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### Brain Stem Death and Judaism: The Need to Revise the Halachic Definition of Death

The fundamental covenant of the Jewish faith contains the Sixth Commandment, which commands us not to murder. This reflects the belief and teaching that life is infinitely valuable and our greatest gift. Since life is essentially the core of our existence and therefore is a matter of the utmost importance, it is understandable that issues concerning death arouse controversial discussion. In light of recent medical developments, the particular question of what physiologically constitutes death is crucial. This exponential increase in knowledge and technology in the past few years now presents the Jewish community with a unique instance: that of brain-stem death. In Judaism, the presiding standard of death is when the heart ceases to beat. However, this definition existed long before the days of modern day medicine and science. As we know more and society continues to progress, Judaism must incorporate this knowledge and adapt accordingly. Old scriptures and interpretations can invariably be convincingly argued either way, but modern facts are irrefutable and the logic that follows from them is persuasive. The emerging scientific evidence and philosophical correlations clearly indicate that brain stem death should become a standard for death according to Judaism.

The current definition of “death” in the medical profession, as well as the vast majority of United States state legislatures and courts, is a “composite one: death is deemed to occur when there is either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain including the brain

stem” (Breitowitz Spring 1992 122). The first part is consistent with the halachic definition of death. The second part describes brain stem death.

Brain stem death deals with the part of the brain consisting of the midbrain, pons, and medulla. It is located at the base of the brain and performs the body’s basic functions, like respiration and various reflexes. Other major parts of the brain include the cerebrum and cerebellum, which is significant because one of these parts may be dysfunctional while still allowing for life. For example, people in comas and vegetative states are very much alive and can make a recovery. On the other hand, because of the nature of the basic functions performed by the brain stem, this is not the case in brain stem death. Once the brain stem is destroyed, the damage is irreversible, and a consequence of this is that it renders the patient unable to spontaneously respire, resulting in the cessation of the heartbeat. This is because the heart needs oxygen, and without oxygen it will simply stop beating. Therefore, “unless the patient is hooked up to a breathing apparatus, destruction of the brain stem will inevitably lead to cardiac cessation” (123).

Again, cardiac cessation is the halachic definition of death. If brain stem death is inevitable halachically-defined death, that in and of itself does not prove itself as death. Inevitable death is not death, especially if the person is hooked up to a respirator and a life support system – unless we look at how “death” is defined. The heart is a muscle, and we are made of blood and bones. But is this life? It’s not a far stretch to claim that this is not life. The body is a mechanical system that runs like machinery. If one were to theoretically take a corpse and reconstruct the circulatory system with a transplanted heart and a respirator so that the heart beats, this undeniably would not be considered life. It is simply a machine. The miracle of life comes from somewhere else. Judaism says that

we have a part of G-d within us, and that is our soul. Souls are immortal; when we die, Judaism says the piece of G-d within us rejoins G-d. There would be no way to tell the instant that a piece of G-d leaves a human though. But it may be claimed that the human consciousness is a manifestation of our soul. Our consciousness is our essence; it holds our memories, aspirations, thoughts, and questions. It is what makes us, for lack of a better term, us. Everyone's brain anatomy is the same, and all brains work the same way. But every consciousness is utterly unique. Perhaps it is that in the absence of the human consciousness, there is no life. In brain stem death, consciousness is absent. The body is much like theoretical reconstructed corpse – it is a machine going through the motions even though it is an empty shell. This image is further supported with an examination of how decapitation is looked upon in Judaism. Decapitation is “an incontrovertible state of halachic death,” so there is no controversy surrounding the statement that decapitation is death (Breitowitz Summer 1992 78). Interestingly, an experiment known as the Sheep Study was performed, in which a sheep was decapitated. After the decapitation, the sheep's heart continued to maintain a normal beat, without the loss of blood pressure (78). The heartbeat does not represent a sign of life here, for the halachic statement that decapitation is death means that the sheep definitely is to be considered dead. In an analogous manner, some claim brain stem death to be a physiological decapitation, since blood no longer flows to the brain, like typical decapitation (Jachter 23 Feb. 2008). Indeed, the Sheep Study is not unlike a theoretical reconstructed corpse or a brain stem dead patient hooked up to an artificial respirator. Whether physical or physiological decapitation, there is no blood flowing to the brain, and so the halachic definition of death should apply to both.

Now that we are aware of the phenomenon of brain stem death, Judaism should adapt to reflect the new knowledge. But it is important to do so not only because the science and logic are convincing, but also because two primary benefits of officially joining the medical and legal fields and declaring brain stem death to be death are monumentally rewarding: the issues of organ harvesting and of allocating resources. Concerning both of these matters is “the principle of *ain dochin nefesh mipnei nefesh*, that one life may not be set aside to ensure another life” (Breitowitz Spring 1992 131). At the same time, saving a life is a *mitzvah* of the highest order. Redefining brain stem death to be synonymous with death means that the above principle is not violated and, at the same time, allows a person to complete the ultimate final *mitzvah* (131). In terms of organ harvesting, organs are only suitable for transplantation if they have been removed while the heart is still beating, because they must remain exposed to the oxygen carried in the blood. Otherwise, rapid tissue degeneration makes organs unusable. In brain stem death, the heart beats on, meaning that Jewish brain stem dead patients still may have their organs donated if that was their wish. Such an honorable, heroic action should not be prevented by a failure to update Jewish definitions. Additionally, even if a patient expressed no desire to donate organs, the blunt truth is that medical resources are scarce and expensive. In cases involving triage, a patient that could make complete recovery with a respirator would be considered a priority patient over one who was brain stem dead and was administered the respirator that was needed for the other patient’s survival. If brain stem death was formally considered death in Judaism, if this brain dead patient was Jewish, they would be dead and no longer would need the respirator, meaning that it could be used to save the other patient’s life (122). The value in this is incalculable.

All in all, Judaism places great value upon life and so it follows that it is both moral and ethical for a brain stem dead patient, being dead, to sustain life through either organ donation or the more indirect means of making more resources available for the living. Meanwhile, the scientific evidence for brain stem death is conclusive and logical arguments in its favor are persuasive. It is fully necessary for the acceptance of brain stem death as death itself to become incorporated into the Jewish definition, for Judaism must adapt as we learn more about the phenomena that occur in the great gift of life.

#### Works Cited

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