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中國生命倫理：歷史、現狀與邏輯

Chinese Bioethics: History and Logic

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摘要

任何事物的邏輯體系的構建必須與這個事物的實際發展過程和人類對它的認識過程相統一，才可能是正確的和合理的。所以歷史與邏輯的統一是考察具有哲學特性的生命倫理學學科建構的重要認識視角和方法根據。換言之，中國生命倫理學的形成與發展本質上應該是歷史與邏輯的統一。由於特定歷史階段的中國社會現實思想和人文環境的原因，中國大陸的生命倫理學在其形成階段就存在先天的缺陷，而在其發展過程中又因為先天缺陷沒有得到矯正而導致自身邏輯演化過程的某些失常，在當代中國社會轉型和科學技術快速發展引發生命倫理問題層出不窮的現實面前，中國應當構建具有自身傳統文化基礎和形而上學、真正屬於中國自己的生命倫理學。中國生命倫理學的進步，要在與哲學、與醫學和與社會三方面的對話能力的提升中實現。

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論醫療中的家庭決策

蔡 昱

摘要

本文首先通過引入“家庭決策”揚棄“家屬決策”之概念而統一了家庭、患者和家屬之意願，消弭了長久以來醫療決策領域存在的患者決策和家屬決策之矛盾與紛爭。其後，文章從中國儒家文化中的“仁愛”、“孝悌”與“家庭觀”之視角立論了家庭決策的妥當性與可行性，並在西方倫理的自由主義和主體性思想中找到了家庭決策之落腳點。

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老齡化背景下長期照護的現實選擇：基於儒家倫理觀的思考

姜蘭姝 周 令 任 蕚

摘要

中國邁入老齡化國家之後，失能老人的長期照護將會成為未來養老問題中的難點。失能老人作為病患的權利需要靠社會的福利制度來得以維繫，這在目前中國福利制度仍未十分健全的情況下是很難實現的。本文將通過對中國儒家倫理觀的思考，吸取其精華，探索老齡化背景下符合中國國情的長期照護發展之路。

目錄

倫理審查的制度歷史、運行現狀與困境

鄧 蕊

摘要

西方文化和原則主義的生物醫學倫理審查制度大有“普惠全球”之勢，但是從國際文獻的制訂歷史追溯倫理審查要求的修改變化，會發現倫理審查要求的弱化和無窮倒退的現象。本文將結合當前西方倫理審查的運行現狀，對倫理審查制度面臨的理論和實踐困境進行分析。

目錄

摘要

健康是醫學哲學中最基本的概念之一。不少人認為，健康概念如同疾病一樣，受到不同價值觀念的影響，其內涵是多元化的，存在多種健康概念。筆者認為，我們所講的健康主要指人的健康，對健康的理解應當與對人的理解與界定聯繫起來。儘管不同哲學文化、思想觀念對人的界定各有側重，但都有共同的方面，健康概念也是如此。筆者認為，世界衛生組織 [World Health Organization (WHO)] 的健康概念比較全面地揭示了健康的本質，已成為大多數人追求的健康目標。儒家對健康的理解主要基於人的道德意識和道德價值，強調修身養心、精神健康對維護軀體健康、構建和諧人際關係、社會環境的重要性，這與WHO的定義有異曲同工之處。考察儒家思想對健康的理解，不僅有助於我們推進個體及人類健康，同時也有助於我們在價值多元化的後現代潮流中，為探尋不同民族文化、歷史傳統等之間共同點提供思想基礎和實踐的可能性。

目錄

DNA 親子鑒定的倫理與法律思考：以未成年人權益保護為視角

李菊萍

摘要

中國大陸 DNA 親子鑒定機構日益增多，但缺乏統一標準和法律監管，訴訟外個人申請親子鑒定數量攀升，DNA 親子鑒定的技術分析異化為一些男性“鑒妻定子”的工具，其結果傷害了無辜的孩子。分析指出，僅靠道德約束不能消除 DNA 親子鑒定機構間的無序的商業化運作，從而減少給未成年人造成的傷害。建議儘快制定“親子鑒定法”，確認子女利益最佳原則、親子鑒定受限原則和親子關係推定原則，建立親子鑒定監管機制、確立親子鑒定機構的考核標準和 DNA 親子鑒定的認定標準、嚴格限定親子鑒定的範圍和申請人、規定親子鑒定的複檢制度、資料保護和 DNA 隱私保密制度。

目錄

Abstract

The rational logic of a thing is inevitably a reconstruction of its actual developing process in light of human understanding. That is to say, it is reasonable to investigate the circumstances and characteristics of a subject of matter from the perspective of the unity of its history and logic. Bioethics, a popular discipline in contemporary society, is no exception. This essay examines the shaping and development process of Chinese bioethics in the last thirty years.

Western bioethics was launched in the United States in the early 1970s. The development of Western bioethics reflects reasonable Western religious, moral, and social reactions to changing bioomedical realities in Western society. In other words, Western bioethics embodies a unity of history and logic in the West. However, this is not the case for Chinese bioethics. When Western bioethics was introduced to China in the late 1970s, it was adopted as a fashionable reaction to new biomedical technologies and their divorce from Western religion, culture, and ethics as a system of values. This was partly because there were political and ideological restrictions in China at that time, and partly because Chinese scholars lacked a comprehensive understanding of Western history and culture. Initially then, the Chinese had a very limited understanding of Western bioethics.

This defect has not been effectively overcome through the development of Chinese bioethics in the past thirty years. First, Chinese scholars have continued to introduce and discuss issues addressed in Western bioethics, and yet have ignored the biomedical and health care challenges confronting China. In analyzing Chinese issues, they have tended to copy Western bioethical theories, doctrines, and principles (especially the famous four principles proposed by Beauchamp and Childress), and to apply to them as norms. It seems that they have forgotten that China has long-standing moral traditions that are still pertinent to people's lives in general, and to bioethical issues in particular. Fortunately, increasing numbers of Chinese scholars have recognized that a legitimate Chinese bioethics requires a reasonable reconstruction of Chinese metaphysical and ethical conceptions for dealing with contemporary Chinese problems. This is the only way to build a Chinese bioethics in its true sense of the unity of history and logic.

Abstract

This paper begins with a definition of “family decisions.” I emphasize that family decisions are made jointly by all close family members on a voluntary basis. This decision-making mechanism is designed to embody the spirit of Confucian family ethics and maximize the benefit of family involvement in medical decision making.

Introducing this concept allows us to abandon the outdated concept of “family member decisions” that seems to exclude the patient from the process of decision making. Family decision models should reflect the unity of the family, and should include both the patient and his or her close family members in the proper way in the decision making process. This unity will help to eliminate contradictions or disputes on whether medical decisions should be made by the patient alone or by the patient’s family members only. This paper expounds on the appropriateness and feasibility of the family decision model from the perspectives of benevolence (*ren*), filial piety (*xiao*), and family values cherished in the Chinese Confucian culture. First, Confucianism regards benevolence as the highest ethical and moral virtue, with filial piety as the foundation. According to the Confucian concept of filial piety, the rudimentary moral standard for individuals is that they must love their family members. As family decisions involving medical care need to take into account the long-term interests and common development of all family members, those decisions should be more in line with the spirit of reciprocal affection among family members advocated in the concepts of Confucian benevolence and filial piety. At the same time, family members are more likely to reach a compromise among themselves, based on mutual love, that maximizes the interests of the family for every member. Second, in accordance with the Confucian concept of the family, the life and behavior of individuals do not entirely belong to them, but rather to their family. Indeed, individual happiness is greatly dependent on the well-being of the family. Hence, the Confucian concept of the family underpins the family decision model and makes it appropriate in a clinical context. Influenced by the Confucian concept of the family, family decisions are easier to reach in China.

This paper also explores the basis for family decisions in Western ethics, and suggests that the family decision model can also be defended from a liberal ethical perspective. In the process of family decision-making, every family member must limit their own behavior so as not to interfere with the freedom of other family members, thereby allowing every member the maximum freedom that they can enjoy in familial life. This reflects the ethical meaning of liberalism in a more comprehensive and in-depth way. Further, when making family decisions, all family

members participate in the consultation as moral agents, and the status of each member as a moral agent is fully respected and exhibited. Finally, a family often serves as a moral community, and there are thus few obstacles to joint decision making arising from differing views on values. At the same time, even if family members hold different moral standards, they can still fully understand the needs of other family members in the process of familial decision making through effective mutual communication, so that a consensus is easier to reach through reciprocal compromise.

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Abstract

According to the standard set by the United Nations, if more than 10% of the population of a society is over 60 years old, then that society qualifies as an aging society. This means that China has been an aging society since 2000. Currently, China has one hundred and forty-nine million people over 60 years old, of which more than thirty million require long-term care to various degrees. 8% of elderly rural Chinese are unable to afford institutional long-term care, even if such institutional care is available. Obviously, China faces grave challenges in providing long-term care for its ever-increasing elderly population.

Unfortunately, Chinese bioethics has failed to conduct careful research on these challenges to develop appropriate Chinese public policy on long-term care. This essay offers a Confucian ethical approach to the issue and proposes a series of policy recommendations framed in terms of Confucian ethical concerns. As is well known, Confucian ethics places great emphasis on the virtue of filial piety (*xiao*) on the part of children, who are expected to respect and take care of their elderly parents. It is the Confucian view that elderly people should, insofar as is possible, live at home, with the assistance of their children, and lead their elderly lives among their children and grandchildren. Living in an institution with other elderly people is not considered a normal, much less ideal, human living environment. This essay argues that this Confucian value should be preserved in contemporary Chinese society. This requires proper policy formulation and governmental contributions. First, in moral education, the Confucian virtue of filial piety and familial interdependence, rather than individual independence, should be promoted. Second, the government should provide financial incentives and awards to children who choose to stay home to take care of their elderly parents or grandparents. Finally, based on the Confucian virtue of beneficence (*ren*), the government should offer special assistance to families with seriously disabled elderly members. People should also be encouraged to organize volunteer groups to offer help to needy families. In short, the Confucian moral principle of reciprocity (“do not impose on others what you would not want others to do to you”) suggests that if we do not want to be abandoned by our children and by society when we become old, it is high time for us to act and set appropriate long-term policies.

Abstract

Since the 1970s, the ethics review system has become an important measure to protect human life. International organizations have ceaselessly revised and perfected the rules of several international ethics documents, carried out ability training for ethics reviews on a global scale, helped many countries to set up ethics committees, and attempted to promote the Western ethical culture and principle of “universal ethics.” However, if we investigate the history of the changes in the requirements of ethics reviews coded in the relevant international documents and enactments, we find that the requirements of ethics reviews for medical research have become weakened and have substantially regressed.

The Western approach to the ethics review has no means of ensuring that investigators obey the ethics review system. It is also unable to secure common ground and set aside differences when confronted with a pluralist culture. This weakens its ability to review and supervise. The current state of the Western ethics review also displays some negative features, such as a loosely organized structure, commercialization stimulated by conflicts of interest, disagreement over conclusions (especially for research projects involving multiple research centers) due to pluralist cultures and systems of morality, the limited protection of human subjects due to poor review and supervision, and the imposition on researchers of very complex review processes.

The system of ethics review is also beset by several dilemmas. The first is the suspicion of ethics imperialism. International documents attempt to provide a universal frame and impose the values of certain moral communities on others. Second, the ethics principles proposed by Beauchamp and Childress seem to be the foundation of many international documents, yet reflect only a small part of American morality, and cannot always be applied to other cultures and customs. They have been attacked by virtue theory, casuistry, feminism, and communitarianism alike. Third, the history of the revision of international ethics documents suggests that ethics reviews often fall into a vicious circle: scientific research must be reviewed by an ethics committee, and the ethics committee must be reviewed by an external institute, but who reviews the external institute?

This essay contends that the Western ethics review system is based on Western human rights theory and the religious view of original sin, in that the review

process must be enforced to prevent the evil in human nature. This epistemological foundation has caused many problems and dilemmas, as stated. To resolve these problems and dilemmas, we need to re-examine the foundations of ethics reviews. This essay argues that due to the reality of cultural and ethical pluralism, it is difficult, if not impossible, to seek a global or universal ethical theory that will guide all ethics review practices.

Finally, this essay puts forward a proposal for reconstructing Chinese ethics reviews by drawing on intellectual and ethical thought in Confucian resources. Confucianism emphasizes the cultivation of virtue and self-improvement, which means that the good of the individual primarily derives from self-discipline. In a scientific research field, this suggests that investigators should do good voluntarily and conscientiously. This idea should be applied in the construction of a harmonious relationship between ethics committees and researchers.

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Abstract

Health is one of the basic concepts in the philosophy of medicine. Some philosophers hold that just as there are different concepts of diseases, there are different concepts of health, because such concepts are deeply influenced by value judgments. This paper shows that health as we often talk about is the health of individual human beings, and that the concept of health should be based on an understanding of the essence of individual human beings. From this viewpoint, there is some common ground among the different concepts of health.

The key issue discussed in this paper is what Confucian philosophy can contribute to the understanding and promotion of human health. Confucian philosophy claims that the essence of individual human beings lies in the virtues that distinguish human beings from animals. The main Confucian virtues are “*ren*,” “*yi*,” “*li*,” and “*zhi*” “*Ren*” means showing love to others, which is the core virtue and principle of perfecting oneself and having proper relationship with others. It emphasizes that personal mental health, good relationships with others, and a harmonious society are important factors of personal health. This paper argues that this Confucian viewpoint is closely aligned with the World Health Organization’s definition of health, and addresses the following relevant issues.

1. In Confucian philosophy, “*shen*” (usually translated as “body”) has three meanings, referring not only to the physical body, but also to the unity of body and mind, and sometimes also to virtue. “*Xin*” mainly refers to the mind, but also refers to moral consciousness.

The holistic unity of body and mind urges people to pay attention to everyday life, especially diet, nutrition, and sleep. Mind is not another entity, but is embodied in the body.

2. Confucian philosophy emphasizes that “*xin*” (mind) dominates “body.” It urges us to pay more attention to “*xiu shen*,” or perfecting ourselves.

Emotions deeply influence health. In Confucian philosophy the “seven main emotions” are “love, anger, grief, joy, sadness, fear, and shock.” If these emotions are excessive, then they will cause illness and disease. Virtue can cultivate our character and help us to regulate these emotions correctly. Those who have virtue are always peaceful and long-lived. “*Xiu shen*” involves trying to be a “*junzi*,” or one who has moral virtue.

3. Confucian philosophy emphasizes “*xiu shen*” and the individual’s obligation to personal behavior and health. Although the social environment and life conditions influence personal behavior and health, we are also responsible for our behavior and health. A “*junzi*” is a kind of man who can persist with his virtue and resist lures. Medical knowledge and technology cannot cure all diseases, so everyone should take preventative measures.

However, this does not mean that health is the result of virtue, or that disease is the result of immorality. Virtue is a necessary but not a sufficient condition for health. “It is a misfortune to lose health, but not misconduct.”

4. Confucian health emphasizes that “*xiu shen*” and good interpersonal relationships are important to personal health. The core meaning of “*ren*” is to love and help others: what you do not want to be done to yourself, do not do to others. This principle helps one to get along well with family members, neighbors, and friends, and to construct ordered, harmonious interpersonal relationships and a favorable social environment. This benefits personal health and the welfare of human beings as a whole.

In brief, Confucian philosophy promotes health, and helps people to live a happy life by developing perfect virtue. It is worth sharing with other nations.

Abstract

Due to the ever increasing number of family disputes over the identification of children in mainland China, more couples are turning to DNA tests to disclose the identification of their children. The number of DNA test agencies has significantly increased in recent years, and it is reported that the number of tests has increased by 20% every year. In some developed areas such as Guangdong province, the annual rate of increase is as high as 40-50%. These DNA test agencies seem to be free of any authoritative supervision or legal regulation, and operate with commercial motives. There is thus a danger that DNA tests are being abused in practice.

This essay argues that it is not enough to simply discuss the moral issues involved in using DNA tests. It is crucially important to formulate proper policy and law to supervise and regulate DNA testing agencies to protect the innocent children involved in such cases. The essay proposes and argues for the adoption of several principles to guide the formulation of proper policy and law in this regard. The first is the principle of the best interests of the child, which should be promoted to protect the children involved. The second is the principle of restriction, which should set down certain conditions to limit the use of DNA identification tests. The third is the principle of constructive parent-child relations, which could be used to determine parent-child relations without the need for a DNA test. Based on these principles, this essay proposes that China should set up a proper standard to measure the qualification of DNA testing agencies, and establish a suitable regulatory mechanism to manage them.