

saporin resulted in a complete disruption of ejaculatory behavior. In contrast, other components of sexual behavior remained intact. These results suggest that this population of spinothalamic cells plays a pivotal role in generation of ejaculatory behavior and may be part of a spinal ejaculation generator.

Published online September 5, 2002

**Little Evidence for
Developmental Plasticity of
Adult Hematopoietic Stem Cells**

Amy J. Wagers et al.

To rigorously test the *in vivo* cell fate specificity of bone marrow (BM) hematopoietic stem cells (HSCs), we generated chimeric animals by transplantation of a single green fluorescent protein (GFP)-marked HSC into lethally irradiated nontransgenic recipients. Single HSCs robustly reconstituted peripheral blood leukocytes in these animals, but did not contribute appreciably to nonhematopoietic tissues, including brain, kidney, gut, liver, and muscle. Similarly, in GFP⁺:GFP⁻ parabiotic mice, we found significant chimerism of hematopoietic but not nonhematopoietic cells. These data indicate that "transdifferentiation" of circulating HSCs and/or their progeny is an extremely rare event, if it occurs at all.

**JOURNALS IN
PHILOSOPHY AND
THEOLOGY**

**American Journal of
Bioethics**

**Volume 2, Number 1
Winter 2002**

Determining Moral Status

Ronald M. Green

In this chapter, I review some of the background thinking concerning matters of moral status that I had developed in previous years and that I would not bring to the work of the Human Embryo Research Panel. Two ideas were at the forefront of my thinking. First, that biology usually offers not decisive "events" but only continuous processes of development. Second, in making status determinations, we do not so much "identify" a point on a developmental continuum where moral respect should be accorded as "choose" that point. These choices are "balancing decisions" in which the community of moral agents weighs its interests in protecting an entity against the burdens of doing so. After illustrating these two contentions, I consider some of the reasons why thinkers on the "right" and "left" of our bioethics debates have resisted or missed this basic insight.

Ditching Religion and Reality

Richard M. Doerflinger

During deliberations of the National Institutes of Health (NIH) Human Embryo Research Panel in 1994, the panel chairman would refer dismissively to critics who believe human beings are animated by a “divine spark.” Other panel members used the phrase “yuck factor” as shorthand for the outrage their proposals might provoke in Americans not sharing their advanced views—especially Americans who receive moral guidance from their religious faith.

In this issue panel member Ronald Green (2001) gives more substance to this cultured distaste for religion. He says that religious influence has “obscured” the objective reality that—not to put too fine a point on it—our moral choices in this area do not depend on an objective reality.

**Questions Concerning
the Current Stem Cell Debate**

Kevin T. FitzGerald

Religion is one sphere of human society wherein such questions have received serious attention and reflection. Green’s slant on the negative role of religion in this public discourse does not do justice to the wisdom regarding the human condition, or the methodologies for balanced decision-making processes, to be found in our religious traditions. Considering the significant proportion of people around the world whose lives are deeply informed by their religious traditions, we need a thorough and balanced integration of the insights from religious experience and scientific, philosophical, and other knowledge in order to truly have the kind of balanced and inclusive public discourse Green rightly proposes.

**American Journal of
Law & Medicine**

**Volume 28, Numbers 2 & 3
2002**

**Protecting the Endangered Human:
Toward an International Treaty Prohibiting
Cloning and Inheritable Alterations**

*George J. Annas, Lori B. Andrews,
and Rosario M. Isasi*

In this article we discuss human cloning and inheritable genetic alterations from the human species perspective, and suggest language for a proposed international “Convention of the Preservation of the Human Species” that would outlaw efforts to initiate a pregnancy by using either intentionally modified genetic material or human replication cloning, such as through somatic cell nuclear transfer. We summarize international legal action in these areas over the past five years, relates these actions to arguments for and against a treaty, and concludes with an action plan.

The Routinization of Prenatal Testing

Sonia Mateu Suter

This article outlines the history and evolution of genetic testing, especially issues that arise with testing of late-onset conditions and reviews recommendations that have been made to address these concerns. The article describes the routinization of prenatal testing and screening and the role that health-care professionals, patients, society, and the legal profession have played in this process and describes how the routinization has impoverished the informed consent process. The article concludes by exploring some of the broader social implications of routinization, suggesting that in diminishing the

informed consent process, it contributes to an inability to discuss the moral dimensions of reproductive technology today and in the future.

**Informed Consent in the Military:
Fighting a Losing Battle
Against the Anthrax Vaccine**

Ruth K. Miller

This note discusses the history of the anthrax vaccine and soldiers' concerns regarding it, based on rumors of side effects and distrust of the Pentagon's health-related decisions. The note examines the history of informed consent and the right to refuse treatment generally and then the military employment contract and the purposes behind it. The note discusses potential charges against soldiers who refuse the vaccine as well as potential defenses soldiers could employ in their argument, ultimately concluding that they cannot succeed.

Bioethics

**Volume 16, Number 5
September 2002**

Supporting Irrational Suicide

*Valerie Gray Hardcastle
and Rosalyn Walker Stewart*

In this essay, we present three case studies which suggest that sometimes we are better off supporting a so-called irrational suicide, and that emotional or psychological distress—even if medically controllable—might justify a suicide. We underscore how complicated these decisions are and how murky a physician's moral role can be. We advocate a

more individualized route to end-of-life care, eschewing well-meaning, principled generalizations in favor of a highly contextualized, patient-centered approach. We conclude that our Western traditions of promoting reasoned behavior and life themselves may at times be counterproductive.

**Developing World
Bioethics**

**Volume 2, Number 1
May 2002**

**Commodification of Human Tissue:
Implications for Feminist
and Development Ethics**

Donna Dickenson

Although most of the ethical debate has focused on the status of the embryo, this is to define ethics with no reference to global or gender justice. There has been little or no debate about possible exploitation of women, particularly of ovum donors from the South. Countries of the South without national ethics committees or guidelines may be particularly vulnerable: although there is increasing awareness of the susceptibility of poorer countries to abuses in research ethics, very little has been written about how they might be affected by the enormously profitable new technologies exploiting human tissue. Even in the U.K., although the new Medical Research Council guidelines make a good deal of the "gift relationship," what they are actually about is commodification. If donors believe they are demonstrating altruism, but biotechnology firms and researchers use the discourse of commodity and profit, we have not "incomplete commodification" but complete commodification with a plausibly human face.

**Eubios Journal of Asian
and International Bioethics**

**Volume 12, Number 4
July 2002**

**ES Cells
and the Definition of an Embryo**

Richard M. Lebovitz

Like Lewis Carroll's Humpty Dumpty, politicians want to believe that they are masters of the words they use, and that words can be defined to suit their whims. This strategy appears to have driven the U.S. President George Bush's announcement on August 6, 2001, that the U.S. federal government would fund work on human embryonic stem (ES) cells, despite a legislative ban on human embryo research. Because the law prohibits federally-funded scientists from experimenting with embryos, the only way stem cell research could go forward with federal funding would have been to define "embryonic stem cell" in such a way that it would not be considered an embryo under the research prohibition, or to change the law to plainly exclude them. The President has no power to rescind a law without congressional action, but he could, and did, avoid it altogether by adopting a definition of "embryo" that excluded embryonic stem cells. Whether this was scientifically correct or simply political wordplay was ignored in the debates that have since surrounded the President's decision. What is troubling is that the Bush policy ignores research that embryonic stem cells from other mammals can under the appropriate conditions form fully viable embryos, capable of being born, making it difficult to accept the Bush administration's logic that human ES cells are not human embryos.

Health Progress

**Volume 83, Number 5
September–October 2002**

**Emergency Contraception
and Sexual Assault**

*Ronald P. Hamel, Ph.D.
and Michael R. Panicola, Ph.D.*

Sexual assault is an egregiously violent act that inflicts unspeakable trauma upon the person assaulted. This trauma is exacerbated for women, particularly those of reproductive age, who may become pregnant as a result of the assault. In the face of such violence and because of their fundamental commitments, Catholic health care providers should offer compassionate and understanding care focused on the person's physiological, psychosocial, and spiritual well-being; collect forensic evidence for police support and possible identification of the assailant; and, when the person is a woman, provide every moral means of preventing conception from this unjust attack for which she is in no way responsible. Although it is never permissible for Catholic health care providers to terminate an established pregnancy or administer medications that "have as their purpose or direct effect the removal, destruction, or interference with the implantation of the fertilized ovum," Catholic teaching allows for the administration of emergency contraception within certain moral limits. Measures taken to prevent conception in such cases fall outside the general prohibition against contraception because the assailant's act is a violation of justice, and any semen within the woman's body is considered a continuation of the unjust aggression against which she may licitly defend herself.

**Issues in
Law & Medicine**

**Volume 18, Number 1
Summer 2002**

**The Importance of Being Dead:
Non-Heart-Beating Organ Donation**

Jerry Menikoff, M.D., J.D.

There is no definitive answer to the question of how long one must wait, after a person's heart stops beating, before concluding that the person meets the heart-lung criteria for death. This question has assumed new importance with attempts to remove transplantable organs from people declared dead using those criteria. An examination of the legal definition of death suggests that organs are indeed being procured from some of these people prior to their being legally dead. Moreover, the fact that the donors have consented to these procedures does not eliminate reason for concern regarding this state of affairs, since patient autonomy must at times be overridden in pursuance of important social goals.

**Is Organ Procurement
Causing the Death of Patients?**

James M. DuBois, Ph.D., D.Sc.

This article offers a philosophical foundation for the Uniform Determination of Death Act as it first examines death *per se*, and then examines brain death and the non-heart-beating-donor criteria for determining death. The author suggests that many of the debates over death can be bypassed by changing the terms of the debate: what matters is not whether death is a process or an event, but death as a state. Understanding death as a state allows us to determine death in a functional manner that is compatible with the needs of law and medicine. The second part examines objects that arise from ignoring or rejecting the distinction between killing and

letting die and the principle of double effect. By clarifying the lines between life and death, on the one hand, and between intentionally killing and unintentionally hastening death, on the other, the author hopes to restore a sense that the proposals to drop the dead-donor rule are radical recommendations to cross lines we have never crossed before.

**European Court of Human Rights: Case of
*Pretty v. The United Kingdom***

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of: Mr. M. Pellonpaa, President, Sir Nicolas Bratza, Mrs. E. Palm, Mr. J. Makarczyk, Mr. M. Fischbach, Mr. J. Casadevall, Mr. S. Pavlovski, judges, and Mr. M. O'Boyle, Section Registrar, Having deliberated in private on March 19 and April 25, 2002, delivers the following judgment, which was adopted on the last-mentioned date.

**Journal of Contemporary
Health Law and Policy**

**Volume 18, Number 1
Winter 2001**

**Federal Funding of Human Embryonic
Stem Cell Research:
Illegal, Unethical and Unnecessary**

Susan E. Wills

The discussion that follows will address these three propositions—that such research is illegal, unethical, and unnecessary—in turn, before exploring two final points: the teaching of the Catholic Church concerning destructive human embryo research, and the decision of President George W. Bush to fund research using cell lines derived by destroying human embryos prior to 9 p.m. EDT, August 9, 2001.

A Case for Federal Funding of Human Embryonic Stem Cell Research: The Interplay of Moral Absolutism and Scientific Research

Robert E. McGough

While it is true that absolutism can be attributed to either side in this conflict, it is erroneous to claim that there exist only two views with regard to the morality and ethics of embryonic stem cell research. The truth is that there are a myriad of differences in interpretations of the ethical and moral implications set forth with regard to this research. Those differences should be taken into account and carefully weighed as we, as a society, move forward. The best way to ensure that is through full federal funding, which will not only promote the research to its scientific fruition, but will provide also for public oversight in an area that desperately requires it. President Bush's policy falls far short of this desirable aim. Despite the ferocity of the debate, legally, morally, and ethically, federal funding for stem cell research is well supported, and is the right path to a healthier civilization.

To Tell or Not to Tell: The Scope of Physician-Patient Confidentiality When Relatives Are at Risk of Genetic Disease

Andrea Sudell

This Comment argues that patient confidentiality is not absolute and that disclosure to third parties is permissible under certain circumstances. Part I provides an overview of genetic testing. Part II discusses case law and state statutes concerning the conflict between physician-patient confidentiality and the conflicting duty to warn. Part III reviews the confidentiality requirement specifically with respect to genetic information. Part IV proposes guidelines for circumstances when disclosure by the physician to the patient's relatives is warranted. This Comment concludes that a physician's privilege to warn third parties about a patient's genetically transferable disease extends to some

cases where relatives are at risk. In deciding whether to disclose, a physician must weigh the harm of failing to disclose against the harm of disclosure. This balancing should be employed on a case-by-case basis.

Fitting a Square Peg in a Round Hole: Why Traditional Tort Principles Do Not Apply to Wrongful Birth Actions

Paula Bernstein

A clinical instructor asks his students to advise an expectant mother on the fate of a fetus whose father has chronic syphilis. Early siblings were born with a collection of defects such as deafness, blindness, and retardation. The usual response of the students is: "Abort!" The teacher then calmly replies: "Congratulations, you have just aborted Beethoven."

**Journal of
Medical Ethics**

**Volume 28, Number 4
August 2002**

**The Role of the Church
in Developing the Law**

L. Skene and M. Parker

The church and other community organizations have a legitimate role to play in influencing public policy. However, intervention by the church and other religious bodies in recent litigation in Australia and the United Kingdom raises questions about the appropriateness of such bodies being permitted to intervene directly in the court process as amici curiae. We argue that there are dangers in such bodies insinuating their doctrine under the guise of legal argument in civil proceedings, but find it difficult to enunciate a principled distinction between doctrine and legal argument. We advise that judges should

exercise caution in dealing with amicus submissions.

Commentary on Skene and Parker: The Role of the Church in Developing the Law

L. Gormally

Skene and Parker are demonstrably mistaken in suggesting that the amicus role of Catholic bishops in three cases has been concerned with “developing” the law. In contrast with Skene and Parker’s freestanding conception of legal principle, the Catholic understanding of law’s rational moral foundations has permitted Catholic bishops to defend longstanding legal principle as well as defending the integrity of the church’s health care and welfare services. It is shown that in the three cases under discussion Catholic bishops were providing needed argument otherwise unavailable to the courts in defence of existing statute. In face of the attempts by pressure groups to bypass the legislature and use the courts to subvert fundamental legal principles, the church is perhaps uniquely capable of continuing to provide to the courts rational defenses of those principles.

The Case of Ms. B: Suicide’s Slippery Slope?

J. Keown

In the case of Ms. B, the High Court ruled that as Ms. B was a competent adult patient, her doctors acted unlawfully in overriding her refusal of life-preserving ventilation. This commentary considers whether this case supports the proposition that in English law the right to refuse treatment extends even to refusals which are clearly suicidal.

A Disability Perspective from the United States on the Case of Ms. B

D. Coleman and S. Drake

This article will examine the case of Ms. B, a woman with tetraplegia for a year, who, prior

to rehabilitation or return to community life, sought a ruling that doctors may turn off her ventilator. The authors are people with disabilities. Their analysis focuses on the manner in which the High Court (a) framed the case in terms of mental capacity, (b) addressed the issue of suicide and ambivalence, and (c) resolved informed consent and treatment alternative issues. While the disability community in the U.S. does not oppose the general right to refuse treatment, there is significant concern about lack of informed consent and denial of desired treatment alternatives, and the cavalier manner in which these factors have been dismissed.

**Journal of
Medicine and Philosophy**

**Volume 27, Number 3
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**Therapeutic Cloning: From Consequences
to Contradiction**

Marilyn E. Coors

The British Parliament legalized therapeutic cloning in December 2000 despite opposition from the European Union. The watershed event in Parliament’s move was the active and unprecedented government support for the generation and destruction of human embryonic life merely as a means of medical advancement. This article contends that the utilitarian analysis of this procedure is necessary to identify the real-world risks of therapeutic cloning but insufficient to identify the breach of defensible ethical limits that this procedure represents. A value-oriented approach to Kantian ethics demonstrates that the utilitarian endorsement of therapeutic cloning entails a contradiction of the necessity of human vulnerability and a faulty valuation of the human embryo. The concern is that a narrow utilitarian focus ultimately

commodifies human embryonic life and preferences outcomes as the sole determinant of moral value.

**Human Cloning:
Three Mistakes and an Alternative**

Françoise Baylis

The current debate on the ethics of cloning humans is both uninspired and uninspiring. In large measure this is because of mistakes that permeate the discourse, including the mistake of thinking that cloning technology is strictly a reproductive technology when it is used to create whole beings. As a result, the challenge this technology represents regarding our understanding of ourselves and the species to which we belong typically is inappropriately downplayed or exaggerated. This has meant that important (albeit disquieting) societal issues and species-type concerns have not been fully explored. This paper, intended as a corrective, suggests that we take an alternate view of human cloning as both an enhancement and a reproductive technology. This proposed shift in the framework for analysis counters the current narrow framing of the issues and introduces new questions about the prospect of modifying the species.

Extending the Human Lifespan

John Harris and Søren Holm

This paper argues that a precautionary approach to scientific progress of the sort advocated by Walter Glannon with respect to life-extending therapies involves both incoherence and irresolvable paradox. This paper demonstrates the incoherence of the precautionary approach in many circumstances and argues that with respect to life-extending therapies, we have at present no persuasive reasons for a moratorium on such research.

**Journal of
Religion & Health**

**Volume 41, Number 2
Summer 2002**

Toward a More Natural Medicine

Patrick Guinan

Modern science and culture attempt to dominate and control nature. Unfortunately contemporary medicine has followed this lead. Traditionally religion has recognized the order and goodness in the natural order and has encouraged followers to comply with the rules of nature. Medicine, from Hippocratic times, has viewed the physician as an assistant to nature. Contemporary medicine, while employing modern science, would be well advised to also recognize the healing effects of religion's admonition to acknowledge and respect the wisdom of nature.

**Kennedy Institute of
Ethics Journal**

**Volume 12, Number 1
March 2002**

**Pharmacogenetics:
Ethical Issues and Policy Options**

Allen Buchanan et al.

Pharmacogenetics offers the prospect of an era of safer and more effective drugs, as well as more individualized use of drug therapies. Before the benefits of pharmacogenetics can be realized, the ethical issues that arise in research and clinical application of pharma-

cogenetic technologies must be addressed. The ethical issues raised by pharmacogenetics can be addressed under six headings: (1) regulatory oversight, (2) confidentiality and privacy, (3) informed consent, (4) availability of drugs, (5) access, and (6) clinicians' changing responsibilities in the era of pharmacogenetic medicine. We analyze each of these categories of ethical issues and provide policy approaches for addressing them.

**Paying for Kidneys:
The Case against Prohibition**

Michael B. Gill and Robert M. Sade

WE argue that healthy people should be allowed to sell one of their kidneys while they are alive—that the current prohibition on payment for kidneys ought to be overturned. Our argument has three parts. First, we argue that the moral basis for the current policy on live kidney donations and on the sale of other kinds of tissue implies that we ought to legalize the sale of kidneys. Second, we address the objection that the sale of kidneys is intrinsically wrong because it violates the Kantian duty of respect for humanity. Third, we address a range of consequentialist objections based on the idea that kidney sales will be exploitative. Throughout the paper, we argue only that it ought to be legal for an individual to *receive payment* for a kidney. We do not argue that it ought to be legal for an individual to *buy* a kidney.

**Volume 12, Number 2
June, 2002**

**Conjoined Twins and Catholic Moral
Analysis: Extraordinary Means and
Casuistical Consistency**

M. Cathleen Kaveny

This article draws upon the Roman Catholic distinction between “ordinary” and “extraor-

dinary” means of medical treatment to analyze the case of “Jodie” and “Mary,” the Maltese conjoined twins whose surgical separation was ordered by the English courts over the objection of their Roman Catholic parents and Cormac Murphy-O'Connor, the Roman Catholic Cardinal Archbishop of Westminster. It attempts to shed light on the use of that distinction by surrogate decision makers with respect to incompetent patients. In addition, it critically analyzes various components of the distinction by comparing the reasoning used by Catholic moralists in this case with the reasoning used in other cases that raise similar issues, including women facing crisis pregnancies who prefer abortion to adoption and the Indiana “Baby Doe” case.

The Ethics of Human Stem Cell Research

Gene Outka

The medical and clinical promise of stem cell research is widely heralded, but moral judgments about it collide. This article takes general stock of such judgments and offers one specific resolution. It canvasses a spectrum of value judgments on sources, complicity, adult stem cells, and public and private contexts. It then examines how debates about abortion and stem cell research converge and diverge. Finally, it proposes to extend the principle of “nothing is lost” to current debates. This extension links historic discussions of the ethics of direct killing with unprecedented possibilities that in vitro fertilization procedures yield. A definite normative region to inhabit is located within a larger range of rival value judgments. The creation of embryos for research purposes only should be resisted, yet research on “excess” embryos is permissible by virtue of an appeal to the “nothing is lost” principle.

Linacre Quarterly

**Volume 69, Number 2
May, 2002**

**The New Reproductive Technologies: An
Overview and Theological Assessment**

John S. Grabowski, Ph.D.

This paper will examine the reasons for the Church's teaching on reproductive technologies from the standpoint of moral theology. Against widespread popular perceptions, I will argue that this opposition is neither arbitrary nor inconsistent, but rather flows from a profound insight into the nature of life, the human person, and the gift of sexuality. In the first part of this paper, I will examine some of the foundational theological perspectives which underlie the Church's teaching. In the second part, I will describe some existing and potential reproductive technologies and apply these perspectives to them in the form of moral evaluation.

Nursing Ethics

**Volume 9, Number 4
July 2002**

**What Matters to the Parents?
A Qualitative Study of Parents'
Experiences with Life-and-Death
Decisions Concerning
their Premature Infants**

*B.S. Brinchmann, R. Førde,
and P. Nortvedt*

The aim of this article is to generate knowledge about parents' participation in life-and-

death decisions concerning their very premature and/or critically ill infants in hospital neonatal units. The question is: what are parents' attitudes towards their involvement in such decision making?

The findings appear to indicate that parents agree that they should not have the final word in decisions concerning their infants' future life or death. Such a responsibility would put too heavy a burden on parents who lack the medical knowledge and the professional experience needed to make such a decision, and would be likely to lead to them experiencing strong feelings of guilt. The findings show that parents should be well informed and listened to during the whole decision-making process. Their primary concern was how nurses and physicians communicate with parents who are experiencing a crisis, and how this serious information is presented.

The Thomist

**Volume 66, Number 2
April, 2002**

**The Metaphysics of Chaos: A Thomistic
View of Entropy and Evolution**

Wojciech P. Grygiel, F.S.S.P.

This essay will argue for the compatibility of the second law of thermodynamics with Thomistic metaphysics, showing that in the extrapolated limit of its applicability, the law exhibits a radical discontinuity and implies a resolution to a threshold of utter metaphysical simplicity. Since this accords analogically with divine simplicity, the second law proves to be consistent with the existence of God as the ultimate cause of the universe.

**Jean Porter on Natural Law:
Thomistic Notes**

Lawrence Dewan, O.P.

Porter rightly states that the natural world is the expression of divine wisdom. However, her claims that for the medieval scholastics morality is “desacralized” and that it “is not in itself a medium of transcendence” are not warranted. If “morality” is taken to mean a purely natural sort of life, it does not include the sort of transcendence that is supernatural beatitude; but that is not the only acceptable meaning of “transcendence.” The entire ethics of Thomas Aquinas rests on the doctrine that nature is a cause that acts for an end, and that applies to “nature” in the metaphysical sense.

fect allowing doctors to regulate themselves on social issues where the government and judiciary ought to have a greater role. The Conclusion argues that courts should be less passive about adopting the doctor-centered view of medical regulation embodied in the Hippocratic Oath, because reliance on the Oath in its classic form enacts that document’s devaluation of patients, and even reliance on more modern, patient-centered versions unduly privileges medical approaches to social issues.

Zygon

**Volume 37, Number 3
September 2002**

**In Search of a God for Evolution: Paul
Tillich and Pierre Teilhard de Chardin**

John F. Haught

Pierre Teilhard de Chardin challenged theology to reach for an understanding of God that would take into account the reality of evolution. Paul Tillich’s notion of New Being goes a long way toward meeting this challenge, and a theology of evolution can gain a great deal from Tillich’s religious thought. But Teilhard would still wonder whether the philosophical notion of *being*, even when qualified by the adjective *new*, is itself adequate to contextualize evolution theologically. To Teilhard, a theology attuned to a post-Darwinian world requires nothing less than a revolution in our understanding of what is ultimately real. It is doubtful that Tillich’s rather classical theological system is radical enough to accommodate this requirement. For Teilhard, on the other hand, a metaphysics grounded in the biblical vision, wherein God is understood as the future on which the world rests as its sole support, can provide a more suitable setting for evolutionary theology.

**Yale Journal of
Policy, Law, and Ethics**

**Volume 11, Number 2
Spring 2002**

**The Hippocratic Oath as Literary Text:
A Dialogue Between Law and Medicine**

Lisa R. Hasday, J.D.

Part I provides a brief overview of the Oath’s history, which points to the Oath’s capacity to distinguish and legitimize the medical profession. Part II examines the text of the Hippocratic Oath, analyzing the ways in which the Oath places much more emphasis on the physician than on the patient. Part III demonstrates how leading court opinions on abortion regulation, medical treatment of mentally ill prisoners, physician-assisted suicide, and physician involvement in administering the death penalty incorporate the Oath’s emphasis on doctors over patients even as they flout some of the Oath’s specific prohibitions. It also explores how courts have deferred to the modern medical profession’s view—in ef-

**From *Agape* to Organs: Religious
Difference between Japan and America
in Judging the Ethics of the Transplant**

William R. LaFleur

This essay argues that Japan's resistance to the practice of transplanting organs from persons deemed "brain dead" may not be the result, as some claim, of that society's religions being not yet sufficiently expressive of love and altruism. The violence to the body necessary for the excision of transplantable organs seems to have been made acceptable to American Christians at a unique historical "window of opportunity" for acceptance of that new form of medical technology. Traditional reserve about corpse mutilation had weakened and, especially as presented by the theologian Joseph Fletcher, organ donation was touted as both expressive of *agape* and a way of "updating" Christianity via the ethics of utilitarianism. Many Japanese, largely Buddhist and Confucian in their orientation, view these changed valorizations as neither necessary nor patently more ethical than those of their own tradition.