SUPREME COURT RULES ON SUICIDE CASES

The recent 9-0 decision by the U.S. Supreme Court that there is no constitutional right to physician-assisted suicide is welcome news to all supporters of the view that human life is supremely valuable and cannot be compromised by any form of euthanasia. First, it is a resounding victory for opponents of euthanasia to see such a clearly argued and decisive opinion come down in their favor. Second, it is also pleasing that the Court resisted the urge toward judicial activism, so prevalent in recent times, and did not suddenly, and without legal precedent, “discover” a right to commit suicide in the Fourteenth Amendment, the pertinent amendment in this case (as it was in Roe v. Wade). Third, there are also undercurrents in the general reasoning supporting the decision that perhaps suggest that Roe v. Wade continues to trouble the judiciary, and certainly some people regard this latest decision as having the practical effect of weakening the reasoning behind Roe v. Wade.

Two Physician-Assisted Suicide Cases

The Court pronounced judgment in two cases, the State of Washington v. Glucksberg and a case from New York, Vacco v. Quill. Both cases are based on the view that the bans on euthanasia in Washington and New York respectively were unconstitutional and both cases relied on the Fourteenth Amendment: the “equal protection” and “due process” clauses. The equal protection clause says that no state shall “deny to any person within its jurisdiction the equal protection of the laws.” Dr. Timothy Quill, et al., in the New York case, claimed that the law does not treat all persons equally in the matter of fatal illness because those who are on life-supporting systems are allowed to hasten their deaths by removing such systems, while those who are similarly situated, except for the attachment of life-sustaining equipment, are not allowed to hasten death by self-administered drugs. The Washington case primarily emphasized the Planned Parenthood v. Casey decision, which reaffirmed the right to abortion under the Fourteenth Amendment “due process” clause. In this case, the plaintiffs argued that the ban on assisted suicide was unconstitutional because it violates the “existence of a liberty interest protected by the Fourteenth Amendment.”

The Supreme Court rejected both arguments, but it is important to point out that while the Court agreed that there is no constitutional right to physician-assisted suicide, they did not say that physician-assisted suicide is unconstitutional. This is an important conclusion, for it means that the Court has in effect thrown the final decision back to the states. And a state could, in the future, vote to legalize physician-assisted suicide, though any such decision would undoubtedly face a court challenge. (The voters of Oregon did, in fact, pass such an initiative in 1994, but it is currently tied up in the courts).

What is especially interesting to opponents of euthanasia about the decisions is the reasons given in support, because they combine an appeal to legal tradition with some sound reasoning and a good deal of common sense. This is in sharp contrast to the language of the Ninth Circuit Court, which asserted in the Washington case that there is a constitutional right to suicide, but based its reasons mainly on rhetoric, and shamelessly ignored the strong arguments against legalization.

Arguments “In Principle” and Practical

There are two main lines of argument against euthanasia. Both of these arguments are frequently invoked to defend Catholic teaching. First, there is the “in principle” argument. This holds that euthanasia is wrong in principle because human life is sacred, of supreme value, is the most cherished value in human existence, or is inviolable for some similar reason. Under this view, the introduction of euthanasia would compromise and cheapen the value of life. It is important to note that this is not essentially a Catholic or religious argument, since it makes no specific appeal to religious beliefs or principles in its general outline, and since it is an argument accepted by many atheists and secular humanists. The second line of argument against euthanasia is the “practical argument.” This argument is founded on the practical abuses that would inevitably result if euthanasia were to be introduced. It relies on the general point that euthanasia is impractical because it could not be adequately regulated through legislation.

While an opponent of euthanasia usually agrees with both of these arguments, it is obviously possible to be against euthanasia in principle, but to believe that it is a practice which could be adequately regulated through legislation (i.e., to reject the practical argument). It is also possible to be in favor of euthanasia in principle, but against it in practice. This latter position is fairly popular today and is one of the main reasons, I believe, why euthanasia was defeated in several state ballots in recent years. It is also obviously much easier to convince people of the truth of the practical argument than the “in principle” argument.

The Supreme Court decision, as expressed in the majority opinion of Chief Justice William Rehnquist, made reference to the practical argument several times, and focused especially on the possible abuses of legalizing euthanasia. For example, it is not unlikely that euthanasia would soon become linked to the ability to pay for health care, with the poor far more likely to be euthanized than the rich. This point was explicitly mentioned by Justice Rehnquist. It is also very likely that, over time, when euthanasia gains some measure of social acceptance, some terminally ill
people will opt for euthanasia because they perceive an unspoken pressure from their families or from their doctors. Of course, it is inevitable that some people will be directly pressured into euthanasia. It is hard to estimate the mental anguish and increase in misery that would accompany such cases. The Ninth Circuit Court dismissed this concern as "ludicrous on its face." Nonetheless, some members of the medical profession are bound to abuse the practice, as has happened in other countries, most notably Holland. The Chief Justice pointed out that in a recent study by the Dutch Government, it was found that approximately 6,000 people had been euthanized without their explicit consent—a truly shocking statistic. This will always be a temptation for some in the United States, with its already overburdened health care system, which currently leaves some people without even basic care. The Chief Justice also expressed concern over the effect the introduction of physician-assisted suicide would have on the integrity and ethics of the medical profession. Indeed, the American Medical Association has said that "physician-assisted suicide is fundamentally incompatible with the physician's role as healer."

Other reasons given by the Court include a lengthy appeal to American legal tradition, which pointed out that in almost every state—and indeed in every western democracy—it is a crime to assist a suicide. Of course, this is because tradition supports the "in principle" argument. The Court also rejected the argument in the New York case that there is no essential difference between killing and letting die. The majority opinion pointed out that everyone has a right to refuse life-sustaining medical treatment, so it is not true that the law is not being applied equally to all people. The justices also stressed that in "letting die" the doctor's intention is a very important factor. And while the Court and the law undoubtedly go further than the Catholic position—which is that if the doctor sincerely does not intend to kill the patient in turning off a machine or in administering powerful drugs to reduce pain, the action may be moral and justified by the principle of double effect—part of their thinking is clearly sensitive to concerns reflected in the Catholic view.

**Future Prospects of the Ruling**

When we talk of physician-assisted suicide today, we generally mean physician-assisted suicide in the case of a competent, terminally ill, suffering patient. However, if this practice were introduced, it is likely that over time even these conditions would be under pressure. What about a right to die for terminally ill, but not suffering people, or for suffering, but not terminally ill people? And what about incompetent people? Again, the justices pointed out that, as was argued in connection with the Washington case, if suicide is protected as a matter of constitutional right, "every man and woman in the United States must enjoy it." Expansion of its applicability, no matter how tightly defined at the beginning, would seem to be inevitable in subsequent court decisions. This loosening of the law has already happened in other cases in U.S. history, such as abortion and divorce, with corresponding decreases in the value of the unborn and of marriage, respectively.

Considerations like these led the Court to its correct decision, a decision firmly rooted in legal tradition, in common sense, and in respect for the common good. The reality of judicial activism over the past few decades, especially in the *Roe* decision, had many people genuinely worried about the outcome of this case. And on its face, it is odd that the Supreme Court can find a right to abortion in the Fourteenth Amendment but cannot find there a right to physician-assisted suicide. This has led some to wonder if the court is rethinking the principles that led to the *Roe* decision. There are some reasons to support this view, but whether these most recent rulings of the Supreme Court will influence their future decisions on abortion is certainly very hard to predict.

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