

## ***The Supreme Court and the Legal, Medical, and Ethical Challenges to Execution by Lethal Injection***

**JANUARY 23, 2008**

**LOW LIBRARY FACULTY ROOM  
COLUMBIA UNIVERSITY**

On January 23, 2008, in the Low Library Faculty Room, the Center for Bioethics presented *The Supreme Court and the Legal, Medical, and Ethical Challenges to Execution by Lethal Injection*, a landmark Symposium at Columbia University. The audience was filled with nearly 100 members of the medical, legal, academic, and advocacy communities, with some audience members traveling from distant locations such as California and North Carolina to attend this historic discussion. Dr. Ruth Fischbach introduced the Symposium with an overview of the challenges lethal injection evokes. She then introduced the panel of four speakers, who provided their diverse expertise and knowledge on the legal, medical, and ethical issues involved with the “three-drug” lethal injection protocol and the implications of the groundbreaking US Supreme Court case *Baze v. Rees*. The Kentucky case, through narrow, challenges the Eighth Amendment’s prohibition against cruel and unusual punishment.

Dr. Paul Appelbaum began the Symposium with a discussion titled *The Hippocratic Paradox: The Ethical Conflict Regarding Physician Participation in the Execution Procedure*. Dr. Appelbaum’s detailed presentation analyzed the reasons why physicians elect, or decline, to participate in execution proceedings either in agreement or not with the AMA’s code of ethics and the State medical boards. Dr. Allen Hyman’s informative presentation, *Anesthetic Goals and Confronting Intraoperative Awareness*, explored the history of anesthesia and the ideal protocols borrowed from the practice of anesthesia and applied to the practice of lethal injection. He pointed out how the 3-drug protocol (sedation, paralytic, cardiac arrest) can go awry when a surgical plane of anesthesia is not achieved and the condemned prisoner awakes but is paralyzed by the second paralytic drug. Dr. Hyman’s presentation was complemented by the grisly data and images presented by Dr. Mark Heath in *Report from the Field: The Realities of Lethal Injection*. Dr. Heath’s presentation addressed the pain and suffering endured by condemned inmates when the execution procedure is not carried out as specified due to untrained or incompetent personnel.

Following a lunch break in the Low Library Rotunda, the Symposium resumed with presentations focused on the legal challenges to lethal injection procedures. In *Constitutional (Non) Compliance: A Legal and Legislative History of Judicial Execution by Lethal Injection*, Dr. Deborah Denno explored the complicated and troubling history of lethal injection as it has been addressed in legislation and in case law. Finally, litigator Ginger Anders presented her first-person analysis of the ongoing proceedings at the US Supreme Court in *From the Supreme Court: Baze v. Rees and the Future of Execution by Lethal Injection*.

Each presenter answered questions from the audience following individual presentations. They then converged for an afternoon panel session, integrating aspects of all four presentations in a comprehensive discussion of the legal, medical, and ethical concerns involved in this contentious issue.

In the future, the Symposium will be available for viewing on the Center for Bioethics Web site.