

DEATH: BEYOND WHOLE-BRAIN CRITERIA

PHILOSOPHY AND MEDICINE

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DEATH:
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WHOLE-BRAIN
CRITERIA

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EDITOR'S PREFACE

From the tone of the report by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, one might conclude that the whole-brain-oriented definition of death is now firmly established as an enduring element of public policy. In that report, *Defining Death: Medical, Legal and Ethical Issues in the Determination of Death*, the President's Commission forwarded a uniform determination of death act, which laid heavy accent on the significance of the brain stem in determining whether an individual is alive or dead:

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 accepted medical standards ([1], p. 2).

The plausibility of these criteria is undermined as soon as one confronts the question of the level of treatment that ought to be provided to human bodies that have permanently lost consciousness but whose brain stems are still functioning. Are such entities persons, patients to whom continued medical treatment is due? Or have the individuals died, leaving a residual body that continues to respire spontaneously because of the presence of an intact brain stem? As is noted by the contributors to this volume, this problem was subsequently addressed by the President's Commission when in its report, *Deciding to Forego Life-Sustaining Treatment*, it recommended that all medical treatment could be discontinued when patients were permanently unconscious, given the approval of the patient's family ([2], p. 6). This view has subsequently been sustained by the Supreme Judicial Court of Massachusetts, which reviewed the case of the late Paul Brophy, whose treatment was subsequently stopped at the request of the family, following the previously stated wishes of Paul Brophy, who had lost all consciousness (*Patricia E. Brophy v. New England Sinai Hospital, Inc.*, No. 4152 [Sup. Judicial Ct., 11 September 1986]). Such practical decisions, judged sensible or not, leave many central theoretical questions unanswered, for they put unconscious human bodies in a strange limbo where we are often uncertain whether they are or are not the bodies of dead persons.

Such questions which concern the ontological status of human bodies, where there is no further possibility of consciousness due to irrevocable and irreversible destruction of the higher brain centers, led to a symposium on October 18–20, 1984, at Vanderbilt University in Nashville, Tennessee: “When Are You Dead?: Critical Appraisals of Whole-Brain and Neocortical Definitions of Death.” Presentations made at that symposium provided the major structure for this volume. Subsequent discussions and reflections have given it its final form. We wish to express our deep gratitude to the authors for working with us over this period of time to provide a critical reexamination of the philosophical and public policy assumptions involved in our current understanding of the various definitions of death.

We take this opportunity to express our appreciation to the Tennessee Committee for the Humanities, a not-for-profit State committee of the National Endowment for the Humanities (Grant #A7-24041-21), and the Endowment’s Division of Research Programs for its additional material support (Grant #RD-20514). St. Thomas Hospital, Mr. Nelson Andrews, the Tennessee Bar Association, Vanderbilt University School of Medicine, Vanderbilt University Hospital Nursing Continuing Education/Quality Assurance, Vanderbilt University Divinity School, Vanderbilt University Department of Philosophy, Vanderbilt University Medical Center (Division of Continuing Education), and the Center for Clinical and Research Ethics provided additional and generous support to conduct the symposium that led to this volume. We wish also to thank the many individuals who contributed their time and energies to the success of this program: John S. Derryberry, Gerald M. Fenichel, A. Everette James, John Post, Roscoe R. Robinson, and Richard S. Stein. Many others have subsequently aided in the preparation of the manuscript for this volume. Here we are pleased to acknowledge with gratitude Mary Ann Gardell Cutter and Dixie Hargraves.

This volume provides a basis for the further critical examination of what it means to cease to be a person in this world. Though as a philosophical problem this was always available for us to consider, as this volume reveals, modern biomedical science and modern biotechnology have added impetus to such discussions. We now understand more clearly how not only the brain but the higher centers of the brain are necessary for conscious personal life. The new technologies now make it possible for us to sustain organic bodies which will never again embody a conscious person. As the contributors to this volume have

shown, it is now necessary to reexamine what it means to be a person alive in this world.

It might also be mentioned that these essays contribute importantly to the ongoing discussions about organ transplantation and donation. As the surgical recovery of organs can be usually accomplished only in circumstances of brain death, how the latter is understood will clearly affect who is a potential donor and when organs can be permissibly retrieved for transplantation. At the same time, an issue which is highly controversial in the context of a whole-brain definition—namely, recovery of organs from anencephalic infants—would clearly be far less controversial under the higher brain functions definition proposed by most of the authors in this volume. Since anencephalic infants present with only some portion of the brain stem, but with the rest of the brain absent, recovery of organs from these infants would be unproblematic when death is conceived as irretrievable loss of higher brain functions. Parents of anencephalics, who often seek to have their infants be organ donors, could then realize some positive benefit from an otherwise terrible situation. We should also then be able to provide help to others in need of organs by significantly increasing the available supply.

January, 1987

RICHARD M. ZANER

NOTES

¹ President's Commission: 1981, *Defining Death*, U.S. Government Printing Office, Washington, D.C.

² President's Commission: 1983, *Deciding to Forego Life-Sustaining Treatment*, U.S. Government Printing Office, Washington, D.C.