The Dead Donor Rule: An unfortunate accident of history

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The Operation

A Human Cardiac Transplant: An Interim Report of a Successful Operation Performed at Groote Schuur Hospital, Cape Town

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On 3 December 1967, a heart from a cadaver was successfully transplanted into a 54-year-old man to replace a heart irreparably damaged by repeated myocardial infarction.

The Operation

As soon as it had become obvious that, despite therapy, death was imminent in the donor, the recipient was anaesthetized and the saphenous vein and common femoral
The Dead Donor Rule

- Vital organs for transplantation may only be procured from patients who are dead
- Physicians may not cause death when procuring vital organs for transplantation

The Ethical Foundations of Organ Transplantation

• What do we care about?
  – Saving the most lives as is ethically possible
  – Protecting and respecting the organ donor
  – Maintaining the trust and confidence of the public

• What principles best support these values?
The Dead Donor Rule: Dead on arrival?

• The Dead Donor Rule requires us to obtain *living* organs from *dead* bodies

• The history of transplantation has been to create increasingly implausible definitions of death to satisfy this contradiction

• This has been unfortunate, because the DDR is not essential to any of our core values:
  – Saving the most lives as is ethically possible
  – Protecting and respecting the organ donor
  – Maintaining the trust and confidence of the public
Brain death

- Irreversible apneic coma
  - Nothing intuitively obvious about why this is “death”
Jahi McMath:
Diagnosed brain dead December 2013
Brain death

- Irreversible apneic coma
  - Nothing intuitively obvious about why this is “death”

- Initially justified by the observation that patients with very severe brain injury almost always died within a week

- Hence, it was deemed ethically acceptable to treat them “as if” they were already dead
DCD

• Death is declared after 5 minutes of pulselessness

• Yet many patients can be successfully resuscitated after 5 minutes of pulselessness

• However, all of these patients have DNR status

• Hence, it has been deemed ethically acceptable to treat them “as if” they were already dead
A better solution

• What if we focused on protecting and respecting the organ donor rather trying to persuade ourselves that these patients are dead?

• What if we ask, instead, what are the conditions under which it would be morally acceptable to procure vital organs from dying patients?
A better solution

• Organ donors must be protected:
  – Donation is permissible only when death is imminent and must be done without causing pain and suffering, including the use of anesthesia when necessary

• Organ donors must be respected:
  – Donation is permissible only when requested by the patient or surrogate, and must be done in a way that maximizes the potential value of the gift
Current Requirements:
- Brain dead patients
- Patients who have been pulseless for 5 min

Better Requirements:
- Death is imminent
- No pain / suffering
- Only with consent
What do we care about?

- Saving the most lives as is ethically possible
- Protecting and respecting the organ donor
- Maintaining the trust and confidence of the public

The dead donor rule is counterproductive to what we care about

Principles that protect and respect the donor are much better aligned with our values