



Bioethics Review

The Scholl Institute is a nonprofit, Judeo-Christian organization that addresses bioethical issues including euthanasia, (physician-assisted-suicide) the withholding or withdrawing of food and water from non-dying patients, brain death, organ transplantation, genetic engineering, and rights of disabled or mentally ill persons.

MORAL PROBLEMS ASSOCIATED WITH ORGAN TRANSPLANTS

by Rabbi Louis J. Feldman, Ph.D.

Organs for transplants are obtained from living donors and from cadaveric donors. Each of these sources carries unique moral problems. The category of living donors has a spectrum that ranges from the most praiseworthy selflessness to abject evil. Let us assume that a young woman is dying from kidney disease. Her mother, who is an appropriate match, offers the daughter her kidney in order to give her daughter more time in the world of the living. This is the ultimate act of parental love and caring!

Contrast this with India, where the poor serve as organ farms for the rich. One third of the population of India lives in hopeless poverty. Extreme financial desperation often drives people in India to sell their organs, thus earning for India the cynical appellations “warehouse for kidneys” or “great organ bazaar”. This is morally repugnant to the civilized world and countries such as the United States have strict laws against living people selling bodily organs.

It is true that desperate people in the United States often sell their blood for money. The difference in this case is that blood can be replaced, a kidney cannot be replaced. Furthermore, this practice of selling one’s blood carries serious risks with it. Therefore, we are constantly in search of alternatives. Others may offer the argument that inequality is a fact of life and that people should be able to sell their organs to the highest bidder. It is very true that inequality is a part of reality. When President Hourai Boumediene of Algeria was dying of Waldenström’s Disease (a rare disorder of the blood and bone marrow) in 1978 at the age of 46, over a hundred physicians from a dozen different countries rushed to Algiers to offer their services. Most of us do not get that kind of care nor would we expect it. However, even the poorest person has the right to have the integrity of his/her body and soul respected. Nobody should be put in the position of having to sell his/her bodily organs.

Nevertheless, in spite of strict laws, there is a black market in organs obtained from living donors.

Organs from cadaveric donors offer the most practical approach to public need for organs. There are over 40,000 fatal automobile accidents a year in the United States. Properly obtained organs from these motor vehicle fatalities should be sufficient to satisfy most needs. We are faced with the challenge of encouraging people to become organ donors.

However, we are faced with a very serious “slippery slope” in regard to cadaveric donations. We do not want to harvest a person’s organs unless said donor is really dead. Often, a very thin line separates a person who is still living from a cadaver. Dr. Avraham Steinberg, the Head and Director of Hadassah Hospital’s Center for Medical Ethics in Jerusalem and the author of Encyclopedia of Jewish

Medical Ethics has described, very bluntly, why this is a concern: “The chief halachic (legal) problem in heart and other organ transplants is the determination of the moment of death, for in order to improve the potential for success, the heart and other organ must be removed while the donor’s heart is still beating.” The past thirty years have been marked by a constant struggle to define precisely the moment of death.

The Harvard criteria of death, developed in 1978 posed serious dilemmas and were not practical for heart transplants. Some physicians posited that a flat electroencephalogram (EEG) is enough evidence to declare the donor dead. However, a flat EEG is not a reliable criterion for determining the death of the donor.

The EEG only shows us absence of electrical activity in the cerebral cortex. It does not mean that the entire brain is dead. There are many patients who had flat EEG patterns but managed to recover and are alive today. The “slippery slope” manifests itself in the opinions of doctors who wish to declare a person who is in a “persistent

“However, we are faced with a very serious “slippery slope” in regard to cadaveric donations. We do not want to harvest a person’s organs unless said donor is really dead. Often, a very thin line separates a person who is still living from a cadaver.”

Rabbi Feldman

vegetative state” to be legally dead. Some even want to declare a person with severe dementia dead. Where will this stop? Will the time come when people with less than a 70 I.Q. will be considered fair game for organ harvesting? Will we have a class of “inferior humans” who will serve as organ farms?

In 1986, the Israeli Commission on Transplants offered criteria for determining death utilizing the most modern, sophisticated technology known to humanity, thus creating reliable criteria for determining death.

These five conditions were presented November 3, 1986.

1. Definite knowledge of the etiology of the brain damage.
2. Complete cessation of natural respiration.
3. Detailed verification of brainstem destruction.
4. Objective and established scientific tests of brainstem destruction such as BAER (Brainstem auditory evoked responses)
5. Evidence of complete cessation of respiration and of absent brainstem function for at least 12 hours in spite of continued standard intensive care.”

Even with all this, the controversy over defining death will be with us for a long time.

Many people have signed an organ donation card and it is so indicated by the pink dot on their driver’s licenses. This is a commendable practice. However, the religious community should NOT passively surrender the stewardship of organ donations to secular forces. The input of the religious community is essential for maintaining the integrity of the system. There are religious approaches to this matter. For example, the Jewish community has the “Halachic Organ Donor Society” (HOD), which encourages people to become organ donors but makes sure that the entire process is carried out according to the highest standards of Jewish Law and Ethics.

Furthermore, a person who is at the bedside of a seriously injured relative should never be pressured, against his/her will, to sign authorization forms for organ donations.

Finally, we are left with the problem of who gets the far-too-few organs available. Society should maintain a fair and equitable system of “waiting in line” for organs and eschew utilitarian criteria for deciding who gets an organ. Granted, there are instances in which utilitarian criteria are brought into consideration in determining who gets a needed organ. For example, imagine that there is one liver available and two candidates: One is a 75-year-old alcoholic who is still drinking and one is a 35-year-old mother of three children. It is moral that the young mother be allowed to “jump the queue” and receive the liver. Also, the chances for a transplant’s success are greater if the donor and recipient are in the same hospital and the available organ does not have to be transported across the country.

However, we should endeavor to avoid using utilitarian

criteria in determining the recipient of an organ. The process of utilitarian decision making is very corruptible and leads to a moral abyss. Consider, for example, the allocation of penicillin in treating infections of soldiers in North African military hospitals during World War II. Penicillin was a new drug in very short supply. Soldiers’ infections generally came from two sources: gunshot wounds and visits to the local brothels. Heroes who were wounded in battle were allowed to die, while the soldiers with venereal disease were given the penicillin. The rationale for this is frightening: there were very serious manpower shortages. The wounded soldiers would most likely not be able to return to the battlefield, while the soldiers with venereal disease could be quickly restored to the front.

The Judeo-Christian tradition forbids us to grade life. We cannot say “This person is a brilliant science student bound for M.I.T with a promising future; he is ‘A+ life’.” This one is a very low ability person who will never be more than a janitor or a busboy, he is ‘C- life.’ The idea of grading human life in determining who gets an organ is unthinkable in the Judeo-Christian tradition.

A generation ago, an Israeli hospital was having a serious dilemma. They had only one dose of a life-saving medicine and five patients who needed the drug. The hospital staff turned to Israel’s sages seeking advice about how to determine who gets the medicine. The advice of the sages was straightforward: “Walk over to the first bed you come to and give the patient the medicine.”

Biography: Rabbi Louis J. Feldman, Ph.D. is the newest member of the board of Scholl Institute of Bioethics.

He may be contacted at 818-780-1731, theologialethic@aol.com

Education: Permanent credential for the California

Community Colleges; Ph.D in Social Ethics, emphasis on Rabbinic Literature; joint Ph.D. program at USC School of Religion and Hebrew Union College/California School; Rabbinic Ordination, Hebrew Union College/Cincinnati School

Employment: Chaplain of the Grancell Campus of the Los Angeles Jewish Home for the Aging. Retired in May 2006; instructor in Jewish Studies at Los Angeles Valley College; Principal of South Bay Hebrew High School, Long Beach, CA

Publications: “The Curse of Slavery,” The Jewish Spectator, Winter 1982, Vol. 47, No. 4, pp. 57-58.

“A Halakhic/Ethical View of Withdrawing Food and Hydration,” The Journal of Aging and Judaism, 3(4), summer 1989, pp. 191-198.

“A Halakhic/Ethical View of ‘No CPR’ Orders,” The Journal of Aging and Judaism, 4(2), Winter 1989, pp. 113-118.

WHAT TO DO? You want to help someone but you want to be sure that you are really dead before any organ is removed. One suggestion is to not sign any permission form on your license but talk it over with a trusted relative and ask them to donate your organs. Rabbi Feldman suggests: A religious person can protect himself/herself by simply adding a line to the form on the back of the driver’s license “...with the approval of my clergy person” and give their number. 9/07