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FROM AGAPÉ TO ORGANS: RELIGIOUS DIFFERENCE *between* JAPAN AND AMERICA IN JUDGING *the* ETHICS OF THE TRANSPLANT

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Please don't take
your organs to heaven.
Heaven knows
we need them here.
(American automobile bumper sticker)

What I take up here is part of a larger project, one where I examine the reasons why much of Japan's religious community – that is, persons with varying combinations of Buddhist, Shinto, and Confucian sensitivities – not only has expressed strong doubts about the morality of excising organs from putatively dead bodies for the purpose of transplantation but also has been attempting to express more global reservations about the trajectory taken by "advanced" biomedicine, especially in America, during recent decades.¹ My larger study considers how the views of Japan's bioethicists, often interestingly different from their American counterparts, are given expression and makes a comparative analysis.

Here, however, although I make frequent reference to Japanese materials for their heuristic value, the principal focus is on the till-now largely ignored question of how it happened that in North America the doing of cadaveric transplants, so contentious an issue in Japan, not only

received a relatively swift sanction from most religious organizations but even today is a procedure often promoted through church and synagogue homilies and active campaigns. Although other studies have touched on this issue, it is the sole focus of this one. Moreover I here offer my own hypotheses – new ones I believe – concerning how and why this ready acceptance came into being.

The central of these is that the Christian embrace of the new transplant technology is best seen as contingent rather than necessary and that, looked at historically, it took place at what was, at least from the perspective of this new technology's promoters, a specific and perhaps even unique window of opportunity in time. It was both a time in which older religious sentiment against corpse desecration had been brought into question as being inadequately ethical and one in which *agapé* was being put forward as the quintessence of Christianity. Consequently, with traditional reserve about corpse maltreatment under theological review, the willed transfer of body organs from a putative corpse to a needy recipient was easily valorized as a remarkably concrete expression of exemplary gift giving in the agapeic mode. Although materials of theology and theological ethics will be included in what I look at here, my own method of inquiry will be that of the historian of religions and ethics.

We may not, of course, assume that the modes of handling the bodies of the dead were in human history determined simply by religious ideas. Relative wealth and specific historical or local conditions were often heavy players. The sarcophagi of kings and rich merchants contrast sharply with the mass graves of peasants. Moreover, in times of famine, war, or epidemic the sheer number of new corpses undoubtedly forced communities of the still alive to adopt manners of disposal that these same persons would have deemed unacceptable in more normal times. As recently as 1918 an epidemic of influenza caused the death of so many people in Philadelphia that extant documentary film records the more-or-less routine collection of bodies along city streets.

One conclusion to be drawn from the fascinating research on death and burial practices that has been carried out by historians such as Philippe Ariés is that the sheer diversity of such practices and the changing valorizations within European history make it impossible to identify anything that could qualify as *the* Christian perspective on such matters. There were no constants. Although mass graves had been common even for Christians until the eleventh century, there occurred then, according to

Ariés, “a return to the individuality of the grave and its corollary, the positive value attached to the dead body.”² In the later Middle Ages there were many instances of the flesh being cut away from the bones and of bones and flesh being buried at separate sites. And this occasioned a papal ban on such practices. In a historical note with special relevance to the present study, Anne Marie Moulin detects a certain irony when she notes that Pope Boniface VIII in 1299 “forbade the cutting up of remains – evisceration – in short, all the practices that are now necessary for the transplantation of organs.”³

If within Christianity it was the case that acts disrespectful of the bodily integrity of the corpse were increasingly seen as objectionable, such acts were *a fortiori* forbidden within Judaism – and had long been so. The interesting and important question that arises, then, is that of how things changed both for Christians and for many Jews during the twentieth century. The evidence of such change having occurred comes from the fact that during the weekend of 13–15 November 1998 “churches and synagogues across the United States encouraged their faithful to sign donor cards.”⁴ This was, of course, responding to encouragement from organ transplant organizations eager to correct what was seen as a serious lack of donors in America.

The story of such change is, of course, not exactly the same for Christians and for Jews, and among the latter there remains even today a fair amount of theological and emotional resistance to cadaveric transplantation. One theological problem faced by *both*, however, was that of reconciling the removal of organs with concerns about the need for bodily integrity at the time of bodily resurrection. Although he himself supports organ donation by Jews, Elliot N. Dorff explores in some detail how the resurrection is cited as a factor in at least the explanations offered by many Jews – many of them otherwise totally secular – for why they resist any cutting of the cadaver. He calls attention to a discrepancy:

The fact that so many Jews object to autopsies and to organ donation on the grounds of their incompatibility with a belief in resurrection means . . . that a far higher percentage of Jews believe in life after death than are willing to admit that they do.⁵

Although comparative data might suggest that also for Jews there may be much more going on here than can be explained by Dorff's reference to a discrepancy between “the popular belief that impedes donation and the

rabbinic disgust with this belief,"⁶ my point here is simply that, for both Jews and Christians, traditional ideas of bodily resurrection have in our times had to be reckoned with – and perhaps even significantly reinterpreted – so as to make acceptable the excision of a cadaver's organs.

It is not yet clear that twentieth-century efforts by Christian clergy and many Jewish rabbis will be fully successful in convincing their respective constituencies that organ removal for transplant need pose no *real* problem in contexts of future bodily resurrection. Although, for instance, in 1988 the Southern Baptist convention, in order to address this problem, stated that "complete resurrection of the body does not depend on bodily wholeness at death," ordinary adherents may perhaps need to be forgiven for harboring the view that a truly *physical* resurrection might be at least facilitated by keeping the *physical* parts (or what is left of them) as contiguous as possible.

Nevertheless, a trend of the twentieth century can be seen in multiple efforts to see as acceptable certain treatments of the corpse that had earlier been deemed religiously objectionable. Cremation for Catholics is a salient example. Consistent with what had been a stance since at least the time of Charlemagne, as late as 1886 the Catholic Church explicitly forbade its adherents from undergoing cremation. Yet in 1963 the Second Vatican Council, partially in response to the fact that Catholics in Tokyo were caught between this ecclesiastical prohibition and a municipal law that forbade anything other than cremation within that city, removed the interdiction for Catholics – while insisting that ashes should not be scattered on the sea or earth or in the air. In parts of East Asia this change undoubtedly began to alter what had been seen as one of the most concrete, ritualized indices of core difference between Christians and Buddhists.⁷

It was, however, the decades of the 1950s and 1960s that were, I argue, crucial for making the changes under review here. Not only were there official moves at this time to declare that resurrection doctrines did not disallow organ removal, but it was then that new, more technical ways of measuring a body's vital signs appear to have convinced some religious authorities to cede over to medicine whole territories that up to that point had been considered religion's own. This was shown when in 1958 Pope Pius XII in an encyclical, *The Prolongation of Life*, stated that any pronouncement determining the point of death was not a matter for the church but for the physician.⁸ It is, I surmise, probable that Japan's Buddhists would, if asked, have balked at making a comparable

concession. To them, we may assume, to relinquish the right to say things about dying and death would be somehow equivalent – in a cultural way not without its economic entailment – to "giving away the store."

Yet for most American Christian denominations organ donation and the cadaveric transplant were not just things to be tolerated. They were, on the contrary, given an extraordinarily warm embrace. The technology, of course, was welcomed in the same way as its immediate antecedents – namely, with language about being "miracles" of the modern sort. But to that was added the all-important fact that the transplant involved a higher level of interpersonal (or, at least, intercorporeal) relations than had been the case in most medicine, except for the blood transfusion, up to that point in time. My central point here is one concerning a *unique historical convergence*. That is, what was an unusual time of opportunity for a new medical technology to gain the immediate blessing of most of the American religious community also happened to be a somewhat exceptional time in the history of modern theology – namely, one in which the concept of *agapé* was being much bandied about and many in the Christian community were eager to show that theological concepts were not just mental constructs but could be made concrete in inter-human relationships and social praxis. The result of this was that the pre-death donation of one's own cadaveric organs was seen as an especially exemplary instance of Christian *agapé* in action.

Although *agapé* was a Greek term of significance in the New Testament, it seems clear that until the twentieth century it had not been singled out to designate and tag the kind of love deemed *specific* to Christianity. Although it is quite likely that with Kierkegaard's *Works of Love* of 1847 the quest to locate a specific and unique mode of Christian love took off in earnest, the term *agapé* as *the* term to designate that specificity gained prominence only with Anders Nygren's *Agape and Eros*, a work of 1930 but not available and widely known in America until its appearance in English translation in 1957. In an excellent overview of these matters published in 1972, Gene Outka signalled at the outset the formative importance of Nygren's study, one that "first distinguished what he took to be two radically different kinds of love. [Nygren] so effectively posed issues about love that they have had a prominence in theology and ethics they have never had before."⁹

It is far from my purpose to enter here into the complex theological and ethical debates about *agapé*.¹⁰ What does interest me is what I see as

the profound cultural significance of the specific *time frame* – that is, from the late 1950s until the early 1970s – during which discussions both of agapeic love and how it might be societally implemented first played a large role in American intellectual and religious life. My point is that talk about *agapé* was very much in the air in and around the year 1967 when Dr. Christiaan Barnard performed the world's first heart transfer out of the body of a putative cadaver in South Africa. Impressive is the alacrity and intensity with which explicit connections were at that time drawn between one of that epoch's most salient theological discussions and its newest, most awesome medical technology. In a word, the transplant seemed to have been made for *agapé* and *agapé* for the transplant.

JAPAN AND THE AGAPÉ BOOM

I need first, however, to recall what has been the outside stimulus for my exploration of these developments in America – that is, the Japanese materials that hinted in the first place that the American process in this was wholly contingent and in no way necessary or morally superior. It is interesting to note that already in 1958 an essay by Itô Osamu in *Shisô*, Japan's premier intellectual journal of the time, explicitly brought up the relationship of *agapé*, so prominent then in Western discussions, and Japanese culture. Itô suggested that it would be a mistake to assume – as some in Japan apparently had been assuming – that what Christians meant by “love,” something theoretically directed to anyone without distinction, was roughly equivalent to terms found in the works of Confucianism or Buddhism.¹¹

But if some thinkers were suggesting that the gap between Japan and the West was one that ought to be filled by a deeper Christianization of the East Asian archipelago, other Japanese, especially when thinking concretely about the ethics of organ transplants, held that the traditional Japanese position is the more reasonable, that *agapé* is an unrealizable ideal, and that Japan's religious and cultural difference from Christian societies is one worth retaining. A discussion of comparative notions of “love” enters, for instance, into Ogiwara Makoto's *Nihonjin wa naze nôshi zôki ishoku o kobamu no ka* (Why is it that the Japanese reject “brain death” and organ transplantation?). Although he perhaps generalizes too broadly to all of Christianity, Ogiwara is, I suggest, basically right concerning a concept of love in Christianity holding sway *at that point in time* – the late 1960s

through the 1980s – in America when organ transplants were deemed an adequate, even an exemplary, expression of such love. In a book that argues against the notion that a “higher” concept of universalizable love should sweep away all cultural objections to cadaveric transplants, Ogiwara wrote

When we Japanese hear the word “love,” we link it to matters of the heart, to feelings, and to emotion. The notion of “love for the neighbor” in Christianity, however, does not put the same degree of emphasis on the emotional element and in its stead prioritizes love as expressed in acts of volition. Of course the emotional element is also important, but that is not the whole story. In Christianity the question becomes: Is not the real evidence of love's presence shown in actual deeds? Is it not rather meaningless to be only saying *with the mouth* that love is present?

Love so conceived, I suggest, is not love based on sentiment or the emotions. It has nothing to do with the kind of natural emotion that springs up when we say about another person that we like or love him or her. No, rather, this is a kind of love that is an act of the will. Therefore in some sense love as conceived in Christianity is one which is *produced* by humans [in contrast to love that would arise naturally and spontaneously]. It is love that is un-natural. When Jesus demands “Love your enemies and pray for those who persecute you,” he is requiring something that is not emotionally possible.¹²

Ogiwara gives articulation to something I have found to be common in Japanese discussions of these matters, namely, an affirmation of the Confucian principle of parent-child relations as the best paradigm of love because it is also the one that is most realistic.¹³ Along with this comes a skepticism about the *emotional* likelihood of being able to prioritize a willed “love” for an unknown and anonymous person (the “neighbor” of the *agapé* concept) over the existing power of bonds to persons to whom one is already related.

This is not to deny the possibility of altruism¹⁴ but rather to express doubt about the wisdom of constructing an ethic that would implicitly denigrate or downgrade existing structures of interpersonal bonding, especially those of close familial relations. It is, in a word, to reaffirm a Confucian preference and to insist that the Kierkegaardian concept of love is not only unnatural but also, from this perspective, *unethical*. That is, there is not only doubt that we can emotionally exclude all sense of

"personhood" from how we respond to the still-present corpse, but also the additional problem that it is close interpersonal ties, especially those of near kin, which make exercises in premature mental distancing seem deeply problematic, impious, and even wrong. Such redefinitions may look good as high-wire acts of the mind. But they run counter to our natural emotions and, in truth, our emotions are not to be dismissed or denigrated in the making of moral judgments.¹⁵ The parents, told that their child is now suddenly "brain dead" owing to an accident, will not only "naturally" but also *rightly* reject the suggestion that "he" or "she" be "harvested." To many Japanese, then, the cutting into the body and removal of organs of a freshly "dead" member of the family will, even if for an altruistic purpose such as a transplant, seem not only highly "unnatural" but also an act that transgresses some of the best-known norms and values of what is meant by "love" in Japanese society.

JOSEPH FLETCHER'S "AGAPEIC CALCULUS"

By contrast to this strong Japanese resistance to the cadaveric transplant, its acceptance on the clerical level in the United States was relatively fast and easy. Yet, even in America this acceptance was not a foregone conclusion. In fact, given evidence that the late 1960s witnessed a renewed spate of criticism of medicine, the degree to which the Christian community readily embraced the transplant is itself suggestive of the power there of the *agapé* rationale. Christians may, that is, have been more, not less, receptive than others to this and other "miracles" of modern medicine. In a fascinating and important study that focuses on the evidence of wide public anxiety about misdiagnosed death and premature burial during much of the modern period, Martin S. Pernick notes that, in fact, the late 1960s was a period of revived suspicion of medical expertise in America and as such marked a downturn in trust.

The nineteenth-century premature burial panic had been ended by a unique period of public enthusiasm for medical science, and public deference to the judgement of doctors. This era of deference was an almost unprecedented aberration in the history of American medicine. By the end of the 1960s, the medical profession once again faced public criticism on a variety of issues, including the question of defining death.¹⁶

Given this, it is surprising, then, that *so little* of this criticism in the late 1960s and beyond came from within the context of American Christian

communities. Aside from a few exceptions, the representatives of American Christianity – perhaps in contrast both to critics in academia and to the objections raised by orthodox Jews – not only continued to show deference to medical science but seemed almost eager to sanction the new technique of the transplant.

The reasons for this are, no doubt, multiple. In a recent essay Courtney S. Campbell explicitly asks why, at least among American fundamentalists (at that time being reconfigured as "evangelicals") there was no raising of serious questions about the 1968 "Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death." This report, of course, was the document that provided the (still rather) deeply problematic equation between death and "brain death," thus giving scientific legitimacy to the removal of inner organs of persons defined thereby as "dead."

In answer to the question Campbell raises about the whereabouts of fundamentalists on this issue, his own thesis is that 1968 was simply too early a date for the sensitivities of these Christians to be alert and watchdogging a public policy issue such as this. He writes,

The time frame is very important. One cannot speak of a politically mobilized and socially active fundamentalist movement until after the *Roe v. Wade* decision legalizing abortion in 1973, some five years after the report of the Harvard committee.¹⁷

This attitude toward new developments in medicine as ethically unproblematic appears to have continued even after American evangelicals became politically active and mobilized.

One part of the explanation for this may lie in the tendency of the evangelical movement to focus its criticisms somewhat narrowly – even though intensely. From this movement's beginning until the present it has been legalized abortion that has served as its well-known *bête noire*. In matters of science it has been the presence of Darwinism in public education and, more recently, the prospect of human cloning that have been the objects of criticism. On virtually all other issues of science and medicine, by comparison, evangelicals have not issued concerns that have registered significantly in the public domain. In fact, as David F. Nobel shows, in most matters of advanced science the evangelical form of American Christianity has been not only receptive but ready to supply both support and advocacy.¹⁸ It would appear, then, that questions having

to do with “brain death” and what might be ethically problematic about cadaveric transplants were ones that fell outside the ambit of the evangelicals’ attention. The contrast here with its problematization among communities of American Jews, the orthodox most especially, can be instructive. It was also the case that evangelicals seem to have been no way inclined to doubt that the donation of organs was morally and religiously right and worthy of praise. To match the “miracle” of modern medicine with individual acts of self-giving donation was clearly, they assumed, to express Christian love.

For America’s more liberal Christians, however, the response to questions about the ethics of the transplant followed, I wish to show, a more intellectually ambitious and interesting trajectory. It is among them that an affirmation of the transplant as a quintessential social expression of *agapé* gained its fullest rationalization. Once again the matter of “time frame” is crucial. The person of central importance in this process was Joseph Fletcher (1905–1991), the author in 1966 of *Situation Ethics: The New Morality*, a widely read reinterpretation of Christian ethics, and – very importantly – someone widely recognized today as one of the founders of the subfield of bioethics. It was Fletcher who in print made the explicit link between *agapé* and organs. It was also Fletcher who became the best-known public advocate for all types of new biotechnology – as shown in the range of his writings and culminating in his 1988 book, *The Ethics of Genetic Control: Ending Reproductive Roulette*.

But it was also Fletcher, I suggest, whose overall intellectual career itself gave expression to the greatest conceptual problem for the relationship between Christianity and the ethics of this technological trajectory. The nub of this problem was the antinomy between one project that strove to isolate and prize what was *unique* in Christianity and another that so emphasized the infusion of secular thought into Christianity that the latter’s distinctiveness would be virtually liquidated. In the earlier part of his career – that is, that part of it that had a profound impact on the Christian embrace of new medical technologies – Fletcher seems not to have recognized that he was moving simultaneously in two incompatible directions. One part of him was raising high the unique importance of *agapé* as the essence of what is of value in Christianity. However, another part, especially as spurred on by the interests shown already in his *Morals and Medicine* of 1954, wanted a Christianity so deeply relevant to contemporary social issues that it should and would happily “update” its

tradition by massive transfusions from secular sources. One project was Kierkegaardian but the other, as will be seen below, was utilitarian to the core. It seems likely that Fletcher’s gradual awareness that these were incompatible and that he would opt to be a utilitarian rather than a Kierkegaardian – or, in fact, even a Christian – was what shaped the changes in his professional career and public stance. He who had had his strongest impact upon American Christianity during the days when he had been teaching at the Episcopal Theological School in Cambridge, Massachusetts, eventually made a break with Christianity and with religious perspectives more broadly, a move defended publicly on the Dick Cavett television show in the early 1980s.

It is, however, the earlier Fletcher, the one interested in the linkage between *agapé* and medicine, who had a profound impact upon the acceptance of cadaveric transplant techniques by American Christianity. Again what I call the temporal “window of opportunity” is very significant here. Fletcher’s *Situation Ethics*, his most important work and one widely read and discussed in America, was published in 1966. Christiana Barnard’s performance of what was called “the miracle at Cape Town” was an event of December 1967. During 1968 Fletcher became the most conspicuous Christian public proponent of such transplants and his “Our Shameful Waste of Human Tissue: An Ethical Problem for the Living and the Dead” was published in 1969.¹⁹

The trajectory of how Fletcher moved from Kierkegaard to the transplant is in many ways the most fascinating part of this story. Although his *Situation Ethics* was the subject of extensive controversy among theologians and ethicists, there was very little objection to that part of the book that discussed *agapé* – perhaps because much of what Fletcher said there seemed to merely re-express what had become the “common sense” within much of American Protestantism. Latching on strongly to the Kierkegaardian emphasis on volition – to the virtual exclusion of emotion – as what is central to love in Christianity, Fletcher wrote,

Agapé’s desire is to satisfy the neighbor’s need, not one’s own, but the main thing about it is that *agapé* love precedes all desire, of any kind. It is not at all an emotional norm or motive. It is volitional, conative.²⁰

Explicitly acknowledging his own debt to the Danish philosopher in this matter, he wrote, “According to Søren Kierkegaard, to say that love is a feeling or anything of that kind is an unchristian view of love.”²¹ It seems

clear that at this point Fletcher was interested in isolating and prizing what was unique and uniquely Christian about *agapé*. The fact that this formulation relegated emotion – and, by implication, its expression in interpersonal affective ties – to what was at best without value and at worse an impediment to *agapé* had massive importance for how transplants to anonymous recipients would be valorized as “Christian.”

Yet it is also important to note precisely *how* Fletcher saw this ideal articulated in modern professional life. Having pursued the Kierkegaardian trajectory so as to disallow any attention to “lovability” in the object of real love, Fletcher explicitly used the physician and nurse as exemplars of *agapé* translated into the routine of daily work. Ignoring the fact that these medical professionals are also constrained by both law and the code of medicine to practice as they do, Fletcher had no difficulty seeing continuity between the crucifixion and the hospital:

Where were there ever more unlovable men than those who stood around the cross of Jesus, yet he said: “Forgive them”? Paul gave this its cosmic statement: “While we were yet sinners Christ died for us. (Rom. 5:8). Non-reciprocity and nondesert apply even to affection-love: Reuel Howe explains why “my child, your child, needs love most when he is most unlovable.” Good medical care prescribes “t.l.c.” (tender loving care) every hour on the hour, whether doctors or nurses *like* the patient or not.²²

This selection of medical practitioners, however routinized in fact their practices may be, as *the* models of such intentional love suggested Fletcher’s growing readiness to give his unequivocal blessing to procedures and developments in the medical field. As one of the first to be recognized as a bioethicist in America, Fletcher showed a distinct proclivity for cheerleading rather than for close inspection and wariness *vis-à-vis* medicinal practices.

Already in *Situation Ethics* we can detect the direction – specifically in making a move that, we may assume, would likely have been anathema to Kierkegaard. That is, in making Christian ethics “situational”, he did so largely by stuffing it with the perspective and values of utilitarianism. Few moves in modern ethical discourse, I believe, have had such a profound impact on bioethics in general and on the valorization of cadaveric transplants in particular. Through it he radically redescribed the concept of Christian *agapé* so that, as long as the inconsistencies went unnoticed, it

could come to serve as *the* religious rationale for removing the organs of a person described as “brain dead.” Again it may be instructive to note that this articulation of a marriage between *agapé* and utilitarianism had already been put into place by Fletcher and inserted into the public domain a year before the first cadaveric transplant.

Much of what had always been appealing in utilitarianism had been expressed in its preoccupation with avoiding *waste*. This reference to “waste” became crucial both for transplantation’s initial rationale and for subsequent decades of rhetoric aimed at a general public being repeatedly told that organs not reused would be organs foolishly squandered. Of course, in history human bodies and body parts had been reused before. Although controversial, whole corpses had in modern times been used for anatomy lessons, and Tibetans had traditionally made implements out of human bones – in part so as to serve as ready-to-hand *memento mori*. And as part of their larger nefarious designs Nazis had, of course, reused the body parts of people they had murdered.

Fletcher gravitated easily to the notion that the organs of the deceased would be wasted if not recycled. Strategic reutilization and the avoidance of waste had become core values for him – so much so that he made an “updating” of Christianity via the utilitarianism of Jeremy Bentham and John Stuart Mill an explicit part of what he meant by making Christian ethics situational. This involved putting out a religious welcome mat for acts of calculation. In *Situation Ethics* he wrote,

Justice is Christian love using its head, calculating its duties, obligations, opportunities, resources ... Justice is love coping with situations where distribution is called for. On this basis it becomes plain that as the love ethic searches seriously for a social policy it must form a coalition with utilitarianism. It takes over from Bentham and Mill the strategic principle of “the greatest good of the greatest number.”²³

In what seemed easy to Fletcher but looks retrospectively now like it might have actually been an ominous leitmotif for the kind of torturous calculations that have become part and parcel of organ transplants during more recent decades, Fletcher wrote of “distribution” as the remaining core problem.

Once Christianity could be convinced to “use its head,” Fletcher saw it as necessarily bringing about a marriage between quantitative analyses and love – but a love now narrowed down so as to be made up entirely of the

volitional, and decidedly not the emotional, element. Love acts of pure will and not tainted by emotion were, this formulation asserts, to be put into praxis by calculations aimed at benefiting the maximum number at the minimum cost. *Agapé* was to be linked in eternal union with computational analysis. Skilled at constructing neologisms, Fletcher for this purpose coined the term “agapeic calculus” – that is, what he defined as achieving “the greatest amount of neighbor welfare for the largest number of neighbors possible.”²⁴

PHYSICIANS RATHER THAN FATHERS?

Although Fletcher did not refer to what follows (and may, in fact, have been unaware of it), the choice of Jeremy Bentham (1748–1832) by Fletcher for praise becomes especially fascinating when viewed in terms of the longer Western trajectory toward acceptance of transplant techniques. Through the precise manner in which he willed the disposition of *his own corpse* and how he articulated the significance of his own decisions, Bentham was probably no match as both foreshadower and valorizer of the direction taken.

As part of her larger project of studying the social history of whose corpses were confiscated for anatomical dissection and of the injustice that was often part of procurement efforts, Ruth Richardson collaborated with Brian Hurwitz to look at the role of Bentham in this process. In a period in English history during which not only were corpses of the indigent often stolen and sold but some persons, it has been proven, were even murdered for the prices their cadavers might fetch, Bentham was, commendably, among those deeply disturbed by the fact that the bodies of the poor were dissected so that physicians might, through what they had learned, more readily correct the illnesses of the rich who could afford their services. He, therefore, in a way that cohered exactly with his own utilitarian philosophy, directed that his own corpse be made *useful*. He directed that it, first, be available for use in an anatomy lesson and, thereafter, be properly prepared so that it could be put on ongoing public display as what Bentham referred to as an “auto-icon.” Envisioning the development of a wider public trend, he saw the corpse as till-then overlooked and thereby “wasted” whereas it had the potential to become an *objet d’art*. Cadavers, rightly and efficiently reused, could make the efforts of the sculptor expendable. Richardson and Hurwitz note that

Bentham’s quirky vision of the uses of human taxidermy included the erection of temples of fame and infamy in which auto-icons would take the place of carved statuary or waxwork: “so that every man be his own statue.”²⁵

These authors go on to detect a motif of narcissism in this part of Bentham’s utilitarian project.

Where, however, the direction of Bentham’s values becomes especially interesting for ethical analysis lies in that place at which his entirely praiseworthy interest in ensuring that not only the bodies of the poor be used for dissection got linked up with his categorical abhorrence of anything smacking of traditional religious respect for the body of the recently deceased. Richardson and Hurwitz write,

Lacking religious belief, Bentham viewed the human carcass as matter created by death. As an eighteenth-century rationalist, he found little difficulty in addressing the problem of how this matter might be best disposed of with a view to maximising the “Felicity of Mankind.” Death was a waste of resources.²⁶

Here was *in nuce* a prefiguring of the dilemma that Fletcher would eventually seek to resolve by abandoning religion when later in life he had come to think of religion’s values as inferior to – and even inimical to – those of the ethical dimension. In other words, that with which Bentham had begun was that with which Fletcher felt compelled, for the sake of consistency, to end.

It is not my intention here to solve the vexing problem of the degree to which utilitarian values and procedures for judgment may or may not be compatible with religion and the ethical values expressed in the various religions. My own hunch is that the compatibility on a deep level may be rather slight. In another context I examine the extensive degree to which a *critique* of utilitarianism, both explicit and implicit in Anglo-American medical ethics, has long been a major part of how Japanese thinkers, in both religion and philosophy, have sought to construct an alternative view of the bioethical enterprise.

Yet what I wish to emphasize here is how the utilitarian abhorrence for waste seems to have resonated especially within Anglo-American Protestantism. It resulted in a fairly widespread interest, one both new and strikingly modern, in exploring how the human body after death might *still prove useful* to the human community. The assumption in such

a search was that the traditional use to which the new corpse had always been put – that is, as the concrete focus point for ritual gatherings and the reaffirmation of human community in ways consonant with the analyses of Durkheim – no longer made sense. That is, the traditional concern for the bodily integrity of the corpse was assumed to have no detectable *ethical* import. Consequently, this traditional use was thus seen as constituting a flagrant example of a waste of time and resources. Therefore, once it came to be assumed that the expression of true *agapé* required something more noble and decidedly “Christian” than what was present in the traditional disposition of the corpse, many of the leaders of American Christianity were primed not only to accept one or another version of a Fletcherian “agapeic calculus” but also to praise and promote cadaveric donation.

Japan’s Buddhists, in part because so much of Confucianism had been absorbed into their thinking about ethics, not only did not follow this trajectory but for the most part found it completely unpersuasive.²⁷ I suggest there may be value in trying to see how deeply something like the “agapeic calculus,” especially when translated into specific choices, would have gone against the grain of traditional Confucian values. If it was already the case that many Japanese found unacceptable the notion that “love” might require an act like “[Jesus] Christ’s rejection of his own mother,”²⁸ even more repugnant would have been Fletcher’s readiness to augment this outlawing of sentiment and his own preference for impersonality with a fully rational calculation.

The Confucian-Buddhist would have found morally repugnant a strategy that would elevate the calculation of results to the point where primary human relationships would go by the board. Cold and virtually “inhuman” would, then, be the judgment passed on the author of *Situation Ethics* when he wrote,

[When you can only carry one out of life-threatening danger and] ... the choice is between your father and a medical genius who has discovered a cure for a common fatal disease, you carry out the genius if you understand *agapé*.²⁹

In addition to the fact that the making of such a calculated choice would be highly unlikely to occur in real situations, what is interesting here is that Fletcher’s selection of the “medical genius” as the person unquestionably more worthy of rescue than one’s own father is itself part of a calculation. Fletcher’s selection here not only reaffirms the high public status given the

medical profession in America of his time but itself makes maximum use of that profession’s public prestige to help him make what he himself, it seems, sensed to be a hard sell as arguments go. His provision of a concrete hypothetical case shows that Fletcher wanted, at least intellectually, to cash in on what Pernick has referred to as that era’s “public enthusiasm for medical science.” It is difficult to imagine any profession other than that of the medic – attorney? politician? scholar-educator? – as capable of helping Fletcher conduct with rhetorical success the difficult, perhaps impossible, thought experiment he wished to carry off here.

These problems notwithstanding, Fletcher’s role in the process of radical secularization of bioethics did not prevent his formulations and phrases from contributing substantially to the American religious community’s perception that organ transplants are fundamentally expressive of the highest possible form of human altruism, one that with little difficulty might be interpreted as deeply *religious*. This is by no means to say that Fletcher’s work was mere ruse. It is, however, to suggest that many in America’s religious organizations, both Christian and Jewish, appear to have been less than circumspect or ready to engage in careful analysis when provided with what appeared to be acceptable reasons for sanctioning the latest in medicine. It is also to suggest that they appear to have paid inadequate attention to the writings of Paul Ramsey, another early bioethicist, who was Fletcher’s most trenchant critic at the time, a thinker who challenged Fletcher repeatedly for faulty reasoning and for misconstruals of Christianity. Ramsey was a severe critic of the growing enthusiasm for utilitarianism and deplored what he saw as the reduction of persons to “an ensemble ... of interchangeable ... spare parts” in which “everyone [becomes] a useful cadaver.”³⁰

Finally it needs noting that, at least until the present, the terminology and slogans used in America to promote organ transplantation and organ donation have been heavily indebted to the rhetorical linkages made by Fletcher and those who adopted his viewpoint. Language about avoiding the “waste” of organs, about the high virtue of donation to an anonymous recipient, about life itself as the most precious thing a giver could possibly give, and about such acts as expressions of supreme love were and remain common. The term *agapé* need not be used. Yet it and the trajectory of interpretation it took in America are infused deeply into public rhetoric about organ donation. A currently available promotional poster states “Organ transplantation – The Ultimate Gift,” a phrase that makes most

sense when viewed in the historical context traced here. It would seem to be no accident that "ultimate" can signify both what is temporally *final* in terms of the volitional acts one can perform in a lifetime and *highest* in terms of religious and/or ethical value. When scratched even only lightly, such a phrase, even when passed off as secular, reveals close to its surface the notion of *agapé* and how it has played a role in American public discourse about the ethics of advanced medical technologies.

NOTES

Comments both from participants in the conference at Chapman University and from William Londo in Kyoto at an early stage in the development of this paper have been very helpful to me, and I here express my gratitude.

1. It is important to note that it is the excision of organs from *cadavers* that is at issue here; the Japanese have been much less resistant to the transplantation of kidneys etc. from living donors. In addition, I here refer to the *putative* dead because of the ongoing concern, one intensified by fairly recent neurological research, that persons defined as "brain-dead" are sometimes, in fact, not only still alive but capable of recovered consciousness. The shakiness of the view that "brain-death" equals death has, of course, been a major part of Japanese skepticism about the excision of organs from putative cadavers all along.
2. Philippe Ariès, *The Hour of Our Death*, trans. Helen Weaver (New York: Alfred A. Knopf, 1981), p. 208.
3. Anne Marie Moulin, "The Ethical Crisis of Organ Transplants: In Search of Cultural 'Compatibility,'" *Diogenes*, 172, Winter 1995, p. 79.
4. *Japan Times*, 15 November 1998.
5. Elliot N. Dorff, *Matters of Life and Death: A Jewish Approach to Modern Medical Ethics* (Philadelphia and Jerusalem: Jewish Publication Society, 1998), p. 238. See also Elliot N. Dorff, "Choosing Life: Aspects of Judaism Affecting Organ Transplantation," in *Organ Transplantation: Meanings and Realities*, ed. Stuart J. Youngner, Renée C. Fox, and Laurence J. O'Connell (Madison: University of Wisconsin Press, 1996), pp. 168–193.
6. Dorff, *Matters of Life and Death*, p. 235.
7. In 1967 during a visit to Seoul I was shown a hillside burial site by a Korean Christian. With obvious pride he commented that such sites of interment would not be so easily found in Japan, where Buddhist cremation was still the common practice. He went on to cite this as evidence that Korea was becoming a Christian country. Two decades later, however, on another visit to Korea I learned that the extensive usage of prime land for burials had come under public criticism as ecologically unwise.

8. David Lamb, *Death, Brain Death, and Ethics* (Aldershot: Avebury, 1996), p. 52.
9. Gene Outka, *Agape: An Ethical Analysis* (New Haven: Yale University Press, 1972) p. 1.
10. To Nygren the older, largely Catholic, notion of love as a kind of *eros* directed to God had to be replaced with a more specifically New Testament kind of love. He held that *agapé* was very different and virtually an act of the will alone. But a Catholic scholar would later comment, "Such love has its place, but Christian life would be impoverished if this love were its exclusive ideal." Edward Collins Vacek, S.J., *Love, Human and Divine: The Heart of Christian Ethics* (Washington: Georgetown University Press, 1994), p. 231. More recently Joseph Runzo shows how religion is impoverished even if the explicitly *erotic* element is denied; see his "Eros and Meaning in Life and Religion," in *The Meaning of Life in the World Religions*, ed. Joseph Runzo and Nancy M. Martin (Oxford: Oneworld, 1999), pp. 186–201.
11. Itô Osamu, "Kindai nihon ni okeru ai no kyôgi" (Misconceptions in "love" in early modern Japan), *Shisô*, July 1958.
12. Ogiwara Makoto, *Nihonjin wa naze nôshi zôki ishoku o kobamu no ka* (Why is it that the Japanese reject "Brain-death" and organ transplantation?) (Tokyo: Shinyôsha, 1992), pp. 151–152.
13. See William R. LaFleur, "Love's Insufficiency: Zen as Irritant," in *Love, Sex, and Gender in the World Religions*, ed. Joseph Runzo and Nancy M. Martin (Oxford: Oneworld, 2000), pp. 47–48, n.3, where I show that already in medieval Japan the paradigm of love was the affective one of the parent-child relationship.
14. Ogiwara and others must be seen as responding to the quasi-theological American debate about the possibility of agapeic love. Theirs was *not* a concern to react to the later American debate, one largely introduced by E.O. Wilson and sociobiology, about the possibility, extent, and meaning of altruism once Darwinian factors and animal behavior are brought into the picture. On this interesting but latter debate, see Elliott Sober and David Sloan Wilson, *Unto Others: The Evolution and Psychology of Unselfish Behavior* (Cambridge MA: Harvard University Press, 1998).
15. Very recent work in advanced neurology strongly supports this view. See, for instance, Antonio R. Damasio, *Descartes' Error: Emotion, Reason, and the Human Brain* (New York: Avon, 1994).
16. Martin S. Pernick, "Back from the Grave: Recurring Controversies over Defining and Diagnosing Death in History," in *Death: Beyond Whole-Brain Criteria*, ed. Richard M. Zaner (Dordrecht and Boston: Kluwer, 1988), p. 57. For details on the controversy, see Renée C. Fox and Judith P. Swazey, *The Courage to Fail: A Social View of Organ Transplants and Dialysis* (Chicago: University of Chicago Press, 1978), especially pp. 78ff.

17. Courtney S. Campbell, "Fundamentals of Life and Death: Christian Fundamentalism and Medical Science," in *Definition of Death: Contemporary Controversies*, ed. Stuart J. Youngner, Robert M. Arnold, and Renie Schapiro (Baltimore and London: Johns Hopkins University Press, 1999), pp. 194–209, quotation p. 199. I am grateful to Professor Youngner for directing me to Campbell's essay.
18. David F. Nobel, *The Religion of Technology: The Divinity of Man and the Spirit of Invention* (New York: Penguin, 1999), pp. 194–200.
19. Joseph Fletcher, "Our Shameful Waste of Human Tissue: An Ethical Problem for the Living and the Dead," in *Updating Life and Death*, ed. Donald R. Cutler (Boston: Beacon, 1969), pp. 1–30.
20. Joseph Fletcher, *Situational Ethics: The New Morality* (Louisville: Westminster John Knox Press, 1966), p. 104.
21. *Ibid.*
22. *Ibid.*, p. 109.
23. *Ibid.*, p. 95. Again on p. 115: "Our situation ethic frankly joins forces with Mill; no rivalry here. We chose what is most 'useful' for the most people."
24. *Ibid.*, p. 95.
25. Ruth Richardson and Brian Hurswitz, "Jeremy Bentham's Self-Image: An Exemplary Bequest for Dissection," *British Medical Journal*, 295, 1987, p. 196.
26. *Ibid.*, p. 196.
27. See, for instance, Kaji Nobuyuki, *Chinmoku no shūkyō: Jukyō* (Silent religion: Confucianism) (Tokyo: Chikuma Raiburari, 1994), especially pp. 218ff. The author, a scholar, is also a Buddhist priest.
28. Imai Jun, "Ai to nihonjin" (Love and the Japanese) in *Nihon shisōshi kōza: Nihonjinron* (Lectures on Japanese intellectual history: theories of Japanese-ness), ed. Furukawa Tesshi and Ishida Ichirō (Tokyo: Yūzankaku, 1983), p. 25.
29. *Ibid.*, p. 115.
30. Paul Ramsey, *The Patient as Person: Explorations in Medical Ethics* (New Haven: Yale University Press, 1970), pp. 208–209.