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All sides claim victory on assisted suicide

Following months of heated national debate, a unanimous Supreme Court has ruled that the Constitution does not give Americans a general right to physician-assisted suicide. But rather than putting an end to an emotionally charged dialogue, the decision, reached at the end of June, provides all sides with more fuel to continue the struggle. The Court left the responsibility for banning assisted suicide to individual states, implicitly leaving open the possibility that their legislatures could overturn existing laws against the practice and legalise it. The first test could come in November in Oregon.

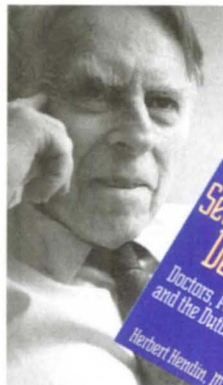
The Supreme Court handed down separate decisions to two cases brought before it in January on behalf of the states of Washington and New York (*Nature Medicine* 3, 127–128, 1997). The first claim, made by Washington state, had argued that the Constitution's 14th Amendment protects a "liberty interest to choose the time and manner of one's death". But Chief Justice Rehnquist and his eight benchmates wrote that the claimed right "has no place in our Nation's traditions, given the country's consistent, almost universal, and continuing rejection of the right, even for terminally ill, mentally competent adults". The second case, by New York state, had also been based on the 14th Amendment, but this time argued that preventing assisted suicide violates the amendment's guarantee of equal protection under the law. But Rehnquist said that the amendment does not guarantee such protection to those who wish to end their life but who are not dependent on life-support mechanisms to survive.

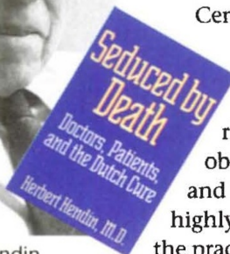
The Justices: individual states must act

In contrast, the right to refuse life-saving hydration and nutrition is guaranteed by the Constitution because of a common-law ruling that forced medication is battery. Rehnquist stressed the distinction between allowing nature to take its course and intentionally using "an artificial death-producing device".

In both cases, said Rehnquist, the Court had an interest in protecting the vulnerable, the poor, elderly, disabled, and terminally ill "from indifference, prejudice, and psychological and financial pressure to end their lives". He warned that to legalize physician-assisted suicide would be to risk sliding down a slippery slope toward voluntary and even involuntary euthanasia.

In concurring decisions, Justices Stevens, Ginsburg, Breyer, Souter and O'Connor nevertheless left the door open to future change. "There is no reason to think the democratic process will not strike the proper balance between the interests of the terminally ill, mentally competent individuals who would seek to end their suffering, and the state's interest in protecting those who might seek to end life mistakenly or under pressure," said O'Connor.





Herbert Hendin

Most people were pleased with the decisions, but for different reasons. "It was a good decision," said bioethicist Arthur Caplan, of the University of Pennsylvania Center for Bioethics. "A country with no right to healthcare has no business creating a right to die," he added, observing that minorities and the disabled have been highly opposed to legalizing the practice.

Herbert Hendin, medical director of the American Foundation for Suicide Prevention, called the decision "an enormous victory for patients". Patients have a right not to suffer, but physician-assisted suicide is not the answer to their problems, said Hendin. "The decision challenges the states to provide adequate care for the dying, and if they don't, the issue will certainly be revisited."

Derek Humphry

Derek Humphry, author of *Final Exit*, a right-to-die manifesto, and the founder of the Hemlock Society, called the decision "timid" but does not feel defeated. "We believe it opens the way to change laws at the state level," he said. He and his supporters plan to escalate their efforts to bring about such change.

Whatever their reaction to the ruling, commentators on both sides agree over one point: that the Supreme Court case has served as a "wake-up call" to the medical profession and an impetus for much-needed national debate about the standard of care given to terminally ill people. Choice in Dying, a national educational organization that campaigns for better services for dying people and their families, says the debate over physician-assisted suicide has diverted attention from the need for better terminal care. The organization's position on physician-assisted suicide is neutral.

The medical profession is also taking an increased interest in these issues. The American Medical Association has just drawn up its first-ever principles for terminal care, urging doctors to give up the pursuit of "life at all costs" and instead follow patients' wishes for a dignified death. And the American Hospital Assocation plans new programs to teach physicians and nurses better pain control.

More forward-looking is a new study to determine whether it is possible to set up a system that would minimize abuses of physician-assisted suicide, should the practice eventually be legalized. The Center for Bioethics at the University of Pennsylvania Medical Center is organising the study. "If legalization does occur, state by state, we will hopefully be prepared to deal with the reality by thinking through the important issues now," said Caplan.

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