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Definition of death as a challenge for humanity in the 21st century

Annotation: The presented paper focuses on the issue of definition of death as a challenge for the humanity in the 21st century. As the methodological scope of the paper the theory of ethics of social consequences is used. Ethics of social consequences works with categories which might make the issue we are dealing with in this paper much clearer. At the beginning of the paper, the issue of death is briefly summarized. Afterwards paper continue with the introduction of moral values, which are closely connected to the studied issue. Study concentrates on the values of humanity and human dignity. At the end the issue of moral agency is introduced and used as a helpful aid to resolve the identified problems.

Keywords: humanity, human dignity, death, ethics, moral agency.

Definicja śmierci jako wyzwanie dla ludzkości w XXI wieku

Streszczenie: Prezentowany artykuł koncentruje się na kwestii definicji śmierci jako wyzwania dla ludzkości w XXI wieku. Jako zakres metodologiczny artykułu wykorzystana jest teoria etyki konsekwencji społecznych. Etyka społecznych konsekwencji współdziała z kategoriami, które mogą sprawić, że problem, z którym mamy do czynienia w tym artykule, jest znacznie jaśniejszy. Na początku artykułu została krótko przedstawiona kwestia śmierci. Następnie Autor kontynuuje wprowadzanie wartości moralnych, które są ściśle związane z badanym zagadnieniem. Studia koncentrują się na wartościach człowieczeństwa i godności ludzkiej. Na koniec zostaje wprowadzona kwestia moralnej woli i wykorzystywana jako użyteczna pomoc w rozwiązywaniu zidentyfikowanych problemów.

Słowa kluczowe: ludzkość, godność ludzka, śmierć, etyka, agencja moralna.

Определение смерти как вызов для человечества в 21-м веке

Аннотация: Статья посвящена проблеме определения смерти как вызова человечеству в 21 веке. В качестве методологического объема работы используется теория этики социальных последствий. Этика социальных последствий работает с категориями, которые могут прояснить проблему, с которой мы имеем дело в этой статье. В начале статьи кратко изложена проблема смерти. После этого Автор вводит моральные

ценности, тесно связанные с изучаемой проблемой. Исследование концентрируется на ценностях человечества и человеческого достоинства. В конце вводится проблема морального агентства и используется в качестве полезной помощи для решения выявленных проблем.

Ключевые слова: человечность, человеческое достоинство, смерть, этика, моральная воля.

Introduction

The main aim of this paper is to present the views of ethics of social consequences on the issues that are connected to definition of death as a challenge for humanity in the 21st century. However, the task is large and the issues involved are complex. That is why I settle only for a very sketchy account of them. To accomplish the aim, it is firstly necessary to briefly summarise the issues. Then the paper proceeds with a brief introduction of several values and positions of ethics of social consequences. In the conclusion, the paper tries to explain the theory's position towards the understanding of death and marginally the organ procurement issues.

The present paper agrees with the claim that defining death is not an exercise in coining the meaning of the term. It is an attempt to reach an understanding of the philosophical nature of the human being. It is an attempt to understand what it is that is essentially significant to humans that is lost at the time of death¹.

Identification of the issues

In the 2018 Singer wrote a paper in which he deals with the problem of organ procurement which is closely related to definition of death. He explained that the definition of death which is based on circulatory-based specifications: stoppage of the circulation of blood, and cessation of animal and vital functions has been replaced with newer one, based on the irreversible cessation of all functions of the entire brain, including the brain stem. He states that this new definition is understood as a scientifically improved understanding of the nature of death, but without deeper ethical analysis of the issue. Singer connects this new definition of death with rising demand for organs (donors) emerging from a newly (in the nineteen-sixties) developed medical procedure – transplantation². He proceeds with the recent example of Jahi McMath, whose story has the potential to disrupt the definition which has been almost seamlessly accepted for the last thirty years.

McMath was declared brain-dead after an unsuccessful medical procedure, but kept breathing with the help of a ventilator. The family was asked to take her off the ventilator and donate her organs. They disagreed and took her to a different state with different legislation, more supportive of their decision. After a while, she was discharged from the second hospital as well (with a brain-dead diagnosis). According to the latest information, she died last summer, as a result of complications associated with

¹ Veatch M. R. & Ross L. F. (2016): *Defining death: The Case for choice*. Washington: Georgetown University Press, p. 16.

² Singer P. (2018): The challenge of brain death for the sanctity of life ethic. In: *Ethics & Bioethics (in Central Europe)*, 8(3–4), pp. 153–165.

liver failure. McMath remained with her parents, on a ventilator and fed through a tube (despite being officially declared brain-dead) for almost five years. One of the many outcomes of this case is the trial in which the definition of death will be a central issue. In his paper, Singer updates his earlier ideas on the definition of death to show that there are reasons for rejecting the nowadays prevailing view of brain-death.

The main idea behind the definition of brain-death is that, without brain function, the body is no longer an integrated whole, just a collection of cells and organs. But this view, as Singer suggests, is no longer convincing, since there is evidence that organic functioning can persist despite the irreversible cessation of all brain function. Besides the already mentioned Jahi McMath, other cases of „living“³ brain-dead patients were described by the paediatrician Alan Shewmon. Another argument in support of the weakness of brain-death's definition is the new findings in the McMath case made by Shewmon. Those findings suggest that there is a possibility of unreliability in the test used for indicating brain-death.

Despite all the findings („living“ brain-death patients) and doubts (people with locked-in syndrome, or spinal cord injuries), the brain-death definition is still universally accepted (only the rationale for the support has changed). The President's Council on Bioethics in the United States considers the issue of defining death and the practice of organ procurement doubtful. The beating heart of a donor (with brain-death) is necessary for the safe extraction of organs and as such is desired. Many people who need organs will otherwise die. But it is believed that it is ethically unacceptable to remove vital organs from living human beings (and as such to harvest the organs from humans with beating hearts). The question which arises in this context is – is it morally defensible to use „living“ but irreversibly brain-dead human beings as organ donors? There are a lot of objections against it. Singer answers the most frequent one, raised by Kantian supporters (based on the categorical imperative in its second formulation). And he dismisses it as invalid.

But why should we use the criterion of brain-death, and not include as donors also patients who lost all capacity for consciousness as well, asks Singer? Are not brain-death and the death of consciousness the same thing, after all? It is not that hard to imagine the (positive) answer to the question, but it is without doubt difficult to make a clear equivalent of it to the death of the human organism. The argumentation is tightly connected with the customary use of terms such as death. As Singer notes, „Living things with no brain at all, let alone a higher brain, can be alive, and they can die“⁴. Singer works with the interpretation of those issues as they are presented in the work of Jeff McMahan and Mark Johnston. The assertion is that we are not „essentially human organisms“ and with this claim we can distinguish the death of a person from the death of the organism. The differentiation is quite easy. To survive as a person, we need to have „our mind“, so to exist as a person we need to have functional those areas of brain which are responsible for consciousness and mental activity. Even though it sounds contradictory, if we accept this proposition, we can die and still be alive. We die as a person, but our body can survive this death and still be „alive“.

³ As support for the statement that patient lives even when brain-death, he states that patients can grow, overcome infections and heal the wounds.

⁴ Singer, 2018, p. 162

Singer accepts McMahan's proposition that this pattern can be applied for all organisms with a mind but is not applicable to all members of a specific species (as some individuals might have non-functional necessary parts of the brain). In this context, the question which arises is whether it is morally defensible to harvest organs from human bodies that are not a person any more.⁵

Concepts of death

The reason why we are trying to find out how to describe and define death opens another array of problems. It is only when the defined criteria are met that it is appropriate to take various actions, such as ending medical treatment, transferring the property of the deceased, or retrieving organs for donation (which is of interest for the paper). There is an obvious connection between the definition of death and organ transplantation.⁶ We cannot take life-prolonging organs until someone is dead⁷.

There are several concepts of death, from which the four most important are: traditional, circulatory (somatic), whole-brain death and higher-brain death. Each of those concepts have many variants within them. What they have in common is an attempt to determine what is so significant to humans that when we lose it, we lose our legal and/or moral status. The traditional concept of death is based on religious tradition. Even though it is still used in some discussions, the view that we die at the time when the soul leaves the body can be considered as a retreating one nowadays. The second concept was mostly used until the beginning of organ procurement issues. This view identifies the death of the human being with the flow of fluids in the animal species. The third concept connects the complete loss of the body's integrating capacities with brain functions; popularly known as brain death, generally used for the past half century, but recently strongly criticized. The criticism is mostly based on claims that it is either too inclusive (including brain functions which are not critical), or on other hand not inclusive enough (as omitting integrative functions which are not brain based⁸).

The last concept rejects that the whole brain and/or its integrative function is important for defining death. Contemporary discussion suggests that only certain more critical brain functions are important and should be taken into account when discussing the death of a human.⁹ Proponents of this last concept are not able to agree on

⁵ Or have been born as bodies without that part of the brain which constitutes us as a person.

⁶ One example would be a heart transplantation, which is very specific. Heart transplantation poses a special problem in relation to organ procurement following cardiac-based/circulatory-based death pronouncement. Once it is determined that the heart has stopped irreversibly, the organ is useless for transplantation due to functional irreversibility. Therefore, the definition of death and the type of definition which is in use is fundamental. For more on this specific issue see Robert M. Veatch (2010).

⁷ Luper S. (2009): *The Philosophy of death*. New York: Cambridge University Press, p. 49; Veatch M. R. & Ross L. F. (2016): *Defining death: The Case for choice*. Washington: Georgetown University Press, p. 6.

⁸ Veatch, M. R. & Ross, L. F. (2016): *Defining death: The Case for choice*. Washington: Georgetown University Press, pp. 19-21.

⁹ It is important to notice that not only in this, but in all mentioned concepts which are presented, this paper studies the normative part of the questioned issue. The ideas presented in this paper focus on a normative understanding of what is death and how it is connected to human beings (to who we are). The scientific answers to the question might be quite different. It is something different to give a scientific answer to the question what it means to be dead (biologically), and a normative answer to the question what it means to be dead as a human (person, moral agent, etc.).

which function of the brain is the critical one. Once again, the question which is asked is: which function of the brain is the one which makes us humans (moral agents)? There are several candidates for the answer from which the most notorious are: the capacity for rationality, personhood or personal identity, capacity to experience, the capacity for social interaction or embodiment of capacity¹⁰. The answer suggested by ethics of social consequences connects some of those answers, but likewise is not able to answer the question fully.

The issue of death in ethics of social consequences

Ethics of social consequences can be characterized as a consequentialist ethical theory with the inclination to act utilitarianism and a case-oriented approach. The core values of ethics of social consequences are: humanity, human dignity and moral right. Secondary, or auxiliary values closely interconnected with the primary ones are: responsibility and justice. The values which are closely connected with the issue of this paper are humanity¹¹ and human dignity. They are understood in connection with the protection, support and development of human life that usually bring positive social consequences. The theory assumes that protection and support of the development of life (including human life) brings positive social consequences.¹² That is why people naturally tend to protect and support life in any forms. The reason is not only our awareness of our duty to act to produce positive social consequences, but predominantly our compassion with suffering people and our need to help to protect and support life.

Ethics of social consequences works with categories which might make the issue we are dealing with in this paper much clearer. It distinguishes between moral agent (subject) and moral object. Gluchman states that a moral agent is an agent of morality fulfilling required criteria: „he/she is able to recognize and understand the existing moral status of society and is competent of conscious and voluntary activity, for which he/she needs to take moral responsibility”¹³. In addition to moral subject (agent), ethics of social consequences distinguishes moral object which is defined much more widely. All human beings, also animals to some extent, and even the entire universe can potentially be the object of our moral interest and actions, therefore – moral object¹⁴.

Every moral agent (subject) is a moral object in this definition – and as such deserves the protection and respect of others. However, only few moral objects are sufficient to fulfill the requirements of becoming a moral agent (subject). The definition of a moral agent used in ethics of social consequences is based on intellectual-cognitive

¹⁰ Veatch & Ross, 2016, pp. 88–106

¹¹ Humanity is, in ethics of social consequences, expressed as respect for the human being per se (Gluchman, 2018, p. xv).

¹² Positive social consequences can be characterized as consequences which help to satisfy the necessity of moral agents, the social community or society as such. They are an essential condition (and at the same time part) of the good (Gluchman, 1994, p. 16; Gluchman, 1999, p.18).

¹³ Gluchman V. (1997): *Člověk a morálka* [Person and morality]. Brno: Doplňěk, p. 22; Gluchman V. (2018): Introduction: Ethics of social consequences – the past and the present. In: V. Gluchman (ed.): *Ethics of Social Consequences: Philosophical, Applied and Professional Challenges*. Newcastle upon Tyne: Cambridge Scholars Publishing, pp. VIII–XXVII., p. xv

¹⁴ Gluchman V. (2018): Introduction: Ethics of social consequences – the past and the present. In: V. Gluchman (ed.): *Ethics of Social Consequences: Philosophical, Applied and Professional Challenges*. Newcastle upon Tyne: Cambridge Scholars Publishing, pp. VIII–XXVII., p. xv

assumptions. In this sense, it is close to McMahan's ideas which are accepted by Singer. However, a complex understanding of the issue is much more complicated, and it must be stated that Singer's comprehension of moral agency is different (even with a few similarities) from its understanding in ethics of social consequences¹⁵.

Ethics of social consequences comes from the standpoint that the death of a human being is an irreversible loss of what it is essentially to be a human (the intellectual-cognitive position). Ethics of social consequences assumes that set of functions controlled by the brain are more essential „than a mere pump and set of tubes through which blood flows“¹⁶. Ethics of social consequences comes from the position that this definition of what is essential to human existence is based not only on philosophical beliefs. It is based on contemporary medical knowledge, and in part on basic religious beliefs as well. There is a clear difference between a moral agent (subject) and a moral object. This distinction can be identified by the presence of the consciousness, rationality and self-determination of the agent and their absence in the moral object. Those attributes are important because they are a prerequisite for the ability which distinguishes (qualitatively) a moral agent from any other being. The distinction is based on the ability of moral responsibility. McMahan and many other patients without a fully functional brain (without the functions of the higher brain)¹⁷ cannot be considered moral agents. As such, they cannot relate to the notion of moral responsibility.

Conclusion

As stated earlier in the paper, McMahan, Johnston and Singer (among others) work with the assertion that we are not „essentially human organisms“. This helps us to distinguish between the death of a person and the death of the organism. In the terminology of ethics of social consequences, we can use the terms moral agent and moral object in this sense. This distinction (for instance) can be used to help in situations when it needs to be decided if organ harvesting is defensible or not. When a being has lost its ability to be a moral agent (in connection to moral responsibility), it dies as a person. However, the human being still exists and is labelled as a moral object. The person (moral agent) is dead, but the body survives (moral object). Mind is embodied and is annihilated when its embodiment dies. On the other hand, if the person ceases to exist (loses the ability to be a moral agent) then they can depart deathlessly in this sense. The moral agent ceases to exist without dying. The question which stands in front of us will be whether these living bodies (which ceased to exist without dying) that are no longer moral agents (persons) should be treated differently from normal living people? Ethics of social consequences would answer positively.

This type of reasoning is possible in ethics of social consequences in connection with its primary values: humanity and human dignity. Both values are understood in

¹⁵ Kalajtžidis, J. (2017): Mravný subjekt v etike sociálnych dôsledkov a jeho komparácia v kontexte konzekvencializmu [Moral agent in the ethics of social consequences and its comparison in the context of consequentialism]. In: V. Gluchman (ed.): *Etické myslenie minulosti a súčasnosti (ETPP 2017/18): Človek v súčasnej etike [Ethical thinking - past and present (ETPP 2017/18): Person in contemporary ethics]*. Prešov: FF PU, pp. 37-49.

¹⁶ Veatch M. R. & Ross L. F. (2016): *Defining death: The Case for choice*. Washington: Georgetown University Press, p. 6.

¹⁷ As a specific part of the of the brain responsible for a particular function.

connection to the protection, support and development of human life. Harvesting of organs from a moral object is a promotion of those values. It is a promotion of the protection, support and development of human life, at the expense of „life“ in general. It is a demonstration of humanity. It is true that people naturally tend to protect and support life in any form.

Ethics of social consequences states that one of the reasons for this protection and support is predominantly our compassion with suffering people and our need to help and protect and support life. But in the same sense it must be stated that people also naturally differentiate between life, and do not accept all its forms as naturally equal. Even if a being is born in a human like body, if it cannot fulfil the criteria to be understood as a moral agent, it only „is“ and does not „exist“. A being was born (as a body, as a moral object) but at the same time it was dead (as a person, as a moral subject/agent). The same applies for those who lost the ability to be a moral agent during their life as a result of any event. They can be labelled on the one hand as a living being (legally or medically) and still be labelled as dead (person / moral agent) in our meaning.¹⁸

There are two basic arguments for this position. The first is the already mentioned value structure of the theory which is connected to the protection and support of life. The second is the consequential attitude of ethics of social consequences. Moral objects have no ability to protect and support life,¹⁹ and equally they do not cause consequences in a way a moral agent can.

It is believed that it is morally unacceptable to remove vital organs from living human beings. However, it is very important how we define a living human being. The paper presented the idea that what makes us a person and not only a living body (even if human-like), is our ability to be moral agents (which is connected to moral responsibility). If by a living human being we mean a moral agent, then our argumentation can soften this issue.

On the other hand, if by a living human being we mean every human-like body (even those which we labelled as moral objects), then the problem remains. At the same time this second understanding opens many other questions connected with this position, such as what is so special about beings that look like humans but have no abilities of a person (moral agent). Another problem which remains and should be considered as very important is the connection between moral death (as a person) and the legal definition of death. Those and many other questions will still stay in front of us until we find an acceptable definition of death. A definition which is not only up to date with contemporary medical research, but primarily in accordance with our moral understanding of the issue.

¹⁸ For some readers, those ideas might remind them of ideas which are closely connected to discussions on euthanasia and eugenic programs. Those ideas and ideas in the paper should not be confused and/or connected.

¹⁹ I do not claim that without the ability to protect and support life, there are no other valuable attributes. I do claim on the other hand, that this ability is very important and can be used as an indicator for classification.

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