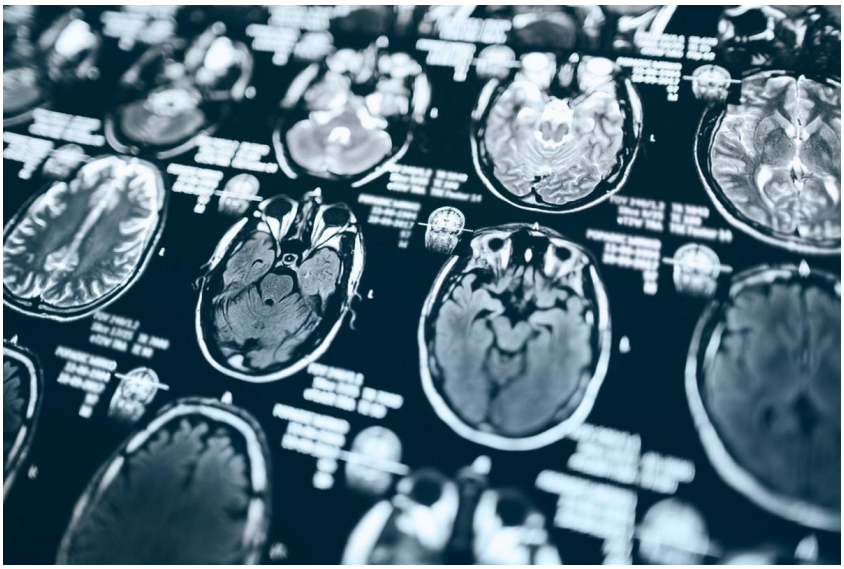
# The Catholic debate over brain death and organ donation

by Jason T. Eberl and Christopher DeCock January 2, 2025



*Editors' note: In the June 2024 issue,* ***America*** *published an article called "Dividing the Church on Brain Death." Dr. Jason T. Eberl and his coauthors argued that current neurological criteria for determining brain death is consistent with Catholic teaching. They were responding to the joint statement "Catholics United on Brain Death and Organ Donation: A Call to Action," in which the authors advised Catholics to "decline organ donor status" and "decline consent for organ donation" because the existing guidelines do not ensure "moral certainty of death."*

*In response to this article, several physicians and ethicists responded with a long letter stating that even if a blanket refusal of organ donation may not be justified, there are indeed questions about the accuracy of determining brain death under the current criteria.*

***America*** *asked Dr. Eberl to continue the conversation in a dialogue with Dr. Christopher DeCock, one of the respondents. What follows is their conversation. Dr. Kevin Donovan assisted Dr. DeCock.*

**Jason Eberl:** On behalf of my co-authors, I sincerely thank Christopher DeCock and his co-authors for their letter in response to our essay regarding brain death and organ donation as a culture war issue. We agree on the imprudence of the "Catholics United" statement that our original essay criticized. Neither of us are calling for Catholics to conscientiously refuse for themselves or their loved ones to be declared dead by neurological criteria, or to refuse to donate their organs. Nevertheless, there remain significant points of disagreement regarding the currently accepted neurological

criteria for determining death. As we note in our original essay, constructively critical debate should continue.

A key point of disagreement concerns the role of hypothalamic function in bodily integration. We argue that the hypothalamus, while performing critical *regulatory* functions, is not a *sine qua non* with respect to the human body's integrative unity. Rather, the spontaneous and self-regulated circulation of oxygenated blood, accomplished by the heart and lungs through the mediation of the brainstem, is that without which a human body cannot sustain itself as a living organism.

With respect to the case of Jahi McMath, Dr. DeCock and his co-authors take the fact that her body underwent pubescence to indicate persistent organic unity. Following the distinction neurobiologist Maureen Condic has drawn between "coordination" and "integration" of bodily activity, we do not concede that the onset of pubescence is in and of itself indicative of the *substantial unity* characteristic of living organisms. Many animals—and even some humans—go through life without experiencing puberty. On the other hand, no human can live without circulating oxygenated blood.

The biophilosophical disagreement between Dr. DeCock and his co-authors and ourselves concerning the necessary and sufficient conditions for a human organism's integrative unity provokes the question whether we have *prudential certitude* that patients declared dead using neurological criteria are actually dead and may have their vital organs transplanted. The authors of the "Catholics United" statement contend that such certitude is lacking. Dr. DeCock and his colleagues agree but are reluctant to call for disrupting current clinical practices while awaiting revision of the current clinical guidelines to include loss of hypothalamic function. We agree that physicians and other bedside practitioners should more consistently adopt and apply current clinical guidelines, which we affirm are consistent with "a sound anthropology" without requiring loss of hypothalamic function. Catholics may thus continue to donate vital organs following determination of death by neurological criteria. – *Jason T. Eberl*

**Christopher DeCock:** My co-authors and I appreciate the opportunity for continued discussion with Professor Eberl and his co-authors on this important issue. Unfortunately, we cannot agree with their assessment.

We concur that Catholics need not refuse involvement with DNC (death determination by neurological criteria) and organ donation. Therefore, that leaves us with only two options; we accept the current clinical criteria that are demonstratively inadequate, or we demand better testing than the current guidelines provide. Cases of so-called chronic brain death, such as Ms. McMath's, demonstrate the hazards of following the

current guidelines unamended. Dr. Eberl and his co-authors would have us accept that Jahi McMath and others like her were dead, but common sense argues otherwise. As we have stated elsewhere, corpses do not grow breasts and menstruate. Many in secular bioethics see the tension between the current guidelines of medicine (which purport to determine whole brain death as required by the law, but in reality, only test for partial brain death) and are looking for guidance on improving testing.

Thaddeus Pope and others who sought to change the legal standard of death to the current inadequate clinical criteria have acknowledged that organ donation using these guidelines is a violation of the "dead donor rule," which requires organ donors to be dead according to legal criteria prior to organ removal. He proposes that the best course of action is to do away with such a standard and to let the patients and families decide when they are dead enough to donate. This is not a "sound anthropology".

As all authors in this debate accept, organ donation is a great gift, but one must be dead at the time of organ donation. Although we agree with Dr. Eberl and his co-authors that the current clinical guidelines should be followed, we do not agree that they are sufficient for the determination of death. We know that based on retrospective data many "chronic brain dead" patients demonstrate hypothalamic function and those same patients do not lose self-integration. Calling such patients dead and then harvesting their organs is imprudent at best and would violate the dead donor rule.

While we cannot all agree on the importance of hypothalamic functioning in the determination of self-integration, we could at least agree to accept it as a marker of the loss of persistent integrative unity. Including such testing would be a giant step toward attaining moral certainty. Such an approach would be the best opportunity to truly unite Catholics and others and avoid a semblance of a culture war.

**J.E.:** I am grateful for Christopher DeCock's thoughtful reply. We agree upon much, such as accepting—in some form—neurological criteria for ascertaining death, rejecting justifications of neurological criteria solely on the basis that the brain is the purported "seat of consciousness," and advocating the "great gift of life" that is organ donation.

Disagreement persists regarding what biological functions constitute the necessary and sufficient conditions for determining the loss of *integrative organic unity*. Unquestionably, there must be irreversible loss of cerebral and brainstem function. But what about the hypothalamus? While it plays an important role in maintaining homeostasis, it does not drive homeostatic function in the same way that the brainstem drives breathing.

In the context of brain death—when the hypothalamus has lost its brain-mediated input/output connections—the only way for the hypothalamus to have any influence on the rest of the body is through the neuroendocrine pathways: hormonal secretion and regulation of osmotic homeostasis through the secretion of the hormone vasopressin. Does such neuroendocrine function alone constitute the *integrated* functioning of an "organism as a whole"?

No additional biological data can help answer this question, as it is subject to interpretation within a particular biophilosophical framework. It is worth noting, though, that the hypothalamus connects to various organ systems beyond the central nervous system. Dr. DeCock emphasizes hypothalamic connection to the reproductive system, but why privilege that system above other systems to which the hypothalamus is functionally connected? Would persistent functioning of the integumentary system (hair, skin and nails) suffice for someone to be alive? If we do not require loss of function of all organ systems for an organism to cease existing as an integrated whole, why cannot loss of central nervous system function be the sole necessary and sufficient condition for declaring death?

We are thus left to question whether we have *prudential certitude* that patients declared dead using current clinical guidelines, which exclude assessing neuroendocrine function, are indeed dead before procuring their organs. As Aristotle noted, moral science can only admit of the degree of certainty that the subject matter allows; and moral science, unlike mathematics or deductive logic, admits a great deal of uncertainty. Thus, the church's magisterial wisdom cannot provide a determinate line between having and lacking prudential certitude in a particular moral matter. Nevertheless, further guidance from scientifically-informed moral theologians of what constitutes sufficient prudential certitude for determining death would help solidify confidence in current—or suitably revised—clinical practices.

**C.D.:** We have found areas of important agreement, but still have an unresolved dispute over the importance of hypothalamic testing in the determination of brain death. We are thus left to question whether we have prudential certitude that patients declared dead using current clinical guidelines, which omit assessing hypothalamic function, are indeed dead before procuring their organs. We have ample evidence of over 100 cases where the guidelines for brain death determination were followed, but the patient persisted nonetheless without the predicted collapse on the ventilator.

Jahi McMath is the most prominent example. Others who meet these criteria can gestate pregnancies. All have hypothalamic functioning, do not decompose and are still dead by the current approach. We contend that such patients have not lost integrative organic unity and must still be alive. Eberl and his colleagues in "Catholics United"

correctly point out that the current criteria cannot provide moral certainty. But Eberl and his colleagues still insist that the criteria provide sufficient moral certainty, despite the numerous outliers of "chronic brain death." We have chosen a middle path, expanding the criteria to include hypothalamic testing.

We do not see eye to eye with Eberl and his co-authors on the reasons why hypothalamic activity would be important in a bio-philosophical understanding of brain death. However, it is a fact that those patients who persist despite a determination of brain death according to the current guidelines, did not do so in the absence of hypothalamic functioning. This we can accept as a fact.

Like Eberl and his co-authors, we agree with Aristotle that "moral science can only admit of the degree of certainty that the subject matter allows." When the original criteria for brain death were proposed, the authors did not know that patients who met those criteria would not decompose, but instead continue to live for years. New data has shown that what all those patients have in common is hypothalamic functioning, which makes sense to us based on its importances in maintaining homeostatic integration. Acknowledging this can only lead to one conclusion. To ignore persistent hypothalamic functioning is to ignore prudential certitude.

Perhaps "further guidance from scientifically-informed moral theologians" in this case is not as crucial as guidance from scientifically informed medical scientists who insist on sufficient prudential certitude for determining death as a necessary step to help solidify confidence in suitably revised clinical practices.

**J.E.:** The question of what conceptually constitutes the death of a human person and the appropriate clinical criteria for assessing that a human person has died significantly bear on questions related to appropriate end-of-life care; in fact, the original report published by the Harvard ad hoc committee in 1968 that led to the eventual adoption of neurological criteria for determining death was primarily concerned with patients who had sustained neurological impairment and were being maintained by ventilators in the ICU with no reasonable hope of recovery. Nevertheless, the determination of death is also directly linked with the possibility of procuring transplantable organs.

The Catholic Church's guidance is clear that organ donation is a great act of charitable giving of oneself, but there must be prudential certitude that the donor of vital, unpaired organs is deceased before procurement begins and that the criteria for determining death are within the domain of medical science. My colleagues and I have argued that the medical community possesses such certitude and fervently hope that faithful Catholics will continue to participate in this final act of charitable giving even

as the medical community debates and refines the criteria by which human persons are determined to have died.

**C.D.:** We appreciate the opportunity to have this exchange with Dr. Eberl and colleagues. The rationale for the Harvard ad hoc Committee's proposal was indeed "no reasonable hope of recovery." Therein lies the problem. Does it matter if a patient will recover? It should not. We should know, with reasonable certainty, that a patient is indeed dead before we turn their various organs into a gift for society at large. They deserve this level of certitude.

In my clinical practice, I care for many profoundly disabled children who will never recover, but no one would question whether they were dead or alive. Similarly, severely neurologically devastated patients on ventilators with persistent hypothalamic functioning also have little hope of recovery, but they are not dead. Prudential certitude requires an absence of reasonable doubts.

Based on the data we have presented and the myriad of organizations who are concerned about the new guidelines that explicitly ignore the presence hypothalamic functioning, we cannot agree that Catholics have such certitude. We acknowledge the gift that is organ donation, but for the good of organ donation and public trust we would ask Catholics considering organ donation to demand better testing that includes an assessment of hypothalamic functioning.

Jason T. Eberl

Jason T. Eberl is a professor of health care ethics and philosophy and director of the Albert Gnaegi Center for Health Care Ethics at Saint Louis University. He is the editor of Contemporary Controversies in Catholic Bioethics (Springer, 2017).

Christopher DeCock

Christopher A. DeCock practices pediatric neurology/epilepsy and is physician chair of the West Market Ethics Committee at Essentia Health, in Fargo, N.D. He was an observer for the Uniform Law Commission's Revision of the Uniform Determination of Death Act.