Ground realities in brain death certification

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Dr. Zubair Umer Mohamed's comment lucidly articulates the practical issues, arising from the linking of brain stem death certification to organ donation, especially in the state of Kerala. Our article advocates the delinking of brain stem death from organ donation for precisely these reasons and stresses the need for a uniform definition of death (1). We agree with Dr. Mohamed that ICU doctors should not presuppose that brain stem death testing needs to be done only once if organ donation is not going to take place.(2). However, this practice is quite widespread given the current understanding of the legal framework. A case in point is a document prepared for all military hospitals in India that states the following with regard to the Transplantation of Human Organs Act (THOA), 1994, and Transplantation of Human Organs (THO) Rules -

"THOA 1994 and THO Rules 1995 are the only laws wherein brain death certification procedures have been laid down. If a patient is declared Brain Dead after the second test but the relatives do not give consent or withdraw consent the same level of treatment has to continue with no withholding/ withdrawal as per this Act. Indian Laws do not permit for ventilator to be disconnected and the ICU team is liable for ventilating a 'Dead Patient' in such a scenario, which may lead to disharmony between caregivers and relatives. Hence it is suggested that the counselling and consent for Organ Harvesting be taken without any ambiguity before a second BSD testing. In case of any ambiguity, the second BSD test should be withheld and patient should be managed accordingly by not escalating therapy." (3)

While delinking organ donation from brain stem death will go a long way towards creating a climate of comfort and trust for doctors as well as families of patients, it may take a while for disconnection of the ventilator to happen on the ground when there is no organ donation, either because families want ventilation to continue, or because doctors decide to. One could look at a study from Spain, which is considered the leader in deceased donation with an organ donation rate of 48.3 per million population in 2018 (4) (including deceased donors from donation after brain death as well as donation after circulatory death). Escudero et al who conducted a multi-centre study of 1844 patients from 42 Spanish intensive care units have pointed out that withdrawal of all treatment after the diagnosis of brain death took place in only 75% of the patients who did not go on to become organ donors and this was attributed to some healthcare professionals who did not consider brain death equivalent to the death of the person by circulatory criteria (5). Dr. Mohamed also outlines the dilemmas that healthcare professionals face when relatives refuse to acknowledge brain death. This makes a clear case for formulating guidelines to help healthcare professionals in such situations (6). The Indian Council of Medical Research has recently drafted a position paper on 'Do Not Attempt Resuscitation' (DNAR) to guide treating physicians. The intention is to not prolong the suffering of patients with incurable disease and avoid non-beneficial cardio-pulmonary resuscitation (CPR) in such patients (7). This could well inform the first step in disconnecting the ventilator in brain death situations too.

References

1. Shroff S, Navin S. "Brain death" and "circulatory death": Need for a uniform definition of death in India. *Indian J Med Ethics*.2018 Oct-Dec;3(4) NS: 321-3. DOI:10.20529/IJME.2018.070.Available from: https://ijme.in/articles/brain-death-and-circulatory-death-need-for-a-uniform-definition-of-death-in-india/?galley=pdf
2. Mohamed ZU. Response to Shroff and Navin's article on "brain death and "circulatory" death in *IJME. Indian J Med Ethics*. Published online on November 21, 2019 [cited 2019 Nov 29]; DOI:10.20529/IJME.2019.075. Available from: https://ijme.in/articles/response-to-shroff-and-navins-article-on-brain-death-and-circulatory-death-in-ijme/?galley=html
3. Srivastava V, Nakra M, Anand Shankar K, Dhull P, Ramprasad R, Lamba NS. Brain stem death certification protocol. *Med J Armed Forces India.* 2018 Jul [cited 2019 Nov 29];74(3): 213-16. Available from: https://www.sciencedirect.com/science/article/abs/pii/S0377123717300606?via%3Dihub
4. Global Observatory on Donation and Transplantation. Summary. 2018 [cited 2019 Dec 10]. Available from: http://www.transplant-observatory.org/summary/
5. Escudero D, Valentin MO, Escalante JL, Sanmartin A, Perez-Basterrechea M, de Gea J, et al. Intensive care practices in brain death diagnosis and organ donation.*Anaesthesia* 2015 Oct; 70(10): 1130–9. doi:10.1111/anae.13065.
6. Flamm AL, Smith ML, Mayer PA. Family members' requests to extend physiologic support after declaration of brain death: a case series analysis and proposed guidelines for clinical management. *J Clin Ethics*. 2014 Fall;25(3):222-37.
7. Draft ICMR Position Paper on 'Do Not Attempt Resuscitation'(DNAR). New Delhi: Indian Council of Medical Research; 2019 Dec [cited 2019 Dec 30]. Available from: http://ethics.ncdirindia.org/PDF/Draft%20ICMR%20Position%20Paper%20on%20DNAR.pdf

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