In the Matter of Life and Death

Two courts rule that either is your choice

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The movement to legalize physician-assisted suicide has turned a corner. In March, the Ninth Circuit Court of Appeals recognized for the first time the right of a terminally ill person to get help from a doctor in putting an end to suffering by hastening death. A month later, the Second Circuit Court of Appeals issued a similar ruling, invalidating a New York state law that had prohibited physician-aided suicide. As unexpected as they were historic, the two decisions are a major step forward for a society that has long criminalized this act. Courts are beginning to reflect the view not only that the terminally ill have the right to make decisions about their deaths. They are also saying that to withhold assistance in carrying out these decisions effectively denies patients this right and abandons them to prolonged suffering.

The two courts arrived at the same decision, but took different routes to get there. In the first case, *Compassion in Dying v. State of Washington*, the federal appeals court held, first, that the 14th amendment's guarantee of liberty protects the right to determine the time and manner of one's own death. The court then concluded that to the extent a Washington state law barred doctors from prescribing medication to end life for terminally ill, competent adults who had requested it, that state law violated this right.

The Second Circuit Court of Appeals took a different approach. It explicitly rejected the constitutionally protected liberty interest in committing physician-assisted suicide. Relying on the recognized right of the terminally ill to decide whether to accept or reject life-sustaining medical treatment, the federal court of appeals, in *Quill v. Vacco*, said that to allow competent, terminally ill people to refuse treatment that would prolong their lives but to prevent them from accepting treatment that would hasten death serves no rational purpose. Thus, by treating these people differently, it violates the equal protection clause.

The political strife over physician-assisted suicide has begun to come into prominent view. Like the reproductive rights struggle, it involves such profound questions as the extent of personal control over one's body and very personal views of when life begins and ends. On one side of the debate are groups including "right to life" organizations and the Catholic church, which characterize these decisions as upholding a license to kill. On the other side are a number of patient advocacy, AIDS activist and civil liberties groups as well as doctors, who advocate the protection of the fundamental privacy right to make such decisions without unnecessary state intrusion.

Caught between the two positions are many in the disabilities rights movement. Disabled people have long experienced stigma that sometimes means their lives are valued less than those without disabilities. With the increasing financial pressures caused by a dysfunctional health care system, some worry that those whose lives are less valued may be pressured into a death they did not choose.

Assisted suicide is not the most compelling issue for people with HIV. Preserving the quality of life and insuring access to adequate health care are far more critical. Still, the right to end a life when the spirit is buried under unbearable, unending pain is an important aspect of personal autonomy and self-empowerment. These values are at the heart of the struggle of most people living with AIDS. It is fitting that among the plaintiffs in these path-breaking cases were people with AIDS, gay men who were determined to decide for themselves when meaningful life had come to an end. In becoming named plaintiffs, they sacrificed their privacy and undertook the possible stigma attached to suicide. While dying, they devoted their energies to a case whose outcome is yielding benefits that they did not live to see.

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