



THE INTERSECTION OF PHILOSOPHY AND MEDICINE IN THE BRAIN DEATH DEBATE (II): THE PHILOSOPHICAL ARGUMENT AGAINST THE EQUIVALENCE OF BRAIN DEATH AND HUMAN DEATH

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ABSTRACT

The debate on brain death encompasses complex philosophical, ethical, and scientific dimensions. This article delves into philosophical arguments questioning the equivalence of brain death with human death, highlighting the work of philosophers like Hans Jonas, Josef Seifert, Robert Spaemann, and Peter Singer. It critiques the assumptions underlying brain death definitions, such as "brainstem death," "whole brain death," and "higher brain death," and explores the philosophical and ethical implications of these perspectives. Through exploring these arguments, the article emphasizes the inadequacy of purely medical perspectives in addressing the concept of death, advocating for an interdisciplinary approach. The discourse illustrates the stalemate in philosophical debates over brain death, where differing assumptions lead to conflicting conclusions, reflecting a broader cultural shift towards relativism in understanding human nature and truth.

Keywords: Brain death; philosophy; bioethics; interdisciplinary approach;

INTRODUCTION

The concept of brain death has sparked debates that extend beyond the scientific realm into philosophical, ethical, and, at times, theological domains. Philosophical arguments have shown that interpretations of brain death vary significantly, leading to disparate ethical conclusions. These interpretations include "brainstem death," "whole brain death," and "higher brain death," reflecting differing views on what constitutes human death. Some philosophers argue that the issue isn't solely medical but deeply philosophical, noting that equating brain organ death with the end of human life transcends empirical science. As Josef Seifert points out, the assertion that brain death equates to human death involves philosophical reasoning beyond medical competence.

The fragmentation of human knowledge into specialized areas complicates arriving at a comprehensive understanding. Thus, it is posited that resolving the complexities surrounding brain death and its implications requires an interdisciplinary approach involving medicine, philosophy, and theology.

1. HANS JONAS'S CRITIQUE

The equivalence of brain death and death of the organism has already been challenged from the very beginning by one of the most prominent philosophers of the 20th century, Hans



Jonas. The latter had been raising objections against the definition published in the Harvard Report since the late 1970s¹. Jonas does not contest the lawfulness of suspending treatment when death of the brain has irreversibly taken over; on the contrary, in his view, artificial life support treatments should be suspended in such cases. Instead, he opposes what he believes to be the main goal of the Harvard report, namely, to provide a new definition of death.

It does not generate serious ethical problems, according to Jonas, to allow the respirator to be disconnected in the case of brain death, but rather the opposite, to allow it to continue to be used to keep the body in a condition "that under the old definition would have been 'life' (but under the new is merely its simulation) - to be able to draw on its organs and tissues under the ideal conditions that we would previously have called the 'vivisection' state."²

*"In the first case we do not need to know where the exact dividing line between life and death lies: we leave it to nature to cross it...We need only know as a fact that the how is irreversible in order to decide ethically not to oppose death further. In the second case we must know the dividing line with absolute certainty."*³

The crux of Jonas' argument is *the indeterminacy of the boundary between life and death*, which we need to know precisely, beyond any doubt, in order to accept brain death as a definition of human death. Since we do not know the precise dividing line between life and death, a definition in this field proves inappropriate since we cannot claim a more precise knowledge of the object than the object itself allows. From this perspective, the definition of death would like to define with certainty that which, by its very nature, evades.

Charged that in his critique he would have disallowed the difference between the death of the "organism as a whole" and the death of "the whole organism," Jonas sets out to analyze it and replies that he has "always understood the death of the 'organism as a whole' and not of 'the whole organism.'" Local subsystems, individual cells or tissues, may well continue to function for a time (...) without affecting the determination of death according to the broader criteria."⁴ However, according to the German philosopher, respiration and blood circulation, although carried out by subsystems cannot be included in this class since they ensure both functional and substantial preservation of all other parts of the organism, otherwise there would be no explanation for the need to prolong the "life" of the brain-dead patient.

With regard to the argument of the spontaneity of the organism's vital processes, the lack of which would, according to the supporters of brain death, constitute a certain sign of de facto death, Jonas replies that 'the old conception...did not specify at all that organic activity, the irreversible cessation of which constitutes death, must be *spontaneous* and that it

1 See Hans JONAS, «Morte cerebrale e banca di organi umani: sulla ridefinizione pragmatica della morte», in ID., *Tecnica, medicina ed etica. Prassi del principio responsabilità*, Einaudi, Torino 1999, 166-184.

2 Hans JONAS, «Morte cerebrale e banca di organi umani: sulla ridefinizione pragmatica della morte», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, a cura di Rosangela BARCARO e Paolo BECCHI, Edizioni Scientifiche Italiane, Roma 2004, 49.

3 Hans JONAS, «Morte cerebrale e banca di organi umani: sulla ridefinizione pragmatica della morte», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, a cura di Rosangela BARCARO e Paolo BECCHI, Edizioni Scientifiche Italiane, Roma 2004, 50.

4 Hans JONAS, «Morte cerebrale e banca di organi umani: sulla ridefinizione pragmatica della morte», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, a cura di Rosangela BARCARO e Paolo BECCHI, Edizioni Scientifiche Italiane, Roma 2004, 56.



should not be considered life if it is induced and sustained artificially'⁵. Although the organism is not capable of spontaneously activating the functions of the encephalon that govern the functioning of other subsystems of the organism, this is not, according to Jonas, relevant, since, theoretically at least, one could do for the brain what we can do today for the heart and lungs, namely, make it work by constant activation from outside. In this hypothetical condition, even if the resulting activity lacked spontaneity, 'the activity as such would matter.' Therefore, Jonas concludes that: *"In the face of the stratification and interdependence of the organism's functions...spontaneity is distributed over many levels and places, and each higher level enables those below it to function naturally and spontaneously, whether its activity is natural or artificial."*⁶

In this last idea, I think also lies the weakness of Jonas' argument concerning the importance of spontaneity for a living organism. Since there is a stratification of interdependent functions in the organism, distributing their spontaneity from higher to lower levels, it follows that there must be a last higher organ that receives its spontaneity not from another organ but, either from itself, or from the vital principle that animates the whole body, without this vital principle being present exclusively in it.

When an organ or subsystem of the organism that receives its spontaneity from another organ or system also receives it in certain clinical cases from an artificial system, such as the lungs from a mechanical ventilator, this does not indicate the death of the organism as a whole. If, on the other hand, the organ that presides over the other subsystems by 'distributing' their spontaneity, an organ that medicine unanimously believes to be the encephalon, loses its spontaneity, this means both the loss of the organism's integrative unity - death -, if spontaneity were its inherent capacity, and the departure of the vital principle - the soul - if it were the latter that bestowed spontaneity upon it.

Jonas concludes that, in the impossibility of ruling out the possibility that a remnant of life persists in the comatose patient, the question to be asked before a "brainless" organism is not of a "biological" nature - "is he dead?" - but of an ethical nature - "what to do with him?" A question that requires not a definition of death but a definition of what human life is. In this sense, in Jonas's view, it is not possible to disallow the extracerebral body the essential participation in the identity of the person: *"the body is uniquely the body of this and no other brain and vice versa."* *"My identity is the identity of the whole organism."* So that, according to Jonas, the only possible answer to the question, "what to do with the patient in an irreversible coma," is that: *"it is neither humanly right nor necessary to artificially prolong the life of a brainless body."* Answer that allows and requires the physician to disconnect the ventilator in order to allow death to fulfill itself, but nothing more than that.⁷

In two letters from 1992⁸ published at the opening of a volume, written on the occasion of an incident that rekindled the discussion of brain death in Germany - the protraction of the brain-dead state of a pregnant woman who died following a car accident for the purpose of delivering the child - Jonas reiterated his earlier position by observing that the

⁵ Hans JONAS, «Morte cerebrale e banca di organi umani: sulla ridefinizione pragmatica della morte», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, a cura di Rosangela BARCARO e Paolo BECCHI, Edizioni Scientifiche Italiane, Roma 2004, 57.

⁶ *Ibid*, 58.

⁷ Chiara ARIANO, «Dibattiti attuali sulla morte cerebrale», in *Studia Bioethica*, 2(2009)7.

⁸ AA. VV., *Wann ist der Mensch tot? Organverpflanzung und 'Hirntod' – Kriterium*, a cura di J. HOFF e J. In der SCHMITTEN, Reinbeck bei Hamburg 1994, 17 e 21-25; the italian translation, H. JONAS, «Una madre morta con un feto vivo in corpo? Due lettere», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, 69-76.



case of the pregnant woman shows that in brain death it is the body as a whole that is still kept alive by the respirator and not some individual parts. The abortion with which the case ended prompted him to see this as further confirmation that the woman's body was to such an extent alive that it could 'decide' to expel the fetus from itself when it was no longer alive.

When Jonas first formulated his critique he remained a voice out of the chorus and against the mainstream. "It was only in the course of the 1990s that a critical attitude began to manifest itself in both the philosophical and scientific spheres that today even prompts some scholars to argue for the need to abandon the notion of brain death once and for all."⁹ In the philosophical sphere, it is worth the pen to recall and briefly analyze the contributions of Josef Seifert¹⁰, Robert Spaemann¹¹ and Peter Singer¹², in order to get the full picture of the philosophical arguments made against equating brain death with human death.

2. JOSEF SEIFERT'S POSITION

In the wake of Jonas, Josef Seifert is against the equivalence of brain death and de facto death by adopting a *tutoristic* position, according to which, since "we are unable to reach an absolute certainty that a 'brain dead' patient is not actually dead, we should nevertheless treat him as if he might be alive. In the uncertainty or impossibility of proving that a person is dead, one should treat him as alive."¹³ Such certainty would not only be completely absent in the case of brain death, but all evidence points in the opposite direction.

9 Paolo BECCHI, *Morte cerebrale e trapianto di organi*, 61.

10 Josef (Maria) SEIFERT (Austria, 1945) is an Austrian philosopher, since 1986 Rector and Professor of the International Academy of Philosophy, Vaduz, Principality of Liechtenstein. Of the many contributions Josef Seifert has devoted to the topic at hand, we mention: J. SEIFERT, «Is "brain death" actually death? A critique of redefining man's death in terms of "brain death"», in AA.VV., *Working group on the determination of brain death and its relationship to human death 10-14 december 1989*, a cura di R.J. WHITE, H. ANGSTURM, I. CARRASCO DE PAULA, Città del Vaticano 1992, 95-143; ID., «La morte cerebrale non è la morte di fatto», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, 77-97; ID., «On "Brain Death" in Brief: Philosophical Arguments for and against Equating it with Actual Death», in AA.VV., *Finis Vitae. Is Brain Death Still Life?*, 189-210, trad. it. ID., «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», in *Finis Vitae. La morte cerebrale è ancora viva?*, 247-276.

11 Robert Spaemann (Berlin, May 5, 1927) is a German philosopher and theologian professor emeritus of philosophy at the Ludwig-Maximilians-Universität in Munich. His contributions on the subject are: R. SPAEMAN, «La morte della persona e la morte dell'essere umano», in *Lepanto*, 162(2002); ID., «Is Brain Death the Death of Human Being? On the Current State of the Debate», in AA. VV., *Finis Vitae. Is Brain Death Still Life?*, a cura di R. de Mattei, Soveria Mannelli 2006, 251-263, trad it: ID., «La morte cerebrale è la morte dell'essere umano? Il dibattito in corso», in AA.VV., *Finis Vitae. La morte cerebrale è ancora viva?*, Soveria Mannelli 2007, 333-349; ID., *Personen. Versuche über den Unterschied zwischen „etwas“ und „jemand“*, Klett-Cotta, Stuttgart Stuttgart 2006³, trad. it.: *Personen. Sulla differenza tra „qualcosa“ e „qualcuno“*, a cura di L. ALLODI, Laterza, Bari 2005.

12 Peter Albert David SINGER (Melbourne, July 6, 1946) is an Australian philosopher. He has taught at Princeton University since 1999 and at Melbourne University since 2005. Best known for pioneering the animal rights movement, for which he is still one of the most influential activists. Singer's moral philosophy is consequentialist and is set up as a form of utilitarianism. He denies the existence of God and consequently rejects the concept of the sacredness of life. His most important contributions on the subject are: P. SINGER, «Il concetto di morte tra etica filosofica e medicina», in *Politeia*, 16(1989)9-13; ID. «Morte cerebrale ed etica della sacralità della vita», in AA.VV., *Questioni mortali. L'attuale dibattito sulla morte cerebrale e il problema dei trapianti*, 99-121.

13 Josef SEIFERT, «La morte cerebrale non è la morte di fatto», 77.



Let us briefly illustrate the most important philosophical arguments that Seifert has developed in his work against the equivalence of brain death and factual death.

First, regarding the role of philosophy and its arguments in clarifying the problem of brain death, Seifert states: *"One must stop viewing this matter as a matter to be resolved first and foremost by medical experts. It is crucial to recognize that the key issue at stake in the discussion of brain death is purely philosophical, not medical. People who agree on all the medical facts and empirical evidence disagree on this issue simply for philosophical and religious reasons."*¹⁴

Starting from a metaphysical hylomorphic conception that identifies the human person as the co-presence of a material body and a spiritual soul, Seifert, who is a Catholic-inspired philosopher, believes that the human person ontologically transcends the sum of the parts that make up the body, as an integrated organism, and that death is, in the metaphysical sense, the separation between the spiritual soul and the material body. Therefore, against the argument that brain death, as the death of the human organism in its integrated totality, coincides with the death of the person, Seifert develops three types of arguments.

1. *Objections against death as loss of integrative wholeness.* Among these objections, *the empirical argument* points out the presence of consciousness in some cases after the loss of integrative unity. Since consciousness necessarily presupposes the life of the conscious subject, and it is also present in some cases where all the integrative functions of the brainstem in the rest of the body are absent due to certain injuries that separate the body from the functions of the brainstem and sever the vagus nerve, it follows that "the presence of body-bound human life does not necessarily depend on the integrative role of the brainstem for bodily functions."¹⁵ The weakness of this argument consists in the fact that the author is referring to the absence of the functions of the brainstem alone and at the level of the body and not to the very ability of the brainstem to have a function, which, in the cases he uses as examples remains. Brain death, on the other hand, refers to the loss of the very ability of the brainstem to function *and* the total loss of consciousness. The difference between capacity and the actualization of that capacity, often used by opponents of brain death, comes to contradict him in this case.

Another *argument, empirical and philosophical* at the same time, assumes that "the deepest source and level of 'integration' of all dimensions of bodily life is achieved through the presence of a single spiritual soul in man", and that integration has "many more empirical, spiritual, psychological and biological levels."¹⁶ Consequently, since many levels of biological integration and biological functions are also present in 'brain-dead' people, the argument that one identifies integrated functions dependent on brainstem functioning with human life, while ignoring other functions not dependent on the brainstem, is "arbitrary and untenable from both a medical and philosophical point of view." This argument, I think, was answered by the *White Paper*, which, in its philosophical position deals not with biological functions per se, but with death as the organism's lack of autopoietic capacity.

Last objection against death as loss of integrated unity philosophically argues *the irreducibility of human life to the 'integrated functions' guaranteed by the brainstem.* Human

14 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 275.

15 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 248.

16 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 249.



life, the author asserts, is deeper than all the integrated functions of the encephalon and all the integration and unification of life events within the individual cells and organs of the body, since it is ontologically rooted in both the *life of the soul* and the *presence of the soul in the body and living organism*. Consequently, human life ends when the soul of man ceases to be present in the body and not before, and, according to Seifert, as long as the organic life of the body considered as a whole is present even without the integrative function of the encephalon, the spiritual soul has not yet left the body.

Human life, the author states, is much more than biological life integrated into all basic body parts and different cells and organs, life that moves at the purely vegetative level, like that of a plant. Considering that human life can exist without complete integration or even without the presence of all organs or all basic bodily functions, the crucial question would, therefore, be: *"How and where is the line that separates this organic life of the organism as an organism, or the organic life of the human body as such, from the partial processes of life within individual cells and organs, as well as from the integrated whole of vital biological processes? [...] And how does the human life of the human organism as such differ from a purely vegetative life of an organism as a whole with its divisible structures that characterize plant life? [...] What then distinguishes the life of a human being from that of isolated life processes?"*¹⁷

The author believes that the essential organic life of the body can be properly understood and distinguished from life understood in the sense of partial organic processes if it is precisely understood "in its relation to a higher level of life and soul than vegetative life, to a unified center of life."¹⁸ The life of the human organism can be understood only by basing the source of human life in a rational soul, only if, in its concrete embodied form, it derives solely from the presence of the intellectual soul in the body, which, being a single soul, is responsible for both vegetative life and conscious intellectual life. Therefore, he believes that vegetative life is a sign of the union of body and soul, and consequently "this life of the human body and the presence of the soul in it may well be present in the brain-dead individual" and that "any reduction of human life to integrated functions is erroneous and the loss of part of the bodily integration and coordination with the death of the brainstem is not a good reason to support the death of the individual".¹⁹

2. The second group of objections moves against the idea that the encephalon is the seat of the soul and the only true body, the 'incarnational organ,' and that, consequently, brain functioning is the absolute condition for the presence of the human soul in the body.

As a first objection Seifert adduces the argument that the thesis that human life requires a human brain or even a functioning brain is already refuted by the fact that the brain appears in the embryo much later than human life, and that therefore human life is present independent of, and prior to, brain functioning. Consequently, "if a functioning brain were a condition for the presence of the soul in the body, the embryo could neither have a soul nor be alive in the sense of human life."²⁰

17 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 253-254.

18 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 254.

19 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 258.

20 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 259.



Another objection stems from brain plasticity. First, the possibility of the implantation of brain cells that are then used by the recipient person becoming his or her own would show that the brain is not the only site of the embodied presence of the human person. Then, the adaptation of the encephalon, in the case of removal of a brain hemisphere, to assume many functions previously performed by the removed hemisphere, would confirm the same point. Therefore: *"The unique and individual human soul (mind) cannot be identical with parts of the brain or its functions if it can continue to exist and operate even after these parts have been removed and a fortiori all brain functions have ceased to exist. If hemispherectomy leaves a person's consciousness intact...one cannot claim an identity of the mind with specific functions of the brain and parts of it."*²¹

Having demonstrated that neither brain hemisphere is the seat of the soul in the body, then it follows that the incarnational role played by the body is not exercised by the brain alone. This demonstration is also provided by some studies undertaken on anencephalic children that have shown how it is possible the brainstem can also assume some of the functions of the brain hemispheres.

3. A third argument that Seifert set out to refute is the concept of irreversibility of consciousness, which would prove, according to proponents of brain death, its equivalence to de facto death. Here the author distinguishes between being a person and acting as a person. Not only the person, but also its "fundamental potentialities and faculties, which precede any and all activations, cannot be reduced to their actualization and the conditions of the brain."²² It is argued that the reality of the soul and the faculties of the mind, can exist even if they cannot be exercised in the present or can never be exercised again. Therefore, while it cannot undoubtedly be shown that in brain death not only the functions but also the fundamental potentialities related to the mental faculties (thinking or willing) are destroyed, "the living person, though irreversibly disabled, is still a person even when he cannot act as a person."

In conclusion, for philosopher Josef Seifert, the moment of death is not a calculable problem, but a mystery that cannot be known empirically, since its essence consists in the separation between the rational soul and the material body. Therefore: *"Since human death, by its very objective essence, consists of the mystery of the end of that union of life, soul and body that constitutes personal human life, it becomes quite unjustifiable to declare, in terms of various criteria of brain death that are external in nature and philosophically irrelevant, that the death of the individual, who is biologically alive, occurred before irreversible clinical death."*²³

3. Robert Spaemann's Perspective and Peter Singer's Utilitarian Critique

Robert Spaemann believes that we cannot define life and death, because we cannot define being and non-being. We can, however, distinguish life and death by their physical signs, which, according to the author, are the traditional, cardio-pulmonary signs. Basing his position on the hylomorphic conception, Spaemann believes that the human person is ontologically reducible neither to the function of thinking nor to the encephalon as the organic condition of thinking. Therefore, his death cannot coincide with the cessation of

21 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 261.

22 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 263.

23 J. SEIFERT, «Sulla 'morte cerebrale in breve. Argomentazioni filosofiche a favore e contro l'equivalenza fra morte cerebrale e morte di fatto», 272.



brain functions, but must be identified with the cessation of all vital functions, including cardio-respiratory functions.

For Spaeman, human being does not consist of a connection of intellect and matter since intellect is not only the actual thinking but also the capacity to think. *"Such capacity belongs to the human soul which is forma corporis as long as the condition of the body permits."*²⁴

Therefore, as long as the human being's body is not dead, the personal soul is still present. This conclusion is believed to be the only one compatible with Christian doctrine and the European philosophical tradition.

Philosopher Peter Singer, best known for his animalist philosophy, starts from anti-metaphysical and utilitarian premises to express his critique of the concept of whole brain death. It seems strange that precisely from a utilitarian perspective that disavows any sacredness to human life, one can argue against the equivalence of brain death and de facto death, as Singer does, but, as we shall see, his position on the subject, is rather 'special,' as indeed, the majority of his positions on different topics that have in common only the character of being upstream.²⁵

For Singer, the transition from the traditional definition of death to the new definition is an ethical problem, not a scientific one. When we say that an individual in an irreversible coma is dead we make, according to Singer, an ethical judgment and not a scientific one. We have called Singer's position 'special' because although he considers that "the death of the brain is not really the death of the organism," he considers at the same time that "the use of the criterion of brain death is definitely justifiable."²⁶ . On the one hand, he stresses that from a biological perspective, brain death is not really the death of the organism; on the other hand, he accentuates the importance of the encephalon for the life of the organism. This is explained in the fact that, over the years, Singer has matured and changed his judgment on the subject of brain death. In 1989 he showed inconsistency and contradictory attitude regarding the topic by stating, for example: *"I suppose you can defend this conception to some extent ... I suppose to some extent you can challenge the idea of the brain as a 'unification center.'"*²⁷

After some years of doubt, uncertainty and perplexity he comes to the conclusion that the brain death criterion is a scientific fallacy. This thesis will be argued in a more recent article that points to four purposes: the first is to show that the belief that the brain death criterion is not a moral issue, but a problem of medical science, is erroneous; the second "is to show the erroneousness of the thesis that the criterion of death is the death of the whole

24 R. SPAEMANN, «La morte cerebrale è la morte dell'essere umano? Il dibattito in corso», 348.

25 In his book *Ripensare la vita. La vecchia morale non serve più*, il Saggiatore, Milano 1996, Singer argues that the old morality is no longer needed to address such pivotal issues in bioethics as the definition of death, organ transplants, abortion and artificial insemination, euthanasia, and animal rights. He rewrites five ancient commandments to shape a new approach to life and death. The commandment "treat human lives as having equal value" is replaced by a new one: "recognize that the value of human life varies"; the ancient commandment: "never intentionally take an innocent human life," is replaced with "take responsibility for the consequences of your actions"; "never take your own life and always try to prevent others from doing so" is replaced with "respect people's desire to live and die." "grow and multiply" should be replaced with "bring children into the world only if they are wanted"; and finally the commandment "treat every human life as invariably more valuable than every non-human life" should be replaced with "do not discriminate on the basis of species." In the same book Singer states, "the idea that a person is dead when his or her brain is dead is, at best, rather strange." (p. 37).

26 P. SINGER, «Il concetto di morte tra etica filosofica e medicina», 7.

27 27 P. SINGER, «Il concetto di morte tra etica filosofica e medicina», 12.



brain"; the third is to show that to reject the brain death criterion is to "make the traditional thesis" of the sanctity of life less attractive; and the fourth is "to point to a better solution."²⁸

Let us omit the first purpose of the article since it has already been argued by the other philosophers mentioned, who, although of opposite approaches, have argued the same idea. In order to demonstrate the fallacy of the thesis that the criteria of death is the death of the whole brain Singer draws mainly on the work and arguments of Shewman, Trough and Fackler, who intend to show that death is not the irreversible loss of integrated organ function and that the encephalon is not the only integrator of the organism since it can function as an integrated whole even without a brain, as demonstrated by Shewman in his work. Consequently, Singer believes that it is currently necessary to return to a traditional conception of death that rejects any criteria based solely on the brain.

The strange thing about Singer, however, is that this theoretical conclusion does not affect his practical attitude, for he arrives at the same practical results as those who advocate a definition of cortical death today. This is what he explicitly states in the cited article: *"We could admit that these human organisms are living, but insist that they are currently unoccupied, in the sense that they have ceased to be persons. In that case we would have to go on to say that when faced with moral issues such as those of the permissibility of organ removal or the suspension of life support, the important thing is the death of the person, not the death of the human organism."*²⁹

With this Singer accepts the traditional conception of death but rejects the view that it is always wrong to intentionally end the life of an innocent human being by arguing that: *"it is morally acceptable (once the necessary consent has been given) to suspend all life support and remove organs for transplantation purposes when consciousness has been irreversibly lost. In doing so, we would be preventing the same practical outcome that would be arrived at by redefining death in terms of irreversible loss of consciousness."*³⁰

In this way, Singer goes so far as to assert that despite being alive, it is permissible to harvest organs, not only from brain-dead patients, but also from patients who are in a Persistent Vegetative State or from anencephalic children. Moreover, this proposal would be "a direct challenge to the traditional doctrine of the sanctity of all human life."³¹, since, according to him, the extension of the definition of death to those who have irretrievably lost consciousness, which would be a 'fiction,' is an effort to "contain the scope" of the doctrine of the sanctity of life, which, however, "is increasingly being abandoned by both medical practice and the law."³² It proposes, therefore, the disjunction of death and organ removal, abandoning the dead donor rule.

CONCLUSION

To conclude this part on the philosophical arguments for the equivalence of brain death and de facto death, it can be said that the dialogue has reached a stalemate in which the arguments, both on one side and the other, are always the same. Sometimes, the same arguments serve both opponents and supporters to prove completely opposite things. For example, the hylomorphic perspective, which considers death as a separation of soul and body is called into question both by philosophers who oppose the equivalence of brain death

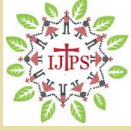
28 Peter SINGER, «Morte cerebrale ed etica della sacralità della vita», 99.

29 Peter SINGER, «Morte cerebrale ed etica della sacralità della vita», 119.

30 Peter SINGER, «Morte cerebrale ed etica della sacralità della vita».

31 Peter SINGER, «Morte cerebrale ed etica della sacralità della vita», 120.

32 Peter SINGER, «Morte cerebrale ed etica della sacralità della vita».



and de facto death, such as Seifert and Spaeman who draw on St. Thomas' theology of the soul as 'forma corporis,' and by the majority of Catholic theologians, who believe that total brain death is a sign of the already accomplished separation of soul and body.

There are also those, such as Peter Singer, while starting from the philosophical assumption that has been used from the beginning to support the new definition of death with brain criteria, utilitarianism³³, come to a different theoretical conclusion, that is, rejecting the equivalence between brain death and de facto death, and then arrive at the same practical conclusion and even beyond, accepting organ harvesting where the physician is the cause of death, even from people in a persistent vegetative state or anencephalic children.

All of this, I think, is a demonstration of the fact that "in modern culture there is no longer the concept of a common human nature, nor the concept of a universal truth, but only that of a relative truth in philosophical research"³⁴, in which the autonomous reason for individual truth is also in the plural in a culture formed of, in Engelhardt's inspired expression, "moral aliens."³⁵

33 In fact, the Harvard Report uses utilitarian justifications to define irreversible coma as a new criterion of death, stating that the situation of individuals in irreversible comas entails "enormous *difficulties* for patients permanently deprived of intellectual capacity, for their families, for hospitals and for all those who *need the beds* occupied by these comatose patients." (Italic added.)

34 Ignazio SANNA, *L'antropologia cristiana tra modernità e postmodernità*, Editrice Queriniana, Brescia 2002², 204.

35 H. Tristram ENGELHARDT, *The Foundations of Bioethics*, Oxford University Press, Oxford 1996², 80-81.



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