

The challenge of death and ethics of social consequences: Death of moral agency

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Abstract

The present paper focuses on the issue of death from the perspective of ethics of social consequences. To begin with, the paper summarizes Peter Singer's position on the issue of brain death and on organ procurement related to the definition of death. For better understanding of the issue, an example from real life is used. There are at least three prominent sets of views on what it takes to be called dead. All those views are shortly presented and analysed. Later, the theory of ethics of social consequences is briefly presented. The paper looks for the position of this ethical theory in connection to the issue of death. The issue of organ procurement, which is closely connected to the problem of defining death, is used as a means for a better understanding of the issue. The issue of death is studied through the categories of moral subject and moral object. Using the standpoint of ethics of social consequences enables us to distinguish between the death of a moral agent and the death of the organism. That helps to soften many issues associated with the topic.

Keywords: moral agent, ethics of social consequences, death, organ procurement

Introduction

The main aim of this paper is to present the views of ethics of social consequences on the issues that are presented in Singer's paper *The challenge of brain death for the sanctity of life ethics*. 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 mentioned in Singer's paper. 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 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 death (Veatch & Ross, 2016, p. 16).

Singer's position and underlining of problems

Singer starts his paper (Singer, 2018) with an outdated definition of death² based on the stoppage of the circulation of blood, and cessation of animal and vital functions. He explains that two decades later this physiological definition was replaced with a newer one, based on the irreversible cessation of all functions of the entire brain, including the brain stem.³ 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 – transplantation.

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

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² Physiological death, sometime called circulatory-based death definition.

³ The paper will use the term brain-death, but in other literature it might be called the whole brain view.

supportive of their decision.⁴ After a while, she was discharged from the second hospital as well (with a brain-dead diagnosis). According to the latest information, she died recently (summer, 2018), as a result of complications associated with 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. Equally, his aim is to show that rejecting this definition will shake up the debate between those who believe in the sanctity of human life, and those who hold that the quality of life must affect its value.

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”⁵ 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).⁶

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. He argues that organ donors in most developed countries have the right to permit or refuse donation (or give this choice to relatives). So even though the legislative process of donation varies in different countries, consent (explicit/opt-in or presumed/opt-out) is needed. Donors are never used only as a means, and thus Kant’s requirement is fulfilled. The issue which remains is the legislative one. Should we (as organ donors) consent to donate organs only after we are dead (the issue of what is dead remains), or is it satisfactory to consent to donate after we are diagnosed as brain-dead (even if some of our bodily functions might still be operating).⁷

⁴ Before legislative updates, it was legally possible to be declared dead in one state of the USA (when the heart is beating and blood circulating, but there is no brain function), and alive in a different state with the same condition. The criteria by which the death of the human being is defined vary not only within the USA, but between countries as well. While the prevailing criterion applied in the USA is the brain death criterion, according to which people die just when their brains as wholes irreversibly cease to function, in the UK the prevailing criterion is the stem criterion. People are considered dead only when their brain stems irreversibly cease to function (Luper, 2009, pp. 58–59).

⁵ As support for the statement that patient lives even when brain-death, he states that patients can grow, overcome infections and heal the wounds.

⁶ From understanding of brain failure as determinant of the organism’s disintegration, to brain failure as an end of engagement in commerce of the organism with the surrounding world. The argumentation changed in effort to maintain the definition.

⁷ See the Shewmon findings and works, such as D. A. Shewmon & Calixto Mechado (eds.) (2004).

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? As can be seen in the next paragraphs of his paper, he is not the only one in favour of this move. Are not brain-death and the death of consciousness the same thing, after all?⁸ 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”.

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”.

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 e). In the context of the paper, the question which arises is whether it is morally defensible to harvest organs from human bodies that are not a person any more.⁹

Understanding the issue

It can be claimed that since the 1970s to the present, three prominent (even though not exclusive)¹⁰ sets of views on what it takes to be called dead have been formed. One group focuses on the irreversible loss of function of the entire brain (including the brain stem). The second group insists on the former (traditional) definition, focusing on the circulatory-based concept of death. The third group holds that only certain brain functions are critical as an indicator of life (Veatch & Ross, 2016, p. 3).

For the purpose of this paper, death can be easily defined as an irreversible¹¹ cessation of the vital processes that sustain us. In this sense, to understand what death is, is to understand who we are. There are many ways to do so, from which the three best known are animal essentialism, person essentialism and mind essentialism. Animal essentialism states that we are essentially animals; the second says that we are essentially self-aware beings; and the third that we are essentially minds. With those views, various accounts of persistence conditions are connected. The animalist account says that we persist when we remain the same animals. The psychological account states that our persistence hinges on our psychological attributes. And the mind account claims that we persist when our minds remain intact (Luper, 2009, p. 5–7).

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

⁸ There is a terminological inconsistency in philosophy when using terms such as “death”, “person” and indications such as “to be” or “to exist”. In this paper, the term person refers to a human being that not only “is” (as in has some physiological signs of existence such as wounds healing) but is able to fulfil other higher criteria which will be explained later on, so we can say “he/she exists”.

⁹ Or have been born as bodies without that part of the brain which constitutes us as a person.

¹⁰ Traditionally there are four of them from which one is not acknowledged as scientifically acceptable.

¹¹ In literature focusing on the issue of death, one might find a discussion on using the terms irreversible vs. permanent interchangeably. The emphasized difference is that permanent loss will never be restored (even if medically possible), irreversible loss could not be restored (even if someone tried) (Veatch & Ross, 2016, pp. 5–6).

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.¹² We cannot take life-prolonging organs until someone is dead¹³ (Luper, 2009, p. 49; Veatch & Ross, 2016, p. 6).

The major catalyst for the debate about when a person is classified as dead was the “dead donor rule”. It is a simple deontic constraint that categorically prohibits causing death by organ removal. By this definition, before life-prolonging organs can be procured for transplantation, the human being from whom they are taken must be dead. The removal of paired organs such as the kidneys, or organs which are not taken whole such as the liver, are excluded from the rule. The exclusion assumes that their procuring would not cause the end of life. Although not by everybody, this rule is generally accepted. The killing of others, even for good reasons such as saving the lives of others, has been universally viewed as against morality and against the law. On the other hand, the definition of what it means to be dead has caused and is still causing great controversy (Nair-Collins, Green & Sutin, 2015, p. 297; Veatch & Ross, 2016, pp. 16–17).

The earlier mentioned concepts of who we are (animals, self-aware beings or minds) are closely connected to concepts of death. There are several concepts, 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 in omitting integrative functions which are not brain based) (Veatch & Ross, 2016, pp. 19–21).

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.¹⁴ Proponents of this last concept are not able to agree on 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

¹² 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).

¹³ Almost all (paired) organs used for transplant (except for those from living kidney donors) come from the bodies of the newly deceased. To ensure that those organs are in a viable condition, it is necessary to get them as soon after death as possible. That is why it is critical to be clear on exactly what it means for a human to be dead (Veatch & Ross, 2016, pp. 15–16).

¹⁴ 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.).

identity, capacity to experience, the capacity for social interaction or embodiment of capacity (Veatch & Ross, 2016, pp. 88–106). The answer suggested by ethics of social consequences connects some of those answers, but likewise is not able to answer the question fully.

Ethics of social consequences and the issue of death

Ethics of social consequences can be characterized as a consequentialist ethical theory with the inclination to act utilitarianism and a case-oriented approach. The case-oriented approach is acknowledged as a better way of dealing with specific moral issues of everyday life. Other aspects of ethics of social consequences are: moderate subjectivity, hedonism and partial eudemonism. Even though this might signalize a certain similarity with utilitarianism, ethics of social consequences refuses to be associated with it.¹⁵ 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 humanity¹⁶ 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.¹⁷ 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.

Gluchman states that every adult moral agent gains the value of human dignity as a human, based on the fact of his/her existence. Nevertheless, the demand on the respect of his/her dignity and humanity in relation to him/herself must be permanently confirmed by his/her actions, more specifically by the character of his/her actions that should be in accordance with valid and acceptable moral norms (even legal norms to some point – e.g. the right to live) or at least should not be in contrast with them (Gluchman, 1997, p. 156). According to ethics of social consequences, every human being (even mentally disabled individuals) has the primary equivalent value of human dignity. When promoting the value of humanity, ethics of social consequences differentiates on the grounds of the qualitative criteria of human life. Realization of the value of humanity in ethics of social consequences then can bring us to a situation in which terminating the life of a constantly suffering being is a demonstration of humanity.

Dignity¹⁸ in ethics of social consequences is understood as a value which we assign to entities following a body of qualities or values they have and which are worthy of esteem and respect (Gluchman, 2008, pp. 92–93). All living entities have a certain basic degree of dignity with regards to their being. This is called the ontological grounds of the value in ethics of social consequences. But the value is neither absolute nor constant. As already stated, it greatly depends on the stage of development of an entity and its activity. To be more terminologically clear, it is necessary at this point to distinguish the difference between “to

¹⁵ An explanation of this rejection is not the aim of the paper and can be found in different papers, for example: Kalajtšidis & Gluchman (2014); Kalajtšidis (2013). Ethics of social consequences is lately denominated as a hybrid form of ethical theory. Example of how this might help to understand the theory better can be found in: Švaňa (2016).

¹⁶ Humanity is, in ethics of social consequences, expressed as respect for the human being per se (Gluchman, 2018, p. xv).

¹⁷ 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).

¹⁸ For a complex explanation of the (human) dignity value in ethics of social consequences see Polomská (2018).

exist” and “to be” (to be alive).¹⁹ The being of the entity, so when an entity “is”, it means that he/she “lives” and because the entity “is” – lives, he/she has a basic degree of dignity. However, if the entity not only lives, but additionally he/she lives actively (is in interaction with its surroundings on a required level), then it can be stated that he/she exists. Death is considered as something bad (usually not desired) for several reasons. One of the most vigorous ones is the fact that death deprives us of the good things we would have enjoyed had we lived on (others might include fear of the unknown, or of pain during the process of dying, etc.). Of course, the former is true only under the assumption that we have the ability to enjoy the good. We have this ability only if we really exist as active beings, not only “are” as living entities.

In ethics of social consequences, the actions and activities of existing beings are regarded as a criterion for the differentiation of the dignity which is ascribed to the entity. Dignity which is ascribed is different on the one hand from species to species (it depends on their developmental stage in evolutionary chain), and as well between individuals from the same species (it depends on consequences of their actions) (Gluchman, 2009, p. 83).

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” (Gluchman, 1997, p. 22; Gluchman, 2018, p. xv). What is interesting in this definition is the fact that there is no condition to be a part of a specific biological species.²⁰ This helps it to overcome the speciesism argument which is present in those types of definitions. At the same time, the definition stays open to future discoveries of different life forms (extraterrestrial life or artificial intelligence). 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 object (Gluchman, 2018, p. xv). 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).²¹ The definition of a moral agent used in ethics of social consequences is based on intellectual-cognitive assumptions. In this sense, it is close to McMahan’s ideas which are accepted by Singer.²² 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 consequences (Kalajtzis, 2017).

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” (Veatch & Ross, 2016, p. 6). Ethics of social consequences comes from the position that this definition of what

¹⁹ It is of course a matter of further discussion what it means to live. Gluchman writes that life is a “bin” which need to be filled up; that the existence of life is a base for the further ascribing of dignity. It is a value which deserves protection (Gluchman, 2008, p. 97). But it can only be assumed that the “existence of life as a base” means the same thing that I identified as “to be” and not “to exist”.

²⁰ Gluchman himself writes about moral agent using the term “person” as a synonym (Gluchman, 2008, p. 91), but never states that the definition of moral agent is reserved only for humans.

²¹ Ethics of social consequences recognizes various types of moral agents, regarding several criteria. This taxonomy is not relevant for this paper. For those interested. see e.g. Kalajtzis (2017).

²² Another approaches exist and are used. Haksars for example works with axiological criteria such as to act in accordance with minimal moral norms (Haksars, 1998, p. 499).

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. Moral responsibility in ethics of social consequences is understood as the ability of an agent to take account for his/her actions or omissions. This competence is interconnected with the possibility to praise or blame him/her (reward or punish him/her). However, this understanding is not sufficient enough; additionally, the agent must be able not only to bear something (to take account), but also able to act. On the one hand the responsibility is understood as the ability to bear, on the other as the ability to act. It is important to acknowledge this aspect of responsibility; as a facility to assign duties to an agent. The agent must be able to act on behalf of something. If the agent is not capable of acting on behalf of something, it is impossible to refer to him/her as responsible and therefore as an agent. There is no purpose in assigning duties to somebody who is unable to be accountable for them. In this sense, responsibility is understood as an integral and central attribute of moral agency (Kalajtzidis, 2018).

There are three conditions which must be fulfilled when we want to ascribe moral responsibility to a moral agent and hold him/her responsible. The agent must be confronted with the situation which is morally relevant. He/she must face a morally significant choice involving the possibility of doing something good or bad (right or wrong).²³ The second condition is that he/she is able to judge the situation. The moral agent must be able to acquire relevant information to make a judgment. They must be in the position to see what is (was) at stake. The third condition is to be able to take charge of the way he/she shapes his/her judgment; he/she must be able to choose on the basis of judgment. The choice must be within the domain of the agent's will (control) (Kalajtzidis, 2018). It is clear that Jahi McMath from Singer's example was unable to fulfil those criteria, and as such she could not be labelled a moral agent. McMath and many other patients without a fully functional brain (without the functions of the higher brain)²⁴ cannot be considered moral agents. As such, they cannot relate to the notion of moral responsibility.

In this sense, they cannot be held accountable and are not eligible for moral evaluation. Without this ability there is no point in reflecting on other aspects of responsibility such as the notion of duty²⁵ and notion of guarantee.^{26,27}

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. McMahan is a supporter of the

²³ For better understanding of the issue see: (Gluchman, 2017).

²⁴ As a specific part of the of the brain responsible for a particular function.

²⁵ Connected in ethics of social consequences with the ability to make deliberate decisions and act on them. To act in compliance with fundamental moral values, such as human dignity and humanity.

²⁶ Connected in ethics of social consequences with the ability to bear consequences. To allow (for) the possibility to impute reward or punishment on a moral agent.

²⁷ It must be stated that the issues of moral responsibility and moral agency are inseparable. Without moral agency, there would be no moral responsibility. Without moral responsibility there would be no moral agency (notion of moral agent) as we know it. For better understanding of the notion of moral responsibility in ethics of social consequences, see Responsibility and justice: secondary values in ethics of social consequences (Kalajtzidis, 2018).

mind account of persistence mentioned above. It suggests that it is our mind that makes us who we are, that we are essentially minds. We persist as far as our minds remain intact. More precisely, McMahan believes that we persist just if the regions of our brains responsible for our capacity for consciousness remain undivided as well as functional enough to make consciousness possible. McMahan calls this account the embodied mind account (McMahan, 2002, pp. 66–69).

In the terminology of ethics of social consequences, we can use the terms moral agent and moral object in this sense. This distinction 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 (as was explained 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). Luper is, in his book *Philosophy of death*, exploring the connection between ceasing to exist and dying. He asks if we may cease to exist deathlessly, or die without ceasing to exist (Luper, 2009, p. 39). McMahan's version of mind essentialism accepts the termination thesis which states that dying entails ceasing to exist. 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 connection to the protection, support and development of human life.²⁸ 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.²⁹

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" (in the already mentioned meaning). 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.³⁰

²⁸ As a result of the rapid growth in science and technology, realization of the importance of moral responsibility for the preservation of humankind is growing as well.

²⁹ In this context Katarina Komenská developed a concept of moral community which tries to explain the issue of the relationships between moral agents from the point of view of ethics of social consequences (Komenská, 2014).

³⁰ For some readers, those ideas might remind them of ideas which are closely connected to discussions on euthanasia and eugenic programs. Those were popular mostly at the beginning of the 20th century and even applied during Nazism in Germany. The idea of existence of "life unworthy of life" is closely connected with the poverty and starvation which appeared in contemporary Germany after the First World War. Most noted contributors to the spreading of the idea were Karl Binding and Alfred Hoche who published an influential tract *Permission for the Destruction of Life Unworthy of Life* (1920). Those ideas and ideas in the paper should not be confused and/or connected. The presented paper does not claim (for example) that there are lives which are not worthy of protection by law, does not commodify people, or does not claim that people might have a negative value, etc. For a deeper understanding of the former I suggest the book by Michael Burleigh *Death and*

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,³¹ and equally they do not cause consequences in a way a moral agent can. In other words, ethics of social consequences cannot evaluate the consequence of their actions, as they do not have the power to perform them (even if they might happen).³² Ethics of social consequences states that the demand on the respect of dignity and humanity in relation to human beings must be permanently confirmed. This confirmation is possible only by actions by human beings, specifically by the character of their actions that should be in accordance with valid and acceptable moral norms. However, only moral agents can fulfil this requirement.

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.³³ 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. This is mostly important in connection to organ harvesting. Is it possible to legalize³⁴ organ harvesting from humans who lost the ability to be a moral agent? Is it feasible in humans who were born without this ability? Who is legally responsible for their consent? 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.

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deliverance (1994). A warning about how today's society might become focused on consumption values and commodify people can be found in a paper by Joanna Mysona Byrska (2015).

³¹ 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.

³² It is very difficult to exactly identify for which consequences a moral agent can be accountable.

³³ The paper presents 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).

³⁴ I do believe that the argumentation presented in the paper makes it morally defensible. The problem of legality, however, remains.

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