

A comment on the new law on organ transplantation in Wales

Prof David Albert Jones

Director, Anscombe Bioethics Centre

The ethics of donating organs after you die

In the words of Pope John Paul II, 'We should rejoice that medicine, in its service of life, has found in organ transplantation a new way of serving the human family.' The Catholic Church is clear that in itself, if certain conditions are met, it is a good and meritorious thing to donate our organs after we are dead. Even while we are alive, actions such as giving blood can be a powerful expression of human solidarity and of Christian charity. Such actions can help build a culture of life, a culture in which life is cherished.

At the same time, organ transplantation involves a complex set of practices. These raise ethical questions that require careful thought. The Catechism teaches that organ transplantation 'is not morally acceptable if the donor or his proxy has not given explicit consent. Moreover, it is not morally admissible to bring about the disabling mutilation or death of a human being, even in order to delay the death of other persons.' This leads us to ask how death can be diagnosed with sufficient confidence to allow the removal of vital organs and, more deeply, what we mean by human death. When can we say with moral certainty that the soul has departed, that the person is no more, and what remains is no longer a living human body?

The Church is a sure guide on matters of faith and morals, but to apply this faith in practice we also need knowledge of the world. On some questions relating to organ transplantation, including the key issue of how death is diagnosed, Catholics in good standing who are experts in their fields have taken different views. Not everyone believes that 'brainstem death', as it is diagnosed in the United Kingdom, is equivalent to the death of the human being. Without a universal consensus among doctors and philosophers, and without definitive teaching from the Church on these matters, it is necessary for people to consider such questions seriously for themselves and then to follow their own honest and informed judgement.

For guidance on some of the key ethical issues involved in organ transplantation see *On the Ethics of Organ Transplantation: A Catholic Perspective*, available from the Anscombe Bioethics Centre either online or as a printed book. <http://www.bioethics.org.uk/detail/resources/publications>

A new and inhumane law

On 1 December 2015 the Human Transplantation (Wales) Act 2013 will come into effect. This law will in principle allow doctors to take organs from people who die in Wales even if they have never expressed any wish to donate and even if their families strongly object to this. We would urge all healthcare professionals in Wales to respect the families of those who have died and have not made any clear statement about organ donation, notwithstanding the powers given by the new and inhumane law. In the words of Pope John Paul II, 'Above all, this form of treatment is inseparable from a *human act of donation*. In effect, transplantation presupposes a prior, explicit, free and conscious decision on the part of the donor or of someone who legitimately represents the donor, generally the closest relatives.' Were this context not respected and were it to be replaced by a materialistic or instrumental use of the body, then the practice 'would no longer correspond to an act of donation but would amount to the dispossession or plundering of a body'.

Anyone currently in living Wales, even if only temporarily (for example, as a student) may fall victim to such 'dispossession'. If you are living in Wales and have any hesitations about donating your organs after you die then it is possible to 'opt out'. This can be done through the website here. <https://www.organdonation.nhs.uk/register-to-donate/refuse-to-donate/>

It is possible to revise your opinion at any time and opting out now will not prevent you from joining the organ donation register later should you so decide. You can always revise your record <https://www.organdonation.nhs.uk/register-to-donate/amend-your-details-on-the-register/>

It is also possible to become a potential donor but to offer to donate only some of your organs. This can also be done via the website. <https://www.organdonation.nhs.uk/register-to-donate/>

In 2010 it was revealed that a system error in the Organ Donation Register had led to 800,000 people having their wishes recorded inaccurately. In more than twenty cases, organs had been taken and used for transplantation despite the explicit refusal in advance by the patient. The source of that mistake has been corrected but in addition to relying on electronic records, whether 'opting in' or 'opting out', it is wise also to talk about your views with those who are close to you, preferably before registering your wishes. This is a positive thing to do in any case.

Probably the best option if you are living in Wales permanently is to nominate someone who knows you well as your representative. If you nominate a representative then you can be reassured that doctors will not override their views. Unfortunately this option is also the most complicated. It requires printing out a form, obtaining details and signatures and returning the form to NHS Blood and Transplant. However the extra effort may be worth it for peace of mind.

<https://nhsbtddb.blob.core.windows.net/umbraco-assets/1050/appointing-a-representative.pdf>