

## RECENT STATEMENTS ON JEWISH MEDICAL ETHICS

IMMANUEL JAKOBOVITS

### Organ Transplants and Resuscitation

*In reply to numerous enquiries on the Jewish attitude to organic grafts, and particularly the transplants of hearts which began to be widely practised in various countries following Dr. Barnard's pioneering operations in South Africa, the Chief Rabbi issued the following statement in March 1968:*

The following are some tentative opinions on halachic considerations relevant to organ transplantations, particularly the recent heart operations in South Africa. In the absence of any published rabbinic responsa authentically ruling on these problems, the views here stated are purely personal conclusions based on the sources and principles known to me. As such, they cannot be applied in practice without endorsement by leading Rabbinical sages to whom all individual cases should be submitted for reliable judgement.

1. There appears to be no halachic objection in principle to the transplantation of any organ, including the heart. Since the heart serves merely as a pump to activate the circulation of the blood, its heterogeneous replacement is clearly of far less physiological

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*Rabbi Dr. Immanuel Jakobovits is the Chief Rabbi of the British Commonwealth. For many years, Rabbi Jakobovits served as the spiritual leader of the "Fifth Avenue Synagogue" and was closely affiliated with the Association of Orthodox Jewish Scientists for whom he lectured and served as Rabbinic consultant on medical ethical matters. Rabbi Jakobovits authored the classic text Jewish Medical Ethics as well as Journal of a Rabbi, Jewish Law Faces Modern Problems and Order of the Jewish Marriage Service, in addition to numerous articles in the scientific and Jewish literatures, mostly dealing with Jewish medical ethics, a subject concerning which he is a recognized authority.*

*We are indeed privileged to publish Rabbi Jakobovits' article entitled "Recent Statements on Jewish Medical Ethics". This article is an edited collection of some public statements, press releases and letters by the Chief Rabbi on the Jewish attitude to moral and religious problems raised by modern medical advances. Some of the material included here has not been previously published. The views expressed, although invariably based on the sources of Jewish law, represent personal opinions rather than formal rulings, unless otherwise stated.*

significance than the transfusion of blood itself against which no halachic objection has ever been raised.

2. The sole consideration justifying the removal of an organ from the dead is the immediate prospect of thereby saving a human life. Technically this also includes the restoration or preservation of eye-sight; hence the principles here listed are applicable to corneal transplants, too.
3. Under no circumstances may any incision for the removal of an organ from the donor be carried out until death has been definitely established. No life may be saved at the expense of another life, in whatever lingering state of animation. Nor may anything be done to hasten the donor's death by artificial means.
4. Far more complex, and halachically still moot, is the question of the legality of suspending treatment, including resuscitation or other "heroic" methods to maintain life. I share the view of several authorities who hold that such methods should be applied only if there is any hope, however slim, that the patient may eventually recover or at least maintain his life without artificial aids. In that event, it would be a mortal offence to withhold or suspend resuscitation efforts. But if impending death is certain, e.g. through the destruction of vital organs, and the resuscitation is not expected to prolong life by more than, say, a few hours, I can see no argument in Jewish law to make such action imperative. In such a case, it may in fact be morally wrong temporarily to apply resuscitation for the sole purpose of extending the life of the patient sufficiently to enable another patient to receive an organ while it can still be revitalised. Such action would subject the life of the donor to entirely arbitrary manipulation and therefore constitute a highly questionable interference with his rights and dignity.
5. Also difficult to resolve is the general question how far the life of the recipient may be risked by operations which are, as has been shown, still very much in the experimental stage. In general, the halacha permits a doubtful treatment or medication to prevent certain death at a later stage, even if there is a grave risk that such treatment or medication may prove fatal, so long as there is some reasonable hope that the cure may prove successful in preserving the life of the patient. This consideration would certainly seem to justify the heart operations so far performed. But should the number of fatalities further increase it may be doubtful whether such operations should be continued without further research and experimentation on animals.
6. The transplanted heart, or any other grafted organ, becomes an

integral part of the recipient, to be treated as part of his own body in life as in death, when it must be buried with him.

7. Whether, and to what extent, a living donor may endanger his life or health to supply a "spare" organ to a recipient whose life would thereby be saved is again difficult to determine in general terms. It would seem that the probability of saving the recipient's life would always have to be substantially greater than the risk to the donor's life, since one may under no circumstances sacrifice one life, including one's own, to preserve another.

For some of the sources bearing on the subject, see my *Jewish Medical Ethics* and my *Journal of a Rabbi* (especially pp. 159-160).

### **Definition of Death**

*The following interview was submitted to the "Daily Express" by its Science Correspondent and published in abbreviated form on May 31st 1969:*

The Chief Rabbi yesterday joined in the controversy surrounding heart transplants by putting forward a surprising new suggestion for allaying public anxiety.

Two independent laymen should give evidence that spontaneous life has ceased before a patient's heart is used for a transplant, he said.

At the moment, it is accepted practice that two doctors who are not concerned with a transplant team should certify that the patient has died before organs are removed.

But Dr. Immanuel Jakobovits, the Chief Rabbi, said yesterday in answer to questions that this is not sufficient safeguard for the public and he urged that two independent non-medical men should also be present to witness that the patient does not breathe spontaneously.

"I am not saying that I don't accept the doctors' word for it, but the additional evidence of two non-doctors would help to reassure the public, especially in an area as sacred as human life", he told me yesterday.

"I would suggest that these men might perhaps be judges or J.P.'s or drawn from religion. They would be people who would not utilise solely medical criteria but would serve as moral or legal experts," he said.

"I feel very uneasy about this problem and have given a great deal of thought to it. I put this idea up, not as a direct precursor for legislation, but as a tentative suggestion as a contribution to the discussion.

There have been allegations of abuses of heart transplant donors in certain countries. I believe an abuse was alleged to have occurred in South Africa, and in South America there were one or two cases where serious allegations were made".

He turned down the idea of having a legal definition of death. "There

are both moral and technical reasons for not defining death at this stage of uncertainty. Medical knowledge is not sufficient yet to enable us to define death with precision and there are religious objections, too".

He gave three main reasons why an exact legal definition was fraught with dangers:

1. Life has an intrinsic value which transcends consciousness. "I am bound to preserve life, cherish it and regard it as sacred independently of the degree of consciousness of the individual. After all, one is unconscious when one is asleep but one is not dead."
2. Mistakes can occur. "Doctors may believe a patient has irreversible brain damage which may in fact not be irreversible."
3. Too precise a definition of death might be abused. And this is where the two independent laymen come in. Their eye-witness accounts showing that the patient does not breathe spontaneously when the respirator is switched off would be an added safeguard against abuse.

Dr. Jakobovits also urged that consent from donors' relatives should be free and informed. "The shot-gun tactics which have been alleged are a very grave matter. It is unethical for relatives having to make this decision under duress," he added.

### **Test-Tube Babies and Medical Experimentation on Humans**

*Proposals for the generation of human life in test-tubes and the use of "host mothers" as human "incubators" to carry the fertilised egg of other women to term provoked widespread public discussion in March 1970. The Chief Rabbi outlined Judaism's views in a statement which received considerable prominence in the media and the national press:*

The latest experiments in test-tube germination are essentially a development of artificial insemination pioneered many years ago. In considerable discussions among rabbinic authorities, it is generally accepted that Jewish law views artificial insemination leniently and with compassionate understanding, provided that fertilisation is by the husband (AIH) and certain safeguards are assured.

Artificial insemination utilising an outside donor (AID) is, however, considered to pose grave moral problems. Such operations, even if they may not technically constitute adultery, would completely disrupt the family relationship. Moreover, a child so conceived would be denied its birth-right to have a father and other relations who can be identified. Altogether, to reduce human generation to "stud-farming" methods would