The Acceptance and Development of Bioethics in Japan

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1. Particular Circumstances in Japanese Bioethics

It is in the last half of the 1980s that bioethics has become popular in Japan. An issue of brain death went up to subject in this period. The state of brain death is followed by such living-symptoms as looking well, maintaining the body heart, and sweating etc., for blood can circulate through the body by respirator's moving the heart. A patient whose brain is dead will appear to be alive. Therefore brain death is characterized as 'invisible death', the moment of which is unknown by people. The viewpoint from which a brain-dead patient is looked on has an influence on the way of treatment. Just as those to whom a kitty appears lovely will treat it with love, so those to whom a brain-dead patient appears to be alive will treat him/her as the living. The converse is also possible. Those to whom a brain-dead patient appears to be dead will be insensitive to treat him/her as a corpse. Even a patient of persistent vegetative state might be treated as a corps. It suggests the possibility of 'a slippery slope' that, if we approve A , we must also approve B, C, D,…and reach to the end. Well, a brain-dead patient will appear to be alive if his/her family or friends look on him/her. But, if another persons, e.g. doctors or nurses look on him/her, he/she will appear to be dead. What makes this difference possible? It depends on what relation people have with a patient, namely, whether people regard him/her as 'It' or 'You'. The relation of 'I and You', according to M. Buber, is the one that 'I' stand face to face with 'You'. So long as a brain-dead patient is looked on as 'You', he/she must appear to be alive.

In any case, an issue of brain death is very complex. In Japan, this issue was first disputed between professional groups and general citizens, and has been gradually moved from a stage of ethical discussions to that of political decisions. When some people found this issue having been settled in this way, they could not but be disappointed with Japanese bioethics. Nevertheless, it led to the foundation of many associations of bioethics. A few associations are consisted of interdisplinary sciences, for example, medicine, nursing, philosophy, law, cultural anthropology, psychology, sociology, religion etc. But, as a matter of fact, there were seldom opportunities for material discussion, because first, Japanese dislike a discussion, secondly, there are a few philosophers who are engaged with bioethics earnestly, and thirdly, the theme of "life" is too serious to be discussed.

Now, it is no more than Anglo-Saxon bioethics that has led Japanese bioethics. A major theory of Anglo-Saxon bioethics is utilitarianism. Utilitarianism cannot only integrate itself into Japanese culture easily. Rather communitarianism than utilitarianism might be available for it. Japanese bioethics was influenced by inner situations from the 1980s to the first half of the 1990s. Since the last half of the 1990s, it has become global under the influence of human genome study.

2. In the context of human relations

Many people regard bioethics as a kind of professional ethics. What relation does bioethics have to medical ethics in the world? In what respect is the former different from the latter? In what respect does the former accord with the latter? Various issues have arisen with the rapid progress of life sciences and biotechnologies: for instance, gene information, reproductive technologies, brain death, organ transplantation, and euthanasia, etc. In regard to these issues, we are often caught in a dilemma that we don't know easily which to be chosen. A dilemma comes about when a patient's choice is against a doctor's one, especially in medical care. According to Beauchamp and Childress, there are three methods how a doctor solve it; firstly, a top-down model, secondly, a bottom-up model, and thirdly, a mixed model called 'coherentism'. The justification of a moral judgment depends on what sort of principle it is subsumed under. The relation between a judgment and a principle is not fixed but dialectical.

There are two fundamental principles in medical ethics: 'paternalism' and 'self-determination'. The term ' patemalism ' is composed of two word: 'pater' in Latin standing for a father and 'ism' refering either to a practice or a theory. According to paternalism in general, it is justifiable that the state or the society treats individuals in the same way that a father treats his children. Even if personal liberty is restricted for the purpose of the prevention of harm to others, it is right. Such a social principle is called 'legal patemalism'. In medical cases, a doctor often dares to interfere with a patient's desire or wish for his/her own interest. It matters under which conditions a paternalistic principle can be justified. I think 'medical paternalism' should be extended only to an incompetent patient who can give a simple consent but cannot judge rationally.

Now, medical ethics has developed in the schema of Subject-Object since Modern Ages. Medical ethics was extended to bioethics today. It is said that the possibility of bioethics depends on the model of medical ethics of Christian communities in the Middle Ages, that is, medical ethics with virtuous characters. But we can also find an analogous model in Japan, that is, one that "medicine is a benevolent art." For example, Ekken Kaibara writes in the follwing manner.

"Medicine is a benevolent art. It is based on the mind of benevolence to try to help others. One should not pursue only one's own interests. As medicine is an art that helps men created and is concerned in life and death of men. Medicine may be called a mission and therefore is the most important occupation. Even if one has no art of any other occupation but medicine, the influence will be never brought to a life of man. Whether a person will live or die hangs on whether a medical art is good or bad. Never harm others by an art to help others."("Maxims for One's Health")

A medical art is a virtue that a doctor is obligated to have. The term of "benevolence" originates maybe from "the Discourses of Mencius". We have a description of "a medical art" in "the Chronicles of Japan". But we don't know when the maxim of "medicine is a benevolent art' was communicated.

How should medical ethics with virtuous characters be reconstructed today? It must be ethics of responsibility based on the equal relation between a doctor and a patient. In Japan today, the scope of responsibility has gradually been extended: from the responsibility for performance to that for nonperformance. Such an extension of the responsibility is a characteristic of contemporary Japan. But it ought to be confined to danger of one's life or body; otherwise, it will violate one's rights.

Here is the emergence of higher controlled societies in which a perfect image of

human is needed. A medical society belongs to them. While a doctor or a nurse is demanded to become perfect, a patient wants to remain imperfect as he/she is. This expresses the asymmetrical relation between a perfect human being and an imperfect one.

3. In the context of technologies

Recently, the role of religion has increased, for modern technologies confront us with old and new issues: "What is a life?" or "When does a life begin?" Any argument for and against embryonic stem cell (ES-cell) is not a new one. The Warnock Report was engaged in such a problem and has gained a high valuation. This report was issued by the committee under the leadership of Mary Warnock in 1984. It addressed guidelines on how we should treat reproductive technologies, such as artificial insemination, in vitro fertilization, surrogacy and so on. The most important of them are two; one to permit some experimentation on embryos up to two weeks, the other to forbid professional or administrative assistance, whether commercial or non-commercial, for surrogate mothering. These guidelines have been strongly criticized by various people. Especially, R. M. Hare criticizes the report of not giving cogent reasons for them. From point of view of intutionism, however, the committee came to conclusion that it is natural that we should be unable to do so. The report is willing to tolerate infertility by which the psychological distress may be caused in a couple. Because infertility, that is, an inability to have children is considered

But it avoided so- called "the fundamental problem". If man regards "the origin of a life" as "the moment of fertilization", man will be able to solve the difficulty of "slippery slope". The concept of "the moment" has indeed biologically little significance, but religiously a great one, for it is essentially a metaphysical concept. Religion can make up a passage of time which goes from the future to the present. In any event, it is possible to define and interpret "the moment" in various ways, for it is a vague concept. The Warnock Report defined "the moment of life" from a pragmatical viewpoint. This must be one of solutions to the fundamental problem.

Now, how should we evaluate a study of ES-cell? Does it mean to kill a human being or to destroy a thing? What we must be careful is that the technique of ES-cell leads to making up of a cloned human. What is the matter with European situations, especially in Germany? The principle of human dignity plays an important role in Germany. Though the term of "human dignity" is very often used, it is ambiguous on the whole. The ambiguousness of human dignity is due to that of the concept of a human being. Nevertheless, it is certain that human dignity is the very German understanding concept supported by historical experience and doesn't need any more grounds for itself. The concept of human dignity can be prescribed in the following manner. First, it has at least a double function of "differentiation" and "leveling" on the basis of a Christian statement that man be created as "imago dei". Secondly, it can have relations not only to "life" but to "death" owing to its context. It is quite different from sanctity of life in this respect. Thirdly, it is formulated as a decree prohibiting instrumentalization, that is, Kant's categorical imperative of humanity. But this principle could not prevent people from making a cloned man for the purpose of bringing him/her up. In such a case, we need to reconstruct an image of man by adding elements of "contingency", "uncertainty", "incompleteness", and "naturalness" etc. and seek "the good of man" over again.

4. Within humanism

As stated before, Japanese bioethics has developed on medical ethics. As the application of technologies to clinical medicine was ahead of ethical examinations, "persons concerned" as a doctor, a nurse, a patient, his/her family etc. are confronted with serious issues which require a selection between A and B. Here is the image of human being annoyed. If we call this image "humanism", we will be able to call another image "post-humanism", according to which there is a possibility of our not having "a freedom to selection" in the future. The concept of "freedom" is, therefore, to think in two ways: the one as determination, the other as indetermination. While the former is combined with a perfect image of human and the concepts of avoidability and foreseeability etc., the latter with a imperfect image of human and the concepts of reflexion and regret etc. In like manner, the image of "human dignity" is double: it controls technologies or is the end of technologies.

We must be careful with sophism which lies in "a change of paradigm". This is concerned with an image of the latter. Scientists want to use the word of "a change" when technologies are likely to exceed the limits of humanism, such as a human life is made into the sacrifice of another human life. What do they aim by doing it? Does it not mean to avoid their own responsibility as scientists? What should scientists take the responsibility for? An acceptance of pragmatical reasons will lead to all removal of technologies. Therefore, in any case, we must not avoid "the fundamental problem". We need to compare existing values with coming ones by discussing the problem, especially about a human life. In this respect, I want to evaluate the Catholic Church tackling on "the fundamental problem". Conversely, one might say that the Catholic falls into stubborn prinzipism.

Summary

The purpose of this paper is to clarify the characters of Japanese bioethics. It consists of four paragraphs:1. Particular Circumstances in Japanese bioethics, 2. In the context of human relations, 3. In the context of technologies, 4. Within humanism. In the first paragraph, we clarify the origin and the process of Japanese bioethics. In the second paragraph, we clarify the difference between "medical ethics" and "bioethics". The model of the former is medical ethics of Christian communities in the Middle Ages. The analogy can be also found in Japanese culture, that is, in the words that "medicine is a benevolent art." In the third paragraph, we clarify that modern technologies confront us with old and new issues: "What is a life?" or "When does a life begin?" Japanese bioethics treats also the same problem today. In the fourth paragraph, we clarify that the concept of "humanism" is changing but it is available for the restriction of technologies.