

EDITORIAL

Consensus on organ transplants

The Diet resumed deliberations April 21 on revising the Organ Transplant Law. Parliamentary moves on the issue have been virtually dormant for three years. The deliberations have suddenly gained momentum and four revision proposals have surfaced.

The current law, which was enacted in June 1997 after more than 10 years of public debate, allows organ transplants from a brain-dead person only if he or she is 15 years old or over. A person who is willing to donate his or her organs for transplant should he or she become brain dead must indicate his or her intention in the form of a donor's card or elsewhere in writing. The would-be donor's family members must also approve the organ transplant before it can take place.

It is important to note that the law itself does not recognize brain death as the actual death of a person. Thus organs for transplant cannot be removed from a brain-dead person automatically. Under the law, an individual citizen decides whether his or her brain death should be accepted as actual death. An organ transplant is possible only from a person who accepts brain death as actual death. There is no general consensus in Japan on the question of whether to accept brain death as a person's death. But there are people who need organ transplants. The law was aimed at breaking this deadlock.

Since the law went into effect in October 1997, hearts, lungs, livers, kidneys, pancreases and small intestines from 81 brain-dead people have been transplanted into 345 people in Japan (as of the end of March) — far fewer than the corresponding

numbers abroad. In fact, the dearth of donors has forced many Japanese to go abroad for organ transplants.

A 2006 report by a health ministry panel shows that 522 Japanese had received transplants abroad, including 103 who received hearts. Since current law prohibits organ transplants from brain-dead children under 15 years old, the situation is especially harsh for children who need organ transplants.

According to the Japanese Society of Pediatric Cardiology and Cardiac Surgery, each year some 50 children under 18 years old need heart transplants. From October 1997 to mid-April 2009, of the 106 children who sought heart transplants abroad, 60 received them; 34 were under 10 years old. Thirty-five children died before they could get a heart transplant. This situation has apparently prompted Diet deliberations on revising the law.

Four revision proposals have surfaced in the Diet: 1) accept brain death as a person's death in a generic sense and allow organ transplants from a brain-dead person of any age with the approval of his or her family members if the person has not openly rejected becoming a donor; 2) allow organ transplants from children aged 12 or older under provisions of current law; 3) adopt a stricter definition of brain death under provisions of current law; and 4) adopt a stricter definition of brain death while allowing organ transplants from a person of any age with the approval of family members.

The first proposal appears to be getting strong support from lawmakers. But it clearly runs counter to the basic tenet of the current Organ Transplant Law, as it would accept brain death as a person's death in a generic sense. Even if a person has not explicitly expressed his or her willingness to donate organs should he or she become brain dead, it would be possible to carry out an organ transplant if his or her family members approve it.

Lawmakers should thoroughly discuss the issue. They should rouse public discussion on the basic question of whether brain death is actual death. A push to

vote on the proposals without enough discussion must be avoided at all cost.

That there are so few organ transplants from brain-dead people puts patients who need new organs in a desperate situation. Still, the fact that the current Organ Transplant Law puts priority on an individual citizen's decision whether to donate organs should be appreciated. This has prevented family members of a brain-dead person from being pressured to allow organ extraction for transplant purposes.

The rights of a brain-dead people should also be respected and if organ transplants from children are to be allowed, a system should be established to prevent organs being taken from a child whose brain-death is or may be a result of child abuse. A third-party watchdog body composed of experts should be established at a public institution like a family court. As this issue concerns individual citizens' views of life and death, the Diet must conduct deliberations carefully and avoid reaching any hasty conclusions.

The Japan Times: Wednesday, May 27, 2009
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