ON FEBRUARY 25, 2009, the Georgia Bureau of Investigation arrested four members of an alleged "assisted suicide ring" called the Final Exit Network. The GBI conducted an undercover operation for nearly a year, eventually carrying out searches of fourteen sites in nine different states. For a $50 annual membership fee, the Final Exit Network provides its three thousand members instructions on how to commit suicide. Their tools of choice: the "exit bag," a plastic hood placed over the head and tied around the neck, and a tank of helium to breathe under the hood. In some cases Final Exit will also provide an "exit guide" who attends the suicide to provide comfort and counsel (and who removes the mask and tank from the scene). One of the four arrested is an eighty-one-year-old anesthesiologist from Baltimore, Maryland, who is a co-founder of the group, Dr. Lawrence Egbert. All four are now free on bond.

In 1994, Georgia made it a crime to "actively assist another person" in ending his or her life. Georgia courts likely will work in the coming months to figure out what "actively assist" means. In the 1990s, Michigan courts on several occasions labored through a similar process with their more famous assisted-suicide doctor, Jack Kevorkian. Far from the private, secretive approach of the Final Exit Network, Kevorkian was flamboyant and public. On June 6, 1990, the world met the man known as Dr. Death; a New York Times headline that day read, "Doctor Tells of First Death Using His Suicide Device." By 1998 the New York Times had written 471 stories about Kevorkian and his alleged "assisting" in more than 130 suicides.

The response of Michigan courts and the state legislature ranged all over the map in the 1990s. Prosecutors charged Kevorkian with murder and a jury acquitted him. The legislature passed a law making assisted suicide a crime in Michigan, and juries continued to acquit him. Then in 1998 Kevorkian appeared on the CBS News program 60 Minutes and directly injected a man with syringes to cause his death as 15 million U.S. households watched on television. The people and the courts had had enough, and Kevorkian was convicted of second-degree murder and sent to prison.

All of which suggests that the case of the Final Exit Network may prove vexing for the Georgia justice system. The Georgia Bureau of Investigation claims that Final Exit Network guides actively assist in suicide: "They hold your hands down so that you can't remove the bag from your head," said a GBI spokesman. Derek Humphry, a long-time assisted-suicide advocate, disagreed: "You hold hands as a last gesture of comfort to these people," he said. Final Exit Network members claim that their non-physician volunteers are simply providing information and that their activities, far from constituting a crime, are protected under the First Amendment.

In the months ahead, the Georgia legal system will work to piece together the conduct that led to these four arrests. Ultimately, a Georgia jury will weigh all of that conduct and the surrounding circumstances, applying the special wisdom that juries have. Specifically, they will decide whether the conduct of Final Exit Network members in the death of a Georgia man last summer constituted the crime of "actively assisting" a suicide.

The case has proved something of a media sensation so
far. If that media attention continues, then the case may help fuel some societal discussion about how we die. Though always stressful for those directly involved, the silver lining when any right-to-die case becomes public is that the case causes our society to pause and talk for awhile about death and dying, a topic we don’t easily discuss. But those in that discussion who look to the law to resolve the complex moral and ethical questions about how we die will be disappointed—the law has no special ability to answer the question of what is “right” at the end of our lives.

Think about how laws are made. Societies pass laws to govern how we live with one another. On some issues we all agree. In each of the fifty states, if a person robs a bank with a gun and shoots the teller, we call the act a crime. American society is less clear on how we view assisted suicide and physician-assisted suicide. Most of that debate has involved the latter. PAS is a crime in some states, like Georgia, but has been legal for years in Oregon. In Washington State physician-assisted suicide was a crime on March 4, 2009, and then converted to a right on March 5 when the state law changed. A Montana judge has ruled recently that Montanans have a state constitutional right to PAS. And in New York State in the mid-1990s, in the case of _Vacco v. Quill_, doctors and patients sued the New York Attorney General claiming that they had a federal constitutional right to the practice. The case made it all the way to the U.S. Supreme Court, which rejected the claim that the Constitution includes the right to PAS. The Justices nonetheless were intrigued enough by the claim to accept the case, which they choose to do in less than 5 percent of the appeals made to the high Court.

Public opinion reflects conflict similar to that found in the law. Citizen polls typically show that a majority in our society wants to have access to physician assistance in dying. Dr. Egbert of the Final Exit Network told a reporter that when he went to church the Sunday morning after his arrest in Georgia, he “got the first standing ovation in the church’s history.” (It’s important to note that the Final Exit Network requires a medical committee to review all requests but does not require its exit guides to have a medical degree.) On the other hand, groups like the American Medical Association could not be counted among those applauding the practice—the AMA told the U.S. Supreme Court in _Vacco v. Quill_: “The power to assist in intentionally taking the life of a patient is antithetical to the central mission of healing that guides medicine. It is a power that most doctors do not want and could not control.”

On a complex social issue like physician-assisted suicide, where people of goodwill differ so markedly on what

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"There is one law that binds all great religions together. Jesus told us to ‘love thy neighbor as thyself.’ The Torah commands, ‘That which is hateful to you, do not do to your fellow.’ In Islam, there is a hadith that reads ‘None of you truly believes until he wishes for his brother what he wishes for himself.’ And the same is true for Buddhists and Hindus; for followers of Confucius and for humanists. It is, of course, the Golden Rule—the call to love one another; to understand one another; to treat with dignity and respect those with whom we share a brief moment on this Earth.”

—President Barack Obama, at the National Prayer Breakfast on February 5, 2009

"It is unfair for anyone to characterize the struggle against terrorism as being in any way prejudice against or in conflict with the Islamic world. Every religion has people who misuse that religion. I’m a Christian, and through the centuries we’ve had many people who have done terrible things in the name of Christianity. They have perverted the religion."

—Secretary of State Hillary Clinton, at a town hall meeting at the University of Tokyo on February 17, 2009, when asked by a Japanese student how to eliminate prejudice toward the Islamic world

"The placement of a permanent monument in a public park is best viewed as a form of government speech."

—Supreme Court Justice Samuel Alito Jr., delivering the opinion of the Court in _Pleasant Grove City v. Summum_ which ruled on February 25, 2009, that the free speech clause of the First Amendment doesn’t obligate a municipality to place a private group’s permanent monument in a city park where others were previously erected

"After today’s decision, whenever a government maintains a monument it will presumably be understood to be engaging in government speech. If the monument has some religious character, the specter of violating the establishment clause will behoove it to take care to avoid the appearance of a flat-out establishment of religion."

—Justice David H. Souter, who joined the court’s decision but didn’t adopt Justice Alito’s reasoning
"I don't pray for miracles. I don't pray to cure my incurable cancer. I receive and consecrate each day that I'm given as a gift. I have no idea what happens after we die, and so I go with Henry David Thoreau, who, when he was asked about the afterlife, said, 'Madam, I prefer to take it one life at a time.'"

—Reverend Forrest Church of the Unitarian Church of All Souls in New York City, in a February 27, 2009, profile on PBS's Religion & Ethics. Church, who has incurable cancer in his lungs and liver, estimates he has less than a year to live.

"As a secular godless humanist myself, I think...I'm an activist host!"

—Daily Show host Jon Stewart, in a March 3, 2009, interview with retired Supreme Court Justice Sandra Day O'Connor, who, in promoting her new civics education website (ourcourts.org), described the criticism she observed over the years of so-called 'activist judges... [seen as] secular godless humanists trying to tell [the public] what to do.'

The following three people were seen and heard at the Social Research conference "The Religious-Secular Divide: The US Case" held March 5-6, 2009, at the New School in New York City:

"You should treat that as you would a racist joke."

—Daniel Dennett, referring to the claim that one can't be moral without religion

"In the United States, freedom of religion is the freedom to act Protestant even if you're not."

—Ann Pellegrini, NYU professor of religious studies

"Imagine William Jennings Bryant co-authoring an op-ed with H.L. Mencken on the Scopes trial and you begin to understand the significance of Sarah Palin appearing on Saturday Night Live alongside Tina Fey in a self-parody."

—James Davison Hunter, University of Virginia professor of Religion, Culture, and Social Theory

is "right," the law has limited ability to provide any satisfying moral resolution to the question. In fact, even with more mainstream end-of-life laws, where we find some societal agreement, the law is a cumbersome tool in navigating complicated human questions. The black-and-white of the written law is simply not that effective in making decisions in the massive gray area that is serious illness and dying in the modern medical-technological world. It can give us rights, structure, and procedure, but not answers.

One reason laws about end-of-life are not overly effective is that they're relatively new. For most of recorded time, illness came, nature took its course, and doctors had no real tools to stop that progression. People had no fear of multiple rounds of debilitating treatments or surgeries to thwart disease and no fear of being hooked to machines that prolonged their dying, because such machines didn't exist. No longer. The meteoric advance of medical technology over the last forty years has left the idea of nature taking its course by the medico-technological roadside. Most deaths today happen in institutions, and most as the result of some decision—therapies or antibiotics refused, respirators turned off.

To find answers at the end of life—and this solution will sound simplistic, I know—we simply must do a better job of talking with one another. And while such decisions often involve complex medical information, the bottom-line turns on fundamental, human questions. Why do we live our lives? When can medicine serve those ends? When does it not?

Which brings me back to Georgia and the Final Exit Network. My bet is the four Final Exit folks arrested are earnest, caring people. But it strikes me that a caring society would do a better job for its citizens than sending them to a secret room with a bag over their head and a tank of helium to exit this world. That solution is a failure for all of us. Hospice, palliative medicine, better counseling, home care, better pain management—we have many places to focus our energy. So, let's talk.

Bill Colby is the senior fellow for law and patient rights at the Center for Practical Bioethics in Kansas City, Missouri. He is also the lawyer who represented the family of Nancy Cruzan in their right-to-die case, the first such case heard by the U.S. Supreme Court. In addition to appearing in the media and placing op-eds with major newspapers, he is the author of the critically-acclaimed book Unplugged: Reclaiming Our Right to Die in America (AMACOM 2006). A longer version of this article was published in the April 2009 Wisconsin Lawyer, the official publication of the State Bar of Wisconsin, with permission from the author and the publisher.

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