

A Case of Life And Death

As the Supreme Court engages issue of doctor-assisted suicide, an intense debate stirs among Jews.

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When Margaret was suffering from terminal stomach cancer, she turned to her psychiatrist with a plea to help end her life.

"I want to choose the time of my death. I want you to help me," the woman in her late 40s told Dr. Samuel Klagsbrun.

"I decided to say yes, not knowing how, what, when," Klagsbrun told a recent symposium on doctor-assisted suicide convened by the American Jewish Committee.

A day later, Margaret's husband called Klagsbrun to tell him she had died.

"I was so relieved. I was so glad it was out of my hands," said Klagsbrun, who is a principal player in a case to be heard by the U.S. Supreme Court, which opened its 1996-1997 term this week.

Although he did not go through with the act that time, Klagsbrun has become a leading advocate in the Jewish community of doctor-assisted suicide for the terminally ill.

It is a position vehemently opposed by many other Jewish doctors and medical ethicists who maintain that a doctor's first priority is to save a patient's life. Some opponents draw comparisons with Nazi practices.

As the Supreme Court engages in the controversial issue of physician-assisted suicide, the debate within the Jewish community is likely to become more intense and passionate.

Until now, the national debate on doctors helping terminally ill patients die has focused mainly on Jack Kevorkian, the Michigan physician who has admitted to assisting in at least 30 suicides.

But the practice may be much more widespread.

A recent issue of the New England Journal of Medicine reported that one in five nurses working in an intensive care unit admitted to hastening the death of terminally ill patients.

A recent USA Today poll showed that 75 percent of Americans support doctor-assisted suicides.

Regardless of public support, the American Medical Association reaffirmed in June its opposition to doctor-assisted suicide. The Supreme Court decided to address the issue when it accepted for review two lower court decisions favoring assisted suicide.

In April, the 2nd U.S. Circuit Court of Appeals in New York

struck down a 19th Century statute that made it illegal for physicians to help their patients die. Klagsbrun was one of the plaintiffs in the case.

A month earlier, the 9th U.S. Circuit Court of Appeals, in a similar case, banned a Washington state law. While 32 states still forbid the practice, fear of a slippery slope pervades in the Jewish community.

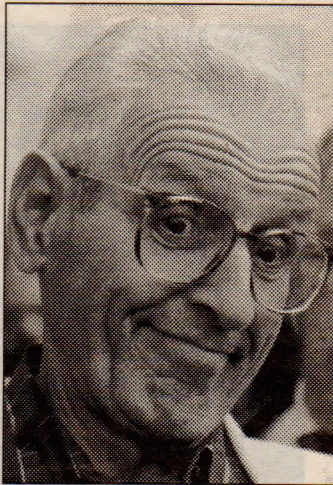
Once assisted suicide is deemed a constitutional right for the terminally ill, it would be "hard to confine it to that particular context," said David Zweibel, Agudath Israel's director of government affairs and general counsel.

The fervently Orthodox group, which plans to file a friend-of-the-court brief in support of New York and Washington states, maintains that it is a "principle of Jewish law and ethics that a doctor's role is to provide healing, not to hasten death."

Klagsbrun, who also is chairman of pastoral psychiatry at the Jewish Theological Seminary, said he regrets that his position

contradicts Jewish law, but maintains doctors should be allowed to respond to suicide requests made by terminally ill patients.

Who decides which patients are terminally ill, whether medical technology has been exhausted before considering doctor-



Dr. Death: Until now, the national debate has focused on Jack Kevorkian, the Michigan physician who has admitted to assisting in at least 30 suicides.

assisted suicide and whether the patient is competent when requesting assistance to die are questions that doctors and medical ethicists debate.

"For a lot of old people, the choice is between dying and living in a degraded environment, possibly for many years," said Daniel Wikler, a professor of medical ethics at the medical school at the University of Wisconsin at Madison.

Wikler said some elderly might feel obligated to die in order not to be a burden on family and society.

Without a long-term health care policy in the United States, he added, advancements in medical technology may be overlooked for the more cost-effective assisted suicide.

Rabbi A. James Rudin, the AJCommittee's director of interreligious affairs, opposes the act and sees a trend toward viewing assisted suicide not as a compassionate act, but rather as a business decision.

"As health costs continue to soar, insurance companies and hospitals will increasingly seek the most cost-efficient means of treating patients," he said. "The financial bottom line will always prefer assisted suicides over the more costly treatments."

In the New York case, the court ruled patients could only be considered for doctor-assisted suicide when they are terminally ill. They must be mentally competent, request help themselves and take the medication on their own, the court said.

Klagsbrun stressed that the ruling was for those who no longer respond to pain medication.

"We do our best to ease their suffering with pain management techniques," he said. "But there is a small number who can't respond and beg to die earlier. That population should not be abandoned as I believe it is now."

Klagsbrun has developed criteria in order to distinguish himself and other physicians from Kevorkian.

First, Klagsbrun said, he must know the patient and family intimately for a long period of time and he must know their values and their motives so as not to be "trapped into a hidden agenda." Second, medical care must have been exhausted. If the patient is suffering from depression, the depression must be cured. Finally, the doctor has to suffer. "The doctor should be aggravated, full of doubt, concerned, because life deserves that," he said.

Many people, however, who might seek doctor-assisted suicide would not meet Klagsbrun's criteria, said Nancy Dubler, head of the bioethics department at Montefiore Medical Center in New York, who also addressed the AJCommittee symposium.

"Heaven forbid one of us in this room needed access to a physician to end our lives, we could get it," she said. "We are all well-connected."

Dubler also asked whether anyone would help an elderly African American with a history of drug use whose family has abandoned him and who has AIDS.

"The answer is no," she said.

"There is no alternative but to create a process to which all people in pain and suffering would have access," she added.

Rabbi Rudin said he believes the same people Dubler feels would have less access to doctor-assisted suicide would be the first to receive it because they are among the weakest in society.

"The legalization of assisted suicides, even for so-called compassionate reasons, reminds me of the brutal excesses of the Holocaust when the Nazi physicians carried out deadly experiments upon the Third Reich's 'surplus population': Jews, Gypsies, political prisoners, homosexuals, mental patients and others," Rabbi Rudin said at the symposium.

In 1939, Hitler allowed doctors to kill patients diagnosed as terminally ill. They began by putting to death the physically and mentally disabled. They then proceeded with the elderly, orphans, the insane, opponents of the Hitler regime, and Jews.

The Nazi analogy is used frequently by Jewish opponents of doctor-assisted suicide.

"Are we going to start killing people who just don't want to live anymore. Is that the next step?" said Mandell Ganchrow, president of the Orthodox Union and an associate clinical professor of surgery at the New York Medical College.

"People will be denied life because they have the potential to die. That's what the Nazis did. First they took the feeble, then they took those who could not work," he said.

"God gives human beings, physicians, the right to cure the diseases of their fellow man," said Ganchrow. "We do not have the ability to put an end to it. It comes under the commandment 'Thou shall not kill.'" □