

# Tablet

Tablet Magazine is a  
About Us | Conta

## Organ Donor Law Hits Orthodox Opposition

Controversial 'presumed consent' will have to go

BY **MARK BERGEN** | May 27, 2010 3:04 PM



N.Y. Assemblyman Richard Brodsky.

CREDIT: **Richard Brodsky for New York Attorney General**

Four years ago, Richard Brodsky, a Democratic Assemblyman from Westchester County, New York, abandoned his bid for Attorney General after his ailing teenage daughter needed a kidney transplant. Brodsky (again **trying**<sup>[1]</sup> to be New York's top cop) announced to his daughter to **announce**<sup>[2]</sup> his plan to significantly alter the organ donor laws in a way that would dramatically increase the number of donors. But his proposal met swift opposition from several influential organizations that, along with the Catholic League, are determined to squash the proposal.

Joined by representatives of the Orthodox communal organization Agudath Israel, Brodsky's fellow Democrat, Dov Hikind, an Orthodox rabbi from Boro Park, Brooklyn, voiced his concerns to Brodsky in a productive discussion, according to both legislators. In the end, close, Brodsky made it clear that he would not push for

All the meeting participants, Hikind told Tablet Magazine

organ donation is "a huge mitzvah, a good deed." The primary concern of the Orthodox community, he said, are "situations where the onus is put on the individual citizen." And the bill's proposal for "presumed consent" would do just that: Require anyone who is opposed to being a donor to affirmatively indicate so, most commonly on a driver's license. The legislation is tantamount to entrapment."

For Brodsky, "presumed consent" is the point: It is a necessary step to reform and expedite the organ donation process to close the gap between those who are willing to donate, and those that are registered donors. The concern from the Orthodox community, Brodsky said, centered on the "opt-out" provision and its potential "unintended consequences."

Presumed consent, a measure in place in 24 European countries but not the United States, has faced criticism centered on **bioethical**<sup>[4]</sup> concerns. Add to that the dense religious and cultural baggage surrounding organ donation, particularly among Orthodox Jews in **Brooklyn**<sup>[5]</sup>.

A central objection to the proposal, for Hikind, is the state's intrusion into private lives. "I'm not talking about tax or insurance, but part of your body." This mirrors the response from the Catholic League, a large opponent of the measure, and the Rabbinical Alliance of America and the National Council of Young Israel. In a staunch statement of support for the measure, Catholic League President Bill Donohue **wrote**<sup>[6]</sup>: "The state does not have a lien on our bodies."

Hikind also shared his worry with another portion of the proposal, one which would wipe away the right of next of kin to determine donor status. "Everyone close to this person would have absolutely no input," he cautioned, "which is quite incredible. The solution is further education on organ donation in the Orthodox community (since most organ donation is Halakhic) rather than a blanket law."

Brodsky, however, is not surrendering his cause. He plans to work with leaders from Agudath Israel to craft new legislation. Any objections, he said, were "all perfectly reasonable things that the legislative proposal needs to consider." He will reintroduce the proposal after Israel's organ donation laws. Of course, those laws are not without **their complications**<sup>[7]</sup>. And

compensate donor's families is unimaginable in a state like New York, with its dire budget problems.

Still, both lawmakers seemed positive about the odds of arriving at a consensus to move the efforts forward. Brody to protecting the rights of those who prefer not to donate. But he also wants organ donations to increase. It is, he says, imperative in the Jewish community."

**N.Y. Lawmaker Wants Presumed Organ Donation Consent** <sup>[2]</sup> [NYDN]

**Earlier: Israel's New Organ Donor Policies** <sup>[7]</sup>

---

Article printed from Tablet Magazine: <http://www.tabletmag.com>

URL to article: <http://www.tabletmag.com/scroll/34622/organ-donor-law-hits-orthodox-opposition/>

URLs in this post:

[1] trying: <http://www.richardbrodsky.com/>

[2] announce: [http://www.dailynews.com/news/ci\\_14970110](http://www.dailynews.com/news/ci_14970110)

[3] privacy: <http://www.cnn.com/2010/HEALTH/05/10/organ.donation.jobs.laws/index.html>

[4] bioethical: <http://roomfordebate.blogs.nytimes.com/2010/05/02/should-laws-encourage-organ-donation>

[5] Brooklyn: <http://www.nbcnewyork.com/news/local-beat/Brooklyn-Man-Accused-of-Buying-Selling-Kidn>

[6] wrote: <http://www.catholicleague.org/release.php?id=1846>

[7] their complications: <http://www.nextbookpress.com/scroll/24647/israel%E2%80%99s-new-organ-donor-p>

Copyright © 2010 Tablet Magazine. All rights reserved.