

第VI卷 第1期 2008年

ISSN 1386-6354

中外醫學哲學

本期編輯：張 穎

建構中國生命倫理學

導言

張 穎

知情同意的權利主體：儒家倫理視角下的考察

楊同衛、封展旗

履行知情同意原則在中國傳統倫理下的困境

李 琰

器官捐獻的家庭同意原則：儒家倫理的現代應用

王明旭、張 文、王學良

從佛教倫理學看待器官移植問題：淨土宗的觀點

張 斌

試論儒家倫理對構建當代生命科技倫理的價值

沈秀芹、楊同衛

“美人魚”男嬰事件之我見

孫英梅

儒家倫理對構建醫師專業精神的若干啟示

李恩昌、徐玉梅、滕 月

儒化中醫哲學與當代基因改造人性道德爭論

羅秉祥

Global Scholarly Publications

Vol.6 No. 1 (2008)

建構中國生命倫理學
Reconstruction of Chinese Bioethics

本期編輯：張 穎
Issue Editor: Ellen Zhang

張 穎 Ellen Zhang	導言 Introduction
楊同衛、封展旗 Yang Tongwei, Feng Zhanqi	知情同意的權利主體：儒家倫理視角下的考察 Who has the Right of Informed Consent? A Study in the View of Confucian Ethics
李 琰 Li Yan	履行知情同意原則在中國傳統倫理下的困境 Informed Consent and Its Current Dilemma
王明旭、張 文、王學良 Wang Mingxu, Zhang Wen, Wang Xueliang	器官捐獻的家庭同意原則：儒家倫理的現代應用 Family Consent in Organ Donation: Confucian Ethics and Its Contemporary Application
張 斌 Zhang Bin	從佛教倫理學看待器官移植問題：淨土宗的觀點 Organ Transplant: A Perspective from Pure Land Buddhism
沈秀芹、楊同衛 Shen Xiuqin, Yang Tongwei	試論儒家倫理對構建當代生命科技倫理的價值 The Construction of Contemporary Science and Technology Ethics: A Confucian Perspective
孫英梅 Sun Yingmei	“美人魚”男嬰事件之我見 A Case Study of a “Mermaid Baby”
李恩昌、徐玉梅、滕月 Li Enchang, Xu Yumei, Teng Yue	儒家倫理對構建醫師專業精神的若干啟示 From Confucian Ethics to Medical Professionalism
羅秉祥 Lo Ping-cheung	儒化中醫哲學與當代基因改造人性道德爭論 Confucianized Philosophy of Chinese Medicine and the Moral Controversy on Genetic Enhancement of Human Beings

摘要

“知情同意”這個在西方文化背景中產生的倫理和法律術語在中國仍然是一個比較新的概念。尤其是對於知情同意的權利主體這一基本問題，在立法實踐和臨床實務中仍存在認識模糊和不一致之處。本文基於儒家家庭倫理的基本精神——尊重個人意願與家庭關懷的統一，提出了關於知情同意權利主體的立法建議。在儒家倫理中，主張“和而不同”、“互以對方為重”，體現了尊重個人意願的思想。在儒家倫理中還主張“父慈子孝”、“兄友弟恭”、“夫婦和順”，體現了家庭關懷。可見，在儒家倫理視野下，知情同意權利並非由家屬包辦，也非僅僅屬於患者而和家庭無關，而是在患者做主前提下的家庭參與，是患者做主與家庭關懷的統一。所以，對於有同意能力的患者而言，其本人所作的同意表示才具有法律效力；只有在某些特殊的情形下患者家屬才可以代為簽署知情同意書或者代行情知情同意權利。

目錄

履行知情同意原則在中國傳統倫理下的困境

李 琰

摘要

知情同意是尊重人的自主原則在診療環節的重要實踐，也是當代生命倫理學的重要組成之一，但在中國的履行卻體現出與其在西方社會建立起來的原有狀態不同的特色。本文試圖探討形成這樣的特色與中國傳統倫理因素——例如儒家、道家——之間的關係，挖掘其可能的思想、制度、倫理淵源。在文章的最後，還對中國傳統倫理在當代正在發生變革的現狀及其對履行知情同意原則的積極作用進行了簡單的闡釋。

目錄

器官捐獻的家庭同意原則：儒家倫理的現代應用

王明旭、張文、王學良

摘要

從儒家倫理的視角解讀中國新實施的《人體器官移植條例》，以第八條中“共同表示同意”為著力點，認為，儒家的家庭倫理不僅深刻地影響者中國人的思維方式和行為方式，而且至今被人們認為是構建家庭倫理的最根本原則，有著廣泛的社會基礎和現實根據。分析了儒家倫理支持器官捐獻的理據，結合案例指出：家庭的知情同意並不違背個人的知情同意；應當在儒家的家庭倫理的基礎上探討這一條例的相關問題，從而幫助完善和實施這一條例，使我國有關人體器官移植和屍體捐獻的立法更加完備，為推動器官移植技術的發展建立更為有效的法律保障機制。並提出在在條例實施過程中還有五個相關問題需要澄清和解決。

目錄

從佛教倫理學看待器官移植問題：淨土宗的觀點

張斌

摘要

器官移植的問題是當代生命倫理學的一個重要問題。如果從人類自身利益出發，這種被視為拯救危重病人生命的技術，的確是醫學科學的進步，但它涉及的社會倫理道德問題十分廣泛。如果從佛教倫理學——淨土宗的觀點出發，即以緣起論來認識屍體器官移植，則認為器官移植會使死者因強烈的痛苦而生嗔惱，障礙死者往生淨土；佛教的生死分際的判定標準——阿陀那識執受根身則認為腦死亡概念是由於器官移植術而產生的“腦死”名詞。另外，佛教的護生觀和平等觀反對異種移植和器官商業化。站在佛法的角度，器官移植不僅有違“眾生平等”的精神，而且可能成為“殺生利器”。

目錄

摘要

20世紀末生命科技的迅速發展，對傳統的倫理觀念帶來了巨大的衝擊，引發了很多棘手的倫理問題。為了解決這些問題，構建適應生命科技發展的倫理體系不僅非常必要，而且異常迫切。很多學者都認為儒家倫理與生命科技倫理要求相悖。但筆者認為，儒家倫理思想中的“仁愛”、“己所不欲，勿施於人”以及“天人合一”等寶貴的思想資源對當今生命科技倫理構建是有著重要價值的。因此，本文試圖充分挖掘傳統儒家倫理中的優勢資源，探討儒家倫理對現代生命科技倫理構建有益的幾個基本理念以及對和諧人與人之間，人與社會之間以及人與自然之間的價值所在，以期發揮其對當代生命科技倫理構建的引導作用。

目錄

“美人魚”男嬰事件之我見

孫英梅

摘要

2006年底湖南省兒童醫院救治了一名“美人魚”男嬰。儘管醫務人員日夜奮戰，但這個不幸的嬰兒仍然不治夭折，醫院為此付出巨大的代價。本文從儒家觀點出發，就此事件闡述個人見解：不贊成醫院實施原本就希望渺茫的搶救行為，主張為“美人魚”男嬰提供臨終關懷照護直至其安逸、無痛苦地離去，將節省的醫療衛生資源，用於更多能夠治癒患者的有效治療上；針對“中國實際每年的出生缺陷患兒大約有50萬-60萬”的嚴酷現實，闡明人與自然和諧相處的必要性與緊迫性。

目錄

摘要

《新世紀的醫師專業精神—醫師宣言》所規定的醫師專業精神的三條原則中，將患者利益放在首位原則和患者自主原則，由於諸多原因而存在著悖論。中國儒家的仁術、德教為先、修身為本、慎獨、推己及人、高度人倫的思想對解決以上悖論有啟發意義：遵循道德形成和醫學技術提高的規律，通過各種學習、強化方法，使醫者真正確立患者利益第一的專業精神和具有精湛的專業技能。從而使醫者成為患者利益的真正代表，能在各種情況下有效保護患者的利益。

目錄

摘要

當代世界其中一個重大道德爭議是，以基因科技改造人性應否進行。一些平常學術著作不討論這類問題的西方哲學家（如 Habermas, Fukuyama, Sandel）也紛紛加入討論，可見這問題的劃時代重要性。本文希望透過整理及分析傳統中國思想來看這個道德爭議。直到今天，傳統中醫並不依賴高科技。其中一個原因是《黃帝內經》中的“人與天地相應”這基本看法。然而，醫治病人始終是一個人為行動，而非天地自然所為。如何在一個強調人配合天工的思維框架中為醫者的人工行為辯護，是明清時期不少醫學哲學所討論的議題。《黃帝內經》原與《周易》及《老子》皆有相通之處，到明清時期，由於儒醫的大量出現，及朱子理學的官學地位，很多儒化（理學化）的中醫哲學便冒現。透過“人補造化”、“人補天之缺陷”、“人補天功”、“人挽回天”等新瓶，承載《中庸》的人參贊天地化育的舊酒。本文會嘗試說明這個中醫哲學的天人觀，蘊涵支持基因科技的治療用途，但不蘊涵支持基因科技的優生用途。本文的用意並非要提供一個決定性或最終的論證，終極地反駁所有贊成基因改造人性的論證。本文所起的作用，只在提供一個非西方式的思考方法，以傳統儒化中醫哲學為資源，協助人類以多元文化角度思考當代重大道德爭議。

目錄

Who has the Right of Informed Consent? A Study in the View of Confucian Ethics**Yang Tongwei and Feng Zhangqi****Abstract**

Informed consent has been a core principle endorsed by modern Western medical ethics. It involves patient-physician relationship as well as family relationship. It has been a focus of debates since it was introduced to the Chinese world whether informed consent is agreeable to the cultural ethos of China, and if not, whether it can be applied transculturally. The essay first discusses three principles in the policy of informed consent: 1. the principle of individual autonomy; 2. the principle of non-maleficence; and 3. the principle of effectiveness. Then the essay explores the issue informed consent within the framework of the Confucian concept of family and family values, indicating that in Confucian ethics, the idea of “harmony in diversity” acknowledges the importance of individuality whereas the notion of reciprocal relationship emphasizes the interconnectedness of everyone in family and society at large. The essay suggests that we should always look for a balanced point between the right of the patient and the duty of the physician, and between the interest of an individual person and the interest of the family as a unit.

Table of Contents

Abstract

The informed consent has been practiced as a clinical and ethical principle for many years in China. With the traditional emphasis on the importance of the family as a whole as well as the hierarchical social structure there is a strong ethic of indebtedness and obligations for one family member to others. Within this moral framework there is a special need for evoking a sense of self-restraint and communal responsibility towards the well-being of a family instead of an individual. As a result, the implementation of the informed consent in China sometimes takes a different direction. The essay intends to explore how traditional values systems, namely Confucianism, Daoism, Buddhism influence the way the informed consent is interpreted and practiced. The essay has offered several specific medical cases to show the difficulties in excising the principle of informed consent due to an absence of individual autonomy needed for a general requirement of competency and a lack of public medical information. In the end of the paper the author also discusses the possibility of “modernizing” traditional ethics.

Family Consent in Organ Donation: Confucian Ethics and Its Contemporary Application

Wang Mingxu, Zhang Wen and Wang Xueliang

Abstract

Organ donation is the gift of an organ to help someone else who needs a transplant. Hundreds of people's lives are saved each year by organ transplants. Yet the question remains: Who should give the priority in terms of donation procedures - the individual feels a strong, personal commitment to offering his/her organ or the legal next-of-kin, i.e., the priority order of the family members? This has been greatly debated bioethical issue in China in recent years. Rather than emphasizing the right of an individual to decide what will happen after they die, or removing the burden of making a decision about organ donation from families dealing with the traumatic death of a loved one, the policy of family consent indicates the significant role of family in making the decision. That is to say, the consent, or lack of objection, of those closest to the patient is always sought before organs can be donated. The family involvement could avoid discomfort with the process on the one hand, but also cause conflicts when there is a disagreement between the donor and family members on the other.

The essay focuses its discussion on the context and impacts of the "Rules regarding Organ Transplant" implemented in China since 2007. Then, it turns to traditional Confucian ethics to talk about the meaning of life and Confucian concept of family to show that Confucianism would support the idea of organ transplant. To prove the claim, the essay offers two recent examples of organ donation. Finally the essay points out that organ transplant should be advocated but the rules should be tighten in order to prevent unqualified doctors and profit-hungry hospitals from abusing patients and organ donors.

Table of Contents

Abstract

The problem of organ transplantation is an important issue in contemporary bioethics. From the vantage point of view of benefiting the human life, organ transplantation can be seen as life-saving technology and a sign of a great progress of medical science. Nevertheless, organ transplantation involves profound ethical dimensions and ambiguities. The essay offers a study of organ transplantation from the perspective of Pure Land Buddhism. The author employs the Buddhist theories such as dependant origination, karma, reincarnation, and compassion to approach issues regarding cadaver organ transplantation, brain death, xeno-transplantation, and organ trading. Since Buddhist tradition holds the view that the consciousness does not leave the body that is pronounced dead immediately, it would be a problem if the organ is removed from “the dead,” which might interrupt the final destination of rebirth. The essay concludes that organ transplantation is a kind of human technology that violates the basic spirit of Buddhism.

The Construction of Contemporary Science and Technology Ethics: A Confucian Perspective

Shen Xiuqin and Yang Tongwei

Abstract

We live in an age of unprecedented human mastery -- over birth and death, body and mind, nature and human nature. The rapid pace of scientific and technological development is not always matched by the ethical considerations within wider society on the impacts of such development. Very often, technological progress such as organ transplants and genetic engineering is not always ethically acceptable. Meanwhile, traditional ethical values also face great challenges. Contemporary science and technology ethics re-examines the ethical issues by which we live and asks the question: do we have in place the ethical guidelines through which we can incorporate these developments with the minimum of disruption and disaffection?

The essay attempts to address the science and technology ethics with the framework of Confucianism. Some Chinese scholars tend to hold the view that Confucianism is incompatible with the contemporary discourse in terms of bioscience, biotechnology and bioethics. The author, however, argues that we should employ the existing ethical systems, Confucianism for example, to approach the problems, and thus come up with a new perspective to look at technological applications in terms of engineering processes and products, bioethics and informatics, and our environmental responsibilities. It is the author's view that the Confucian life philosophy in terms of "benevolence," "respecting life," and the "unity of heaven and humans" will redirect our attention from purely human-centered interests to a more balanced concern via a harmony between self and other, humans and nature.

Table of Contents

Abstract

"Mermaid" syndrome is a rare medical condition in which an infant is born with his/her legs fused together from trunk to heels. "Mermaid" syndrome is almost always fatal within days of birth due to serious defects in vital organs and complications associated with abnormal kidney and bladder development. In 2006 a male baby with a "mermaid" syndrome was born in the Hunan Provincial Children's Hospital in central China. Doctors tried to keep the baby alive with all kinds of means, even though the baby had a slim chance to survive. The case gives rise to a heated debate concerning the bioethical issues such as the quality of life, right to life, health disparities, the distribution of medical resources, and the practice of euthanasia.

In this essay, the author discusses the ethical dilemma involved in the case of the "Mermaid Baby." She asks the question whether it can be justified to save the life of the little baby, acknowledging that he could die at any time and the quality of his life was low even if he could survive. Some media criticized the hospital for making a scene while other blame that the hospital abused the medical resources that could be better used for saving life of many other babies who badly need medical treatment and have better chances to survive. Meanwhile, the author turns to traditional moral systems, particularly Confucianism for alternative solutions. At the end of the paper, the author argues that environmental protection is the real issue given that there are about 500,000-600,000 babies with birth defects every year in China.

Abstract

As a dominant cultural tradition in China, Confucianism has greatly influenced the Chinese medical ethics. From the view point of Confucian ethics, medicine is the “art of benevolence” (*renshu*). For a Confucian, Confucianism and medicine share the same principle. The concept of the patients-first is deeply rooted in the Confucian ethical system in which the “virtue of a doctor” (*yide*) is a primary concern in medical professionalism. The essay first discusses the major three principles of professionalism presented by “The Declaration of Medical Professionalism in the New Century,” and attempts to deal with the limitations of the Declaration by introducing Confucianism with respect to healthcare professionals and a doctor-patient relationship.

The essay explains that the Confucian principle of care for others determines that Confucians take human relationship very seriously in their dealing with the health issue, since they understand that a person’s health is deeply affected by, and in turn affects, other people. Therefore, the rule of individual autonomy as well as individual right emphasized in the West should not be taken as the only legitimate one in dealing with medical issues. More importantly, the essay argues that the Confucian physician considers medical practice as benevolent action and thus it is more than medical professionalism.

Confucianized Philosophy of Chinese Medicine and The Moral Controversy on Genetic Enhancement of Human Beings

Lo Ping-cheung

Abstract

Traditional Chinese Medicine (TCM), even in modern time, does not rely on high technology. This is partly due to TCM's worldview in which the oneness of human beings with nature is of paramount importance. But this non-reliance on high technology does not prevent TCM thinkers from recognizing that healing is still an artificial act. A philosophical justification for this artificiality within the worldview of human-nature oneness is needed. Such philosophical justifications became more frequent in the Confucianized medicine manuals of the Ming and Qing Dynasties (1368-1644, 1644-1911 C.E.). This paper surveys and analyzes these seldom-discussed medical-philosophical writings and attempts to articulate a representative Confucian philosophical justification for “human intervention into nature” in the practice of TCM. Both the necessity and the moral limits of this intervention will be noted. I shall then argue that such a worldview of “limited human intervention into nature” is significantly different from that of the modern West since Francis Bacon, which informs some contemporary Western enthusiastic advocate of the genetic enhancement of human beings. This model will then serve illustrating an Asian way of thinking about science, technology, and values which is very different from a significant western paradigm.

Table of Contents