

第V卷 第1期 2007年5月

ISSN 1386-6354

中外醫學哲學

本期編輯：陳強立

中國社會脈絡下的 生命倫理

導言

陳強立

現代自由主義、女性割禮，及傳統的合理性

Jeffrey P. Bishop

醫療的人性關懷——對生命的敬畏

蕭宏恩

“紫河車”倫理研究

王京躍

基因技術與人的尊嚴

盧風

“隔離”侵犯了人們的自由權嗎？
——對中國大陸有關“隔離”法律制度的倫理思考

曹永福

女性主義倫理與香港的墮胎問題

黃結梅

Global Scholarly Publications

Vol.5 No. 1 (05/2007)

中國社會脈絡下的生命倫理
Bioethics in the Context of Chinese Societies

本期編輯：陳強立
Issue Editor: Jonathan Chan

陳強立 Jonathan Chan	導言 Introduction
Jeffrey P. Bishop	現代自由主義、女性割禮，及傳統的合理性
蕭宏恩 Hsiao Hung-en	醫療的人性關懷——對生命的敬畏 The Human Care of the Medical Treatment—To Revere Life
王京躍 Wang Jingyue	“紫河車”倫理研究 Research on the Ethics of the “Purple River Vehicle”
盧風 Lu Feng	基因技術與人的尊嚴 Genetic Technology and Human Dignity
曹永福 Cao Yongfu	“隔離”侵犯了人們的自由權嗎？——對中國大陸有關“隔離”法律制度的倫理思考 Does Quarantine Limit People’s Freedom? An Ethical Reflection on the Quarantine Law of Mainland China
黃結梅 Day Wong	女性主義倫理與香港的墮胎問題 Feminist Ethics and Abortion in Hong Kong

摘要

寬容是西方自由主義的核心，它讓相互排斥的觀念與行為可以相互和平的共存，而不是讓這些觀念與行為的支持者們相互消滅。但是，在對寬容的挑戰方面，遜奈、女性割讓、陰蒂切除或生殖器殘害等帶來的挑戰可以說是獨一無二的。在這篇文章中，我對西方人對上述行為的批評進行了批評，這並非是要它們作辯護，而是要指出，西方自由主義本身並沒有提供一個跨文化和永恆的原理，因為它的原理只是在自由主義傳統內部才獲得融貫的。西方人對於遜奈的批評經常將非洲婦女的身體象徵化為陰蒂，這是西方關係性和政治自由概念的象徵。遜奈實踐在其信仰、傳統的網絡之內是融貫的，施行者就是在這些網絡內實施它們的，並因此在這些傳統中得到合理性的辯護。麥金泰爾關於道德質詢的概念於不同傳統間的文化及道德對話這一複雜世界裏，給我提供了一個指導。

目錄

醫療的人性關懷—對生命的敬畏

蕭宏思

摘要

“醫乃仁術”為中國歷來醫學之理念，“仁心仁術”更是當今醫療化之社會的期望；只是“仁心仁術”不能僅為一份善意，必要表顯於實際行動的對待，而醫療實踐的關鍵即在於生理、病理客觀呈現之“疾病”(disease)的查察與個體(individual)或作為一位格實在之個人(person)主觀感受之病痛(illness)觀點此二面相(dimension)的綜合，而醫師的診斷或診療也就在此一綜合上的成就。另一方面，在當今醫療社會化的處境下，整個社會對醫學的倚賴已不僅是個人之病症的解除，而且及於價值判斷的化約為醫師專業的診斷，某些一般人所面對的棘手問題(尤其是心理、精神方面的問題)都歸到了醫學的專業判斷上!這更是加重了醫學專業明辨的社會責任與對公共利益的觀護之承擔。由之，我們不難感受到，我們需要的是一個敬畏生命、熱愛生命、具人性關懷的醫學與社會醫療，而不僅是一個醫療化的社會!我們希望面對的醫者是一個活生生、有熱度的人，而不僅是一名技術高超的專業工匠罷了!

目錄

摘要

“紫河車”已超越了中醫藥材的一般意義，成為一種賦予了倫理內涵的文化現象，代表了中國特有的服用人胎盤的傳統習俗和道德觀念，並對現實社會於人胎盤利用產生正反兩方面的深刻影響。本文從生命倫理學的角度，反思“紫河車”文化的傳統觀念和社會現象，研究和探討現代“紫河車”文化的道德向度和倫理體系。一、人胎盤為何物的現代道德訴求與“紫河車”文化之異同；二、醫用人胎盤必須遵循“知情同意”的倫理原則，謹慎施行有償捐贈，填補“紫河車”文化的空白；三、醫學利用人胎盤遵循具有時代性的倫理道德原則，發揚並超越“紫河車”文化精神；四、反思“紫河車”文化現象的社會時弊，從規範倫理、自德倫理和制度倫理等方面，建構現代“紫河車”倫理。

目錄

基因技術與人的尊嚴

盧風

摘要

現代基因技術改善了人類控制以及治癒疾病的能力，但同時，它也開始威脅人類的自由以及獨立性。解決這一問題，是應用倫理學的責任。

現代西方關於人的尊嚴的觀念處理這樣一類問題。一方面，這些觀念把人看成是獨立自由的個體，從而強調人的尊嚴。但是，現代基因技術給種族歧視提供了新的理由。現代基因技術不再是對生命進化“外部”框架條件的控制，而是有目的地改變生命體的“內部”形成機制，從而給優生學提供新的支持。這不但威脅到人的獨立性，而且更深地威脅人的尊嚴！如果人可以被區分為“設計者”以及“被設計者”，那麼假設“所有人生來平等”的原則就被摧毀了。

另一方面，現代西方觀念視人為唯一具有創造性的生物。人可以有目的地改造世界，而其他生物則作不到。這一觀點使那些認為科學技術能改善世界的人熱烈支持基因優生學。最終，這一行為將導致大災難。

古代中國關於人的尊嚴的觀念給解決這一問題開出了一條新路。中國古人更重視通過道德修養去凸現人的尊嚴。這是一條有別於西方征服自然的路。中國思想強調人與自然的和諧，天人合一，這一思想將有助於解決現代基因技術帶來的問題。我們最終必須明白，我們應該用涵養道德的方法來維護人的尊嚴，而不該僭取“上帝”和自然的權力。

目錄

“隔離”侵犯了人們的自由權嗎？—— 對中國大陸有關“隔離”法律制度的倫理思考

曹永福

摘要

跳出事件觀察事件，可能更有利於事件準確分析、認清。在人類已經基本控制住 SARS 流行的今天，俯瞰中國大陸對 SARS 的防控過程，可能會更加理性。本文僅從有關“隔離”法律規定對“自由限制”的視角，展開討論。

目錄

女性主義倫理與香港墮胎問題

黃結梅

摘要

本文的重點是從女性主義的角度思考墮胎問題。女性主義的貢獻，並不是在於高舉女生墮胎權比胎兒的生存權重要，而是讓我們跳出傳統倫理非此則彼的二元框架。女生主義確立女性是有能力作道德思考的主體，提倡透過聆聽女性的聲音，發展一套新的倫理觀——關懷倫理。本文的第一部分將會介紹關懷倫理的特色，包括考慮特殊處境的困境而非純粹應用普遍性原則；著眼於相互關係而非個人權利。關懷倫理的重點並不在於平衡一己和他人之利益；更準確的說法，是不把各方利益對立，把自己和他人(包括胎兒)視作互為倚賴、相輔相承的整體。

女性主義倫理主張從婦女的具體經驗出發，反對以抽象思維或假設性問題來探討墮胎。第二部分將會從婦女實存處境來思考墮胎背後的問題。女性為何需要墮胎？甚麼原因造成意外懷孕？因姦成孕對女性有可影響？為何墮胎之中胎身的性別多是女性？這一連串問題，讓我們超越墮胎的對與錯，進一步反思婦女所受到種種壓迫。最後的第二部分，就會把女性主義倫理結連到香港社會的處境，關注本地女性面對的壓迫；透過女生的經驗，揭示醫療人員、社工、傳媒等如何歧視尋求墮胎的女性，及對女性身體和情慾進行家長操控。

目錄

Abstract

Practicing in deeds is historically one of the basic ideas of Chinese medicine. Benevolence entertained at heart and practiced in deeds is even more at present the expectance of today's socialized medical treatment system. Yet, benevolence entertained at heart and practiced in deeds can not merely be a good will, it has to present itself on the treatment of practical acts. The key point of medical practice exists in the synthesis of viewing the two dimensions of examining the objectively presenting physiological and pathological diseases and interpreting the subjectively perceiving illnesses of an individual patient —— a person, that is. The diagnosis and treatment by a doctor are also based on the achievement by this synthesis. Furthermore, in the situations of socialized medical treatment today, the dependence on medicine of the whole society is not only to relieve symptoms of a disease, but also to reach the judgment of values that is reduced to the diagnosis of medical professionals. Some of the thorny problems that people will face, especially the psychological and psychiatric ones, belong to the judgments of medical professionals. The burden of social responsibility is added to the medical professions when one thinks carefully and clearly about public interests. Hence, it is not difficult for us to feel that what we need is the medicine and medical treatments of a society which is life-revering, life-loving and people-caring, not a solely medically-treated society. We hope the doctor we visit is a caring and amiable medical professional, not merely a professional technician with exceptional skills.

Abstract

The "Purple River Vehicle"(Human Placenta) has transcended a general meaning of the Chinese medicine and it is in line with the Chinese traditional conventions and morality. This phenomenon has deep ethical and cultural meaning. However, there is debate today regarding its use. This paper will look into the problem from a bioethics perspective: 1. What does the placenta mean according to today's morality, and how does this differ from its meaning as the "Purple River Vehicle" in the culture; 2. Using the placenta in the medical sciences should go by an ethical principle of "Informed Consent", and the placenta donation should be implemented carefully; 3. Using the placenta in the medical sciences should follow a principle of the current ethical morality, and honor the cultural spirit of the "Purple River Vehicle"; 4. The phenomenon of the "Purple River Vehicle" creates problem of great moral importance to society so there is a need of developing a modern ethics of the "Purple River Vehicle" from precept, virtue and regime ethics.

Abstract

Modern genetic technology improves the human ability control and cure illnesses. But at the same time, it threatens the independence and freedom of humanity. So it is the duty of applied ethics to overcome this problem.

The modern Western idea of human dignity cannot deal with the problem. On one side, the modern Western idea regards mankind as independent and free individuals. It emphasizes the dignity of man. However, modern genetic technology provides new reasons to raise the bar. Modern genetic technology gives new support to eugenics, which enables mankind not only to control the evolution of living beings from the outside, but also to change them from inside. It threatens deeply not only the independence, but also the dignity of man. If people are distinguished between "designer" and "designed", the principle which assumes that all people should be equal will be destroyed.

On the other side, the modern Western idea regards man as only one species that has initiative. Man can have the intention to change the world, but other beings cannot. This point makes those who accept the idea that science and technology can improve the world support eugenics. This will lead to disaster.

The ancient Chinese idea of human dignity presents a new way to deal with this problem. The ancient Chinese put more energy into their own cultivation of an ideological morality which expresses their dignity. This way is different from the Western way of conquering nature. The Chinese idea emphasizes the harmony between humanity and nature, and the idea that humans and nature become one, which will help humans overcome problems caused by modern genetic technology. We must understand that we should display dignity through our cultivation of an ideological morality, rather than appropriating power of God and nature.

Does Quarantine Limit People's Freedom? An Ethical Reflection on the Quarantine Law of Mainland China

Cao Yongfu

Abstract

Investigating an issue from outside will help to analyze and identify it. Nowadays, we can control the spread of SARS and understand it in a more reasonable way through the overview of the prevention and cure of SARS in Mainland China.

In the process of controlling and curing the new infectious disease, SARS, Mainland China's government made a new law which was very successful, but its enactment and enforcement caused many problems which should be reflected upon, such as the rule of quarantine.

To quarantine means to segregate people with infectious diseases. It is a good way to protect the uninfected people. It helps to control the spread of SARS. However, at the same time it limits people's freedom. On one side, it is necessary for the government to segregate people with infectious diseases, but on the other side, the government needs to consider the limitations of freedom caused by the new law. This paper will discuss whether the people's freedom will be limited by the rule of quarantine in Mainland China.

Table of Contents

Abstract

This paper aims to discuss the issue of abortion from a feminist perspective. It argues that the strength of feminism does not lie in its defense of women's rights vis-à-vis fetal rights, but rather in providing a way for us to think beyond the either/or framework of traditional ethics. Feminism affirms women's agency in moral reasoning. It develops and advocates a new kind of ethics—an ethics of care—by listening to the moral voices of women. The ethics of care is characterized by consideration more of the factors in a specific context than of universalizing principles, and an emphasis on the entirety of relations than on individual rights. In contrast to traditional ethics which presupposes an opposition between self and others, the ethics of care sees self and others as interdependent. It is not so much about balancing the interests of oneself and others. Rather, it concerns recognizing the falsehood of this polarity and the truth of one's and others' (including the fetus') interconnectedness.

This paper will be divided into three parts. The first part introduces the ethics of care and shows how women can transcend the framework of selfishness and self-sacrifice in their moral consideration of abortion. Feminism values women's lived experiences and opposes to discuss abortion in an abstract or hypothetical way. It directs us to look at the link between women's needs for abortion and the social practices that oppress women. The second part of the paper will situate the issue of abortion in a wider context of oppression that are faced by women and hence exposes the problems of limiting the discussion of abortion to the standard questions about the moral status of the fetus. The last part of the paper is an attempt to discuss the issue of abortion in the context of Hong Kong through a feminist lens.

One should not equate feminist ethics with liberal defenses of women's right to choose abortion. Feminist ethics yields a different analysis of the moral questions surrounding abortion than that usually offered by the more familiar liberal approaches. In the discourse of rights, the relationship between women and the fetus is understood as adversarial. An examination of the process of women's moral reasoning allows us to see that their decision whether to have an abortion is often based on considerations of the entire relationship which involves their responsibilities to the fetus and other parties (including their other children), rather

than a problem about abstract deontology. Their experience points towards an ethics of care which may help us reconstruct the notion of right.

To conceive abortion from a feminist ethics is to view the issue not as singular but as a set of inter-related issues. The question whether abortion is right or wrong cannot be answered in isolation from other questions which probe into women's experiences abortion. Why do women need to pursue abortion? What are the causes of unwanted pregnancies and why are they so common across different age groups of women? Why do many women find it difficult to refuse sexual requests? What is the impact of rape on women and why did some victims fail to seek an abortion in early stage of pregnancy? How would women's lives be affected if they are not allowed to pursue abortion? How shall we explain the phenomenon that most of the aborted fetuses are female? These questions demand us to go beyond focusing exclusively on the moral or legal permissibility of abortion that has preoccupied traditional ethics. Only by reflecting on the actual experiences of women and the conditions of domination and subordination that govern the relationships between men and women can we come to an adequate understanding of the moral issue of abortion.

In Hong Kong, it is legal to perform abortion in private and public hospitals or at the Family Planning Association of Hong Kong. However, local women are not free from oppression or prejudice when they pursue abortion. Women's experiences reveal the existence of social agents in the perpetuation of an institution power which restricts women's autonomy over reproduction and sexuality. Many medical professionals and social workers discriminate against those who choose to have an abortion. They usually impose their moral judgments and carry out a form of moral policing towards these women. Such discrimination leads women to try very hard in hiding the fact that they have an abortion. It is still a long road ahead to promote a real sense of understanding of and respect for women's choice in abortion. Public education often presents an over-simplified picture and misleading messages. Many women have yet to face the challenge of how to think beyond the framework of selfishness and self-sacrifice. This paper concludes by urging those who truly cares about the issue of abortion in Hong Kong to work hard to eliminate discrimination, to promote an understanding of women's decisions, to advocate women's sexual autonomy, to encourage equality and mutual respect in sexual relationship, and to fight for provision of more affordable quality child care services.