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'Buying kidneys is only odious to those who don't need them'

The death of 38-year-old Oren Azarya at Beilinson Hospital in Petah Tikvah on September 12, a few hours after undergoing surgery to remove a kidney he was donating for a transplant, raises a number of acute ethical dilemmas: Should live donors be encouraged to donate organs despite the risks involved? Should donors be paid? How should the severe shortage of organs for lifesaving transplants worldwide be addressed? What does Jewish law, halakhah, say?

Azarya may have died because he was being illegally paid for the organ. He insisted on going through with the procedure, although a previous attempt to remove the kidney was aborted when he showed signs of weakness. Robert Berman, founder and director of the New York-based Halachic Organ Donor Society (www.hods.org), insists that the problem is not payment for organs, but the fact that such payments today are illegal. Indeed, he argues that legalizing payment to live donors for their organs would actually make organ donations safer and reduce the imbalance between supply and demand.

Berman set up HODS three and a half years ago to convince Jews that halakhah not only allows organ donation, but considers it a mitzvah. Since then he has managed to persuade about 2,000 Orthodox Jews, including over 100 rabbis, to carry organ donor cards. Last September HODS, a strategic partner with the Israel Transplant Center, located Eric Swim, the Kansas man whose kidney donation saved the life of 10-year-old Moshiko Sharon of Moshav Hodayah.

In a telephone conversation from New York, Berman maintains that the real problem is that people are dying for lack of organs available for lifesaving transplants.

The Jerusalem Report: Why do you think legalizing the sale of organs would help?

Robert Berman: First of all, there's the simple question of supply and demand. One of the most powerful ways of increasing supply is by giving people money and incentivizing them to donate. Secondly, the illegal purchase of organs today is similar to the abortions of yesteryear. Even though abortions were illegal, that didn't mean they stopped. They were carried out in dark rooms with coat-hangers, and people died. That's the equivalent of what's going on today with organs.

How rife is the illegal trade in human organs?

Israeli doctors are arrested every year in places like China, Turkey, Bolivia and South Africa for doing this. And it's going to continue, because people's lives are on the line. Who's to say what you or I would do if we needed a kidney and our only option was to purchase one illegally? It's hypocritical to forbid the purchasing of organs in the name of higher ethics, when it results in people dying.

COURTESY ROBERT BERMAN



Legalizing the purchase of organs will increase supply and avoid unnecessary deaths, argues Robert Berman, founder of the Halachic Organ Donor Society

How might legalization of payment have helped in Azarya's case?

The fact that the donor who died in Israel was paid for his kidney did not cause him to die. But because the payment was illegal, he may have hidden details of his prior condition so he could go ahead and get the money. If payment were legalized, there would be a lot of people lining up to donate kidneys, and doctors could do proper medical checks and screenings and select only people in perfect health. They would have many more donors to choose from, and they would select only the healthiest people.

What does the halakhah say about paying for organs?

Three former chief rabbis have ruled that getting paid for an organ is not unethical. They argue that saving life is a good deed, and if you get paid for it, that doesn't diminish the ethical quality of the deed. If a doctor resuscitates me and saves my life in the emergency ward, we wouldn't say his act is any less ethical because

he gets a paycheck.

Wouldn't it be a case of wealthy would-be recipients buying body parts from the less well-off?

If a poor person can't afford to put his kids through school or pay the rent, and they decide they want to sell their kidney, they should be allowed to do it. At the moment, because it's illegal, the middlemen pick up most of the money. Ironically, the ban on purchasing organs also allows for discrimination against the poor. Because of the people who need kidneys, only the wealthy can afford to buy them on the black market. It is the poor who can't and die.

Some people find it objectionable to sell human organs because it makes a commodity of the human body.

But that already exists. Men sell sperm, women sell eggs and hair, and even rent out their wombs. And it's not the upper class who is doing this, it's the lower class. Yet people aren't screaming it's unethical. Buying kidneys is only morally odious to those who don't need them to live.

What about the risk to live donors?

The risk with regard to kidneys is medically acceptable. The risk of the surgery is so small that the medical profession allows a person to walk into a clinic and altruistically donate his kidney for no money. Even assuming there is an element of risk, that doesn't make organ donations unethical. Society often offers incentives to people who take risks, and it compensates them. People who take risks building bridges and tunnels, firemen, bomb disposal experts, journalists in war zones all get hazard pay.

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