

>This is not a particularly revealing or groundbreaking ruling.

Among right-of-center Orthodox Jews it is. Growing up it was Torah mi-Sinai that you "can't" donate your organs. The folk reasons ranged from screwing up your techiyas ha-mesim chances to some actual halakhic speculation about when death occurs, but even if this is only the hamon am's perspective, the facts are that the rabbonim never did anything whatever to discourage the attitude that it is clearly assur, nothing to talk about, it's Torah mi-Sinai.

So to such communities, it is both revealing and groundbreaking (albeit, it will probably remain wholly uninfluential). There is a tremendous aversion to cutting up dead bodies among right-of-center Orthodox Jews.

Anonymous | 06.23.08 - 12:47 pm | #

But in 99 out of 100 cases, those who put the name of a rabbi who is strict will not end up donating organs.

Gil | [Homepage](#) | 06.23.08 - 12:51 pm | #

Of course, but such a ruling shifts the discourse. It is now no longer the case that only center-left Orthodoxy (who are often excluded from consideration by r-o-c halakhic discussion) considers it a possibility. If the discourse potential shifts then who knows? Maybe attitudes will change. That said this would be difficult, for the reason I mentioned above.

Anonymous | 06.23.08 - 12:56 pm | #

Perhaps you are right and he was aware of statistics such as:

However, in a return to where organ donation began 40 years ago, before the acceptance of brain death, some patients are becoming organ donors after suffering cardiac death. The medical community refers to this as "non-heart beating donation."

Some people with non-survivable injuries to the brain never become brain dead because they retain some minor brain stem function. If such individuals made the decision to be donors or their families are interested, organ donation may be an option.

The option of donating organs after cardiac death or "non-heart beating" donation may be presented to these families after it is clear that their loved one cannot survive. Donation in such cases entails taking the patient off the ventilator, typically in the operating room. Once the patient's heart stops beating, the physician declares the patient dead and organs can be removed.

"Today, organ donation after cardiac death has increased the donation of life-saving organs – mostly kidneys and livers – by as much as 25 percent in a few areas of the country. Some experts estimate that it could increase the number of deceased-donor organs in the U.S. by thirty percent."

On the other hand given:

"Typically when a person suffers a cardiac death, the heart stops beating. The vital organs quickly become unusable for transplantation. But their tissues – such as bone, skin, heart valves and corneas – can be donated within the first 24 hours of death."

I wonder whether he would have risked the chance of misunderstanding if he felt only cardiac death worked.

see <http://www.organtransplants.org/...standing/death/> for more detail.

KT

joel rich | 06.23.08 - 1:02 pm | #

this is an area of halakhah i have great trouble with. i don't understand where the rabbonim who oppose it (or only approve of donations after cardiac death, which is almost useless) expect organ donations to come from. people, even jews, die everyday because of a dearth of organ donors. do they suggest any alternative sources?

Lion of Zion | [Homepage](#) | 06.23.08 - 1:36 pm | #

Lion: That is beside the point. If you consider it murder then there is no leeway.

Gil | [Homepage](#) | 06.23.08 - 1:55 pm | #

Gil

The problem is that since most poskim allow being a transplant recipient without checking as to whether the donor was halachically dead or not, you wind up with a situation where observant Jews are the universal recipients. It is for this reason as I understand it, that people living in Israel are not eligible for the international organ transplant recipients list - the nation simply doesn't contribute enough to the supply for it to be considered fair.

Whether such 'second order pikuach nefesh' considerations may carry halachic weight is a debate among the poskim, but my understanding is the majority of contemporary poskim rule they do not - pikuach

nefesh requires a body in front of you, not a probability that you might save someone's life.

Larry Lennhoff | [Homepage](#) | 06.23.08 - 2:01 pm | #

I think whether to sign a card the way R Goldberg says is mostly a practical matter of how likely the hospital is to follow the precise instructions to call a specific rav. My guess is that you are not worse off if you don't sign, and instead ask relatives to call the same rav. If you do sign, what are the odds that hospitals will neglect treatment while the patient is still alive and/or not follow the precise instructions for organ donation?

Anonymous | 06.23.08 - 2:39 pm | #

GIL:

i understand that side of the argument. i just have personal problems with it.

ANON:

"My guess is that you are not worse off if you don't sign, and instead ask relatives to call the same rav."

fwir, the card (at least the HODS variety) is NOT legally binding (and family is always consulted before organs are harvested, so in a sense you are right. regardless of what you sign, the family will still be consulted. from my POV, i still think it is important to have the card because it can settle any conflicts that arise between family members and/or family rabbis as to what the deceased's wishes really were. (it also gives publicity to the cause)

Lion of Zion | [Homepage](#) | 06.23.08 - 3:08 pm | #

the back of the HODS card does specifically state that "all preparations for transplant must be done in consultation with my family-appointed rabbi."

Lion of Zion | [Homepage](#) | 06.23.08 - 3:10 pm | #

"Among right-of-center Orthodox Jews it is. Growing up it was Torah mi-Sinai that you "can't" donate your organs. The folk reasons ranged from screwing up your techiyas ha-mesim chances to some actual halakhic speculation about when death occurs, but even if this is only the hamon am's perspective, the facts are that the rabbonim never did anything whatever to discourage the attitude that it is clearly assur, nothing to talk about, it's Torah mi-Sinai.

So to such communities, it is both revealing and groundbreaking (albeit, it will probably remain wholly

uninfluential). There is a tremendous aversion to cutting up dead bodies among right-of-center Orthodox Jews.

Anonymous | 06.23.08 - 12:47 pm | # "

Note that this is not necessarily the case for sefardim. The knesset passed a law this year dealing with organ donation after brain and respiratory (but not heart function) death. I can't find a copy of any psak, but all of the news articles specifically note the approval of R' Ovadia Yosef and R' Amar (some also note R' Eliyahu's approval as well).

In terms of live organ donation, R' Elyashiv has ruled that kidney donation is mutar. R' Ovadia Yosef rules that it is not only mutar, but potentially chayav (assuming no complicating factors), on the basis of lo ta'amod al dam re'echa.

In short: it's rude to define "Orthodox" as "Ashkenazi Orthodox".

JLan | 06.23.08 - 3:20 pm | #

could one make a "mushum eivah" argument that Orthodox Jews who feel that one can not donate organs until after cardiac death, shouldn't receive those types of organs as well?

sp | 06.23.08 - 3:23 pm | #

how come the HODS advertisements won't say what the various rabbis are signing to give away and when?
Is that not a bit disingenuous?

Anonymous | 06.23.08 - 3:34 pm | #

I BELIEVE IT IS A BIG DEAL.All Chareidi poskim have stated only cardiac death is actual death.Here now comesR.Z.N.Goldberg and states no.Respiratory death is actual death.He does not follow R.Elyashiv et,al.For those who follow cardiac then follow your posek.

As a side note he is closest in personality with smile and warmth to his father-in-law ZT'L.
daat y | 06.23.08 - 3:36 pm | #

That's cool. Perhaps I'll fill out a card just to feel good, but I'll give the name of a real machmir Rav. Ah, the best of all worlds!

Cosmic X | [Homepage](#) | 06.23.08 - 3:44 pm | #

Gil,

Check with your local chareidi who knows the ins-and-outs of Israeli chareidi polotics, and you will learn that R' Goldberg is not "accepted" in the Israeli chareidi world, and thus his pesak won't have much effect there.

Kovner | 06.23.08 - 3:54 pm | #

I don't get the argument here. Because many people throughout the world allow themselves to be murdered, once they have been murdered and their organs removed, I who am dying should not take their organs to save my life, unless I am willing to let someone murder me too?

That's perposterous.

This is like all the abortion rhetoric that you hear. A woman should be able to do what she wants with her body. Wonderful, but if you define the fetus as a separate entity and the abortion as murder then it's no longer about the woman's body. It obfuscates the issue. The question is simply whether abortion is murder (or some other sinful act). The same goes here- if indeed death does not take place at "brain death" then it is murder in the plainest sense of the word to take the person's organs. How can anyone condone murder to save someone else's life.

Now, let the poskim decide if it's murder or not, but I don't really understand how anyone can "have problems" unless they categorically deny that seeing this as murder is a legitimate viewpoint.

Grad | 06.23.08 - 4:54 pm | #

Grad:

The poskim have decided.

Rav Elyashiv has decided that it is Assur, and other Rabbis have decided that it is mutar. There is a machlokes as to how R' Shlomo Zalman holds.

How you decide to act is a decision you have to make - which Rabbi do you follow. Either way, don't blame the poskim for dilly-dallying.

moshe | 06.23.08 - 5:09 pm | #

Gil,

I heard bshem rav schachter that one of the problems with HODS is that if rabbonim promote organ donation on a mass level then it will be mevatel the issur of nivul hames from existence. we generally try to avoid making issurim obsolete. Rav Zalman Nechemia's ruling goes against this.

Anonymous | 06.23.08 - 5:13 pm | #

"The question is simply whether abortion is murder (or some other sinful act)."

There's a significant difference between murder and "some other sinful act," both in the general world and in halacha. Moreover, as far as within Judaism, I have yet to see ANY sources suggesting that abortion is murder (certainly nothing in the rishonim- and yes, the rishonim, at least those in the medical field, were familiar with the idea of abortion...this is not a new debate).

"Now, let the poskim decide if it's murder or not,"

And they have, by and large. As I noted above: R' Ovadia Yosef, R' Amar, and R' Eliyahu say it is not (though they specifically support a rather large panel, including multiple rabbis and doctors, in order to make such a declaration). R' Elyashiv says it is (I believe that R' SZA agreed with him). In the MO world, R' Dr. Moshe Tendler says it is not (I bring him in because medicine and medical ethics in Jewish law is his specialty), while Rav Schachter holds that there is a safek about life vis a vis brain death and therefore they must be treated as still alive (so no donation, possibly murder, though not certainly). None of the above condones murder to save someone else's life; the question, and as you can see there is something of a debate here, is over when halachic death occurs.

"And don't get me started on HODs and their advertisements. What a chillul Hashem. And all those rabbis who allow their pictures to be used should be ashamed of themselves for degrading halacha and the torah.
Grad | 06.23.08 - 4:55 pm | # "

And what exactly makes this a chillul hashem? While it's not possible to perform mitzvot after death, if donating a kidney while alive may fulfill Lo Ta'amod al Dam Re'echa (R' Ovadia Yosef suggests that this is a possibility), then certainly making an effort while alive to donate when dead, when there is no risk (as there is in kidney donation) makes this a laudable thing. If people will do this because they see a picture of their rabbi, who are we to argue?

JLan | 06.23.08 - 5:14 pm | #

"I BELIEVE IT IS A BIG DEAL.All Chareidi poskim have stated only cardiac death is actual death.Here now comes R.Z.N.Goldberg and states no.Respiratory death is actual death.He does not follow R.Elyashiv et,al.For those who follow cardiac then follow your posek.

As a side note he is closest in personality with smile and warmth to his father-in-law ZT'L."

Where did he say this? I don't see anyplace where he says that.

Anonymous | 06.23.08 - 5:30 pm | #

"There is a machlokes as to how R' Shlomo Zalman holds."

Huh? What machlokes? I thought RSZA was clear that he thought brain death was not death and harvesting organs due to brain death murder.

Anonymous | 06.23.08 - 5:31 pm | #

While it's not possible to perform mitzvot after death,

Maybe now it *is* possible, thanks to organ donation...

Steg (dos iz nit der šteg) | [Homepage](#) | 06.23.08 - 5:45 pm | #

Is whos camp is R. Goldberg shilta in I know a lot of YU and RZ guys (eretz hmedia) hold from him is Machom Lev RZ. Is he accepted by all camps like is tzaddik father in law? Does he give a little respect for the medinah? Ih he like his brother in law the next head of degel and a macchmir?

TZVI | 06.23.08 - 6:20 pm | #

Regarding the Machlokes in the opinion of R' Shlomo Zalman:

One of his Talmidim - Prof. Avraham Steinberg is of the opinion that RSZ held that brain death was death - but we did not have the proper tools to assess the brain death. Prof. Steinberg is of the opinion that nowadays, due to new technology in determining brain death, RSZ would agree that brain death is death. If I am not mistaken, R' Dr. Mordechai Halperin agrees with this assessment.

Others talmidim of RSZ disagree - as at the time of his death he was not pro organ transplants.

As an aside, R' Moshe Feinstein held that brain death is halachic death, as attested to by a teshuva he wrote to Dr. Bondi as well as testimony by his son R' Dovid. There was a long writeup on this in Assia a few years back, as many people claimed that R' Moshe was against brain death.

In short, there is a big machlokes on the matter, but to claim that the poskim have shirked their duty on the matter and not given a clear psak is slanderous. They all have given piskei halacha, however, due to the machlokes, it is unclear how to act.

As usual, consult your local orthodox rabbi on how to act (unless you have reached the level of הガイ להוראה in which case you should decide on your own).

moshe | 06.23.08 - 6:22 pm | #

Tzvi-

In addition to being the RY of Machon Lev, he is the Rosh Kollel of the Sadigur Kollel (in the afternoons).

He is a very warm and goodhearted Rav, and tries to be mekarev all Jews to Torah, and as such, many in the more ultra-orthodox camp (read: Eidah Charedis) believe that he is too much of a "tzioni".

However, in the mainstream Charedi community, he is very well respected and held in great esteem for his brilliance and humility.

moshe | 06.23.08 - 6:25 pm | #

Tzvi:

I don't understand what you are saying, so if you can rephrase your questions, that would be best.

In the meantime, I will clarify what I wrote:

When I used the word "mekarev" I used it as a hebraic term - not as "kiruv" - but to bring people closer to the Torah. I can always use a little chizuk to bring me closer to the Torah, as I'm sure that everyone can. It has nothing to do with FFB or BT status. I'm sure that your cousin is a fine Talmid Chacham, and I don't think he needs to be "made frum". RZN teaches any and all stripes of Judaism (OK, not reform or conservative), in order to bring their hearts closer to the One above. This is not a religious issue - even Charedim need to be brought closer to G-d.

Machon Lev is RZ. Over the past couple of years they have been trying to attract more Charedi clientele, but it is still mostly RZ.

moshe | 06.23.08 - 6:39 pm | #

thank you moshe I do not know what your haskafah isor who you are but you are for sure a ben torah and I hope you are in rabbinus or chinuch. We need more frum jews like you. My cousin told me that he consults with Rav goldberg shilta, rav weiss shilta, he used to be very close with the gadol rav shapira ZTL and learned one on one with him

Gil when will you wtie about him?

TZVI | 06.23.08 - 6:48 pm | #

"One of his Talmidim - Prof. Avraham Steinberg is of the opinion that RSZ held that brain death was death - but we did not have the proper tools to assess the brain death. Prof. Steinberg is of the opinion that

nowadays, due to new technology in determining brain death, RSZ would agree that brain death is death. If I am not mistaken, R' Dr. Mordechai Halperin agrees with this assessment."

Really? I did not know this (thanks for explaining.) The quotes I've seen from RSZA were very strong.

"As an aside, R' Moshe Feinstein held that brain death is halachic death, as attested to by a teshuva he wrote to Dr. Bondi as well as testimony by his son R' Dovid. There was a long writeup on this in Assia a few years back, as many people claimed that R' Moshe was against brain death."

Others dispute that RMF holds this way.

Anonymous | 06.23.08 - 6:57 pm | #

"fwir, the card (at least the HODS variety) is NOT legally binding (and family is always consulted before organs are harvested, so in a sense you are right. regardless of what you sign, the family will still be consulted. from my POV, i still think it is important to have the card because it can settle any conflicts that arise between family members and/or family rabbis as to what the deceased's wishes really were. (it also gives publicity to the cause)"

I don't know the situation and maybe I am being choshed unfairly, but I would worry that having the card gives the hospital an incentive to not treat aggressively.

Anonymous | 06.23.08 - 7:01 pm | #

Is the sign of "the greatest living halakhic scholar" one "who has near-universal acceptance in the Orthodox world"? Who held this position from previous generations??

Menachem Butler | [Homepage](#) | 06.23.08 - 7:44 pm | #

Tzvi:

Actually, I'm in medicine. Israel has an overabundance of doctors, but a shortage of frum doctors, so I made medicine my choice.

Anonymous:

It is true that people claim that R' Moshe did not hold that brain death is Halachic death, but that theory was basically demolished in the Assia Journal that I referred to earlier. It featured a letter from R' Dovid Feinstein that basically said "stop bothering me already! My Father held that brain death is halachic death, and we spoke about this orally and he made his opinion very clear to me. Stop bothering me already!"

After reading that article, it was quite clear what R' Moshe's opinion was at the end of his life. It seems that he may have had a different opinion earlier - that is up for discussion (although if my memory serves me correctly, R' Dovid wrote that R' Moshe's opinion had not changed).

moshe | 06.23.08 - 8:30 pm | #

Mistake in my previous comment - it should be:

Israel has an overabundance of **Rabbis**, but a shortage of frum doctors, so I made medicine my choice.

moshe | 06.23.08 - 8:31 pm | #

"It is true that people claim that R' Moshe did not hold that brain death is Halachic death, but that theory was basically demolished in the Assia Journal that I referred to earlier. It featured a letter from R' Dovid Feinstein that basically said "stop bothering me already! My Father held that brain death is halachic death, and we spoke about this orally and he made his opinion very clear to me. Stop bothering me already!""

It's more complicated than that as you may or may not know.

Anonymous | 06.23.08 - 8:51 pm | #

Anonymous -

please feel free to elaborate - simply saying that things are more complicated is not too helpful to those of us who would like to know the truth

thanks in advance

moshe | 06.23.08 - 9:02 pm | #

In that same series of articles in Assia there is also one of Harav Shabsai Rapaport,R.Moshe's grandson by marriage who worked with R.Moshe on his shut,that also absolutely corroborates that R.Moshe considered brain stem death as clinical death.

daat y | 06.23.08 - 9:09 pm | #

Moshe lots of luck to you. I wish you you all the best

TZVI | 06.23.08 - 9:11 pm | #

"please feel free to elaborate - simply saying that things are more complicated is not too helpful to those of us who would like to know the truth"

I'm not clear R Dovid always held R Moshe always held this way. What RMF said at the end of his life is not necessarily relevant if he was given inaccurate information.

Anonymous | 06.23.08 - 9:15 pm | #

FWIW, R Z N Goldberg has written a sefer on Hilcos Edus that is AFAIK a superb sefer. Tzvi and Moshe have underscored a point that is very important-R ZN Goldberg and R A Z Weiss are two Gedolim who will teach Torah to any audience.

Steve Brizel | 06.23.08 - 9:59 pm | #

Regarding R. Moshe's position:

R. Dovid just verified that YD 3:132 is an accurate teshuvah. He did not explain what it means. He has another letter, not published in Assia [or anywhere else to my knowledge], where he gives his OWN explanation.

The letter to Dr. Bondi, printed in Iggerot Moshe 8, is widely held to be a forgery - not actually written by R. Moshe himself. This letter is absolutely clear on the issue - but did not "surface" until after R. Moshe died. Furthermore, it was written on 1 Kislev 5745. Iggerot Moshe volume 7 was published on 15 Shevat 5745 (look at the first page where R. Moshe takes responsibility for everything it says in there) in which he includes a teshuvah clearly stating that brain death is NOT death. Why would he do such a thing?

There is much discussion over what R. Moshe meant in YD 3:132 and it is VERY unclear.

Also just to note: R. Goldberg NEVER permitted actually donating organs. He permitted going to ask your rabbi what he thinks. He permitted signing a card that says "I will ask MY rabbi" but he didn't show his hand at all or indicate how he feels about the issue [I have personal knowledge that he is opposed.]

David | 06.23.08 - 10:08 pm | #

ANON:

"I would worry that having the card gives the hospital an incentive to not treat aggressively"

in most cases, how would the hospital even know about the card.

i guess there are situations where a patient is brought in uncommunicative and unaccompanied (e.g., from a car accident) and the card is discovered while looking through his wallet to identify him.

but in most situations family is involved from the admission onward. i would assume there is no need to inform the hospital of the possibility of harvesting organs until the patient is actually brain dead.

the easy solution, as far as your concern is concerned, is simply not have a card but to make one's wishes clear to family members. they'll take care of the rest if it become necessary.

Lion of Zion | [Homepage](#) | 06.24.08 - 12:42 am | #

Gil: Thanks for the link. As many of your commenters noted, I think the importance of the ruling is that it opens a possibility for organ donation; something which has been flat out forbidden among the right-wing modern orthodox world, and rightwards.

It is groundbreaking in the sense that R' Elyashiv said one can't even sign on a card to begin with.

Time will tell if this makes inroads or not, but it's also significant in terms of Israeli society that views anti-organ donation of the Chareidi world as another "parasitic" trait.

Jameel @ The Muqata | [Homepage](#) | 06.24.08 - 4:26 am | #

David is correct - I misquoted R' Dovid Feinstein. I went to take a look at the volume in Assia in which this is all published (א), and the letter of R' Dovid is regarding the Teshuva of R' Moshe in Y"D C"gimmel 132, in which R' Moshe seems to imply that the lack of breath is what defines life. One can see the letter online here:

<http://www.medethics.org.il/arti...IA7/R007147.asp>

R' Dovid stresses that his Father's opinion was that cessation of the heart is not necessary for halachic death.

Those who claim that the letter to Dr. Bondi is a forgery are making a very serious claim, and need proof to back themselves up. In volume 53 of ASSIA, a copy of the letter is shown - signed and stamped by R' Moshe Feinstein. It was authenticated by Dr. Bondi and the person who translated it to Hebrew from Yiddish was also mentioned. In order to claim this is a forgery, you need to claim the following:

- 1) Dr. Bondi is a liar
- 2) Dr. Bondi is a thief or a forgerer (he either stole R' Moshe's stationary or forged it)
- 3) The person who translated the letter into Hebrew is a liar

If you are willing to make those claims, you need to be able to back them up. I would be very hesitant to make such claims, as you can be sued in Beis Din for Motzi Shem Ra or in secular court for slander (if B'D gives a heter).

There is also a long letter by R' Moshe's grandson - R' Shabtai Rappaport - the letter can be found online here:

<http://www.medethics.org.il/arti...IA7/R007137.asp>

As an aside, I wonder why it is that certain "Machmir" groups always have a need to claim that Teshuvos from well known poskim that do not fit their view must be forgeries. This happened in the case of Metzitzah B'pe - where they claimed that the T'shuva of the Chasam Sofer was a forgery (thanks to Dr. Shlomo Sprecher for proving those rumors false), and here too they claim a T'shuva of R' Moshe as false. Very strange way of debating.

moshe | 06.24.08 - 5:56 am | #

"in most cases, how would the hospital even know about the card."

then what's the point of the card?

Anonymous | 06.24.08 - 5:56 am | #

David:

Regarding your other 2 points:

1) If you know of such a letter from R' Dovid, by all means, bring it to us and let us see it! Why hide behind a web of "sources" and "letters not publicized" when nowadays anyone can publish anything on the internet.

תורה היא ולמד אמי ציר

2) Regarding RZNG: I do not know of any specific P'sak of his that brain death is death, however, I find it very difficult to believe that he advocates signing a card if he holds that brain death is not halachic death. Remember - he is a posek, not simply one who quotes other poskim. As a posek, if he holds that bd is not death (and that those who remove organs from bd patients are in fact murderers), he cannot advocate people signing such cards, even if the line of asking your own Rabbi is checked. I simply find that very hard to believe.

Anonymous:

Please bring clear issues and sources, not anonymous accusations that R' Moshe was misled.

Who misled him? Why did they mislead him? What proof is there of this having occurred?

moshe | 06.24.08 - 6:02 am | #

Anonymous:

You asked "then what's the point of the card?"

That is a very good question, as in Israel the consent of the family is required even if a card is signed. Signing the card is more to let your family know what you would have wanted to do, as most people do not discuss such topics with their family while still alive.

moshe | 06.24.08 - 6:04 am | #

Moshe

Regarding RZNG:

I think it is fair to conclude that RZNG is willing to tell his followers that it is OK to follow those other poskim. My understanding is that R Aharon Lichtenstein advised the parents of a Gush student that it was OK for them to follow those poskim who permit organ donation even though he is not prepared to give a psak on organ donation.

zalman | 06.24.08 - 6:30 am | #

I finally found what I was looking for. I recalled that RZNG was part of the committee of the Rabbanut Harashit that authorized transplants in 1986. I was not able to find this at first, but I finally found it in a few places:

<http://www.agudatadi.org.il>Show...Page.asp? pid=91>
<http://www.hazofe.co.il/web%5Cne...=3124& mador=171>

I do not know if RZNG disagreed with the original psak, but I would love it if someone has substantiated evidence to show otherwise.

moshe | 06.24.08 - 7:13 am | #

I think it is fair to conclude that RZNG is willing to tell his followers that it is OK to follow those other poskim. My understanding is that R Aharon Lichtenstein advised the parents of a Gush student that it was OK for them to follow those poskim who permit organ donation even though he is not prepared to give a psak on organ donation.

zalman

I find this view very puzzling:

If you have strong enough reasons/sources about an issue to have formulated a definite halachic opinion, how can you in good conscience tell someone else "its okay to do otherwise"?

Either you really aren't so sure or you are employing a double-standard: "I think this meat is REALLY 100% treif and would never let it inside my house. But you? Bon Appetite! You could enjoy the kulos of the other poskim who I think are 100% wrong and are eating treif!

Can anyone make sense out of this?

FKM | [Homepage](#) | 06.24.08 - 7:13 am | #

>>My understanding is that R Aharon Lichtenstein advised the parents of a Gush student that it was OK for them to follow those poskim who permit organ donation even though he is not prepared to give a psak on organ donation.

Is this documented in any reliable source? Did you hear this straight from RAL, or is this a case of playing the game of telephone?

moshe | 06.24.08 - 7:20 am | #

If you have strong enough reasons/sources about an issue to have formulated a definite halachic opinion, how can you in good conscience tell someone else "its okay to do otherwise"?

I'm familiar with cases of R. Ahron Soloveichik telling people to ask someone else when he knew he would give them a strict pesak but others would be lenient.

Gil | [Homepage](#) | 06.24.08 - 7:27 am | #

Personal stringency is one thing. I'm talking about Kosher vs. Treif and natural death vs. murder.

FKM | [Homepage](#) | 06.24.08 - 7:28 am | #

And if RAS thought it was the only possible psak, then I'm just as bewildered.

Telling me that more people do this double-standard doesn't answer the question I'm raising.

FKM | [Homepage](#) | 06.24.08 - 7:31 am | #

I am a board member of the Halachic Organ Donor Society, and just catching up with this thread. There is far too much for me to comment on here, but I would strongly recommend that anyone who is sincerely interested in learning more about the subject to visit the HODS website, www.hods.org

On it you will find links to more than a hundred articles on the subject, along with video testimony from R. Dovid Feinstein, R. Avraham Steinberg, and other gedolim.

This is a very complicated subject that continues to suffer from many Jews who maintain superstitious feelings about the subject and carry misinformation about the facts. However, there is much reliable data out there--and I encourage interested parties to start with the HODS website.

Michael Feldstein | 06.24.08 - 7:55 am | #

FKM

"If you have strong enough reasons/sources about an issue to have formulated a definite halachic opinion, how can you in good conscience tell someone else "its okay to do otherwise"?"

Consider the "if you don't"

zalman | 06.24.08 - 8:15 am | #

Michael: I agree with you -- it's an extremely complex subject and I tried not to address the complexity in my posting. I did make sure to give the HODS web address :-)

Yasher Kochachem!

--J.

Jameel @ The Muqata | [Homepage](#) | 06.24.08 - 8:16 am | #

The cases above imply that these poskim do have definitive opinions on these issues and still allow the questioner to "shop around" for a kalah. That is bewildering.

If they don't, then I obviously have no questions.

FKM | [Homepage](#) | 06.24.08 - 8:51 am | #

FKM: *And if RAS thought it was the only possible psak, then I'm just as bewildered. Telling me that more people do this double-standard doesn't answer the question I'm raising.*

It's called eilu va-eilu. They recognize that there is not one single possible pesak and that there are other people who are worthy of holding opinions.

Gil | [Homepage](#) | 06.24.08 - 8:56 am | #

FKM - it was the derech of many great poskim not to demand of others (aside from their families and talmidim) to accept their own psak when dissenting opinions exist.

Rav Schachter told me that he knows of a case where a woman was pregnant with a baby who had a terrible genetic illness and wanted to abort. her doctor was a student of Rav Shlomo Zalman and he asked

Rav Shlomo Zalman what he thought. Rav Shlomo Zalman responded that he would never be matir abortion, but the woman with whom he has no direct relationship can call Rabbi Waldenberg and ask him the shaila.

The idea that any psak issued by a gadol must be accepted by all is not and was not universally accepted.
talmid | 06.24.08 - 8:57 am | #

"2) Regarding RZNG: I do not know of any specific P'sak of his that brain death is death, however, I find it very difficult to believe that he advocates signing a card if he holds that brain death is not halachic death. Remember - he is a posek, not simply one who quotes other poskim. As a posek, if he holds that bd is not death (and that those who remove organs from bd patients are in fact murderers), he cannot advocate people signing such cards, even if the line of asking your own Rabbi is checked. I simply find that very hard to believe."

the purpose is to encourage donating after cardiac death.

Anonymous | 06.24.08 - 9:27 am | #

"That is a very good question, as in Israel the consent of the family is required even if a card is signed. Signing the card is more to let your family know what you would have wanted to do, as most people do not discuss such topics with their family while still alive."

OK then a)maybe they should and b)most family members know what rav you'd like to have called. I just dont see much of an upside to signing and do see potential abuses

Anonymous | 06.24.08 - 9:28 am | #

>OK then a)maybe they should

People should do a lot of things, but they don't, and probably won't.

S. | [Homepage](#) | 06.24.08 - 9:40 am | #

Anonymous:

I heartily agree. Have you spoken to your family about what you would like to do in case of brain death, and which Rav you would like consulted? I have, but I think that the vast majority of people have not - and as S. pointed out, probably won't.

moshe | 06.24.08 - 9:50 am | #

Have you spoken to your family about what you would like to do in case of brain death, and which Rav you would like consulted? I have, but I think that the vast majority of people have not - and as S. pointed out, probably won't.

Without signing the ADI/organ donation card, there's close to zero chance a person's organs will be donated by their family.

Signed the card is the first step or people making themselves aware of the possibility that they would like their organs donated, and makes it easier to talk to their family about it.

Jameel @ The Muqata | [Homepage](#) | 06.24.08 - 10:33 am | #

Moshe, the Bondi letter was not written by R' Moshe. Who dictated it is the question.

Why don't you ask Dr. Bondi yourself?

Knows... | 06.24.08 - 10:35 am | #

Knows:

Once again, using underhanded smear tactics is not the way to go. If you think someone other than R' Moshe dictated the letter, please state so clearly. I do not know Dr. Bondi, but in the article by Prod. Steinberg, he states that Dr. Bondi authenticated the letter.

Again, should you know otherwise, please state so outright. Otherwise, it is a waste of both our times for you to constantly insinuate things.

moshe | 06.24.08 - 10:50 am | #

Regarding the Bondi letter: Dr. Bondi himself admits it was not written by R. Moshe. I know this for a fact [this is me "stating so outright"]. Call him and ask him yourself. You have to understand that this is an old issue where many things have already been discovered - please don't accuse people of being motzi shem ra.

Also, how can you explain the discrepancy in dates I noted earlier?

Also, I don't think it is SO crazy for RZNG to tell you to follow your poskim - this is not really such a radical approach - ASK your rabbi. If anything, he is stating that those who permit brain death should be considered to be Rabbis of which one may rely on as THEIR rabbi.

David | 06.24.08 - 11:24 am | #

David: What discrepancy on dates? What is the date of the previous T'shuva?

Regarding the authenticity of the letter: Again, an anonymous person on the internet is making a claim that Dr. Bondi admits that the letter was not written by R' Moshe.

Contrast this with Prof. Steinberg who writes that Dr. Bondi does believe the responsa to be correct.

Who should I believe? Is there any supporting evidence to your claim? I have not seen any - beside for constantly telling me to call Dr. Bondi, who I have never spoken to in my life. What should I tell him - an anonymous commentator claims that you believe that a conspiracy exists in which a forged letter of R' Moshe's was sent to you?

There is clear testimony by people who have spoken at length to R' Moshe about the issue - namely, his son R' Dovid and R' Shabtai Rappaport - as to what he held about death, and they have repeatedly written/said that cessation of breathing is death according to R' Moshe....what else is there to say?

moshe | 06.24.08 - 11:38 am | #

See my comment at 10:08 last night regarding the dates. If you cannot see it, let me know and I'll make it again.

R. Dovid never actually says that R. Moshe considered brain death to be death. All he says is, "My father said breathing." When asked specifically whether that means that brain death is death, he says, "My father said breathing." He specifically did NOT agree. Listen carefully to the interview.

I'd tell you to call him too, but I'm assuming you're not going to go for that.

I don't recall Dr. Steinberg ever mentioning that he spoke with RMF about this point.

David | 06.24.08 - 11:42 am | #

David-

1) You don't specify a date for the previous t'shuva - only the publication of the entire volume.

2) I agree with you that he specifically says breathing. As such, that is an even greater kula than regular brain death - as all that is needed is cessation of breathing, which occurs at brain stem death (the respiratory center), not total brain death. Do you disagree on the scientific validity of this? Will someone

with total brain death still breathe on his own? Please answer as completely as possible and don't beat around the bush by stating that there are other explanation (but failing to actually tell us what the explanations are).

3) Prof. Steinberg writes that he spoke to Dr. Bondi to validate the responsa. Assia volume 53 page 7 middle paragraph.

4) R' Shabtai Rappaport spoke to his Grandfather about the cessation of breathing issue - see the link that I posted earlier.

5) As to your theory of the letter being forged, I'm still waiting for responses on the following questions:

Who forged the letter? Why did they forge the letter? Who does Dr. Bondi think forged the letter?

moshe | 06.24.08 - 12:19 pm | #

See R. Breitowitz's summary at:

<http://www.jewishvirtuallibrary..../braindead.html>

Or (with notes at): http://digitalcommons.law.umaryl...ontext=fac_pubs

"The position of R. Moshe Feinstein, whose psak could well have been definitive at least in the United States, is unfortunately a matter of some controversy. His son-in-law, Rabbi Dr. Moshe Tendler, a Rosh Yeshiva in RIETS and Professor of Biology, Yeshiva College, has vigorously argued the concept of decapitation in Mishnah Oholot.¹⁵ His position finds strong support in Iggerot Moshe, Yoreh Deah III no. 132 which seems to validate nuclide scanning as a valid determinant of death. This is also the understanding of the Israeli Chief Rabbinate, R. David Feinstein (who admits, however, to having no inside information on the topic), and R. Shabtai Rappaport, the editor of R. Moshe responsa.¹⁶

Others, however, have interpreted his teshuvot very differently, pointing out that R. Moshe reiterated twice (indeed, in one instance two years after the "nuclide scanning" reference) that removal of an organ for a transplantation was murder of the donor.¹⁷ (R. Tendler's response: Both of those teshuvot refer to comatose patients in a persistent vegetative state who are capable of spontaneous respiration and are very much alive and not to those who are respirator-dependent.) They also cite R. Moshe's express opposition to proposed "brain death" legislation in New York unless it contained a "religious exemption."¹⁸ (R. Tendler's response: Although R. Moshe accepted the concept of "brain death," his support of an exemption was simply to accommodate the view of other religious Jews who disagree.) Finally, they note that in the very teshuvah upholding the use of angiographic scanning, R. Moshe approvingly cites Teshuvot Chatam Sofer, Y.D. no. 338, who insists on absence of dofeik to breathe, and no other sign of life is recognizable with them (Vegam lo nikarim behem inynei chiyut achairim). Their conclusion: R. Moshe merely validated nuclide scanning as a criterion to verify one determination of death, i.e., absence of respiration, but did not maintain that it alone was sufficient.¹⁹ This author certainly lacks both the competence and the authority to resolve this dispute but presents it to the reader so that he may see why this area has been so fraught with unresolved controversy."

j | 06.24.08 - 1:13 pm | #

Rabbi Asher Bush of the RCA stated publicly at last year's AOJS convention on Medical Ethics in NY that he had thoroughly investigated the matter and concluded that

A)The Bondi letter is a forgery.

B)Rav Moshe did not support Brain Death as halachic death.

He said this in the presence of Drs Avraham and Halperin and was quite adamant about both points.

SD | 06.24.08 - 1:15 pm | #

I reiterate my questions:

- 1) Who forged the letter?
- 2) Why did they forge the letter?
- 3) Rabbi Shabtai Rappaport claims that he spoke to his Grandfather about this. Is he lying?
- 4) R' Dovid Feinstein has also said and written that R' Moshe needed cessation of breathing. He specifically added in writing that R' Moshe did not need cessation of the heartbeat in order for the person to be halachically dead. Is he lying as well?

Why is everyone beating around the bush and not giving a straight answer?

moshe | 06.24.08 - 2:36 pm | #

I'm going to go a bit further in my questions:

- 1) Is the person accused of forging the letter R MD Tendler?
- 2) Is he collaborating with RS Rappaport?
- 3) This was done in order to convince people that he was right in the brain death debate?

moshe | 06.24.08 - 2:40 pm | #

"People should do a lot of things, but they don't, and probably won't." - S.

"I heartily agree. Have you spoken to your family about what you would like to do in case of brain death, and which Rav you would like consulted? I have, but I think that the vast majority of people have not - and as S. pointed out, probably won't." - Moshe

There was a point b) in that comment. Don't most people's close relatives know what rabbonim they rely

on on such matters? I'd have guessed that most often they do. Some may worry that a relative will turn to a rabbi they don't rely on against their wishes, but then they'd probably be worried that the relative would ignore their wishes altogether. Since we are told that the family determines what happens regardless of what it says on the card, I don't see what purpose the card serves for those whose family does know what rabbonim he follows, and would worry about the potential for abuse.

You skew the question when you ask if I've spoken to my family about what I want done in the event of brain death. That is a non-issue because we follow rabbis who believe brain death is not death - but I have discussed other things. I'd have thought that it's typical to know what shita someone follows and/or what rabbis they follow on such issues, but maybe not. Maybe there is more controversy in the MO world and less clear what shita a person or his or her rabbi would follow.

Anonymous | 06.24.08 - 4:50 pm | #

I don't know about actual "forgery" - and if the claim is made, what does it mean, someone else wrote the teshuvah having been told by Rav Moshe to write it, or consciously wrote a teshuvah himself and included it in the Igros, but people should really be careful with such claims and distinguish what exactly they mean before they toss around allegations.

If R. Bush can provide details, then let's have them.

But youve got to clarify what you mean by forgery first.

All i've heard is that impression that many members of the va'ad halakah of the RCA got, is that for about a decade, R. Tendler was pressuring R. Moshe to accept the brain death criterion. I don't know anything else.

And unless someone can demonstrate what really happened, stop with the lashon hara.

d | 06.24.08 - 5:07 pm | #

The issue of brain death is very complex from both a medical and halachic perspective. I will limit myself to a few points.

1. The statement by Rav Goldberg is important because it means, at the very least, that he accepts brain death as a halachically valid option. This is in marked contradistinction to the present mood of some in the United States.

2. Rav Tendler was the closest rav to Rav Feinstein, family as well as knowing halachic positions. One should not make allegations that a letter is a forgery unless one has incontrovertible proof. No proof at all has been presented. Readings of Rav Feinstein's teshuvot should start with Rav Tendler's explanations. Varient interpretations need to explain why they deviate from Rav Tendler. see here for English summary by Rav Tendler, dated 1990: <http://www.hods.org/pdf/Rav%20Mo...%20Donation.pdf>

3. The halachic definitions of death that have been advanced over time need to be seen in the context of the medical knowledge of the time. For example, until the 17th century, the heart was thought to be an organ of respiration. Therefore, references to heart function could be seen actually as a respiratory function. See Rabbi Reichman's article here for detailed information: <http://www.hods.org/pdf/The%20Ha...nition%20of.pdf>

The failure to separate halacha/mesora from ancient medical knowledge has resulted in at least one prominent posek claiming that the Rambam's view on vital organs is an integral part of the mesorah, when the Rambam himself in his medical writings quotes Galen as the source of his view.

4. The medical reality is that when proper criteria are applied, the brain dead patient has absolutely no observable brain function, no respiratory function, and not a single patient who has been appropriately declared brain dead has ever regained any function. Although the popular press occasionally has claims of miraculous 'recoveries,' appropriate criteria were lacking, and there is not a single report in the MEDICAL literature of a patient recovering after appropriate criteria have been applied.

Brain death really is total and irrevocable cessation of synaptically mediated brain function. There is a tremendous amount of supporting evidence from flow studies, microdialysis, and other types of investigation.

Noam Stadlan
neurosurgeon
Noam | 06.24.08 - 5:29 pm | #

"While it's not possible to perform mitzvot after death,

Maybe now it *is* possible, thanks to organ donation...
Steg (dos iz nit der ſteg) | Homepage | 06.23.08 - 5:45 pm | #
"

I just have to object to this point.

If you agree to give away your organs after you die, and that is indeed a mitzvah, then you performed the mitzvah while you were alive.

If the mitzvah is not fulfilled unless you actually save someone's life, then the mitzvah was not done while you are alive, and you didn't do any mitzvah.

If your organs are used to save someone's life, then the person who uses your organs to save someone's life is actually the person doing the mitzvah, not you.

This is no different than learning in someone's name who passed away, or in saying kaddish for someone.

Or being a teacher who has students who do mitzvot because you taught them how to do them.

Daganev | 06.24.08 - 5:50 pm | #

I THINK IT IS EVEN MORE THAN lashon hara. Some of the comments border on motzi shem ra. We have R. Dovid Feinsrein, R. Shabsai Rapaport who I know personally as a major talmid chochom and ehrlicher yid, R. Professor Steinberg validating Dr. Bondi's letter.

WHERE IS THE PROOF TO DISPROVE ALL THESE PEOPLE?

YOU CAN HOLD DIFFERENTLY BUT YOU CANNOT SLANDER THESE PEOPLE.

daat y | 06.24.08 - 6:23 pm | #

Rabbi Bush declared publicly and emphatically (in the course of a 45 minute presentation on the topic) that he had thoroughly investigated the matter and had absolutely no doubt that the Bondi letter is a forgery that did not represent Rav Moshe's true position.

He did not offer an opinion as to who forged it and what motivated them. (Why should he?)

Obviously, Rav Bush knows a lot more about this than what he felt proper to be shared in public.

DR Stadlan might be perfectly right that Brain Death criteria are halachically valid. But, Rav Bush is quite certain that Rav Moshe did not agree.

(I believe that he is chairman of the RCA's Va'ad Hahalacha)

SD | 06.24.08 - 7:48 pm | #

What is up with people going back and forth with calling things forgeries?

What a lame attempt to discredit your ideological opponents.

Daganev | 06.24.08 - 8:15 pm | #

The Rabanut Harashit in 1987 used R. Moshe Feinstein as the basis for their psak that brain stem death, i.e. respiratory death is clinical death. Are all those POSKIM ON THE BEIS din Hagadol also not worthy and not understanding of R. Moshe's psak?

daat y | 06.24.08 - 8:26 pm | #

What is up with people going back and forth with calling things forgeries?

If I recall correctly, the Tzitz Eliezer makes such a claim about a responsum from R. Moshe Feinstein.

Gil | [Homepage](#) | 06.24.08 - 8:34 pm | #

Since when did "synaptically mediated brain function" have any relevance in halakhah?

Moreover, pretending that references to cardiac function can NOW mean breathing for whatever reason is simply halakhic silliness.

The medical facts are that a brain dead patient has no response to pain, cannot breathe on his own, and has no cranial nerve function.

Deeper areas are NOT tested AT ALL - like the hypothalamus. Many patients are warm and many do not have central diabetes insipidus - indicating hypothalamic function.

You CANNOT argue whole brain death in these, vast majority, of cases.

David | 06.24.08 - 8:46 pm | #

SD:

I am glad that R> Bush is the chairman of the Vaad Halakhah. COngratulations to him.

Unfortunately, on issues like this, whether a responsum of R> Moshe is forged or not, I cannot just rely on him saying so or him investigating the matter. I actually have to have some sort of proof. I'm sure he is an intelligent rabbi, but no one here can just take his word on it.

Also, again, for the umpteenth time, you need to tell us what you or R. Bush mean by "forgery". Was someone writing the teshuvah for R. Moshe, in his name. Or did someone write stuff that R. Moshe had no knowledge of. Or something else.

If you're going to call someone a liar/forgiver or whatever, no rational person is expected to rely on "R> Bush investigated the matter" and have that suffice, with no proof nor explanation.

d | 06.24.08 - 9:38 pm | #

David: "halakhic silliness" or just silliness?

d | 06.24.08 - 9:39 pm | #

Anyone else thinking of how R. Moshe called the avos de-rabbi nosson about the eser nekuddot a forgery (despite the numerous parallels in midrash)?

d | 06.24.08 - 9:40 pm | #

As the founder and director of the Halachic Organ Donor Society, I have had the opportunity to speak to people who have had access to gdolim on the issue of brain-stem death and organ donation. When granted permission, and when funds were available to me, I had them videotaped.

1. The following Rabbis have told me they heard from the mouth of Rav Moshe Feinstein that he supported organ donation, even when the heart is still beating, as long as the person is unconscious and can no longer breathe irreversibly as confirmed by brain-stem death.

They are Rabbis Moshe Tendler, Mordechai Tendler, Dovid Feinstein, Shabtai Rapport and Dr. Ira Greifer. They also reported they witnessed him pasken this way in numerous cases. All of them told me they heard this from Rav Moshe himself and their testimony was not based on their interpretations of his writings. Most of these video interviews are available at www.hods.org.

RE: Bondi Letter - I personally think it unfair for anyone to claim a document is forged without sharing upon what evidence such a claim is based. I heard an audio-tape of Rabbi Bush's presentation when he made such a claim and he did not present any evidence to support his claim. I emailed Rabbi Bush asking him to share with me his evidence and if he allows I would post it on our website but I never heard from him.

2. Rabbi Dr Avraham Steinberg testified Rav Shlomo Zalman Auerbach modified his position after the famous sheep experiment and accept brain-stem death as halachic death but he took a stringent position that he wanted proof every cell in the brain is dead.

3. Rabbi Zalman Nechemia Goldberg, Rav Shlomo Zalman's talmid muvhak, told me that he accepts brain-stem death as halachic death. Indeed, he confirmed to me that he was a member of the Halachic Committee of the Chief Rabbinate in 1986 that unanimously came to that conclusion independently and in agreement with Rav Moshe Feinstein.

4. Rabbi Binyamin Walfish, former director of the RCA, testified that Rav Yosef Dov Solevitchik told him in 1983 that he did not view a beating heart as a sign of life and he would support organ donation if he could have proof cessation of respiration was irreversible. Rabbi Walfish told him that Rabbi Moshe Tendler accepted the Harvard criteria as definitive proof of irreversible cessation of respiration and the Rav said if it was good enough for Rabbi Tendler it was good enough for him. This video testimony is available at HODS. [There are family members of R.Y.D.S that say they never heard the Rav say this - but that is not the same as saying they heard from him the opposite position. They simply never heard him speak about this issue.]

I think it is clear that there is halachic debate among gdolim on this issue. There are many debates and various halachic positions about halachic issues that are not universally resolved.

Robby Berman | [Homepage](#) | 06.24.08 - 11:01 pm | #

David,

1. Just because a patient is warm doesn't imply that the hypothalamus is functioning. Patient's with CERTAIN hypothalamic problems have difficulty regulating temperature, meaning that the temperature FLUCTUATES. However, the fact that the patient is warm is not proof in and of itself that the hypothalamus is functioning

2. diabetes insipidus stems from a failure of the SECRETORY function of the hypothalamus. a secretory function that is very much like the secretory function of the thyroid, adrenal, parathyroid, and other glands. It is not a unique form of output of the brain in the way spinal cord and cranial nerve functions are transmitted. Secondly, diabetes insipidus can only be confirmed with blood or urine testing. It is not a CLINICALLY OBSERVABLE function. Finally, there are a significant group of patients who have DI and very labile temperature. Are you willing to accept those as brain dead?

3. The argument here is not that every single cell of the brain is dead. That cannot be proven. (it can't always be proven that they are alive either, btw) What can be proven is that there is no measurable blood flow. That there is no metabolic activity. That there is no ATP. There is essentially no glucose and no oxygen in the brain. The lactate/pyruvate ratios are standard deviations higher than normal. There are also studies that show that energy utilization in the brain dead patient is down 20-25%, which corresponds to a total lack of energy consumption by the brain. The brain temperature of the brain dead patient is also far lower than normal body temperature. And, from an observational point of view, patients who fulfill brain death criteria have NEVER regained function or breathing, no matter how long the body was supported.

Halacha does not require every cell of the heart to be dead before someone is declared dead by cardiac criteria. In fact, an arterial line is not required, an EKG is not required. It is a decision based on clinical OBSERVATION.

4. There are plenty of poskim who hold that death occurs with the irreversible cessation of respiration. I was not trying to reinterpret previous poskim in light of what they knew or didn't know about circulation (although I am not sure why there should be a problem with taking them at their word and what they meant, rather than reading back our present knowledge into their psak). However, it is important to realize that when the gemara, rishonim, and some acharonim talk about heart function, they are not necessarily referring to blood flow. We assume they are because we read our own medical knowledge into their teshuvot, but that is not the knowledge that was present when they were written.

The bottom line is that if one holds that the halachic definition of death consists of: irreversible apnea and irreversible lack of CLINICALLY OBSERVABLE brain function, the medical evidence supports this definition. Even if you want to argue that halacha demands a lack of circulation, the medical evidence supports the presence of cerebral circulatory arrest(lack of measurable blood flow to the brain- observable and confirmed on many different types of studies).

Noam | 06.24.08 - 11:09 pm | #

Re: Rav Moshe Feinstein's position

Rav Tendler writes specifically(see the article referenced above) that in at least 17 actual cases(not writing teshuvot, but halacha l'maaseh), Rav Moshe accepted brain death as actual death. The only recourse for those who hold that Rav Moshe did not accept brain death is to claim that Rav Tendler is not only lying but publishing false information. If that is the case, they should have the courage of their convictions to say it outright.

Noam | 06.24.08 - 11:32 pm | #

Just curious, "patients who fulfill brain death criteria have NEVER regained function or breathing, no matter how long the body was supported." So what?

"Halacha does not require every cell of the heart to be dead before someone is declared dead by cardiac criteria." Correct, because Hazal discussed this in detail. You would like to posit a new definition - namely that brain death is equivalent to removing the head - that means the head is gone, that means every cell. If you don't believe me, look at RSZA's position where he says this EXPLICITELY.

Additionally, based on the medical facts - you admit this patient is not actually dead - he is very close to being dead, but the body, and BRAIN - you admit - are functioning. Somebody decided that low functioning doesn't count for halakhah. That is an unfounded hiddush.

"There are plenty of poskim who hold that death occurs with the irreversible cessation of respiration." True, they are not the subject of this discussion at all. They would agree to brain stem death - the only criteria being spontaneous respiration. I apologize if I indicated that I was referring to these - VERY FEW - poskim. I am not. I am referring to the vast majority who require WHOLE brain death.

Lastly, "irreversible lack of CLINICALLY OBSERVABLE brain function" defined halakhically is silly. There is no observable brain function since it doesn't move at all. I can watch the brain all day and not see anything happen. It doesn't mean somebody is dead. I can [very clearly] see results of brain function, but why should that be relevant halakhically?

The basic point is - positing brain death as death is a tremendous hiddush. It is upon those who argue this point to prove it, not for others to defend the traditional definition. Arguing, "perhaps" and "maybe" Hazal meant certain things does not amount to much when engaging in safek retzihah.

David | 06.24.08 - 11:34 pm | #

"positing brain death as death is a tremendous hiddush"

David:

In an area where chazal's only definitions of life were basically heart function and respiratory function, other than cutting off the head (which doesn't enter the gemara in yoma at all) the entire idea of someone not having heart and lung function being alive would have been a chiddush to chazal.

To begin with we are playing with definitions which chazal did not spell out because they didnt talk about brain function one bit.

We work hard to fix it so that, sure, you can apply this mishnah or that story to brain death, but ALL OF THIS IS CHIDDUSH, both the pro-brain death and the con.

It's not as though chazal spell out the requirement for brain death as definition of retzichah either.

The posqim today are not in the position of applying a law, but creating a new law, as the precedents here do not fill in the picture sufficiently.

You shouldnt pretend that there is some status quo that the pro-brain death people are controveitng.

d | 06.25.08 - 12:39 am | #

David,

Either you have a limited understanding of the topic, or are being deliberately dense. In either case, there isn't any point in trying to argue each and every one of your silly points. If you want to email me, I would be happy to explain the topic to you in more detail.

When your brain is dead, you are dead. That is why conjoined(siamese) twins are only called twins when there are two heads/functioning brains. When there is duplication of any other part of the body(two hearts, etc), it is only considered one person. Without a brain, you are not alive. That is why the person who has been decapitated is considered dead. Not having any brain function is PHYSIOLOGICALLY the same as being decapitated. So brain function, and observable brain function is ESSENTIAL in determining of a person is alive or not. It is not a chiddush, it is an application of the mishna in Ohalot(among other sources). Up until the 1960's, the technology was not available for the brain to be dead but the rest of the body still functioning.

If circulation is the determinant of life, where does the circulation have to be found in order for life to exist? in other words, please identify the part of the body that has to have a pulse in order for life to exist. YOu will find, after thinking about it, that any part of the body can be either replaced or removed, and that the only answer to this question that makes sense is---the brain.

Noam | 06.25.08 - 2:13 am | #

Tzvi and Moshe have underscored a point that is very important-R ZN Goldberg and R A Z Weiss are two Gdolim who will teach Torah to any audience.

----- I would add R' Ovadia Yosef, R' Avigdor Nevenzahl, and R' Mordechai Eliyahu to that list.

Old City Yeshiva Student | 06.25.08 - 5:04 am | #

It's called eilu va-eilu. They recognize that there is not one single possible pesak and that there are other people who are worthy of holding opinions.

Gil

I can understand a THIRD PARTY invoking eilu v'eilu to validate two opposing opinions, but never the opposing parties themselves about eachother. That's simply a lack of conviction about one's own conclusions.

You don't see Beis Hillel saying "I hold I'm right but Beis Shammai is a valid opinion too" or visa versa.

FKM - it was the derech of many great poskim not to demand of others (aside from their families and talmidim) to accept their own psak when dissenting opinions exist.

talmid

I'm not talking about this. "asei lecha Rav" is obviously a directive of the talmid and not the Rav himself. I'm talking about the cases mentioned above where the Rav told HIS OWN TALMIDIM to go elsewhere to shop around for a heter when he thought it was clearly assur.

This makes no sense to me.

FKM | [Homepage](#) | 06.25.08 - 7:53 am | #

Dear old city where does Rav N shilta fall is he charedi leumi? or just regular charedi? do they say a prayer for the medinah in his shul? is he against hesder? has he written anything about the state?

tzvi | 06.25.08 - 9:08 am | #

FKM,

There are documented shailos where for example R.Elyashiv directs the questioner to R.S.Z.Aeurbach though he could have answered it himself. See R.Dr Halpern in Jewish Medical Ethics.

daat y | 06.25.08 - 9:23 am | #

Rav Nevenzahl is Charedi.

They do not say the prayer for the state of Israel in his shul. They do say it in Yeshivat Hakotel - one of the Yeshivos in which he teaches.

His children did not go to Hesder, but he gives shiurim in a Hesder Yeshiva, so I don't think he is pro Hesder, but he is interested in teaching Torah to everyone.

On the other hand, he was once investigated for saying that someone who is moser even a prutah of a Jew should be killed (he quoted a Gemara to the effect, iirc), al achas kamoh v'kamoh one who gives away portions of E"Y to murderous enemies. He was not saying it as a Psak - rather, he was trying to be meorer people to the gravity of the matter. When Ehud Barak offered the Old City (including the Jewish Quarter) to Arafat years ago, Rav Nevenzahl instructed everyone to pray against that happening, but if it does occur, he said that we would have to do what Rav Elyashiv paskens to do.

moshe | 06.25.08 - 9:24 am | #

What is up with people going back and forth with calling things forgeries?

If I recall correctly, the Tzitz Eliezer makes such a claim about a responsum from R. Moshe Feinstein.
Gil | Homepage | 06.24.08 - 8:34 pm | #

He does, on the subject of abortion. He writes, "be-khol kavod adoni, lo zu ha-derekh..."
dani schreiber | 06.25.08 - 10:46 am | #

I don't have the sefer in front of me, but my recollection is that it was Rav Moshe who said that a much earlier sefer (Maharit?) had a forged teshuva in it and proved it based on some very weak arguments. The Tzitz Eliezer's "lo zu ha'derech" (which many viewed as an enormous chutzpah) was aimed to tell Rav Moshe that we don't pasken by claiming that the ra'ayos against us are forgeries.

talmid | 06.25.08 - 10:52 am | #

FKM - Two things:

1 - where do we see people directing their own talmidim to follow another opinion? I thought as a public policy statement to the masses they are being told by Rav Zalman Nechemya that there are multiple opinions and each person should find his Rav and stick to him.
2 - the talmidim of Shamai and Hillel married each other even though they disagreed about yichus. based on elu v'elu. The implication is that each held the other is also right.
(though, the pashut pshat is probably that both sides observed all of the stringencies so as not to create problems when they wanted to marry each other)

talmid | 06.25.08 - 10:57 am | #

FWIW, R Nevenzal was a Talmid Chaver of RSZA and served as a Rav Tzvai in Lebanon. There is a picture

of R Nevenzal learning Torah with two soldiers in HaTorah HaMisamachas.

Steve Brizel | 06.25.08 - 11:09 am | #

Dr. Stadlan,

First, please don't insult me. It is just not polite and gives the impression that you don't have much content behind your position other than insulting rhetoric.

I will not debate your points because this has already been done. You seem convinced of what you believe R. Moshe said, even though most people assume that RMD Tendler is wrong.

"Without a brain, you are not alive. That is why the person who has been decapitated is considered dead." ACTUALLY, the Mishnah does not say why this person is dead. Could it be because he has no effective circulation?

This is in no way an APPLICATION of the Mishnah in Ohalot. It is an EXTENSION - a highly debatable and unlikely EXTENSION. You are positing a POSSIBLE reading in a Mishnah that will allow for safek retzihah. You would want to make sure that there are no other possibilities, wouldn't you?

BTW, the Hatam Sofer is explicit in given criteria - he says: ein bo defikah - he has no heartbeat / pulse.

Your hiddush is a direct contradiction of the Hatam Sofer's opinion. THEREFORE, we have EXPLICIT statements in halakhah of what is death. To posit something new - even if arguing it is parallel to the old definition - is a HIDDUSH. The fact that in the past they could not have known this is highly irrelevant.

David | 06.25.08 - 12:28 pm | #

David:

Again, I repeat my questions. I see that you still are reading the comment thread, so if you don't respond, I will presume that you are evading these questions:

- 1) Who forged the letter?
- 2) Why did they forge the letter?
- 3) Rabbi Shabtai Rappaport claims that he spoke to his Grandfather about this. Is he lying?
- 4) R' Dovid Feinstein has also said and written that R' Moshe needed cessation of breathing. He specifically added in writing that R' Moshe did not need cessation of the heartbeat in order for the person to be halachically dead. Is he lying as well?

I thank you in advance for answering these questions in a straightforward manner.

moshe | 06.25.08 - 12:46 pm | #

It so happens that I am highly sympathetic to believing that Brain Death is halachic death.

However, I believe that it must be acknowledged that there is nothing in writing (to my knowledge) from their own hand that indicates that Rav Moshe, Rav Soloveitchik, Rav Shlomo Zalman, or Rav Zalman Nechemiah Goldberg accept Brain Death as halachic death. Rather, what we have is (at best) the claims of those directly involved in the debate, which are not subject to any kind of verification and are contradicted by those on the other side, who say they heard the opposite.

SD | 06.25.08 - 1:34 pm | #

1. Dr. Bondi admits it was not R. Moshe. The common held assumption is probably lashon ha-ra. I also do not have first hand knowledge of this.

2. To try to claim that BD is death.

3. He said he spoke with him about teshuvot in IM 7. I do not know the content of their teshuvot.

Personally, I do not really like relying on hearsay, since, as in this case, it goes both ways. I cannot comment on what R. Rappaport claims he heard, only on what others claim they heard from R. Moshe.

Those who heard differently would have to say that R. Rappaport probably misunderstood his grandfather.

4. That is not what R. Dovid said. Read his 2 pieces carefully. The second, non printed letter is often shown by R. MD Tendler in his presentation [and most often he puts it on the screen for about 2 seconds].

The tone is troublesome here. Everybody WANTS this to be true to save lives, the only question is whether it is true.

I cannot claim that somebody is lying. I don't know what they heard in a private conversation. I can say that EVERYBODY else who had a conversation with R. Moshe heard differently. AT BEST, we have a safek, and it may not be so wise to possibly kill somebody over a safek.

David | 06.25.08 - 4:28 pm | #

David,

I was responding in the same vein as you when you referred to what I wrote as "halachic silliness." However, you are correct that I should have ignored your language. The substance of what I wrote though is true. you write:

"ACTUALLY, the Mishnah does not say why this person is dead. Could it be because he has no effective circulation?"

The answer in short is NO. After decapitation, a body still retains a pulse until all the blood exits the body. The heart has an intrinsic pacemaker that will keep on beating until it is deprived of oxygen. Obviously a

short time, but not contemporaneous with the decapitation. So lack of circulation CANNOT be the reason a decapitated body is considered dead, because the circulation persists for a period of time.

The Chatam Sofer(YD 338) says that death occurs with the absence of pulse and respiration. He lived in a time where it was inconcievable for life to exist when pulse and respiration were absent. In the age of modern medicine, almost any organ can be transplanted or replaced. A heart can be removed and kept beating outside the body, or in the body of another person. Do you really want to claim that were I to remove someone's heart from their body, attach it to some plastic pipes(or maybe a leg or an arm), put it on the laboratory bench, keep it beating by supplying it with oxygen and glucose, the Chatam Sofer would pasken that this preparation was alive? It fulfills the criteria of having a pulse. No posek that I know would pasken that way. Obviously having a pulse is only important if the pulse is pushing blood to the brain.

You also touch on a matter of whether scientific information changes halachic opinions. If you think that new scientific information should not impact halacha, then you should oppose giving medical attention on Shabbat to babies born in the 8th month. Similarly, if you pass a collapsed house on Shabbat and see a body, you should check the nose and/or heart/belly button. If there is no sign of life, you would not be allowed to dig him out. Performing CPR on Shabbat would be assur because it was not known in the time of the gemara, and they did not allow for it in the discussion in Yoma. Do you see how untenable your position is?

I am not making up halacha. Great poskim have paskened, and I quote from them and offer medical evidence to support their halachic findings. This is not MY hiddush. This is accepted halacha by the Israeli Chief Rabbinate and many many others. I think you can be sure that they considered the issue of retzicha when they paskened.

Noam | 06.25.08 - 6:00 pm | #

"Do you really want to claim that were I to remove someone's heart from their body, attach it to some plastic pipes(or maybe a leg or an arm), put it on the laboratory bench, keep it beating by supplying it with oxygen and glucose, the Chatam Sofer would pasken that this preparation was alive? It fulfills the criteria of having a pulse. No posek that I know would pasken that way. Obviously having a pulse is only important if the pulse is pushing blood to the brain."

Why do you think determining what defines a human being is the same question as what constitutes declaring a human being dead?

Anonymous | 06.25.08 - 8:16 pm | #

The question of defining a human being is totally interrelated with the definition of life and death. Take the example I gave. We start with an intact human being. Take away the heart and an arm, which are still functioning outside the body. Attach a heart/lung pump to the remainder of the body. which part is still the human? You can continue this thought experiment until you realize that only the brain defines being a human being.(there have actually been primate experiments where they have taken the head off a monkey

and kept it alive in the lab. It had EEG tracings consistant with an awake state, tracked objects, swallowed, etc. They also have switched heads, from one primate to another) Therefore, when the brain is alive, the person is alive. When the brain is dead, the person is dead, it doesn't matter what the heart or the rest of the body is doing. If you start with a human being, and then after some change decide that it is not a human being, you are saying that initial human being is now dead. The human being either has to be dead or alive. The category of "not a human being anymore" is the same as dead.

When the part (or parts) that define a human being are functioning, the person is alive. When the part(or parts) that define the human being are irreversibly not functioning, the human being is dead. It so happens that the part that defines being human is the brain. When the function of the brain is irreversibly gone, the person is dead. That is why the definition of a human being is an integral part of deciding if it is alive or dead.

Noam | 06.25.08 - 9:04 pm | #

I apologize by I do not have the time to continue this discussion. I don't want it to seem like I am giving in and accepting your position, since I am not. I am just too busy at this time.

My apologies.

David | 06.25.08 - 10:28 pm | #

No apology neccessary. I will be happy to discuss the issue with you have in the future.

Noam Stadlan

nstadlan@cinn.org

Noam | 06.26.08 - 11:27 am | #

For future reference, Dr. Stadlan- it is generally a good idea to post your email with spaces, dashes, slashes, vertical lines, etc, in the middle of it, so that spambots cannot troll the comments pages for email addresses (i.e. johndoe | @ / gmail dot com)

JLan | 06.26.08 - 12:17 pm | #

"here have actually been primate experiments where they have taken the head off a monkey and kept it alive in the lab. It had EEG tracings consistant with an awake state, tracked objects, swallowed, etc. They also have switched heads, from one primate to another)"

So it's your contention that if you decapitate a human being - which halachically defines the person as

dead, and which you agree makes the person dead - but can somehow keep the head alive in a lab that you have not killed the person? Or do you think you have killed the person, and then created a new human being from his head in the lab.

Anonymous | 06.26.08 - 2:42 pm | #

"Therefore, when the brain is alive, the person is alive. When the brain is dead, the person is dead, it doesn't matter what the heart or the rest of the body is doing."

Everyone agrees that decapitation = death. However, you go from saying the brain is dead = death, to this:

"When the function of the brain is irreversibly gone, the person is dead"

now saying the brain is not dead, but that its function is dead. Function of the brain is open to interpretation. You're no longer defining death as the brain being gone or dead, but as useful function in the brain being gone, and that's a much less clear issue and the source of the debate.

Anonymous | 06.26.08 - 2:51 pm | #

1. We used to think that when the heart stopped and there was no respiration that a person was dead(to the point that the gemara on Yoma does not allow further work on Shabbat to save the person. If you followed the gemara to the letter, if you found a person who had a heart attack on Shabbat, and had no pulse or respiration, you would not be allowed to call hatzala.) Now we do CPR on patients who have been hypothermic and pulseless and apneic for more than 30 minutes and they come back. Did they come back to life? My personal view is that a decapitated person is not dead if the head is preserved and the brain is functioning. If your brain is functioning, you are alive.

2. The common criteria for death- lack of heart beat, refers to an absence of FUNCTION of the heart. If you are using this criteria, the Halacha does not require the death of the heart muscle. It requires an irreversible absence of the function of the heart. The heart actually secretes a hormone, atrial natriuretic protein. We don't require blood tests to see if the heart is still secreting the protein to determine if the heart is functioning. That function is not germane to the essence of the heart, pumping blood to the body. Halacha is centered on function, not on micropathology of cells. Therefore, the absence of brain function is the death of the brain, and, the death of the organism.

3. All of this discussion is actually irrelevant if one accepts the halacha as advocated by the Chief rabbiinate. Death is defined by the irreversible absence of respiration combined with the irreversible loss of brain stem function in the presence of a catastrophic brain injury.

4. thanks for the tip on the email. :-)

Noam | 06.26.08 - 6:36 pm | #

1 - where do we see people directing their own talmidim to follow another opinion? I thought as a public policy statement to the masses they are being told by Rav Zalman Nechemya that there are multiple opinions and each person should find his Rav and stick to him.

Someone way above quoted a few anecdotes that begged the particular question I was asking.

2 - the talmidim of Shamai and Hillel married each other even though they disagreed about yichus. based on elu v'elu. The implication is that each held the other is also right.

(though, the pashut pshat is probably that both sides observed all of the stringencies so as not to create problems when they wanted to marry each other)

talmid

You answered your own question with the pashut pshat. They held to their own shittos till the end and would not compromise what they thought was right just because of "elu v'elu". Compromising a conviction is an abuse of this concept.

FKM | [Homepage](#) | 06.30.08 - 12:31 pm | #
