

Health and Social Care Committee
Human Transplantation (Wales) Bill
HT(Ind)51 – Dr John Warburton

Organ Donation Procedures

Dear Sirs,

I wish to protest against the idea that the donation of organs after death should be on the basis of presumed (or deemed: I'm unsure as to why you think there is a practical difference) consent. Leaving aside the obvious; that it is then no longer a donation but a seizure, I have carried a donor card for longer than I can remember and have been a blood donor since 1969, so it is clear that I do not object to the giving process. What I most strongly disagree with is the presumption that the Welsh Assembly has the right to decide what to do with my corpse unless I tell it otherwise. This is a qualitative, not a quantitative, change and seems to me to cross a rather sinister threshold. It is an age-old custom that the immediate family has the right to decide on the disposal of the body, in the absence of instructions from the deceased. If they have the strong conviction that they wish their nearest to go to the grave entire, exactly what moral right have you or the Assembly to say otherwise? We have recently had scandals; eg Alderhey, because the medical profession assumed that it had the right to take bits of dead bodies without consent even though it was expressly against the law. So, if it has a history of ignoring the law, what credence can be placed on the pious words of politicians that “the nearest will be consulted” when they are too timid even to include it in the Bill?

Secondly, I am unconvinced by the legality of the proceedings: the Welsh Assembly is not the final arbiter of Human Rights. Do you seriously think that, if a family pushed the matter to the European Court of Human Rights, that your stance would prevail? I suspect that you do not expect anyone to take such action, rather than that the legal groundwork is sound.

We are told that presumed consent is used in Spain and that the donor rates are higher. This is only partly true: my information is that, in the event of what might be termed a re-usable death, the relatives are always asked for permission and that no removal has taken place without either their permission or the prior written consent of the deceased. Given that their operating practice is fundamentally the same as ours, the differences are presumably related to culture, the differing profiles of the state of the recently deceased or the better co-ordination of the various parts of the Spanish health system. Having spent time in Spain and having witnessed the system in action when my wife suffered a heart attack, all three reasons seem entirely possible.

Clearly it is for the best that those in need of organs can have access to them. A better rate of donor card carrying would be preferable and I would suggest that GPs could be more active in this respect. What is not acceptable is the attitude that you should form legislation based on the notion that you are a better judge of what people should do, when what they might wish to do is neither illegal nor harming others.

Yours Sincerely
Dr John Warburton
Penarth