

# The American Journal of Bioethics 14, No. 8 (2014)

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The American Journal of Bioethics is considered the first in the “Ethics” and “Medical Ethics” categories: with its impact factor of about 3.6, it is published monthly. From its foundation until 2012, the journal was edited by Glenn McGee, and later on by David Magnus of Stanford University. The journal’s main focus is on “target articles” which are then open to usually brief peer commentaries in the same issue (“immediate conversation”).

In the August 2014 issue, three target articles were published related to the brain death controversy, stirred up by the two recently arisen cases. Jahi McMath, diagnosed as brain dead, was exposed to the continuation of treatment because her parents refused to accept the diagnosis, and the same occurred in the case of Marlise Muñoz, with the difference that here, the hospital was insisting upon the treatment due to her pregnancy.

The first target article, “Whither brain death?” by James L. Bernat of Geisel School of Medicine at Dartmouth, overviews the current state of brain death, “the familiar name for the determination of human death by showing the irreversible cessation of the brain’s clinical functions.” Declaring brain death, according to most of the legislations in the world, signifies the permission to withdraw the ventilator support and to facilitate organ donation. Bernat in particular problematizes the non-equivalence of brain death and human death, because the “integration rationale” (that the brain integrates various bodily functions) has been disproved long ago. Bernat, however, does believe that brain death can be justified by the cessation of the biophilosophical concept of “the organism as a whole,” that is, of functions (like consciousness) emerging from the concert work of organs.

In the second target article, “Changing the conversation about brain death,” Robert D. Truog of the Boston Children’s Hospital and Harvard Medical School, and Franklin G. Miller of the National Institutes of Health, try to avoid the conundrums of discussing the death issue by stressing “the distinction between brain death as a biological concept versus brain death as a legal status.” the notion of “legally dead,”

according to the authors, has practical implications for organ donors and does not interfere with biological reality.

Thomas Wm. Mayo from the Dedman School of Law of Southern Methodist University, analyses in detail the case of Marlise Muñoz that arose in November 2013 and created public opinion turbulences. Here, the Texas hospital acted against the wish of the husband of the patient and continued life-sustaining treatment after the diagnose of brain death had been posed, due to the patient's pregnancy. Mayo clearly concludes, however, that "neither the literal words of the pregnancy exclusion nor the Advance Directives Act read as a whole requires continued ventilator support."

Referring to the three target articles, 18 open peer commentaries have been presented, advocating a functionalist view (S. LiPuma & J. P. DeMarco), pointing out the paradox of the dead donor rule (R. M. Sade & A. D. Boan) or the social construction of death (K. G. Gervais), trying to define death without science (E. Racine) or to construct the legal concept of death (M. Epstein), etc.

Although the death issue certainly cannot be absolved by one journal issue, the American Journal of Bioethics has proved, as in many other cases, to react very promptly to societal challenges and hot debates. The stubborn orientation to the biomedical topics only, neglecting the ideas of Van Rensselaer Potter, Fritz Jahr, and many other founding fathers of bioethics considering this discipline in a much broader way, however, remains the major limitation of this otherwise brilliant journal.

**Amir Muzur**