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A Philosophical Critique of the Brain Death Movement

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Down through the centuries, death has been very easy to recognize. The heart stopped beating. Breathing ceased. Muscles stiffened with rigor mortis. Ultimately, putrefaction occurred. Now, modern medicine with its artificial life supports can postpone any of the above signs of death. Furthermore, the discovery of transplantation makes it desirable to artificially delay the onslaught of these signs in organ donors, so that the chances of a successful transplant are increased. In order to determine whether a person on artificial life supports has died, a new sign of death has been proposed — brain death.

This paper philosophically examines whether brain death is equivalent to the death of the whole man, critiques the guidelines proposed by the Harvard Ad Hoc Committee for Irreversible Comas, and reveals an alarming, though natural, consequence of the brain death movement.

In order to begin our examination of this new sign of death, it is first necessary to determine what death is. To determine philosophically what something is, we must proceed according to the metaphysical principle that activity follows upon a nature. In other words, what a thing can do depends upon what kind of thing it is. Thus a dog cannot act like a bird, for a dog does not have the nature of a bird. Thus, to determine what death is, we must examine the acts that

follow upon death. Death has no acts of its own; death, rather, is the absence of life. Thus we understand the nature of death by negating the nature of life. To attain an understanding of the nature of life and thus of death, let us compare a corpse with a living man. Both possess a body. But the corpse's body does not move of its own accord. Only the living body possesses the capacity of self-movement and of self-action, for the corpse lacks the life-giving soul, which through its animation of the body enables it to act and to move itself. Thus through the life given by the soul, the animated body can perform certain activities such as being conscious, reproducing, pumping blood, breathing, nutriating, etc. These activities, signifying life, are called *vital* activities because they are vital or crucial for the well-being of the entire person. It is through the oneness of the soul that the body possesses the integration and the unity whereby the vital capacities act for the good of the entire person. Therefore, since vital activities presuppose the presence of the soul, their presence indicates that the soul is animating the body; their absence indicates that the soul has separated from the body. Death, then, as the negation of life, entails the separation of the soul from the body. This is how the non-Christian Plato defined death:

Death . . . is nothing else but the separation from each other of two things, soul and body. . . .¹

Upon the separation of body and soul in death, the integrated vital capacities cease because the body is so destroyed that it is no longer capable of being animated by the soul. Death, then, is irreversible for, like Humpty Dumpty, once the soul/body union is broken, the remains are so changed that they cannot be reunited. Therefore, death as the separation of the soul from the body is signified by the cessation of all the vital activities and the disintegration of body unity.

This is not the definition of death used by the 1968 Harvard Committee which, rather, in effect established death as being the irreversible cessation of all brain functioning. Consequent upon this definition of brain "death," the following signs or criteria of death were proposed:

1. Total unawareness to externally applied stimuli and inner need and complete unresponsiveness;
2. No spontaneous muscular movements or spontaneous respiration or response to stimuli such as pain, touch, sound, or light for a period of at least one hour;
3. Abolition of central nervous system activity . . . evidenced in part by the absence of elicitable reflexes;
4. The flat or isoelectric EEG, which is of great confirmatory value;
5. Repetition of the above steps 24 hours later. Test not applicable to patients with hypothermia or under the influence of central nervous system depressants (barbiturates).²

Fulfillment of the above criteria does not (as its authors supposed) indicate a dead individual, because, as Step 5 warns, patients with hypothermia or drugged with barbiturates also meet the above criteria, yet are *not* to be declared dead! Why are these patients considered to be living, while others fulfilling the same criteria are to be declared dead?

Harvard does *not* offer an explanation, though the explanation is simple: the guidelines only test the functioning of some of the soul's vital capacities, not all. The failure of the guidelines to be comprehensive explains why the criteria cannot distinguish the absence of vital capacities due to the separation of the soul, from the physical inhibition of their functioning by hypothermia or barbiturates. Consequently life is confused with death.

Since fulfillment of the Harvard criteria merely indicates that an individual may or may not be dead, recovery is possible. For example, a 15-year-old Israeli boy could have been declared dead and buried if the Harvard criteria had been used. Instead, Kieffer reports that artificial life supports were used.³ Subsequently the boy recovered. Recovery was only possible through continuous animation of the body by the soul. Death had not occurred.

Tests Might Achieve Validity

Perhaps the Harvard criteria could become valid if the following tests were included:

1. The irreversible cessation of spontaneous heartbeat,
2. The ending of all semblance of homeostasis,
3. The non-absorption of oxygen by the brain or levels of metabolic production in the blood.

The last criterion, proposed by Dr. James Toole of the Bowman Gray School of Medicine, tests to determine whether the brain is exercising the vital capacity of nutrition.⁴ If it is, then perhaps the brain has not been damaged sufficiently to prevent recovery of its functioning. Whatever criteria are adopted by modern man must determine whether *any* vital capacity continues to function. Corpses do not have spontaneously functioning vital capacities because they lack the soul that enables such functioning to occur.

Moreover, despite the absence of any particular vital activity, the body as a unitary whole demonstrates its continued interaction with the soul by the continued integral functioning of other vital capacities, such as a constant normal body temperature. Thus the harmonious interaction of body subsystems signal life and the presence of the integrating soul, for without the soul, there can be no body integration. Hence, the presence of integration signifies that there is life; its absence signifies death.

Some, however, such as James L. Bernat, Charles M. Culver and Bernard Gert, take the brain to be that which is responsible for integrating body functions into an organic whole.⁵ If this is true, then it can be argued that with the cessation of the brain's functioning, the body lacks organic unity and is therefore a corpse. But according to current medical knowledge, it is not true to attribute the body's integrated functioning *solely* to the brain, for if the brain were the *sole* integrator, then the heart, which falls outside the control of the brain, could never be integrated in the body unity, whereby it acts for the good of the whole person. But the heart is so integrated. Furthermore, even though the brain is the body's chief integrator, by virtue of the fact that the parts of the brain serve as "control centers" for various body subsystems, the integrating input of the brain occurs as a result of complex biofeedback mechanisms of which the brain is a member. Therefore integration can continue, albeit not indefinitely, without *any* input from the brain. As long as body integration occurs, the body is animated by that principle whereby it is enabled to function, i.e., the soul. Thus death does not always occur when the entire brain ceases to function.

This fact, acknowledged by medical science, is the reason why brain "death" proponents propose that it is the *irreversibility* of a non-functioning brain, not its nonfunctioning per se, which is the significant factor in determining whether death has occurred. But it has been pointed out that irreversibility is a bogus criterion of death because it is contingent upon ". . . the current state of medical knowledge and on the availability of adequate life-support systems in the concrete circumstances."⁶ This contingent aspect of irreversibility marks it as an unreliable criterion of the absoluteness of death, for with progress in medical science, something once considered irreversible can, in fact, be reversed. For example, it was once thought that the cessation of the heart's functioning was irreversible, and indeed, it was because medical science lacked the know-how and the equipment to reverse the heart's cessation of functioning. Likewise, through future progress in medical science, the brain's functioning, when considered irreversibly lost, may be restored. To that end, Dr. P. Safar has started research on resuscitating the brain.⁷

Furthermore, the resuscitation of the heart or of the brain is possible as long as their non-functioning is not caused by a destruction of the organ that makes animation of the soul impossible. Thus brain "death," insofar as it pertains to a loss of functioning, is a misnomer, for death occurs because the body is damaged to such an extent that the soul cannot animate it, whereas the declaration of brain "death" prescind from any damage sustained by the organ. Even so, we have seen that the soul's inability to animate a particular damaged part of the body does not necessarily mean that the soul is separated from the entire body. Again, the sign or criteria of death is the absence of

integrated body unity due to destruction, not the absence of the functioning of any *single* body part.

However, it is argued that, unlike the absence of other body functions, the absence of the brain's functioning, due to the destruction of the brain, suffices for declaring death. William Lester explains:

Its [the soul's] reason for existence is intellectual activity. For its activity in this life it needs the use of a material brain. But when the brain can no longer be used, the intellectual soul no longer has reason to be united with the body; so the union ceases and the man is dead. Brain death, then, is the death of the man.⁸

Lester has correctly pinpointed that the fulfillment of human life in knowledge and in love depends upon the functioning of the brain. Yet insofar as the part of the brain necessary for cognition and for social interaction is the neocortex, the conclusion can be drawn from Lester's arguments that the person dies upon the destruction of his neocortex. Thus the definition of death could be expressed in the words of Robert M. Veatch: death is "... the irreversible loss of the embodied capacity for social interaction."⁹ But this definition is erroneous, for body integration can continue even with the neocortical destruction that makes social interaction and cognition impossible. Continued body integration is manifested by the functioning of other vital capacities, such as the maintenance of a constant body temperature, self-movement, etc. These are the activities of the living. Corpses, remember, cannot act like the living because they lack the nature necessary to so act. Therefore, Karen Ann Quinlan is a living refutation of Lester's and Veatch's definition and criteria of death. For though Karen Ann has lost that capacity for social interaction and for cognition, she breathes, she moves, and thus she lives. She lives because her body is animated by her soul, whereby integrated vital activities continue, notably, respiration and circulation.

Death, then, cannot be defined as the nonfunctioning nor the destruction of any particular organ, such as the brain, nor of any part of an organ system, such as the neocortex. Rather, death must be defined as the separation of the body from its animating and integrating soul. Taking this definition, the only criteria possible for ascertaining when death has occurred is the disintegration of the body's unity and the cessation of its vital activities. It remains for medical science to provide the empirical guidelines whereby disintegration can be verified.

Until medical science can ascertain with absolute certitude the exact moment of death, it should err on the side of life. Yet, the pressures of transplantation seem to be forcing many medical professionals, laymen and legislatures to err on the side of death, as they seek to define death only in terms of brain "death." (The problem of the high cost of artificial life supports is often cited as another justifi-

cation for brain "death"; however, the principle of extraordinary means resolves this problem.) Indeed, brain "death" first became legalized in Kansas (1970) as an amendment to organ donor legislation. Moreover, the President's Commission on Defining Death reported the decision of a Maryland judge, who in 1979 refused to apply the brain "death" criteria in a nontransplant case.¹⁰ Even the 1980 legalization of brain "death" in Connecticut occurred as an amendment to its Uniform Anatomical Gift Act.

Protection of Transplant Surgeons

Brain "death" is often legalized as an attempt to protect transplant surgeons from lawsuits.¹¹ Lawsuits, such as *Tucker v. Lower* 1972, have arisen because a heart can continue to beat spontaneously despite brain "death," provided that a respirator supplies it with the oxygen it needs to survive. It is these hearts which make good transplants. But a *spontaneously* beating heart by functioning for the good of the whole body is helping to preserve body integration. Therefore, it is a sign that the soul is still present. Death has not yet occurred, thus transplantation at *this* time kills the donor, though in the 27 states with brain "death" statutes, no murder would have been committed.¹² It is interesting, however, to note that in most of these states the traditional criterion of death, which is cardiopulmonary failure, has not been eliminated. Indeed the cardiopulmonary and the brain "death" criteria co-exist in the Uniform Determination of Death Act approved as an appropriate statute during 1980-81 by the President's Commission on Defining Death, the American Bar Association, the American Medical Association, the National Conference of Commissioners on Uniform State Laws, the American Academy of Neurology and the American Electroencephalographic Society. This act states:

An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with acceptable medical standards (emphasis mine).¹³

Though in this proposed statute an attempt is made to unify the cardiopulmonary criteria of death with the brain "death" criteria via the little word "or," it is that little word which indicates the inherent contradiction between the two criteria. The irreversible cessation of circulatory and respiratory functions does not mean that the brain has irreversibly ceased functioning, though the brain cannot continue to function without a functioning heart and lungs. Likewise, the irreversible cessation of all brain functioning does not mean that the heart has ceased to function. Thus this statute offers two disharmonious criteria of death, stemming from the consideration of two somewhat

independent vital activities. But, as this paper has tried to argue, a person is dead only when *all the vital activities* indicating body integration have ceased functioning.

Yet, in its determination of death, the President's Commission on Defining Death is willing to ignore all vital activities other than those of the brain. Thus it does not recognize that a heart's spontaneous beating, coupled with other vital signs such as bodily warmth, are activities of the living. Rather it calls the brain "dead" corpses when they "... typically have some appearance of life, such as a moving chest, pulsing blood vessels, and bodily warmth."¹⁴ Now here is a confusion on the part of the Commissioners, for they confuse *appearances* with the *causes* of those appearances. Indeed, "a moving chest, pulsing blood vessels, and bodily warmth" do make a corpse appear alive, *but* if these appearances are caused by machines, then they are deceiving, because then they are not the result of the body's self-activity. It is quite possible for a machine to directly cause the chest to move, the heart to beat and the body to remain warm, but a heart-lung machine can only maintain these appearances for several hours. However, the brain "dead" whose breathing is caused by a respirator can still have a warm body and a beating heart which results from *self-activity*. And since activity reveals nature, the self-activity of certain vital capacities indicates the soul is present. The brain "dead" lives, for corpses cannot of their own accord act alive.

Moreover, the willingness to declare someone dead when his or her brain "irreversibly" ceases to function facilitates an acceptance of materialism, wherein the soul's existence is denied. For the brain "death" movement is materialistic insofar as it refuses to acknowledge as significant any activity of a person aside from that of his brain. Thus it is only one small step for the materialistically orientated to state that if life is identified with the brain's functioning, then those with brain impairments, who cannot live life to the fullest, should be eased out of that minimally human life. The severely mentally retarded and those "vegetables" like Karen Ann Quinlan could then be killed. Such acts of euthanasia are a natural outgrowth of the materialism which is encouraged by the brain death movement.

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 12. The 27 states with brain "death" statutes as of 1981 are Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Tennessee, Texas, Virginia, West Virginia, and Wyoming.
 13. President's Commission, *op. cit.*, p. 99.
 14. *Ibid.*, p. 83.
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