SUPREME COURT OF THE UNITED STATES

No. 96-110

WASHINGTON, et al., PETITIONERS *v.* HAROLD GLUCKSBERG et al.

on writ of certiorari to the united states court of appeals for the ninth circuit

[June 26, 1997]

Chief Justice Rehnquist delivered the opinion of the Court.

The question presented in this case is whether Washington's prohibition against "caus[ing]" or "aid[ing]" a suicide offends the Fourteenth Amendment to the United States Constitution. We hold that it does not.

It has always been a crime to assist a suicide in the State of Washington. In 1854, Washington's first Territorial Legislature outlawed "assisting another in the commission of self murder." [n.1] Today, Washington law provides: "A person is guilty of promoting a suicide attempt when he knowingly causes or aids another person to attempt suicide." Wash. Rev. Code 9A.36.060(1) (1994). "Promoting a suicide attempt" is a felony, punishable by up to five years' imprisonment and up to a $10,000 fine. §§9A.36.060(2) and 9A.20.021(1)(c). At the same time, Washington's Natural Death Act, enacted in 1979, states that the "withholding or withdrawal of life sustaining treatment" at a patient's direction "shall not, for any purpose, constitute a suicide." Wash. Rev. Code §70.122.070(1). [n.2]

Petitioners in this case are the State of Washington and its Attorney General. Respondents Harold Glucksberg, M. D., Abigail Halperin, M. D., Thomas A. Preston, M. D., and Peter Shalit, M. D., are physicians who practice in Washington. These doctors occasionally treat terminally ill, suffering patients, and declare that they would assist these patients in ending their lives if not for Washington's assisted suicide ban. [n.3] In

January 1994, respondents, along with three gravely ill, pseudonymous plaintiffs who have since died and Compassion in Dying, a nonprofit organization that counsels people considering physician assisted suicide, sued in the United States District Court, seeking a declaration that Wash Rev. Code 9A.36.060(1) (1994) is, on its face, unconstitutional. *Compassion in Dying* v. *Washington*, 850 F. Supp. 1454, 1459 (WD Wash. 1994). [n.4]

The plaintiffs asserted "the existence of a libertyinterest protected by the Fourteenth Amendment which extends to a personal choice by a mentally competent, terminally ill adult to commit physician assisted suicide." *Id.*, at 1459. Relying primarily on *Planned Parenthood* v. *Casey*, 505 U.S. 833 (1992), and *Cruzan* v. *Director, Missouri Dept. of Health*, 497 U.S. 261 (1990), the District Court agreed, 850 F. Supp., at 1459-1462, and concluded that Washington's assisted suicide ban is unconstitutional because it "places an undue burden on the exercise of [that] constitutionally protected liberty interest." *Id.*, at 1465. [n.5] The District Court also decided that the Washington statute violated the Equal Protection Clause's requirement that "`all persons similarly situated . . . be treated alike.'" *Id.*, at 1466 (quoting *Cleburne* v. *Cleburne Living Center, Inc.*, 473 U.S. 432, 439 (1985)).

A panel of the Court of Appeals for the Ninth Circuit reversed, emphasizing that "[i]n the two hundred and five years of our existence no constitutional right to aid in killing oneself has ever been asserted and upheld by a court of final jurisdiction." *Compassion in Dying* v. *Washington*, 49 F. 3d 586, 591 (1995). The Ninth Circuit reheard the case en banc, reversed the panel's decision, and affirmed the District Court. *Compassion in Dying* v. *Washington*, 79 F. 3d 790, 798 (1996). Like the District Court, the en banc Court of Appeals emphasized our *Casey* and *Cruzan* decisions. 79 F. 3d, at 813-816. The court also discussed what it described as "historical" and "current societal attitudes" toward suicide and assisted suicide, *id.*, at 806-812, and concluded that "the Constitution encompasses a due process liberty interest in controlling the time and manner of one's death--that there is, in short, a constitutionally recognized `right to die.' " *Id.*, at 816. After "[w]eighing and then balancing" this interest against Washington's various interests, the court held that the State's assisted suicide ban was unconstitutional "as applied to terminally ill competent adults who wish to hasten their deaths with medication prescribed by their physicians." *Id.*, at 836, 837. [n.6] The court did not reach the District Court's equal protection holding. *Id.*, at 838. [n.7] We granted certiorari, 519 U. S. ___ (1996), and now reverse.

I

We begin, as we do in all due process cases, by examining our Nation's history, legal traditions, and practices. See, *e.g.*, *Casey*, 505 U. S., at 849-850; *Cruzan*, 497 U. S., at 269-279; *Moore* v. *East Cleveland*, 431 U.S. 494, 503 (1977) (plurality opinion) (noting importance of "careful `respect for the teachings of history'"). In almost every State--indeed, in almost every western democracy--it is a crime to assist a suicide. [n.8] The States' assisted suicide bans are not innovations. Rather, they are longstanding expressions of the States' commitment to the protection and preservation of all human

life. *Cruzan*, 497 U. S., at 280 ("[T]he States--indeed, all civilized nations--demonstrate their commitment to life by treating homicide as a serious crime. Moreover, the majority of States in this country have laws imposing criminal penalties on one who assists another to commit suicide"); see *Stanford* v. *Kentucky*, 492 U.S. 361, 373 (1989) ("[T]he primary and most reliable indication of [a national] consensus is . . . the pattern of enacted laws"). Indeed, opposition to and condemnation of suicide--and, therefore, of assisting suicide--are consistent and enduring themes of our philosophical, legal, and cultural heritages. See generally, Marzen, O'Dowd, Crone & Balch, Suicide: A Constitutional Right?, 24 Duquesne L. Rev. 1, 17-56 (1985) (hereinafter Marzen); New York State Task Force on Life and the Law, When Death is Sought: Assisted Suicide and Euthanasia in the Medical Context 77-82 (May 1994) (hereinafter New York Task Force).

More specifically, for over 700 years, the Anglo American common law tradition has punished or otherwise disapproved of both suicide and assisting suicide. [n.9] *Cruzan*, 497 U. S., at 294-295 (Scalia, J., concurring). In the 13th century, Henry de Bracton, one of the first legal treatise writers, observed that "[j]ust as a man may commit felony by slaying another so may he do so by slaying himself." 2 Bracton on Laws and Customs of England 423 (f. 150) (G. Woodbine ed., S. Thorne transl., 1968). The real and personal property of one who killed himself to avoid conviction and punishment for a crime were forfeit to the king; however, thought Bracton, "if a man slays himself in weariness of life or because he is unwilling to endure further bodily pain . . . [only] his movable goods [were] confiscated." *Id.*, at 423-424 (f. 150). Thus, "[t]he principle that suicide of a sane person, for whatever reason, was a punishable felony was . . . introduced into English common law." [n.10] Centuries later, Sir William Blackstone, whose Commentaries on the Laws of England not only provided a definitive summary of the common law but was also a primary legal authority for 18th and 19th century American lawyers, referred to suicide as "self murder" and "the pretended heroism, but real cowardice, of the Stoic philosophers, who destroyed themselves to avoid those ills which they had not the fortitude to endure . . . ." 4 W. Blackstone, Commentaries *189. Blackstone emphasized that "the law has . . . ranked [suicide] among the highest crimes," *ibid*, although, anticipating later developments, he conceded that the harsh and shameful punishments imposed for suicide "borde[r] a little upon severity." *Id.*, at *190.

For the most part, the early American colonies adopted the common law approach. For example, the legislators of the Providence Plantations, which would later become Rhode Island, declared, in 1647, that "[s]elf murder is by all agreed to be the most unnatural, and it is by this present Assembly declared, to be that, wherein he that doth it, kills himself out of a premeditated hatred against his own life or other humor: . . .his goods and chattels are the king's custom, but not his debts nor lands; but in case he be an infant, a lunatic, mad or distracted man, he forfeits nothing." The Earliest Acts and Laws of the Colony of Rhode Island and Providence Plantations 1647-1719, p. 19 (J. Cushing ed. 1977). Virginia also required ignominious burial for suicides, and their estates were forfeit to the crown. A. Scott, Criminal Law in Colonial Virginia 108, and n. 93, 198, and n. 15 (1930).

Over time, however, the American colonies abolished these harsh common law penalties. William Penn abandoned the criminal forfeiture sanction in Pennsylvania in 1701, and the other colonies (and later, the other States) eventually followed this example. *Cruzan*, 497 U. S., at 294 (Scalia, J., concurring). Zephaniah Swift, who would later become Chief Justice of Connecticut, wrote in 1796 that

"[t]here can be no act more contemptible, than to attempt to punish an offender for a crime, by exercising a mean act of revenge upon lifeless clay, that is insensible of the punishment. There can be no greater cruelty, than the inflicting [of] a punishment, as the forfeiture of goods, which must fall solely on the innocent offspring of the offender. . . . [Suicide] is so abhorrent to the feelings of mankind, and that strong love of life which is implanted in the human heart, that it cannot be so frequently committed, as to become dangerous to society. There can of course be no necessity of any punishment." 2 Z. Swift, A System of the Laws of the State of Connecticut 304 (1796).

This statement makes it clear, however, that the movement away from the common law's harsh sanctions did not represent an acceptance of suicide; rather, as Chief Justice Swift observed, this change reflected the growing consensus that it was unfair to punish the suicide's family for his wrongdoing. *Cruzan*, *supra*, at

294 (Scalia, J., concurring). Nonetheless, although States moved away from Blackstone's treatment of suicide, courts continued to condemn it as a grave public wrong. See, *e.g.*, *Bigelow* v. *Berkshire Life Ins. Co.*, 93 U.S. 284, 286 (1876) (suicide is "an act of criminal self destruction"); *Von Holden* v. *Chapman*, 87 App. Div. 2d 66, 70-71, 450 N. Y. S. 2d 623, 626-627 (1982); *Blackwood* v. *Jones*, 111 Fla. 528, 532, 149 So. 600, 601 (1933) ("No sophistry is tolerated . . . which seek[s] to justify self destruction as commendable or even a matter of personal right").

That suicide remained a grievous, though nonfelonious, wrong is confirmed by the fact that colonial and early state legislatures and courts did not retreat from prohibiting assisting suicide. Swift, in his early 19th century treatise on the laws of Connecticut, stated that "[i]f one counsels another to commit suicide, and the other by reason of the advice kills himself, the advisor is guilty of murder as principal." 2 Z. Swift, A Digest of the Laws of the State of Connecticut 270 (1823). This was the well established common law view, see *In re Joseph G.*, 34 Cal. 3d 429, 434-435, 667 P. 2d 1176, 1179 (1983); *Commonwealth* v. *Mink*, 123 Mass. 422, 428 (1877) ("`Now if the murder of one's self is felony, the accessory is equally guilty as if he had aided and abetted in the murder'") (quoting Chief Justice Parker's charge to the jury in *Commonwealth* v. *Bowen*, 13 Mass. 356 (1816)), as was the similar principle that the consent of a homicide victim is "wholly immaterial to the guilt of the person who cause[d] [his death]," 3 J. Stephen, A History of the Criminal Law of England 16 (1883); see 1 F. Wharton, Criminal Law §§451-452 (9th ed. 1885); *Martin* v. *Commonwealth*, 184 Va. 1009, 1018-1019, 37 S. E. 2d 43, 47 (1946) (" `The right to life and to personal security is not only sacred in the estimation of the common law, but it is inalienable' "). And the prohibitions against assisting suicide never contained exceptions for those who were near death. Rather, "[t]he life of those to whom life ha[d] become a burden--of those who [were] hopelessly diseased or fatally wounded-

-nay, even the lives of criminals condemned to death, [were] under the protection of law, equally as the lives of those who [were] in the full tide of life's enjoyment, and anxious to continue to live." *Blackburn* v. *State*, 23 Ohio St. 146, 163 (1872); see *Bowen*, *supra*, at 360 (prisoner who persuaded another to commit suicide could be tried for murder, even though victim was scheduled shortly to be executed).

The earliest American statute explicitly to outlaw assisting suicide was enacted in New York in 1828, Act of Dec. 10, 1828, ch. 20, §4, 1828 N. Y. Laws 19 (codified at 2 N. Y. Rev. Stat. pt. 4, ch. 1, tit. 2, art. 1, §7, p. 661 (1829)), and many of the new States and Territories followed New York's example. Marzen 73-74. Between 1857 and 1865, a New York commission led by Dudley Field drafted a criminal code that prohibited "aiding" a suicide and, specifically, "furnish[ing] another person with any deadly weapon or poisonous drug, knowing that such person intends to use such weapon or drug in taking his own life." *Id.*, at 76-77. By the time the Fourteenth Amendment was ratified, it was a crime in most States to assist a suicide. See *Cruzan*, *supra*, at 294-295 (Scalia, J., concurring). The Field Penal Code was adopted in the Dakota Territory in 1877, in New York in 1881, and its language served as a model for several other western States' statutes in the late 19th and early 20th centuries. Marzen 76-77, 205-206, 212-213. California, for example, codified its assisted suicide prohibition in 1874, using language similar to the Field Code's. [n.11] In this century, the Model Penal Code also prohibited "aiding" suicide, prompting many States to enact or revise their assisted suicide bans. [n.12] The Code's drafters observed that "the interests in the sanctity of life that are represented by the criminal homicide laws are threatened by one who expresses a willingness to participate in taking the life of another, even though the act may be accomplished with the consent, or at the request, of the suicide victim." American Law Institute, Model Penal Code §210.5, Comment 5, p. 100 (Official Draft and Revised Comments 1980).

Though deeply rooted, the States' assisted suicide bans have in recent years been reexamined and, generally, reaffirmed. Because of advances in medicine and technology, Americans today are increasingly likely to die in institutions, from chronic illnesses. President's Comm'n for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, Deciding to Forego Life Sustaining Treatment 16-18 (1983). Public concern and democratic action are therefore sharply focused on how best to protect dignity and independence at the end of life, with the result that there have been many significant changes in state laws and in the attitudes these laws reflect. Many States, for example, now permit "living wills," surrogate health care decisionmaking, and the withdrawal or refusal of life sustaining medical treatment. See *Vacco* v. *Quill*, *post*, at 9-11; 79 F. 3d, at 818-820; *People* v. *Kevorkian*, 447 Mich. 436, 478-480, and nn. 53-56, 527 N. W. 2d 714, 731-732, and nn. 53-56 (1994). At the same time, however, voters and legislators continue for the most part to reaffirm their States' prohibitions on assisting suicide.

The Washington statute at issue in this case, Wash. Rev. Code §9A.36.060 (1994), was enacted in 1975 as part of a revision of that State's criminal code. Four years later, Washington passed its Natural Death Act, which specifically stated that the "withholding or withdrawal of life sustaining treatment . . . shall not, for any purpose, constitute a

suicide" and that "[n]othing in this chapter shall be construed to condone, authorize, or approve mercy killing . . . ." Natural Death Act, 1979 Wash. Laws, ch. 112, §§8(1), p. 11 (codified at Wash. Rev. Code §§70.122.070(1), 70.122.100 (1994)). In 1991, Washington voters rejected a ballot initiative which, had it passed, would have permitted a form of physician assisted suicide. [n.13] Washington then added a provision to the Natural Death Act expressly excluding physician assisted suicide. 1992 Wash. Laws, ch. 98, §10; Wash. Rev. Code §70.122.100 (1994).

California voters rejected an assisted suicide initiative similar to Washington's in 1993. On the other hand, in 1994, voters in Oregon enacted, also through ballot initiative, that State's "Death With Dignity Act," which legalized physician assisted suicide for competent, terminally ill adults. [n.14] Since the Oregon vote, many proposals to legalize assisted suicide have been and continue to be introduced in the States' legislatures, but none has been enacted. [n.15] And just last year, Iowa and Rhode Island joined the overwhelming majority of States explicitly prohibiting assisted suicide. See Iowa Code Ann. §§707A.2, 707A.3 (Supp. 1997); R. I. Gen. Laws §§ 11-60-1, 11-60-3 (Supp. 1996). Also, on April 30, 1997, President Clinton signed the Federal Assisted Suicide Funding Restriction Act of 1997, which prohibits the use of federal funds in support of physician assisted suicide. Pub. L. 105-12, 111 Stat. 23 (codified at 42 U.S.C. § 14401 *et seq*). [n.16]

Thus, the States are currently engaged in serious, thoughtful examinations of physician assisted suicide and other similar issues. For example, New York State's Task Force on Life and the Law--an ongoing, blue ribbon commission composed of doctors, ethicists, lawyers, religious leaders, and interested laymen--was convened in 1984 and commissioned with "a broad mandate to recommend public policy on issues raised by medical advances." New York Task Force vii. Over the past decade, the Task Force has recommended laws relating to end of life decisions, surrogate pregnancy, and organ donation. *Id.*, at 118-119. After studying physician assisted suicide, however, the Task Force unanimously concluded that "[l]egalizing assisted suicide and euthanasia would pose profound risks to many individuals who are ill and vulnerable. . . . [T]he potential dangers of this dramatic change in public policy would outweigh any benefit that might be achieved." *Id.*, at 120.

Attitudes toward suicide itself have changed since Bracton, but our laws have consistently condemned, and continue to prohibit, assisting suicide. Despite changes in medical technology and notwithstanding an increased emphasis on the importance of end of life decisionmaking, we have not retreated from this prohibition. Against this backdrop of history, tradition, and practice, we now turn to respondents' constitutional claim.

II

The Due Process Clause guarantees more than fair process, and the "liberty" it protects includes more than the absence of physical restraint. *Collins* v. *Harker Heights*, 503 U.S. 115, 125 (1992) (Due Process Clause "protects individual liberty against `certain

government actions regardless of the fairness of the procedures used to implement them' ") (quoting *Daniels* v. *Williams*, 474 U.S. 327, 331 (1986)). The Clause also provides heightened protection against government interference with certain fundamental rights and liberty interests. *Reno* v. *Flores*, 507 U.S. 292, 301-302 (1993); *Casey*, 505 U. S., at 851. In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the "liberty" specially protected by the Due Process Clause includes the rights to marry, *Loving* v. *Virginia*, 388 U.S. 1 (1967); to have children, *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942); to direct the education and upbringing of one's children, *Meyer* v. *Nebraska*, 262 U.S. 390 (1923); *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925); to marital privacy, *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); to use contraception, *ibid*; *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972); to bodily integrity, *Rochin* v. *California*, 342 U.S. 165 (1952), and to abortion, *Casey*, *supra*. We have also assumed, and strongly suggested, that the Due Process Clause protects the traditional right to refuse unwanted lifesaving medical treatment. *Cruzan*, 497 U. S., at 278-279.

But we "ha[ve] always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open ended." *Collins*, 503 U. S., at 125. By extending constitutional protection to an asserted right or liberty interest, we, to a great extent, place the matter outside the arena of public debate and legislative action. We must therefore "exercise the utmost care whenever we are asked to break new ground in this field," *ibid*, lest the liberty protected by the Due Process Clause be subtly transformed into the policy preferences of the members of this Court, *Moore*, 431 U. S., at 502 (plurality opinion).

Our established method of substantive due process analysis has two primary features: First, we have regularly observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, "deeply rooted in this Nation's history and tradition," *id.*, at 503 (plurality opinion); *Snyder* v. *Massachusetts*, 291 U.S. 97, 105 (1934) ("so rooted in the traditions and conscience of our people as to be ranked as fundamental"), and "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if they were sacrificed," *Palko* v. *Connecticut*, 302 U.S. 319, 325, 326 (1937). Second, we have required in substantive due process cases a "careful description" of the asserted fundamental liberty interest. *Flores*, *supra*, at 302; *Collins*, *supra*, at 125; *Cruzan*, *supra*, at 277-278. Our Nation's history, legal traditions, and practices thus provide the crucial "guideposts for responsible decisionmaking," *Collins*, *supra*, at 125, that direct and restrain our exposition of the Due Process Clause. As we stated recently in *Flores*, the Fourteenth Amendment "forbids the government to infringe . . . `fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." 507 U. S., at 302.

Justice Souter, relying on Justice Harlan's dissenting opinion in *Poe* v. *Ullman*, would largely abandon this restrained methodology, and instead ask "whether [Washington's] statute sets up one of those `arbitrary impositions' or `purposeless restraints' at odds with the Due Process Clause of the Fourteenth Amendment," *post*, at 1 (quoting *Poe*, 367 U.S.

497, 543 (1961) (Harlan, J., dissenting)). [n.17] In our view, however, the development of this Court's substantive due process jurisprudence, described briefly above, *supra*, at 15, has been a process whereby the outlines of the "liberty" specially protected by the Fourteenth Amendment--never fully clarified, to be sure, and perhaps not capable of being fully clarified--have at least been carefully refined by concrete examples involving fundamental rights found to be deeply rooted in our legal tradition. This approach tends to rein in the subjective elements that are necessarily present in due process judicial review. In addition, by establishing a threshold requirement--that a challenged state action implicate a fundamental right--before requiring more than a reasonable relation to a legitimate state interest to justify the action, it avoids the need for complex balancing of competing interests in every case.

Turning to the claim at issue here, the Court of Appeals stated that "[p]roperly analyzed, the first issue to be resolved is whether there is a liberty interest in determining the time and manner of one's death," 79 F. 3d, at 801, or, in other words, "[i]s there a right to die?," *id.*, at 799. Similarly, respondents assert a "liberty to choose how to die" and a right to "control of one's final days," Brief for Respondents 7, and describe the asserted liberty as "the right to choose a humane, dignified death," *id.*, at 15, and "the liberty to shape death," *id.*, at 18. As noted above, we have a tradition of carefully formulating the interest at stake in substantive due process cases. For example, although *Cruzan* is often described as a "right to die" case, see 79 F. 3d, at 799; *post*, at 9 (Stevens, J., concurring in judgment) (*Cruzan* recognized "the more specific interest in making decisions about how to confront an imminent death"), we were, in fact, more precise: we assumed that the Constitution granted competent persons a "constitutionally protected right to refuse lifesaving hydration and nutrition." *Cruzan*, 497 U. S., at 279; *id.*, at 287 (O'Connor, J., concurring) ("[A] liberty interest in refusing unwanted medical treatment may be inferred from our prior decisions"). The Washington statute at issue in this case prohibits "aid[ing] another person to attempt suicide," Wash. Rev. Code §9A.36.060(1) (1994), and, thus, the question before us is whether the "liberty" specially protected by the Due Process Clause includes a right to commit suicide which itself includes a right to assistance in doing so. [n.18]

We now inquire whether this asserted right has any place in our Nation's traditions. Here, as discussed above, *supra*, at 4-15, we are confronted with a consistent and almost universal tradition that has long rejected the asserted right, and continues explicitly to reject it today, even for terminally ill, mentally competent adults. To hold for respondents, we would have to reverse centuries of legal doctrine and practice, and strike down the considered policy choice of almost every State. See *Jackman* v. *Rosenbaum Co.*, 260 U.S. 22, 31 (1922) ("If a thing has been practiced for two hundred years by common consent, it will need a strong case for the Fourteenth Amendment to affect it"); *Flores*, 507 U. S., at 303 ("The mere novelty of such a claim is reason enough to doubt that `substantive due process' sustains it").

Respondents contend, however, that the liberty interest they assert *is* consistent with this Court's substantive due process line of cases, if not with this Nation's history and practice. Pointing to *Casey* and *Cruzan*, respondents read our jurisprudence in this area as

reflecting a general tradition of "self sovereignty," Brief of Respondents 12, and as teaching that the "liberty" protected by the Due Process Clause includes "basic and intimate exercises of personal autonomy," *id.*, at 10; see *Casey*, 505 U. S., at 847 ("It is a promise of the Constitution that there is a realm of personal liberty which the government may not enter"). According to respondents, our liberty jurisprudence, and the broad, individualistic principles it reflects, protects the "liberty of competent, terminally ill adults to make end of life decisions free of undue government interference." Brief for Respondents 10. The question presented in this case, however, is whether the protections of the Due Process Clause include a right to commit suicide with another's assistance. With this "careful description" of respondents' claim in mind, we turn to *Casey* and *Cruzan*.

In *Cruzan*, we considered whether Nancy Beth Cruzan, who had been severely injured in an automobile accident and was in a persistive vegetative state, "ha[d] a right under the United States Constitution which would require the hospital to withdraw life sustaining treatment" at her parents' request. *Cruzan*, 497 U. S., at 269. We began with the observation that "[a]t common law, even the touching of one person by another without consent and without legal justification was a battery." *Ibid*. We then discussed the related rule that "informed consent is generally required for medical treatment." *Ibid*. After reviewing a long line of relevant state cases, we concluded that "the common law doctrine of informed consent is viewed as generally encompassing the right of a competent individual to refuse medical treatment." *Id.*, at 277. Next, we reviewed our own cases on the subject, and stated that "[t]he principle that a competent person has a constitutionally protected liberty interest in refusing unwanted medical treatment may be inferred from our prior decisions." *Id.*, at 278. Therefore, "for purposes of [that] case, we assume[d] that the United States Constitution would grant a competent person a constitutionally protected right to refuse lifesaving hydration and nutrition." *Id.*, at 279; see *id.*, at 287 (O'Connor, J., concurring). We concluded that, notwithstanding this right, the Constitution permitted Missouri to require clear and convincing evidence of an incompetent patient's wishes concerning the withdrawal of life sustaining treatment. *Id.*, at 280-281.

Respondents contend that in *Cruzan* we "acknowledged that competent, dying persons have the right to direct the removal of life sustaining medical treatment and thus hasten death," Brief for Respondents 23, and that "the constitutional principle behind recognizing the patient's liberty to direct the withdrawal of artificial life support applies at least as strongly to the choice to hasten impending death by consuming lethal medication," *id.*, at 26. Similarly, the Court of Appeals concluded that "*Cruzan*, by recognizing a liberty interest that includes the refusal of artificial provision of life sustaining food and water, necessarily recognize[d] a liberty interest in hastening one's own death." 79 F. 3d, at 816.

The right assumed in *Cruzan*, however, was not simply deduced from abstract concepts of personal autonomy. Given the common law rule that forced medication was a battery, and the long legal tradition protecting the decision to refuse unwanted medical treatment, our assumption was entirely consistent with this Nation's history and constitutional

traditions. The decision to commit suicide with the assistance of another may be just as personal and profound as the decision to refuse unwanted medical treatment, but it has never enjoyed similar legal protection. Indeed, the two acts are widely and reasonably regarded as quite distinct. See *Quill* v. *Vacco*, *post*, at 5-13. In *Cruzan* itself, we recognized that most States outlawed assisted suicide--and even more do today--and we certainly gave no intimation that the right to refuse unwanted medical treatment could be somehow transmuted into a right to assistance in committing suicide. 497 U. S., at 280.

Respondents also rely on *Casey*. There, the Court's opinion concluded that "the essential holding of *Roe* v. *Wade* should be retained and once again reaffirmed." *Casey*, 505 U. S., at 846. We held, first, that a woman has a right, before her fetus is viable, to an abortion "without undue interference from the State"; second, that States may restrict post-viability abortions, so long as exceptions are made to protect a woman's life and health; and third, that the State has legitimate interests throughout a pregnancy in protecting the health of the woman and the life of the unborn child. *Ibid*. In reaching this conclusion, the opinion discussed in some detail this Court's substantive due process tradition of interpreting the Due Process Clause to protect certain fundamental rights and "personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education," and noted that many of those rights and liberties "involv[e] the most intimate and personal choices a person may make in a lifetime." *Id.*, at 851.

The Court of Appeals, like the District Court, found *Casey* "`highly instructive'" and "`almost prescriptive'" for determining "`what liberty interest may inhere in a terminally ill person's choice to commit suicide'":

"Like the decision of whether or not to have an abortion, the decision how and when to die is one of `the most intimate and personal choices a person may make in a lifetime,' a choice `central to personal dignity and autonomy.' " 79 F. 3d, at 813-814.

Similarly, respondents emphasize the statement in *Casey* that:

"At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State." *Casey*, 505 U. S., at 851.

Brief for Respondents 12. By choosing this language, the Court's opinion in *Casey* described, in a general way and in light of our prior cases, those personal activities and decisions that this Court has identified as so deeply rooted in our history and traditions, or so fundamental to our concept of constitutionally ordered liberty, that they are protected by the Fourteenth Amendment. [n.19] The opinion moved from the recognition that liberty necessarily includes freedom of conscience and belief about ultimate considerations to the observation that "though the abortion decision may originate within the zone of conscience and belief, it is *more than a philosophic exercise*." *Casey*, 505 U. S., at 852 (emphasis added). That many of the rights and liberties protected by the Due Process Clause sound in personal autonomy does not warrant the sweeping conclusion that any

and all important, intimate, and personal decisions are so protected, *San Antonio Independent School Dist.* v. *Rodriguez*, 411 U.S. 1, 33-35 (1973), and *Casey* did not suggest otherwise.

The history of the law's treatment of assisted suicide in this country has been and continues to be one of the rejection of nearly all efforts to permit it. That being the case, our decisions lead us to conclude that the asserted "right" to assistance in committing suicide is not a fundamental liberty interest protected by the Due Process Clause. The Constitution also requires, however, that Washington's assisted suicide ban be rationally related to legitimate government interests. See *Heller* v. *Doe*, 509 U.S. 312, 319-320 (1993); *Flores*, 507 U. S., at 305. This requirement is unquestionably met here. As the court below recognized, 79 F. 3d, at 816-817, [n.20] Washington's assisted suicide ban implicates a number of state interests. [n.21] See 49 F. 3d, at 592-593; Brief for State of California et al. as *Amici Curiae* 26-29; Brief for United States as *Amicus Curiae* 16-27.

First, Washington has an "unqualified interest in the preservation of human life." *Cruzan*, 497 U. S., at 282. The State's prohibition on assisted suicide, like all homicide laws, both reflects and advances its commitment to this interest. See *id.*, at 280; Model Penal Code §210.5, Comment 5, at 100 ("[T]he interests in the sanctity of life that are represented by the criminal homicide laws are threatened by one who expresses a willingness to participate in taking the life of another"). [n.22] This interest is symbolic and aspirational as well as practical:

"While suicide is no longer prohibited or penalized, the ban against assisted suicide and euthanasia shores up the notion of limits in human relationships. It reflects the gravity with which we view the decision to take one's own life or the life of another, and our reluctance to encourage or promote these decisions." New York Task Force 131-132.

Respondents admit that "[t]he State has a real interest in preserving the lives of those who can still contribute to society and enjoy life." Brief for Respondents 35, n. 23. The Court of Appeals also recognized Washington's interest in protecting life, but held that the "weight" of this interest depends on the "medical condition and the wishes of the person whose life is at stake." 79 F. 3d, at 817. Washington, however, has rejected this sliding scale approach and, through its assisted suicide ban, insists that all persons' lives, from beginning to end, regardless of physical or mental condition, are under the full protection of the law. See *United States* v. *Rutherford*, 442 U.S. 544, 558 (1979) (". . . Congress could reasonably have determined to protect the terminally ill, no less than other patients, from the vast range of self styled panaceas that inventive minds can devise"). As we have previously affirmed, the States "may properly decline to make judgments about the `quality' of life that a particular individual may enjoy," *Cruzan*, 497 U. S., at 282. This remains true, as *Cruzan* makes clear, even for those who are near death.

Relatedly, all admit that suicide is a serious public health problem, especially among persons in otherwise vulnerable groups. See Washington State Dept. of Health, Annual Summary of Vital Statistics 1991, pp. 29-30 (Oct. 1992) (suicide is a leading cause of death in Washington of those between the ages of 14 and 54); New York Task Force 10,

23-33 (suicide rate in the general population is about one percent, and suicide is especially prevalent among the young and the elderly). The State has an interest in preventing suicide, and in studying, identifying, and treating its causes. See 79 F. 3d, at 820; *id.*, at 854 (Beezer, J., dissenting) ("The state recognizes suicide as a manifestation of medical and psychological anguish"); Marzen 107-146.

Those who attempt suicide--terminally ill or not--often suffer from depression or other mental disorders. See New York Task Force 13-22, 126-128 (more than 95% of those who commit suicide had a major psychiatric illness at the time of death; among the terminally ill, uncontrolled pain is a "risk factor" because it contributes to depression); Physician Assisted Suicide and Euthanasia in the Netherlands: A Report of Chairman Charles T. Canady to the Subcommittee on the Constitution of the House Committee on the Judiciary, 104th Cong., 2d Sess., 10-11 (Comm. Print 1996); cf. Back, Wallace, Starks, & Pearlman, Physician Assisted Suicide and Euthanasia in Washington State, 275 JAMA 919, 924 (1996) ("[I]ntolerable physical symptoms are not the reason most patients request physician assisted suicide or euthanasia"). Research indicates, however, that many people who request physician assisted suicide withdraw that request if their depression and pain are treated. H. Hendin, Seduced by Death: Doctors, Patients and the Dutch Cure 24-25 (1997) (suicidal, terminally ill patients "usually respond well to treatment for depressive illness and pain medication and are then grateful to be alive"); New York Task Force 177-178. The New York Task Force, however, expressed its concern that, because depression is difficult to diagnose, physicians and medical professionals often fail to respond adequately to seriously ill patients' needs. *Id.*, at 175. Thus, legal physician assisted suicide could make it more difficult for the State to protect depressed or mentally ill persons, or those who are suffering from untreated pain, from suicidal impulses.

The State also has an interest in protecting the integrity and ethics of the medical profession. In contrast to the Court of Appeals' conclusion that "the integrity of the medical profession would [not] be threatened in any way by [physician assisted suicide]," 79 F. 3d, at 827, the American Medical Association, like many other medical and physicians' groups, has concluded that "[p]hysician assisted suicide is fundamentally incompatible with the physician's role as healer." American Medical Association, Code of Ethics §2.211 (1994); see Council on Ethical and Judicial Affairs, Decisions Near the End of Life, 267 JAMA 2229, 2233 (1992) ("[T]he societal risks of involving physicians in medical interventions to cause patients' deaths is too great"); New York Task Force 103-109 (discussing physicians' views). And physician assisted suicide could, it is argued, undermine the trust that is essential to the doctor patient relationship by blurring the time honored line between healing and harming. Assisted Suicide in the United States, Hearing before the Subcommittee on the Constitution of the House Committee on the Judiciary, 104th Cong., 2d Sess., 355-356 (1996) (testimony of Dr. Leon R. Kass) ("The patient's trust in the doctor's whole hearted devotion to his best interests will be hard to sustain").

Next, the State has an interest in protecting vulnerable groups--including the poor, the elderly, and disabled persons--from abuse, neglect, and mistakes. The Court of Appeals

dismissed the State's concern that disadvantaged persons might be pressured into physician assisted suicide as "ludicrous on its face." 79 F. 3d, at 825. We have recognized, however, the real risk of subtle coercion and undue influence in end of life situations. *Cruzan*, 497 U. S., at 281. Similarly, the New York Task Force warned that "[l]egalizing physician assisted suicide would pose profound risks to many individuals who are ill and vulnerable. . . . The risk of harm is greatest for the many individuals in our society whose autonomy and well being are already compromised by poverty, lack of access to good medical care, advanced age, or membership in a stigmatized social group." New York Task Force 120; see *Compassion in Dying*, 49 F. 3d, at 593 ("[A]n insidious bias against the handicapped--again coupled with a cost saving mentality--makes them especially in need of Washington's statutory protection"). If physician assisted suicide were permitted, many might resort to it to spare their families the substantial financial burden of end of life health care costs.

The State's interest here goes beyond protecting the vulnerable from coercion; it extends to protecting disabled and terminally ill people from prejudice, negative and inaccurate stereotypes, and "societal indifference." 49 F. 3d, at 592. The State's assisted suicide ban reflects and reinforces its policy that the lives of terminally ill, disabled, and elderly people must be no less valued than the lives of the young and healthy, and that a seriously disabled person's suicidal impulses should be interpreted and treated the same way as anyone else's. See New York Task Force 101-102; Physician Assisted Suicide and Euthanasia in the Netherlands: A Report of Chairman Charles T. Canady, at 9, 20 (discussing prejudice toward the disabled and the negative messages euthanasia and assisted suicide send to handicapped patients).

Finally, the State may fear that permitting assisted suicide will start it down the path to voluntary and perhaps even involuntary euthanasia. The Court of Appeals struck down Washington's assisted suicide ban only "as applied to competent, terminally ill adults who wish to hasten their deaths by obtaining medication prescribed by their doctors." 79 F. 3d, at 838. Washington insists, however, that the impact of the court's decision will not and cannot be so limited. Brief for Petitioners 44-47. If suicide is protected as a matter of constitutional right, it is argued, "every man and woman in the United States must enjoy it." *Compassion in Dying*, 49 F. 3d, at 591; see *Kevorkian*, 447 Mich., at 470, n. 41, 527 N. W. 2d, at 727-728, n. 41. The Court of Appeals' decision, and its expansive reasoning, provide ample support for the State's concerns. The court noted, for example, that the "decision of a duly appointed surrogate decision maker is for all legal purposes the decision of the patient himself," 79 F. 3d, at 832, n. 120; that "in some instances, the patient may be unable to self administer the drugs and . . . administration by the physician . . . may be the only way the patient may be able to receive them," *id.*, at 831; and that not only physicians, but also family members and loved ones, will inevitably participate in assisting suicide. *Id.*, at 838, n. 140. Thus, it turns out that what is couched as a limited right to "physician assisted suicide" is likely, in effect, a much broader license, which could prove extremely difficult to police and contain. [n.23] Washington's ban on assisting suicide prevents such erosion.

This concern is further supported by evidence about the practice of euthanasia in the Netherlands. The Dutch government's own study revealed that in 1990, there were 2,300 cases of voluntary euthanasia (defined as "the deliberate termination of another's life at his request"), 400 cases of assisted suicide, and more than 1,000 cases of euthanasia without an explicit request. In addition to these latter 1,000 cases, the study found an additional 4,941 cases where physicians administered lethal morphine overdoses without the patients' explicit consent. Physician Assisted Suicide and Euthanasia in the Netherlands: A Report of Chairman Charles T. Canady, at 12-13 (citing Dutch study). This study suggests that, despite the existence of various reporting procedures, euthanasia in the Netherlands has not been limited to competent, terminally ill adults who are enduring physical suffering, and that regulation of the practice may not have prevented abuses in cases involving vulnerable persons, including severely disabled neonates and elderly persons suffering from dementia. *Id.*, at 16-21; see generally C. Gomez, Regulating Death: Euthanasia and the Case of the Netherlands (1991); H. Hendin, Seduced By Death: Doctors, Patients, and the Dutch Cure (1997). The New York Task Force, citing the Dutch experience, observed that "assisted suicide and euthanasia are closely linked," New York Task Force 145, and concluded that the "risk of . . . abuse is neither speculative nor distant," *id.*, at 134. Washington, like most other States, reasonably ensures against this risk by banning, rather than regulating, assisting suicide. See *United States* v. *12 200-ft Reels of Super 8MM Film*, 413 U.S. 123, 127 (1973) ("Each step, when taken, appear[s] a reasonable step in relation to that which preceded it, although the aggregate or end result is one that would never have been seriously considered in the first instance").

We need not weigh exactingly the relative strengths of these various interests. They are unquestionably important and legitimate, and Washington's ban on assisted suicide is at least reasonably related to their promotion and protection. We therefore hold that Wash. Rev. Code §9A.36.060(1) (1994) does not violate the Fourteenth Amendment, either on its face or "as applied to competent, terminally ill adults who wish to hasten their deaths by obtaining medication prescribed by their doctors." 79 F. 3d, at 838. [n.24]

* * *

Throughout the Nation, Americans are engaged in an earnest and profound debate about the morality, legality, and practicality of physician assisted suicide. Our holding permits this debate to continue, as it should in a democratic society. The decision of the en banc Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Notes

1 Act of Apr. 28, 1854, §17, 1854 Wash. Laws 78 ("Every person deliberately assisting another in the commission of self murder, shall be deemed guilty of manslaughter"); see also Act of Dec. 2, 1869, §17, 1869 Wash. Laws 201; Act of Nov. 10, 1873, §19, 1873 Wash. Laws 184; Criminal Code, ch. 249, §§135-136, 1909 Wash. Laws, 11th sess., 929.

2 Under Washington's Natural Death Act, "adult persons have the fundamental right to control the decisions relating to the rendering of their own health care, including the decision to have life sustaining treatment withheld or withdrawn in instances of a terminal condition or permanent unconscious condition." Wash. Rev. Code §70.122.010 (1994). In Washington, "[a]ny adult person may execute a directive directing the withholding or withdrawal of life sustaining treatment in a terminal condition or permanent unconscious condition," §70.122.030, and a physician who, in accordance with such a directive, participates in the withholding or withdrawal of life sustaining treatment is immune from civil, criminal, or professional liability. §70.122.051.

3 Glucksberg Declaration, App. 35; Halperin Declaration, *id.*, at 49-50; Preston Declaration, *id.*, at 55-56; Shalit Declaration, *id.*, at 73-74.

4 John Doe, Jane Roe, and James Poe, plaintiffs in the District Court, were then in the terminal phases of serious and painful illnesses. They declared that they were mentally competent and desired assistance in ending their lives. Declaration of Jane Roe, *id.*, at 23-25; Declaration of John Doe, *id.*, at 27-28; Declaration of James Poe, *id.*, at 30-31; *Compassion in Dying*, 850 F. Supp., at 1456-1457.

5 The District Court determined that *Casey*'s "undue burden" standard, 505 U. S., at 874 (joint opinion), not the standard from *United States* v. *Salerno*, 481 U.S. 739, 745 (1987) (requiring a showing that "no set of circumstances exists under which the [law] would be valid"), governed the plaintiffs' facial challenge to the assisted suicide ban. 850 F. Supp., at 1462-1464.

6 Although, as Justice Stevens observes, *post*, at 2-3 (opinion concurring in judgment), "[the court's] analysis and eventual holding that the statute was unconstitutional was not limited to a particular set of plaintiffs before it," the court did note that "[d]eclaring a statute unconstitutional as applied to members of a group is atypical but not uncommon." 79 F. 3d, at 798, n. 9, and emphasized that it was "not deciding the facial validity of [the Washington statute]," *id.*, at 797-798, and nn. 8-9. It is therefore the court's holding that Washington's physician assisted suicide statute is unconstitutional as applied to the "class of terminally ill, mentally competent patients," *post*, at 14 (Stevens, J., concurring in judgment), that is before us today.

7 The Court of Appeals did note, however, that "the equal protection argument relied on by [the District Court] is not insubstantial," 79 F. 3d., at 838, n. 139, and sharply criticized the opinion in a separate case then pending before the Ninth Circuit, *Lee* v. *Oregon*, 891 F. Supp. 1429 (Ore. 1995) (Oregon's Death With Dignity Act, which permits physician assisted suicide, violates the Equal Protection Clause because it does not provide adequate safeguards against abuse), vacated, *Lee* v. *Oregon*, 107 F. 3d 1382

(CA9 1997) (concluding that plaintiffs lacked Article III standing). *Lee*, of course, is not before us, any more than it was before the Court of Appeals below, and we offer no opinion as to the validity of the *Lee* courts' reasoning. In *Vacco* v. *Quill*, *post*, however, decided today, we hold that New York's assisted suicide ban does not violate the Equal Protection Clause.

8 See *Compassion in Dying* v. *Washington*, 79 F. 3d 790, 847, and nn. 10-13 (CA9 1996) (Beezer, J., dissenting) ("In total, forty four states, the District of Columbia and two territories prohibit or condemn assisted suicide") (citing statutes and cases); *Rodriguez* v. *British Columbia (Attorney General)*, 107 D. L. R. (4th) 342, 404 (Can. 1993) ("[A] blanket prohibition on assisted suicide . . . is the norm among western democracies") (discussing assisted suicide provisions in Austria, Spain, Italy, the United Kingdom, the Netherlands, Denmark, Switzerland, and France). Since the Ninth Circuit's decision, Louisiana, Rhode Island, and Iowa have enacted statutory assisted suicide bans. La. Rev. Stat. Ann. §14:32.12 (Supp. 1997); R. I. Gen. Laws §§11-60-1, 11-60-3 (Supp. 1996); Iowa Code Ann. §§707A.2, 707A.3 (Supp. 1997). For a detailed history of the States' statutes, see Marzen, O'Dowd, Crone & Balch, Suicide: A Constitutional Right?, 24 Duquesne L. Rev. 1, 148-242 (1985) (Appendix) (hereinafter Marzen).

9 The common law is thought to have emerged through the expansion of pre-Norman institutions sometime in the 12th century. J. Baker, An Introduction to English Legal History 11 (2d ed. 1979). England adopted the ecclesiastical prohibition on suicide five centuries earlier, in the year 673 at the Council of Hereford, and this prohibition was reaffirmed by King Edgar in 967. See G. Williams, The Sanctity of Life and the Criminal Law 257 (1957).

10 Marzen 59. Other late medieval treatise writers followed and restated Bracton; one observed that "man slaughter" may be "[o]f [one]self; as in case, when people hang themselves or hurt themselves, or otherwise kill themselves of their own felony" or "[o]f others; as by beating, famine, or other punishment; in like cases, all are man slayers." A. Horne, The Mirrour of Justices, ch. 1, §9, pp. 41-42 (W. Robinson ed. 1903). By the mid 16th century, the Court at Common Bench could observe that "[suicide] is an Offence against Nature, against God, and against the King. . . . [T]o destroy one's self is contrary to Nature, and a Thing most horrible." *Hales* v. *Petit*, 1 Plowd. Com. 253, 261, 75 Eng. Rep. 387, 400 (1561-1562).

In 1644, Sir Edward Coke published his Third Institute, a lodestar for later common lawyers. See T. Plucknett, A Concise History of the Common Law 281-284 (5th ed. 1956). Coke regarded suicide as a category of murder, and agreed with Bracton that the goods and chattels--but not, for Coke, the lands--of a sane suicide were forfeit. 3 E. Coke, Institutes *54. William Hawkins, in his 1716 Treatise of the Pleas of the Crown, followed Coke, observing that "our laws have always had . . . an abhorrence of this crime." 1 W. Hawkins, Pleas of the Crown, ch. 27, §4, p. 164 (T. Leach ed. 1795).

11 In 1850, the California legislature adopted the English common law, under which assisting suicide was, of course, a crime. Act of Apr. 13, 1850, ch. 95, 1850 Cal. Stats.

219. The provision adopted in 1874 provided that "[e]very person who deliberately aids or advises, or encourages another to commit suicide, is guilty of a felony." Act of Mar. 30, 1874, ch. 614, §13, 400, 255 (codified at Cal. Penal Code §400 (T. Hittel ed. 1876)).

12 %A person who purposely aids or solicits another to commit suicide is guilty of a felony in the second degree if his conduct causes such suicide or an attempted suicide, and otherwise of a misdemeanor." American Law Institute, Model Penal Code §210.5(2) (Official Draft and Revised Comments 1980).

13 Initiative 119 would have amended Washington's Natural Death Act, Wash. Rev. Code §70.122.010 *et seq.* (1994), to permit "aid in dying", defined as "aid in the form of a medical service provided in person by a physician that will end the life of a conscious and mentally competent qualified patient in a dignified, painless and humane manner, when requested voluntarily by the patient through a written directive in accordance with this chapter at the time the medical service is to be provided." App. H to Pet. for Cert. 3-4.

14 Ore. Rev. Stat. §§127.800 *et seq.* (1996); *Lee* v. *Oregon*, 891 F. Supp. 1429 (Ore. 1995) (Oregon Act does not provide sufficient safeguards for terminally ill persons and therefore violates the Equal Protection Clause), vacated, *Lee* v. *Oregon*, 107 F. 3d 1382 (CA9 1997).

15 See, *e.g.*, Alaska H. B. 371 (1996); Ariz. S. B. 1007 (1996); Cal. A. B. 1080, A. B. 1310 (1995); Colo. H. B. 1185 (1996); Colo. H. B. 1308 (1995); Conn. H. B. 6298 (1995); Ill. H. B. 691, S. B. 948 (1997); Me. H. P. 663 (1997); Me. H. P. 552 (1995); Md. H. B. 474 (1996); Md. H. B. 933 (1995); Mass. H. B. 3173 (1995); Mich. H. B. 6205 (1996); Mich. S. B. 556 (1996); Mich. H. B. 4134 (1995); Miss. H. B. 1023 (1996); N. H. H. B. 339 (1995); N. M. S. B. 446 (1995); N. Y. S. B. 5024 (1995); N. Y. A. B. 6333 (1995); Neb. L. B. 406 (1997); Neb. L. B. 1259 (1996); R. I. S. 2985 (1996); Vt. H. B. 109 (1997); Vt. H. B. 335 (1995); Wash. S. B. 5596 (1995); Wis. A. B. 174, S. B. 90 (1995); Senate of Canada, Of Life and Death, Report of the Special Senate Committee on Euthanasia and Assisted Suicide

A--156 (June 1995) (describing unsuccessful proposals, between 1991-1994, to legalize assisted suicide).

16 Other countries are embroiled in similar debates: The Supreme Court of Canada recently rejected a claim that the Canadian Charter of Rights and Freedoms establishes a fundamental right to assisted suicide, *Rodriguez* v. *British Columbia (Attorney General)*, 107 D. L. R. (4th) 342 (1993); the British House of Lords Select Committee on Medical Ethics refused to recommend any change in Great Britain's assisted suicide prohibition, House of Lords, Session 1993-94 Report of the Select Committee on Medical Ethics, 12 Issues in Law & Med. 193, 202 (1996) ("We identify no circumstances in which assisted suicide should be permitted"); New Zealand's Parliament rejected a proposed "Death With Dignity Bill" that would have legalized physician assisted suicide in August 1995, Graeme, MPs Throw out Euthanasia Bill, The Dominion (Wellington), Aug. 17, 1995, p. 1; and the Northern Territory of Australia legalized assisted suicide and voluntary

euthanasia in 1995. See Shenon, Australian Doctors Get Right to Assist Suicide, N.Y. Times, July 28, 1995, p. A8. As of February 1997, three persons had ended their lives with physician assistance in the Northern Territory. Mydans, Assisted Suicide: Australia Faces a Grim Reality, N. Y. Times, Febr. 2, 1997, p. A3. On March 24, 1997, however, the Australian Senate voted to overturn the Northern Territory's law. Thornhill, Australia Repeals Euthanasia Law, Washington Post, March 25, 1997, p. A14; see Euthanasia Laws Act 1997, No. 17, 1997 (Austl.). On the other hand, on May 20, 1997, Colombia's Constitutional Court legalized voluntary euthanasia for terminally ill people. Sentencia No. C 239/97 (Corte Constitucional, Mayo 20, 1997); see Colombia's Top Court Legalizes Euthanasia, Orlando Sentinel, May 22, 1997, p. A18.

17 In Justice Souter's opinion, Justice Harlan's *Poe* dissent supplies the "modern justification" for substantive due process review. *Post*, at 5, and n. 2 (Souter, J., concurring in judgment). But although Justice Harlan's opinion has often been cited in due process cases, we have never abandoned our fundamental rights based analytical method. Just four Terms ago, six of the Justices now sitting joined the Court's opinion in *Reno* v. *Flores*, 507 U.S. 292, 301-305 (1993); *Poe* was not even cited. And in *Cruzan*, neither the Court's nor the concurring opinions relied on *Poe*; rather, we concluded that the right to refuse unwanted medical treatment was so rooted in our history, tradition, and practice as to require special protection under the Fourteenth Amendment. *Cruzan* v. *Director, Mo. Dept. of Health*, 497 U.S. 261, 278-279 (1990); *id.*, at 287-288 (O'Connor, J., concurring). True, the Court relied on Justice Harlan's dissent in *Casey*, 505 U. S., at 848-850, but, as *Flores* demonstrates, we did not in so doing jettison our established approach. Indeed, to read such a radical move into the Court's opinion in *Casey* would seem to fly in the face of that opinion's emphasis on *stare decisis*. 505 U. S., at 854-869.

18 See, *e.g.*, *Quill* v. *Vacco*, 80 F. 3d 716, 724 (CA2 1996) ("right to assisted suicide finds no cognizable basis in the Constitution's language or design"); *Compassion in Dying* v. *Washington*, 49 F. 3d 586, 591 (CA9 1995) (referring to alleged "right to suicide," "right to assistance in suicide," and "right to aid in killing oneself"); *People* v. *Kevorkian*, 447 Mich. 436, 476, n. 47, 527 N. W. 2d 714, 730, n. 47 (1994) ("[T]he question that we must decide is whether the [C]onstitution encompasses a right to commit suicide and, if so, whether it includes a right to assistance").

19 See *Moore* v. *East Cleveland*, 431 U.S. 494, 503 (1977) ("[T]he Constitution protects the sanctity of the family *precisely because* the institution of the family is deeply rooted in this Nation's history and tradition") (emphasis added); *Griswold* v. *Connecticut*, 381 U.S. 479, 485-486 (1965) (intrusions into the "sacred precincts of marital bedrooms" offend rights "older than the Bill of Rights"); *id.*, at 495-496 (Goldberg, J., concurring) (the law in question "disrupt[ed] the traditional relation of the family--a relation as old and as fundamental as our entire civilization"); *Loving* v. *Virginia*, 388 U.S. 1, 12 (1967) ("The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness"); *Turner* v. *Safley*, 482 U.S. 78, 95 (1987) ("[T]he decision to marry is a fundamental right"); *Roe* v. *Wade*, 410 U.S. 113, 140 (1973) (stating that at the Founding and throughout the 19th century, "a woman enjoyed a substantially broader right to terminate a pregnancy"); *Skinner* v. *Oklahoma ex rel.*

Williamson, 316 U.S. 535, 541 (1942) ("Marriage and procreation are fundamental"); *Pierce* v. *Society of Sisters*, 268 U.S. 510, 535 (1925); *Meyer* v. *Nebraska*, 262 U.S. 390, 399 (1923) (liberty includes "those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men").

20 The court identified and discussed six state interests: (1) preserving life; (2) preventing suicide; (3) avoiding the involvement of third parties and use of arbitrary, unfair, or undue influence; (4) protecting family members and loved ones; (5) protecting the integrity of the medical profession; and (6) avoiding future movement toward euthanasia and other abuses. 79 F. 3d, at 816-832.

21 Respondents also admit the existence of these interests, Brief for Respondents 28-39, but contend that Washington could better promote and protect them through regulation, rather than prohibition, of physician assisted suicide. Our inquiry, however, is limited to the question whether the State's prohibition is rationally related to legitimate state interests.

22 The States express this commitment by other means as well:

"[N]early all states expressly disapprove of suicide and assisted suicide either in statutes dealing with durable powers of attorney in health care situations, or in `living will' statutes. In addition, all states provide for the involuntary commitment of persons who may harm themselves as the result of mental illness, and a number of states allow the use of nondeadly force to thwart suicide attempts." *People* v. *Kevorkian*, 447 Mich., at 478-479, and nn. 53-56, 527 N. W. 2d, at 731-732, and nn. 53-56.

23 Justice Souter concludes that "[t]he case for the slippery slope is fairly made out here, not because recognizing one due process right would leave a court with no principled basis to avoid recognizing another, but because there is a plausible case that the right claimed would not be readily containable by reference to facts about the mind that are matters of difficult judgment, or by gatekeepers who are subject to temptation, noble or not." *Post*, at 36-37 (opinion concurring in judgment). We agree that the case for a slippery slope has been made out, but--bearing in mind Justice Cardozo's observation of "[t]he tendency of a principle to expand itself to the limit of its logic," The Nature of the Judicial Process 51 (1932)--we also recognize the reasonableness of the widely expressed skepticism about the lack of a principled basis for confining the right. See Brief for United States as *Amicus Curiae* 26 ("Once a legislature abandons a categorical prohibition against physician assisted suicide, there is no obvious stopping point"); Brief for Not Dead Yet et al. as *Amici Curiae* 21-29; Brief for Bioethics Professors as *Amici Curiae* 23-26; Report of the Council on Ethical and Judicial Affairs, App. 133, 140 ("[I]f assisted suicide is permitted, then there is a strong argument for allowing euthanasia"); New York Task Force 132; Kamisar, The "Right to Die": On Drawing (and Erasing) Lines, 35 Duquesne L. Rev. 481 (1996); Kamisar, Against Assisted Suicide--Even in a Very Limited Form, 72 U. Det. Mercy L. Rev. 735 (1995).

24 Justice Stevens states that "the Court does conceive of respondents' claim as a facial challenge--addressing not the application of the statute to a particular set of plaintiffs before it, but the constitutionality of the statute's categorical prohibition . . . ." *Post*, at 4 (opinion concurring in judgment). We emphasize that we today reject the Court of Appeals' specific holding that the statute is unconstitutional "as applied" to a particular class. See n. 6, *supra*. Justice Stevens agrees with this holding, see *post*, at 14, but would not "foreclose the possibility that an individual plaintiff seeking to hasten her death, or a doctor whose assistance was sought, could prevail in a more particularized challenge," *ibid*. Our opinion does not absolutely foreclose such a claim. However, given our holding that the Due Process Clause of the Fourteenth Amendment does not provide heightened protection to the asserted liberty interest in ending one's life with a physician's assistance, such a claim would have to be quite different from the ones advanced by respondents here.