

# Organ Donation Without Self-determination: Opting-out in Japan

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The Law on Organ Transplantation in Japan was amended in July 2009. After its enforcement (July, 2010), organ removal from the dead body in order to carry out transplantation will be legal with the consent of the bereaved family of the deceased even when there is no consent on the part of the deceased. It will also be legal with the consent of parents even when there is no consent on the part of their deceased child.

There remains some room for debate over the justice of removing organs from people who have expressed no will to donate. According to this legal amendment, there will be no problem in such organs removal. However, there will be a problem from the ethical viewpoint.

Altogether, basically, whether undergoing an operation and other medical treatments, undergoing transplant of an organ, and donating one's organs or not depend on the will of said person, so-called 'self-determination.' This self-determination is at the centre of bioethics. Now, this legal amendment creates the possibility that, at least theoretically, organs are removed from someone who had no self-determination.

From another point of view, this amendment can compel an expression of one's own will to 'donate or not' to those people not interested in organ donation, unable to reach one's own decision about it, reluctant for such donation, etc. As a result, this expression of one's own will to these people becomes a kind of legal obligation. Thus, all the people of the nation are involved in organ-transplant medicine one way or another, whether they like it or not.

Thus far, at least in Japan, the very basic premise in organ transplants is that 'no one has the right to receive an organ from anyone else, and no one is obliged to donate his/her organs.' However, this legal amendment will now probably break down this premise and enhance another one, namely, 'organs are part of the public medical resources.' We may be heading towards a society where a parent of a seriously sick child may accuse someone else saying, 'My child is dying because you are not donating your organ!'