



Dead Enough Is Good Enough

Doornails and dodos are certainly dead, either because they were never alive to begin with or because they stopped squawking in the 17th century. But determining the exact moment when the rest of us turn up our toes is not so easy, especially when doctors want to extract organs from certifiably dead people.

Last year, an article on this topic in the *Journal of Law and Medicine* created a minor sensation. Dr James Tibballs of Melbourne's Royal Children's Hospital asserted that "organ donation is presently commonly carried out on persons not actually dead but rather in the process of dying or 'not completely dead but dead enough'".

This disturbing allegation was angrily denied by other doctors. No wonder. If patients thought that the philosophy of transplant surgeons was "near enough is good enough", the meagre flow of donated organs could dry up overnight.

Whatever the facts are about the Australian situation, the controversy brought to light a little-known debate among bioethicists over what it means to be dead. The "dead donor rule" has always forbidden the removal of essential organs until donors are dead. And

people are normally deemed to be dead when their brain ceases to function – the state of so-called "brain death".

But Dr Robert Truog, a medical ethicist at Harvard Medical School, says that this definition crumbles upon closer examination. "It's completely ethical to remove organs from patients we diagnose as brain dead," he says. "It's just ethical for reasons other than that we think they're dead, because I don't think they are."

Surprisingly, at least for the layman, Truog is supported by other physicians. "Brain death is not true death," says Dr Paul Byrne of the University of Toledo's College of Medicine, who has been an outspoken critic of the brain death criteria for many years. "Brain death is a fiction concocted to get organs. After true death very few, if any, organs are suitable for transplantation. True death is the body without life, when disintegration sets in. It is more than just non-functioning, which brain death revolves around."

And University of Wisconsin medical ethicist Dr Norman Fost points out that the brain, or parts of it, may still be functioning in "brain dead" people. For instance, many have a functioning hypothalamus, which regulates blood pressure

and appetite. "We have been taking organs out of those patients by the thousands," he says. "And they are not brain dead."

Other doctors, however, assert not only that brain death is an adequate criteria, but that there is nothing to talk about. A leading authority on the topic, Dr Eelco Wijdicks of the Mayo Clinic, told the *Boston Globe* last year that the concept is widely accepted by neurosurgeons and neurologists. "There is no controversy about brain death," he says.

The older criteria for determining death was cardiac death, or when the heart stopped beating. This fell out of favour because organs from people whose hearts had stopped beating were not as viable. However, with the growing shortage of organs, donation after cardiac death is being revisited. Patients with no apparent chance of recovery are removed from ventilators, their hearts eventually stop, and within 2 minutes their organs are being removed.

But Fost finds this criterion just as unsatisfactory. He and other critics point out that countless people have been resuscitated after their hearts stopped for 2 minutes.

So what is really under threat is the dead donor rule itself. Truog and Fost and other ethicists are by no means opposed to organ donation. Indeed, they want to expand the potential pool of donors to include people who are manifestly not dead but will never become, so to speak, conventionally alive: people in a permanent vegetative state, people who consent to having their organs removed when they lose consciousness, anencephalic children and so on.

"Reconsidering the Dead Donor Rule: Is it Important that Organ Donors Be Dead?" was the unsettling headline over one of Dr Fost's articles. Stay tuned for future developments as the organ donor shortage becomes more acute.

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