

does not cease with death [1]. According to the French law, nobody may invade the integrity of mankind. The respect for human body means that there may be no invasion of the integrity of the human body except in case of medical necessity for the person or exceptionally in the therapeutic interest of others. The consent of the person concerned must be obtained previously except when his state necessitates a therapeutic intervention to which he is not able to assent. Otherwise, any eugenic practice which aims at organizing the selection of persons or any intervention having the purpose of causing the birth of a child genetically identical to another person alive or dead are forbidden. Without prejudice to researches aiming at preventing and treating genetic diseases, there may be no alteration of the genetic characters with a view to changing the descent of a person.

Human vulnerability and personal integrity, the other essential concept evoked in Article 8, relate to each other. When a part of our body is inappropriately 'touched' (this is the meaning of the ancient Latin verb from which the noun 'integrity' stems), our life itself, or at least our health, may be threatened. When our freedom is hampered, either by adverse circumstances or by the actions of others, we experience a "wound" to our identity, to its value and dignity. Preservation of integrity implies protection against these kinds of intrusions, the capacity to "say no" to any sort of impingement upon our freedom or to any sort of exploitation of our body and our environment. We are nonetheless committed at least to seek to ameliorate the effects of harms and disadvantages imposed by circumstances. This is a prerequisite of human flourishing and self-fulfillment. Only in the circumstances or by the actions of others Right to personal integrity is specified in Yogyakarta principles and the Convention on Rights of Persons with Disabilities. The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity is a set of principles relating to sexual orientation and gender identity, intended to apply international human rights law standards to address the abuse of the human rights. The Preamble acknowledges human rights violations based on sexual orientation and gender identity, which undermine the integrity and dignity establishes the relevant legal framework, and provides definitions of key terms [6].

The Convention on the Rights of Persons with Disabilities intended to protect the rights and dignity of

persons with disabilities. According to Article 17 of mentioned Convention, every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others [4, 5].

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THE CONTROVERSY OVER THE NEUROLOGICAL CRITERION IN CONTEMPORARY CHRISTIAN BIOETHICS

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The rapid development of medical technologies are foregrounded reflection on fundamental philosophical themes, and especially the theme of death. The relationship between Christian philosophy and the so-called «brain death» or neurological criteria is under investigation. The author focuses on the specifics of certitude that underlies the Christian interpretation of neurological criteria. It deals with the connections of neurological criterion to one of the main notion of the Christian philosophy of the rational soul as the form of the body. Having considered the different points of view, the position of proponents of neurological criteria is found to provide good philosophical and ethical grounds.

Key words: brain, consciousness, soul, body, death, Christian philosophy, neurological criterion.

СПОРЫ ВОКРУГ НЕЙРОЛОГИЧЕСКОГО КРИТЕРИЯ В СОВРЕМЕННОЙ ХРИСТИАНСКОЙ БИОЭТИКЕ

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Стремительное развитие медицинских технологий актуализирует рефлексию над фундаментальными философскими темами, одной из которых является тема

смерти. В статье исследуется отношение христианской философии к так называемой «смерти мозга», или нейрологическому критерию. Автор акцентирует внимание на специфике достоверности, которая лежит в основе христианской трактовки нейрологического критерия. Рассматривает отношение нейрологического критерия к одному из главных тезисов христианской философии о разумной душе как форме тела. Освещая различные точки зрения, автор стремится показать, что позиция защитников нейрологического критерия обладает большей философской, этической обоснованностью, чем позиция их оппонентов. Ключевые слова: мозг, сознание, душа, тело, смерть, христианская философия, нейрологический критерий.

The rapid development of medical knowledge in the second half of the XX century intensified some fundamental, philosophical issues one of which was the theme of death. The main reason for advancing the debate on this subject is clear: there are far more patients on a waiting list for a transplant than there are donors and the majority of human organs used for transplantation are procured from deceased donors. Transplant professionals, procurement agencies and advocacy organizations are beginning to realize the importance of engaging religion in supporting of organ donation. The annual ceremonies, meetings in honor of the donors are by far one of the most common channels of donor organizations and representatives of the church. These events are often held in Christian churches. That's why there is a necessity to pay special attention to the Christian understanding of death.

Along the last decades, growing attention has been turned to the treatment relationship of bioethical issues and the Christian religion [3; 4]. The brain death remains a matter of lively debate among Christian philosophers, for it is a brain-dead patients are one of the main sources of donor organs. What is the crux of the problem of brain death? What are the arguments of the parties involved in the controversy on brain death? What the position can be seen as more reasonable? These and other questions will be the subject of our investigation. The advent of modern technology has created a condition impossible even to imagine previously: one in which the brain is massively damaged and nonfunctional while other organs remain functioning. Was such a patient alive or dead? The concept of «brain death» which was first introduced in 1968 at Harvard University (Boston, USA) gave a response to this question. «A brain death, by definition, is an irreversible loss of all brain functions, including its stem, while maintaining the circulation in the body» [1, 294]. So brain death was accepted as death of the individual. After diagnosis of «brain death» steps to make organ transplantation are legal.

The neurological criterion was well received by the representatives of the Christian Church. Pope John Paul II gave an endorsement of neurological criterion in 2000. The head of the Roman Catholic Church has designated a number of important positions in his address to the transplant community [9].

1. The death of a person has the status of a specific, single event, and is the result of separation of the soul from the body.
2. Since the soul is a non-corporeal, spiritual life-principle it cannot be observed or measured or weighed using the tools of empirical science.
3. Death is always and inevitably accompanied by the appearance of certain biological signs that medicine sets with ever-increasing degree of accuracy. In this regard death as the separation of the soul from the body can be ascertained indirectly i.e. by observing certain biological signs.
4. Criteria for ascertaining death used by medicine should not be understood as the technical-scientific determination of the exact moment of a person's death, but as scientifically secure means of identifying the biological signs that a person has indeed died.
5. The neurological criteria adopted for ascertaining the fact of death, namely the complete and irreversible cessation of all brain activity, if rigorously applied, can be the source of moral certainty for the determination of death.

The document entitled «Bases of the Social Concept of the Russian Orthodox Church», adopted by the Bishops' Council of the Russian Orthodox Church (13-16 August 2000) also says that death is «the separation of the soul from the body». It is emphasized that earlier the criterion for death was the irreversible stop of breathing and blood circulation. Thanks to the improvement of intensive care technologies, however, these vital functions can be artificially supported for a long time. Although the text of the document doesn't contain the concept of «brain death» it gives an indication that we can speak about a continuing life as long as an organism functions as a whole. Given the fundamental role of the brain to provide integrative unity of the organism, it is clear that the criterion of death in modern conditions is the death of the brain. In the light of the foregoing, it becomes clear the statement of the Russian Orthodox Church that the prolongation of life by artificial means, in which in fact

only some organs continue to function, cannot be viewed as obligatory and in any case desirable task of medicine [2].

However, despite all of the above, a number of contemporary philosophers, theologians, physicians refuse to accept neurological criterion of death. One of the area of controversy surrounding the determination of death by neurological criterion is the kind of certitude needed before one can act. We are talking about the difference between the two types of certitude - moral and absolute. As Aristotle pointed out, the nature of a given subject matter allows exactness to the extent appropriate to its nature. In fact, because of the contingent character of our actions in the area of moral judgment, we cannot anticipate the same kind of certitude which we enjoy, for example, in mathematics. Indeed, to figure out what to do in a concrete circumstance it would be appropriate to know the factors that are relevant to this circumstance. But it is impossible to know all the factors surrounding a decision in a concrete circumstance, and if one refrained from acting until every doubt or ambiguity were removed, one would be incapacitated; one could not act at all. That is, moral certitude cannot remove every concern about a proposed course of action. But it does remove any concern which would prevent one from acting. Guided by a moral certainty is to be sure that the chosen course of action does not preclude all but reasonable fears, doubts. John Paul II is speaking out of this Aristotelian-Scholastic tradition when he says that a health-worker responsible for ascertaining death can use the neurological criteria in each individual case as the basis for arriving at that degree of assurance in ethical judgment which moral teaching describes as «moral certainty» [8]. Only where such certainty exists, and where informed consent has already been given is it morally right to initiate the technical procedures required for the removal of organs for transplant.

Now for the opponents of neurological criterion, they ignoring the concept of moral certitude or believe that today there is reasonable doubt that the neurological criterion provides us with such certitude. At the present time one of the most prominent critics of neurological criterion is Dr. Alan Shewmon. A. Shewmon demonstrates that brain-dead patients on ventilator support do many of the things which living people do: fight infections, assimilate nutrients, maintain body temperature, hormonal balance, and even in some cases capable of gestation a fetus [12]. Shewmon pushes against neurological criterion

theoretical, conceptual arguments also. For example, there was a time when the cataract would have produced permanent, irreversible blindness. But such irreversibility was not absolute or intrinsic to the blind person; it was extrinsic, conditional upon the state of the art of ophthalmology. From a metaphysical standpoint, the potency to see was not really lost but persisted in the integrity of the retina, optic nerves and brain. Based on this analogy, Shewmon argues that the ability to carry out mental activity also does not belong to one particular organ such as brain, but to body as a whole. In this regard, if brains could be reconstituted (through development of neuroscience and neurosurgery) a «brain-dead» person could be made to regain consciousness and other human functions. Hence, according to Shewmon it can not be considered a patient with a diagnosis of «brain death» is dead, especially if the body continues to maintain a certain integrative unity.

Nevertheless, Shewmon's argument is not convincing to his opponents. Shewmon's analogy «brain death» with cataracts is based on highly questionable interpretation of the concept of «potentiality». Aristotle, for example, believed that the concept of «possible», «potential» implies that a certain matter is organized in such a way that in the natural course of events, some potentials are likely to be actualized. For example, an acorn has the potential to become an oak tree. It is important that substance has the potentials only if some «requisite antecedents» obtain in the substance and the world. Acorns have the potential to become oak trees in a «fuller» sense only after they are implanted. Or, for example, it is senseless to attribute potential to play virtuously an instrument to someone who has not been so trained. Thus, privation in the internal state of the substance or external conditions that cannot be rectified in any realistic way is grounds for concluding that the substance lacks certain potentials. Taking this into account, one can hardly recognize theoretically justified the belief that a person with a diagnosis of «brain death» retains the potential to implement a conscious activity. Indeed, if we are based on the emergence of modern technologies to replace the brain, argue that a person with a diagnosis of «brain death» retains the potential for consciousness, then it can be argued that non-human animal have the potential for conscious activity also. We can attribute such potential to non-human animal on the grounds that it is possible the

invention of technology that will change the genetic make-up of non-human animal in such way that they can implement a conscious activity. The absurdity of these claims indicates how vague and uncertain is the concept of «potentiality» if it is divorced from the material conditions [10]. In this context it becomes clear the concept of the soul, which is used in controversy surrounding neurological criterion. According to the Christian faith, the soul is the basis for all the sensory, vegetative and rational powers. Seemingly it could be argued that a person with a diagnosis of «brain death» is alive. After brain death, on this view, the soul is blocked from exercising sensory, vegetative and rational powers. The soul is still present in the body, but metaphysically inert. However, this interpretation is wrong. The powers (sensory, vegetative and rational) belong not to the soul alone, but to the person as a unit of body and soul. So in a situation of death of the bodily organ as the brain, a person loses these powers and the soul leaves the body.

Next, it's necessary to pay attention to the fact that, in accordance with the Christian philosophy, it's the rational soul who is the form of the human body. This statement can be the basis for a very specific interpretation of neurological criterion. So, for example, it is enough to assume that if the upper parts of the brain of the human person are destroyed then, the person loses the mind-body integration [14]. Despite the fact that the proponents of such views (for instance, R. Veatch) are confident that their views are not contrary to the Christian religion and theology, their position is not universally accepted. It suffers from ethical reasons. There is a danger that people who lost consciousness and cognitive function may lose the moral status and be seen as humanoid animals. Taking this into account, we should pay attention to the words of John Paul II that a man, even if seriously ill or disabled in the exercise of his highest functions, is always a man, and he will never become a vegetable or an animal. Furthermore, this position is consistent with the thesis of the rational soul as the form of the body. This thesis implies that as long as the human body remains alive (i.e. it retains integrative unity), the rational soul is present, even if the person cannot exercise the full range of human capacities.

We now turn to the empirical critics of neurological criterion. First, you need to pay attention to the fact that the very idea that the neurological criterion allegedly involves the death of all brain cells, is false. Usually this error occurs because of the consideration brain

of its isolation from the rest of the body. If we consider the brain in relation to the organism, then death of a brain is compatible with the presence of residual function of some brain tissue. Further, after brain death the functioning of the other organs can only be maintained for a limited time, usually a few days, sometimes weeks, and in extremely rare cases, a longer period. In this sense, there are differences between the brain-dead patients and patients who are in a persistent vegetative state. Given the same supportive care as a brain-dead body, a patient in a vegetative state is unlikely to die, suggesting that the brainstem, and particularly the lower brainstem, is important for the integrative function of the rest of the body, whereas the cerebral hemispheres are not.

Finally, when some organs of brain-dead patients continue to function, and we have the interaction of each other, such interactions are fragile and minor. Perhaps the main thing in this case is that evidence of communication between some parts of the body is not the same as the body retaining evidence of unity of the whole body [13]. And in those cases, when the brain-dead yet demonstrates a function that requires its integrity (particularly, neurosecretion antidiuretic hormone), this function is not the critical. It is not a critical function because patients without such secretion can survive for long periods without treatment. Thus, recognizing that among the functions of the organism, there are integrative functions that may occur in the brain-dead body, the proponents of neurological criterion insist that for the establishment of death are important so-called «critical functions». These critical functions which are not possible with the brain dead are: spontaneous breathing and circulation control, maintenance of homeostasis of the organism and the presence of consciousness [6; 7].

In light of the above the parallel between the dead-brain body and an embryo, where the brain does not mediate the integrative unity of the organism, looks dubious. The concept of organism is not quite appropriate in relation to the embryo. The embryo is the first stage in the development of a multi-cellular organism but it is not properly an organic body. What is specifically called an organic body is one that has a diversity of organs. This is not the case with an embryo because it has not yet developed a system of organs. Thus there cannot be mediation between the organs, either between the brain and the other organs or between the various organs, because the

organs have not yet developed and are still in potency. What is specifically called an organic body is one that has a diversity of organs. This is not the case with an embryo because it has not yet developed a system of organs.

This is enough to see that Shewmon's evidence had received mixed assessments in the scientific community. This ambiguity was reflected in the position of the President's Council on Bioethics (USA). Shewmon's evidence has been accepted by the President's Council on Bioethics Convened in 2008. But the President's Council on Bioethics reaffirmed the ethical acceptability of the neurological standard also (as well as the cardiopulmonary standard). According to a majority of the Council the definition of death should be based on evidence of the absence of spontaneous breathing and consciousness. Assessing the position of the Council, it should be noted that its solution enables a situation in which establishing the death have not required the loss of all brain functions, but only some. For example, a researcher N. Astriako notes that individuals who have experienced brain-stem death from either illness or damage cannot perform sentient acts [5]. The brain stem concept of death has been most vigorously promoted in the United Kingdom, where a «brain stem death» statute has been enacted. However, the consciousness (and unconsciousness) has always been very complicated phenomenon for empirical observation, measurement. The very question of «where» is the consciousness, causing heated debate. By some reports if the cortex survives and is electrically stimulated, at least some individuals have conscious awareness despite brain stem death [11]. In this situation, the problem of certitude needed for the determination of death raises once again. As already mentioned, when it is impossible to know all the factors surrounding a decision in a concrete circumstance, we have guided the moral certitude. Moral certitude is the assurance one has about a proposed course of action that excludes not all doubts, fears, but reasonable fear of being in error. Of course the line between reasonable and unreasonable doubts is conditional. Nevertheless, we can definitely say that our assurance that an individual has lost the capacity for consciousness stronger and more reliable when this individual had the cessation of all brain functions, not some (in particular, the brain stem). Thus, it is important to emphasize once again that from the position of the Christian philosophy the man remains alive so long as the body remains actively integrated in the sense that the

organs are in communication with each other and are functionally related as a single unity.

Let's sum all this up. It should be noted that today there is no stable consensus among Christian philosophers in favor of accepting neurological criterion as that which was in the 70-80-ies of XX century. Furthermore, discussions around neurological criterion show that disputing parties are built on various scientific bases and consequently differ in their conclusions. So, if we assume that the brain is indeed the only organ responsible for the unity of the body as a whole, then the death of the brain is sufficient biological sign of death. This is the dominant view among both Catholic and Orthodox philosophers. If we proceed from the fact that the integration of the bodily parts into a single organism is a holistic feature involving the mutual interaction among all the parts (not just the brain, but the spinal cord, endocrine glands), the dead brain ceases to be perceived as sufficient biological sign of death. It should be noted also that Shewmon's claims about homeostasis in people who have suffered loss of all brain function have been regarded as controversial and were not accepted by the Pontifical Academy for Life. Based on this fact it can be assumed that the very concept of integrity of the body is also understood differently by supporters and opponents of neurological criterion. So the same function of the human organism can be regarded as directly dependent on the functioning of the brain, and in a broader sense - as accomplished by the body working as a whole. For instance, «breathing» is a brain mediative function if «breathing» is understood as moving air in and out of the lungs. This function is coordinated by the brain stem. However, if «breathing» is understood as «respiration», in the technical sense of exchange of oxygen and carbon dioxide then it's coordinated by the mitochondria in each single cell of the body. Similarly if «nutrition» is understood as eating, it is surely coordinated by the brain. If, however, it is understood as the breakdown and assimilation of nutrients for energy and bodily structure (the only sense relevant to somatic integration), then it is a chemical function of every cell, throughout the body. Taking this distinction, it is necessary to accept that the brain-dead bodies show examples of integrative unity.

Ultimately, supporters and opponents of neurological criterion are based their positions on different fundamental philosophical principles. Supporters of

neurological criterion are convinced that for a body to be informed by a rational soul, it must possess a level of complexity where one part, the master part, necessarily exists to integrate and govern the other parts. In this regard, not for nothing St. Augustine and Aquinas considered that although the soul unites to the body as a form without an intermediary, but as a motor it does this through an intermediary. And this intermediary is brain. Accordingly, if the brain is dead, the body is unable to receive the action of the soul, which is reflected in the dynamic unity of the intellectual activities with the sensitive and vegetative activities. The opponents of neurological criterion agree that for a body to be informed by a rational soul, it must possess a level of complexity. But they insist that this complexity is the result of interactions of the parts to each other, rather than hierarchical subordination of all parts to the master one. In this regard, a person with a diagnosis of «brain death», but who retains a certain integrative unity of the organism, can not be considered a corpse. Thus, it's not surprising that proponents and opponents of neurological criterion can declare their allegiance to the Christian position today. In general, the question of what position should be adopted is open to possibility of discussions.

Nevertheless, we believe that the focus on neurological criterion of death is more consistent with the spirit of Christian philosophy. And that's why. Even if we assume that patients with a diagnosis of «brain death» is indeed maintain a certain degree of integrative unity of the organism (and the error in diagnosis is not possible) for a long time, we still have to recognize that in order to maintain this integrative unity patient needs artificial life-support system. I think that Christian understanding of human being is rising at this point. As already mentioned, according to the Christian faith, a man is a unity of body and soul. The soul is the form of the body. So the soul informs the body by confers on it certain characteristic potencies and powers. When a human organism loses its essential potencies, including its vital potencies, evidence exists that the soul is no longer present. That evidence is the cessation of brain activity. In the absence of brain activity the body can no longer maintain their own integrative unity by itself. This means that the soul already separated from the body, or held therein just by the medical technologies. Thus, *self-integration* is fundamental for Christian understanding of human being. The absence of

this property does not allow to be considered a person with a diagnosis of «brain death» alive. And lastly from a Christian point of view, it is impossible for a person to know the exact moment of death, that is, the moment of separation of the soul from the body. That's why, it's a mistake to consider the neurological criterion as sufficient evidence for knowing when the soul has separated from the body. The correct application of the neurological criterion allow to get evidence that brain death has occurred and guided by moral certitude infer from this evidence that the soul can no longer be present in the body, and the man died.

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EARLY MOTHERHOOD. THE CONCEPT OF GOOD BY E. PELLEGRINO

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The article explores the model of patient's good by E. Pellegrino in the work with teenage mothers in the field of medical-social work. The patient's good is viewed as a hierarchical structure based on four levels of human existence. It includes the medical good, personal good, human good, and spiritual good. A medical good is aimed at maintaining the physical health for teenage mothers. A personal good is unique to every teenage mother – this is a good, that is defined by a patient himself, his personal preferences, personal choices, values. A human good is a good of teenage mothers as a representative of the human race. A spiritual good represents the highest level of a good in the interaction between a doctor, a social worker and a teenage mother. A spiritual good is provided by three lower levels of a good. A good as integrity is a goal of the professional activity connected with the rendering help for people (medicine, social work, pedagogy, clinical psychology).

Key words: *teenage mothers, "physician-social worker-teenage mother" relationship, patient's good, medical good, personal good, human good, spiritual good.*

РАННЕЕ МАТЕРИНСТВО. ИДЕЯ БЛАГА Э. ПЕЛЛЕГРИНО

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В статье рассматривается модель блага пациента Э. Пеллегрини в работе с несовершеннолетней матерью в сфере медико-социальной работы. Благо несовершеннолетней матери представляет собой иерархическую структуру, основанную на четырех уровнях человеческого существования. Оно включает медицинское благо, личное благо, человеческое благо и духовное благо. Медицинское благо нацелено на поддержание соматического здоровья несовершеннолетней матери. Личное благо уникально для каждой несовершеннолетней матери – это то благо, которое подразумевает для себя сам пациент, его личные предпочтения, личный выбор, ценности. Человеческое благо –

это благо несовершеннолетней матери как представителя людского рода. Духовное благо представляет собой самый высокий уровень блага во взаимодействии врача, специалиста социальной работы и несовершеннолетней матери, его обеспечивают три более низких уровня блага. Благо как целостность представляет собой предназначение профессиональной деятельности для тех, чья работа связана с оказанием помощи человеку (врач, специалист социальной работы, педагог, клинический психолог и др.).

Ключевые слова: *несовершеннолетние матери, отношения «врач-специалист социальной работы-несовершеннолетняя мать», благо пациента, медицинское благо, личное благо, человеческое благо, духовное благо.*

Physician and social worker should work as a team and work out together the strategy for team-work with a particular patient. They also should formulate the ethical rules for the "physician-patient" relation" in every individual case [3]. Their team-work should focus on the general goal. Generally the goal of medical-social work means the attainment of the highest possible level of health, the function and adaptation for the persons with physical and mental disorders and for those who are socially deprived. This paper deals with the particular situation when the patient is a teenage mother and the work with this patient aims at the teenage mother's good and her child's good and health. For this purpose it is necessary to formulate moral regulations for the physician and social worker's behavior with teenage mother [1]. We consider that for the effective team work in the "physician-social worker-teenage mother" relationship it is necessary to use the four-level structure of good proposed by E. Pellegrino: the patient's good is composed of four levels and it is viewed as the complex relationship between medical, personal, human, and spiritual good. These levels of good are placed in the hierarchically order.

The ancient dictum "do good and avoid evil" is the indispensable transcendental ground for any ethical system, because the good is the goal of moral science, and this basic principle makes the difference between moral sciences and other sciences. Thus the patient's good is the destination of any medical activity; it is the result which medicine by its definition works for; the result which identifies medicine [6]. The team "physician-social worker" works with a teenage mother for the maintenance and support of her health and psychological comfort. To achieve this result it is obligatory, in the first place, to reach the nearest result. This result means making correct bioethical decision in the "physician-social worker-teenage mother" relationship and applying this decision safely for the patient. Every adolescent mother needs this particular result, and a physician and social worker are ordered to achieve this particular result. The result of the activity of