Principlism is a practical approach for moral decision-making that focuses on four major principles:

1. Autonomy,
2. Beneficence,
3. Nonmaleficence, and

The four principles that make up the principlistic approach are broad general concepts that most individuals and cultures share as important and vital for moral decision-making. These principles can usually be found in, derived from, or at least are not in contradiction with most moral frameworks. This puts principlism in a unique position in that its epistemic justification is not essential for the presentation of its moral evaluation. Principlism is also an excellent approach when dealing with pluralistic and diverse populations that are attempting to come to a shared moral consensus.

Principlism is a non-hierarchical approach in that no one, or group of principles, is any more important than any other principle. It may be the case that one principle is more relevant for a particular case than the other principles, but that would have to be determined case by case.

The Medical Marijuana case will be evaluated not by order of importance of the principles but rather by a standard order of presentation of Autonomy, Beneficence, Nonmalefice, and Justice.
PRINCIPLE I

AUTONOMY

Etymologically, autonomy comes from two Greek words of *autos*, meaning self, and *nomos*, meaning rule, i.e., self-rule. Historically, autonomy, or self-rule was used for the establishment of the sovereignty of countries. It was generally considered that a sovereign country was autonomous in that other countries were not to interfere with the self-rule of that country.

In contemporary society, this autonomy of “states” or “countries” has been extended to individual “citizens,” and “non-citizens” alike. Due to international law autonomy is now considered a basic human right.

In this Medical Marijuana case we have at least three major competing parties that are each claiming the principle of autonomy for the establishment of their sovereignty: 1) United States Federal Government, 2) State Government, and 3) Individual Citizens.

What needs to be evaluated here is how to specify the principle of autonomy for each group and then how to balance the legitimate competing interests.

To be autonomous, it has generally been recognized that three necessary components must be met:

1. Intentionality,
2. Knowledge, and
3. Freedom.

Intentionality is the actual activity of making a choice. It is not a matter of degree, rather the agent makes a choice of one type or the other.

Knowledge and freedom, in contrast with intentionality, is a matter of degree as no agent can be totally informed and no action is in accord with total freedom. Therefore, the goal is to have substantial knowledge and substantial freedom.

Autonomy, as a human right, results in certain social responsibilities with regards to the above three necessary conditions. When there is any kind of “right” it always means that others have some type of obligation that can be broken down under the following two categories:

1. Positive Rights: When others have an obligation to provide something.
2. Negative Rights: When others have an obligation to not interfere.
Intentionality

Intentionality is primarily a negative right, in that others have an obligation of not interfering with a person's choice. However, intentionality is also a positive right, especially with regards to health-care, in that there are recognized responsibilities of others to provide services, medicine — i.e. medicinal marijuana — and other provisions that are necessary for the exercise of intention.

1) Federal Government: With regards to intention in the Medical Marijuana case, the Federal Government has failed under both negative rights criteria and positive rights criteria as it interfered with the legitimate personal choices, and it did not provide for legitimate needs such as medical marijuana.

2) State Government: It is inconclusive whether or not the State Government of California would have acted under justified intent as the law allowing the use of medical marijuana was passed by referendum in which the public forces a single issue vote by the public by-passing public politicians.

3) Individual Citizens: Individual Citizens of the State of California, by virtue of their referendum forced the passing of legislation that respects both positive and negative rights by providing a means of dispensing medicinal marijuana without violating federal commerce laws and by not interfering with legitimate personal choices.

Conclusion on Intentionality

1) Federal Government: Although the Federal Government, under the direction of Gonzales and those political leaders who supported him, exercised intention, the intentional act will have to be considered as invalid and immoral as it is in direct contradiction to a recognized basic human negative and positive rights and its resultant social responsibilities.

2) State Government: Inconclusive.

3) Individual Citizens: Only the Individual Citizens in this case exercised a legitimate act of intention.

Knowledge

1) Federal Government: “There was one legal issue presented to the Supreme Court in Gonzales v. Raich. Whether the enforcement of the federal Controlled Substances Act (CSA) against Ms. Raich and Ms. Monson by DEA agents was constitutional under the commerce clause of the U.S. Constitution (Article 1, section 8), which confers upon Congress the power to regulate interstate commerce. Based upon a review of its prior
cases interpreting the commerce clause, the Supreme Court concluded, by a 6-3 vote, that the DEA agents had acted within the scope of their legitimate legal authority.”

Article I, Section 8, Clause 3 of the United States Constitution, known as the Commerce Clause, reads as follows: “The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

However, “Ms. Raich was provided marijuana at no charge by two of her caregivers, and Ms. Monson cultivated her own marijuana plants. In 2002 agents from the federal Drug Enforcement Administration (DEA) enforced the 1970 federal Controlled Substances Act (CSA) against Ms. Raich and Ms. Monson, even though local (county) law enforcement officials had concluded that their use of marijuana was entirely legal under California law.”

Clearly, with the information that has been given by this case the foreign, state, and tribal commerce laws have little if any relation to this medical marijuana case. Therefore the Federal Government has failed the necessary condition of substantial knowledge for acting autonomously.

2) State Government: Medicinal use of marijuana was legal in the state of residence of Ms. Raich. Since this law was implemented by a public referendum it is inconclusive whether or not the State Government would have met the necessary condition of substantial knowledge.

3) Individual Citizens: “Angel Raich’s doctor expressed the opinion that without access to marijuana Ms. Raich would experience excruciating pain that could prove fatal.” Ms. Raich was sufficiently informed about her condition by her doctor and therefore was acting with substantial understanding. Since no court, nor professional medical association ever questioned the competency of Ms. Raich’s doctor, we can only infer that his conclusions were reasonable with information that he had.

Conclusion on Knowledge

1) Federal Government: The Federal Government failed to make their case of a violation of commerce and therefore failed in making a rational or “knowledgeable” case against Ms. Raich and Ms. Monson.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson were acting with substantial understanding with regards to their conditions, and the effects of medical marijuana.
Freedom

1) Federal Government: Being that interstate commerce has little if anything to do with this case, and being that the best interests of Ms. Raich were certainly not being considered, it is clear that the Federal Government, under the leadership of Mr. Gonzales and his political supporters, was exercising powers with no concern for its citizens. This type of irrational behavior cannot be considered as substantial freedom for the purpose of autonomy especially considering the logical inconsistency with the spirit of freedom as outlined by the constitution and the violation of its citizens positive and negative rights.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson both were following prescribed medicinal use of marijuana in accord with their primary physician. Both patients did so making sure that they were not violating any state law nor federal interstate commerce laws. Both patient’s medical best interests were being maximized by the only effective treatment available — medicinal marijuana. All things considered it appears that Ms. Raich and Ms. Monson had made their decision based on substantial freedom as there appears to be no manipulation, coercion, or other illegitimate means of persuasion used on them.

Conclusion on Freedom

1) Federal Government: Failed with regards to the legitimate exercise of freedom as it violated basic human rights of positive and negative rights.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson appear to have made an autonomous decision in full exercise of substantial freedom.

Conclusion on Principle of Autonomy

1) Federal Government: has failed all three necessary conditions of legitimate intent, substantial knowledge and substantial freedom. As a result the Federal Government cannot be considered autonomous with regards to this case.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson, and the Californian citizens met all three necessary conditions of autonomy with intent, substantial knowledge and substantial freedom. Therefore, the Individual Citizens will have to be considered autonomous.
INFORMED CONSENT

Autonomy as a practical application has been put forth both legally and as a basic human right in terms of Informed Consent. Informed Consent has two necessary conditions:

1. Autonomous Authorization, and

Failure to meet any one of the above necessary conditions will invalidate the “informed consent.”

The Autonomous Authorization condition is met when the agent has and understands the sufficient information necessary for making the decision, and has sufficient freedom to make the decision, and then through the exercise of intent, makes the decision.

The Institutional Authorization, is the legal responsibility of an institution or agent as to what must be disclosed and or provisions provided to those who are in a position of making a decision. This is usually presented in the form of risks and burdens with a required signature indicating that you have read and understood the material presented. However, it is often times the case that the institutional authorization is completed without the autonomous authorization criteria being met as the agent has signed the institutional authorization without substantial understanding or freedom.

Informed consent is also based on the legal premise that the agent is competent to make a decision. Competency is a term that means, “ability to perform a task.” It is possible to be competent in some areas of decision-making but not competent in other areas of decision-making. The necessary conditions for competency are exactly the same as autonomy: intent, substantial knowledge, and substantial freedom. However, these necessary conditions are rarely verified for the purpose of legal consent. The interesting twist that results is that it is possible to be considered legally competent — e.g., based on being a citizen and of legal age — yet not be autonomous with regards to a particular decision. However, if a person or agent is autonomous, then that person or agent is in fact competent regardless of their legal standing.

CONCLUSION ON INFORMED CONSENT

1) Federal Government: The Federal Government would have to be considered both incompetent and in violation of informed consent with regards to medical marijuana. Incompetent as it failed on all three neces-
sary conditions of competence, and because of these failures it also failed to meet the autonomy conditions of all the Informed Consent conditions.

2) State of California: The State of California moral position is inconclusive.

3) Individual Citizens: The Individual Citizens — Ms. Raich and Ms. Monson would have to be considered Autonomous, Competent, and meeting all the conditions of Informed Consent.

PRINCIPLE II & PRINCIPLE III

BENEFICENCE AND NONMALEFICENCE

Beneficence is the principle of maximizing benefits and nonmaleficence is the principle of minimizing burdens.

Beneficence is an:
1. imperfect obligation —
   a. does not specify what the action or refrainment in question is and
   b. does not specify towards whom the action is or is not to be directed (e.g., charity),
2. positive requirement of action,
3. agent need not be impartial, and
4. failure to act positively rarely results in legal punishment.

Nonmaleficence is a:
1. perfect obligation —
   a. specifies what the action or refrainment in question is and
   b. specifies towards whom the action is or is not to be directed (e.g., do not kill your brother),
2. negative requirement of refrainment,
3. agent must be impartial,
4. failure to refrain often results in legal punishment.

It is possible to sufficiently live a life that fulfills the principle of nonmaleficence towards most people, yet it is impossible to live a life that fulfills the principle of beneficence towards most people. Therefore failure to act nonmaleficently is considered immoral whereas failure to act beneficently is not necessarily considered immoral.

1) Federal Government: In the Medical Marijuana case the Federal Government, under the direction of Gonzales and the supporting political leaders, fails with regards to the principle of beneficence. There was
no concern whatsoever with regards to the maximization of benefits for
Ms. Raich or Ms. Monson. The Federal Government also fails under the
principle of nonmaleficence in that they had little concern with regards
to the minimization of burdens for Ms. Raich or Ms. Monson. The Fed-
eral Government’s attitude seems to be that if Ms. Raich and Ms. Mon-
son suffer more or if Ms. Raich dies because of the Federal
Government’s interference in the medicinal use of marijuana then that is
just unfortunate.

Certainly, under both principles of Beneficence and Nonmaleficence
the Federal Government negligently failed with regards to both their per-
fect and imperfect obligations.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson both were acting
responsibly with regards to the two principles of beneficence and non-
maleficence. Medicinal use of marijuana was for the purpose of maximiz-
ing benefits of health, and the minimization of medical burdens.

CONCLUSION ON BENEFICENCE AND NONMALEFICENCE

1) Federal Government: The Federal Government failed with
regards to both principles of beneficence and nonmaleficence. Since the
failure to act nonmaleficiently is considered as immoral the conclusion is
that the Federal Government, under the direction of Gonzales and his
supporters, was acting immorally.

2) State Government: Inconclusive.

3) Individual Citizens: Ms. Raich and Ms. Monson both acted appro-
priately with regards to both their imperfect and perfect obligations of
beneficence and nonmaleficence. They were able to effectively maximize
benefits and minimize burdens and therefore they acted morally.

PRINCIPLE IV

JUSTICE

The formal definition of justice is harmony. Material definitions of
justice attempt to specify what this harmony means and how to measure
it. Historically this has been accomplished through the specification of a.
distributions of benefits and b. acquisitions of burdens. Some historical
examples of these are as follows:
Distributions of Benefits:

1. To each according to their need.
2. To each according to their merit.
3. To each according to their effort.
4. To each according to their contribution.
5. To each equally.

Acquisitions of Burdens:

1. From each according to their ability.
2. From each according to their burden on society.
3. From those who are the least desirable.
4. From those who contribute the least.
5. From each equally.

This list of distributions and acquisitions is not comprehensive and may be combined in a variety of combinations. Although these material principles are a specification of justice or harmony, they are still abstract enough that they will require further specification.

One of the most helpful descriptions of political positions is the political compass diagram based on a Cartesian Coordinate system. The top two quadrants are the authoritarian left and the authoritarian right and the bottom two quadrants are the libertarian left and the libertarian right. No one political position is necessarily right or wrong, rather where a person is on the “compass” is a matter of their political views of the role and function of government with regards to economics and their political views of the role and function of government with regards to social morality.

1) Federal Government: Gonzales and his political supporters, i.e., President Bush, Vice President Cheney and the Republican Party in general are categorized as “Authoritarian Right.” This position emphasizes both economic and moral governmental authority, usually in the form of trickle-down economics, and moral legislation. The focus, like the authoritarian left, is on the minimization of individual rights and liberties and the maximization of governmental authority. The authoritarian right is also usually manifested as totalitarian or fascist to the extent that there is a centralized government that controls both the economy and morality of a country while suppressing opposition. This fascism with its elimination of opposition is accomplished by the Republican Party by its attempt to destroy any type of checks and balances as implemented by the competing branches of government. The goal of the Republican Party is to get a Republican President, and a Republican majority in Congress (in
both the Senate and in the House of Representatives), and to appoint Supreme Court Judges that hold to the Republican ideology. With all three branches of government being held by a majority of Republicans along with Party Line Voting you will then be able to have total authority with no checks and balances, i.e., a fascist or totalitarian government. Under certain conditions this can in fact be the most practical political position when, for example, a. citizens are not competent, and/or b. not autonomous in their ability to maximize benefits and minimize burdens and/or c. the government is in the best position to maximize benefits and minimize burdens for its citizens.

2) State Government: The United States is at this point in time a two party government; Republican or Democrat. Both parties attempt to eliminate the branches of government both at the Federal level and at the State level and therefore both Republicans and also the Democrats can be fairly categorized as fascists in intent. Likewise, under certain conditions this can in fact be the most practical political position when, for example, a. citizens are not competent, and/or b. not autonomous in their ability to maximize benefits and minimize burdens and/or c. the government is in the best position to maximize benefits and minimize burdens for its citizens.

3) Individual Citizens: Most citizens perceive themselves as competent and substantially autonomous in their ability to maximize benefits and minimize burdens and that they are in the best position for making that happen. As a result most citizens are primarily libertarian right (bottom right) or libertarian left (bottom left).

Libertarian right emphasizes both economic and moral autonomy through the implementation of fair procedures. The focus is on the minimization of governmental authority, and the maximization of personal autonomy. This personal autonomy is maximized by the establishment of individual rights and liberties and is implemented through the process of fair procedures.

The libertarian left emphasizes both economic and moral autonomy through the implementation of fair procedures. The focus is on the minimization of governmental authority, and the maximization of personal autonomy. This personal autonomy is maximized by the establishment of individual rights and liberties and is implemented through the process of fair procedures. As economies are determined by the process of fair procedures they naturally tend towards a trickle-up egalitarian economy.
CONCLUSION ON JUSTICE

1) The Federal Government: In this Medical Marijuana case the Federal Government is clearly acting from an authoritarian position. The problem is that the justification for authoritarianism is based on their ability to maximize benefits and minimize burdens. As seen in the evaluation of beneficence and nonmaleficence there is no justification for authoritarianism as the Federal Government seemed to have no interest in minimizing burdens or maximizing benefits for its citizens. Therefore there is no justification for government authoritarianism as directed by Gonzales or his Republican cohorts with regards to medical marijuana.

2) State Government: In this Medical Marijuana case the State Government is also more than likely acting from an authoritarian position, possibly in opposition with the public. The legalization process was in a sense high-jacked from the politicians through the referendum process where there is a forced vote by the public on a particular issue. Since the State Government did not bring up the referendum there is an indication that they were also holding a position of authority with no moral justification and therefore immoral. However, this is pure speculation with no empirical evidence given by the case study and therefore it is inconclusive whether the State’s position is justified as there is not enough information.

3) Individual Citizens: In this Medical Marijuana case it is clear that the general public is acting competently and autonomously with the referendum, with the practical result of maximizing overall individual and social benefits and minimizing overall individual and social burdens. Therefore, Ms. Raich and Ms. Monson are morally justified.

FINAL ANALYSIS

1) The Federal Government, with regards to this Medical Marijuana case, has failed every single moral principle and every single necessary condition, therefore the Federal Government was acting blatantly immoral. On many if not most moral decisions there will be a moral dilemma in that some principles will be justified by making one decision and other principles are justified by making an opposing decision. In those cases there will be a need for balancing the competing principles and coming to a compromise. What is interesting in this case, is that there are no such conflicts of moral principles as the Federal Government failed on every moral principle. The Federal Government was just
clearly acting out of power with no regards towards morality. This should accentuate the positive need for independent branches of government controlled by an informed electorate.

2) State Government: Inconclusive with regards to the information as presented by the case study.

3) Individual Citizens: In this Medical Marijuana case Ms. Raich and Ms. Monson fulfilled every single moral principle and all the necessary conditions, and therefore there is no question that they were acting with clear moral justification. As dominant as this position is, what is an even more interesting question is why there has been any controversy at all with regards to whose position had moral justification.