

**GIVING FOR LIFE**  
**Kol Nidre 5770**  
**a sermon by Rabbi Gary M. Bretton-Granatoor**  
**Congregation Da'at Elohim-Temple of Universal Judaism**

In the midst of the past scandal-plagued year, one accusation was so profoundly disturbing – it was that the war in Gaza was waged in part to obtain human organs for donations. While this accusation shook the very foundations of credulity, how much the more so when we learn of the arrest of a rabbi for brokering the sale of kidneys on the black market and arranging for poor Israelis to be flown to the US to receive compensation for their kidneys going wealthy organ recipients, who paid 15 times the amount paid to the donor.

There is no question that the need for human organs for transplantation has grown exponentially as medical science has made these procedures more routine and efficacious.

**Organ Donation Statistics**

- Almost 100,000 men, women and children currently need life-saving organ transplants.
- Every 12 minutes another name is added to the national organ transplant waiting list.
- An average of 18 people die each day from the lack of available organs for transplant.
- Approximately 30,000 organ transplants take place in the U.S. each year.
- Approximately 1,000,000 tissue transplants are performed annually.
- According to research, 98% of all adults have heard about organ donation and 86% have heard of tissue donation.

Despite these figures, many – especially in the Jewish community – remain reticent to become organ or tissue donors. Many think that it is against Jewish law and few stop to do the simple things that ensure that another needy person might have a chance at a prolonged life should you be willing – or unfortunately, able – to be a donor.

Those who follow pop-culture and modern technology know the concern that was raised when Steve Jobs, head of Apple and the ubiquitous symbol of the upstart company, went missing at several important stockholder meetings. Rumours were

leaked about his state of health. Then, it was announced that he was returning to active participation in the life of the company after he was able to secure a liver transplant.

From a CNN report we learn:

“The surgery took place at a hospital in Tennessee, some 2,000 miles from Jobs' home in northern California. Why Tennessee? The answer sheds light on the intricacies of the organ transplant system, as well as why it's sometimes easier for people with significant financial resources to get an organ transplant. (Jobs' estimated net worth: \$5.7 billion.) No one can actually buy an organ in the United States (legally, that is). But getting a liver transplant, it turns out, is a lot like getting into college. Once you're on the waiting list, your chances of getting off it depend largely on your personal circumstances -- how sick you are and whether you are a good donor match. But getting on the list in the first place -- or on more than one list, as the case may be -- requires resources and know-how that most people don't have.... There are 127 centers in the U.S. that perform liver transplants. If you need an organ transplant, your doctor will refer you to one of these centers, where you will be evaluated, given a score based on the severity of illness, and placed on the center's waiting list, if you are indeed a candidate for transplant. The center's waiting list feeds into a national database managed by the United Network for Organ Sharing (UNOS), a nonprofit organization that contracts with the federal government to manage the nation's organ transplant system. UNOS works with 58 organ procurement organizations (OPOs) that coordinate organ distribution in their region of the country. When an organ becomes available, the OPO in that region searches the UNOS database for a local match using blood type (and other biological considerations), the patient's severity score, and the time spent on the waiting list. If a match can't be made within that region, the organization expands its search to neighboring regions. The problem -- or the advantage for some patients -- is that not all OPOs are created equal. Some regions contain nearly 15 times as many people as others, and their waiting list times vary widely. Patients in the smaller OPOs tend to be less sick and experience shorter wait times before getting an organ. In the Tennessee OPO where Jobs received his transplant, the median wait for a liver between 2002 and 2007 was just over four months. The national average was just over a year, and in some OPOs it was more than three years. Since 2003, UNOS has required that transplant centers inform all candidates that they can be evaluated and listed at more than one center, and that they can also transfer their care from one center to another without losing the time they have accrued on the waiting list. However, not everyone can afford to fly around the country and be evaluated at more than one transplant center. In fact, many people can't afford a liver transplant, period. According to the most recent estimates, the cost of a liver transplant is \$519,600 -- a price tag that excludes roughly one-third of Americans because they don't have sufficient insurance (or any insurance).... Some insurance companies won't cover evaluations at multiple transplant centers, Paschke explains,

and in at least one case, an insurance company has restricted its coverage to a single transplant center that the company itself owned... For most people, the ability to pay is a precondition for acceptance at more than one transplant center. Wealthy people who are, in effect, financially "pre-approved" for a liver transplant, can shop around and identify the transplant centers that will give them the best chance of receiving a new organ."

I find it remarkable that when I encounter even the most peripherally-affiliated or unaffiliated Jews and raise the issue of organ donation, their response is that Jewish law dictates that one can't be an organ donor. Therefore, they feel no compulsion to register themselves. I have a problem with those who in no other aspect of their lives find Jewish law compelling, except in this one instance. It is more problematic that this is a complete misunderstanding and misrepresentation of Jewish law and, ultimately, human beings who are suffering pay the price for this misunderstanding.

Let us look at the law itself. In the early rabbinic period there was great concern that the sanctity of the human person be preserved in life and especially in death. Romans regularly desecrated corpses in order to insult those they had oppressed. That concept, coupled with a strong messianic eschatology which gave hope to those who lived, by promising bodily resurrection, required the rabbis to rule that nothing could be done to remove parts of a body. This was out of fear that when the messiah came and bodily resurrection occurred, one might be resurrected without the necessary parts to sustain life. These two notions formed the basis of the decision, in the early rabbinic period, that under most circumstances one could do nothing after death to disturb a body. However, there are inklings that the rabbis were concerned about learning how the body functioned in order to save lives; because even more important, was the concept of *pikuach nefesh* -- the saving of a life. There are early rabbinic examples of leniency when requests were made to open up a body to see how a person died, or to learn how the body itself functioned. This rabbinic law formed the moral basis upon which Jewish practice would be guided. Yet it was in the 18th century when Rabbi Ezekiel Landau was asked to rule on a case in which a patient died from unsuccessful surgery to correct a bladder condition. The question was raised as to whether the doctors could reopen the body at the site of the operation to see what could be done in future cases. Landau's response was that autopsy constitutes desecration of the dead but it would be permissible to save the life of a person who is immediately present with the same problem. Landau introduced a fascinating concept known by the Hebrew *lifanainu*, which means "immediately before us."

Landau did not want to encourage wholesale autopsies. He specified that at all times we should care about the way we treat one who was once alive. But if

there was somebody who was immediately the beneficiary of knowledge, lifanainu -- somebody who is immediately present before us -- then it would be permissible to do anything necessary in order to save that life. In the case that Landau was ruling on there was nobody who would immediately benefit from the results of the autopsy. However, his principle remains in force to this very day.

In 1947, when Hadassah Hospital was set up in the theocratic state of Palestine, there was a great debate among the chief rabbis as to whether or not autopsies would be permitted under any circumstances at Hadassah Hospital. The ruling of Chief Rabbis Herzog and Frank was that one could perform an autopsy if it were required by law or if the cause of death could not be determined, or if it would save a life or finally, in the case of genetic or inherited disease, which would benefit the family. Even the most stringent orthodox authorities, though opposed to the application of an autopsy in principle, would permit it if there was somebody who would immediately benefit, for pikuach nefesh -- the saving of a life -- overrides the law of the prohibition of the desecration of the dead.

Interestingly enough, the earliest kinds of organ transplants that were medically feasible also raised considerable Jewish legal concern. In the middle of this century, the first kinds of organs that could be donated were corneas. Chief Rabbi Untermann allowed that it was permissible to remove a cornea for future transplant under the principle of pikuach nefesh -- the saving of a life. Most rabbinic decisors questioned the idea that a corneal transplant would be saving a life. He responded, quoting from the Talmud, that if one's eyes were damaged it is permissible to treat them even on the Shabbat as eyes are connected to the heart.

As modern medical techniques improved, and individuals could benefit from organ transplants, halachic authorities, when questioned, often found ways around the law in specific circumstances. However, if we go back to the original principle of lifanainu -- that one must be immediately present before us in order to benefit -- one need only look at modern technological innovations such as fax machines, computers and air transport which could race donated organs from one side of the world to the other in the time that it might have taken to walk from one side of town to another. Ultimately, those who profess a prohibition against organ donations based upon Jewish law don't understand Jewish law at all.

It was fourteen years ago that Elisa Flatow, a Brandeis University Junior went to Jerusalem to study. Unfortunately, on her way to a settlement a suicide bomber drove into her bus, killing a number of passengers and Israeli soldiers. Elisa, herself was close to death. When her father, Stephen, arrived in Beersheva, Elisa was declared brain dead. The hospital staff asked if he would be willing to donate his daughter's organs. In consultation with Rabbi Moshe Tendler of Yeshiva University here in New York -- a well-known orthodox legal authority, it was

decided that her organs could go to six people on various waiting lists who were waiting for donor organs.

Perhaps the most poignant response to this situation was that of the late Prime Minister Yitzak Rabin, when he told an American Jewish audience that Elisa Flatow's heart still beats in Jerusalem, for her heart gave another person a second chance at life.

In the intervening fourteen years, even orthodox authorities in the US and especially in Israel have changed their views on the point of death (in case there are those who believe that orthodox law can not ever change – it can – it just takes longer). The question of transplantation often centers on when “death” can be declared. For most of the past debate, Jewish law said that death occurs when the heart ceases to beat – this is often too late to begin the process of harvesting viable organs. Just this past month, Orthodox leaders in Israel have agreed that “brain death” can be a determining factor – and thus, even within the Orthodox community there is a more open acceptance of the need to save lives through donation.

According to the United Network of Organ Sharing, based Richmond, Virginia, there are currently over 103,935 (as of Sept 24, 2009) people who are awaiting donor organs as their only chance at life.

On Rosh Hashana and Yom Kippur we gather together and intone the words of that prayer written by Rabbi Amnon of Mayence known as U'natana tokef. It is so very difficult to read the words "on Rosh Hashana it is written and on Yom Kippur it is sealed: who shall live and who shall die, who shall live out the limit of one's days and who shall not" knowing that even though fate plays a large role, ultimately we can too. By our decision to bring forth life even from our death, we too can help temper judgment's severe decree. With our lives we can give life when our own life might cease.

We read in the earliest chapters of the book of Genesis that God created humanity in God's own image. The image of God portrayed in those chapters is God-As-Creator. We were created to be creators -- God's partners in the world of completing and perfecting this world. If that is true -- and I believe that it is -- then we must take seriously our charge as creators. To be a creator is to be a protector and sustainer of life.

Tonight, with the stirring sounds of Kol Nidre still ringing in our ears and resonating in our souls, we call to mind promises long forgotten and unfulfilled. We pray to be released from the burdens of our own human inadequacies -- our failures

to live up to promises we made. Yet, we have a new year ahead to try to live up to the expectations of our higher selves. We can make promises and we can offer hope.

Tomorrow afternoon, as the day grows long, we will gather together for our Yizkor service. That is a time that we gather as a community and remember those who have gone before us. It is a time when we say Kaddish for those who once stood among us and with their lives said to us, "remember me." And yet when we are confronted with those harsh realities of love and loss it is impossible not to wonder in those moments of silence, who will be there for us one day. Who will remember me when I am no longer here? Yet with one simple act, with a promise for tomorrow not only can we live in the acts that we perform here in our lifetime, but we can give life to those who stare death in the face.

Tomorrow afternoon we will give life by taking the food that we have collected and bring it to the Yorkville Common Pantry --feeding those for whom the next meal is a question mark. And on your way out stop by our Social Action table. On that table you will find organ donor cards and information for you to take with you. I would beg you, for the 100,000 people who are currently awaiting organs and for the countless others whose names will be added to those lists, please fill out those forms. In doing so you will be doing the highest of Jewish duties -- you will be helping to realize pikuach nefesh -- the saving of a life. With your life, you can give life.

In this New Year, may our lives be sweet and healthy and may we be able to find ways to make our acts and our deeds live on beyond our own days.