

Reflections on Legislative Differences of Sino-US Culture in the Perspective of Euthanasia

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Abstract: Interest in communication studies between different cultures grows out of two assumptions. We live in an age when changes in technology, travel, economic and political systems, immigration patterns, and population density have created a world in which we increasingly interact with people from different cultures. And those interactions well, continue to grow in both frequency and intensity. Our cultural perceptions and experiences help determine how the world looks and how we interact in that world. With the expectation of enhancing Sino-American cultural communication and mutual understanding, I intend to start the research with the comparative analysis of euthanasia.

1. Introduction

1.1 The Definition of Euthanasia

Euthanasia was originated from Greek, meaning the dying without pain. Now it is the whole process that a patient passes the period of death and ends his or her life in factitious methods under the demand of the patient himself or his family members and the approval of doctors due to his extreme pain in spirit and body when he is in the status of critical disease or articulatory mortise. With the development of modern scientific technology, various kinds of medical devices have been applied to the process of treating complicated diseases so as to prolong the life of the patients, and in the meanwhile the number of the patients who could not be saved by modern medical technology and are dying and bearing extreme pains is also continuously increased. The proposition of issues like “persistent vegetative state”, death of brain, death with dignity, and assistance in suicide by doctors has rendered euthanasia a large difficult issue for the modern civilization of human being. However, in light of the modern meaning, “euthanasia is an amphibians term leading to the bewilderment of people”. The multiple kinds of concepts given by various academic circles based on the theoretical knowledge of this discipline have accumulated a lot of value and tried to set up a normative concept with ultimate meaning for euthanasia. The unclear definition has resulted in the inconsistent interpretation of the euthanasia issue.

2. Different Attitudes Towards Death in China and the United States

2.1 Different Attitudes and Cultural Phenomenon Towards Death in China

The conscious avoidance of death is a fundamental character of the traditional Chinese life wisdom, and the source of its thinking can be traced back at least to Confucius. In “The Analects of Confucius” no death has been mentioned, showing the intention of Confucius stressing life. It was extremely rare for Confucius to speak of death, and “The Analects of Confucius” occasionally involved with some words on funeral, but they were just considering a social event within the order of law and discipline rite. The notion on death of Confucius had exerted deep influences on the ideas about life and death of Chinese people, and it is just due to this that the avoidance of thinking about death and the world after death as well as cherishing the secular life has become the common mental status of the whole Chinese nationality. Xuncius has especially further pointed out that the desire and requirement to live should be regarded as the top pursuit and hope. “Classic of Filial Piety” is a classic work of Confucianism in later period and it especially regards the preservation of

the life given by parents as the fundamental requirements on filial piety. The attitudes of ancient Chinese sages avoiding speaking of death have influenced the notion of life and death of Chinese people greatly. The traditional life wisdom of China focuses more on the thinking about life and concentrates on the exploration of limited life, paying less attention to death.

2.2 Different Attitudes and Cultural Phenomenon Towards Death in America

Compared to the Chinese tradition in the attitude of avoiding discussion of death, western people have been always very interested in death and the world after death from ancient times till now. The history in the western world had never lacked of speculation on death. From Socrates to Martin Heidegger, many thinkers had explored the knowledge of death in different perspectives. Socrates used to say, “The reason for being afraid of life lies in nothing but having no wisdom and regarding oneself as being wise because they have taken what they have not known as what they have known. The traditional theory of death in the west has enabled the western people to accept death with a rather opening attitude; in addition, the notion of human rights in modern times had begun to revive and expanded the right of selection of death so that euthanasia had won wide attention in the west and some countries even recognized the legality of euthanasia in law. However, in traditional Chinese culture people stress a lot on the thinking of rebirth and good death, so in the eyes of Chinese people who pursue “natural and good death” euthanasia is be tantamount to “die an unnatural death”, and thus few people would like to choose such a kind of death.

3. The Legalization of Euthanasia in America and China

3.1 Euthanasia Legislation and Execution in the United States

In 1995 euthanasia became the focus of heated discussion of the whole society, and since then euthanasia had kept affecting the US. The establishment of the American Association of Euthanasia in 1938 was a great leap of the development of the euthanasia campaign in the US since the 19th century. Finally in 1976 California became the first state to accept “living will”, integrate it into law, and took the lead to enact the “Law of Natural Death”. During the period from 1969 to 1976, altogether 35 proposals had been submitted to the legislatures of 22 states, most of which involved with passive euthanasia, and only those submitted to the states of Montana, Idaho, and Wisconsin advocated active euthanasia. The “Act of Death with Dignity” of Oregon was the first fruit achieved by the US euthanasia campaign, and the current legislation status of euthanasia in states of the US is that the legislation of 35 states have explicitly oppose euthanasia, that of 9 states have provided that the behavior or assisting in euthanasia is a crime, 3 states have canceled the legal articles that used to provide that assistance in euthanasia is a crime, there is no law explicitly providing whether the assistance to euthanasia is a crime or not in Virginia, and the legislation in Oregon has formally recognized that the behavior of euthanasia assisted by doctors is legal.

3.2 Euthanasia Legislation and Execution in China

In April, 1987, 32 representatives including Wang Qun proposed the No. 101 Bill in the fifth meeting of the Sixth National People’s Congress suggesting to formulate “Ordinance of Euthanasia”, marking that the issue of the legislation of euthanasia had entered the scope of discussion of official business in legislation since then. In the first meeting of the Seventh National People’s Congress in 1988, Yan Renying and Hu Yamei, the leading masters of the majors of obstetrics, gynecology and pediatrics, wrote in their proposals that “Life, getting old, illness, and death are the natural rules, but it is better to let those patients tranquilly end their lives than leave them to be tortured by pains.” During the period of the “Two Meetings” of the nation in 1994, 32 deputies to the People’s Congress jointly proposed the bill that “laws on euthanasia should be formulated as soon as possible according to the condition of China”. In the third meeting of the Eighth National People’s Congress, 170 deputies to the People’s Congress submitted four bills on the legislation of euthanasia. During the period of the “Two Meetings” of the nation in 2006, Zhao Gongmin, suggested to pilot “the legalization of euthanasia” so as to lay foundation for comprehensive legislation. During the period

of the “Two Meetings” of the nation in 2011, Ling Feng, also a CPPCC member, advised to establish a “China Living Will Registration Center” directed by related functional authorities so as to realize the “death with dignity” in China through the using of living will signed by the patient himself so as to benefit all the citizens in China. (Ye Qing: Page 2).

3.3 Different Legislation Mode and Reasons

The system of the US is established on the theoretical basis of “separation of the three powers” of legislation, administration, and legislation. Both the administrative authority and the legislative authority of the nation are generated by People's Congress, responsible for People's Congress, and supervised by People's Congress. Although the courts in our nation exercise official powers independently according to law and are not interfered by administrative authorities, but this kind of independence was not absolute because at last it has to be led by the Communist Party of China and supervised by national power authorities. While in China, it adopted the system in Soviet Union so as to make it serve the government, which conformed to the basic status of our nation. (Before the outburst of the Independent War, the UK Privy Council took the legislation of the colony violating the laws of UK as the reason and declared more than four hundred legislators in the colony as invalid one after another. This had aroused strong antipathy of people against the UK government and the UK laws, and some colonies even formulated special law of prohibiting using the case law of the UK on court to show their rebellion. However, the weapon with which the citizens in the colony took to combat with the UK government was the UK laws themselves, the legal basis they cited for use was all “the rights of the UK citizens in common law”, and “The Second Statements”, that is, the book of the annotations made by Cork on the “Great Charter of Liberties”, was taken as the authoritative basis for claiming rights, the results of this kind of battle was further deepening the influence of UK laws on the colonies instead. (edited by He Qinhua, Law Press, 2001, Page 106~107, ②))

4. The Cultural Differences Reflected from Constitutional Cultures between America and China

4.1 Different Personality and Reasons

The semi-closed continental geographical environment and small-scale peasant economy in China had exerted great influences on Chinese culture. In ancient times the productivity was low, collective farming was the main form of agriculture, and people seldom move, thus the system of clan came into being and the feudalism family system was slowly generated. Chinese people attach great importance to emotion and despise rationality, and emotion and common sense have been taken as the principle to deal with all kinds of interpersonal relationships. The opening ocean typed geological environment as well as the development of the shipping industry and commerce in the US had influenced the US culture a lot. After Christian came into being, its thinking also began to affect people deeply, especially the doctrine of “everyone is equal before the God” that had deeply rooted to all aspects of the lives of citizens in the US. The US citizens attach a lot of importance to achievements and admire heroes. Personal achievement is one of the values winning highest appraisal among all the values of the US citizens, and they strongly believe that the value of a person just lies in his achievements in his career. .

4.2 Different Face View and Reasons

Goffman thought that face could win positive social value for people themselves in social communication and it was the self image manifested according to the standards praised by the society. Brown and Levinson (1978,1987) opined that face meant the kind of self-image that people had and wished to be stressed and praised by others. There were two kinds of faces: “passive face” and “active face”. In China, face represented the value of a person belonging to a society, while the face in the eyes of Brown and Levinson represented the social value of self-centered personalism. China has been greatly influenced by Confucianism and the family system was also the

important incentive for the formation of face. It is different from China that in the west the Renaissance taking humanism as the dominant thinking appeared in the early period of the 14th century. Everyone had independent rights and would not be affected by other family members. In terms of face the US citizens stress more about the face of personality. The US had been a capitalism country focusing on rule of law since the foundation of the country, and it has rather perfect legal system.

4.3 Different Education Concepts and Reasons

Parents in China usually appear in their family as an authoritative image, and there lacks of democratic and equal educational styles between the parents and their children. In addition, they usually would force their children to accept the educational styles they have chosen by themselves in various kinds of methods. Compared to children in China, what had been shown by children in the US mainly include: 1. the spirit of pioneering and creativity; 2. the strong ability of independence; 3. the brain adaptable to market economy; and 4 the ability to be adaptable to social environment. The purpose of the family education in the US tends to be based on individual. (Huang Quanyu: 2001, Page 126).

4.4 Different Legal Concepts and Reasons

China adopts the constitutional law (the code law), and the laws existed in the form of codes, that is, legislated laws, including the various kinds of legal documents and administrative laws except judicial case laws. In the US people only need to remember four things: firstly, they should abide by traffic regulations; secondly, they should follow social morals; thirdly, they should do what the God has told them, that is, not to harm other people; and fourthly, they should remember the telephone number of their private lawyers. The legal consciousness of the citizens in the US has been manifested in all aspects of the daily lives. (Anonymity: June, 2010)

5. Conclusion

It is not difficult to find the differences between the culture of China and that in the US though comparison between China and the US from the perspective of legislation on euthanasia. The independence and pursuit for competition as well as the freedom of individual have been recognized by modern society, but they should, of course, not been applied mechanically and we are also continuously conducting integration and optimization in the soil of culture. With the coming of the era of economic globalization, we should also take this kind of cultural communication as a good opportunity to objectively analyze various kinds of active factors and negative ones so as to learn from others strong points to offset one's own weakness.

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