Life of Living Law in Indonesia," revealing problematic tensions among precolonial *adat* law, Islamic law, and colonial state law.

The fourth and final part of *Living Law* invites readers to consider the abiding significance of Ehrlich's work. Jeremy Webber's chapter, "Naturalism and Agency in the Living Law," resists the temptation to naturalize nonstate norms as if they emerged harmoniously and spontaneously; he emphasizes instead the ongoing process of articulating and deliberating upon norms, especially under conditions of legal pluralism and conflict. In "World Society, Nation State and Living Law in the Twenty-First Century," Klaus A. Ziegert invites readers to consider the global implications of a living law that is relatively autonomous from the positive laws of nation-states; such a living law is not limited to the local but may also emerge from the cosmopolitan associations of world society. Finally, David Nelken invites readers to consider "Ehrlich's Legacies: Back to the Future in the Sociology of Law?" In part, this is an examination of contemporary Luhmannian appropriations of Ehrlich, but it also offers a broader readership some illustrations of normative ordering in contemporary global associations largely uncoupled from the nation-state: the *lex mercatoria* and the various emergent codes indigenous to the virtual communities of cyberspace.

This book is not for every taste. The essays in *Living Law* have a more jurisprudential flavor than most of the American law and society literature. I would not recommend this volume as an introduction to Ehrlich. After all, the English-speaking world now has introductions to his *Fundamental Principles of the Sociology of Law* by both Roscoe Pound and Klaus A. Ziegert. But anyone inclined to re/read Ehrlich's *magnum opus* would do well to study Hertogh's collection as a companion volume.

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Choosing Life, Choosing Death: The Tyranny of Autonomy in Medical Ethics and Law. By Charles Foster. Portland, OR: Hart Publishing, 2009. 189 pp. $45.00 paper.

Reviewed by Katharina Heyer, University of Hawai'i at Manoa

> Autonomy grew up as a street fighter, and was blooded in some genuinely noble battles against medical paternalism. But like so many rulers with this sort of pedigree, it has quickly forgotten its democratic roots, and grown fat and brutal in power.
>
> (*Preface*, ix)

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Charles Foster minces no words. *Choosing Life, Choosing Death* is a comprehensive and passionately argued attack against the "tyranny of autonomy" in medical ethics and law. While autonomy has fought the good battle in the patients rights movement, articulating important concepts of informed consent, advance directives, confidentiality and reproductive rights, it has, according to Foster, become an "orthodoxy that is policed with terrifying vigour" (p. 4). He seeks to temper this tyranny with other well-established principles of medical ethics, such as beneficence, nonmaleficence, and justice.

As a barrister and a professor in medical ethics at Oxford University, Foster is uniquely situated to expose the ways that the autonomy principle has been celebrated in the academy but then fails to deliver on its own principles when applied on the ground. It is the lived practice of autonomy that reveals its messy underbelly. This surely is the strength of this slim volume—it is replete with court cases, primarily from the United Kingdom and the European Court of Human Rights, but it also cites landmark cases from the United States, describing the ways that the autonomy principle can obscure the complexities and contradictions of people's own assessment of their best interest and that of their loved ones.

Foster proceeds chronologically, beginning with questions that occur before birth (reproductive autonomy), between birth and death (such as informed consent, confidentiality, capacity, medical research on human participants, advance directives, and physician-assisted suicide), and then ending with questions that occur after death, such as transplants and ownership of body parts. Each question cites landmark cases, demonstrating the great gulf between autonomy on the books (primarily Article 8 of the European Convention of Human Rights) and in action (in the hospital, the genetic database company, the courtroom).

The limits of autonomy are explored in useful detail in the largest section of the book dealing with informed consent, which Foster calls "the fundamentalist heartland of traditional autonomy" (p. 82). Here, he critically examines the practice of giving minors access to reproductive health services without parental consent, the practice of giving medically necessary C-sections to women who had withdrawn their consent, the duty to prevent suicide by prisoners, and the right to sustain serious injury during consensual sadomasochism. Related are issues of capacity (was the woman with the needle phobia refusing the C-section temporarily incapacitated to refuse her consent?) and confidentiality (is there a duty to honor a patient's request for confidentiality not to reveal a genetically carried disease to family members who may be potential carriers?). Medical ethicists have long cast a critical glance on the notion of informed consent—suggesting that what people want most from doctors is the ability to trust them (O'Neill 2002)—and Foster's case studies usefully link readers to this work.

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When it comes to reproductive autonomy, however, Foster's critique is curiously lacking. He begins his attack with a case of two British women claiming a right to reproduce by using stored embryos without their sperm-providing partners' consent (in one case the husband was deceased; in the other case, the ex-boyfriend objected). Invoking both Article 8 (the right to respect for private and family life) and Article 12 (the right to marry and found a family), the women nevertheless failed when facing the competing autonomy rights of the unwilling fathers.

The stakes get even larger when it comes to abortion. Here, Foster takes the law to task for not properly accounting for the status of the fetus (p. 41) and implies that the law gives too much weight to a woman's autonomy in questions of abortion. He assumes that "there is no reason to distinguish between a foetus *in utero* and a child *ex utero*" (p. 52; emphasis in original). Yet he steers clear of an explicit analysis of the moral implications of legal personhood for the fetus (something not recognized by either U.K. or U.S. law), because "the law until now has shown itself wholly unwilling to grapple with . . . anything approaching nuance in the realm of embryonic or foetal life" (p. 42). Instead, Foster paints a woman's autonomy to ethical extremes by using slippery-slope hypotheticals, suggesting that if given a choice, a woman might feel entitled to choose the killing of her son over the grazing of her knee (p. 52). "Autonomy smiles on her decision," he comments wryly, "while everyone else is nauseated" (p. 53).

Surely, autonomy is never absolute and is tempered by other ethical principles, as is Foster's central claim. But why resort to such hypotheticals when there is a rich body of research examining the ways women grapple with autonomy when making decisions regarding abortion? Beginning with Gilligan's (1982) work on ethical decisionmaking and extending to more recent studies (Finer et al. 2005; Shrage 2003), readers learn that these decisions do not encounter a stark "my interests versus that of the fetus" trumping of autonomy claims, but rather a complex negotiation of relational and economic concerns. If Foster's goal is to take ethical considerations of autonomy out of the hands of the academy and portray its lived experience in the courtroom, then his refusal to engage with these studies is problematic.

The literature on end-of-life decisionmaking, which is equally rich in documenting the limits of autonomy (Channick 1999), could have provided a useful backdrop to Foster's discussion of physician-assisted suicide. Thus, readers are left wondering, in the end, how exactly one should temper a respect for autonomy with concerns for justice, nonmaleficence, and beneficence. Despite his impressive list of cases, readers learn very little about the ways these other moral principles should operate, the circumstances in

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which they should trump autonomy, and how this negotiation would unfold in the hospital ward or in the courtroom.

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Reconciliation(s): Transitional Justice in Postconflict Societies. By Joanna R. Quinn, ed. Montreal: McGill-Queen's University Press, 2009. 313 pp. $95.00 cloth.

Reviewed by Lisa J. Laplante, Marquette University

What *is* reconciliation in postconflict settings? This contested question perplexes scholars in the field of transitional justice (TJ), which generally concerns itself with how nations address a past of widespread human rights violations during episodes of violence and the breakdown of the rule of law and democracy. Since its debut some 20 years ago, the discipline of TJ has generated a growing body of literature that continues to outpace the estimated 40 countries that have opted to pursue judicial and nonjudicial mechanisms like truth commissions, reparations, criminal trials, and institutional reform, among other measures, to prevent new cycles of violence (Hayner 2010). Often these articles, books, and chapters examine the theory and case studies of TJ, all the while making passing reference to "reconciliation" as an overarching aim of these national political processes. Conveying grand promises to return societies to "normalcy," reconciliation has become the focal point of the TJ movement (Sarkin & Daly 2004). Yet despite the great deference displayed in the canon of TJ literature, readers are often left puzzling over the exact definition of *reconciliation*. Moreover, despite this lacuna in clarity, few academics venture into this uncharted land of confronting the topic of reconciliation head-on.

For that reason, I was intrigued that Joanna R. Quinn bravely took on the challenge of tackling this daunting ground by making reconciliation the central theme of her edited volume *Reconcilia-*

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