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# CONTESTING THE NATURAL IN JAPAN: MORAL DILEMMAS AND TECHNOLOGIES OF DYING

ABSTRACT. The paper opens with a discussion about the recognition of "whole-brain death" as the end of life in North America in order to perform solid organ transplants. This situation is contrasted with Japan, where, despite no financial or technological restrictions, brain death is not recognized, and transplants from brain-dead bodies cannot be performed. The Japanese cultural debate over the past twenty-five years about the "brain-death problem" is presented, followed by an analysis of Japanese attitudes towards technological intervention into what is taken to be the "natural" domain, together with a discussion of current Japanese attitudes towards death. This debate is interpreted as one aspect of a search for moral order in contemporary Japan, revealing ambivalence about self and other, Japan and the West, and tradition and modernity.

This presentation addresses issues about margins and liminality, about that which is neither black nor white.* This is the terrain where many anthropologists are at home because analyses from the margins provide an opportunity to play court jester, to make the familiar strange and inhibit premature closure. Margins provide the Archimedian point from which a critical perspective on the center can be constructed, a site from where dominant ideologies – that which appears as normal and natural – can be scrutinized. The particular margin I want to explore, one of great concern to us all, I presume, is that between life and death.

It would seem for the majority of people living in North America today that, apart from the contentious abortion debate, death is understood as an unassailable division between nature and culture, a rather easily defined end point about which there can be a good deal of understandable emotion, but little argument as to its actual moment of occurrence. Despite a few cases which have received extensive public coverage, such as those of Nancy Cruzan, Karen Quinlan and several anencephalic babies, public debate about definitions of life and death in North America has largely been confined to the fetus, a debate which has recently become so contentious that it has taken on the trappings of civil war. This drawn-out battle has virtually eclipsed discussion about a rather quiet remaking of death potentially applicable to us all.

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A major step towards acceptance of the new death was taken by an Ad Hoc Committee of the Harvard Medical School in 1968. It is significant that this was accomplished shortly after the world's first heart transplant took place in South Africa in 1967. The Committee, the majority of whom were physicians, declared unilaterally that individuals in a state of "irreversible coma" who were diagnosed as having "brain death syndrome," could be declared dead (Ad Hoc Committee of the Harvard Medical School 1968). Prior to this time, it was accepted by convention that death could only be medically established once the heart had stopped beating, but the issue became confused with the development of artificial respirators which allow the heart to remain beating after integrated brain function has ceased. The committee gave two reasons for redefining death: it stated that there were increased burdens on patients, families, and hospital resources caused by "improvements in resuscitative and support measures," and secondly, and more ominously, that "obsolete criteria for the definition of death can lead to controversy in obtaining organs for transplantation" (1968: 337).

During the early 1970s the concept of brain death syndrome was challenged in the courts. In one landmark case in Virginia in 1972 the jury ruled against the donor's family who claimed that the transplant surgeons had been responsible for the death of their relative. Other court cases followed including several involving homicide victims (Simmons *et al.* 1987). At the same time a debate about medical practice was under way, in particular as to which tests, if any, could be relied upon to confirm an individual doctor's opinion about brain death, and secondly as to who would be the "gatekeepers" to protect physicians from malpractice suits. These debates captured little public attention, nor did the declaration of the Uniform Determination of Death Act. This Act was proposed in 1981 by a President's Commission, supported by the American Medical Association and the American Bar Association, and subsequently adopted by most state legislatures. This Commission, in opposition to the position taken by a good number of physicians, philosophers, theologians and others who were writing mostly for a professional audience, rather than for the media (Bartlett and Youngner 1988; Gervais 1987; Zaner 1988), opted to further rationalize and update what they characterized as "obsolete" diagnostic criteria and to enshrine a definition of death in law, something which thus far had not been the situation (Annas 1988: 621). The commission recommended that a concept of "whole-brain death," equated with an "irreversible loss of all brain function," be adopted. This state was carefully distinguished in the report from "persistent vegetative state," the diagnosis given to patients such as Karen Ann Quinlan and Nancy Beth Cruzan whose brain stems continued to function despite an irreversible loss of higher

brain function. The earlier definition of "irreversible coma," left room for doubt as to whether patients such as these could be taken for dead, and the concept of whole brain death sought specifically to clarify this point. Thus physicians in constructing a "uniform" death deliberately set out to protect themselves, while at the same time ensuring a source of organs for transplants from legally defined dead bodies in a brain death state.

Today some states accept whole brain death as the only legal definition, other states work with two definitions of death: "whole body" and "whole brain," either one of which may be applied depending upon the circumstances and the availability of the necessary technology. In Canada, with the exception of Manitoba, death is not legally defined, and there is no equivalent of a Death Act, but the criteria for brain death are essentially the same as those used in the United States. In Great Britain the criteria for decision making are a little different and based largely on the clinical judgement of individual physicians without resort to a battery of standardized tests. Defining death is not, it seems, such a straightforward matter. The condition of anencephalic babies has added further complications and stimulated discussion as to whether revisions might be in order once again so that permanent loss of or an absence of higher brain function alone could establish death, raising the possibility for at least three working definitions of death.

The remarkably small number of commentators who have followed these debates are divided as to how we should proceed at this point; a good number believe that we have embarked on a slippery slope of a most insidious kind (Lamb 1990; Veatch 1978), but the majority of the North American public, together with many health care professionals, very likely labors under the misconception that, aside from the question of the status of the fetus, the determination of death always has been and remains rather straight-forward. Martin Pernick has shown in an illuminating article entitled "Back from the Grave" (1988) that there has been a perennial concern throughout Euro-American history about the misdiagnosis of death and premature burial. Thus recent debates in biomedical circles over definitions of death are not new, but have their roots in antiquity. What is new this time around, in the "developed countries" at least, is the unfamiliarity of most people with the process of dying, coupled with the availability of technology which can postpone the disintegration of the heart and other vital organs after the brain has ceased to function. Organs can be removed after brain death, therefore, and transplanted into another human body with the intent of postponing a second death.

The debate is thus infinitely more complex than was formerly the case, because there are now two patients whose dying and living become inex-

tricably linked through the serendipitous coincidental failure of their body parts. Current biomedical ethics, grounded in the North American value of respect for individuals and their autonomy, inevitably becomes somewhat unravelled at the seams with two patients and their competing respective rights to consider, and one would expect to see some evidence in the media of this conflict of interest, perhaps even a national debate similar to the one over abortion and the rights of the fetus. Clearly this has not happened, the focus of public attention has lighted firmly on "saving lives," organ recipients, and the heroics of medicine while the first death, that of the donor, passes silent and unmarked. Of course, organ donors as a class of individuals are praised for generosity, altruism, the gift of life, but as individuals they remain essentially unnoticed – indeed they are required today to be anonymous and are thus confined to oblivion.

Perhaps this situation should come as no surprise in a "rational," "secular" society. After all, it makes little sense to dwell on the misfortune of brain-dead "neomorts" in Willard Gaylin's graphic epithet (1974); no doubt it is sensible and "rational" to think of them "living on" as parts of other people. Perhaps it is best to accept reality, namely, that organ transplants are now routinized, (there were more than 2000 heart transplants in the United States in 1991, and many more liver and kidney transplants). The "cutting edge" of experimental transplant technology is now primarily concerned with "cluster" transplants, brain tissue implants, the paring down of large organs to fit infants and children, and so on. Perhaps we should focus instead on how to improve the availability of organs for transplantation: In 1991 more than 2000 people were on the waiting list for heart transplants, and the number of organs donated has declined in recent years. The current drive to "maximize" the availability of organs is grounded in the utilitarian assumption that organs must be made available for the greatest good of all, and includes a major debate about whether the buying and selling of organs should be established. Discussion is focused on their procurement, including what type of contract with potential donors and their families is most appropriate for making organs more readily available (Somerville 1985); whether adoption of a market model for the procurement of organs is appropriate or not (Prottas 1983; Williams 1985); and whether the body should be considered a form of property (Andrews 1986). Predictably, perhaps, in America there is a clear movement towards the "commodification of suffering" (Kopytoff 1986: 84)

Although the current ethical debate in connection with transplantation includes some extraordinarily delicate topics such as the status of fetal tissue (Fine 1988), anencephalic infants (Fost 1988), and patients in deep coma and persistent vegetative states (Lamb 1990); the removal of organs

from executed prisoners(Guttman 1992); the sale of organs from impoverished live donors in the Third World (Chengappa 1990), and so on, nevertheless in North America we have proceeded largely on the assumption that neither the diagnosis of death nor the "harvesting" of organs (in the technical idiom) is problematic.

## THE VIEW FROM JAPAN

There are some remarkable differences at the present time between Japan and North America with respect to organ transplants: whereas in America nearly 2000 heart transplants took place in 1990, for example, in Japan there were none. No one needs to be told that this difference cannot be explained away due to a lack of technology or skills, or to a shortage of economic resources on the part of the Japanese. So cultural differences must be at work, we assume. The tendency from the outset (mine, at least) was to ask what it is about Japanese and not North American culture which could account for this discrepancy. What widely shared knowledge do the Japanese possess which makes them resistant to the technologically aided extension of human life? This approach seemed particularly pertinent because Japan makes greater use of and exports more complex medical technology than any other nation in the world (Ikegami 1989). Is this cultural difference to be found at the level of attitudes towards the mastery of nature, or more specifically, to a concern about tinkering with the bodies of the dying and the dead? Is Japan perhaps not as secular and rational, not as "modern," as its outward trappings lead us to believe? Alternatively, is it perhaps due to cultural influences on the actual production of scientific discourse about death and dying in Japan? Or is the difference due largely to the way in which the power and interests of doctors are played out, and the form of institutionalization that medicine takes in Japan? Or some combination of the above?

It is relatively easy to take off from this point, embracing an implicit assumption that there is something inherently odd about not striving to "save" lives in a secular society with neither economic nor technological constraints; to set out, therefore, to scrutinize the relics of tradition, survivals from an archaic past lurking in Japanese late modernity which account for this anomaly. But such an approach does violation to the majority of interpretations given by Japanese on this subject, many of whom flatly deny that culture, that is, the "culture of tradition" is involved, and argue instead for a more pragmatic explanation in which politics and power relations among the professions, and between the medical world and the public, are implicated (Nudeshima 1991a). Equally important, by focusing on Japan as the anomaly, North American assumptions about the

good and just society remain unproblematized and thus implicitly the norm for the contemporary world, something which concerns many Japanese participants in the brain death debate.

In North America the relatively small amount of discussion taking place about the recent remaking of death in order to carry out major organ transplants is confined largely to the pages of professional journals and to academic conferences, and is happening after transplants have been routinized and, more recently, human organs have been recognized as a scarce commodity (Randall 1991). Media attention and overt public participation is minimal in this debate, particularly when compared to the furor over abortion.

In Japan, by contrast, a debate about what constitutes death, and the implications of redefining it in order to implement transplant technology has been a major item of national dispute over the past twenty-five years. Public opinion has been systematically monitored and made use of in supporting arguments both for and against changing the current definition of death. The result has been that organ transplants which require a brain dead donor have not been accepted as sound medical practice in Japan. Those who are against instituting brain death as the end of life have developed several lines of argument, prominent among them being that the medical profession cannot be trusted (Nakajima 1985; Katō 1986). Others are concerned because although considerable attention has been given to the question of whether death can be "measured" scientifically, philosophy and ethics are rarely incorporated into the debate, which therefore smacks of a pragmatism said to be overly "Western" and uncharacteristic of Japan (Yonemoto 1988). There is, in addition, criticism of the importation of "Western" bioethics without suitable modification to the Japanese situation (Asahi Shinbun 1989a). Linked to these concerns is an awareness of the pressure that the medical profession feels to "keep up" with technological developments taking place in the international medical community (Asahi Shinbun 1993), together with a sensitivity to the fact that brain death was established as death in North America expressly so that organs could be made available for transplants (Ad Hoc Committee of the Harvard Medical School 1968). The question of Japanese attitudes towards nature are brought up rather rarely among these arguments and then almost without exception only for comparative purposes. Japan is self-consciously set off as different from the "rational" West, where nature is easily co-opted by culture. Japan, on the other hand, is less driven by "cold scientific logic" (Nihon Keizai Shinbun 1985), is more accepting of fate and less inclined to tamper with the "natural" order (Saitō 1992).

The highly stylized Japanese drama form known as *Nô* has been a forum since the 14th century for an exploration of the relationship between the world of spirits and earthly life. A conservative tradition, to say the least, it is very rare indeed for anything written later than the mid-19th century to enter the consecrated canon which is actually performed in public. However, in 1991 a play entitled *The Well of Ignorance*, the creation of an eminent Tokyo immunologist, Tomio Tada, was premiered at the National Nô theater to a standing-room-only crowd and is scheduled to be repented on national television.

The play is about a fisherman knocked unconscious in a giant storm, and taken for dead. The wealthy father of a young woman who is very ill summons a Chinese doctor who removes the fisherman's heart and uses it to save the woman's life. The ensuing drama focuses on both the plight of the donor of the heart, who remains hovering in the world of restless spirits, neither alive or dead, and the guilt which racks the young woman for having caused this misery. The narrative in *Nô* is furnished by a chorus of chanters accompanied by traditional musical instruments, and it is through them that the spirit of the fisherman describes the removal of his own heart:

> When I was barely hanging on to life, the doctors decided to come at me with blades and scissors. They opened my chest and took my beating heart out and I heard the sounds of snipping and cutting. But my body was totally frozen, and no voice came out when I screamed! Am I living, or am I dead?

In characteristic Japanese form, the ambiguity is not resolved by the end of the play, the spirit remains suspended, restless, mutilated, and the young woman's efforts to purify herself at the village well prove fruitless when it dries up, caused, according to the frightened villagers, by a curse. Dr. Tada claims that he personally has no objection to organ transplants, but the inertia in the world of *Nô* which he had to overcome to have the drama produced in public, and the powerful emotional responses he set out to create in the audience belie his words – especially since his play is about the most controversial of bioethical issues in Japan today. In choosing the medium of *Nô*, and not the contemporary theater, Dr.Tada was able to give the drama mythological dimensions; to infuse it with mystical and nostalgic associations. Although the play can be read simply as an allegory for the current national debate in Japan about the acceptability or otherwise of brain death, at the same time, particularly because use is made of the tradition of *Nô*, it is clear, I believe, that it represents much more than this, for it is designed to subtly unify the audience by drawing on and rekindling their sensitivity to the unique qualities widely attributed to being Japanese, including shared attitudes about the relationship of the natural to the cultural domain.

## THE JAPANESE DEBATE: DOCTORS UNDER OBSERVATION

Some Japanese believe that it is essentially serendipitous that they do not find themselves in the same position as North Americans today, and assume that it was the particular circumstances of the first and only heart transplant conducted in Japan that affected subsequent history by creating a public furor which could not be quietly ignored.

Shortly after the world's first heart transplant was conducted in South Africa two or three attempts were made in other locations to carry out the same procedure, including Sapporo, Hokkaido, in 1968. As in other parts of the world, the Sapporo procedure initially produced an accolade from the media and was heralded as a dramatic medical triumph. However, several months later, the physician in charge, Dr. Wada, was arrested for murder and only acquitted after six years of wrangling. The majority of Japanese believe in retrospect that the patient whose heart was removed was not brain dead, and that the recipient, who died two and a half months after the operation, was not sufficiently in need of a new heart to have undergone the procedure in the first place (Gotō 1992). As part of the current national debate about organ transplants, discussion of the case was formally reopened in 1991, and the chairman of the Japanese Medical Association, testifying before a government committee, reported that twenty-three years ago, right after the removal of the supposedly ineffective heart from the recipient patient, it had been tampered with, indicating that the involved doctors may have tried to exaggerate the degree of its deterioration (Mainichi Shinbun 1991a). The case is now considered in retrospect as a barbarous piece of medical experimentation carried out by a doctor who, significantly, had received a good portion of his training in America. When commenting on his own *Nô* play, Dr. Tada stated that he deliberately created the doctor as a foreigner, and that he had the Wada Case (as it is now known) in mind when he did so. Dr. Wada was trained for several years in America, is associated with Hokkaidō – Japan's untamed frontier, and his personality is said to be "aggresive" and not typically Japanese. In short, Dr. Wada, like the Chinese surgeon in the *Nô* play, is in effect an outsider, a "foreigner."

The Wada case is not the only time the Japanese medical profession has not been shown up in a good light. A kidney/pancreas transplant at Tsukuba University in which organs were removed from a young mentally impaired woman diagnosed as brain-dead, but neither she nor her parents had given permission for her to be a donor, proved very controversial (Mainichi Daily News 1984). In another instance, in 1989, a doctor at a national medical school hospital was arrested for swindling more than 20 million yen ($18,000) from a patient by offering to find a donor for a

kidney transplant which the patient needed. The patient died one day after handing the money over, having been told by the doctor that the large fee was necessary as recompense (*sharei*) to the organ donor (Asahi Shinbun 1989b). It is illegal to buy and sell human organs in Japan, but, since there is a long standing custom of giving substantial presents to doctors to insure good medical care, especially during surgery (a custom which one Japanese doctor who resides in America described to me as bribery), many people believe that commercialization of human organs is a realistic possibility, and perhaps already in operation.

In 1991 a team of physicians appeared defiantly lined up side by side in a newspaper photograph, having decided to go public, months after the actual event, about a kidney transplant which they had conducted using a brain dead donor (Mainichi Daily News 1991a). It is estimated that more than 200 kidney transplants from brain dead donors, usually close relatives of the recipients, have been carried out in Japan, but details of these procedures are rarely made public. (It is not essential to use a brain dead donor for a kidney transplant, but physicians judge at times that there is a better chance of successful surgery if the organ is "fresh".) In a recent case a patient was declared brain-dead by a medical team, and his kidneys were removed for donation, but it was later revealed that although the family had given assent they were not informed at the time that their relative was brain dead and that his heart was still beating. When confronted with the situation one of the surgeons involved stated that, "it didn't even occur to me to tell the family that I was removing the organs after their relative was pronounced brain-dead, they were eager to donate his kidneys and the chances of success are higher with fresh organs, so I went ahead with it" (Mainichi Daily News 1991b).

More recently, in full view of the nation as it watched on television, police entered Osaka University Hospital to issue a warning to surgeons that they should not remove the liver of a patient. In this case the 51 year old man had provided in his will that his organs could be made available for transplants, and approval had also been obtained from his family. After being hit by a car the man was taken in an unconscious state to a nearby hospital, and then transferred to the Osaka University Hospital with the intention of removing his liver and other organs after he had been declared brain dead by three independent teams of doctors. The police declared that an autopsy was legally necessary after the car accident; they also reminded the doctors that brain death is not legal in Japan, and warned them to wait until the heart had stopped beating. Television viewers were treated to the sight of police marching purposively around hospital corridors, and defiant doctors shutting doors in the face of both television cameras and

the police. By the time the liver was eventually removed from the man it had degenerated badly and was beyond use, but the kidneys and pancreas were extracted and transplanted into waiting patients. At the time of this incident, it was revealed that this was not the first case where police had intervened and prevented physicians from removing organs from brain dead donors.

## CONTESTED DEFINITIONS OF DEATH

The first definition of brain death was formulated by the Japan Electroencephaly Association in 1974. Probably in response to the much publicized case of the mentally retarded patient, the Life Ethics Problem Study Parlimentarians League, composed of 28 Diet members and 45 other professionals was established in 1985, a group which after one year endorsed the need for legislation about brain death (Feldman n.d.). In the same year the Ministry of Health and Welfare set up a Brain Death Advisory Council, the final report of which contained the definition of brain death currently made use of in Japan (Kôseisho 1985). [1] This report is explicit, however, that "death cannot be judged by brain death." Nevertheless, the diagnosis is frequently applied, although it remains unclear as to whether treatment of patients is affected by being given this diagnosis (Ohi *et al.* 1986).

The report spurred other involved groups to make pronouncements about their position in the debate. In January 1988, after two years of meetings by a working group, the directors of the Japan Medical Association voted unanimously to accept brain death as the termination of human life, but despite this decision there remains a lack of agreement among the representatives of medical specialities and also among individual physicians who are deeply divided on the issue. The Japan Association of Psychiatrists and Neurologists, for example, (a few of the 6,900 members of whom are responsible for making brain death diagnoses) fear that if brain death is equated with death this will lead to the slippery slope down which the handicapped, mentally impaired, and disadvantaged will be at risk for being diagnosed prematurely in a greedy desire to get at their organs. In their 1988 report they state that it is difficult to decide when brain function is irreversibly lost (Asahi Shinbun 1991a; Yamauchi 1990)

Some physicians have joined members of the public to form the highly visible Patients' Rights Committee, whose interests range well beyond the question of brain death. Under the leadership of the flamboyant Dr. Honda from the prestigious department of internal medicine at Tokyo University, they have recently filed several law suits charging murder when organs have been removed from brain dead patients, one of which was in connection

with the case of the mentally impaired woman described above. Another involved a Niigata hospital for removal of the kidneys of a brain dead patient, and a third was a recent case in which a doctor, also a Buddhist priest, turned off the respirator of a comatose woman and removed the kidneys and corneas in accordance with a living will and with the consent of the family (Yomiuri Shinbun 1992a). The public prosecutor's office has thus far not reached a decision in connection with any of these cases, but has thrown two of them out of court, stating that there is no public consensus in Japan as to how to define death (Nakayama 1989). Feldman believes that because, after almost seven years, complaints made by the Patient's Rights Committee remain unresolved, this serves to reinforce hesitation on the part of doctors to forge ahead with transplantation (n.d.).

As a result of the unresolved debate, copiously documented by the media, the government felt compelled in late 1989 to set up a Special Cabinet Committee on Brain Death and Organ Transplants in order to bring about closure of the discussion. This committee, composed of fifteen members from various walks of life, was charged to make a report to the Prime Minister by 1991, and its very formation signalled to the public that the government was ready to support a formal move to make brain death the termination of life. The group was so deeply divided that for a while it seemed that it would never produce anything more than an interim report, but in January 1992 a final report eventually appeared. In principle the Members should have reached consensus, but this they could not achieve. The majority position is that brain death is equivalent to human death, that organ transplants from brain dead donors are acceptable, and that the current definition of brain death as formulated by the Ministry of Health is appropriate. Those who took the minority position made it clear that they wish to have the social and cultural aspects of the problem fully discussed, in their opinion the debate thus far has been largely confined to "scientific" information, which they believe is inadequate (Kanto Chiku Kôchôkai 1992; Yomiuri Shinbun 1992b). The public was kept fully appraised of just who appeared before the committee. It is evident that many of those who testified, including certain scientists and doctors, argued against the acceptance of brain death, but nevertheless the majority of the committee eventually moved to support its approval (Nihon Keizai Shinbun 1992).

Meantime the Japan Federation of Bar Associations (*Nichibenren*) maintains its position that brain death should not be accepted as the termination of life. In an early report it had expressed concern for the "sanctity of life," and about possible medical "experimentation." It also pointed out that there may be unforeseen consequences in connection with inheritance claims, and a lack of public consensus on the issue was noted by

them (Asahi Shinbun 1991b). The day following the announcement of the Cabinet committee, the Ministry of Justice, National Police Agency, and Public Prosecutor's Office all reiterated their continued resistance to brain death (Asahi Shinbun 1992a).

The Patients' Rights Committee, lawyers, the police, many authors of newspaper articles and books on the subject of brain death, and even a good number of the medical profession appear to be publicly contesting the authority of transplant surgeons. What they usually cite as their principal cause for concern is a lack of trust in the medical teams who will make decisions about cases of brain death; they believe that in the rush to retrieve organs the proccss of dying will be curtailed or even misdiagnosed. The opposition is explicitly opposed to the secrecy and arrogance of some members of the medical profession, and points out that patients and their families are vulnerable to exploitation when left in their hands.

Certain of these same opponents of brain death are at the same time pushing for informed consent, together with a frank disclosure and discussion of diagnoses with patients, neither of which activities are routinely established in Japan. This contest, although it is at one level a debate about the accuracy and replicability of scientific decision making, is also a challenge to the hegemony of invested authority. Authority which is exerted in what is characterized by several of the challengers as a traditionally Japanese way, whereby patients and their representatives are rendered passive and expected to comply with medical regimen without question.

One national newspaper, the *Asahi Shinbun*, recently described the medical world as "irritated" with government dithering, and doctors sense that their international reputations as outstanding surgeons are withering on the vine. At the annual meeting of the Japan Medical Association held in Kyoto in 1990, which I attended, two plenary sessions and several smaller panels were given over to brain death and organ transplants. The principal presenters of papers were physicians who had lived and worked for some time in the United States and who had practiced transplant surgery while there. Aside from the scientific part of their presentations every one of them strongly asserted that Japanese medicine is suffering because of the national uproar over brain death. They all showed slides of themselves standing, usually in surgical garb, side by side with American transplant surgeons together with happy, lively patients who had recently received organ transplants. These presentations at the JMA were one of the few occasions until very recently when, to my knowledge, attention was focused on the situation of patients whose lives might be lengthened by transplant procedures (see also Miura 1991; Newsweek Nihon Han 1993).

Meantime doctors try to salvage what they can by working to perfect artificial organs. They have also been experimenting, watched closely by the media, with live liver donation from parents to children, of which 75 had been conducted by 1991 (Asahi Shinbun 1991c). A recent development to receive extensive television coverage in Japan was the participation by a Japanese doctor in a surgical team in America which transplanted a baboon liver into a human patient.

## REACHING PUBLIC CONSENSUS

Taking place in concert with government, professional, and media discussion is the most persistent search for a national consensus (*kokuminteki gôi*) among the Japanese public that has taken place to date on any subject. There have been at least ten national surveys about brain death and organ transplants between 1983 and 1992. Over the years the number of people who recognize brain death has increased from 29% to approaching 50%. In a recent poll, conducted by the special Cabinet committee with 3000 respondents aged over 20, there was a 79% response rate of whom 72% stated that they have an interest in organ transplants and brain death. As with all the previous surveys a paradox, perhaps indicating confusion, is evident in that more people approve of organ transplants from brain dead patients than those who accept brain death as a definition of death. In this latest poll 55% approved of organ transplants from brain dead patients, 14% were opposed, and 30% undecided. However, only 51% of men and 39% of females agree that brain death is the end of life, although nearly 50% of all respondents agreed that even if brain death is not recognized in Japan, if both the potential donor and his/her family have given consent, then a transplant would be acceptable (Mainichi Shinbun 1991b).

The results of opinion polls are usually drawn on by those who are against brain death to support their argument, since it has been frequently reiterated that public consensus must be reached before brain death can be nationally recognized. Nevertheless, one is left with the feeling, voiced by many members of the Japanese public, that the whole exercise of repeatedly surveying the nation is essentially a farce, and that the idea of trying to achieve a simple consensus on such an inflammatory subject is without meaning. One piece of evidence which has emerged regularly from the opinion polls, however, is that those who are against the acceptance of brain death as the definition of death repeatedly state that they take this position because they do not trust the medical profession.

## CULTIVATING THE NATURAL

Clearly mistrust of physicians on the part of the Japanese public contributes to the brain death "problem" (*nôshi no mondai* ), but one is left with the question of why *this* issue more than other pressing problems in connection with biomedical technology has captured the attention of the nation. Discussion about informed consent and the new reproductive technologies appear in the media with increasing frequency, but to nothing like the same extent as does the topic of brain death and organ transplants, debate about which can become exceedingly vituperative (Umehara and Nakajima 1992)

A perusal of the large number of articles and books (approaching 1000), and newspaper editorials published on brain death and organ transplants since 1986, reveals that sentiments such as "unnatural" (*fushizen*), (brain death is reported to be too "unnatural" to be called "death," for example, (Hirosawa 1992)), or "contrary to basic human feelings," appear at times. The idea of "controlling" death is also described as going against nature (Watanabe 1988; Umehara ed. 1992). Organ transplants are characterized in one book as *egetsu nai* (a powerful vernacular expression indicating that something is foul, ugly, or revolting) and *chi ma mire* (bloody) (Fukumoto 1989). Arguments against the institutionalization of organ transplants requiring a brain dead donor appear, therefore, to raise concerns about interfering with what is taken as natural. However, for the most part these concerns remain articulated only as emotion-laden adjectives or else through allusions to the "cold" over-rational "West."

The concept of "nature" is, of course, culturally constructed, and meanings attributed to it change through time and space. A scientific account assumes nature to be subject to experimental manipulation and ultimately understandable as a set of universal laws. In theory, such an approach visualizes nature as a domain entirely separate from the moral order. In practice, however, "nature" continues to serve, as it did prior to the Enlightenment, as a moral touchstone, the effects of which are particularly evident at the culturally constructed margins between "nature" and "culture." Nature is usually drawn on as a moral arbitrator in one of three ways: People can be chastised for behavior which does not conform to what is taken to be "natural" – in scientific parlance, certain behaviors are biologically conditioned and therefore inevitable. Gendered and age-related behavioral norms are frequently legitimized as "natural" – in many cultures women, for example, are "naturally" nurturant; men "naturally" aggressive. Ideological use of the concept of "nature" to account for certain behaviors as biologically determined assists in the production of "normal," "good" citizens, and is made extensive use of in contemporary Japan (Lock 1988; 1993).

A second way in which nature is made use of to comment on the social order is by categorizing certain individuals and groups as "wild" or "uncultured," closer to nature, and as a consequence potentially dangerous (Leys Stepan 1986; Douglas 1970; Yoshida 1967). Alternatively, people may be cautioned about tinkering with nature itself – about attempting to intervene and destroy or transform the natural order in inappropriate ways. The field of bioethics was formed in part to examine the vast array of medical technologies developed to intervene in what was once assumed to be a "natural" division between life and death. This commentary strives to create a critical space from which to take a moral stand, but for the most part ulitmately fails, because bioethics has thus far usually been grounded in the same epistemological assumptions as is a scientific approach to nature (Weisz 1990). How the concepts of life and non-life are understood in relation to those of nature and culture in local discourse gives considerable room for contestation and ideological manipulation. However, scientific discourse and bioethics alike tend to dismiss this polysemy and ambiguity as so much cultural flotsam to be stripped away to reveal the "natural" facts of life and death inscribed in the universal physical body.

Whereas in most parts of Euro-America a scientific approach to death is apparently widely accepted today (but see Lock: in press; Youngner *et al.* 1985), in Japan this seems not to be the case. Contemporary Japanese attitudes towards science and its associated technology are difficult to pin down because they are intimately linked to a widespread ambivalence about the process of Japanese modernization. Moreover, Japanese attitudes towards modernization cannot be understood in isolation from ever changing interpretations, given both inside and outside the country, about the relationship of Japan to the West. The form that current debate takes about body technologies in Japan – the feasibility of tinkering with the margins between culture and nature, and the very creation of those margins – reflect in part more general concerns about late modernity and the ever-present fear largely among powerful conservative forces about "Westernization."

In Japan throughout the late 19th century the eager quest for Western science and technology "was grounded in [a] sense of cultural certitude" (Najita 1989); an awareness that the "core" or the bass note (*koso*) of Japanese culture, would remain unaffected. Technology, self-consciously aligned with the Other, was placed in opposition to culture in this discourse, and epitomized by the platitudes *wakon yosai* (Japanese spirit and Western technology), and *tōyō dōtoku, seiyō gijutsu* (Eastern morality, Western technology). Najita and others have shown how this confidence in the endurance of culture was gradually eroded. Early this century and again,

particularly after the Second World War, internal tension erupted over Japan's increasing technological sophistication and internationalization (Najita 1989). Fears about an imminent collapse of the nation's cultural heritage became commonplace, and one reaction was a reassertion of cultural essentialism (Harootunian 1989). Throughout these transitions, although Japan was obviously geographically part of Asia, it nevertheless thought of itself as fundamentally different from other Asian countries, in particular because, until relatively recently, it was the only Asian country to have successfully trodden a capitalistic path to modernization. Japan, therefore, has consistently and self-consciously set itself off from other nations, and continues to be regarded in turn by many outsiders as impenetrable and different.

Perhaps the dominant theme in the internal Japanese cultural debate over the past forty years among policy makers and intellectuals has been the extent to which it is possible or appropriate to continue to cultivate this sense of uniqueness, of "natural" difference from all other peoples. Not surprisingly, it is usually those of a conservative persuasion who vociferously insist that Japan is inherently different from the Other of both the West and Asia. Reactionary historical reconstructions suggest that the Japanese continue to be, as they have been from mythological times, "naturally" bonded together as a moral, social, and linguistic unit (Kosaku 1992). The majority of Japanese take strong exception to the extreme form of this rhetoric, which slips easily into racism and xenophobia, but it is evident that such a powerful discourse, at times explicitly supported by the government (Pyle 1987; Gluck 1993) and inflamed by trade wars, whaling, and international peace-keeping disputes, cannot easily be dismissed *in toto* (Cummings 1993; Kalland and Moeran 1992).

Fears appear regularly in the media about the malaise associated with late modernity, usually expressed by publically recognized critical commentators on the current social scene; fears about the attainment of economic wealth at the price of spiritual and humanitarian concerns, which haunt Japan perhaps more than most other nations today. For many thoughtful Japanese, the specter of Westernized individualism, utilitarianism, and super-rationalism about which they are justifiably concerned, triggers emotional responses which push them towards a rhetoric of difference, even as they buck at its nationalistic and essentialist underpinnings. This is the discursive background against which the brain death debate is taking place. Appellations such as "tradition," "culture" and "religion" smack of superstition and pre-modern sentimentality to a very large number of people, but the waters are muddied because Japan is repeatedly described by certain internal commentators and outside observers alike

as having undergone a unique form of modernization in which the nation expressly drew on traditional values to become the economic super-power it is today.

Those who are uncomfortable about an unbridled invasion of biomedical technology into the cultural order have to struggle very hard, therefore, to find a suitable language with which to articulate their discomfort. Criticizing a "Western," "scientific," technological approach to biological disorder makes one vulnerable to accusations of Japanese essentialism and anti-rationalism. Equally difficult to voice is criticism of the epistemological grounds on which a scientific determination of death is constructed – this too smacks of anti-rationalism. Criticising the unethical behavior of the Japanese press and activities of Japanese doctors as lacking standardization and quality control is rather easily justified and is clearly a valid stand. This position succeeds in politicizing the issue, but usually ignores or explicitly denies that "traditional" values make a contribution, although it is admitted that the organization of characteristically Japanese social institutions is probably to blame (Nakajima 1985; Nudeshima 1991a).

On the other hand, defending the status quo on the grounds that as a nation the Japanese do not like "unnatural" things, posits a clear essentialist difference, which leads to very dangerous territory (see below). One or two attempts have been made to create a more nuanced argument based on the form that Japanese social relationships take. Morioka suggests, for example, that rather than focusing on the standardization of brain death, as does so much of the literature, attention should be shifted to the brain dead person at the center of a nexus of human relations both familial and medical. He deliberately seeks to redefine the problem as social rather than clinical (1991).The anthropologist Namihira analyses Japanese attitudes towards the dead body to account for resistance to brain death and organ transplants – an argument which highlights the cultural construction of nature, but one which has met a good deal of resistance by the majority of Japanese intellectuals with whom I have talked (Namihira 1988). A popular televized novel, *Ikiteiru Shinzô* (Living Heart) has succeeded in portraying the complexity of the problem, and especially its potential to divide families, through its account of a wife's battle to follow her husband's wishes and have his heart used for transplantation, although this is against the wishes of her dead husband's relatives. The novel has a happy ending: the recipient of the heart comes to the airport to see the wife, now remarried to her former husband's closest colleague, off on her honeymoon (Kaga 1991).

The entire commentary about tampering with definitions of death is, therefore, complex, emotional, and fraught with ideological pitfalls, in

large part because debate cannot be divorced from other pressing issues of national import. Not surprisingly, negotiating a moral high ground has thus far proved impossible.

## DISCOURSE ON UN-NATURAL DEATH

Given sensitivities about creating arguments based on cultural difference, authors who focus on Japanese attitudes towards nature as contributory to the brain death debate are relatively few in number. The conservative philosopher Umehara Takeshi has shown no hesitation, however, and for several years he has articulated the most extreme position in the entire discussion. Umehara's argument both on television and in writing has included comments to the effect that the "Japanese people" dislike transplantations because they do not adopt "unnatural" things; that they had never in the past accepted extreme Chinese customs such as foot binding and the eunuch system, and in a similar vein contemporary Japanese hate homosexuality and the use of drugs (Umehara 1991; 1992). Umehara lays blame for the sorry state of "the West" at the feet of *René* Descartes for focusing attention on the brain as the center of the living person, but nevertheless believes that people everywhere are unique, rational beings. While "Western modernism" makes "us Japanese happy in one sense," Umehara stated on a 1991 NHK television programme, at the same time it has "destroyed our surroundings and nature."

Other less inflammatory commentators have pointed out that in Japan death is understood as a natural process, and not as a point in time as would have to be the case if brain death is to be accepted as the end of life (Uozumi 1992; Hirosawa 1992; Komatsu 1993). A distinction is made in these arguments between biological death and a social and cultural death which takes place at a later date. Although these authors do not explicitly talk about the ancestors, their influence is apparent. Preliminary interviews I have had with 25 Japanese informants have made clear that the fate of the body after biological death and concern about the creation of ancestors is a reason for reluctance both to donate and to receive organs. Not everyone interviewed professed to a belief either in the ancestors or in Buddhism, but more than half of these informants pointed out that family and social obligations require that the bodies of deceased family members be treated with respect and in accordance with Buddhist ritual. According to Buddhist beliefs, for the first 49 days after death, the spirit of the deceased remains close to Earth – a particularly dangerous time, a liminal period – during which the spirit must be accorded special treatment designed to ensure its final and successful separation from this world (Smith 1974: 41). It takes

many years to be fully transformed first into an ancestral spirit, a protector of the household, then into a guardian of the community, and finally into one of the myriad deities which inhabit the Japanese archipelago.

In many Japanese households family members talk with recently deceased ancestors whose photographs are placed in the *butsudan*, the family altar kept in the majority of homes where eldest sons reside. Ancestors are also regularly offered food. The biologically deceased are anthropomorphised, therefore, and eventually attain social immortality. Two classes of spirit exist which are feared by the living: those who are neglected by their descendants or else have no descendants, and, particularly frightening, those who die an "unnatural", violent, or unanticipated death (*ijôshi*) (the usual fate of potential organ donors). This second category are dangerous because of their anger which can never be appeased. This type of cultural knowledge is not, of course, widely transmitted in institutionalized Japanese social order today, but nevertheless is evident in certain religious sects (both old and new), popular culture, and daily life.

A 1981 survey showed that the majority of Japanese, more than 60%, believe that when and where one is born and dies is determined by destiny, and should not be changed by human intervention (Maruyama *et al.* 1981). As Woss has recently pointed out, separation of the soul from the body at the moment of death is central to Japanese belief about dying (1992); in a recent survey only 20% of people responded that they do not believe in the existence of *reikon* (soul/spirit), while 40% believe in its continued existence after death, and a further 40% find themselves unable to answer the question (*Shôwa 61 nenpan yoron chôsa nenkan*) 1987. This same survey showed that among young people aged 16 to 29, belief in the survival of the soul is particularly prevalent (*Shôwa 54 nenpan yoron chôsa nenkan* 1979). For those people who believe in *reikon*, contact is usually restricted today to a ritualized encounter when the spirits of the dead return annually to earth at the time of the *bon* festival. Fewer than 13% believe in the possibility of or wish to seek out contact with spirits at any other time (*Shôwa 55 nenpan yoron chôsa nenkan* 1986). Woss, in her search through Japanese surveys on the subject, was able to show that 77% of Japanese teenagers believe today in the possibility of wandering and vengeful spirits (Yomiuri Shinbun 1988), and, from another study among people of all ages, 34% believe in ancestral spirits as protective forces, while 59% state that they have a strong tie towards their family ancestors (*Shôwa 54 nenpan yoron chôsa nenkan* 1979). Nudeshima concluded from his research that no more than 30% of Japanese carry out the full array of death rituals associated with an extended family today (1991a), however, belief in spirits was not closely correlated with formal religious belief

and practice in the results of the surveys cited by Woss. Clearly, further research needs to be done in connection with the relationship of a belief in spirits, ritual care of the dead, and the brain death debate, something which Emiko Namihira has begun to explore, to the discomfort of some of her compatriots.

Namihira has pointed out a subtle but important language usage in connection with dead bodies in Japanese. The word *shitai* refers to the corpse, but *itai* (with an honorific in front of it) is used in preference to *shitai* when talking among family members about a deceased relative, or whenever the relationship of the body to living relatives is specified (1988: 44). The concept of *itai* contains the idea that one should retain feelings of attachment to a deceased relative, and it is also the *itai* which makes demands on living descendants (1988: 46).

An analysis of the very moving narratives provided by relatives of victims of the Japan Air Lines crash in 1985 in the mountains of Gunma prefecture is used by Namihira to discuss contemporary Japanese attitudes towards death. Namihira concluded that the spirit of the deceased is anthropomorphized and, among other things, is believed to experience the same feelings as do the living. Hence relatives have an obligation to make the spirit "happy" and "comfortable." The interviews showed agreement that it is important for a dead body to be brought home, and that the corpse should be complete (*gotai manzoku*), otherwise the spirit will suffer and may cause harm to the living. In her book, Namihira cites the results of a 1983 questionnaire carried out by a committee set up to encourage the donation of bodies for medical research: Out of 690 respondents, 66% stated that cutting into dead bodies is repulsive and/or cruel and/or shows a lack of respect for the dead. Although more people than formerly are donating their bodies as anatomical gifts (Nudeshima 1991b), if the 1983 questionnaire results are meaningful, then it appears that the majority of Japanese must remain uncomfortable about doing so. The 1983 study also showed that 66% of 685 respondents believe that no religious beliefs exist in connection with the dead in their part of the country (1988: 74–75). Apparently these respondents understand spirits as belonging to "nature" and not to formalized religion that is, presumably, "culture." Clearly, for some Japanese at least, "traditional" beliefs about the process of dying and becoming part of the spirit world are pertinent, no matter how much the majority of those who are active in the brain death debate choose to deny it.

Culturally constructed rituals in connection with the dead have been interpreted as fulfilling "widespread psychological needs for placing death within a larger context of collective human continuity" (Lifton *et al.* 1979).

Thus death rituals reconfirm basic societal values, but simultaneously they demarcate the social world of the living from the natural and/or cosmic order. In Japan the boundary between the social and the natural has never been very rigidly defined – because the ancestors are immortalized as beings who continue to act on the everyday world, although they eventually become incorporated into an animized natural order, they form a vital bridge between the social and the natural domains. The philosopher Omine has stated that this type of animism represents "quirky local beliefs cherished in our peculiarly unspiritual island country and incomprehensible to most of the world" (1991: 69). Omine, along with many other commentators, believes that it is this "primitive" animism which has influenced the way in which Buddhism is interpreted in Japan. He goes on to claim that animism has an effect on attitudes about the dead, but that it "simply lacks the depth of vision to address a challenge like that of redefining the boundary between life and death (1991: 69).

Demarcation of the cultural from the natural is established not only through death rituals, but also through the construction of the body – the way in which the body is made social, the "taming" of the body, together with the positioning of individuals in the social order. As Umehara reminds us, it is often noted that in Japan there has never been a dominant philosphical thrust to separate mind and body. It has also been pointed out that the spiritual center of the Japanese body has by tradition been located in the metaphorical space known as kokoro, in the region of the thorax (Lock 1980, 1993; Namihira 1988; Rohlen 1978). Moreover, Zen Buddhism, together with the related samurai ethos, and traditional healing practices reinforce a sensitivity to the way in which physical activity and sensations are reciprocally associated with emotional states. Thus, in theory, the social being is understood in Japan as simultaneously a natural entity, one which strives for harmony between the natural and social worlds. Upon death, according to Watanabe, the body is not understood as a "mere thing" but continues to represent the "personality" of the person (1988).

In 18th century Europe dangerous nature, associated with sin, was parcelled off by assigning it to the body, and "soul/mind," the formulation attributed to Descartes, later to be reconceptualized as "mind," was constituted as the repository of pure, untrammeled rational thought. The Japanese, until very recently, have never been plagued by this dichotomy, but now they find themselves dealing with it head on in a fight to reassure themselves and the rest of the world, as they pursue the brain death problem, that they are indeed fully rational and not "inscrutable" as so many commentators would have us believe.

The concept of unique, bounded individuals is also a product of European Enlightenment thought – a necessary construct in setting off the social order as independent of religious, "irrational" control (Taylor 1989). In Japan, individuals are not understood this way, but are conceptualized as residing at the center of a network of obligations, so that personhood is constructed out-of-mind, beyond body, in the space of ongoing human relationships. "Person" is, therefore, a dialogical creation, and what one does with and what is done to one's body are by no means limited to the wishes of an individual. A key part of the brain death debate in Japan is about whether next-of-kin can overrule individual wishes about donation of body parts.

A scientific interpretation postulates that bodies, as opposed to "unique" social individuals, are, at the level of biology, essentially alike. Difference is understood as a deviation from what is taken to be "natural" and normal for all bodies wherever their location in time and space. Individuals, on the other hand, are products of a process of socialization which essentially works independently of the physical body. Prior to the Enlightenment, however, the human body was understood in Europe, as was also the case in Japan, as a unique microcosmic unit embedded in the larger cosmic order. For exceedingly complex reasons, not thus far well researched, the power of that tradition remains more evident in Japanese late modernity than it does in either Northern Europe or America. No doubt the absence of a divorce of mind from body contributed to this situation.

Thus the human body is widely recognized in Japan as being shaped in large part by both physical and psychological predispositions with which individuals are endowed at birth, making each body unique. Influenced no doubt by traditional medical knowledge, aspects of which are taught in hygiene classes in elementary school, many people exhibit in Japan an awareness of their body as a special type, and as having their own characteristic response to illness (Lock 1980; Ohnuki-Tierney 1984). Hence, although the person in Japan is eminently social, honed for interdependency and suppression of individual interests, the physical body survives as a site of individuality.

It is not surprising, therefore, that it is by means of the body, through meditation and ascetic or physically intensive ritual, that some people seek to transcend society. These bodily techniques, associated with both the Buddhist and Shinto heritage, facilitate communion with a "true" inner self; a "natural" self unimpeded by the constraints of society, cultivation of which, paradoxically, contributes to the production of individuals who are better able to control themselves for the sake of society. The martial arts, traditional creative techniques, and certain aspects of the educational

system and work training programmes, all serve to reinforce a conceptualization of "naturally" regulated bodily activity as central to the production of mature, fully social beings. This type of knowledge is for the most part tacit, and when brought to consciousness, is described by some as rather "old fashioned" and/or reactionary. Clearly such knowledge is amenable for use in buttressing essentialist arguments about Japan, moreover, because of its association predominantly with Buddhism, it is less threatening than Shinto-derived ideas about spirits and animism, linked to the forces of nationalism in recent history, and which also smack to many Japanese of the irrational.

There is as yet no empirical evidence, and it would be quite hard to produce it, to show how Japanese conceptualizations about the body affect the brain death debate. Nor do we know how widely shared these sentiments about unique bodies and socially immersed persons are – it is entirely possible that they are simply social science constructs created in order to explain how the Japanese "person" is fundamentally different from that of "Westerners." It is apparent, however, that in daily life a good deal of bodily ritual and control, and associated language, remains closely linked to a discourse about the production of an appropriate moral order (Hendry 1986; Lock 1993). It is also evident that this discourse and practice produces considerable anxiety among certain Japanese who wish their nation to be understood as eminently rational. In addition it is grist for the mill of commentators (inside and outside Japan) who wish to signal that "tradition," and the "old moral order," in which individuals made an effort to stay in harmony with nature, are to some extent intact and functioning in the Japan of late modernity and postmodernity. All these sentiments are appropriated as fodder for the brain death debate in Japan, and they may well also signal a concern on the part of certain Japanese about the extent to which people, not only those living in Japan but also in other parts of the world, are prepared to go in redefining the natural.

It is tempting to make yet another stab at the way in which Japanese culture may contribute to the brain death debate. Both Confucian and Shinto-derived ideas prohibit tampering with the human body (in common with most of the world's religious traditions). Confucianism teaches respect for the ancestors, one aspect of which is care in the treatment of bodies of deceased relatives. Shinto is above all concerned about pollution (*kegare*); not only did Shinto prohibit all tampering with dead bodies but it rigorously ritualized any kind of contact with the recently deceased.

When it comes to discussing organ transplantation, many people point out that gift giving is central to continuing relationships of reciprocity in Japan, and the idea of receiving an anonymously donated organ would be

very difficult to accept without incruing an enormous sense of guilt towards the family of the donor since there is no possibility for suitable repayment (Ohnuki-Tierney [1994] has recently expanded on this point). In addition, a few people with whom I have talked have clearly been physically repulsed by the very idea of organ transplantation. For them transfer of body parts among people is clearly beyond the pale, and is so morally repulsive that it can produce an involuntary physiological reaction.

A response which is perhaps loosely related to this type of emotion-laden reaction, but one grounded in scientific language, reminds us that without massive intervention through the use of immuno-suppressant drugs, donated organs are inevitably rejected by the receiving body. Transplantation technology can therefore be interpreted as inherently "unnatural." Among others, this line of argument is put forward by the immunologist Tada who wrote the *Nô* play with which this essay opened (see also Umehara 1992; Yokozawa 1986). Perhaps too, because individual bodies are conceptualized by many as correctly situated when uniquely harmonized within the macrocosm of nature, this also reinforces an attitude which inhibits an exchange of bodily parts among humans, and between the human and non-human world.

## MEDIA CONSTRUCTIONS OF DEATH

In December 1990 Japanese national television (NHK) televised a three hour, Saturday evening prime time program on the subject of brain death and organ transplants. This particular program, one of several on the subject, was devised and moderated by the nationally recognized Takashi Tachibana, a journalist with the newspaper the Yomiuri Shinbun, and was divided into two parts. The first hour and a half was devoted to a film made largely in America about the harvesting and dispersal of organs on a nation-wide basis. The second half was given over to a round table discussion between six "experts," three for and three against the acceptance of brain death as the end of life. I have discussed this program with at least twenty Japanese who saw it and half of them responded that they thought it was a balanced discussion. In my opinion, however, it was clearly biased, though perhaps not intentionally so. Mr. Tachibana is personally opposed to brain death, and has written numerous articles and several books to explain why he takes this position and although he tried, I believe, to remain neutral, the stamp of his interests is clear (Tachibana: 1991).

To the background of sweet music, viewers are introduced at the beginning of the program to a lively, beguiling Japanese child who was born from a brain dead mother and who, we are told, symbolizes the fact that new life

started from what is thought of by some to be a dead body. The audience is then taken to North Carolina where a young man, badly damaged in a road accident, was pronounced brain dead and transported to another hospital where his heart was about to be removed when he "came back to life." He lived for another six days before death was finally established. This section of the program closes with a close-up of a large ornamental cross attached to the outside of the hospital, and a pan of a nearby graveyard, filled with crosses and with a view of the hospital behind it.

In the next scene an American doctor states that it is difficult to diagnose brain death, that a clear legal definition is not possible, and that if the guidelines are too lenient then one is in danger of misdiagnosing certain cases, but on the other hand with too stringent a diagnosis many organs "go to waste." Later in the program Willard Gaylin, a psychiatrist formerly associated with the Hastings Center in New York which specializes in bioethics, described the "excitement" he experienced when he first realized that what he terms "neomorts" could be used for testing new drugs, for medical students to dissect in place of using the bodies of poor people, and for "recycling body parts into other people." Earlier in the program, he had vividly described the way in which "neomorts" are still warm and breathing, but nevertheless legally dead. Yet another American doctor makes clear that in his opinion, not only brain dead bodies, but also people in so-called "persistent vegetative states" will be recognized as dead before too long. The camera then moves to a Japanese ward full of patients diagnosed as in a persistent vegetative state (*shokubutsu ningen*). Viewers are shown how some of these patients respond to human communication by subtle movements of their bodies and are informed that, in another institution, 13 out of 30 patients in a persistent vegetative state made some significant recovery after constant intensive treatment, sometimes to the point of being able to speak again.

Together, these scenes and other similar ones in the program, including several from Europe, give an impression that brain death is not easily diagnosed, and that in any case brain dead patients are in some clear sense "living"; that there is a continuum between brain death and other states, so that no easy black and white, Western-style dichotomy can be made between the living and the dead unless one waits patiently for further proof in the form of whole body death, at which time vital organs such as the heart, liver, and lungs would no longer be fit for transplantation.

Viewers are then taken into a surgical unit in Florida where they see in graphic detail, and accompanied by an anxiety producing funeral-like sound track, the dismemberment of a young woman whose blonde hair in one well angled shot is displayed through the drapes. They learn that 17

kinds of organs are taken from her, starting with the heart and ending up with large sections of bone, joint, and muscle tissue and are then shown several cartons of dismembered body parts stored in dry ice being wheeled out for computer organized distribution around the United States. The audience is told that, as a result of this seven hour "operation," parts of this 21 year old will "continue to live in 70 other people," and is then shown what is left of the body, tidied up by the nursing staff, ready for burial.

One other theme which raises its ugly head in this program is the question of the sale of organs, and although no direct reference is made to the selling of organs in the United States – however books and newspaper articles in Japanese sometimes cite purported cases of this (Amano 1987; Yomiuri Shinbun Editorial Dept.: 1985) – viewers are told about Brazilian children who are taken illegally to Europe for possible slaughter and sale of their organs, and are shown a line of people in India waiting to sell one of their kidneys, for which they will receive the equivalent of five years' income.

At the end of the program a professor at Tohoku University in Japan is introduced who, when he transplanted brain cells between mice, found that he could restore some of the brain functioning which he had previously destroyed in the recipient mice. This experiment indicates, viewers are told, that a brain dead person could perhaps be returned to life as a result of future developments in medicine. It is emphasized throughout this part of the program that because death cannot be readily defined the debate must inevitably be linked to ethics and religion. An implicit but clear contrast is set up between America, the pragmatic land of Christianity (symbolized by crosses on hospitals and in graveyards) where altruistic giving across social divisions is part of the cultural tradition and where black and white decisions are reached quite easily, and Japan which is somehow closer to nature, does not make use of oppositional dichotomies, is less willing to tinker with larger than human forces, and is more reluctant than other societies to take organs from the poor for transplantation into the rich.

In the round table discussion which followed, the lawyer and two doctors for the acceptance of brain death as the end of life, made a narrowly construed argument that brain death means the irreversible stoppage of brain functioning which can be rationally and systematically deduced with accuracy when certain procedures are correctly applied. In making this argument the speakers returned repeatedly to universal scientific standards as the basis for decision making, they were explicit that what they termed "emotional" arguments (by which they apparently meant references to values and cultural difference) should be kept out of the discussion, and that in America the donation of organs had been set up on a "rational"

basis in which people were free to refuse to participate. In contrast, the three speakers opposed to the acceptance of brain death, one of whom was the philospher Umehara Takeshi, repeatedly stated that the religious background to the problem must be considered; that emotional matters and scientific theory should not be separated but, on the contrary, united; that an examination of the "truth" must be accompanied by "feelings" as well as logic, and that the "social concept" of death must be considered. If this discussion had taken place one month later, Professor Umehara would have been able to seize upon the opportunity to mention that a recent Japanese recipient of a kidney donated from "foreign" parts died of AIDS contracted from the original owner of the kidney.

A perusal of the popular literature and media presentations shows that no simple ideological dichotomies can be made between those for and against the acceptance of brain death as the end of life in terms of political orientation. While those of a conservative persuasion seem to be unanimously opposed, they are joined by others who are politically left wing, such as the producer of the television program, Mr.Tachibana, and by a good number of the medical profession, both young and old, including some surgeons. Those who are politically active on behalf of the handicapped and the mentally ill are also opposed to its acceptance, and as we have seen, so too are many lawyers, people concerned about patients' rights, and the police – a vast range of people covering the entire political spectrum. Advocates for acceptance include a good number of intellectuals and professionals, among them physicians who have spent some years in the West, but they are joined by many others, including several patient groups who are supporters of those who are potential recipients of organs. Yet another group of people, including a good number of physicians, have managed to remain relatively aloof from the entire exchange and are apparently indifferent to the issue.

## THE SECOND IWAKURA MISSION

In the television program, Mr. Tachibana pointed out that when considering a subject as difficult as that of death, it is important to examine how other countries have managed the problem. This plea calls to mind the Iwakura mission of more than 100 years ago which was sent to Europe and America after the formal ending of 250 years of self-imposed isolation in Japan. Its task was to examine the democratic process, the school system, armed forces, legal and medical systems and the treatment of women in various "advanced" countries. Members of the Japanese Diet had already expressed an opinion similar to that of Mr. Tachibana, and one of the mandates of

the special Cabinet Committee was to travel widely, not only throughout Japan but also in Europe, America, Australia, and Thailand in order to study the situation in those countries. This committee was explicitly requested, therefore, to reach an agreement about what would be best for Japan in light of a long and close scrutiny of the Other.

Of all the countries which they visited the one which captured most media attention was Denmark, because brain death was accepted there only in July 1990, and until that time patients who wanted a transplant had to go abroad as do some Japanese at present. Prior to its acceptance in Denmark, there were over 200 public hearings in that country, and a considerable amount of government publicity on the subject. This experience led some members of the Japanese committee to state that, despite all that had been discussed and published so far in Japanese, not enough public exchange has taken place. The committee was also impressed with the trust shown in doctors, particularly in the European countries which they visited, a situation which they contrasted with that of Japan.

## LATE MODERNITY, CULTURAL IDENTITY, AND THE OTHER

What is striking to an anthropologist is that the culture and values of the Other are regularly scrutinized in the brain death debate. We hear and read a lot about Christianity (but nothing of Judaism), about rationality, and the brain as the center of the body, about altruism, and individualism and even selfishness – all values associated with the "West." But, despite a call to move beyond a discussion about scientific decision making, Japanese traditions and values are not raised extensively by most commentators. When they are mentioned, either the discussion moves rapidly into a chauvinistic direction where claims are made about the uniqueness of Japan or, alternatively, any effect of "tradition" is heartily denied.

Allowing one's dead relatives to be cut up is genuinely repulsive for many Japanese, while others are willing to donate parts of their own bodies or those of their close relatives for transplantation into others. Clearly what worries both those for and against organ donation are the reports published with monotonous regularity about an unprofessional medical world. The section on the NHK program which showed Indians selling their kidneys, and the fantasy which has appeared in more than one article in Japanese about poor black Americans selling their dead children to hospitals (Amano 1987), reveal a deep seated fear that in Japan, should brain death be accepted, the buying and selling of organs will be established rather rapidly, to the detriment of all concerned. Repeatedly, people I have interviewed, including physicians, have made unsolicited statements to

the effect that doctors are not to be trusted in Japan; that what passes for *omoiyari* – sympathy and consideration – is unqualified paternalism, and that medical ethics have no meaning because very few people seriously question the power of the medical profession, who essentially look after their own. Medicine used to be thought of as a benevolent art – "*i wa jin jitsu nari*" – today everyone knows the pun in which medicine is characterized as a money making art – "*i wa kin jitsu nari.*" (although the income of Japanese physicians lags well behind that of American doctors).

What has been recognized among certain commentators is that while brain death is obviously a sensitive topic, the defining of death and the role of the medical profession in this process, although at the nub of the debate, has metaphorical significance which triggers a cascade of ideological repercussions reaching far beyond the medical world. Many people believe that brain death will be made legally acceptable in Japan fairly soon, that the inspection trips abroad and the search for a national consensus are simply placatory exercises before those in power go ahead to institutionalize organ transplants. At the suggestion of the Ministry of Health and Welfare, the Japanese Association for Organ Transplants was established in 1992 in order to centralize and standardize transplant procedures (Yomiuri Shinbun 1992b), and the question of defining death has been submitted for parliamentary debate, although the recent political unrest in Japan has significantly reduced the hopes of those presently lobbying the government for any action in the near future. Recently, the Minister of Health and Welfare created a stir when he announced that even though the procedure is not legalized in Japan, organ transplants from brain dead patients are acceptable in an emergency, as long as the family has given consent (Transplant News 1994: 3). However, about half of the 230 members of the Japanese Association for Philosophical and Ethical Research in Medicine continue to state, as do other active groups in Japan, that legalization of brain death as the end of life would "infringe on basic human rights by depriving a brain-dead person of the right to survival (Transplant News 1994: 3). Even should brain death be legalized, rather few organs would be donated to a central bank, one suspects.

It has been suggested that if the original heart transplant, the Wada case, had not flared up into a legal battle, the entire brain death debate may never have surfaced, and the medical world would simply have gone ahead unilaterally as it did in North America. But, because the contest captured media attention, and the public became involved willy-nilly, the medical world has been exposed to public scrutiny in a way never before experienced. The media and Japanese citizens have taken on this secret society, which for the first time is being frontally attacked about many

aspects of its current behavior, ranging from a resistance to informed consent to taking out uteri on a large scale for profit (Sasaki 1986).

At one level opposition to brain death is indeed a flamboyant expression of a major ideological struggle over relationships of power in contemporary Japan. While North America is cited as a negative example to bolster arguments against brain death, in almost the same breath, it is drawn upon by critics as a model for emulation when it comes to the handling of relationships of power. Japan in turn is denigrated as feudalistic and backward by comparison. The present dilemma for progressive minded thinkers in Japan is how to dispose of the remnants of patriarchal and patronage thinking, regarded as the unwanted heritage of Confucianism, without drawing on a language which single mindedly pursues the entrenchment of the "Western" values of individual autonomy and rights. In other words, in what values should a contemporary Japan be grounded, regardless of whether the epoch is to be described as late modernity, postmodernity, post Confucian Capitalism, the Heisei era, or something else? It is in this context that the argument about brain death is taking place, and as in the West, it is an overwhelmingly secular argument in which representatives of religious organizations are, for the most part, remarkably absent (Hardacre 1994). At its most abstract level the current angst is a manifestation of the ceaseless, restless, contradictory debate about Japan and the West. As one pediatrician has put it: "Why should we mindlessly imitate Westerners? We would only be turning ourselves into white Westerners with Asian faces" (Newsweek Nihon Han 1993).

A good deal of genuine passion is aroused over the fate of the individuals whose lives are directly involved, but this debate, because it is so readily framed in the language of difference, has fanned the flames for further, painful comparisons which reach way beyond medical encounters. At stake are questions of progress, internationalization, scientific and technological expertise; the relationship of the State, professional bodies, and the media to society at large and to individuals, and, perhaps most important of all, the place of "tradition" in present day Japan. Unavoidable in such discussion are allusions to the boundaries of nature and culture and how they should be demarcated as new biomedical technologies are developed one after the other. Such discussion inevitably draws certain participants back to the "old" Japan where an ideology of harmony reigned supreme, and individual behavior was modelled after the natural order. However, the majority of people are simply not willing any more to seriously discuss all that "dying" mythology as relevant to Japan today. One thing is notable, especially to an anthropologist, namely that after years of media debate and the production of reams of publications on the issue, aside from rather poorly executed

surveys, no one has carried out any systematic empirical research to find out what the "average" Japanese thinks about this matter, nor how their lives are affected by it. If the debate were about abortion, no matter how hostile the rhetoric against it, one could be certain that women were nevertheless obtaining abortions although, no doubt, at considerable risk and cost of all kinds. But given the complexity of solid organ transplant technology, the need for extensive cooperation among several medical units, and for life-long medication and follow up, there is very little possiblity that heart, liver, or lung transplants are simply taking place behind closed doors in Japan while the debate rages on outside.

In summary, the brain death debate is a manifestation of the struggle by people from a whole range of political persuasions to create a moral order for Japan in late modernity which is neither a cardboard copy of the West, nor a reassertion of tradition. In entering the debate, conservatives find themselves rubbing shoulders with those who are promoting further reform towards social equality and the empowerment of individuals; physicians who believe that their authority should not be subjected to questioning find themselves in the same camp as the mentally impaired, and patient's rights advocates who are striving for more autonomy for the person in the street find themselves cheering on the police as they extend the hand of the law. Meanwhile very little is heard from patients and their families, whether they be potential donors or receipents, although a woman whose daughter will soon require a liver transplant, when interviewed by Newsweek for its Japanese edition, complained "Why do we have to suffer just because we have the misfortune to be Japanese?" (Newsweek Nihon Han: 1993).

The talk today in the United States is of "rewarded gifting" and "organ wastage," signs of the urgent need to procure more and more organs in a steady move towards the large scale commodification of human parts. In our haste in North America we hear little about the flow of organs from the poor to the rich, from the Third World to the First World, and even less of possible atrocities involved, despite documentation of such by Amnesty International. Leon Kass has described this process as a "coarsening of sensibilities and attitudes," and adds, "...there is a sad irony in our biomedical project, accurately anticipated in Aldous Huxley's *Brave New World*: We expend enormous energy and vast sums of money to preserve and prolong bodily life, but in the process our embodied life is stripped of its gravity and much of its dignity. This is, in a word, progress as tragedy" (Kass 1992). Some painful self-reflection about technologies of dying and the "saving" of lives is clearly in order beyond the borders of Japan. As bystanders to the Japanese debate we are given plenty to reflect on including the extent

to which, if any, limits should be placed on the usurping of the "natural" by the "cultural."

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## NOTES

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[1] The criteria for determining brain death as set out by Kōseisho (The Ministry of Health and Welfare) are as follows:

1. Deep coma
2. Cessation of Spontaneous breathing
3. Fixed and enlarged pupils
4. Loss of brain stem reflexes
5. Flat brain waves
6. 1–5 must continue for at least six hours

Children under six are not subject to the criteria. The presence of two physicians with no invested interest in the retrieval of the patient's organs in addition to the patient's attending physician are required to make the diagnosis.

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1991b "Giron fûjûbun to hihan no kenkai" (Insufficient debate is the critical opinion) October 17.

1991c "14 reimoku no seitai kan shoku" March 16.

1992a " 'Nôshi' wa hito no shi,' tôshin" (Brain death is death, says report) January 23.

1992c " 'Nôshi' rippoka no nao kadai" (Legalization of brain death still a task) January 23.

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