

[Halakhic Death](#)

Friday, December 10th, 2010

The Rabbinical Council of America, the largest organization of Modern Orthodox American rabbis, recently released a controversial paper regarding the halakhic status of organ donation. The involved and controversial topic has been, for the past week, the subject of much debate. At stake is the basic question of whether modern orthodox Jews should be allowed to participate in organ donations: both on the giving or the receiving end. In what follows, I'll try to give a very basic account of the issue. For those who are interested in a (much) more intricate discussion, I'll direct you to this [very educational post](#) on Hirhurim.



Throughout halakhic history, the classic legal definition of death has been drawn from the circulatory system: If a person's heart is no longer beating, it can no longer supply the rest of the body with blood. In a very short amount of time, this will result in the death of all the rest of the organs.

However, with the great advancement in medical technology, we now have machines that enable this process to happen—pumping of blood, breathing—without any stimulus coming from the brain. Now, for the first time, we have bodies in hospitals whose vital organs are still functioning long after their brain has stopped issuing signals (often irreversibly—i.e. there is no chance of them ever being conscious again). The chief significance of this development is the possibility of many new types of organ donation. Since the organs are still alive inside the “brain-dead” human being, they can be removed and quickly inserted into another human being without being permanently damaged.

However, if Jewish law still sees brain-dead people with otherwise functioning organs as alive, then cutting out these healthy organs in order to give them to someone else is tantamount to murder. This would mean that observant Jews could not put themselves on lists to receive organs (incitement to murder), sign up to be donors themselves (giving someone license to murder them), or be transplant surgeons (murderers). In recent years, a large movement has grown within the Orthodox world to reinterpret the halakhic definition of death such that brain-death would now qualify. The [Halakhic Organ Donation](#) (HOD) society has been at the forefront of this movement, trying to develop a set of criteria (medical and halakhic) that will make such solutions possible.

The recent RCA paper, however, still lists several medical reasons for objecting to brain-death as a proper medical criterion to determine that a person no longer is accorded the legal rights of a human being. Halakhic difficulties therefore remain for those who respect the positions of the RCA (which is a sizable group), and who still feel that organ transplants from brain-dead patients should never be considered murder. For those interested in particulars, I will again point to the excellent paper referenced at the top. For those who are concerned in a less factually curious sort of way, I can only say that for the majority of the American Orthodox community, the jury is still out.

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