

MORALITY AND LEGALITY IN BIOETHICS: INFANTS WITH ANENCEPHALY

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What do we make of an infant who has a severe neurological impairment, one with the congenital abnormality in which there is the absence of major portions of the brain and skull but the presence of a functioning brainstem that controls the respiratory and circulatory systems, one whose mortality rate is only a few days to a week? Such an infant is said to suffer from anencephaly. Current debates question not only whether it can be morally permissible to trade the life of this infant for its organs, but also whether withholding treatment ought to be an option. The final word in the matter seems to emerge from various voices ranging from the parents to the hospitals to the courts, thus only obscuring the matter further. A myriad of moral and legal decisions surround cases involving the anencephalic infant, specifically, in the 1992 cases of Baby Theresa and Baby K. Although these two cases took place in different states and though each guardian wanted different things for their infant, the conflicting legal and moral codes were evident. In the case of Baby Theresa, the parents wanted their child to be pronounced legally dead so that they might donate their anencephalic infant's organs in order to preserve the lives of children in need of organ transplants. The Florida courts, however, denied them this wish. On the other hand, Baby K's mother rejected the hospital's recommendation that her anencephalic infant be taken off a ventilator. The hospital then petitioned to the courts to be free of liability that may incur upon refusal to provide support. In this case, the Virginia courts sided with Baby K's mother. Ultimately, the different moral claims of parents and doctors will not only be governed by existing legal precedents, but, under these two opposing frameworks, they can either go against or coincide with the current laws in the United States. In the case of Baby Theresa and Baby K, the legal precedents were upheld despite the differing views between the moral claims and wishes of the parents and doctors and the legal claims of the law. However, this is not as it should be. Not only should there be consistency among the moral and legal aspects of such cases, but the laws need to be changed with a specific focus on whether or not it is acceptable to withhold treatment and/or to use the anencephalic infant as an organ source. Furthermore, the law must incorporate into it who ought to have the final say—in the case of anencephalic infants, the final say should belong to the infant's parents or guardians because, in the end, they are the ones who must bear

this challenge. Creating such a law will ultimately lessen the tension surrounding conflicting moral and legal claims.

In order to understand the friction that lies within the moral and legal aspects of such an issue, one must first examine the idea of personhood, for this seems to be what lies at the debate's core. While there are doctors such as McCullagh, Koch and Ridgley, and Sobsey who argue, respectively, that genetics, humanness, and certain intangible yet recognizable attributes distinguish people from lower species, thus creating personhood, others such as Peter Singer, utilitarian and author of "Practical Ethics," would argue otherwise. Indeed, the assumption that anencephalic infants are not persons because they lack the capability to "desire to continue living" underlies an aspect of the "preference utilitarianism" that Singer advocates (124). Preference utilitarianism encompasses the concept of utility being the ultimate determinant factor along with the role of preferring or desiring one thing over the other. By concluding that anencephalic infants are not persons, one can sanction the use of live anencephalic infants as organ donors without question. As a renowned proponent of this assumption, Singer, in his argument for preference utilitarianism, contends that "the preference utilitarian reason for respecting the life of a person cannot apply to a newborn baby" (124). However, if this perspective of utilitarianism does not apply to newborn babies, as Singer argues, how much more would it apply to anencephalic infants? Singer is redefining the definition of *person*. If contemporary medical ethics adopt this new definition of person to replace the conventional definition, a number of precedents could be set into law involving infants who are disabled or lack the capacities mentioned above. According to Singer, utilitarianism does not provide protection for infants, especially those who are disabled or cannot be self-conscious or rational (125). Under preference utilitarianism, there is no need to consider the personhood of anencephalic infants. If this concept is followed through, the question of whether it is morally permissible to take the life of the anencephalic infant for organs would be answered in the affirmative. Using the anencephalic infant's organs for the survival of another child in need of vital organs would be morally permissible.

Though Singer's view of preference utilitarianism is morally acceptable to some and morally repugnant to others, his line of reasoning is cogent within itself but not with the past and present laws of this country, laws that specifically protect individuals, such as anencephalic infants, from being discriminated against. Thus,

Singer's ethical framework of preference utilitarianism has no place in the context of current laws. Following this particular framework, one even sees that the concept of personhood was not necessarily questioned; on the contrary, the issue is whether or not it should be acceptable to withhold treatment and/or use the anencephalic infant as an organ source. Wrestling with the idea of personhood is a misconception that only appears to be at the root of the moral and legal debate surrounding the anencephalic infant. The parents of anencephalic infants, such as in the cases of Baby K and Baby Theresa, did not dispute the personhood of their infant, nor did the hospitals. Furthermore, legal precedents already assume that the anencephalic infant is a person. That being said, the hospitals and courts clearly side with the other utilitarian view represented by John Stuart Mill and Hayden Ramsay.

The value of human life, espoused by Ramsay, is not found in Singer's framework due to the fact that Singer contends that infants are of no greater value than animals (122). Unlike Singer, whose response to disabled infants endorses the assumption that they are not preferred, Ramsay, in "Distinctive Moralities: The Value of Life and Our Duties to the Handicapped," argues for disabled individuals who lack one capacity or another to be compensated: "since the person cannot be made capable of flourishing in the way members of his species ought to, we provide him with whatever assistance, resources, special education, or opportunities are necessary for him to attain the highest level of flourishing of which he is capable" (515-16). While Ramsay's claims appear to coincide with existing laws more than Singer's, it is hard to imagine the stance that Singer argues overcoming present legal statutes that tend to side with preserving the anencephalic infant's life.

Ramsay's theoretical framework is reminiscent of John Stuart Mill's belief when, in *On Liberty*, Mill wrote that babies or young persons, "who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury" (Mill). Yet whether the infant is healthy or suffering from anencephaly, both are in a helpless state. Therefore, according to this side of the utilitarian view of "Aristotelian loss," "it is morally impermissible intentionally to harm any person with respect to any basic part of his well-being" (Ramsay 513). The concept of Aristotelian loss "is not only the loss of something we once had, but also the loss of something we *should* have. In an Aristotelian account, living things pursue their own perfection, and if they are defective in some respect, they can be said to have suffered a loss" (512). According to the principle of

Aristotelian loss, the focus resides not on whether the anencephalic infant is “preferred” but what an infant has lost with the condition of anencephaly. If the infant lacks that which is a part of a person’s well-being—such as portions of the brain and skull—then the infant has some form of loss because of the absence of that which the infant should possess. Thus, removing the anencephalic infant’s organs would only add to its loss:

In essence, the concept underlies the framework that what determines the value of an individual is not the way she actually is, or even, as Singer points out, the way individuals of her species normally are; it must then be the way individuals of her species ought to be . . . To whatever extent any particular person is or is not as he should be, that person’s happiness is of no less or greater value than any other person’s. (Ramsay 513, 515)

Ramsay’s position comes in stark contrast to Singer’s view that would allow live anencephalic infants to be organ sources simply because such disabled infants are not preferred and would be, according to Harriet Johnson, author of “Unspeakable Conversations,” “worse off” (96). From an analysis of Ramsay’s assumptions, he appears to encompass the view that every human being is a person and that personhood is not based on the potential to develop capacities such as self-awareness and rationality.

Ramsay’s view on the treatment of disabled individuals, rather than Singer’s, is precisely what the judicial system endorses and can be seen clearly in the Americans with Disabilities Act of 1990 (ADA). According to Robert Dinerstein in his article, “The Americans with Disabilities Act of 1990: Progeny of the Civil Rights Act of 1964,” the legal statute that was established with the purpose of stifling any discrimination against disabled individuals was formed after many failed attempts to include disability in the Civil Rights Act of 1964. This law prohibits the withholding of treatment on the account of an individual’s disability (Crossley). In the case of Baby K, the role of the ADA was pivotal in deciding, on the basis of the infant’s anencephaly, against the hospital’s desire to withhold respiratory treatment (Crossley). The legal statute of the ADA overruled the hospital’s moral claim of futility with regard to Baby K. Mary Crossley, in “Infants with Anencephaly, the ADA, and the Child Abuse Amendments,” documents the court’s reasoning as such:

The plain language of the ADA does not permit the denial of ventilator services that would keep alive an anencephalic baby when those life-saving services would otherwise be provided to a baby without disabilities at the parent's request . . . Such discrimination against a vulnerable population class is exactly what the Americans with Disabilities Act was enacted to prohibit. (Crossley)

According to this analysis, the ADA was intended to ensure the provision of health services for disabled individuals just as these services would be provided to non-disabled persons. The moral claims of the hospital did not find favor with the ADA. This discrepancy raises moral and legal questions that cause uncertain conclusions about the anencephalic infant.

Similar to ADA is the Uniform Determination of Death Act of 1980 (UDDA). Paul Byrne and Joseph Evers, authors of "Anencephaly—Organ Transplantation?" note that by this law, an individual could be legally pronounced dead when there is an "irreversible cessation of the circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem" (Byrne and Evers). This law came behind the heels of the emerging knowledge that "only living organs were viable for transplantation" and the evolving concept of "brain death" (Byrne and Evers). Given this feature of UDDA, the ethical approach in favor of using anencephalic infants as organ donors cannot extend its grounds under the legal definition of death. Since the anencephalic infant cannot fall under this law due to the absence of the brain and continuous function of the circulatory and respiratory systems, the law prohibits the transplantation of vital organs. The moral claims to transplant the live anencephalic infant's organs are found to be illegal under the law; such was the case with Baby Theresa (Byrne and Evers). This clearly shows another example of the lack of consistency between morality and legality. In order for the moral expression of using the anencephalic infant's organs to be legal, such a law needs to be overturned. However, the contention of whether such a law should be overturned is questionable. What wins out in the present day is the unmodified law that retains the legal definition of death, prohibiting the harvesting of an anencephalic infant's organs, thus only adding to the conflicting moral and legal statutes regarding anencephalic infants.

The UDDA met a challenger in the decision of a prominent medical association to use live anencephalic infants as organ sources. The disparity between

ethical justification and legal jurisdiction could not have been more clearly emphasized when this decision attracted differing reactions. About two years after the cases of Baby Theresa and Baby K, in June of 1994, the American Medical Association Council on Ethical and Judicial Affairs (AMA) voiced its opinion on the usage of live anencephalic infants as organ donors based on the fact “that an infant with anencephaly has never experienced, and will never experience consciousness” (Crossley). What lay behind the council’s decision was their acknowledgement of a utilitarian framework. The council reasoned that “the argument in favor of parental donation of organs from anencephalic neonates is compelling: many children will be saved from death, and many other children will realize a substantial improvement in their quality of life” (Crossley). Though the AMA’s decision of allowing live anencephalic infants to be organ donors found its moral justification in utilitarianism, the decision was made under the legal statute of the UDDA that prohibited live anencephalic organ transplants. The legal decree of the law hindered the AMA’s moral claims with regard to the anencephalic case. As a result of the negative outcry the AMA received from bioethical communities, the opinion was “temporarily suspended” with the “scientific community questioning the assumption that infants with anencephaly have no potential for achieving consciousness and . . . the ability to diagnose anencephaly with certainty in all cases” (Crossley). Yet, despite the retraction of the AMA’s opinion, the incongruency between the moral grounds and the legal grounds involving the retrieval of live anencephalic organs was clearly seen. The tension was credited with the AMA’s view of utilitarianism that found opposition within the legal context that did not allow the anencephalic infant to be pronounced dead according to the definition of death the UDDA espoused (Crossley). Had the AMA’s statement endured, it might have been a harbinger for future legal precedents involving other infants who are disabled or lacking certain capacities or functions. The moral position of the AMA could have then led to alterations in the legal sphere of the laws, impacting the UDDA and the ADA.

Looking at the UDDA and ADA, though, one sees a vital piece missing. That is, not what the courts resolve should be, but rather what the parents wish to be. Despite the fact that a parent’s moral entitlements do not extend into the realm of using their anencephalic infant as a live organ source due to the legal precedent of the UDDA, parents do, however, have the prerogative to desire or withhold treatment for their anencephalic infant under the legal statute of the Child Abuse Amendments of

1984 (CAA). Norman Cantor, in "The Bane of Surrogate Decision Making: Defining the Best Interests of Never-Competent Persons," observes that the CAA was established to influence and curtail decisions that would let certain infants die as a result of the 1982 incident involving a Down's Syndrome infant who had life-sustaining treatment withheld. Further expression of parents' moral claims include the permissibility for "parents of an infant with disabilities (or another party responsible for the infant's welfare) [to choose] to withhold medical treatment without . . . being held liable for medical neglect or having their decision overridden by the state" in cases where the infant is "chronically and irreversibly comatose or when the treatment provided would merely prolong dying, fail to ameliorate all of the infant's life-threatening conditions . . . or be virtually futile and itself be inhumane under the circumstances" (Crossley). Here the CAA gives protection and the final decision to the parents or guardian when an infant is in such an irreversible state. This is the kind of statute that needs to be encouraged for dealing with such cases as the anencephalic infant.

However, if parents choose to continue treatment, this law meets a challenger in the moral claims of doctors who may deem continuous treatment of an anencephalic infant as futile. The determination of futility by doctors and other healthcare professionals poses another controversial issue surrounding the anencephalic infant that clearly emphasizes the conflict between moral and legal claims. Though medical studies have shown the mortality rate of most anencephalic infants to be less than a week, the definition of futility remains unclear (Crossley). What comes under scrutiny is the degree of mortality. The inevitability of death for the anencephalic infant is blurred due to the presence of medical treatment that can extend an anencephalic infant's life. One of the exceptions in the CAA permits the withholding of treatment when the treatment only prolongs the death of the infant. The phrase that influences this matter is the infant will "die in the near future;" yet, how does one determine "in the near future" (Crossley)? Does it consist of the infant living a week or, on the rare occasions, a month? With the case of the anencephalic Baby K, who defied expectations and survived over two years, defining "in the near future" is not as evident; however, the length of Baby K's life did not override the many medical reports that show the anencephalic infant's life expectancy rarely exceeds a week (Crossley). Given that the CAA does not provide entitlements for the

health professional to refuse giving treatment to anencephalic infants, physicians can only influence the parents' decision to withhold or continue treatment.

With regard to children, the moral claim of futility by the medical field can come against the legal statute of the CAA. However, unlike the other laws aforementioned, the CAA does present a more comprehensible exception concerning the withdrawal or withholding of treatment in that the parents have the final authority (Crossley). The CAA can be an illustration of how a law has the capability of being specific in complex issues such as the administering and withholding of life-sustaining treatment or using the organs of a live anencephalic infant. Though this law encompasses protection of parents from being liable for child abuse, the law's overarching jurisdictions give the parents the choice to withdraw life-sustaining treatment from a child with an irreversible, life-threatening condition that cannot be ameliorated. In the anthology by Kuhse et al. which includes Neil Campbell's essay, "When Care Cannot Cure: Medical Problems in Seriously Ill Babies," the decision to continue or withhold treatment from a disabled infant does not lie in the hands of the doctors but in the parents': "if the parents decide that treatment should be continued, contrary to caregivers' views, all measures should be continued in good faith, but the doctor in charge should tactfully continue to advocate his/her views" (252). With this decision, the concept of "letting die" enters the discussion. Though this concept has some unclear areas, the CAA is more focused because, compared to the other laws that influence the anencephalic case, it gives the parents the choice to keep their infant alive or to withhold treatment as they deem best.

Despite the differing moral claims that doctors and parents could espouse, there will continue to be a conflict between moral entitlements and legal statutes. Though this inconsistency should not exist, what remains at the end of the day are the current laws having precedence over moral claims. With the position of withholding treatment and possibly using organs or, on the other hand, simply sustaining the treatment, the law could still be more focused in this matter. Finally, like any other medical situation dealing with the giving or taking of life, there will naturally continue to be disputes from extremists of Singer's view, based not only on morality, but also on the economics involved in the cost of sustaining treatment—that is, some may argue that the money spent to keep an anencephalic infant alive would not be the greatest good. Despite these things, however, at least by including more specific terms in the laws, perhaps even creating a law designed specifically for anencephaly,

the incongruency between moral entitlements and legal precedents can be eased, if not more consistent and fair as it places full authority in one person's hands, the parent's.

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COMMENTARY: Courtney Borack

When an infant is born underdeveloped in that it lacks the essential means to sustain life on its own, and when its natural life span is estimated to last only a week, should withholding treatment—thus letting the baby’s death occur naturally and more quickly—and / or donating its organs to other babies in need, assuming either choice is what the infant’s parent or guardian deems best, be allowed? Up to this point the question of morality has persistently shadowed the legal disputes surrounding cases regarding such infants suffering from the fatal neurological disorder known as anencephaly. This, in turn, has blurred the lines of who ought to have the final say in the matter and, consequently, made a consistent resolution in each case virtually impossible. In her essay “Morality & Legality in Bioethics: Infants with Anencephaly,” Christina Puvabanditsin tackles this ongoing debate, boldly bringing forth her own solution—that is, in order to ease this existing moral and legal conflict, a law addressed specifically to infants with anencephaly must be created.

Using as her transition into the legality behind cases centering on anencephalic infants, Puvabanditsin presents two opposing moral codes as seen within the utilitarian framework. She begins by addressing the idea of personhood and morality in conjunction with Peter Singer, a renowned proponent of the assumption that because an anencephalic infant lacks the capability to “desire to continue living”—thus, according to him, not considered a person—it is morally permissible to kill the infant for its organs. Yet, following this view, Puvabanditsin surprises her readers when she describes this question of personhood as a “red herring.” She goes on to write that, aside from parents and hospitals not disputing the infants’ personhood, “legal precedents already assume that the anencephalic is a person.” Here she introduces John Stuart Mill and Hayden Ramsay along with the other utilitarian view by stating that, “whether the infant is healthy or suffering from anencephaly, both are forever in a helpless state” and, therefore, it would be “morally impermissible” to not only “harm” the infant by withholding treatment, but also to donate its organs. This framework, Puvabanditsin writes, “is precisely what the judicial system endorses.” What the judicial system endorses, however, is where, I feel, a problem arises.

Although Puvabanditsin writes that personhood is a “red herring” in this debate and, thus, not a relevant issue, it seems to me that, perhaps on some level, personhood is, indeed, a factor that causes morality to consistently shadow legality.

When one takes a closer look at the two cases she uses as her reference point—the cases of Baby K and Baby Theresa—one notices a startling similarity. Regardless of what the parents or hospitals thought best, the judicial system, in both cases, ruled in favor of sustaining treatment and not “add[ing] to [the baby’s] loss.” While this, backed by the Americans with Disabilities Act, worked out fine for Baby K’s mother who wanted to keep her daughter alive, despite knowing of her child’s inevitable death, it did not work out fine for Baby Theresa’s parents who, also knowing their baby was going to die, fought, and subsequently lost, the battle to donate their child’s organs to infants in need. This outcome makes one wonder, then, if the courts sided with Baby K’s mother for the wrong reasons. It therefore seems possible that the courts sided with her not because this was her choice and they believed the mother knew best, but because her wish coincided with their beliefs. In other words, whether consciously or unconsciously, the judicial system appeared to push forth its own moral agenda with the idea of personhood lying in the back of their minds. This, therefore, seems to be a plausible explanation as to why the judges took into consideration the Uniform of Determination of Death, but not the Child Abuse Amendments law, a law which ultimately takes away liability from a parent who chooses to let their already dying child die or be pronounced dead, when reviewing Baby Theresa’s case. As Puvabanditsin indirectly implies, and as mentioned before, sustaining treatment and doing everything possible to keep the infant alive is, after all, “precisely what the judicial system endorses,” regardless of what the parent or guardian deems best. Puvabanditsin writes that until a law is created “[with] the capability of being specific in complex issues such as the administering and withholding of life-sustaining treatment or using the organs of a live anencephalic infant,” there will continue to be a persistent incongruity among the medical disputes. However, taking into consideration the cases of Baby K and Baby Theresa, as well as other similar cases that ultimately deal with euthanasia, I would add to her argument by saying that, before creating such a law is possible, the judicial system first needs to clear itself of this underlining moral agenda by thinking completely objectively, not partially objective and partially subjective. Only then, I feel, could such a law be passed.

As Puvabanditsin comes to her conclusion, she professes that no law, indeed, is perfect. Even a law catering specifically to anencephaly will have its flaws—“right to life” advocates will protest those who wish to withhold treatment, while others

will protest finances needed to sustain treatment. However, as Puvabanditsin points out, despite inevitable imperfections, a law nevertheless must be created and passed—if not to simply lessen the legal and moral conflicts or to rightfully place full authority in the parent’s hands, thus ending, before they begin, unnecessarily long trials that no parent should have to endure, but also, I will add, to prevent a judge from potentially ruling in favor of whomever shares his moral agenda. The parents, as Puvabanditsin writes, are the ones who, at the end of the day, must “bear this challenge.” They should not have to battle trial after trial to either keep their baby alive or to hasten their suffering infant’s death. The decision should be made at home, not in a cold and sterile courtroom by the judge, someone who is, essentially, a complete stranger. Thus, placing their moral agendas aside, I agree with Christina Puvabanditsin that the judicial system needs to act now before another parent is forced to comply with a stranger’s decision. Perhaps, more importantly, this law will help pave the way for the development of other laws dedicated to similar medical conditions.

RESPONSE: Christina Puvabanditsin

Cases involving infants who have the severe neurological impairment of anencephaly continue to cause discrepancies between the moral claims of parents and doctors and the legal claims of the law. In my essay, “Morality and Legality in Bioethics: Infants with Anencephaly,” I contend that the final decision in these matters belongs to the parents and that, in order to encourage consistency between the moral and legal spheres concerning the anencephalic infant, specific terms must be added to existing laws or, for better clarity, a new law must be brought in that distinctively focuses on this issue. In her commentary, my editor, Courtney Borack, argued that the judicial system “appeared to push forth its own moral agenda with the idea of personhood . . . the judicial system first needs to clear itself of this underlining moral agenda by thinking completely objectively, not partially objective and partially subjective.” I wonder, though, if it is possible for the judicial system to be completely objective in its rulings. Every person has a view of life that may coincide with the laws or not; this reality, of course, includes the judges. For that reason, if a judge's ruling happens to be consistent with his view of life, the issue is not whether the judge is pushing a moral agenda, but whether the ruling is consistent

with the country's existing laws. I would argue that, when the ruling deviates from the interpretation of the law, the judge should be questioned on the issue of promoting a moral agenda.

Though the judicial system does not think in a completely objective manner as Borack rightly argues, I would add that the judicial system promotes a moral agenda when it acts as the legislative branch in its interpretations of the law. The responsibility of the legislative branch is to advocate a moral agenda through the laws it creates. The judicial system is to uphold those laws in its judgments. Judges are not meant to be lawmakers. Therefore, when judiciary officials exchange their roles from upholding to creating, they instigate inconsistency and conflict.

However, upon further reflection on infants with anencephaly, I found that pushing for consistency between the moral and legal aspects of the anencephalic case deviates from the moral issue. The questions of whether it is morally permissible to withhold treatment from an anencephalic infant with the knowledge that the infant rarely survives a week or whether it is morally permissible to take the life of an anencephalic infant with the intention to donate this infant's organs to other infants in need of them, leave bioethical communities and the public at large in a controversial battle of arguments for and against solutions that end in the life or death of the anencephalic infant and indirectly, the lives of infants who are in need of organs.

When it regards withholding or sustaining treatment, my argument still stands: the parents should have the final say in the decision. However, when it concerns organ donation, I feel a definitive answer is not so available. To this day I continue to wrestle with the morality of allowing the anencephalic infant to be an organ donor. Should such an authorization be made into law with the parents of the infant having the final choice? The attempt to come down with a conclusive answer has eluded me. There are two ways I have tried to approach this dilemma. I have thought about the "slippery slope argument" in which there would be a prohibition of organ donations from anencephalic infants. My reasoning for this would be that by allowing the organ donation of infants with anencephaly, parents of infants with other disabilities may desire the donation of their infant's organs as well— whether the disability was fatal or not. This may very well be a harbinger for future laws that would allow parents of infants with other disabilities to donate their child's organs, regardless of the degree of fatality. Since the degree of fatality also clouds judgment

in this matter, the slippery slope argument has a point. A law that gives parents the choice to donate their infant's organs or not implicitly agrees that it is morally permissible to take the life of the anencephalic infant for organs; consequently, overlooking the slippery slope argument.

My second approach takes into consideration the children who are in need of organs. A prohibition of anencephalic organ donation could be fatal for the organ recipient. The parents who are willing to give their anencephalic infant's organs may also feel an additional loss in that their child was not able to save another child's life through being an organ donor. Since the anencephalic infant's life is shadowed by an inevitably short life of hours to days, the parents should be allowed to decide if they wish to contribute to saving the life of another child through the donation of their anencephalic infant's organs. For both parents, those of the anencephalic infant and the organ recipient, the organ donation would represent some form of closure to the situation and a desired outcome for the parents and of the child who needs the organ.

Both sides have influence, the slippery slope argument and the argument for children who could benefit from an anencephalic organ transplant. Deciding which argument has more weight or which argument is valid becomes another question, which this commentary, regrettably, is unable to address.