

01 **Limits of Human Existence According**
02 **to China's Bioethics**
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05 **Reproductive Medicine and Human Embryo Research¹**
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08 **Ole Döring**
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13 **1 The Sky is the Limit?**
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15 An often-quoted motif from classical Chinese philosophy in contemporary Chinese
16 bioethics is taken from the *Zhongyong*. This is one of the early Confucian 'Four
17 Books' that dominated orthodox scholarship and the curriculum for higher educa-
18 tion in Imperial China since the Song dynasty. The following passage highlights
19 the practical relationship between an agent and the effects of his actions on other
20 entities in general ethical terms.

21 Only those who are absolutely sincere can fully develop their nature.

22 If they can fully develop their nature, they can fully develop the nature of others.

23 If they can fully develop the nature of others, they can fully develop the nature of things.

24 If they can fully develop the nature of things, they can assist in the transforming and
25 nourishing process of Heaven and Earth.

26 If they can assist in the transforming and nourishing process of Heaven and Earth, they
27 can thus form a trinity with Heaven and Earth.²

28 There is concrete bioethical relevance here. First, there is nothing intrinsically
29 wrong with changing nature's course, because this is part of the human mission,
30 to 'assist' nature ('Heaven and Earth') in its development, on condition that the
31 practice be understood properly. For bioethics the quotation implies a moral context
32 when practice is evaluated in terms of social capability and meaning. Of course,
33 this line of reasoning cannot directly refer to or be reduced to biological science. It
34 is concerned with ethics rather than biology, with practice rather than technology.
35 However, since biology as a science belongs within the explanatory and normative
36 scope of practice in general, the reasoning can be regarded as applicable in this
37 modern context as well, as contemporary Confucian bioethicists have shown. It
38 pointedly contends that,

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- 40 ● action that affects others must be legitimized,
 - 41 ● legitimacy depends on personal virtue (sincerity, empathy) of the actor,
- 42

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- 01 ● virtue depends on development of human nature,
- 02 ● the charge of legitimacy is becoming more urgent apace with the increasing range
- 03 and quality of human causation or power.

04 In this light, normative judgments about the limits of human existence, together
 05 with the related practice, register as individual acts which elude classification in
 06 generalizing ontological or scientific terms. Putting it briefly, to qualify as legitimate
 07 judgment about or act upon another entity, be it a human embryo or a comatose
 08 patient, that judgment or act cannot be based on scientific grounds solely. It must
 09 essentially be based on *the actor's personal virtue*, and on a proper account of the
 10 practical status of the affected entity. That is to say, reference to protocols, manuals,
 11 codes of ethics or legal works cannot substitute an individual's reasoning and deci-
 12 sion making. The actor must proceed on the basis of his/her own virtue and moral
 13 responsibility.³

14 An exemplary evaluation will begin with an assessment of the real 'case', in
 15 terms of its individual characteristics and the social, (or otherwise relational), mean-
 16 ingfulness of the affected entity, or human being, respectively. Its development will
 17 be based on the real experience of social relatedness,⁴ facilitated through shared
 18 human nature (*xing, si duan*) and empathy (*shu*). Hence, for example, the pregnant
 19 woman is privileged to decide, in moral terms, whether her unborn child should be
 20 aborted, for as long as she is the only social relation. Moreover, Lee concludes that
 21 entities without a potential to develop social relations, such as germ cells, cannot be
 22 assessed as if holding an independent moral status (Lee 2002: 175).

26 2 Cultural Limits of Respect for Human Existence?

27 In recent publications, Chinese life scientists and ethicists have claimed strong cul-
 28 tural grounds for a liberal environment for research on human beings in China. For
 29 example, the director of the Centre for Regenerative Biology at the University of
 30 Connecticut Storrs, Yang Xiangzhong, propagates a leading role for China in the
 31 life sciences, claiming scientific and cultural exceptionality. In his vision, China is
 32 still an 'embryonic nation', yet with a potential to become a world leader in embryo
 33 research.

34 Yang, whose institute has gained prominence by reason of successful experi-
 35 ments in cloning a second-generation cloned cow, in 2004, argues that,

36 Therapeutic cloning, stem-cell studies and other research areas that use animal or human
 37 embryos are controversial and raise religious and ethical questions . . .

38 As a result, many Western governments are weary of such research.

39 These issues have led to unsupportive policies for cloning-related research, and the high
 40 costs of clinical trials for any proteins developed using this technology have forced many
 41 scientists and commercial companies to abandon promising research and to lose out on
 42 potentially profitable products.

43 China has a cultural environment with fewer moral objections to the use of embryonic
 44 stem cells than many Western countries, and . . . it could take a leading role in this field . . .
 45 China has probably the most environment for embryo research in the world . . . In addition,

01 the relatively easy access to human material, including embryonic and foetal tissues, in
02 China is a huge advantage for researchers . . .

03 Collaborations with China are becoming very attractive to researchers based in the West.
04 While Western researchers focus on animal models, partners at the new Chinese stem-cell
research centres could focus on human models.

05 (Yang 2004)

06
07 Yang suggests that in view of China's cultural characteristics, 'these technolo-
08 gies offer unprecedented research and commercialization opportunities for China'
09 (*ibid.*: 210).

10 In a similar vein, other East-Asian countries are being described as less restrictive
11 about unborn human life for reasons of religious orientation. For example, South
12 Korea, especially after Dr Woo Suk Hwang's claimed cloning feat, is assessed
13 through this lens in scientific publications. 'It is therefore not surprising that it
14 was scientists from predominantly Buddhist South Korea that first cloned human
15 embryos, rather than biologists in the USA or Europe' (Frazzetto 2004).

16 To those familiar with religious plurality and secular society in South Korea,
17 this straightforward association of bio-policies and Buddhism may be astonishing
18 (Joung 2004; Keown 1995; Schlieter 2004). Cultural accuracy does not seem to be
19 in high demand these days.

20 The Korean cloning experiments were published in *Science* and drew immense
21 public attention. The editorial of this same issue expressed concern beyond compar-
22 ative religion or respect for culture. Phrased in a language of ethical humility, yet
23 bordering on relativism, it says,

24 The Korean success reminds us that stem cell research, along with its therapeutic promise,
25 is under way in countries with various cultural and religious traditions. Our domestic moral
26 terrain is not readily exportable: US politicians can't make the rules for everyone, and they
27 don't have a special claim to the ethical high ground. And of course, political decisions in
28 the United States may carry real penalties for its own scientific enterprise. Harvard's Doug
29 Melton, a leader in stem-cell biology whose institution has just made a major commitment
30 to it, says it this way: 'Look, life is short. I don't want spend the rest of mine reading about
exciting advances in my field that can only be achieved in another country'.

31 (Kennedy 2004)

32
33 As a consequence, some leading universities have publicly pondered how to out-
34 smart existing restrictions within their own country, in order to keep the competitive
35 edge (Cook 2004). Regional differences in quality and degree of ethical regulation
36 of human embryo research incite the quest for loopholes and opportunities, serving
37 as arguments to 'liberalize' research conditions, domestically and internationally. In
38 an almost ironic twist, Dr Hwang once threatened that he would leave Korea with his
39 laboratory and settle in another Asian country, or in England, should the forthcom-
40 ing bioethics law happen to produce unwanted restrictions (Dreifus 2004). In the
41 meantime, this particular concern has been mended (Joung 2004; Keun-min 2005).
42 Apparently, the cultural rhetoric is part of a campaign of competitive downgrading
43 of ethical standards in the name of biotechnological progress.

44 While *Science* played the Korean card, competing *Nature* magazine took sub-
45 stantial interest in 'embryonic' China. It promoted biomedical progress in special

01 editions written in Chinese, and launched a series of strategic conferences, such as
02 the *Nature Forum* 2004, ‘China-California Connection: A Biomedical Alliance’, on
03 30 March 2004, in San Diego.⁵

04 Two years earlier, in May 2002, Beijing had hosted China’s first international
05 conference on stem-cell research, celebrating the return of the first generation of
06 Chinese experts from US partner institutions, with a strong network of high sci-
07 entific and economic stakes. A shortage of ethic discussion on the program of the
08 Beijing symposium was noticed. ‘The scientists in the audience were not interested
09 in the ethical dimension of their research . . . Naturally, researchers that have in-
10 vested much energy and family fortune into their careers are not likely to jeopard-
11 ize their future by including bioethical considerations into their research practice’
12 (Sleeboom 2002).

13 Obviously, reference to culture, which can be more or less accurate, in these
14 cases can be seen as a disguise for vital stakes, such as in competitions among
15 researchers or big publishing houses. More often than not, culture is used as a magic
16 stick to shun rational analysis and reason-guided discourse, which would uncover
17 mundane interest. Thus, ‘culture’ can be used as an ideological pattern in the fabric
18 of the protective gear of biomedical researchers’ proclaimed humanitarian mission.
19 This observation opens a properly critical perspective on cultural arguments. The
20 concerned observer finds it difficult to rely on the assumed authority of cultural
21 self-interpretation.

22 23 24 25 **3 Down to Earth: Regulations**

26
27 It is generally difficult to assess the ongoing development in bioethics in China.
28 Articles published in distinguished Chinese and international media do not fit easily
29 into a coherent portrait. It is understood that Chinese life scientists have been en-
30 gaging in human cloning (Mann 2003). Embryologists have transferred human cell
31 nuclei into rabbit eggs (Cohen 2002; Weiss 2002). Research involving destruction
32 of human embryos for the derivation of stem cells is taking place with no apparent
33 public debate (Dennis 2002). Chinese and American reproductive doctors under
34 the leadership of James Grifo have performed a medical experiment on a Chinese
35 woman in Guangzhou, trying the method of somatic cell nuclear transfer (SCNT)
36 (Zhang et al. 2003). This procedure could not be performed in the United States or
37 European countries because of considerations of medical risks and ethical concerns
38 (Weiss 2003).

39 On the other hand, official statements from China suggest a conservative and
40 restrictive rather than a liberal policy against ‘therapeutic’ cloning. The Ministry
41 of Foreign Affairs (2003) stated that human reproductive cloning is a ‘tremendous
42 threat to the dignity of mankind and may probably give rise to serious social, ethic,
43 moral, religious and legal problems.’ It warned that ‘The Chinese Government is
44 resolutely opposed to cloning human beings and will not permit any experiment of
45 cloning human beings.’ Given this discrepancy between policy and practice, greater

01 effort than in the past can be expected for effective monitoring and examination of
02 therapeutic cloning and other sensitive procedures in China.

03 As to bio-political control, regulations governing the practice of clinical
04 biomedicine are comparatively more restrictive than those for research. On 1 October
05 2003, three new administrative regulations concerning reproductive medicine came
06 into effect revising outdated regulations from 2001, they define ethical principles for
07 assisted reproductive technology and human sperm-bank management (cf. Döring
08 2004b) and explicitly forbid human cloning. The regulations prohibit, in a clinical
09 context, use of the technique of human egg-nucleus transfer for infertility treatment.
10 But they do not cover basic research in vitro, which is under the authority of the
11 Ministry of Science and Technology (MoST) (Leggett 2003).

12 The creation of human embryos is regulated in detail. Super stimulation – versus
13 ordinary therapeutic stimulation – of ovaries is forbidden, and all procedures depend
14 on informed consent from the donor. For women younger than 35, only 3 embryos
15 may be implanted. Embryos are created for the sole purpose of procreation, but
16 'leftovers' may be donated to medical research, upon expressed wish of the donors.
17 Commercial dealing is strictly banned (Döring 2004b).

18 According to these regulations, for example, the Grifo experiments are now pro-
19 hibited, even though they took place in a renowned Chinese clinic. Besides safety
20 concerns the main ethical objection is that involvement of biomaterial from more
21 than two parents would interfere with accepted concepts of parenthood and family.

22 Accordingly, the birth of China's first 'fourth generation test-tube baby', an-
23 nounced in Wuhan in February 2004, will remain a singular exception (Li 2004).
24 In fact, although the 2001 version of these Ministry of Health (MoH) regulations
25 did not specifically ban human egg-nucleus transfer, a common moral assumption
26 was that blurring of the 'natural' germ lines of individuals or species would not
27 be acceptable in any clinical setting. Clearly, the positivistic principle 'if an action
28 is not illegal, it is by definition legal' does not apply in China. The fact that policy
29 making lags behind scientific and economic development, in terms of the entire legal
30 and social infrastructure, cannot be interpreted as an expression of cultural values.

31 Initiatives from Chinese researchers in the life sciences and bio-ethicists have
32 been designed in order to reduce ambiguity and enhance ethics in practice. In 2001,
33 two proposals for scientifically and ethically satisfactory regulations on human em-
34 bryonic stem-cell research were submitted to China's legislators.

35 First, an interdisciplinary advisory group from Beijing submitted a draft entitled
36 'Ethical principles and management proposals on human embryonic stem-cell re-
37 search' to the two ministries (MoH and MoST) (Döring 2003). The document high-
38 lights principles of general respect for human life at all stages, informed consent,
39 safety, and effectiveness of treatment and procedures. Biomedical research should
40 be encouraged, but 'any form of gamete, embryo or foetal tissue trade' is to be
41 banned. The document proposes standardized procedures, professional qualifica-
42 tions, and IRB reviews for all institutions that are involved in human embryonic
43 stem cell research.

44 In 2001 a local bioethics committee in Shanghai submitted 'Ethical guidelines
45 for human embryo stem-cell research'.⁶ The gist of the two documents is quite

01 similar. They share a general esteem of human life; emphasize informed consent,
02 confidentiality, and voluntary donation, set a fourteen-day deadline for the permis-
03 sible destruction of an embryo, and ban re-implantation of an embryo from research
04 into a human uterus. Both documents also reject cloning for reproductive purposes
05 but accept it for therapies.

06 In comparison, the Shanghai draft reflects issues of risk control, slightly con-
07 trasting the view of the Beijing draft. Interestingly, the first published version of the
08 Shanghai guidelines (adopted 16 October 2001) permits cross-species recombinant
09 experiments (Article 13.5), whereas the revision (of 20 August 2002) has deleted
10 the clause stating that ‘fundamental research may be permitted’.⁷

11 Furthermore, Shanghai allows ‘human–animal cell fusion’ if it is used for basic
12 non-clinical research only. Any combination of human cells with animal cells for
13 clinical purposes – e.g. for implantation into the human body – is prohibited (Article
14 14.4). Consequently, the creation of cross-species hybrids is allowed as long as they
15 remain *in vitro*. Thus the proposed guidelines support Shanghai’s local researchers
16 who are engaged in such projects. In the absence of relevant national legislation,
17 it is both noteworthy and consistent that the Shanghai proposal is cited formally
18 as ethical reference in scientific publications, even though they are not accepted by
19 MoST or MoH (Chen et al. 2003).

20 It should be noted that the Shanghai and Beijing guidelines, in line with all other
21 related regulations of the last seven years, explicitly prohibit coercion of women into
22 becoming pregnant and then choosing abortion, or into manipulating the method
23 and time of abortion. These prohibitions obviously address a current (mal)practice
24 which violates the requirements of informed consent. As far as ethical priorities are
25 concerned, the guidelines seem to pay relatively greater attention to donors than to
26 the protection of early human lives. Rather, improvement of the practice of informed
27 consent and patient protection is balanced with the freedom of research.

28 China has accelerated and refined her bioethical regime, starting from a gen-
29 eral and vague prohibition of human cloning in 1998. On 13 January 2004 came
30 into effect the ‘Ethical guiding principles for research on human embryonic stem
31 cells’ issued by the highest national authorities on the subject, MoST and MoH.
32 These principles prohibit any research aimed at human reproductive cloning and
33 confirm that ‘it shall be prohibited to hybridize human germ cells with germ cells
34 of any other species.’ At the same time, they expressly permit research on ‘surplus
35 embryos’ following *in vitro* fertilization (IVF), on foetal cells and on cells created
36 by ‘somatic cell nuclear transfer’. However, no embryo used for research may be
37 cultured for more than fourteen days, and the sale of ‘human gametes, fertilized
38 eggs, embryos and foetal tissues’ is prohibited.

39 Human embryos used in research are typically produced in IVF clinics close
40 to the research establishment. However, the source of human embryos is often de-
41 scribed as neither reliable nor constant. One reason for this is that acquisition of
42 human oocytes is difficult. Tissue from aborted fetuses is widely used in a number
43 of the research establishments. In spite of a new licencing system for IVF clinics,
44 established since the fall of 2001, no reliable countrywide data are available about
45 the number and quality of procured embryos or oocytes, or the donor’s profile.

01 Information gathered in several interviews suggests that the availability of tissue
02 for research depends on the reputation of the respective clinic and research unit.

03 China's IVF policy illustrates that attention is being paid to the potential social
04 impact of biomedicine rather than to embryo protection. The revised MoH regula-
05 tions of October 2003 forbid doctors to help single women get pregnant through
06 assisted reproductive technology such as embryo transfer and artificial insemina-
07 tion. In a regional policy trial, the authorities of Jilin (Liaoning province) in 2002
08 gave single women the right to get pregnant via assisted reproductive technology.
09 This initiative stirred moral debate about morality, the purpose of family and sexual
10 activity. In effect, this debate was decided in favour of conservative moralists. The
11 national Health Ministry overruled the Jilin regulations.

12 The situation is summarized in a recent report from Great Britain, 'the Chinese
13 authorities are anxious to establish a regulatory and ethical framework in relation
14 to human embryonic and foetal stem cells that reflects emerging international stan-
15 dards. It was not . . . to determine how fully such standards are accepted and reflected
16 in practice outside the centres of international excellence' (Du et al. 2004).

17 In fact, in the bioethical field China is working towards a recognizably liberal
18 European framework of regulation, in several cases actually based on the British
19 House of Lords select committee's recommendations (Munro 1988).

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23 **4 Moral Demarcations**

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25 However, there are discernible Chinese peculiarities to be accounted for. In general
26 terms, the relevant documents of bioethics reveal two lines of moral demarcation. I
27 want to use this differentiation as heuristic reference frame for cross-cultural com-
28 parison and as a method to organizing the discourse on normative issues.

29 (1) First, a 'Chinese Rubicon' defines the beginning of a human's worthiness of
30 protection. The transfer of an embryo from the petri dish into the uterus seems to de-
31 marcate the line between research and medical or invasive treatment. Manipulation
32 in vitro is permitted, but implantation into the female system remains a taboo. The
33 use of cloning technology for human reproduction is most unlikely to be endorsed
34 in China.

35 This Chinese Rubicon is based on a strong notion of natural *purity* and *dig-*
36 *nity*, which can, beyond ideological conservatism, be traced back in the history of
37 Chinese philosophy to the neo-Confucian 'Principles School' (*Lixue*), developed
38 in response to invading Buddhism during the Imperial Tang and Song Dynasties
39 (Munro 1988). Reference to other philosophical sources of naturalism are made by
40 popular Confucians, who associate it with the Han-dynastic amalgamation of cos-
41 mological, social-moral and political concepts, especially a sexualized interpretation
42 of Yin and Yang (Renzong 2003).

43 In this light, 'assisting nature' through biomedical or other means includes a
44 quest for moral purification of humanity *and* the world. It stretches medicine on
45 the scale of a moral-teleological axis, while taking certain (controversial) *natural*

01 features as undisputedly given. Action that is driven by deviating interests cannot
02 be accepted. Both aspects, moral motivation and natural constitution, are intercon-
03 nected. The natural constitution of an embryo may be altered if certain conditions
04 apply, but an altered embryo may not become part of the causal chain of the social
05 network or an individual's human social-biological system. Hybridization and other
06 forms of manipulation must remain within the enclosure of the dish, even if meant
07 for therapeutic purposes (Abbott and Cyranoski 2001).

08 This *Imperative of Purity* has already gained regulatory force in practice. This
09 is expressed in the prohibition of nuclear transfer or ooplasm transplantation in
10 reproductive medicine.

11 (2) The second line of moral demarcation according to Chinese bioethical regula-
12 tions has a *legal* form. It is subject to adjustment due to political or social processes.
13 This 'Chinese Limes' in bioethics is defined in terms of the social-moral dimen-
14 sions that constitute the human being. As soon as a human is born into the social
15 environment, the full power of legal protection begins to apply. This is the onset of a
16 gradual development of the individual's social career, in the course of which nobody
17 may be manipulated or killed (legal exceptions apply in cases such as the death
18 penalty). According to this view, an embryo is only a human *life* but not a societal
19 entity during the early phases of development when there is no psycho-emotional
20 and physical relationship with a mother. Hence it can be seen as commodity for
21 'high-ranking medical purposes'.

22 I shall not discuss the relation between the two demarcations, nor their potential
23 impact on different ethical concepts. Nor will I analyse their roots in China's culture
24 and society. These are important hermeneutic tasks beyond the scope of this paper.
25 From a cultural perspective, the demarcations cannot be played out against each
26 other. And certainly, neither of them can be neglected. Together they contribute to
27 the fabric of cultural context.

28 Considering the essentially pragmatic character of these policy regulations, they
29 should not be expected to convey particular moral stakes or to express deeper cul-
30 tural reflection. For example, primary concern for the protection of women and the
31 security of scientists are highlighted, though one would hesitate to regard these as
32 particularly strong points of Chinese culture. However, it should be considered that
33 these norms still transport the signature of a deeper cultural purpose. Chinese society
34 provides a strong value basis resting on Confucian, Buddhist, Taoist and secular hu-
35 manistic ideas. There is notable debate about issues such as cloning and reproductive
36 medicine. Except for a small number of expert forums, however, discussions take
37 place in a largely scattered manner. Due to systematic political constraint there is
38 no self-sustaining process of controversial civil debate (not to mention a *discourse*).
39 This makes it more difficult to assess the value profile and conceptual landscape of
40 China's relevant moral configuration.

41 The primary question is not about human dignity and the demand that it be re-
42 spected. The question is *whether and in what sense* a certain entity is to be regarded
43 as a human being in its own right. An influential group of conservative scholars⁸
44 who often refer to Confucianism, for example holds that humans accumulate their
45 moral status through social relationship and merits. In the absence of such qualities,
someone is not regarded as a human being with full protection rights. This applies

01 to early human life forms as well as to cases of adults who lose their dignity through
02 moral deprivation.

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05 **5 Two Positions**

06

07 Personal opinions of leading researchers are valuable sources for assessing regu-
08 lations for the treatment of human embryos in practice. The elite of Chinese em-
09 bryologists and fertility doctors is involved in the making of laws and the related
10 counselling. And they directly account for the effect on the respective practice.
11 I sketch two such views.

12

13 Dr Sheng Huizhen is a prominent embryologist at Shanghai's Xinhua hospital.
14 According to her, experiments that hybridize human and rabbit's cells are morally
15 acceptable for genuinely ethical reasons. Combination of genetic material from a
16 human nucleus and animal mitochondria technically generates a *new species*. She
17 believes that the biological differences between this species and a human can be
18 neglected for the purpose of scientific modelling. Ethical objections do not apply
19 here, because such an entity has no potential to develop to maturity or to procreate.⁹
20 This procedure promises morally inexpensive advances in basic research. Sheng
21 expresses the hope that in the long run these experiments are going to reduce the
22 need to use human embryos for stem-cell research. From a biochemical point of
23 view, Sheng opines that the fusion of sperm and egg cells marks the only plausible
24 starting point for the beginning of a new human life, and it is only then that the issue
25 of protection arises.

26

27 A different moral perspective is expressed by China's most renowned fertility
28 doctor, Dr Lu Guangxiu. She engages in embryo research, cloning and stem-cell
29 research in a clinical setting at Changsha's Xiangya Second Medical Hospital. Dr Lu
30 holds that during the first fortnight of existence, an embryo is tissue matter. It should
31 be compared with blood or body cells in this regard. Being a carrier of parental genes
32 with the potential to become a full human entity and, at the same time, as part of a
33 woman's body, it cannot be utilised at will. However, the principles of avoiding harm
34 and protecting self-determination and personal integrity of the woman or couple
35 overrule other moral concerns.

36

37 Dr Lu regards the imperative of protecting female donors as an insurmountable
38 and unobjectionable obstacle towards the procurement of human eggs as a basic
39 resource for an entire line of research. She firmly rejects any activity or clinical
40 policy that would actively promote donation of eggs.¹⁰ In China such a model is in-
41 applicable on cultural grounds. Consequently, Lu criticizes the controversial cloning
42 experiments of Dr Hwang in South Korea.

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45 **6 What Constitutes the Limits of Human Existence?**

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47 The foundations and limitations of the value or worthiness of protection of a human
48 being remain heterogeneous, depending on the meaning of *humanity* and the chosen
49 moral or ethical approach. There is no cultural consensus in China on this matter.

01 There is a tradition of co-existence of diverse philosophical, religious and political
02 opinions and resulting dispute.

03 Common sense does not help to harmonize the disagreement either. Customary
04 reference to the age of a newly born as *yi sui* (one year) suggests impregnation as the
05 beginning of existence; on the other hand, many people regard humanity as a matter
06 of *merit* acquired through accumulated 'good' social practice. Moreover, 'pre-natal
07 education' has become a mushrooming fashion, (relevant literature can be found
08 in imperial libraries, cf. Dikötter 1995). Traditional Chinese and imported manuals
09 from the USA promote techniques such as diet, prenatal exposure to music, culture
10 or conversation and *feng shui* (geomancy). On the other hand, abortion is still the
11 most prevalent means of birth prevention.

12 From a perspective of philosophical Confucianism, the limits of human existence
13 should be assessed in the light of two interrelated moral dimensions. First, it reflects
14 the agent's moral character, in particular the capacity to make moral judgments
15 about another entity (such as a human being at the end or at the beginning of life).
16 Second, it explores the nature of this entity, through the relational connection be-
17 tween agent and object. This latter perspective would allow for different material
18 judgments about the moral and practical characteristics of an entity, concerning
19 both the (social and legal) Limes and the (moral) Rubicon. The first issue, from
20 this interpretation of a Confucian view, affects the nature, theory and methods of
21 ethics and of bioethics in particular, without primary interest or effort invested in
22 such formal categorizations. So far, this asymmetric constellation in the cultural
23 and philosophical debate has hardly been addressed in bioethics, disregarding as it
24 does the ethical and methodological impact.

25 Notably, on the one hand this Confucian approach can illustrate the problem of
26 moral judgment in cases that do not correspond to (any possible) moral experience.
27 On the other hand, it carries considerable potential for an emerging, not yet mature,
28 critique of action (*Handlungskritik*), as it had continuously been envisaged but never
29 was theoretically elaborated in full by proponents of Confucian ethics.

30 The Confucian approach does not offer clear-cut definitions of the limits of hu-
31 man existence in bioethical terms. However, this hesitation, ambiguity or reflected
32 modesty can be turned into a theoretical asset and interpreted as expressing a sys-
33 tematic ethical point. That is, only the accomplished moral character (*junzi*) is in a
34 position to understand practice properly. However, it is impossible to establish inde-
35 pendent and objective standards for the evaluation of such a figure. Thus it becomes
36 a regulative idea. There is no alternative source of insight, no special qualification,
37 be it scientific or another, which would corroborate high-claiming practical judg-
38 ment in sensitive issues and, at the same time, contradict the judgment or practice
39 of a *junzi*.

40 The riddle of normative orientation through asserted model characters is a genu-
41 ine thread in Confucian philosophy and has contributed to a regular scheme in
42 the description of Chinese societies (cf. Bakken 1994). It cannot be dissolved or
43 disregarded without dismissing essentials of this school. One established strategy
44 in response to this challenge is to focus on practice as the constructive, (that is, the
45 synthesizing), process of *sustaining the practical tension* between moral intuitions

01 and related accomplishments. It keeps the debate alert to the constant demand to
02 avoid hubris and to counter totalitarian claims or relativistic in-group morality on
03 the part of specific communities. According to historical evidence, high-claiming
04 moral communities tend to invite or support paternalistic, authoritarian and oppres-
05 sive regimes. A balanced Confucian approach would become a source of criticism
06 rather than a pretender to 'truth'.

07 Obviously, even in its present shape, this nascent Confucian approach tends
08 to turn the conventional language and perspective of mainstream bioethics upside
09 down. As I see it, it can serve to adjust purpose and commitment in bioethics to
10 concerns of humanity. For example, a Confucian aspiration offers a conceptual ref-
11 erence frame that would accommodate Kantian maxim ethics, narrative, feminist
12 and anthropological avenues to bioethics. Moreover, it exhibits a distinct normative
13 profile, challenging legalistic, utilitarian, hedonistic, materialistic, ideological and
14 positivistic frameworks. This would be consonant with its aspirations since the times
15 of the classics.

16 The demand for responsibility, sincerity and moral development on the part of the
17 actor places the moral burden on the individual actor. At the societal level, this re-
18 quires a set of basic preconditions so that the demands can in fact be met in practice.
19 It supports a culture of moral experience and communication, focusing on compre-
20 hensive education and life-long learning. Obviously, present-day China has no such
21 environment. Hence there is reason to be cautious about Confucianism as a key to
22 interpret Chinese bioethics. Rather, it is recommended as a *critical* framework.

23 To sum up, Confucian ethics focuses on individual encouragement and proce-
24 dural advice on how to assess the limits of human existence. It takes no particular
25 interest in legal form or ontological status, but on the moral substance of practice,
26 holding the mirror to reflect each individual's motivation and performance on the
27 full scale of practice. Consequently, any action in the medical context is regarded
28 as a challenge, because it interferes with the course of nature and humanity. Thus it
29 assumes a practice that can only be legitimate when intervention takes place in terms
30 of 'assisting Heaven and Earth'. Positive ethical standards cannot substitute the indi-
31 vidual's responsibility or judgment. This is a very high claim, on a par with the Kan-
32 tian description of the 'good will' – and as impossible to be positively established.

33 By emphasizing the part of the causal initiator (i.e. the actor), the issue of the
34 moral status of human beings is neither solved nor addressed directly. In effect, the
35 'embryo matter' is brought to the level of individual social relation clusters, and
36 taken out of the limited charge of the public and the experts. Thus it leaves room for
37 a plurality of moral practices without inviting ethical relativism.

38 Probably the most uncertain element of this approach is, How can it be integrated
39 in a system that is built on general, positive legal norms? Confucianism attempts to
40 prevent practice from creating situations of juridical concern in the first place. It
41 does not offer juridical decisions. It frames our institutions in terms of meaning
42 and purpose. Thus it does not directly challenge or contradict any given normative
43 system.

44 Moreover, from this perspective, the specific quarrels over biomedical criteria for
45 human dignity appear to be of secondary importance, though not marginal.

01 7 Demarcation and Perplexity or Common Ground

02
03 It is the purpose of the above argument to counter expectations of an ‘alien’ moral
04 culture in China, which would be fundamentally at odds with moral views in
05 European and North American countries, while maintaining some peculiarities of
06 the Chinese moral position. The moral landscape between the Chinese *Limes* and
07 *Rubicon* is wide and shattered. Just as it is in Europe, the ethical and legal frame-
08 works for bioethics in China are influenced by interests with historical and political
09 contingencies (cf. in detail: Döring 2004a).

10 Accordingly, the explanatory merit of culturalistic concepts regarding the inter-
11 connectedness of culture and ethics is limited. Moral dissent is to a significant extent
12 culturally immanent. What matters is how peaceful debate and cohabitation can be
13 organized and reflected, in a manner that sustains local, regional and global flour-
14 ishing. In other words: the challenge is to cultivate diversity and make it fruitful.

15 Considering the adaptability of international bioethical regulations in China, no
16 major obstacles should be expected from the side of China’s politics and adminis-
17 tration, as far as technical issues and standards are concerned. The relevant Chinese
18 policies can be understood as responses to the pragmatic demand for harmonization
19 of international standards. In view of the practical implementation and monitor-
20 ing of bio policy, however, concern is in place. Owing to the well-known obstacles
21 in developing a modern civil society with a state and culture of law in China, the
22 present situation inside the clinics and laboratories as well as the related exchange of
23 resources and information requires particular scrutiny and alertness. Full assurance
24 of respect of the powerful towards each one’s basic rights, born or unborn, is still
25 not necessarily guaranteed.

26 Finally, it should be noted that the limited focus of this paper is no substitute for
27 a deeper cultural and social-political analysis. It indicates some major tendencies in
28 the minds of leading figures in the life sciences and bioethics in China. Observers
29 should appreciate that the currently discussed ethical standards are embedded in
30 the dual purpose of facilitating the development of life sciences by increasing their
31 regular performance and raising the level of acceptance within the public. These at-
32 tempts respond to the demand to regulate the life sciences after scandals and reports
33 about irregular experiments have irritated the population, while the transforming
34 society continues to be in flux on all levels.

35 If we want to learn more about the ‘Limits of Human Existence According to
36 China’s Bioethics’ on a deeper level, I recommend serious engagement in related
37 cross-cultural research projects, based on mutual respect. The agenda is on the table.

40 Notes

41
42 ¹ This paper is a substantially revised translation of my 2005b article.

43 ² *Zhongyong*, Chapter 22. Translation is taken from Chan 1963: 107–108. It is quoted like this, e.g., by
44 philosopher Lee Shui-chuen (Li Ruiquan) (1999).

45 ³ Cf. a more elaborated analysis in my 2005a article.

- 01 ⁴ This theme is elaborated in Tao (2002).
 02 ⁵ <http://www.kintera.org/site/pp.asp?c=eiJVJ5ORF&b=10904>.
 03 ⁶ Ethics Committee of the Chinese National Human Genome Center at Shanghai (2004).
 04 ⁷ Cf. Bioethics Committee, Southern China National Human Gene Research Center (2001).
 05 ⁸ They share a strong esteem for the ties of family and community, restrictive opinions on sexual
 06 morality, paternalistic political ideas, and a sense of Chinese cultural pride.
 07 ⁹ Personal communication Dr Sheng in Shanghai, 25 May 2004.
 08 ¹⁰ Personal communication Lu Guangxiu in Changsha, 22 May 2004.

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01 **Chapter 24**

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