

## **M. Carcieri/Rawls and the Right to Die**

I) Introduction: Physician-assisted suicide and beyond:  
Recent proposals to expand the legal right to die

II) Rawls and the Right to Die

A) Sources for Rawls: *A Theory of Justice*, *Political Liberalism*, *Justice as Fairness: A Restatement*, and the *Philosophers' Brief in Glucksberg/Vacco*

B) Rawls' question and his answer:

- i) "What would rational, self-interested individuals, equally situated behind a veil of ignorance about the details of their own lives, agree to as the basic principles by which they will be governed in perpetuity once they know those details, and why?"
- ii) "Each person is to have an equal right to the most extensive system of equal basic liberties compatible with a similar system of liberty for all."  
"Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest advantage of the least-advantaged members of society."

C) My Two Core Related Theses

- i) The autonomy at stake in, and protected by, the recent proposals is among Rawls' equal basic liberties.
  - a) Two forms of autonomy
    - Control over the timing and manner of one's death

- Bodily autonomy

- ii) Rawlsian voters would thus bring both reflective equilibrium and strict scrutiny to bear upon the current legal prohibition on these forms of autonomy in deciding whether to enact the recent proposals into state law by citizens' ballot initiative.

- D) Application of strict scrutiny to objections to the proposals, i.e., to attempted justifications for maintaining the current prohibition

- i) Religious and related objections

- a) Public reason

- b) Virtue-based objections

- ii) Preservation of human life/prevention of suicide

- a) As a basis for a flat prohibition, these are inconsistent with:

- "the most extensive system of equal basic liberties compatible with a similar system of liberty for all."

- the current law of abortion

- iii) Protecting the vulnerable

- a) The difference principle

- iv) Protecting the integrity of the medical profession

- v) The slippery slope
- a) The Due Process Clause
- b) The law can and does draw lines all the time
- c) Intergenerational justice

### III) Conclusion