

Ethics & Medics

THE BULLETIN OF THE NCBC ON MORAL ISSUES IN THE HEALTH AND LIFE SCIENCES

JOHN PAUL II ON NEUROLOGIC CRITERIA

On August 29, 2000, Pope John Paul II spoke to an international group of specialists on organ transplantation in a speech titled "Address to the International Congress on Transplants." Although the document addressed a variety of issues connected with transplantation, Ethics & Medics reprints here paragraphs four and five on the permissibility of using neurological criteria for the determination of death—Ed.

When Does Death Occur?

Acknowledgement of the unique dignity of the human person has a further underlying consequence: vital organs which occur singly in the body can be removed only after death, that is from the body of someone who is certainly dead. This requirement is self-evident, since to act otherwise would mean intentionally to cause the death of the donor in disposing of his organs. This gives rise to one of the most debated issues in contemporary bioethics, as well as to serious concerns in the minds of ordinary people. I refer to the problem of ascertaining the fact of death. When can a person be considered dead with complete certainty?

In this regard, it is helpful to recall that the death of the person is a single event, consisting in the total disintegration of that unitary and integrated whole that is the personal self. It results from the separation of the life principle (or soul) from the corporal reality of the person. The death of the person, understood in this primary sense, is an event which no scientific technique or empirical method can identify directly.

Yet human experience shows that once death occurs certain biological signs inevitably follow, which medicine has learnt to recognize with increasing precision. In this sense, the "criteria" for ascertaining death used by medicine today should not be understood as the technical-scientific determination of the exact moment of a person's death, but as a scientifically secure means of identifying the biological signs that a person has indeed died.

Neurological Criteria Accepted

It is a well-known fact that for some time certain scientific approaches to ascertaining death have shifted the emphasis from the traditional cardio-respiratory signs to the so-called "neurological" criterion. Specifically, this consists in establishing, according to clearly determined parameters commonly held by the international scientific community, the complete and irreversible cessation of all brain activity (in the cerebrum, cerebellum and brain stem). This is then considered the sign that the individual organism has lost its integrative capacity.

With regard to the parameters used today for ascertaining death—whether the "encephalic" signs or the more traditional cardio-respiratory signs—the Church does not make technical decisions. She limits herself to the Gospel duty of comparing the data offered by medical science with the Christian understanding of the unity of the person, bringing out the similarities and the possible conflicts capable of endangering respect for human dignity.

Here it can be said that the criterion adopted in more recent times for ascertaining the fact of death, namely the complete and irreversible cessation of all brain activity, if rigorously applied, does not seem to conflict with the essential elements of a sound anthropology. Therefore a health-worker professionally responsible for ascertaining death can use these criteria in each individual case as the basis for arriving at that degree of assurance in ethical judgement which moral teaching describes as "moral certainty." This moral certainty is considered the necessary and sufficient basis for an ethically correct course of action. Only where such certainty exists, and where informed consent has already been given by the donor or the donor's legitimate representatives, is it morally right to initiate the technical procedures required for the removal of organs for transplant.

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A COMMENT ON THE PAPAL STATEMENT

There can be little doubt that Pope John Paul II's "Address to the International Congress on Transplants" is a watershed event in the Church's thinking on the use of brain death criteria. Although these criteria have consistently received approving comments from various Vatican bodies (see "Reflections on the Status of Brain Death," *Ethics & Medics* [24.10] October 1999) there has never been an affirmation at this level of magisterial authority before.

Opponents of brain death criteria, some of whom are prominent Catholics in the field of medicine, have made and will continue to make arguments against the use of these criteria. We can expect the words of the Pope to be very carefully examined for any indication that this judgment is a provisional one or subject to change. What must be said, however, is that no Catholic who uses these criteria, whether organ transplant specialist or recipient of an organ from a brain dead donor, should be made to feel that the Church has any doubts about the moral legitimacy of these criteria when they are properly applied.

The Two-fold Character of Death

John Paul II has long praised organ donation as an act of heroism, but there are two areas of particular interest in this latest address. The first concerns the greater precision given to the relationship between death as the separation of the soul from the body and the medical determination of that event. The difficulty any medical description of death faces is that death is an event that occurs subjectively to a person. Though individuals who have had "near death" experiences have given descriptions of this interior event, objective observers who witness the same event from the "outside" have no access to the moment of separation that is death proper.

The Pope, following Pius XII, allows for this two-fold characterization of death. Death is "the total disintegration of that unitary and integrated whole that is the personal self," and "understood in this primary sense," death "is an event which no scientific technique or empirical method can identify directly." It falls to the physician to determine when an individual has died on the basis of "certain biological signs ... which medicine has learned to recognize with increasing precision." That determination should not be seen as the physician's ability to determine the exact moment of death, but rather as his

ability to determine empirically that death has already occurred in this case. To say that there are external signs of an internal event is not to affirm a mind-body dualism, as opponents of brain death have frequently insisted, but to recognize that this single event can be accurately described from two distinct but equally valid vantage points. Physicians are not metaphysicians.

Criteria Give Moral Certitude

The second major point—and this is an advance over previous magisterial statements—is that neurological criteria are now recognized as an adequate means of determining death along with the more traditional cardio-respiratory signs. Although the separation of the soul from the body remains hidden from empirical observation, brain death criteria provide an adequate set of external signs that can be used by physicians to determine that death has occurred.

The Holy Father speaks of the loss of whole brain function. Only total loss of brain activity is a sign of death. This rules out any standard that would rely on the loss of that part of the brain that gives rise to higher mental functions, or that part that comprises the brain stem (as in England). Like Pope Pius XII before him, John Paul II notes that the Church does not make "technical decisions" about medical matters, but trusts that physicians will apply medically accepted criteria in a rigorous and responsible manner.

The word "seem," which appears in the phrase, "the complete and irreversible cessation of all brain activity, if rigorously applied, does not seem to conflict with the essential elements of a sound anthropology," will cause some to think that the Pope is not entirely certain in his judgment. Though there is clearly a note of reservation here, what is striking is that the Pope proceeds to say that despite any lack of philosophical certitude, the conclusion that one may use brain death criteria is morally sound. Thus health care workers may use these criteria with the "moral certainty" that they are "a necessary and sufficient basis for an ethically correct course of action."

The phrase "moral certainty" is a highly significant one because the argument had been made that even the least doubt about brain death criteria would oblige the Catholic to presume that the soul may yet remain within the body. While the need to take the morally safer course will always be true with regard to any given application of these neurological criteria, the Pope's phrase indicates that this argument carries no weight against the general validity of brain death as a sound moral standard for medical decision-making.

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METAPHYSICS AND CATHOLIC BIOETHICS

What is the fundamental difference between classical Catholic bioethics and its secular, predominantly utilitarian, counterparts? It is a metaphysical one. The Catholic tradition takes as a given a common sense realism, defended best by Aristotle and St. Thomas Aquinas, which acknowledges that the created order is both structured and intelligible to human reason. As such, reality can provide us with a foundation for a normative ethic—a natural law ethic—that can guide human action.

This metaphysical position in turn grounds the three distinctive characteristics of a Catholic bioethic: its claim to objective and universal moral absolutes, its unwavering defense of the sanctity of human life regardless of age or condition, and its focus on the structure of the human act as a key determinant in ethical analysis. To truly understand Catholic bioethics, one has to appreciate its metaphysical foundations.

Nature is Teleological

Catholic bioethics is rooted in a reasoned study of nature and begins with the recognition that the world is ordered. The natural order is filled with purposes and ends. It is teleological. In particular, living things interact with one another to accomplish goals, their characteristic ends determined by their natures. Most biologists would agree that all organisms seek first to reproduce. Fireflies flicker to attract a mate; birds build nests to lay eggs; beavers construct dams to shelter their young. Each species lives in a manner specified by its genetic makeup which in turn is programmed to allow the individual to accomplish a common goal.

St. Thomas Aquinas, echoing Aristotle, recognized that as part of this created order, man too has to have his own particular end ordained by his unique rational nature. Consequently, the Angelic Doctor contended that reason could provide us with true knowledge of the human good by identifying the natural inclinations of the human being. These included the need to preserve life, to reproduce, and to know truth (*Summa Theologiae* I-II 94.2).

It was clear, however, that this was not to be an exhaustive list. Additional insights into human nature would lead to a better appreciation of the natural law. Consequently, any moral action which promoted the attainment of these human needs would, by definition, be good; any moral action which hindered their achievement would be evil. As John Paul II wrote in his encyclical, *Veritatis splendor*: “The natural moral law expresses and

lays down the purposes, rights, and duties which are based upon the bodily and spiritual nature of the human person” (n. 50). For the Catholic, therefore, right living is acting in conformity with what it means to be a human being living in an ordered universe.

A Metaphysical Justification

Metaphysics justifies ethics in the Catholic tradition. For example, take the Catholic Church’s claim that her moral precepts are objective and universal. Since all human beings share a common nature, the Catholic ethicist can assert that the basic principles of the natural law, derived from a study of this nature, are applicable and binding to all regardless of historical period and cultural milieu. Again quoting John Paul II:

[T]he very progress of cultures demonstrates that there is something in man which transcends those cultures. This “something” is precisely human nature: this nature is itself the measure of culture and the condition ensuring that man does not become the prisoner of any of his cultures, but asserts his personal dignity by living in accordance with the profound truth of his being (*VS*, n. 53).

Furthermore, the Catholic bioethicist can also claim that moral absolutes exist. Human nature limits human behavior. Physiologically, for example, a human being can never drink methane because it is incompatible with the functioning of the human body. Methane is and will always be dangerous to the human even though it is an appropriate energy source for methylophilic microorganisms that can oxidize methane.

Analogously, it stands to reason that certain actions are evil in that they disrupt the natural order which is necessary for the flourishing of the human person. Murder is always evil because it deprives a person of life, a fundamental good necessary for anyone to achieve any other end. Adultery is evil because it undermines the marital covenant necessary for the well-being of married persons and children. These acts, as pointed out by Aristotle in his *Nicomachean Ethics*, do not admit of a mean—they are always intrinsically wrong and no circumstances, no honorable intention, no amount of good resulting from these actions can mitigate their evil. As Aristotle said “it is not possible, then, ever to be right with regard to them; one must always be wrong” (*NE*, Bk II, 6).

Pope John Paul II has reiterated the Catholic teaching that there are acts which are intrinsically evil: they are by their nature incapable of being ordered to God because they radically contradict the good of the person made in his image (*VS*, n. 80).

Metaphysics is also at the heart both of the Catholic Church’s opposition to abortion and euthanasia and of its defense of the inherent dignity of the human person. Classically, Aristotelian and Thomistic realism recognizes the existence of substances that have essences. Man is no different. Simply put, human persons possess a human nature. Other bioethical traditions embrace functional definitions of personhood—from consciousness, reasoning ability, and self-motivation to communication, self-awareness and memory—but these all fail, appearing arbitrary after close scrutiny, because they

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confuse ability and essence.

As such, the human person and hence his right to life begins at conception when he becomes a unique example of the species, *Homo sapiens*. Even a four-cell human embryo is an individual and substantial whole despite its potential for giving rise to an identical twin under certain abnormal conditions. (It is clear, for example, that we still consider a single planarian, a species of flatworm with the capabilities of complete regeneration, an individual organism though it can give rise to two identical clones if abnormally split down the middle.) Since no ontological change occurs during development—the contemporary biologist acknowledges that the embryo, the fetus, and the newborn baby are all the same member of the human species—the embryo is deserving of all the lawful protections that are the right of a mature adult.

The Three Fonts of Morality

Finally, classical metaphysics is behind the distinctively Catholic approach to ethics which focuses on the structure of the human act as a source of its morality. For the Catholic moralist, the human act can be divided into three parts. Each human act consists of an object, *what* is being done, an intention, *why* something is being done, and its attending circumstances or the *context* of the act which can lessen or heighten but not change the moral goodness or evil of the act (*Catechism of the Catholic Church*, n. 1750). Each of these elements is a necessary determinant of the morality of the act. A change in any one of these factors changes the very nature of the act and can therefore alter its moral import.

For example, an observer in an operating room watching a surgeon remove a diseased uterus from a pregnant woman could be witnessing either one of two *distinct* acts. If the surgeon intended solely to remove a diseased uterus to aid the mother, knowing of course, that this would lead to the death of the infant, the observer is witnessing an act of healing. If the surgeon intended, on the other hand, to end the life of the child, the observer is witnessing an act of murder. As this example illustrates, actions which appear identical to an observer may be totally different acts depending upon the elements that make up the act. Hence, empirical observation of

externals is not in itself sufficient to specify the moral nature of the human act.

The Catholic bioethicist also has at hand certain principles—the principle of double effect and the distinction between ordinary and extraordinary means are just two examples—to determine the nature of the individual elements of each human act. For an act to be morally good, all three elements of the act, the object, the intention and the circumstances, must be good (*CCC* n. 1755). Again, this type of ethical analysis is only possible because of the Catholic conviction that both the structure of nature and the powers of human reason allow one to do this with some assurance of certainty.

In our contemporary pluralistic society, there is much disagreement on proper human conduct. Witness the very emotional and public debate on abortion or euthanasia. What is not acknowledged, however, is that these disagreements are often arguments over metaphysics rather than ethics. Thus the abortion “rights” advocate implicitly rejects the notion that personhood is an ontological status rather than a social convention, a position which the pro-life individual embraces. Without a clearer understanding of the metaphysical assumptions of various ethical traditions, it will be impossible to appreciate the differences between a Catholic approach to ethics and any of its secular counterparts.

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