



Exploring the life death divide, questions remain long after the Harvard Criteria

The *Linacre Quarterly*
2019, Vol. 86(4) 268-270
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DOI: 10.1177/0024363919877021
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Barbara Golder, MD, JD¹, Deacon John M. Travaline, MD²
and Sister Mary Diana Dreger, OP, MD³

As we were preparing the editorial for this issue, a colleague sent the following observation: “At graduation one of our professors gave his heartfelt assessment of what we have accomplished and what we will face in our careers. We have taught you all we know and have given you the best of our knowledge. However, half of this knowledge is either wrong or incomplete and unfortunately I don’t know which half that is.” In that small story, the focus of this issue of *The Linacre Quarterly* comes into sharp focus. What do we reliably know, as scientists and as Catholics, about the topic of brain death?

Every physician has a memorable story that hinges in one way or another on the issue of brain death (death determined by neurological criteria). For modern medicine, the development of neurological criteria for declaring death is a milestone event. The development of life support systems that could sustain organ function in the face of catastrophic brain injury occasioned both the desire and the need to be able to assess death in different ways than in the past. Questions arose about when and how such support might be discontinued, in large part because traditional ideas about death involved cessation of the very organ function that could now be sustained. The question began to be asked: where is the line between life and death in light of these new technologies?

We explore this topic from as many perspectives as our submissions presented; an editor is always at the mercy of suitable papers submitted for consideration. *The Linacre Quarterly* hopes to provide a forum in which in good faith and collegial respect, the questions that persist about brain death can be explored. If there is an imbalance here, it is the result

of an imbalance in what we received not the result of intentional bias and certainly not an implication of a position taken by the Catholic Medical Association. It is our hope that this is the beginning, not the end of discussion in this forum.

The publication of the Harvard Criteria in 1968 changed millennia of thought on the determination of death almost overnight. The article—which was really an expert consensus paper—is remarkable by today’s standards in that it cited not a single scientific paper in support of its conclusions, though it did cite Pope Pius XII in its only footnote. Because many, if not most, physicians in practice today are familiar with the criteria for the neurological determination of death, but may not have read the original paper, taking time to read the original is worthwhile as a starting point. It can be found at <https://jamanetwork.com/journals/jama/article-abstract/340177>.

The Harvard Criteria quickly became a part of standard medical practice, but there continued to be debate on the topic on medical, legal, theological, and metaphysical grounds. The pages of *The Linacre Quarterly* over the last fifty years contain a wide variety of articles evidencing a healthy discussion that continues to this day. We reproduce here a list

¹ Editor in Chief

² Executive Editor

³ Chair of *The Linacre Quarterly* Committee

Corresponding Author:

Barbara Golder, MD, JD, Catholic Medical Association, 550 Pinetown Rd., Suite 205 Fort Washington, PA 19034, USA.
Email: golder@cathmed.org

of those articles and where they can be found. Spending just a little time with the past papers on this topic will make the discussion between these pages seem quite familiar.

Because the determination of death is a legal as well as a medical issue, the Uniform Declaration of Death Act was drafted in 1980 and became a model for state legislation that ultimately incorporated, in one form or another, the concept of brain death in state law. You will find for reference a brief citation of the relevant model language as well as references to the various state laws in *Brain Death and the Law*, and these ideas are discussed by several authors.

An increasing number of cases that appear to challenge the validity of a diagnosis have made their way into the popular consciousness, largely a result of the availability of information (reliable and not so reliable) on the Internet. Any discussion of the status of brain death in 2019 must include reference to these cases, and there are predictable differences in opinion about what they mean in the pages of this issue. We hope that we have presented representative discussions on all sides of the questions, so that you can read, reflect, digest, and come to an informed conclusion of your own. Moreover, in light of what appears to be a wide variation in application of criteria for the neurological determination of death, contributing to the confusion and debate on this topic, we had hoped for submission of an article that would have analyzed this critical area, but we received none. Perhaps this issue will spur a reader to provide a little light on this critical topic in a future issue.

If there is now doubt about the science underlying the diagnosis of brain death—and that remains a very big “if”—how does this affect the moral certainty needed to rely on these criteria to pronounce a patient dead? This question is especially important for the purposes of organ procurement, for which a dead donor has heretofore been required by both secular and Catholic bioethical opinion. In recent years, there has been a shift in secular assessment of the dead donor rule as well as the criteria for brain death. Our authors discuss this from a variety of perspectives. Depending on the answers, a shift in how we view such related topics as vital organ donation and euthanasia can be expected. We invite your reflection and hope that the material here provides a starting point for thought and discussion. We hope that discussion will be reflected in future articles and letters in *The Linacre Quarterly*.

The fact that the fifty years since the Harvard Criteria were announced has not brought unanimity of opinion on this topic, but continuing questions seems

clear. In recent years, the Catholic University of America, Harvard University, and Boston College have hosted symposia on brain death and others have occurred in Zagreb, Croatia; Havana, Cuba; and most recently, in Rome, Italy. These symposia have explored the current status of neurological diagnosis of death. This issue of *The Linacre Quarterly* is only the latest entry in an already crowded field.

What we hope to bring to the discussion is a unique understanding of Catholic thought and experience. In this issue are discussions of Catholic anthropology and theology applied to the concept of neurological death as well as to particular cases. And, as one might expect, differing opinions are represented. In addition to the new content of this issue, we have reproduced a list of references to ecclesial documents that touch on the topic of brain death as a resource for further study.

Two articles address the difficulties associated with maintaining support for patients who are dead. *Death by Neurological Criteria* mentions the need to help families understand that death by neurological criteria is death and the toll that continued support can take on families and caregivers. *On Being a Catholic Physician*, traditionally representing the experience of Catholics on the front line of medicine, highlights the personal aspects of attempting to live out the Catholic faith in an increasingly difficult healthcare environment. This issue’s entry was written by a physician who wrestles with uncertainty on the topic of brain death and support after a declaration of brain death and how it affects his practice. We had hoped to include a contrasting article from another perspective, but none was submitted; perhaps one will be forthcoming as a result of this issue.

These articles present only two facets of the Catholic experience with respect to brain death and organ transplantation, but they are very important. How we as Catholics first determine the legitimate range of ethically permissible care and then deal with that legitimate range of medical and ethical opinions will determine how we as a Catholic people approach, and ultimately perhaps resolve, these difficult bioethical problems.

How do we learn to work with and respect those who come to very different conclusions on the basis of the same information? Our *Retrospective* article by Fr. Ladislav Orsy, written about the time that the Harvard Criteria were introduced, has some suggestions about how to reflect on and converse in an environment of uncertainty and diversity about the important issues that come at the end of life, including the determination of death.

The confusion and disagreement on this topic do not end at the borders of medicine. Catholics in the pews and the priests, deacons and chaplains who minister to them in the most difficult times of life share these questions and often, have neither clear answers nor recourse to available resources to assist them. *The Last Word*, written by a seminary professor who encounters this on a daily basis, lays out the scope of the problem and invites the medical community to engage and help solve it.

In short, this is not an issue about answers; it is an issue about questions. Perhaps the first is this: what was the science behind the issuing of the Harvard Criteria?

Other questions follow:

1. If the soul is one, although with several powers (rational, sensitive, and vegetative), does the continued function of the vegetative powers (and perhaps “sensitive” powers, if one considers spinal reflexes in that group) suggest that the soul as one has not actually separated from the body?
2. If there is concern among the neurologic world that these standards are not always used rigidly in making a declaration of death by neurologic criteria, how can a family be assured that they are being used correctly in their loved one? If there are problems with consistency, how do we address them? Are safeguards needed?
3. Can we adequately distinguish among the three possibilities (a patient who is dead, a patient who is dying, and a patient who is seriously impaired but will recover at least a measure of function) with the Harvard Criteria or the criteria that succeeded them at any given moment in time or for any particular patient?
4. What do the outlier cases have to tell us about the science of brain death and its practical diagnosis?
5. How do we address the questions they raise?
6. What are the moral, philosophical, and even sacramental issues associated with redefining death in this way?
7. What effect does the application of brain death criteria have on the caregivers? The families? Does the introduction of the concept of brain death to the clinical situation affect the end of life work that patients and families are engaged in, and if so, how?
8. Is there a difference concerning the moral certainty necessary to apply a neurologic standard in a situation where discontinuing life support therapy gives way to natural death and one that leads to a procedure done not for the benefit of the patient, but for another, and one that in itself would cause death if death has not already occurred (vital organ transplantation)?
9. Does the concept of brain death inadvertently lead to the possibility of the “commodification” of people and, if so, can we circumvent that?
10. Does our emphasis on the donation of vital organs inadvertently contribute to the sense that a life is only worthwhile as long as the person contributes to society in a defined and approved way?

Perhaps these questions are at the root of a lot of the discomfort—all around—on this topic. It is our hope that this special issue will provide a basis for each of us to begin to address these questions for ourselves and then engage others in dialogue to together discern best course of action in light of ever-changing medical science.