

Friday

Jewish World

Sanctity or desecration?

By TERESA WATANABE

Los Angeles

For Los Angeles screenwriter Robert Avrech, it was a wrenching choice between two of his greatest loves: his Orthodox Jewish faith and the life of his only son.

His son, Ariel, is in critical need of a lung transplant. Avrech knew of a man who had just collapsed on a softball field and was in a coma. But Avrech, guided by his religious and moral compass, would not approach the family about a possible organ donation.

It seemed ghoulish, he said. He saw a slippery slope that would turn the desire for life into a morbid wish for death in order to harvest organs. Wouldn't that make him no better than a Nazi? Even after the man died, Avrech declined to approach the family, for he says his Jewish values, particularly the need to show reverence to the body and respect for mourners, overrode even his desperate desire to save his son.

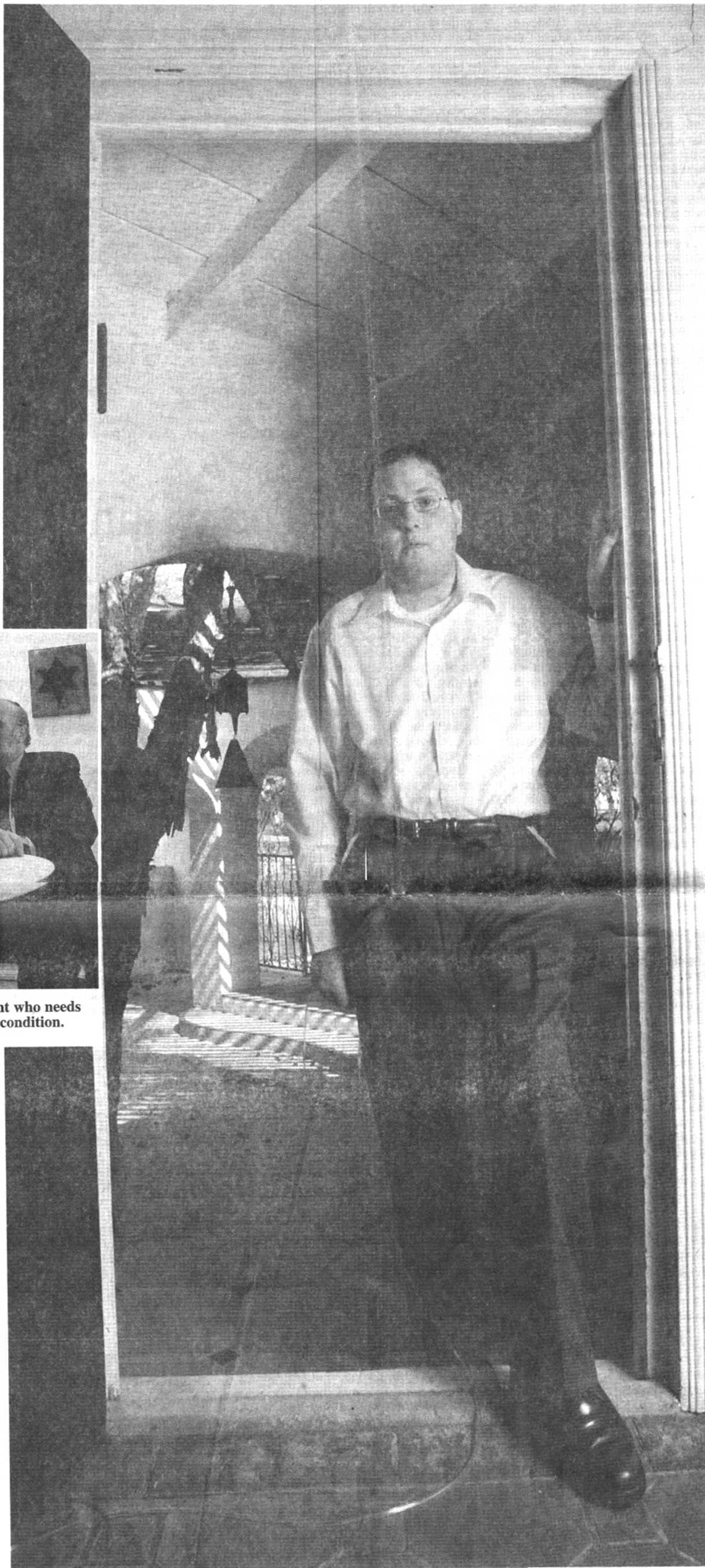
"It's a difficult situation for me, because I want to save Ariel's life," Avrech said slowly, his voice weighted with emotion. "But there are worse things than death, like leading an immoral life."

Avrech's case underscores the sometimes wrenching dilemmas – and the vast divergence of belief – that occur in the religious world over the issue of organ donations.

All religions cherish the value of saving lives, but questions of when death begins and when donated organs may be used have raised a thicket of moral issues.

In Japan, for instance, an ancient religious belief that cutting a corpse defiles the individual's spirit has severely hampered organ donations. Not until 1997 did the nation recognize brain death as legal death, becoming the last advanced industrial nation to move away from the idea that death occurs only when the heart and lungs cease working. In part, the hesitation stemmed from Buddhist beliefs that transplants from the brain-dead would deprive a soul of reincarnation.

The Roman Catholic Church, by contrast, has an "upbeat, positive attitude" toward organ donation, said James Walter, the O'Malley professor of bioethics at



Ariel Avrech, center. The 21-year-old Talmud student who needs new lungs consults with rabbis about his medical condition.



Loyola Marymount University in Los Angeles. The positive Catholic tradition stems from the 1940s, when theologians began promoting organ donations as an act of charity – "a willingness to sacrifice for the sake of other people," Walter said.

Officials turned to the concept of charity because the church until then had frowned on mutilating a body except for the purpose of benefiting the greater whole – amputating a gangrenous limb, for instance. That "principle of totality," sacrificing a part for the whole, could not be used to justify donations lest it open the door for totalitarian societies, for instance, to claim ownership of people's organs. So a new principle – personal acts of voluntary charity – had to be established, Walter said.

WITHIN ISLAM, organ donations are encouraged under the Koranic exhortation that "whoever gives life, it is like giving life to all human beings," said Maher Hathout, a retired Muslim physician and member of the Kuwait-based Islamic Medical Conference. The group affirmed organ donations as an act of charity several years ago, he said, stipulating that organs were not to be bought or sold, and that living donors could not endanger themselves by offering organs. He added that Muslim scholars have also affirmed the use of organs from pigs – a growing supply source – despite prohibitions against eating pork.

In the Jewish world, debate rages between religious movements, and even within them.

"To many people, the issue of organ donations is very emotion-laden," said Rabbi Yitzchok Adlerstein, a professor of Jewish law at Loyola Law School in Los Angeles. "Unless you have a very, very definite cause, and usually an immediate need, Judaism attaches a high value on keeping the body intact."

Those attitudes, however, appear to be changing in at least some sectors of Judaism. In 1995, legal scholars from the Conservative movement approved a rabbinical ruling that not only declared organ donations permissible, but said they are an obligation under Jewish law.

"Saving a life takes precedence over the general principle that honor is due to a dead body," said Rabbi Elliot Dorff, an expert in bioethics at the University of Judaism in Los Angeles and author of *Matter of Life and Death: A Jewish Approach to Modern Medical Ethics*. He added that organ donations in fact honor a dead body and give meaning to the death of loved ones.

Since the 1995 decision to deem organ donations a religious obligation, many Conservative synagogues have promoted them through sermons, fliers and donor cards, said Rabbi Bradley Shavit Artson, dean of the Zeigler School of Rabbinic Studies at the University of Judaism. The issue, however, remains highly controversial within Orthodox Judaism. Rabbis from opposing camps continue to debate when death begins – at the cessation of neurological functions, known as brain death, or when the heart and respiratory systems fail. The definition is key to organ donations, because doctors using heart-lung machines can keep those systems working for a long time even without a living brain.

Rabbis also disagree about whether there is consensus on the issue within Orthodoxy, and about the scope of a late 1980s decision by the Chief Rabbinate of Israel that accepted brain death as the standard and paved the way for heart and liver transplants.

Rabbi David Bleich, a professor of Talmud at Yeshiva University in New York, said the vast majority of Orthodox scholars reject the brain-death standard. Traditional Jews cannot be party to pulling the plug on a

Ariel Avrech, an oxygen pipe nearby. Believes his ordeal simply represents the unique challenges God presents to everyone, challenges that have helped him grow.

(Photos: Bob Chamberlin/Los Angeles Times)

patient before the heart and respiratory functions stop, he explained. He added, however, that Orthodox Jews could receive organs extracted from brain-dead patients as long as they had nothing to do with obtaining them.

That position provokes a withering rebuttal from Rabbi Moshe David Tendler, professor of medical ethics and chairman of the biology department at Yeshiva University. He said Jews who reject brain death should not then be able to harvest organs from brain-dead patients, or they would be akin to "hit men" waiting for others to kill someone so they can benefit.

AS THE debate rages, Ariel Avrech needs donations of at least two lung lobes, which can be extracted in what medical experts regard as a relatively safe procedure.

The 21-year-old rabbinical student suffers from pulmonary fibrosis, a severe scarring of the lungs caused by massive chemotherapy he has undergone since being diagnosed with a brain tumor at age 14. In May, his breathing functions deteriorated so rapidly that he was forced to return to Los Angeles from his rabbinical studies in Baltimore.

Most of the time, Avrech is attached to an oxygen machine. He tires easily, and can no longer devote his customary nine hours a day to his beloved Talmud study – managing only an hour at most these days.

Avrech and his father spend hours watching DVDs together – most recently howling with laughter over a documentary on a Thai Elvis impersonator. Robert Avrech says his son, who has endured his illnesses without com-

plaint, has become his hero.

"I don't know if this is God's intention, but Ariel and I know each other better and love each other more than ever before," said the elder Avrech, eyes filling with tears. "I wish Ariel weren't ill, but I'm going to take advantage of it."

The family's Orthodox community has rallied around. Members of Avrech's synagogue, Young Israel of Century City, in Los Angeles, have brought food, gifts and even daily services to his home during the High Holy Days. The Jewish Healthcare Foundation has distributed an e-mail about Avrech's plight throughout the Americas, Europe, Brazil and Israel.

The appeal, a "Life-Saving Search for a Living Lobar Lung Transplant Donor," says the suitable donor would be an adult male, age 18 to 50, 5'8" [173 cm.] or taller, blood type A or O, a nonsmoker and non-asthmatic in good health.

So far, more than 20 potential donors have come forward, but few if any appear to meet the qualifications. As time ticks by, the family is reaching out to the broader community.

For his part, Ariel says his ordeal is an example of the unique challenges God presents everyone, challenges that have helped him grow. He focuses not on his pain, but on the beauty and godliness his illness has elicited.

"People have displayed tremendous courage, bravery and generosity, and they wouldn't do this if I weren't sick," he said. "I see all the beautiful things coming out in this world because of me."

– Los Angeles Times

For religious Americans – Jews included – organ donation is an issue that tries body and soul

...and in Israel

Would the Avrech family have faced the same halachic quandary if they lived in Israel and not California? Perhaps, and yet transplants no longer pose insurmountable halachic complications for most Israelis.

When a potential donor is confirmed brain dead – meaning the brain-stem has ceased to function – the practice in Israel, using procedures established by the Health Ministry, is to allow organs (with the approval of close relatives) to be removed for transplant.

The crux of the issue is the precise definition of when life ends. In an earlier era, when a brain's electrical activity could not be measured, Jewish law held that death was synonymous with a cessation of breathing. But now machines can "breathe" for a person, allowing the heart to keep functioning even when there is no brain function. Most organs are recovered from donors who are kept breathing artificially but are brain-stem dead.

There is no consensus among the ultra-Orthodox on transplants. For some, the decision comes down to how the response of the late Rabbi Moshe Feinstein is interpreted. Feinstein, founder of Mesifit Tifereth Jerusalem on the Lower East Side of Manhattan, was considered one of the main *poskim* (halachic arbiters) of the 20th century.

His son-in-law, Yeshiva University medical ethics expert Rabbi Moshe Tendler, says Feinstein eventually came to accept the criteria for brain-stem death, but other *poskim* say Feinstein never wavered from the traditional "no heart function" definition of death. Other haredi camps generally concur that transplants from brain-dead donors are prohibited if the heart is still beating.

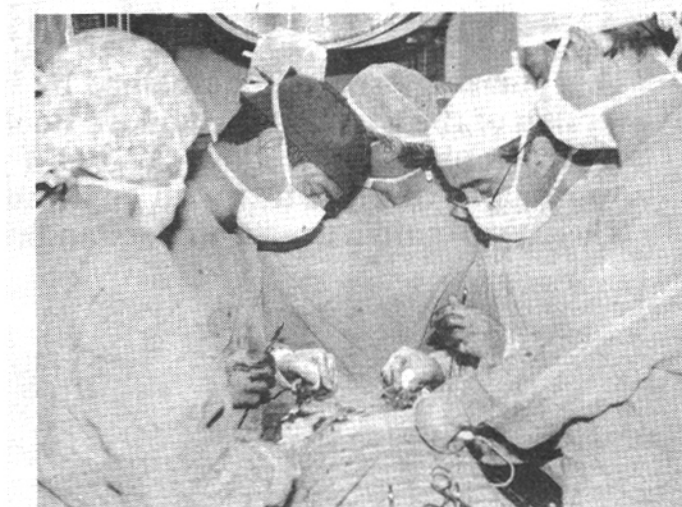
But among the modern Orthodox, the brain-stem criteria (even if the heart and lungs are kept pumping) is acceptable. This distinction is significant because in some types of transplants, the chances for success are greater if the heart and lungs are kept functioning by machine.

Despite opposition from haredi elements, the first heart transplant in Israel was conducted at Beilinson Hospital in December 1968. That year, Chief Rabbi Issar Yehuda Unterman gave his qualified halachic approval for heart transplants, conditioning his approval on the cessation of heart activity.

Ten years later, in response to the second heart transplant, a haredi group, the Public Committee for Human Dignity, unsuccessfully applied to the attorney-general demanding that the chief of the operating team be tried for murder.

The national religious camp grappled with the issue, trying to find a way to harmonize halacha with medical advances. Then minister of religious affairs, Zerah Warhaftig of the religious Zionist Mizrahi movement, said: "The decision as to when it is permissible to remove the heart of a donor in a transplant operation cannot be left to doctors alone." Since then, several Orthodox physicians who are also talmudic scholars and experts on medical ethics, such as Rabbi Doctor Mordechai Halpern, have helped develop Israel's transplant policies.

BESIDES definitions of cessation of life, other halachic issues that make transplants problematic for observant Jews involve prohibitions on the mutilation of a corpse, delaying burial, and obtaining benefits from a dead body. Still, most halachic authorities agree that these concerns are overridden by the cardinal principle of *pikuah nefesh*, saving a life.



(Israel Sun)

For haredim, however, these difficulties remain unresolved if the recipient is a non-Jew.

Robert Berman, founder of the Halachic Organ Donor Society, says: "Even though most Jews in America and in Israel are secular, when it comes to death and dying they tend to adopt what they perceive to be a 'more religious' approach. And therefore since they think traditional Jewish law is against organ donation, they don't donate."

Berman's group distributes organ donor cards that allow individuals to select either brain-stem death or irreversible cessation of heartbeat as the basis of their donations. He says that "what most people do not know is that in certain situations it is now medically possible to recover kidneys for up to 40 minutes after the heart has stopped beating. So those people who believe brain-stem death must be followed by cessation of heartbeat can now be donors. The society's Web site is www.hods.org

Noting that there is a severe shortage of organ donors in Israel, Rabbi David Golinkin, a foremost halachic authority in Israel's Masorti movement, has also ruled that "organ donation after death falls under the category of *pikuah nefesh* and should be encouraged, providing it has been established without a shadow of a doubt that the donor is halachically dead." Heart and liver transplants, says Golinkin, "are the most halachically problematic."

His halachic ruling embraces the position of Israel's Orthodox Chief Rabbinate, which lists five conditions for allowing heart transplants:

- clear knowledge of the cause of injury
- absolute cessation of natural breathing
- clinical proof that the brain stem is indeed dead
- objective proof such as the BAER test that the brain stem is dead
- proof that numbers 2 and 3 continue for at least 12 hours under full and normal treatment.

These criteria, says Golinkin, have been in use for heart transplants at Hadassah Hospital at Ein Kerem since August 1987. The official position of the Masorti movement is that "it is a mitzva [positive commandment] to donate organs after death because 'whoever saves one life is considered as if he had saved the entire world' (Mishnah Sanhedrin 4:6)."

For Rabbi Michael Boyden, director of the Rabbinic Court (Beit Din) of the Israel Council of Progressive Rabbis, halacha alone is never the determining factor. He says: "We all know that the talmudic definition of death is no longer valid, and that medical research has provided us with updated criteria."

Israel's Reform movement, says Boyden, examines the classical sources "to see if they can still speak to us today, but we recognize that the world has moved on and that the traditional sources cannot be the sole reference from which we seek guidance today. Traditional Halacha is given a vote but not a veto."

Boyden says: "Judaism considers one of the greatest mitzvot to be the preservation of life – *pikuah nefesh* – a mitzva which overrides almost all the mitzvot of the Torah. I myself carry the Adi Organization donor's card, and would encourage all Jews to do so."

For their part, Ariel's parents, Robert and Karen Avrech, emphasize that they "see no problem with harvesting organs when doctors declare brain-stem death. We are seeking two living lobar [partial lung] donors in case there is no time to wait" for a donation from a cadaver.

– Elliot Jager