

# Haftarat Vayeira: The Resuscitation of Halakhah: An Animated Discussion

In the *haftarah* of *Vayeira* we find the story of the Shunamite woman whose kindness towards the prophet Elisha is rewarded with a son.<sup>97</sup> When this son, however, falls ill and dies, the Shunamite woman frantically runs to Elisha for assistance. The ensuing events – Elisha prostrating himself on top of the boy, placing his mouth, eyes, and palms on the corresponding parts of the boy, and the boy's subsequent awakening – are reminiscent of modern day cardio-pulmonary resuscitation. There is a very similar episode of resuscitation performed by Eliyahu, Elisha's predecessor,<sup>98</sup> who revived the son of the Tzarfatit woman.

Rich and varied is the literature relating to the resuscitation episodes in *Tanakh* performed by Eliyahu and Elisha. These passages have received ample treatment in the medical literature,<sup>99</sup> in the medical historical literature<sup>100</sup> and in the Bible studies literature.<sup>101</sup> They are also part of broader discussions including other incidents of resuscitation from death or near death in rabbinic literature.<sup>102</sup> One area that has not been fully explored, however, is the use of

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<sup>97</sup>. *Melakhim Bet* 4:1–37.

<sup>98</sup>. *Melakhim Bet* 17:1.

<sup>99</sup>. The medical literature addresses two distinct, though related issues – the nature of the resuscitation and its relationship to modern day cardio-pulmonary resuscitation; and the specific medical cause of death of the young children, specifically the Shunamite child (as more information is provided about his condition in the text). See H. Karplus, "Suspended Animation and Resuscitation: A Historical Review in Light of Experimental Hypothermia," *Journal of Forensic Medicine* 13 (1966), 68–74; F. Rosner, "Artificial Respiration in Biblical Times," *New York State Journal of Medicine* 69:8 (April 15, 1969), 1104–05; Z. Rosen, "Resuscitation in the Bible," [Hebrew] *Ha-Refuah* 79 (1970), 27–28; Z. Rosen, "Rhinological Aspects of Biblical Resuscitation," *Archives of Otolaryngology* 95:5 (May, 1972), 488–89; L.J. Hurwitz, "A Neurologist's Anecdotes and the Bible," *Practitioner* 206 (1971), 287–292; Z. Rosen and J. Davidson, "Respiratory Resuscitation in Ancient Hebrew Sources," *Anesthesia and Analgesia* 51:4 (July–August, 1972), 502–05; L. Wislicki, "A Biblical Case of Hypothermia-Resuscitation by Rewarming (Elisha's Method)," *Clio Medica* 9:3 (September, 1974), 213–14; R.B. Howard, "...And There is Nothing New Under the Sun," *Postgraduate Medicine* 65:3 (March, 1979), 25; J.H. Comroe, Jr., "...In Comes the Good Air," *American Review of Respiratory Diseases* 119:6 (June, 1979), 1025–31; S. Abraham, "Artificial Respiration in *Tanakh*," (Hebrew) *Ha-Ma'ayan* 28:3(Nisan, 5748), 72–76; J.M. Fisher, "The Resuscitation Greats: The Earliest Records," *Resuscitation* 44 (2000), 79–80.

The proposed medical diagnoses for the Shunamite child have included hypothermia, heat stroke, and subarachnoid hemorrhage. Of note, a passage in the *Talmud Yerushalmi*, chapter 15, 14:4, suggests the cause of death to be heat stroke. See *Korban Ha-Edah*, ad. loc.

<sup>100</sup>. See A. Barrington Baker, "Artificial Respiration: The History of an Idea," *Medical History* 15 (1971), 336–351; J.A. Paraskos, "Biblical Accounts of Resuscitation," *Journal of the History of Medicine and Allied Sciences* 47:3 (July, 1992), 310–21, who discusses episodes of resuscitation in other ancient literatures, in addition to the episodes of Eliyahu and Elisha. See also E. Reichman, "The Incorporation of Early Scientific Theories into Rabbinic Literature: The Case of Innate Heat," *The Torah U'Madda Journal* 8 (1998–1999), 181–99, where I discuss how the Medieval Biblical commentators' interpretation of these episodes was influenced by the contemporaneous understanding of cardiac and respiratory physiology.

<sup>101</sup>. E. Samet, "'The Double Embrace' – The Story of Elisha and the Shunamite Woman," [Hebrew] *Megadim* 13 (5751), 73–95. M. Sabato takes issue with Samet's approach in his, "The Story of the Shunamite," [Hebrew] *Megadim* 15 (5752), 45–52. See also A.O. Shemesh, "The Resuscitation of Children by Eliyahu and Elisha – Medical Treatment or Miracles?" [Hebrew] *Beit Mikra* 46:3 (5761), 248–260. Shemesh introduces the possibility that ancient magical practices may have influenced the resuscitation methods. See also Nachman Levine, "Twice as Much as Your Spirit: Pattern, Parallel and Paronomasia in the Miracles of Elijah and Elisha," *Journal for the Study of the Old Testament* 85 (1999), 25–46.

<sup>102</sup>. There are a number of instances in rabbinic literature of explicit or implied resuscitation after death or near death. Some are explicitly mentioned in the text of *Tanakh* or the Talmud, others are found in *midrashim* or Biblical commentaries. The following is a non-exhaustive list of these references, excluding the episodes of Eliyahu and Elisha discussed in the present article: 1. Yechezkel and the resurrection of the dry bones (*Yechezkel* 37:1–14). 2. The resuscitation of Yaakov after he fainted upon hearing the news of Yosef's survival. (See *Ramban on Bereishit* 45:26, s.v. *va-yafag libo*, and further elaboration in E. Reichman, "The Incorporation of Early Scientific Theories into Rabbinic Literature: The Case of Innate Heat," *The Torah U'Madda Journal* 8 (1998–1999), 181–99). 3. The resuscitation of R. Zeira after he was decapitated by Rava at the festive *Purim* meal (*Megillah* 7b). 3) The resuscitation of the babies born in Egypt by Shifra and Puah (*Midrash*

these episodes in contemporary medical halakhic discussions.<sup>103</sup> As with all areas of *Halakhah*, medical *Halakhah* uses the Torah as its starting point for any discussions.<sup>104</sup> Sometimes, however, in the absence of clear precedent, sources are marshaled from *Tanakh*<sup>105</sup> or *midrashim*.<sup>106</sup>

There are extensive pre-modern halakhic discussions that relate to a number of aspects of the resuscitation episodes performed by Eliyahu and Elisha. These discussions are complex, creative, and legally brilliant.<sup>107</sup>

One of the main passages of focus is in *Niddah* 70b:

Does the son of the Shunamite convey *tumah*? He replied: A corpse conveys *tumah* but a living person does not convey *tumah*. Will the dead in the hereafter require to be sprinkled upon on the third and the seventh day or will they not require it? He replied: When they will be resurrected we shall go into the matter. Others say: When our Master Moses will come with them.

For centuries, rabbinic commentators analyzed this passage, and other aspects of the resuscitation episodes of Eliyahu and Elisha, but these discussions remained purely theoretical.<sup>108</sup> With the medical advances of the mid-twentieth century, however, including the development of cardio pulmonary resuscitation, the introduction of brain death criteria, and organ transplantation, these previously theoretical discussions were resuscitated. The hypothetical constructs suddenly took on new relevance, were incorporated into practical halakhic discussions and used to render decisions on contemporary medical halakhic dilemmas. This essay explores the contemporary medical halakhic issues for which the resuscitation episodes of *Tanakh* have been invoked.<sup>109</sup>

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*Rabbah Shemot* 1: 17). The *Ba'al Ha-Turim* on *Shemot* 1:15 claims that the etymology of *Shifra* is linked to *shefoferet* and that the midwives placed a reed in the throats of the babies to resuscitate them. This has been mentioned by some as a precursor to tracheal intubation. See E. Tratner, "Intubation Mentioned in the Talmud and by Jacob ben Asher," *Koroth* 8:7–8 (August, 1983), 333–338. See also M. Weinberger, "An Ancient Source on Neonatal Resuscitation," *Koroth* 10 (1993–1994), 63–64, who asserts that the source cited by Tratner as the *Baal Ha-Turim* is actually from the Maharam Me-Rotenberg. 4. The wife of R. Chanina b. Chakhinai fainted when her husband returned home unannounced after twelve years in yeshiva. R. Chanina prayed for her and she was revived (*Ketubot* 62b and *Vayikra Rabbah* 21:7) 5. The spies apparently collapsed and were revived, apparently through some form of mouth to mouth resuscitation. See *Yalkut Shimoni, Shelach*, chapter 13, s.v. *Va-yishlach otam Moshe*, and *Zayit Ra'anan*, ad. loc. 6. The souls of all the people of Israel transiently departed at the giving of the Torah upon hearing the first commandments directly from God. Resuscitation was required to revive them. For discussion see *Chatam Sofer Y.D.*, 337. 7. The Talmud discusses some form of resuscitation for infants by breathing air through their nostrils (*Shabbat* 128b). 8. The Talmud mentions the case of a sheep, with a tracheal perforation, that was resuscitated by placing a tube directly into the tracheal opening (*Chullin* 57b).

<sup>103</sup>. For previous treatment of the halakhic issues, see, for example, A. Rosenfeld, "Refrigeration, Resuscitation and Resurrection," *Tradition* 9 (1967), 82–94; A.S. Abraham, "Artificial Respiration in *Tanakh*," [Hebrew] *Ha-Ma'ayan* 28:3 (*Nisan*, 5748), 72–76.

<sup>104</sup>. See Avraham Steinberg, *Entzyklopedia Hilkhait Refuit* (2nd edition) for medical halakhic discussions based on or extracted from *parashat ha-shavuah*.

<sup>105</sup>. For example, the story of the four lepers, the *haftarah* of *Parashat Metzora*, is used as a basis for the halakhic discussions about sacrificing a limited life span (*chayyei sha'ah*) for the potential to gain a longer life span (*chayyei olam*). This relates to both end of life issues and to assessing surgical risk.

<sup>106</sup>. See, for example, E. Reichman, "Midrash, Miracles and Motherhood: The Birth of Dinah and the Definition of Maternity – *Tzarich iyun l'Dinah*," *Verapo Yerape: The Journal of Torah and Medicine of the Albert Einstein College of Medicine* 2 (2010), 15–47.

<sup>107</sup>. See, for example, *Teshuvot Radbaz*, n. 2203, *Maharsha* on *Niddah* 70b, R. Betzalel Ranshburg, *Chokhmat Betzalel: Pitchei Niddah* (Mossad HaRav Kook: Jerusalem, 5717), 714–719; *Netziv, Hamek Shailah* to *She'iltot* 167:17; R. Shalom Klein, "The Violation of Shabbat or Other Mitzvot in a case of *Pikuakh Nefesh*," [Hebrew] *Olat HaChodesh* 3:12 (Elul, 5739), 563–567; R. Shlomo Zalman Graditz in his introduction to R. Shlomo Luria's *Yam Shel Shlomo* on *Yevamot* (Altona, 1740); R. Chaim Yosef Dovid Azulai, *Chaim Sh'al*, n. 43; R. Yosef Shaul Nathanson, *Divrei Shaul* on *Aggadah, Bava Metziah* 114 and *Niddah* 70b; Leib Baron, "Is Miraculous Life Considered Life?" [Hebrew] *Ha-Pardes* 59:2 (October 1984), 14–17.

<sup>108</sup>. There are two main questions on this passage that have been addressed by commentaries throughout the ages. First, why does the Talmud ask the question about *tumah* from the Shunamite boy revived by Elisha? The episode of Eliyahu chronologically preceded that of Elisha. The question of residual *tumah* should therefore have been asked about the son of the Tzarfatit woman! Second, the Talmud asks whether sprinkling of water to purify from *tumat meit* (corpse *tumah*) will be required for those who are resurrected in the times of *tehiyat ha-meitim*. As the previous statement discusses the resuscitation of the Shunamite boy from death, why is the question of sprinkling the water not asked about this boy? As he was also resurrected, the question should equally apply to him!

<sup>109</sup>. Expansive halakhic treatment of these cases is beyond the scope of this article and will hopefully be addressed in another forum.

## The Definition of Death

The first example of the invocation of the episodes of resuscitation from *Tanakh* in the context of practical halakhic discussions was in the early nineteenth century. In that period, the ability of physicians to accurately diagnose death was called into question and the fear of premature burial was widespread. Many countries legally required the preservation of the body above ground for three days, after the initial declaration of death, in order to unequivocally confirm the diagnosis.<sup>110</sup> The *Chatam Sofer* was one of many prominent *poskim* in that generation to weigh in on this debate and to clarify the halakhic time and definition of death.<sup>111</sup> In the course of his discussion about the determination of death, he mentions the resuscitation episodes. While the *Chatam Sofer* appears to be the first historically to mention these episodes in the context of a contemporary halakhic discussion, the stories are only mentioned peripherally, and do not serve as the basis of *pesak*.

In the 20th century, the halakhic definition of death again came into focus with the new diagnostic criteria for the determination of brain death. The three day burial controversy of nineteenth century Europe was the pre-modern precursor to this chapter. This topic is one of the modern era's most debated and contentious issues. Well known to the readers of this book, the "brain death debate" has occupied ample space in the contemporary halakhic journals and periodicals. The resuscitation episodes are occasionally referenced, though they do not figure prominently, in these discussions.<sup>112</sup>

## Is there Wife after Death? Cardio-Pulmonary Resuscitation, Coronary Bypass, and Artificial Heart Transplantation

As cited above, a number of miraculous resuscitations are mentioned in rabbinic literature. These cases spawned discussions throughout the centuries about the halakhic consequences of miraculous resuscitation, including whether *tumah* is conveyed by one who is revived in such a fashion, or whether one who is resurrected from the dead may legally return to his wife, since death generally dissolves the marital bond. The resuscitation episodes were raised in these halakhic discussions.<sup>113</sup>

These discussions become more than theoretical with the new realities of the twentieth century, and the possibility of complete cardiac cessation followed by reanimation. This scenario became possible in a number of situations, the most common being with cardio-pulmonary resuscitation. It also was intentionally performed in cases of cardiac surgery, when the heart was stopped and the blood circulated through a machine (cardiac bypass). The heart was then restarted at the completion of the surgery. The introduction of artificial heart transplants created a similar scenario. The innate heart was removed, only to be replaced with an artificial or mechanical heart.

The common denominator in all these cases is the cessation of innate cardiac activity for prolonged periods of time, followed by the return of cardiac function. The hypothetical question of marriage dissolution with miraculous resuscitation now was assimilated to cases of physiological resuscitation. The main halakhic question considered by the *poskim* in these cases was whether a person undergoing these procedures is considered to have been legally dead during the period of cessation of innate cardiac function. Furthermore, it was debated whether the reanimation of the heart was considered a form of *techiyat ha-meitim*. The resuscitation episodes of Eliyahu and Elisha figure prominently in these halakhic discussions.<sup>114</sup>

## Corneal Transplantation

The first modern rabbinic authority to invoke the resuscitation episodes of *Tanakh*, in conjunction with the passage in *Niddah*, as a clear and direct source for *pesak*, appears to be R. Chaim Regensberg,<sup>115</sup> a prominent Chicago *posek*

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<sup>110</sup>. See R. Moshe Samet, "Delaying Burial: The History of the Polemic on the Determination of the Time of Death," [Hebrew] *Asufot* 3 (1989/1990), 613–665, for the most expansive study of this halakhic chapter.

<sup>111</sup>. *Chatam Sofer, Yoreh De'ah*, n. 338.

<sup>112</sup>. See, for example, R.J. David Bleich, *Ha-Pardes* 51:4 (January, 1977), 15.

<sup>113</sup>. See *Birkei Yosef, Even Ha-Ezer*, 17; *Otzar Ha-Poskim, Even Ha-Ezer* 1:1. For an interesting treatise on how Eliyahu's wife was able to remarry, see R. A.M. Friedland, *Bi-Tzror Ha-Chaim (Nachalat Har Chabad: Israel, 5767)*.

<sup>114</sup>. On the case of cardio-pulmonary resuscitation see R. Pinchas Zevichi, *Ateret Paz* 1:3, E.H. 9; on cardiothoracic surgery and cardiac bypass, see *Tzitz Eliezer* 17:24; on artificial heart transplants see J.D. Bleich, "Artificial Heart Implantation," in his *Contemporary Halakhic Problems* (New York: Ktav Publishing, 1989), 160–193. See also, Rosenfeld, op. cit.; L.Y. Halperin, "Laws Relating to One Who Dies and is Resuscitated," [Hebrew] in his *Ma'aseh Choshev* 4 (Jerusalem: Institute of Technology and Halakhah, 5757), 48–51.

<sup>115</sup>. The five volume series on medical *halakhah* entitled *Halakhah U-Refuah*, published from 1980–1987 by the Regensberg Institute, was dedicated to his memory.

during the mid twentieth century, who addressed the issue of cadaveric corneal transplantation in an article in the Torah journal *Ha-Pardes* in 1945.<sup>116</sup> The first successful cornea transplant occurred in 1905, but it took decades until the procedure was fully developed.<sup>117</sup> After raising concerns about the prohibitions of *nivul ha-meit* (desecration of the body) and *hana'at ha-meit* (deriving benefit from the body), R. Regensberg explores a permissive approach:

The cornea recipient derives benefit from the cadaveric cornea only after the cornea becomes fully integrated into his body and after the cornea returns to life or becomes reanimated. Once the cornea becomes reanimated, all the previous prohibitions that applied when the tissue was dead, no longer apply. Just as the laws of *tumah* no longer apply to the living tissue, as it states in *Niddah* 70b in the case of the son of the Shunamite that was resuscitated by Elisha, “the dead generate *tumah*, the living do not generate *tumah*.”

R. Isser Yehudah Unterman independently addressed the issue of corneal transplantation, in his *Shevet Mi-Yehudah*. On the permissibility of receiving a cornea transplant, R. Unterman writes:

I wish to state a novel idea that on first glance may seem somewhat strange, but on further analysis appears to be a source of permissibility with solid foundation. The reason it is not mentioned previously in rabbinic writings is likely due to the fact that this surgical procedure was not possible in previous times. However, based on halakhic principles, it appears that there are grounds for a permissive ruling, and I have not found any contradictory ruling in the Talmud or *poskim*.

The essence of the permissive ruling is that the flesh of a corpse is prohibited so long as it is dead. However, once the flesh becomes reanimated, the prohibition dissipates. And just as it is inconceivable to think that regarding the episodes of miraculous resuscitation in *Tanakh*, such as the son of the Tzarfatit, the son of the Shunamite, or the resurrection of the dry bones of Yechezkel, that these people were *asur b'hana'ah* (after their resuscitation); so too a portion of a corpse that returns to life after transplantation should not generate a prohibition of *hana'ah*.

The reason for this ruling is that the basis for the prohibition of benefit from corpse flesh is *not* that the soul had previously departed therefrom, but rather that it is *presently* dead flesh. When the flesh is reanimated, the prohibition disappears. It is the dead flesh that the Torah prohibited, not the living flesh (based on *Niddah*). The fact that the body from which the flesh was derived is still dead is irrelevant.

R. Unterman argued that just as *tumah* applies only to dead flesh, so too the prohibition of benefit only applies to dead flesh.<sup>118</sup> In analyzing the passage in *Niddah*, R. Unterman points out that the questions focus exclusively on whether *tumah* is generated and *not* on whether there is any prohibition of deriving benefit from those revived from death. He explains the reason for this omission to be that there is no thought as to the prohibition of benefit once the people are actually alive. The prohibition only applies *while they are dead*.<sup>119</sup>

R. Unterman comments on the essay of R. Chaim Regensberg, who had also invoked the episode of the Shunamite boy as a source to allow corneal transplants. However, R. Unterman maintains that his interpretation and application of this episode is highly novel and not similar to the interpretation of R. Regensberg.<sup>120</sup> Clearly, both authorities arrived at this novel thesis independently, though R. Unterman has generally been credited with the “*chidush*” in the medical halakhic literature.<sup>121</sup>

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<sup>116</sup>. “The Transplantation of a Cornea from a Cadaver to a Living Recipient,” [Hebrew] *Ha-Pardes* 19:4 (July, 1945), 24–28.

<sup>117</sup>. On the history of corneal transplantation, see S.L. Moffatt, et. al., “Centennial Review of Corneal Transplantation,” *Clinical and Experimental Ophthalmology* 33:6 (December, 2005), 642–657.

<sup>118</sup>. R. Unterman points out that there is not always parity between *tumah* and the *issur hana'ah*, as in the case of corpse flesh that becomes powder, which is not *tamei*, yet is still *assur behana'ah*. However, he maintains that parity should apply in this case.

<sup>119</sup>. My emphasis.

<sup>120</sup>. R. Don Well, in a brief biographical essay of R. Regensberg, recounts how R. Unterman and R. Regensberg met, and that “R. Unterman was enthralled with the courage and incisive scholarship demonstrated in a landmark Regensberg *teshuvah*.” While R. Well omits the topic of the *teshuvah*, I wonder if it was this very one. See M. Hershler, ed., *Halakhah U-Refuah* (Jerusalem: Regensberg Institute, 1980), IX–XV.

<sup>121</sup>. R. Mikhael Forshleger advances the identical “reanimation” theory, based on the passage in *Niddah*, in his *Torat Mikhael*, 56, but makes no mention of either Rabbis Regensberg or Unterman’s writings. R. Forshleger died in 1958, and his individual responsa are not dated. It is therefore impossible to determine if he could have seen the opinions of the aforementioned authorities when he penned his responsum.

R. Unterman subsequently defended his position against criticism. For example, R. Yechiel Weinberg rejected R. Unterman's novel thesis claiming that a detached piece of flesh is *asur behana'ah*, irrespective of its subsequent reanimation, as one is still benefitting from the corpse, who remains dead.<sup>122</sup> Despite its rejection by some, R. Unterman's analysis served as a basis for many subsequent halakhic discussions on corneal transplants<sup>123</sup> and on organ transplants in general.<sup>124</sup>

### A *Kohein* Organ Recipient

The burgeoning field of transplantation medicine also presented unique problems for the *kohein*. Since the organs are often transplanted from a cadaver, may a *kohein*, who is proscribed from contacting a corpse, receive an organ transplant? Of course, the prohibition is waved in a case of *pikuach nefesh*, but a cornea transplant, for example, does not fall into this category. In this case, as well, the "reanimation" theory, as advanced by Rabbis Regensberg and Unterman, was invoked to resolve the issue.<sup>125</sup>

R. Lau, former Chief Rabbi of Israel, devotes a number of responsa to the question of the *kohein* as an organ recipient.<sup>126</sup> Therein, he brings the opinion of R. Unterman to support the permissibility of a *kohein* receiving an organ. Once the organ becomes reanimated in the *kohein* recipient, he argues, there is no longer any *tumah* associated with it. R. Lau further posits that R. Weinberg's objection to R. Unterman's position would not apply in this case, as R. Weinberg took issue only with the prohibition of deriving benefit (which, according to him, would apply even if the body part was reanimated). Even R. Weinberg should agree, R. Lau argued, that with respect to *tumah* alone, the body part would no longer be *metamei* once incorporated into the recipient's body.<sup>127</sup>

R. Waldenberg addresses a more common question related to *kohanim* and transplantation – whether a *kohein* who suffers an amputation may have his own limb or digit reimplanted.<sup>128</sup> Once amputated, even a *kohein's* own digit will generate *tumah* if reimplanted. He cites the *Noda Bi-Yehudah* who maintains that one's own limb conveys *tumah* just as a foreign limb. In addition, and directly relevant to R. Waldenberg's question, the *Noda Bi-Yehudah* understands the passage in *Niddah* regarding whether the Shunamite boy was *metamei*, to refer specifically to *after* he was alive again. If one was in direct contact with the boy at any time before his resuscitation, even immediately before, he would, of course, contract *tumah*. Thus, in the case of reimplanting the digit, while once the finger is reanimated, the *tumah* may dissipate; it would nonetheless be prohibited to reconnect the digit, as at that precise moment of reconnection, the *kohein* would be coming into direct contact with the "dead" body part.<sup>129</sup>

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<sup>122</sup>. See R. Yechiel Weinberg, *Seridei Eish* 2:120. For other critiques of R. Unterman, see R. Y.M. Erenberg in *Kol Torah* (*Sivan-Elul* 5714); R. Dov Borstein, "Plastic Surgery From the Dead to the Living," [Hebrew] *Ha-Pardes* 28:3 (*Kislev*, 5714), 5–7; idem, response to R. Erenberg in *Kol Torah* 11:1 (*Tishrei*, 5717), 11–12.

<sup>123</sup>. See, for example, R. Yitzchak Isaac Ha-Levi Herzog, *Ketavim U-Pesakim* 5:157; R. Shmuel Hibner, "The Use of Eyes From a Cadaver to Treat Blindness," [Hebrew] *Ha-Darom* 13 (*Nisan*, 5721), 54–64; S.L. Levine, *Minchat Shlomo* 1 (Brooklyn: Bashon Printers, 1963), n. 26; R. Simcha Levy, "The Use of Eyes From a Cadaver to Treat Blindness," [Hebrew] *Ha-Darom* 14 (*Elul*, 5721), 31–34, with rejoinder by R. Shmuel Hibner; R. Ovadia Yosef, *Yabia Omer*, C.M., 8:11.

<sup>124</sup>. References to the novel thesis of R. Unterman can be found in the contemporary works of Drs. Abraham Abraham, Fred Rosner, and Avraham Steinberg.

<sup>125</sup>. The issue of exposure to *tumah* by a *kohein* is also discussed extensively with respect to the resuscitation episode of Eliyahu. According to tradition, Eliyahu was the embodiment or incarnation of *Pinchas Ha-Kohein*. As such, it would have been prohibited for him to come into direct contact with a corpse. See, for example, Radbaz, n. 2203; Netziv, *Hamek Shailah*, *She'iltot* 167:17; Shalom Klein, "The Violation of Shabbat or Other Mitzvot in a Case of *Pikuakh Nefesh*," [Hebrew] *Olat HaChodesh* 3:12 (*Elul*, 5739), 563–567; Chaim Yosef Dovid Azulai, *Chaim She'al*, n. 43; A.S. Abraham, "Artificial Respiration in *Tanakh*," [Hebrew] *Ha-Ma'ayan* 28:3 (*Nisan*, 5748), 72–76.

<sup>126</sup>. *Yachel Yisrael*, 2:81 and 2:83.

<sup>127</sup>. R. Moshe Feinstein argued a similar notion of the possibility of the *tumah* no longer applying to the transplanted organ, but it is not based on the passage in *Niddah* and the story of the Elisha and the Shunamite boy. See *Iggrot Moshe* Y. D., 1:230.

<sup>128</sup>. *Tzitz Eliezer*, 13:90.

<sup>129</sup>. While acknowledging that there would be a prohibition in reconnecting the digit, R. Waldenberg nonetheless permits the reimplantation. While most *poskim* maintain that *Shabbat* cannot be violated for the saving of a limb, R. Waldenberg argues that other prohibitions, such as exposure to *tumah* for a *kohein*, could indeed be violated in order to save a limb. For further discussion of the application of R. Unterman's novel approach to organ donation in general, and to the case of a *kohein's* amputated digit, see *Binyan Av*, 3:53.

## The Selling of Human Organs

Since the beginnings of organ transplantation in the twentieth century, there have been rapid and extraordinary advances in transplantation medicine. The transplantation of hearts, livers, and kidneys are now commonplace. These successes have spawned other dilemmas, including the limited supply of organs. One suggestion to increase the donor pool that is being reevaluated is to offer compensation to the donors (in the case of living donation) or their families (in the case of cadaveric donation). This issue has received extensive treatment in the halakhic literature.<sup>130</sup>

A major impediment to a family's receiving compensation for agreeing to cadaveric donation is the issue of *hana'at ha-meit*, the prohibition of deriving benefit from the corpse. For many *poskim*, this prohibition is insurmountable and thus compensation is prohibited. R. Waldenberg, however, suggests a permissive approach to allow the families to receive compensation.<sup>131</sup> Despite his permissive stance, he adds an additional suggestion to minimize the potential prohibition. He suggests that the transfer of money to the family take place only after the transplanted organ has been integrated or animated within the recipient. At this point, he argues, based on the story of the Shunamite boy and the Talmudic passage in *Niddah*, the organ is no longer "dead," but has been reanimated. There is therefore no prohibition of *hana'at ha-meit*, as the organ is not in fact *meit*.

## Posthumous Insemination

A fascinating and very recent example of the application of the idea of reanimation is found in an article by R. Levi Yitzchak Halperin on the issue of posthumous insemination.<sup>132</sup> The particular case involved an Israeli soldier who fell in battle *al kiddush Hashem* and whose widow requested to harvest his reproductive seed postmortem to produce progeny. In addressing the concern that there might be a prohibition of *hana'at ha-meit* by using the reproductive seed from a corpse, he posits that just as many have permitted cadaveric transplants based on the notion that the organ becomes reanimated, all the more so it should be permitted in this case when the entire purpose of the endeavor is to animate or create life from the seed.

## Conclusion

This essay reflects the evolving process of contemporary medical *Halakhah*. New discoveries and advances create novel dilemmas that necessitate a re-evaluation of the existing corpus of *Halakhah*. One may find relevant pre-modern theoretical discussions that now take on practical halakhic relevance in light of new realities. We have illustrated this through the resuscitation episodes of Eliyahu and Elisha. These episodes, which generated significant halakhic analyses in pre-modern times, were revisited and adapted to modern medical halakhic dilemmas. I suspect we will see other areas of previously "theoretical" *Halakhah* resuscitated and applied to modern circumstances as science continues to venture into new and uncharted territories.

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<sup>130</sup>. For discussions in the English language, see Dr. R.B. Grazi and R. J.B. Wolowelsky, "Nonaltruistic Kidney Donations in Contemporary Jewish Law and Ethics," *Transplantation Forum* 75:2 (January 27, 2003), 250–252; J.D. Kunin, "The Search for Organs: Halakhic Perspectives on Altruistic Giving and the Selling of Organs," *Journal of Medical Ethics* 31 (2005), 269–272; S. Resnicoff, "Supplying Human Body Parts: A Jewish Law Perspective," *DePaul Law Review* 55 (2005–2006), 851–874; A. Cohen, "Sale or Donation of Human Organs," *Journal of Halacha and Contemporary Society* LII (Fall 2006), 37–64; R. Warburg, "Renal Transplantation: Living Donors and Markets for Body Parts – Halakha in Concert with Halakhic Policy or Public Policy?" *Tradition* 40:2 (Summer 2007), 14–48; R. Steinbuch, "Kidneys, Cash and Kashrut: A Legal, Economic, and Religious Analysis of Selling Kidneys," *Houston Law Review* 45 (2009), 1529–1607. For a review of the halakhic literature on selling organs, see F. Rosner and E. Reichman, "Payment for Organ Donation in Jewish Law," in A. Levine, ed., *Oxford Handbook of Judaism and Economics* (Oxford: Oxford University Press, 2010), 324–339.

<sup>131</sup>. *Tzitz Eliezer*, 19:53.

<sup>132</sup>. "Harvesting Sperm From a Soldier Postmortem in Order to Inseminate his Widow," [Hebrew] *Ha-Brachah* 1 (*Tammuz*, 5769), 13–16.