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## Legal death asks, "What's in a name?"

**Peer review status:**

No

**Corresponding Author:**

Dr. Deepak Gupta,  
Anesthesiologist, Wayne State University, 48201 - United States of America

**Submitting Author:**

Dr. Deepak Gupta,  
Anesthesiologist, Wayne State University, 48201 - United States of America

**Article ID:** WMC005588

**Article Type:** My opinion

**Submitted on:** 16-Jul-2019, 12:59:23 AM GMT **Published on:** 24-Jul-2019, 05:47:33 AM GMT

**Article URL:** [http://www.webmedcentral.com/article\\_view/5588](http://www.webmedcentral.com/article_view/5588)

**Subject Categories:** MEDICAL ETHICS

**Keywords:** Legal Death, Organ Donation, Organ Harvesting, Brain Death, Donation After Cardiac/Circulatory Death, Dead Donor Rule

**How to cite the article:** Gupta D. Legal death asks, "What's in a name?". WebmedCentral MEDICAL ETHICS 2019;10(7):WMC005588

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**Source(s) of Funding:**

NOT APPLICABLE

**Competing Interests:**

NOT APPLICABLE

# Legal death asks, "What's in a name?"

Author(s): Gupta D

## Abstract

Legal death asks, "What's in a name?" Before defining death, we must understand what life is and, after understanding life, we must ponder why we are defining death. Essentially, death is the time-point when the body, as a whole, is ready to begin its irreversible decomposition and decay so that the elements forming the body can return back to the nature. So, when death is body's readiness, as a whole, to irreversibly decompose and decay, where does organ harvesting, retrieval and transplantation fit in this continuum? Whichever way medical science tries to define it, legal death for medical scenarios may not be death in actuality considering that herein legal death may have been only designed, defined, propagated and accepted so that (a) the whole heart and other organs can be considered ready to be harvested with body medically becoming ready for abandonment as soon as the artificial life support is withdrawn and (b) the medically futile draining of kin/payers/system resources can be contained whenever the artificial life support systems essentially start evolving into artificially supporting non-salvageable-dying-bodies. Summarily, confusing usage of word "death" during legal death for medical scenarios may have to be removed from our medicine because the answer to the question "What's in a name?" is a name.

## My Opinion

Legal death<sup>[1-2]</sup> asks, "What's in a name?" Can William Shakespeare be rolling in his grave considering that his words are hereby being used to question the definition of death? Sometimes, some are legally pronounced dead when their brains are declared dead per current medical sciences' best estimates even though their bodies along with their organs may survive till much later.<sup>[3-5]</sup> And sometimes, some are legally pronounced dead whenever their bodies are first discovered to be dead even though long time periods since the actual times of death may have elapsed before these dead bodies got discovered.<sup>[6-7]</sup> Before defining death, we must understand what life is and, after understanding life, we must ponder why we are defining death. While

defining death, we can only focus on death of body because we may never understand death of mind or soul. The existential questions are:

- Does death define the time-point when body, which can not function on its own, can be abandoned?
- And what happens to this abandoned body?

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Essentially, death is the time-point when the body, as a whole, is ready to begin its irreversible decomposition and decay so that the elements forming the body can return back to the nature,<sup>[8-9]</sup> in various forms of matter and energy which we know of and various forms of dark matter and dark energy<sup>[10]</sup> which we are yet to know.

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Hereafter, the final set of questions arises.

- When death is body's readiness, as a whole, to irreversibly decompose and decay, where does organ harvesting, retrieval and transplantation fit in this continuum?
- Can we continue to go by the current definition of legal death where organ harvesting, retrieval and transplantation can be considered returning back of organs as whole to fellow human beings considering that they all are constituents of nature as well?
- Are we still confused by the current definition of legal death because organs harvested and retrieved are transplanted thus escaping irreversible decomposition and decaying while organ-less body is not allowed to irreversibly decompose and decay until after organ harvesting?
- When no organs are to be harvested, does legal death need to be defined so as to potentially postpone the controllable time-point when whole body can be abandoned to decompose and decay irreversibly whereby preventing potential postponement of this ambiguous time-point after artificial life support measures seem futile and draining of resources appears purposeless?
- Considering that the confusion surrounding legal death will remain unabated,<sup>[11]</sup> should we consider renaming legal death for medical scenarios as "Whole-Heart-Harvestable Permanent-Abandonment-Ready Dying-Human-Body Sans-Artificial-Support Current-Best-Estimate"?

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Regarding whether the aforementioned and renamed pathophysiological state ("death") has been attained, the medical criteria as well as the

socioeconomic reasons can be decided after consensus within the medical fraternity as well as the democratic society.<sup>[12]</sup> However, if word "death" can not be removed from the current definition of legal death for medical scenarios like (a) brain death before automatic withdrawal of futile artificial life support measures wherein patients being brain-dead potentially precluding the need for their families/surrogates/guardians consent<sup>[13]</sup> prior to withdrawal of futile artificial life support measures and (b) donation after cardiac/circulatory death for harvesting organs in non-brain-dead patients, there will always be confusion regarding when the body is dead in medical scenarios.<sup>[14-15]</sup> Counterintuitively, if (a) non-statutory "Dead Donor Rule"<sup>[16]</sup> is mandatory ethical prerequisite prior to certain vital organs harvesting and (b) social norms and aesthetics warrant to keep society "misinformed" regarding organ donation being primarily limited to "dead" donors and thus never becoming the cause of donors' "death",<sup>[17]</sup> we may continue to keep word "death" for namesake during legal death for medical scenarios. However, society may have to consider inciting mass awareness about legal death's truest rechristening as "Whole-Heart-Harvestable Permanent-Abandonment-Ready Dying-Human-Body Sans-Artificial-Support Current-Best-Estimate" because death in natural sense, as the time-point when irreversible decomposition and decaying of whole body begins, actually and only happens after the artificial life support has been withdrawn irrespective of whether organs had or had not been harvested before the withdrawal of artificial life support. Moreover, death of human body in natural sense may be delayed for variable periods of time after the artificial life support has been withdrawn unless whole heart had been harvested. There is no historical example when a harvested heart has been transplanted back (re-donated/replanted/auto-planted)<sup>[18]</sup> in the donating body and thus human body can not be considered living without whole heart in-situ (natural or artificial)<sup>[19]</sup> unless futuristically the cryogenically frozen brain of the heartless body can be envisaged to be able to receive a heart for its heartless frozen body or can be envisaged to be transplanted into a brainless body<sup>[20]</sup> having a beating heart.

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Essentially, we should call a spade a spade and be done with it. In this case, whichever way medical science tries to define it, legal death for medical

scenarios may not be death in actuality considering that herein legal death may have been only designed, defined, propagated and accepted so that (a) the whole heart and other organs can be considered ready to be harvested with body medically becoming ready for "abandonment" as soon as the artificial life support is withdrawn and (b) the medically futile draining of kin's/payers/system's resources can be contained whenever the artificial life support systems essentially start evolving into artificially supporting "Whole-Heart-Harvestable Permanent-Abandonment-Ready Dying-Human-Body Sans-Artificial-Support Current-Best-Estimate". Therefore, aforementioned confusing usage of word "death" during legal death for medical scenarios may have to be removed from our medicine.

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Interestingly, we may also look into future to ponder if the cryogenically frozen bodies<sup>[21]</sup> may not be considered dead too because they are not allowed to irreversibly decompose and decay hoping that they may somehow and someday be able to get revived. Herein too, it may be better that the cryogenically frozen bodies may be called "Frozen-For-Now Hoping-In-Future Ready-For-Revival Whenever-Technology-Allows Viably-Thawing-Frozen" unless the socioeconomics sustaining the frozen bodies do not drain out before the evolution of capable futuristic technology potentially leading to disheartened pulling the plug on "Frozen-For-Now Hoping-In-Future Ready-For-Revival Whenever-Technology-Allows Viably-Thawing-Frozen" culminating into their deaths in natural sense, as time-points when irreversible decomposition and decaying of their frozen bodies can be allowed to begin.

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Similar socioeconomic confusion currently exists and arises when the resources are spent by one party<sup>[22]</sup> for artificially supporting life while consent for withdrawal of life support is requested from another party.<sup>[23]</sup> It is assumed that there will be socioeconomic conflicts of interests if the same party is paying for resources to sustain artificial life support as well as providing consent to withdraw artificial life support. However, these socioeconomic conflicts of interest may never go away despite separating the two aforementioned parties because the parties paying for the artificial life support may create guidelines,<sup>[24]</sup> recommendations and position statements which can be potentially perceived as "coercions"<sup>[25]</sup> by the parties consenting to withdrawal of artificial life support when they are being asked to understand, to the best

of currently available knowledge, the futility of artificial life support so that they may be able to relinquish their potential feelings of guilt while deciding for artificial life support's withdrawal. Â

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Summarily, until we are able to confirm that afterlife of human beings exists and that these afterlife spirits (afterlife minds and afterlife souls) have certain personal expectations about when and how their last bodies should have been abandoned<sup>[26]</sup>, human death in actuality is just a human body becoming ready to be permanently abandoned without the fellow human beings feeling about the abandonment wherein ensuing irreversible decomposition and decaying of body is returning ashes to ashes, dust to dust. Thereafter, it may futuristically become feasible and appear better too that the futuristic examples of patients waiting for whole heart transplants may be able to sincerely pray for timely availability of Whole-Heart-Harvestable Permanent-Abandonment-Ready Dying-Human-Body Sans-Artificial-Support Current-Best-Estimate rather than inadvertently and potentially hoping for timely legal death of some unknown bodies because the answer to the original question "What's in a name?" is "A name is a name".

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