



**“Organs Wanted: Dead or alive? The Myths and Ethics
Regarding Brain Dead Organ Donors”**

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Abstract:

90 percent of organ donations are from those of brain dead patients. While many support organ donation, there are only 58 percent of current US adults that are registered organ donors. Additionally, there is yet to be an official medical criteria of brain death, varying depending on where you go or what time period one refers to, begging the question how do we as a society define death? Does that definition fit all current medical standards? In this paper I explore the argument of why some think that the organ donation of brain dead patients is unethical and should be considered murder while others argue that brain death is a perfectly justifiable means of declaring death and moving towards organ donation. I also explore into the balance of patient and professional autonomy and who gets the say in whether or not a patient should be taken off of life support. Finally, this paper talks about the effect of the media on the general population and why organ donation, particularly that of brain dead patients, tends to have a negative connotation in society. In this paper I argue the act of donating the organs of brain dead patients is both ethical and necessary to meet the demands of organ donors but there needs to be a more universal definition of brain death as well as increased education to help debunk common myths associated with the process.

Introduction:

Organ donation has been largely regarded as one of the best recent developments of the medical field. One organ donor can give the gift of life to as many as 50 patients in need of vital organs such as the kidneys, liver, lungs, pancreas, and intestines without which they would die. There is little to no debate as to whether organ donation is a beneficial thing with no ethical concerns so long as patients approve of the procedure. There does, however, remain a debate as to when it is appropriate to extract a patient's organs for donation. While in modern times various religious figures have claimed to approve of such procedures, several religious groups, such as Catholics, have spoken against current various criteria for a patient that is eligible for donation. This outcry has led to many questions surrounding the process of organ donation, the

largest being whether or not current procedures are performed at a time in which the patient is universally considered deceased.

In the center of opposition to current organ donation procedure is the belief that brain dead patients aren't in fact dead and therefore donating their organs is like murder. This is due to the fact that many equate brain dead patients to those in a permanent vegetative state who, like brain dead patients, are still biologically alive but will never be able to recover from their condition. This coupled with the fact that it is now proven that certain aspects of the brain such as temperature control, salt/water balance and blood pressure are active and functional in brain dead patients, lead many to wonder how exactly we define the brink between life and death. With varying medical criteria for brain death established, even doctors have trouble making this distinction between a patient being brain dead and a patient being comatose, in a persistent vegetative state or another varying degree of neurological condition similar to that of a brain dead patient. Additionally, even when medical professionals are certain of brain death, it is a battle in and of itself to convince families practicing patient autonomy, defined as "the idea that a person may choose for himself without being subject to any external will"(Sinclair 592), to end artificial ventilation so that scarce ICU resources may be used towards patients still alive by medical definition. It is therefore undeniable that reform needs to be made to create a universal definition of brain death in the medical field so that all patients can be treated accordingly and fairly. While the act of donating the organs of a brain dead patient is both permissible and necessary to keep with the constant need of organs vital to the survival of other patients, a more universal and certain definition of brain death needs to be established and education needs to be increased about organ donation in regard to the many myths depicted in media.

Background:

Organ donation is a relatively recent phenomena in medical history; the first successful one taking place in 1954(Organdonor.gov). Since this time, the rate at which organ donation has been performed increased rapidly, saving 28,000 lives per year on average as of 2017(UNOS). This process in and of itself has been generally accepted by the public as an estimated 95% of all adults in the US approve of organ donation(Organdonor.gov) so long as it is with the permission of the donor. who usually reflects his or her choice on their driver's license. In the case of adolescents, parents typically decide whether or not their child's organs will be donated since they hadn't yet had the opportunity to decide for themselves. While statistics indicate that people are mostly approving of the process of organ donation, only 58% of adults in the US are registered donors. This, coupled with the fact that that only 3 in every 1000 US citizens who die do so in a way where their organs can be donated, has led to a deficit in available organs for the 113,000 US citizens who are currently awaiting a transplant; 20 of which die each day(Organdonor.gov).

One of the ways in which doctors have cut down on this deficit is by equating brain dead patients with dead patients therefore making them eligible for organ donation. This became acceptable in 1968 when 13 members of the Harvard Ad Hoc committee came together and defined death as when a patient "shows total unawareness to external stimuli and unresponsiveness to painful stimuli...all spontaneous muscular movement, spontaneous respiration and response to stimuli are absent...lack of eye movement even when hit or turned, or ice water is placed in the ear; lack of response to noxious stimuli; unelicitable tendon reflexes." (Procon.org). Essentially, Harvard's new definition of death made it easy for doctors to make the

claim that any patient who is brain dead and is an organ donor can be pronounced dead and have their organs donated. However, when talking about brain death, a common issue that arises is whether or not it is any different from PVS or, Persistent Vegetative State. Jessica Du Toit and Franklin Miller in their article, “The Ethics of Continued Life-sustaining Treatment for those Diagnosed as Brain-dead”, bring into fruition the question as to what the difference is between patients mentioned in the article such as Helga Wangle and Baby K who were in persistent vegetative states with doctors confident they would never wake up versus brain dead patients who meet most of the same criteria(156). There remains a large debate as to whether or not brain death and persistent vegetative state patients should be treated differently considering that the result of both of these conditions is a patient that will never wake up or have any meaningful recovery. As of now, however, the criteria for death is only met in cases of brain death.

Religious Discrepancies

There is much controversy as to whether or not brain dead patients should have their organs donated. One of the leading groups against brain death criteria is Catholics. While Pope John Paul II spoke approvingly of organ donation in general, he proclaimed his own definition of death as “a single event consisting in the total disintegration of that unity and integrated whole that is the personal self...The death of a person is an event in which *no scientific technique or empirical method can identify directly...*” (Haerens p80). In other words, Pope John Paul II’s belief and proclamation to his followers is that death is not certain until every aspect of the body ceases to function. Even then, he believes, exact moment of death cannot be found through science or medicine - rather death is spiritual and therefore cannot be found in an autopsy. This definition differs from that of the group from Harvard who made unresponsiveness the main

criteria for someone who is deceased, something that can occur while aspects of the body are still functioning. The other point often made by Catholics is the fact that, in multiple aspects, the brain is still functioning while meeting brain dead criteria. John B. Shea points out in Chapter 3 of *Organ Donation* that “criteria test for the absence of some specific brain reflexes. Functions of the brain not considered are temperature control, blood pressure, cardiac rate, and salt and water balance. When a patient is declared brain dead, these functions are not only still present, but frequently alive.” (83). Essentially, Shea is saying that patients can in fact be pronounced brain dead while certain aspects of brain activity are still active. While these functions might not represent a sign of any meaningful recovery, This fact alone makes it virtually impossible for the Harvard definition and that of Pope John Paul II to co exist leading to unclarity as to whether or not death can be certainly and universally defined, particularly when you consider the fact that “Various sets of neurological criteria for the diagnosis of brain death are used. A person could be diagnosed as brain dead if one set is used and not be diagnosed as brain dead if another set is used.” (Haerens 83). In other words, the diagnosis for brain death is flexible based on one’s location and what criteria is used. If the diagnosis of brain death is flexible, the definition of death itself becomes malleable. Someone who is brain dead somewhere can be considered alive elsewhere yet have their organs donated regardless.

However, despite the Pope’s claimed definition of death, there is still much disagreement within the church on the matter. This becomes apparent in James M. Dubois’s article “Recovery of Organs Based on Brain Death Is Ethical” where he states that “In 1985 and 1989 the Pontifical Academy of Science studied the question of brain death and concluded that neurological criteria are the most appropriate criteria for determining the death of a human being.”(95) Seeing that the

Pontifical Academy of Science, the organization in charge of determining whether or not aspects of science and medicine fall in line with Catholic morals, expresses support for brain death criteria shows that there is a clear struggle within the church in determining whether or not such practice is moral. Furthermore, Dubois suggests that a large part of the conflict in the Catholic church does not reside in whether or not the donation of organs is ethical with brain dead patients but with how this may affect their view on abortion. According to Dubois' article, some Catholics believe that if it is decided a human being is dead due to a lack of functioning brain, it then becomes deniable that embryos are human until they form a brain, making abortion in many cases justifiable. Dubois counters this claim in the article by saying that "we are developmental creatures: in our earliest days of development in the uterus, we do not depend upon a brain to live. Yet as we grow, we come to depend on a functioning brain; and when it dies, we die."(97) While Dubois attacks this logic it stands for many Catholics nonetheless, causing divide in the church as to which side their loyalties should lie.

Patient vs Professional Autonomy:

One of the most heated, and perhaps most significant, debate surrounding the ethics of organ donation in brain dead patients is the balance between patient and professional autonomy. Toit and Miller's article is centered around a patient named Jahi McMath who, according to all doctors, was brain dead and, like most with the dire diagnosis, would never wake up. Despite receiving this news, not only did Ms. Winkfield, Jahi's mother, turn down the donation of her daughter's organs, but refused to allow doctors to take Jahi off of life support. Unlike some cases, the brain death of Jahi was clear to any and all current medical criteria. Prominent bioethicist Lawrence O. Gostin came forward and said that "While medication and ventilator

support can sustain a heartbeat and respiration, a beating heart is not sufficient criterion for continued life once the brain has lost all functionality...[Thus,] Jahi's family claims the right to ventilation and artificial nutrition for a deceased person." (du Toit/Miller p152). Despite the prognosis, patient autonomy or, the right for a patient to decide how they should be cared for, took precedence over doctor's beliefs and forced them to situate Jahi in a facility where she could be cared for even though by all medical definitions she was a corpse.

This case in particular brings up a debate as to whether or not patient or professional autonomy should take decide the fate of brain dead patients. In most cases, the doctors, at least in legal terms, are correct in their diagnosis and are usually able to convince families of their diagnosis resulting in removal from ventilation and official death. However, cases such as Jahi's prove that there will always be those who oppose doctor's professional opinions and take advantage of patient autonomy no matter how dire the circumstances may seem. This presents a dilemma for doctors, however, in that patients such as Jahi are most often placed in the ICU which, According to Du Toit and Miller, "are usually scarce hospital resources, they ought not to be allocated indiscriminately...In this regard, the societal interest in fair and efficient allocation of these resources and the professional integrity of health professionals make it inappropriate to continue to grant Jahi access to mechanical ventilation and intensive care within the acute care hospital setting." (155). Put another way, doctors, due to the power of patient autonomy, are obligated to dedicate scarce resources to what professionals equate to a corpse until a brain dead patient such as Jahi can be transported elsewhere. With professional autonomy proving virtually ineffective, a doctor's ability to intervene and make a medically informed decision for the sake

of other patients who need the ICU's scarce resources to recover are thwarted and causes a risk in the well being of other patients.

McMath's case aside, evidence supports that most patients prefer to not make choices in the medical decisions of themselves or their loved ones. According to Simona Botti, Kristina Orfali, and Sheena S. Iyengar in their article "Autonomy and Emotional Responses to Medical Decisions", "between 40% and 90% of the deaths in intensive care units are today caused by deliberate decisions to interrupt life-sustaining therapy"(337). With many brain dead patients in the Intensive Care Unit, it is no wonder that family members of these patients might be fearful to make such a huge decision in whether or not they are to be taken off of life support. In cases where this happens, family members likely decide to leave the decision to the Doctors, aware that someone with medical expertise can probably make a better decision. Additionally, the article goes on to talk about how prior research has indicated that "the sense of agency and internal locus of control associated with the act of choosing lead to perceptions of personal causality. Whereas the imposition of a choice is removed from the idea of personal causality because it presupposes an external, rather than internal, locus of control"(338). In other words, this quote is saying that when presented with a choice, the feeling patients or their families get from the choice they make is magnified, knowing that they were responsible for the set outcome. If an individual feels they made a good choice, their positive feelings intensify whereas if they make a bad choice, their negative feelings intensify. In cases of brain dead patients, the choice one makes, whether to keep on life support or take them off, is usually one that will make the individual feel bad and even worse if they need to make such a choice. This is why it is helpful for a medical professional to make choices in that the patient's family would not have to feel any

guilt or wonder if they made a bad decision. It therefore becomes apparent that in cases of brain dead patients, it would be more beneficial to both the hospital and the family of the patient if professional autonomy took precedence once sufficient medical criteria has been met to make such a decision.

Myths in the Media:

One of the biggest reasons for lack of donors in organ donation is due to the myths spread about in common media. An example of the media's effect on the general public regarding organ donation is in the article "A Kernel of Truth? The Impact of Television Storylines Exploiting Myths About Organ Donation on the Public's Willingness to Donate." by Susan E. Morgan. This article talks about a study to see how people are affected by rumors that are prevalent in current media, particularly organ donation. The study came to the conclusion that those who were non donors had more negative feelings towards organ donation after watching episodes of television shows that depicted myths about organ donation while those who are registered organ donors furthered their support for organ donation, supporting a theory known as Cognitive Dissonance Theory that claims people strive so much for consistency that they will go out of their way to prove their own opinions, even if that means ignoring facts that go against one's claim. The study also concluded that "Entertainment television regularly depicts organ donation negatively and/or falsely...which include language that evokes images of Frankenstein, and labels transplant surgeons and organ procurement staff 'vultures' ..." (779, Kernel of Truth), showing how media outlets can often instill myths about organ donation and greatly sway those who are undecided on the matter to go against organ donation, particularly that of brain dead patients.

Another theory discussed in Morgan's article is social representation theory, defined as "information broadcast by the mass media leads to individual cognitions about a topic and can then make its way into interpersonal discussions"(Morgan 780, Kernel of Truth). Put another way, social representations theory is the theory that information viewed in common media outlets such as social media or television, while not necessarily accurate, give the impression to their viewer that what is being depicted is fact. In doing so, common myths are brought up as fact in general conversation, leading others to believe the myths spread. As discussed in the previous study, many myths are depicted in organ donation through media and can spread even faster due to social representations theory. In another article, Susan E. Morgan writes about a study in which "the concerns about organ donation expressed by 78 family dyads, including fears about a corrupt medical and organ allocation system as well as concerns about a black market for organs, directly mirrored the myths about organ donation presented in entertainment media during a similar timeframe"(39, Intersection of Conversation). The article then goes on to talk about people unintentionally reciting the plots of popular movies and tv shows when justifying their negative views of organ donation(40, Intersection of Conversation). Through these studies it becomes apparent that both social representations theory and cognitive dissonance theory play a large role in influencing the public and, due to a negative media portrayal, organ donation is left on the wrong side of these theories, resulting in more paranoia about organ donation, and less supporters for the donation of organs of brain dead patients.

Conclusion:

In conclusion, organ donation is both permissible and necessary seeing how over 90 percent of all organ donation are from patients in said condition. However, a motion needs to be

made to create a more universal criteria for brain death so that a diagnosis of brain death can be clear cut and without controversy, helping define the brink between life and death. Additionally, education of organ donation procedures needs to be increased throughout the United States to help disprove common myths spread through the media and propelled by cognitive dissonance and social representations that negatively impact the public's willingness to donate organs and save lives. Finally, in regards to the process itself, professional autonomy should take precedence over patient autonomy once brain death is not just evident but obvious by all medical reasoning; seeing that irrational desires from families lead to the use of scarce hospital resources on already dead patients and for the sake of the family of the patient which, according to mentioned studies, tends to face regret no matter what decision they make. On average about 18 people die every day from lack of an organ donor, many more going through painful everyday processes to stay alive while waiting for someone to donate an organ to them. For this reason, it is crucial that these mentioned steps are implemented so that as many lives that can be saved as possible. The organ donation system and brain death criteria aren't perfect, but through a call for change can become a better version of itself and give many in society an opportunity of a lifetime, an opportunity to give the gift of life.

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