

Chapter 5

The Moral Status of the Embryo: The Second Japanese Path



Abstract In this chapter, I illustrate another Japanese strategy for dealing with bioethical issues, in addition to the fusion/transformation strategy that was discussed earlier in the brain-death debate. In order to introduce to the concept of ambiguity in Japan, I refer to the Nobel Lecture by Kenzaburo Oe, who won the Nobel Prize for Literature in 1994.

Following this, in order to explain another Japanese strategy in more detail, I refer to the governmental committee discussion in Japan regarding the moral status of the human embryo following the birth of Dolly, the first cloned sheep, in 1996. This second Japanese strategy was abstracted from the in-depth content analysis of the meeting minutes of the Bioethics Committee of the Council for Science and Technology. In addition to the fusion/transformation strategy discussed around the brain-death debate, the readers will come to understand Japan's "vagueness/ambiguity" strategy which has many advantages but also has significant shortcomings. This strategy is similar to that in which issues are not perceived as black or white and are instead resolved in an indirect way. After all, a human embryo is neither a thing nor a person, but a "sprout of human life." The discussion on the moral status of the human embryo in Japan is, as I explain below, heavily influenced by philosophies of the West.

Lastly, I touch on the discussion of abortion in Japan.

In this chapter, I explain how maintaining vagueness/ambiguity is another representative example of the Japanese way of dealing with bioethical issues. First, I refer to a part of the Nobel Lecture by Kenzaburo Oe¹, the 1994 recipient of the Nobel Prize in Literature.

Oe's main objective was to understand Kawabata's stance concerning Japan escaping into its own ambiguous world, where the possibility of foreigners perceiving the culture clearly is unlikely. In addition, Oe considered himself more in line with his Western predecessors in literature who preached the universality of humanism, and less so with his Japanese antecedents.

Let us examine the concepts of *vagueness* and *ambiguity*. Ambiguity shares the same prefix as ambivalent and has is sometimes interpreted as "being in two minds." Oe is thought to have used the term "ambiguity" to emphasize the contradiction of being both "universal" and "closed/inward-looking." However, a close look at the argument in Japan surrounding the moral status of human embryos will reveal more specific knowledge about Japan's form of ambiguity than that revealed through arguments by authors or through cultural interpretation.

5.1 Neither a "Person" nor a "Thing": The Controversy Concerning the Moral and Legal Status of the Human Embryo in Japan

5.1.1 *The Bioethics Committee of the Council for Science and Technology*

A colleague and I conducted an in-depth content analysis based primarily on records of the proceedings of the Bioethics Committee leading up to the establishment of the Law Concerning Regulations Relating to Human Cloning Techniques and Other

¹ Kenzaburo Oe—Nobel Lecture. December 7, 1994. Japan, The Ambiguous, and Myself [1].

Kawabata Yasunari, the first Japanese writer who stood on this platform as a winner of the Nobel Prize for Literature, delivered a lecture entitled Japan, the Beautiful, and Myself. It was at once very beautiful and vague. I have used the English word vague as an equivalent of that word in Japanese *aimaina*. This Japanese adjective could have several alternatives in English translation.

Kawabata talked about a unique kind of mysticism which is found not only in Japanese thought but also widely Oriental thought. By "unique" I mean here a tendency towards Zen Buddhism. Even as a twentieth-century writer Kawabata depicts his state of mind in terms of the poems written by medieval Zen monks.... According to such poems words are confined within their closed shells. The (non-Zen Buddhism) readers cannot expect that words will ever come out of these poems and get through to us.

I cannot utter in unison with Kawabata the phrase "Japan, the Beautiful and Myself." A moment ago I touched upon the "vagueness" of the title and content of Kawabata's lecture. In the rest of my lecture I would like to use the word "ambiguous."

The modernization of Japan has been orientated toward learning from and imitating the West. Yet Japan is situated in Asia and has firmly maintained its traditional culture.....On the other hand, the culture of modern Japan, which implied being thoroughly open to the West or at least that impeded understanding by the West. What was more, Japan was driven into isolation from other Asian countries, not only politically but also socially and culturally (abstracted by the author).

Similar Techniques [2]. Dolly, the cloned sheep, was born in February 1997. In September 1997, the Bioethics Committee was established as a division of the Council for Science and Technology within the Japanese Prime Minister’s Office and later renamed the Expert Panel of Bioethics. The Committee comprised 17 members, including life science specialists, medical researchers, clinicians, writers, and researchers in the fields of law, philosophy, religion, and economics. Most of the committee members held positions at the level of Professor or Professor Emeritus. At the beginning committee members were hesitant to make their discussions public, and only a summary of the proceedings was available and the names of individual speakers were not disclosed. However, the committee gradually shifted toward public disclosure, and by the eighth meeting, the committee was completely open, allowing observers to attend.

Initially, the main intent of the Bioethics Committee was to discuss the ethical implications of cloning. To this end, the committee established three subcommittees: the Cloning Subcommittee, the Subcommittee on Human Embryo Research, and the Human Genome Research Subcommittee. Public comments were sought for the reports from each of these committees and were taken into consideration during revisions made by the subcommittees and parent committee. I will pass over the decision of the Cloning Subcommittee, because it was clear, at that point, that human cloning was unanimously prohibited. I also omit the analysis of the Human Genome Research Subcommittee because it is not directly related to this chapter.

I refer primarily to the meeting minutes of the Subcommittee on Human Embryo Research. Through this analysis, the readers will understand how Japan came to an unusual solution to resolve two conflicting Japanese values, establishing that human embryos can be thought of as the “sprout of human life.” Below, I extract and summarize parts from the publication [2] which illustrates a unique Japanese way of handling ethical challenges.

5.1.2 The Subcommittee on Human Embryo Research

The draft of the report by the Subcommittee on Human Embryo Research, entitled “Fundamental Policy on Human Embryo Research Focused Primarily on Human Embryonic Stem Cells,” was released on March 6, 2000, and states that human embryos are the “sprout of human life” and require respectful, rather than perfunctory, handling. Therefore, research should be permitted within an appropriate regulatory framework. Within the subcommittee it was explained that the concept of “sprout of life” is different from “life” itself, and that research using human embryos should be permitted in certain situations. The subcommittee’s report stated the following: [2, pp. 430–431] (authors’ translation and abstraction).

This subcommittee holds that human embryos are the “sprout of human life” and require careful handling, but they are still at a different stage than fetuses or post-natal humans. Therefore, embryos which have been set to be disposed of can be used in research deemed scientifically and morally appropriate... Particularly in light of the establishment of embryonic stem cells....we judge that the use of human embryos should be permitted.

This statement does not contain any moral justification for the use of human embryos. Rather, it focusses on the possibility of scientific use of human embryos as resources for regenerative medicine. The subcommittee suggested the following uses were acceptable. (1) only frozen surplus embryos would be used, (2) consent from the couple would be required, (3) no compensation would be provided, (4) research would be limited to basic research in the first instance, and (5) review by an ethics committee would be required. The emergence of the mysterious term “sprout of human life” will be described in detail in the next section.

5.1.3 *“The Sprout of Human Life”*

The following exchange occurred between committee member Norio Fujisawa, a prominent researcher of Greek philosophy, and legal scholar Ryuichi Ida regarding the expression the “the sprout of human life” [2, pp. 432–433] (authors’ translation and abstraction).

Fujisawa noted:

You can rationalize it in all sorts of ways and argue that an embryo is the sprout of life, but not life. Yet, I think that maybe to the ethical sensibility of a normal person, they might be inclined to think that the sprout of life is the same as life.”

To which Ida responded as follows:

Well, of course, if born, this becomes a “person.” And legally it is possible a fetus would be treated as a person. However, a human embryo has not yet become a fetus.... so I think it is extremely difficult to judge whether this should be thought of as being the same as a person... Having said that, an embryo is not just a “thing” either...it will naturally become a person. This is why we used the expression “sprout of human life,” and thus in a sense it describes an intermediate stage on the way to becoming a person... But to hold the position of wanting to conduct human embryo research.... you essentially draw a line to signify that it is acceptable to do certain types of research but not others. In this case, I think that a rationale—that embryos are not human life—is necessary to some degree.

In response, Fujisawa asked:

So then, in terms of ancient philosophical concepts, there’s potentiality and actuality. Are you saying that embryos basically constitute the potentiality of life, but not the actuality?

Both Ida and the Imura, the Chair, responded that Fujisawa was correct. However, it is not clear whether Ida and Imura fully understood Fujisawa’s question, which was based on the philosophy of Aristotle. However, the exchange suggests that the expression “the sprout of human life” is close to the discussion of “potential,” which has been the center of contention in debates over the artificial termination of pregnancy in English-speaking countries. In other words, a human embryo is potentially a person, but it is not yet a person. Therefore, its destruction is not the same as murder [2, p. 433].

The phrase “an intermediate stage” illustrates the subtlety of the Japanese way of thinking. The human embryo is neither a thing nor a person. This report was later accepted by the overarching Bioethics Committee and the committee’s views were compiled in a final report, entitled “Regarding Human Embryo Research Focusing Primarily on Human Embryonic Stem Cells.” Human cloning was banned by law, while research using human embryos were to be regulated by administrative guidelines.

5.1.4 Consequences

The opposition, comprising scholars and activists, claimed that the Bioethics Committee had not adequately discussed the issue, they should wait for public discussion, the discussion had focused only on short-term usefulness, and that mere lip service was being paid to ethical considerations. However, they also failed to describe what they would define as “adequate” for this discussion.

We concluded the following at the end of our chapter [2, pp. 438–439] (author’s abstraction):

Still the conflict between advocates and skeptics (minority) did not wither away. This conflict was resolved, reaching its climax when the Panel decided to enforce a unilateral decision without consensus in favor of research using human embryos.

By coining the symbolic phrase “sprout of human life,” the Committee found an eclectic solution. Although this term is not a commonsensical one, it nevertheless allowed the Bioethics Committee to approve using human embryos while demanding that researchers exercise due respect in handling them. Accepting the Western idea of human dignity and at the same time making ambiguous the Western dichotomy of things and persons, the Committee made it possible for ethics and science to reconcile with each other, at least for the time being.

In this way, all parties were persuaded, although there was not complete agreement concerning all details. The opposition were (implicitly) satisfied with the appeal made to ethical consideration; namely, the use of the term “the sprout of human life” by the advocates within the Committee. Advocates were satisfied as they had achieved the goal of using human embryos for research, although they could not possibly foresee how those governmental and bureaucratic regulations would ultimately inhibit rather than promote their research later on. (Extremely strict governmental guidelines such as “Guidelines for Derivation and Utilization of Human Embryonic Stem Cells,” and “Guidelines on the Handling of Specified Embryos” were issued in 2001 by the Japanese Ministry of Education, Culture, Sports, Science and Technology.)

In this way, when values oppose one another, Japan effectively uses the “vagueness/ambiguity” strategy as a tool to avoid conflict.

5.2 The Issue of Abortion

I have not as yet addressed the issue of abortion. In 1948, Japan enacted the Eugenic Protection Act, and partly due to post-war population adjustments, Japanese citizens felt no strong opposition to abortion. This acceptance of abortion continues into the present. For example, the number of abortions performed in 1954 comprised 50.4% of all pregnancies in Japan. In 2014, reported cases of termination of pregnancy numbered about 182,000, and as total births numbered approximately 1,000,000, it seems that around twenty percent were terminated, not including those terminations that were unreported. Given these circumstances, the question remains: how is the argument that “a human embryo must be handled with respect in research” able to stand?

If we are to treat the human embryo with respect, should abortion even be available? Alternatively, should we treat human embryos with respect, while accepting that abortion is a necessary evil, and also important because of a woman’s right to control her own body? While there is a huge literature regarding these issues, reviewing them is not the purpose of this section.

When discussing human embryonic stem cell research, it is doubtful that the current ethical discourse represents the true voice of the Japanese people. Rather it seems more reflective of Judeo-Christian culture. In order to engage with international standards, the Japanese have used vagueness/ambiguity to “fuse” with the values of the West. The result was “the sprout of human life” definition for human embryos, which demanded that researchers exercise due respect in handling them.

It should also be noted that infertile couples undergoing assisted reproductive treatment in clinics in Japan have special emotional connections with their frozen embryos that have not been used for the most recent treatment. These aspects are worthy of further investigation [3].

The concepts of vagueness/ambiguity overlap with fusion/transformation. Thus “the sprout of human life” is a vague and ambiguous term. As is the case for fusion/transformation, vagueness/ambiguity engenders terms that inevitably express ambiguity.

Kawabata describes this as vagueness and applauds it as Japanese aestheticism. Oe, on the other hand, labels it as ambiguity and criticizes it as something lacking in universality. Regardless of which term is used, this style of expression undoubtedly forms a core part of Japanese culture.

References

1. Oe K. Nobel Lecture. December 7, 1994. Japan, the Ambiguous, and Myself. https://www.nobelprize.org/nobel_prizes/literature/laureates/1994/oe-lecture.html.
2. Kodama S, Akabayashi A. Neither a “person” nor a “thing”: the controversy concerning the moral and legal status of human embryos in Japan. In: Capps BJ, Campbell AV, editors.

- Contested cells: global perspectives on the stem cell debate. London: Imperial College Press; 2010.
3. Takahashi S, Fujita M, Fujimoto A, Fujiwara T, Yano T, Tsutsumi O, Taketani Y, Akabayashi A. The decision-making process for the fate of frozen embryos by Japanese infertile women: a qualitative study. BMC Med Ethics. 2012;13:9. <https://doi.org/10.1186/1472-6939-13-9>.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

