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## South Jerusalem: Gershom Gorenberg and Haim Watzman

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### Organ Donation and the Rabbis

March 26, 2008 by [Haim Watzman](#)

The [passage of a new organ donation law](#)

by the Knesset on Monday is good news in this country, which has one of the lowest organ donation rates in the world. The new law will be trumpeted by some as a victory over the benighted Orthodox rabbis that have long opposed organ donation, and lambasted by others who will claim that it goes too far towards the rabbis.

As usual, the story is a lot more complicated than that. Undeniably, a lot more people in Israel, particularly religious and traditional ones, should be encouraged to allow organ donation when a tragedy occurs. But the rabbis' concerns are important ones and this law has succeeded because it has addressed those concerns.

I am reminded of two talks on Jewish organ donation I heard some years ago, within a short space of time of each other. The first was a breezy talk based solidly in the secular discourse. All opposition to organ donation is based in superstition, the speaker said. And he attributed Orthodox opposition to organ donation to a mystical belief that bodies need to be kept whole for the promised resurrection of the dead in the Messianic age. He saw no ethical dilemmas in organ donation at all.

The second talk was by an ultra-Orthodox rabbi. He offered a learned and lucid discussion of the halachic issues and precedents.

He noted that the Torah command to save lives means that if donating an organ can save a life, it not only can or must be done. But the same respect for life means that under no circumstances can the donation of the organ cause the death of the donor.

The principal problem for halachic authorities is how to determine the moment of death. The halachic precedents speak of the cessation of heartbeat. Brain death, a relatively new concept, is one that the halachic authorities are still grappling with. Since, usually, organs must be taken for donation while the blood is still circulating, this is a vital problem.

Many Orthodox authorities now accept that the cessation of major brain functions, not the cessation of heartbeat, marks the point of death. Many others still hold out for the old definition. What's important to understand, however, is that the rabbis' concern is an eminently moral one.

So, of course, are the concerns of secular and non-Jewish advocates of organ donation. The problem begins when concern is cast aside, for the questions are real and difficult ones. The issue of brain death was examined and discussed at length by secular philosophers and physicians before it became commonly accepted. But, having now become the common wisdom in most of the West, there is a danger of it being taken for granted, as the first speaker I heard did. This is the point where secular thinking can fade into true belief—quasi-religious doctrine that becomes impervious to doubt and must be defended against all opponents. The protectors of the faith would then rather dismiss those who disagree with them as primitives rather than engage their arguments.

Too many Orthodox and ultra-Orthodox rabbis have committed themselves so much to opposing change of any sort that they, too, are impervious to persuasion. But a large number of them support organ donation in principle, and many accept the concept of brain death, within careful boundaries (see the website of the [Halachic Organ Donor Society](#)).

In fact, the dialectic, analytical approach of the halachic discourse can, if pursued in order to discover new truths rather than to protect old ones, be an extremely productive way for addressing the complexities of issues like the definition of death.

Notably, the [most recent case of organ donation](#) in Israel came from an 18-month old girl who was the granddaughter of an Orthodox rabbi. Rabbi Avraham Walfish said that the family decided to donate her organs because they viewed it as a halachic obligation. So it's right and proper that Israel's legislators engaged in a dialogue with rabbinic authorities in drafting this new and welcome law.

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