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Health

How Judaism's definition of death can boost organ donations

By Lipika Pelham
Heart and Soul

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When Robert Berman, an Orthodox Jew from the US, settled in Jerusalem, he was not prepared for the strong resistance to his argument for organ donation from some sections of the society.

To advance his cause he has had to engage in the **most profound and tricky discussions on religion and death**.

Many Orthodox rabbis have described the act of taking organs from a brain-dead person as retzicha - tantamount to murder.

This view is also supported by some non-religious Jews who have been brought up with the tradition of protecting the wholeness of the human body.

In the modern Jewish state of Israel, this remains a controversial and emotive topic.

The country has one of the world's most sophisticated medical systems but a decade ago it was expelled from the European Union donor scheme for taking organs but not providing many. Only 3% of the population had donor cards.



A religious Jew leads his life according to the rules - known as the halacha - that are laid out by the Talmud.

As head of the Halachic Organ Donor Society, Robert Berman argues that organ donation is permissible under Talmudic law.

In a busy cafe in West Jerusalem, Mr Berman tells me he is often shocked to hear the views of more liberal sections of society.

"I went over to an Israeli at a McDonald's who had a tattoo on his shoulder, which is forbidden by Jewish law. He was eating a cheeseburger, which is forbidden.

"I asked, 'Do you have an organ donor card?' He said no, because Jewish law doesn't allow for it. I said, 'You don't seem to care about Jewish law,' so he said, 'When it comes to death, I do!'"

The faith in the resurrection of the dead - known in Hebrew as *Techiat Hamaytim* - may have contributed to the traditional belief that the body must be buried whole, with all the organs intact, says Mr Berman.

"A lot of people say, 'Well, we need our organs for the resurrection.' And my response is, it's theologically problematic that God wants to resurrect six million Jews who were cremated in the Holocaust and he can't - does that make any sense?"



Mr Berman started searching in the Torah and the Talmud for directions with which to convince a sceptical population.

"Three biblical prohibitions in the Torah basically say that you cannot mutilate a corpse, delay burial of a corpse, or get benefit from a corpse. When you donate organs, you're doing all three, right?"

He decided to use a piece of ancient oral law, which says if a person's head is severed from his body, he is dead, explaining to people that being brain dead was effectively equivalent to having been decapitated.

Last breath

So it all comes down to when, according to the religion, a person could be certified dead.

Traditionally, rabbis came to the deathbed of a person and held a feather or a mirror next to the nostrils to make sure the last breath had departed the body.

Yitzhak Gispán, an Orthodox Jew of Yemeni origin, shares with me a story about his mother, Batia, who came to Jerusalem from Sanaa in 1949.



"My mother nearly died in Yemen. The rabbi came with a feather to see if she was breathing. It was Friday - her parents wanted to bury her quickly before Shabbat and brought the gravediggers.

"Eventually she opened her eyes and saw the light of the candles. She told her parents she heard everything they were saying. They were preparing a funeral for her, digging a grave!"

The definition of death, however, is changing rapidly in Israel, says Jacob Lavee, president of the Israel Transplantation Society and director of the heart transplant department in Tel Ha Shomer hospital near Tel Aviv.

He is one of the pioneers pushing forward the 2008 legislation, known as the Brain Circulatory Death law, under which a brain-dead person is legally and clinically dead.

"[It] accepts the idea of brain death specifically, and the law has been accepted by the parliament. It has been endorsed both by the medical community and the Chief Rabbinate in Israel."

As an incentive, under the law people are granted priority for an organ transplant if they had signed up for a donor card three years before joining the waiting list.

This has helped raise the number of organ donors in Israel from 3% to 15%.

And the number of Israelis perishing every year waiting for organs has fallen from 120 to 80.

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