

Cultural Interpretations of International Bioethical Codes

Eric K. Bowen '19

Ethical codes, such as the Nuremberg Code and, more presently, the Helsinki Declaration, are written to provide guidelines for human experimentation. These codes are in place to protect certain aspects of human rights as well as to promote good scientific data collection/practices; however, the regulations could be subject to interpretation. The main reason that these codes were put into place were because of the perceived atrocities committed by Nazi and Japanese research groups during World War Two. If one looks deeply at the wording of the ethical codes that are developed, despite being devised post-World War Two, there is a degree of subjectivity that the Nazis and Japanese could use to interpret the meanings of the ethical codes to justify their actions. This difference in interpretation is partly influenced by the different modes of thought between the Nazis, the Japanese, and the rest of the Western world as well as the circumstances of wartime national interests.

The experimentation that Nazi Germany is most known for was that conducted by the SS doctors in concentration camps and used to examine a wide variety of research interests. Some of the experiments that the researchers looked at were the effects of high-altitude and freezing water on the body to better Luftwaffe uniforms (Moe, 1984, p. 5); however, experiments ranged from observing infectious disease progression to sterilizations and various surgical procedures (Lifton, 1986, p. 269, 294–95). Their goals ranged from practical application, such as the bettering of Luftwaffe uniforms mentioned earlier, to more ambitious efficiency—the production of a “cheap and effective method of mass sterilization” (Lifton, 1986, 271). These experiments were carried out throughout the war in the concentration camps containing the Jews and other groups destined to be contained and eventually exterminated. These concentration camps were spread throughout Nazi-occupied Europe, but the most notable camp was that of Auschwitz-Birkenau since many of the more well-known research occurred there. Although, mainly associated with the Holocaust, the Nazis did proceed with experimentation on those considered unfit for society before the start of World War Two.

Unit 731 was a branch of the Japanese biological warfare unit led by General Shiro Ishii and based in occupied Manchuria, where they conducted their research. Being concerned with biological warfare, Unit 731 mainly studied disease progression in the body and there was almost no limit to the number of diseases that was studied. Among other deadly diseases, Unit 731 researched the progression and

effects of smallpox, venereal diseases, cholera, and gas gangrene (Mangold & Goldberg, 2001, 19). The group was also focused on methods of mass-producing these diseases and developing systems that could effectively deliver and spread the pathogens amongst enemy forces. As described by General Ishii, “there are two types of bacteriological warfare research, A and B” (Mangold & Goldberg, 2001, 19) with A standing for assault research and B is defense research. Assault research was Unit 731’s specialty, and the unit proceeded to conduct their research at their facility from 1932–1945. Generally, the actions of Unit 731 are less widely known when placed alongside their Nazi counterparts.

As World War Two was approaching its end with the Axis on the retreat or capitulating on all fronts, the researchers were forced to cease their experimentation since the locations were being taken, or under threat of attack, by the Allies. Both groups attempted to dispose of their research, with Nazis attempting to eliminate all the individuals contained within the concentration camps before they were liberated, but that was not always the case. The Allies would come across concentration camps who had survivors that had knowledge about the experiments. This led to the Allies reviewing Nazi research and deeming it unscientific, public health leaders and SS doctors were brought forth and tried at the Doctors’ Trials—the first of the Nuremberg Trials that condemned many high-ranking Nazi officials (Brody, et. al, 2014, p. 4). The Japanese, however, were able to reintegrate their scientists into society and were able to hide their research efforts until General Ishii was approached by the Americans looking for assistance on developing biological weapons (Mangold & Goldberg, 2000, p. 26–28). General Ishii saw this as an opportunity to secure protection by offering to release the information collected on disease progression and methods of producing as well as spreading the pathogen in exchange for protection from any legal actions. The US, attempting to keep this information secret from the USSR, kept the knowledge of Unit 731’s existence a secret for approximately 40 years (Mangold & Goldberg, 2000, p. 14). The handling of uncovered Nazi and Unit 731 research was itself an ethical dilemma because Unit 731 conducted experiments under similar conditions to the Nazis, yet they were not treated the same way (the reasons as to why will be considered later).

As a result of the Doctors’ Trials, Allied judges developed a code of ethics for human experimentation called the Nuremberg Code. The Nuremberg Code

led to the creation of future ethical codes, including the World Medical Association's Declaration of Helsinki—originally adopted in 1964, but has undergone several revisions (World Medical Association [WMA], 2013). Codified ethics were developed to protect a person's safety in the context of experimentation and to give research subjects the freedom of choice in terms of participation. By giving subjects the freedom of choice, the ethical codes allow subjects who feel uncomfortable or threatened to halt their participation in the experiment. Given that codified ethics concerning human experimentation were not commonplace before the Nuremberg Code, the marked increase in prevalence of ethics codes could be attributed to the experimentation conducted during World War Two.

The overarching goal of ethical codes, especially those concerning human experimentation, is that the guidelines should be as specific and detailed as possible. This is to try to prevent cultural ideologies or beliefs from skewing the meaning behind what the authors of the codes intend. Different cultures or prevailing ideologies could easily interpret the ethical codes differently from the author's intended meaning. Such is the case that could be applied to that of the Nuremberg Code and the later Helsinki Declaration because Nazi and Japanese ideology differed from what the ethics authors intended when the codes were adopted. The reactions of the Allies to the discovery of Nazi experimentation led to the designation and creation of the term "medical war crime" because the experiments were conducted in conjunction with the Holocaust (Brody, et. al., 2014, p. 7). This is despite the differences of Nazi ideology to the rest of the Europe and America. The experiments performed by the Japanese would also be designated as medical war crimes in the eyes of the Europeans and Americans, but to the Japanese, they could apply their beliefs to justify their actions through the ethical codes as well despite the intention of the author not matching up with the interpretation.

The ethical codes being looked at for differences in interpretation were both written after the Second World War, so while the Nazi researchers and officials were brought to trial and sentenced, their experiments were performed before the Nuremberg Code and Helsinki Declaration were written. Since there were no codified ethics, the researchers had no guidelines which stated that they could not perform the work they did in the first place. If a researcher has no guidelines imposed upon him as to how far research is allowed to go, then the methodologies of the experiments could be considered ethical, although they would raise moral questions. While the timeline of ethical codes in relation to the experimentation performed is an important factor, the ethical codes are being looked at as to how Nazi and Japanese ideologies would

rationalize the codes' rhetoric to justify their experiments as ethical.

The first major aspect of justification was that both the Japanese and Nazis did not view their subjects as human beings. To the Nazis, the Jews and the other research subjects were "guinea pigs" that were expendable—"cheaper than a rat"—since they were treated like animals (Lifton, 1986, p. 270, 301). Many of the Nazi researchers would refer to their research as anything, but a true human being, which included being described as rabbits, raw materials, and/or dogs (Lifton, 1986, p. 269–302). In a similar vein, the Japanese referred to their Chinese research subjects as "Maruta," the Japanese term for logs, because the complex where Unit 731 operated was disguised as a lumber mill and it described the test subjects' lives (Mangold & Goldberg, 2000, p. 17–19). The experiment through which the Japanese infected the test subjects to observe progression was followed by the sacrificing of the subject to perform dissections, although vivisections were performed as well. The "maruta" was then burned after it had performed its function, like how wood that has served its function but could not so any longer is burned. By treating their subjects as anything but human and with that belief firmly held by those overseeing the experiments, the entirety of the ethical codes could be subverted because the Japanese and Nazis did not view certain people as human beings. The Nuremberg Code states that the "voluntary consent of the human subject is absolutely essential" (1947), but since the Nazis and Unit 731 did not view their subjects as human, voluntary consent was not seen as being required. This ideology would be like how the voluntary consent of animals, which is what the research subjects were viewed as, or other non-humans is/was not required for experiments.

Another major point the ethical codes stress are experimental methodologies as well as the purpose of the experiment. The Nuremberg code states that the results must be for "the good of society" and "not random and unnecessary in nature" ("Nuremberg Code," 1947), such as the "causes, developments and effects of disease" (WMA, 2013). The experiments conducted by the Nazis, while viewed as evil due to the Holocaust, have been referenced in research papers written after World War Two (Moe, 1984, p. 5). If experiments performed by the Nazi doctors are to be considered unethical due to not being helpful to society, it would not be cited in future works. Since data from published Nazi experiments have been cited, that would signify that the experimental procedure carried out was not randomly done and has some merit of information in it. The Nazi researchers implemented variables and observed their effects on the bodies of those experimented on. Unit 731 similarly contributed to the

benefit of society by increasing the United States' understanding of biological warfare by providing the data collected on subjects on how diseases progress. Although the US quickly expanded its knowledge past that of the Japanese, the information could be considered a valuable start. By knowing how diseases progress and how they affect the body, the US would know how to counter these illnesses if/when their new rivals, the USSR, started developing biological weapons. While the Japanese data was not published, since the US was trying to keep their bargain with Unit 731 quiet, the progress and effects of diseases were well documented and had adequate sample sizes. The subjects who were infected with the wide range of diseases were followed and examined regularly before ultimately being sacrificed to observe the internal effects on the body, with documentation being performed along the entire process. Unit 731 also documented the methods and refining of large quantities of these pathogenic agents as well as the effectiveness of the devices they built to deliver the pathogenic agent. So, while the methodologies of the scientists at Unit 731 and the Nazi doctors at the concentration camps utilized methods that were considered unnecessary by the Western powers, the researchers could be justify that they proceeded in accordance with the ethical guidelines set forth.

In both ethical codes, the research that is to be conducted must be conducted by "scientifically qualified persons" ("Nuremberg Code," 1947) with "scientific education, training, and qualifications" (WMA, 2013). Researchers who performed experiments for the Nazis or Unit 731 were individuals who had medical experience with the leading Nazi researchers containing the title of doctor (M.D. and/or PhD) and the Unit 731 surgeons being trained personnel from either the Imperial Army or from places of higher education in Japan. Since research is usually overseen by those who have MDs or PhDs in a university setting, the Nazis and Japanese could argue that they have the appropriate qualifications due to schooling and, in the case of the Unit 731 surgeons, possible prior experience. Much like their counterparts in a university setting, the researchers had a group of assistants that worked underneath them who would have been trained to perform the task assigned to them. Most of the research conducted by the Nazis and Unit 731 was done by scientists who had received many years of higher education related to their field, so they would have been more than qualified to pursue the work that they did.

The final major aspect is that the results obtained from the medical research are "unprocurable by other methods or means of study" ("Nuremberg Code," 1947) with the "primary purpose of... generating new knowledge" (WMA, 2013). Unit 731's bargaining with the Americans resulted in an internal

investigation by a group of scientists to determine the data's usefulness to American endeavors. Two scientists, Dr. Edwin Hill and Dr. Joseph Victor, who led the investigation and examination wrote a report that summarized the data gather by Unit 731, stating that "such information could not be obtained in our own laboratories because of scruples attached to human experimentation" (as cited in Brody, et. al., 2014, p. 6). This means that the results from Unit 731's experiments could not be obtained by other means because the results were the direct consequences of being exposed to a specific pathogenic agent. The other notable aspect of this statement is that the information is not obtainable due to "scruples" which means the scientists did not technically have a barrier due to guidelines preventing the experimentation. Rather, the Americans were mentally reluctant to proceed along that route because the prospect of observing disease progression on the type of subjects the Japanese used did not sit well with them. Given that the Japanese were investigating disease progression for use in biological warfare, it would make sense for them to test their creations on the subjects that would most closely resemble their intended target. Although the Chinese subjects that were experimented on were not considered human to Unit 731, they were closest analogs to the targets the biological weapons were meant for. The effectiveness of a biological weapon likely would not provide definitive answers for the Japanese if the creations were tested on rats or rabbits, thus the route of experimentation that they took would be considered necessary. How else can one know if a device used to transport pathogens is effective against soldiers if the device isn't first tested on the closest human analogs available? The Americans themselves have stated that the results obtained by Unit 731, which was subsequently used to further American understanding of biological weapons and warfare, would have been unobtainable otherwise which would satisfy the requirement of obtaining results that could not be done so through any other means.

The Nazi and Japanese interpretations of the Nuremberg and Helsinki Declaration bioethical codes would have been due to one of four major reasons: racial superiority, wartime national interests, prevalence of eugenics, and researcher rationale of subjects' fates. Since Nazi Germany and Imperial Japan had different thought processes from the Western world that stemmed from at least two of the aforementioned concepts. Two that are similar in nature are racial superiority and the prevalence of eugenics. The Germans considered themselves, the Aryans, as the superior race and that those of Jewish, Roma, and Soviet (Judeo-Bolshevik) descent were racially inferior (Brody, et. al., 2014, p. 3). Since the Jews, Soviets, and Roma were deemed inferior,

practically sub-human, they would not have been considered as actual people to the Nazis thus explaining why they would pursue the experiments with the methodology that they did. This racial superiority was driven by the prevailing theory of eugenics and using it to selectively breed for superior qualities while breeding out those with undesirable qualities. Eugenics was a theory that was taught quite extensively to those in academia due to the recent discoveries of genetics and with the beginning of understanding how genes work so it would make sense to why many of the doctors participated in the sterilization programs introduced by Nazi Germany. The Nazis' overall goal was the preservation and improvement of the good Aryan racial stock while also pushing out qualities that were considered detrimental (Lifton, 1986, p. 42). The Japanese, while not motivated by the eugenics theory, did deem themselves racially superior to the rest of east Asia. Much like how the Germans looked down on the Jews and Gypsies, the Japanese looked down on the Chinese, which would result in their not viewing the Chinese subjects they experimented on as humans. Since the Japanese intended to eliminate the populations of east Asia so that the territory could be occupied (Brody, et. al., 2014, p. 3), Unit 731 was playing a part in their end goal, but also gathered use from those to be eliminated.

The timing of the war led both the Nazis and Unit 731 to proceed with work unabated by prying eyes because most of the population was concerned with winning a war. Also, if the researchers were looking to give their country an advantage in the war, then the means by which that advantage is obtained is less likely to be questioned than if the goal was pursued in a time of peace. That's not to say that it cannot happen because the Nazis approved sterilization programs, and they sought to find a method that was cheap and could be done on a massive scale, during peacetime (Lifton, 1986, p. 42-44). The experimentation conducted by the Nazis prior to the Second World War would have stemmed from the belief in eugenics and racial superiority. During wartime, however, the researchers could claim that what they were doing was for the good of the country and questioning their methods could be considered treason (Brody et. al, 2014, p. 9). Some research was the result of genuine German army concerns with typhus in the Eastern front, or the result of public policy enforcing sterilization programs (Lifton, 1986, p. 269). So, while the experimentation carried out during the war was also present in peacetime, the war was a catalyst for extremes that would go unquestioned because the more pressing matter of winning a war would have taken priority over the ethical considerations of the experiments that were conducted.

Finally, doctors from both the concentration camps and Unit 731 both justified their actions with the idea that those they were experimented one were going to be killed regardless of whether experimentation occurred. The concentration camps held vast majorities of prisoners who were worked until they could no longer do so or were sentenced to death upon arrival. The camp doctors could perform research and justify it with the idea that the prisoner was likely to be killed in the gas chamber or executed sometime in the future (Lifton, 1986, p. 301). The prisoner would be providing a service to the researcher by being a subject in the experiment before the prisoner was sacrificed. A similar justification was seen in Unit 731 scientists in that the subjects were bound for execution in the near future because the facility was converted from a prison facility and anyone brought there was considered suspicious (Mangold & Goldberg, 2000, p. 16, 20). Similar to the Nazi scientist justification of providing service until death, the Japanese would see the prisoners as already bound for death so there was no loss if the subject was sacrificed after he/she has served their usefulness. While the scientists' belief that the subjects were destined for death anyway helped to rationalize their actions, it seems to be that this is a stress response to help justify their actions.

Bioethical codes were devised by researchers to provide subjects of human experimentation with safety and peace of mind; however, differences in cultural or ideological thought between the author and the researcher could lead to interpretations of the ethical codes that the author did not intend for. By applying the thought processes of the two most infamous experimentation groups, the Nazi SS scientists/doctors and the Japanese Unit 731, one could see how the rhetoric could be shifted to match the beliefs of the Nazis and the Japanese. These differences in interpretations could then be used to justify that the experiments conducted by these groups were ethical. To prevent confusion and differences in interpretation, ethical codes would need to be written in such a way that different cultural and ideological thought could not manipulate the rhetoric to their advantage.

REFERENCES

- [1] Brody, H., Leonard, S. E., Nie, J., & Wiendling, P. United States Responses to Japanese Wartime Inhuman Experimentation after World War II: National Security and Wartime Exigency. *Camb Q Healthc Ethics*, 23(2), 220-230.
doi:10.1017/S0963180113000753.

-
- [2] Lifton, R. J. (1986). *The Nazi Doctors: Medical Killing and the Psychology of Genocide*. New York, NY: Basic Books.
- [3] Mangold, T., (2000). *Plague Wars: A True Story of Biological Warfare*. New York, NY: St. Martin's Press.
- [4] Moe, K. (1984). Should Nazi Research Be Cited? *The Hastings Center Report*, 14(6), 5-7.
- [5] *From Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg, October 1946-April 1949*. Washington D.C.: U.S. G.P.O, 1949-1953.
- [6] World Medical Association. (2013). *WMA Declaration of Helsinki – Ethical Principles for Medical Research Involving Human Subjects (10th ed.)*. Author.