THE LEGAL DEFINITION OF DEATH

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I. INTRODUCTION

During life, the law is very much a part of a person. It defines his rights, obligations and punishes him for violation of certain acts. On the death of a person, the law does not cease to operate on him. From the time he is conceived[1] to the time he is buried, there are provisions of law which regulate his life and continue to operate even after his death. But legal principles continue to evolve and change. The effects of scientific, medical and other inventions cannot simply be ignored. These pose new problems of adjustment in the application of old existing rules.

In a short span of 15 years, medical breakthroughs have brought about sophisticated equipment such as the heart-lung machine, kidney machine and other medical inventions which could prolong life or sustain it. These machines could pump bloood inside a man's body, force his lungs to function, cleanse his internal organs and remove body wastes. As a consequence, certain legal, religious and ethical problems related to death have cropped up.

Death, however, is not a purely medical question. We can speak of social (or civil) death when freedom is exchanged for restriction; spiritual death when intellectual activity and emotional experience give way to emptiness of the mind; vegetative death when basic life processes are no longer maintained spontaneously and metabolic death when cells and tissues finally disintegrate.[2]

The question that today thrusts itself to both doctors and lawyers alike is when a person whose metabolic functions are performed by machines or when his body is still but the heart continues to pump because of a machine, is there life or is he dead? How far can the concept of life be extended? By what

[1] CIVIL CODE, art. 40.
[2] *Criteria for the Definition of Death*, 14 WORLD MEDICAL J. 143-46 (Sept.-Oct., 1967).

criteria could life be conclusively divorced from death? The effects of the law upon living and dead persons are different. In prolonged borderline cases, when neither life nor death is clear, the status of a person is dependent only on opinions of attendant physicians. Here lies the crux of the problem. For while the law uses as its reference points the fact of life and death, it has no precise definition to speak of, of either.

II. Definitions of Death

Death has been defined as "the cessation of life, the ceasing to exist, defined by physicians as the total stoppage of the circulation of the blood, and the cessation of the animal and vital functions consequent thereon, such as respiration, pulsation, etc."[3] This classical definition of death was adopted in full by the Court of Appeals in the criminal case of *People v. Basmayor*.[4] The medical discipline defined death simply as "the cessation of life; permanent cessation of all vital bodily function. For legal and medical purposes, the following definition of death has been proposed — the irreversible cessation of all the following: (1) total cerebral function; (2) spontaneous function of the respiratory system; and (3) spontaneous function of the circulatory system."[5] The pioneering heart surgeon, Dr. Christian Barnard defines death as "occurring when circulation, respiration and central nervous system activity are simultaneously arrested and when shut off of life support machinery would leave a patient in this condition."[6] Dr. Solis, present Chief Medico Legal Officer of the National Bureau of Investigation, in his book on legal medicine defines somatic or clinical death as "the state of the body in which there is complete, persistent and continuous cessation of the vital functions of the brain, heart and lungs which maintain life and health." He distinguishes this from molecular or cellular death as "death of individual cells after the cessation of the vital functions of the body."[7]

With the advent of the ingenious man-made life support machines to sustain principally the failing heart and lungs, there evolved a new set of the meaning of death. The Ad Hoc Committee of Harvard Medical School now defines death as follows: "Criteria of irreversible coma characterized by unreceptivity and unresponsibility, no movement or breathing, no reflexes and flat electroencephalogram."[8] Time Magazine in its June 7, 1976 issue commented on a pending criminal case, that the cessation of brain activity

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[3] Black's Law Dictionary 488 (4th ed., 1951).
[4] C.A.-G.R. No. 01104-CR, August 13, 1952, 59 O.G. 2496 (April, 1963).
[5] Dorland's Illustrated Medical Dictionary 410 (25th ed., 1974).
[6] *Tissue Transplantation, Definition of Death and the Law*, 7 Phil. J. Internal Medicine 81 (1964).
[7] Solis, Legal Medicine 81 (1964).
[8] Proceedings: 1969 National Legal Symposium jointly sponsored by the American Medical Association and the American Bar Association, March 13-15, 1969, p. 60.

as a definition of death is a major departure from the traditional definition of death is the absence of breathing and heartbeat that has been in effect in Massachussetts and most other states.[9] This traditional definition have been followed by most courts of the United States. In the case of *Smith v. Smith*,[10] the Arkansas Supreme Court said that "Death is defined as meaning a total stoppage of the circulation of the blood and the cessation of the animal and vital functions consequent thereon, such as respiration, pulsation, etc." In *Thomas v. Anderson*[11] the California Court said that "death does not occur until the heart stops beating and respiration ends." These are the varied views on the definition of death.

What is the view of the other sectors of society outside of the medical and legal areas? This is a significant question especially in the Philippines which is predominantly a Catholic country. In 1957, Pope Pius XII stated that there is a clear distinction between vegetative life in the organ and superior life with all the vital functions. He considered that vegetative existence is not considered to be life in the spiritual sense. He said that the use of such artificial measures was not obligatory particularly if it created too heavy a charge on the family. The physician would therefore not be responsible for the death of a patient by interrupting such measures as the cause of death would be the primary disorder. It should be remembered that Pope Pius XII spoke emphatically against euthanasia the same time that the took a liberal attitude towards the non-use or interruption of life supporting systems.[12]

III. Death and the Law

The law contains many provisions on death. Succession, taxation, special proceedings, insurance, persons and family relations, obligations and contracts, criminal law, etc., proceeds upon the theory that death has occured and certain laws begin to be operational.

Civil personality is extinguished by death. The effect of death upon the rights and obligations of the deceased is determined by law, by contract and by will.[13] Death effects loss of juridical capacity,[14] terminates the conjugal partnership of gains,[15] dissolves marriage,[16] ends the obligation to furnish

[9] Time Magazine, June 7, 1976, p. 39.
[10] 317 S.W. 2d 275 (1958).
[11] 215 P. 2d 478 (1950).
[12] Discoursi ai Medici, Roma Orizzante Medico, 1959.
[13] Civil Code, art. 42.
[14] Civil Code, art. 37.
[15] Civil Code, art. 175.
[16] Civil Code, art. 259.

support,[17] ends parental authority,[18] ends usufructuary rights,[19] dissolves partnerships both general and limited,[20] extinguishes agency,[21] extinguishes gratuitous deposits[22] and gives rise to many other effects.[23]

It is however in the field of criminal law where the definition of death is of special importance. The very life and liberty of a person may hinge on what or how the courts define death. With the great strides achieved by man in the field of medicine, sophisticated life support machines can sustain certain vital functions of a person in a comatose condition for weeks, months or even years, who otherwise would have died. One doctor even went so far as to declare that "technology has advanced so that no one really has to die, so we have to make a choice."[24] Such sweeping statements brings to the fore possible criminal repercussions in the even that physicians could in utter disregard of state interest, play God.

Under the Revised Penal Code, felonies may be committed when the wrongful acts result from imprudence, negligence, lack of foresight or skill.[25] The same also provides that murder is committed if death results with the attendant circumstances of "treachery, taking advantage of superior strength x x x or employing means to weaken the defense or of means or person to insure or afford impunity." Absence of any of the attendant circumstances reduces the crime to homicide.[26] Exemption from and liability under this statute has been of late complicated by the hesitant and often unsettled definitions of death. Philippine courts have in the past accepted Black's Law Dictionary definition of death. However with the advance in medical science, more and more borderline cases have emerged wherein past accepted definitions of death are now found wanting.

Thirty years ago, a patient was considered dead when his heart stopped and "extraordinary" treatment consisted of an injection of adrenalin[27] Now, however, certain vital functions could be maintained in a patient while the failure of the rest are hopelessly irreversible. Questions of whether such a patient is dead confounds not only the courts but also the doctors themselves. The employment of resusitative measures might postpone the time of death,

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17 CIVIL CODE, art. 300.
18 CIVIL CODE, art. 327.
19 CIVIL CODE, art. 603.
20 CIVIL CODE, arts. 1830 & 1860.
21 CIVIL CODE, art. 1931.
22 CIVIL CODE, art. 1995.
23 See Pres. Decree No. 651 (1975), Act No. 3753 (1930), Rep. Act No. 349 (1949) as amended by Rep. Act No. 1056 (1954), Secs. 1107, 1087 of the REV. ADM. CODE; Rule 130, sec. 20(a) of the RULES OF COURT among others.
24 *A Right to Die?*, Newsweek, Nov. 3, 1975, p. 42 at 45.
25 Act No. 2515 (1930), as amended, Art. 3.
26 *Id.*, Art. 248.
27 Newsweek, *op. cit., supra,* note 24 at 44.

or even lead to a long term vegetative state. In a criminal case, this may convert a charge of murder or homicide to a lesser offense.[28]

Controversial Cases

In a criminal case, the muddled definition of death could result in a situation wherein the lawyers for the defense might say that the physician who turned off the life supporting machines had in fact caused the actual death of the patient, and not the accused who injured him in the first place. Such a situation finds its parallel in the Goldstone case[29] now pending appeal in the Massachussettes Supreme Judicial Court. In this case, Ronald Salem was slammed across the head with a baseball bat by Goldstone. For seven day following the attack, Salem's heartbeat and breathing had been sustained by life support machines. When these were withdrawn, all life signs ended. The issue was whether Salem was killed by Goldstone with a baseball bat or had died when all hospital maintenance of his body systems ceased. Superior Court Chief Justice Maclaughlin told the jury that it could construe brain death as legal death. For the first time in a criminal case, a jury defined death as the cessation of brain activity, a major departure from the traditional definition of death as the absence of breathing and heartbeat. It took the jury only one hour to decide that Salem was dead by the second day of the attack and Goldstone was guilty of first degree murder. The defense lawyer decreed the verdict as "judge-made law" and appealed the case. He argued that Salem was "alive" because the heart was still beating and he was still breathing, claiming that one cannot be alive in one part of the body and dead in another.

Judicial notice of the so-called brain death as allowed in the above case, has modified the traditional view of death. It is to be noted however that the latter leaves the determination of death to the physicians. Inasmuch as doctors themselves are not unanimous as to when a patient is medically dead, the confusion has found its way in the courts. The brain death theory and the traditional view are both faulty.

The brain death theory being primarily dependent on the results of the EEG, is sometimes rendered unreliable as there are instances when a flat EEG can be made to come back. Instances which affects the EEG among others are drugs, annesthetic agents and temperature.[30] The Harvard criterion says that 24 hours was sufficient observation period. Yet there was a report in Israel of one patient who had a flat EEG for several day who made a

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[28] *Supra*, note 8 at 57.

[29] Time Magazine, *op. cit.*, p. 39 (official copies of decision could not be obtained).

[30] *Supra*, note 8 at 75.

complete recovery.[31] The traditional view that the four minute limit in the absence of heartbeat is sufficient is not also dependable as in the case of hypodermic patients. In fact there was an instance where the heartbeat has stopped for over one hour and yet there was complete recovery.[32]

Ordinarily where doctors are unanimous on a medical point, and the patient or his family are in agreement, not much legal obstacle can be perceived. However, in the absence of consent from the patient or his family, or where consent cannot be obtained, doctors run the risk of criminal prosecution should they attempt to terminate all efforts to sustain life, inspite of the obvious futility and excessive expense that the efforts entail. Disagreement among doctors themselves may lead to criminal prosecution of their colleagues.

Termination of life support machines may constitute "treachery" and thus hold a doctor open to a charge of murder. It can be asserted that all patients are presumed to be subject to the obligation of all doctors to the preservation of human life. Any doctor who violates his obligation to a patient who usually are in no position to protest is liable for murder. However, if it can be proven satisfactorily that artificially sustained patients are as good as dead if not clearly so, a successful defense from criminal liability is possible. However, due to the confusion of the medical profession itself, such a defense is hard to come by. Cultural and religious factors may make a judge hesitant to move into unexplored legal territory even if substantial unanimity is present among the medical authorities.

In one American case, it was the family who wanted to terminate the life support mechanism and it was the doctors who disagreed. In this case, there was still brain activity hence no brain death, and the vital functions were artificially maintained. The family brought the matter to court in the now celebrated case of Karen Quinlan.

Neurology professor, Dr. Julius Krein testified that Karen had damage in four critical brain areas and possibly all of them. They are the reticular formation in the midbrain, which controls arousal and altertness, the basal ganglia, a motor control center and the thalmus, a relay center for sensations such as those of touch, pain heat or cold. Because damage to the nerve cells were irraparable, he said no known treatment could repair Karen's brain.[33] None of the doctors testified that there was no hope of recovery however.[34] The inexactitude of medical science prevented such prognosis. The parents of Karen Quinlan sought judicial authority to abandon specialized technological procedures that can only maintain for a time a body having no potentials for

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[31] *Id.*
[32] *Id.*, p. 76.
[33] Newsweek, *op. cit.*, supra, note 24 at 43.
[34] *In re* Quinlan, 137 N.J. Super. 227, 348 A. 2d 801 (1975).

resumption of life other than a vegetative existence. The court said that the state's interest contra weakens and the individual constitutional right to privacy grows as the degree of bodily invasion increases and the prognosis dims. The affirmation of the daughter's independent right of choice would ordinarily be based on her competence to assert it.[35] To protect such right is to permit the guardian and family to render their best judgment, subject to qualifications hereinafter stated.

The court decided that the termination of artificial life support system sustaining a comatose patient who has no reasonable possibility of recovery to cognitive life, pursuant to exercise of her right to privacy is not — "criminal homicide" and will not expose hospitals, physicians, guardians or family to civil liability thereon.[36] The court believed that the ensuing death would not be homicide but rather expiration from existing natural causes, and even if it were to be regarded as homicide, it would not be unlawful. The exercise of a constitutional right is protected from criminal prosecution. Such constitutional protection extends to third parties whose action is necessary to effectuate the exercise of that right, where the individuals themselves would not be subject to prosecution or the third parties charged are charged as accessories to an act that could not be a crime.[37] The court allowed the termination of life support systems on the condition that the patient is comatose, without possibility of recovery to cognitive life. In effect, this is an instance wherein life may become equated with death itself. Strangely enough, the patient Karen Quinlan continued to live after the life support machines were withdrawn. This fact negated the allegations of the doctors that on her own the patient would surely die.

This case generated a lot of controversy. Some sectors would like to legislate guidelines on when a patient is to be considered dead for all legal purposes. However, others oppose such a move. Foremost among them is Betty Jane Anderson, Director of the American Medical Association's Department of health laws, who puts it this way: "So long as you have advances in medical knowledge, the criteria for death will vary. The definition of death is constantly evolving. If you are locked into a statutory definition of death, you are stuck with it until the law changes. After all, it used to be that death occurred when you held a mirror to a patient's mouth and it did not fog up."[38]

IV. The Importance of Defining Death

There are two good reasons why a definition of death should be developed in the light of recent breakthroughs in the field of medical science. Firstly,

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[35] *In re* Quinlan, 70 N.J. 10, 355 A. 2d 647 (1976).
[36] *In re* Quinlan, *supra*.
[37] *Id.*, at 2464.
[38] Newsweek, *op. cit., supra*, note 24 at 47.

we have the now widespread use of organ transplants to save thousands of lives. Secondly, the matter of the physician's criminal and civil liability in malpractice suits field against them.

Organs Transplants

One development in medical science is the removal of a healthy organ from a person declared "dead" and its transplantation to a living person's body to replace a deceased organ. Dr. Christian Barnard, with his historic first human heart transplant paved the way for new concepts and questions, with answers still unsolved. When is a person dead? Who is to declare a person dead? How can one state with definiteness that a person is dead? When should the organ removal be made? Why? In eye transplants, "the donor's eye is removed within 24 hours after death and the cornea transplanted within 48 hours with proper storage facilities. Every effort is made however to facilitate the earliest removal and transplantation of the eye to prevent the body rejecting the transplanted tissues and to aid in the healing of the operative wound."[39] The trouble with our law on transplants (Rep., Act No. 349, as amended by Rep. Act No. 1056) is that there is no definition of death. Under this law, the donor may grant any portion of his body for medical, scientific, or surgical purposes before his death or after his death, by his nearest relative or guardian, the person who has custody of the deceased or the head of the hospital (Secs. 1 and 2). The law here is more concerned with the consent of the tissue donation than of the definition of death. In France, legislation has been passed which permits the removal of organs from accident victims under specified conditions, despite the absence of consent of the nearest relative.[40]

There seems to be no problem concerning kidney transplant from a living donor. But with regard to heart transplants, the legal problem exists, for the success of a heart transplant "necessitates a live heart in a dead donor. Removal of the beating heart raises the possibility, however remote, of wrongful death action or a charge of homicide."[41] Thus, a doctor, without a legal definition of death and uses his own judgment to declare a person "dead" and proceeds to remove his organ for transplant purposes risks criminal and civil actions against him. It was precisely because of this dilemma that in August, 1968, the *Sydney Declaration* was drafted as a "Statement of Death" which was unanimously approved by the assembly. The main points of the declaration are as follows:

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[39] Socrates, Jr., *The Case for Eye Transplant*, Expressweek, Sept. 2, 1976, p. 44.

[40] Reenstad, *Legal Aspect of Organ Grafting*, 13 WORLD MEDICAL J. 142-143 (Sept.-Oct., 1966).

[41] Hamburger, *Some General Considerations, Ethics, in Medical Progress* in CIBA FOUNDATION SYMPOSIUM 134-138 (1966).

1. The pronouncement of death should be the responsibility of the doctor.

2. Resuscitative measures are given to the donor, not to revive, but to keep the organs fresh for transplantation. The heart beats spontaneously, thus a clinical judgment as to the occurence of death must be exercised.

The declaration said, "In this wide grey zone of indecision, there can be no doubt as to the presence of life, such as it is. This doubt is not visible on the ground of "irreversibility of the process" leading to death. For the Christians and a host of others, this is to be resolved in favor of life — because there is no incontestable proof offered that it has ceased. The matter refers to most previous and sacred attribute of man which may not be taken away except, possibly, under the most singular and justifiable circumstances. If this is so, any transgression on the body of that person (much more the removal of his organs) becomes a tresspass on the innocent victim without his consent, not for his benefit, and a violence on his natural right."

On the other hand, to wait until circulation has stopped is to jeopardize the donee. To what extent we still do not know. The technical success of this critical and as yet, experimental operation, the temptation to beat the gun — to prematurely declare the existence of death is real enough for the Assembly to take note of it. Hence, the strong prescription that this decision should be made by two physicians in no way immediately concerned with the performance of the transplant. It is at this juncture where the Declaration seems to say that it dare not to say. The implication is to make use of the point of "irreversibility of the process" of death, (or the fatal nature of the injury) in the pronouncement of the existence of death in an unconscious and severely injured person This suggestion is novel and a radical departure from traditional norms. To maximize the prospects of success of the operation it is most welcome, and in fact demanded. Legal authenticity can only be acquired when death has been pronounced (To a physician, depending on his conscience and technical competence).[42]

Malpractice Suits Againts the Physician in Transplant Cases

Another offshoot of this lack of definition of "death" is the liability of a doctor who removes an organ from a body under a definition of death which is questioned. In the United States, there are four conditions to sue successfully on a malpractice suit founded on negligence:

(1) A legal duty on the part of the doctor toward his patient to exercise care, which duty arises as a matter of law and which is independent of contract.

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[42] *On the Declaration of Sydney, August,* 1968, 44 J. PHIL. MEDICAL ASSOCIATION 591-3 (Oct., 1968).

(2) There must have been negligence on the part of the doctor, *i.e.*, a breach of his legal duty to conform to the standards of proficiency and care required by law.

(3) The patient must have suffered loss or injury.

(4) The patient's loss or injury must have resulted directly from the doctor's negligence and the patient has the burden of proof.[43]

Without a clear cut statutory definition of death, doctors will be very hesitant to perform life-saving organ transplants because he will open himself to attack from the relatives of the deceased. A consequence of this would be the slow down of development in the area of organ transplantation. This area in medical science has a promising potential in developing techniques to save what would otherwise be sure death. This brings us to the question: who is to determine that a person is dead?

Doctors have the duty to maintain life. What is their right in relation to the determination of the time of death of a patient? Lawyers have the duty to uphold the law and to protect his client against deprivation of life without due process. What is their right in relation to the determination of death? Who has the final word? The doctor, the lawyer or the patient himself?

"Death is a process and not a moment in time as the law believes . . . the doctor has two professional obligations, to aid persons in danger and to protect life. But is it part of the duty to prolong indefinitely an artificial, vegetative or organic life without any criteria of ultimate efficacy?"[44] The medical profession should have the last word in determining the time of death as they are equipped with the scientific knowledge. Several publications have come out with the idea that only the doctor may decide when a person is dead.[45] In the Philippines, in a local symposium on death, the UP-PGH Department of Internal Medicine on January 8, 1969 stated that the doctors should have the responsibility of determining the occurrence of death. The main thrust of the publications is that "it would be unwise to legislate or lay down hard and rigid rules on the definition of death it being a medical fact, subject to the variability of medical progress."[46] If the doctors are to be the judge, what are to be their criteria in determining death? In a recent survey[47] by the Ontario Medical Association in 1971, a question was asked to all their members: "Medically, it is very important to define the moment of death so that removal

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[43] MEREDITH, MALPRACTICE LIABILITY OF DOCTOR AND HOSPITAL 61 (1956).
[44] *Symposium on Death*, 14 WORLD MEDICAL J. 133-151 (Sept.-Oct., 1967).
[45] *Supra*, note 8 at 59-61.
[46] *Id.*
[47] Sharpe, *Quinlan, Euthanasia and the Physician's Dilemma* in FOURTH WORLD CONGRESS ON MEDICAL LAW, MANILA, REPORTS, B, III, 1 (1976).

of tissues or organs when legally permissible can take place as soon as possible. In your opinion, the earliest time at which a transplant should be capable of being removed is when:

Alternative Available	*Physician's Response*
A. The apparent extinction of life manifested by the absence of heartbeat and respiration	7.7%
B. It is certain that the function of any one irreplaceable vital organs has ceased irrevocably and not be delayed until all vital organs cease to function	24.4%
C. There is the absence of heartbeat and respiration dilated pupils and total lack of reflexes	23.4%
D. There is one minute of EEG silence	35.8%
E. The donor would definitely never regain consciousness .	8.7%

Thus the majority of physicians would prefer a brain-oriented determinant. This is by no means the general consensus among the medical profession. Some countries have adopted procedures for removing an organ while life remains in the conventional sense. The executive body of the German Society of Surgery for example, has accepted a proposal that a patient can be considered dead notwithstanding the fact that the heart may still response to artificial stimulus, if the patient is unconscious for at least twelve hours. And if the Spontaneous respiration ceases, bilateral mydiasis sets in, the EEG tracings show an isolectic line for at least one hour without interruption. Brain death would also be considered in cases where the cerebral circulation has been completely absent for a period of at least 30 consecutive minutes.[48] This only shows the state of uncertainty over the matter within the medical profession.

No doubt this is just the beginning of the controversy. Is there a way out of this controversy between the law and the medical profession? One possible solution would be the patient himself. The patient himself has rights, it is his body and his life which he has a natural right to protect. In the United States, there are eleven states where the "right to die" bill is pending. Another name for this concept is the "living will". The main idea is that the patient has the right to choose whether or not to let his physician continue extraordinary efforts in the event of terminal injury or illness. Recently, California became the first State to pass the "right to die" bill. The provisions of this law provides that there must be two witnesses to the signing of this "living will" other than a relative or doctor. The insurance companies cannot

[48] *Id.*

claim this type of death as a suicide. More important, the doctor cannot be held criminally or civilly liable for death resulting from the "living will".[49] Is it possible to enact such a law in the Philippines? Roberto Concepcion in his recent article discussing the Karen Quinlan case, came to the conclusion that ". . . our laws manifestly reject the theory that a person has a "right to die" — in the sense of authority to kill himself — as a corollary to the right to live or otherwise.[50] It is therefore necessary to overhaul our laws in order to be in touch with developments. This situation we find ourselves in is aptly described by Chief Justice Warren Burger. He said that "the complaint of some is that our standards of ethics and rules of law do not keep pace with scientific developments and the potentials of experimental medicine, and thus do not give experimental programs a free rein. This is probably correct. Law and ethical standards are not subjects of research and discovery. They are the fruits of slow evolutionary processes. The law does not search out as do science and medicine. It reacts to social needs and demands. Law is not an end in itself. It is a tool, a means. Tools are not ordinarily made to hammer out solutions to hypothetical problems but for real problems. Which means that the problems must arise, exist and be recognized before the law reacts to provide a solution. Here is where science and law differ."[51]

V. Conclusion

It cannot be denied that under present circumstances it is the doctors that determine the essential elements which to their opinion is enough for a conclusion of death. In the area of death, medical discretion without statutory guidelines is dangerous so a limited group of men is the sole power of determination of life or death reposed. The danger of abuse is obvious.

It is true that with rapid advances of science, an absolute all comprehensive definition of death is impossible. However, this must not be taken to be a surrender of legislative duty on grounds of the difficulty involved. The ordinary citizen has the right to know his rights and to be protected on its violation. The legislative authority must attempt to make an acceptable criteria by which death could be presumed if a definition is at this stage impossible. The courts must have a set of guidelines by which it could resolve issues without need of judicial legislation. The question as to when life has terminated is of paramount importance, that statutory delineation is an utmost necessity. The law must be clear that a person is either dead or alive.

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[49] Philippine Evening Express, Sept., 1976.
[50] Concepcion, *Karen Ann Quinlan, To Let or not to Let Her Die; The Legal Perspective*, 49 Unitas 14 (1976).
[51] *Id.*