The Obligation To Preserve Life and the Question of Post-Mortem Organ Donation* by Joseph Prouser, Committee on Jewish Law and Standards, The Rabbinical Assembly, Teshuvah; December 1995 (Kislev 5756).

This paper was adopted on December 13, 1995 by a vote of 14 in favor, 7 opposed, and 4 not present. Members voting in favor: Rabbis Abelson, Bergman, Dickstein, Dorff, Epstein, Frydman-Kohl, Grossman, Kogan, Lucas, Mackler, Rabinowitz, Reisner, Rembaum, Spitz. Members voting against: Rabbis Gelfand, Geller, Kurtz, Plotkin, Skolnik, Tucker, Zelizer. Members not present: Rabbis Frait, Goodman, Moses, Roth.

Note: Within the confines of this paper's footnotes, original footnote numbers have been preserved as indicated by ().

- 9 (1) Rabbi David Bleich, *Contemporary Halachic Problems*, p. 93.
- 10 (2) Leviticus 19:16
- 11 (3) TB Sanhedrin 73a
- 12 (4) Deuteronomy 22:1
- 13 (5) Bleich, p. 95.

- 14 (6) Maimonides, Hilchot Rotzeach u'Shmirat Nefesh 1:14.
- 15 (7) Ibid., 1:6.
- 16 (8) Sanhedrin 73a, Rashi ad. loc.
- 17 (9) During a period of religious persecution, however, the Law is more stringent, extending the requirement of martyrdom even to minor religious practices. See Yoreh Deah 137:1.
- 18 (10) TB Sanhedrin 74a; Yoma 82a.
- 19 (11) Rabbi Immanuel Jakobovits, Jewish Medical Ethics, p. 50.
- 20 (12) TB Yoma 82a; Similarly, סכנת נפשות דוחה את הכל Yoreh Deah 253:1
- 21 (13) Orach Chaim, 328:2.
- 22 (14) Rabbi J. I. Neuwirth, Shmirat Shabbat K'hilchatah (Hebrew), p. 541.
- 23 (15) See Rabbi Isaac Klein, Responsa and Halachic Studies, Responsum on Autopsies, p. 40.
- 24 (16) Rabbi I. Y. Unterman, Shevet Mi-Yehuda, (Mossad Harav Kook 1983 edition), p. 54. See also p. 368 for identical ruling based on Noda B'Yehuda and Maharam Shik rulings on autopsies.
- 25 (17) Rabbi Efrayim Oshry, She'eilot u'Teshuvot mi-Ma'amakim, 2:10. English translation from Responsa from the Holocaust, p. 72, "Performing a Caesarean Section on a Dead Woman." Rabbi Oshry authorized a Caesarean section on a woman whose murder he witnessed, even though it was uncertain the baby was still alive.
- 26 (18) Proceedings of the Rabbinical Assembly, 1953 (Vol. XVII), p. 44.
- 27 (19) On the requirement that blood be buried, see "A Guide for the Chevra Kadisha" in Rabbi Maurice Lamm, The Jewish Way in Death and Mourning, p. 244.
- 28 (20) "The Circle of Life: Organ and Tissue Donation," American Council on Transplantation.
- 29 (21) In The Body as Property (Viking Press, 1981), Russell Scott calls autopsies "the oldest medical activities that use bodies" (p.29). Skilled dissection of human bodies can be traced to antiquity, as discriminating removal of organs was necessary for embalming, which was commonplace in ancient Egypt (see Genesis 50:2-3, 26). Western civil regulation of autopsies can be traced at least to 1504, when the Town Council of Edinburgh granted a charter for post-mortem procedures to the British Guild of Surgeons and Barbers. (Scott, p. 5).

- 30 (22) Scott, p.15.
- 31 (23) This principle was recognized as early as the Talmudic Period. TB Chullin 11b discusses the permissibility of an autopsy to determine whether a murder victim was a טרייה already suffering from a fatal wound or condition, in which case no death penalty was imposed. The prohibition of ייורל המת was suspended, as the findings of the autopsy might save the life of the convicted murderer! The earliest clear application of the principle in the Responsa literature is in Rabbi Yechezkel Landau's Noda B'Yehuda (Mahadura Tinyana, Yoreh Deah 310), in which he stipulates that autopsy is permissible only if a patient in the same hospital is suffering from the same condition and there would thus be an immediate, life-saving benefit from the procedure. Rishon L'Tzion Benzion Mordecai Uziel ruled more leniently, extending the principle of פקודי צדקה to general advances in medical knowledge. The Knesset passed the Law of Anatomy and Pathology in 1953, based on an agreement with the Chief Rabbinate, although there were later attempts to restore the more stringent guidelines of the Noda B'Yehuda. Rabbi Isaac Klein concludes his responsum on the question of autopsy thus: "If medical science claims that these may save lives... it is not only permitted, but it is actually a mitzvah."
- 32 (24) Unterman, p. 60.
- 33 (25) Calvin Stiller, M.D., Lifegifts: The Real Story of Organ Transplants (Stoddart Publishing, Toronto, 1990), p. 57.
- 34 (45) See, for example, Rabbi Yekutiel Grunvald, Kol Bo al Avelut, p. 46.
- 35 (46) See, for example, TB Shabbat 151b, Nidda 61b.
- 36 (47) History, p. 3.
- 37 (48) Historical synopsis based on Scott, p. 19ff.
- 38 (49) See Rabbi Moshe Tendler, Medical Ethics, 5th Edition, Federation of Jewish Philanthropies, 1975, p. 50.
- 39 (50) 30 Facts, p. 3.
- 40 (51) In fact, confidence of long-term success should not be a prerequisite to mandating organ donation; see Orach Chaim 329:4. See also Shmirat Shabbat K'hilchatah, p. 430, par. 2. However, organ transplants were, early in their history, considered a calculated risk which might actually result in shortening the life of the recipient. At such a juncture, the permissibility of such procedures would still be at issue; mandating donation would certainly have been premature.
- 41 (52) "Questions About Organ Donation" and "Fact Sheet, Organ/Tissue Donation and Transplantation," Hartford Transplant Center.

- 42 (53) 30 Facts, p. 3.
- 43 (54) Scott, pp. 158 - 159
- 44 (55) The Bantam Medical Dictionary, cf. "Death," p. 112.
- 45 (56) Conservative Judaism, 30:2 (Winter 1976), "Updating the Criteria of Death."
- 46 (57) *Ibid.*, 43:3 (Spring 1991) "A Jewish Approach to End-Stage Medical Care." Rabbi Dorff writes of brain-death: "If the patient meets the criteria for neurological death, we can, on good authority, consider the person dead within the terms of Jewish law."
- 47 (58) *Ibid.*, "A Halakhic Ethic of Care for the Terminally Ill."
- 48 (59) Responsa of the Vaad ha-Halachah of the Rabbinical Assembly of Israel, Volume 5, pp. 119 - 124 (Hebrew).
- 49 (60) See, for example, Tradition 20:3 (Spring 1994), "Communications," pp. 94 -96. In this letter, written together with ethicist Dr. Fred Rosner, Rabbi Tendler also asserts acceptance of the brain-death criterion by his late father-in-law, Rabbi Moshe Feinstein, until his death the "dean" of American Orthodox halachic decisors (poskim).
- 50 (61) *Ibid.*, p. 96. For the primary source on cessation of spontaneous respiration as determinant of death, see Yoma 85a.
- 51 (62) Siegel, p. 28, citing Rabbi David Novak.
- 52 (63) Jakobovits, p. 277.
- 53 (64) See, for example, Connecticut Anatomical Gift Act, Section 7(b).
- 54 (65) *Ibid.*, p. 279.
- 55 (66) Rabbi Maurice Lamm "A Guide for the Chevra Kadisha" in The Jewish Way in Death and Mourning.
- 56 (67) Rabbi Elliot Dorff, "Choosing Life: Aspects of Judaism Affecting Organ Transplantation." A paper prepared for the Park Ridge Center in Chicago; publication by the university of Wisconsin press forthcoming.
- 57 (68) Unterman, p. 368.
- 58 (69) See Note 59, above. Rabbi Golinkin's responsum carries the unanimous assent of the Vaad ha-Halachah. The English precis in the same volume renders this passage as follows: "It is a

Mitzvah to donate organs after death."

- 59 (70) Quoted in American Council on Transplantation Promotional Kit (1989), "Religious Views on Organ Donation and Transplantation," p. 21. Rabbi Tendler adds: "It is given that the donor must be brain dead."
- 60 (71) Justice Him Cohn, "The Right to Die in Jewish Law," lecture delivered at the Jewish Theological Seminary, April 10, 1984. For more extensive treatment of this subject, see Cohn's Human Rights in Jewish Law, pp. 17 - 19.
- 61 (72) Unterman, p. 61. Rabbi Bleich, citing Rabbi Tucazinsky, states: "It is an established verity that, from the point of view of Judaism, man has no proprietary rights to his body." (See Bleich, p. 126). See also Rabbi Moshe Feinstein, Iggrot Moshe, "Euthanasia," in Medicine and Jewish Law, Fred Rosner, M.D., editor, p. 124.
- 62 (73) Unterman, p. 60.
- 63 (74) Stiller, p. 56.
- 64 (75) Franki Chabalewski, R.N., and M.K. Gaedeke Norris, R.N., "The Gift of Life: Talking to Families About Organ and Tissue Donation," American Journal of Nursing, June 1994, pp. 28 - 30.
- 65 (76) Stiller, pp. 57 - 58.
- 66 (77) 30 Facts, p. 5.
- 67 (78) Peter G. Sandstrom, M.D., "What Helps When it Hurts: It is More Blessed to Give Than to Receive" in For Those Who Give and Grieve (Spring 1995), pp. 3 - 8. This publication is a quarterly newsletter for donor families published by the National Kidney Foundation. Dr. Sandstrom's wife of 26 years served as an organ donor, having been declared brain-dead following a cerebral hemorrhage.
- 68 (79) Bonnie Langeveld, quoted in Stiller, Lifegifts, p. 94.
- 69 (80) Ibid., Sandstrom.
- 70 (81) Ibid.
- 71 (82) "Guidelines for Tissue Donation," NorthEast Organ Procurement Organization and Tissue Bank.
- 72 (83) Ibid., p. 91.

73 (84) Rabbi J. B. Soloveitchik, quoted by Rabbi Jack Reimer, Jewish Reflections on Death, p. 76.

74 (85) Ibid.

75 (86) Stiller, p. 14.

76 Rosner, Fred; Tendler, Rav Moshe. Practical Medical Halacha. (Ktav, 1990)
Sources: Shulchan Aruch, Orach Chayim 330:8 and Choshen Mishpat 426. See commentary Pitchei Teshuvah on the latter.

77 Information contained in this section was taken from the booklet: *Questions & Answers about ORGAN TRANSPLANTATION*, U.S. Department of Health and Human Services Public Health Service, Health Resources and Services Administration, Bureau of Health Resources Development Division of Transplantation, Rockville, MD; pp. 7 - 17.

78 The following are excerpts taken from *Organ and Tissue Donor: Reference Guide for Clergy* (pp. v-1 through v-8).

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We thank the following for allowing us to use excerpts from their material: Central Conference of American Rabbis, the United States Department of Health and Human Services, Division of Transplantation, United Synagogues/Committee on Jewish Law and Standards: reprinted from "*Chesed or Chiyuv?*": *The Obligation to Preserve Life and the Question of Post-Mortem Organ Donation*, Rabbi Joseph H. Prouser, The Rabbinical Assembly, CJLS, December 1995.

The UAHC Committee on Bio-ethics is (as of July 1, 1997) a component of the Union of American Hebrew Congregations' Department of Jewish Family Concerns.