



# HOW SUICIDE KILLING OF HUMAN LIFE BECAME A HUMAN RIGHT IN THE UNITED KINGDOM

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*Changing Society to put the  
Hope of Christ at its Centre*





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PROF. WILLIAM WAGNER,\* PROF. JOHN S. KANE,\*\* LAUREN PRIEB\*\*\*

**“Thou shalt not kill.”**  
—God<sup>1</sup>

**“It’s my life and I’ll do what I want.”**  
—The Animals<sup>2</sup>

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## Introduction

Throughout its remarkable history, Great Britain's culture and law safeguarded the dignity of human life by refusing to recognise a "right" to suicide. Indeed, contemporary British statutes make it a serious crime even to assist in the commission of a suicide killing.<sup>3</sup> Recent parliamentary proposals<sup>4</sup> and a court decision<sup>5</sup>, however, deliberately abandon these deeply-rooted cultural, historical, and legal traditions. Most recently, in a raw exercise of judicial power, five Law Lords made British history by declaring into existence a human right to kill human life via suicide.<sup>6</sup>

In this article we analyse the demise of Britain's assisted suicide law. In part one we survey lawmaking on the value of human life through two different jurisprudential lenses: 1) the traditional objective, *Christian* worldview; and 2) the contemporary subjective, *human-centred* worldview.

In part two of the article we review current U.K. statutory law prohibiting assisted suicide. We then review recent pro-suicide parliamentary proposals and subsequent court action recognising suicide as a human right. Our findings reveal a disquieting shift in jurisprudential worldview, accompanied by a deteriorating respect for the value of human life. Current statutory law prohibiting assisted killing reflects the sacred objective standard present in Britain's divine, natural, and common-law traditions. Pro-suicide proposals and court decisions, on the other hand, discard any moral reference point in the law, replacing it with the human-centred, morally relative approach to lawmaking. In Part three of the article we review the implications for a nation that accompany such a shift in worldviews. In the end, we conclude that viewing the world through the lens of human-centred moral relativism presents grave implications for a society. We pray the serious implications of such a worldview shift will sober, and then persuasively inform, the public debate.

## Part I.

### Two Jurisprudential Worldviews

Fundamentally, two jurisprudential views of the world exist.<sup>7</sup> The first view sees God as the source of law and rights, while the latter makes man the measure of all things.<sup>8</sup> Thus, one can embrace either that law is something God reveals for us to discover or that it is something we create solely by our own reasoning apart from any divine revelation.<sup>9</sup>

#### **A. The Objective Worldview Lens: An Inviolable Standard Present in Divine or Natural Law, Reflected in the Common Law**

Under the first view, human laws reflect revealed divine or natural law.

Such laws may be just or unjust, depending on the clarity with which they reflect those objective standards.<sup>10</sup> God's truth is self-evident and He endows all human beings with sacred, inalienable rights, including the right to life.<sup>11</sup> The Creator makes truth and other moral absolutes evident to us; we do not create them. Moreover, the Creator makes us creatures; we are not the Creator, and, as such, we are subordinate to—though certainly a part of—that realm of absolutes. This is inherent in our traditional, natural-law view, which “asserts a person's fundamental *obligation* (according to one's ability) to recognise reality as it actually exists on its own terms—and to acknowledge and respect the God-given (and, hence, inviolable) dignity of every human being.”<sup>12</sup>

The traditional wisdom of our forebears is generally reliable, which is why it has endured. If they correctly perceived and expressed the truth of an issue, we will only be able to agree with their conclusions; any changes we make to their findings would not be progress, but a perversion of the truth.<sup>13</sup> Clarifications, refinements to fit new developments, and other marginal improvements are frequently possible; however, by its very nature, the truth of first principles endures—it does not evolve into “new truths.”<sup>14</sup> The laws of moral governments, operating under the Rule of Law, reflect this principle. Good government is not immoral or amoral. Good government is moral. Under the objective worldview, the good that government is designed to do is premised on absolute and objective truths, not subjective and relative feelings. That is ultimately what we must mean when we affirm that we are a government of laws, not of men.

One of the fundamental roles of a moral government is to protect human life.<sup>15</sup> Indeed, it has been said that “[t]he care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.”<sup>16</sup> Although government must also protect liberty, the interest in life is plainly superior.<sup>17</sup> Life without liberty at least holds the potential for renewed liberty and other goods, but liberty without life is a nullity. No one has the “liberty right” to unnaturally terminate one's life simply because doing so is wrong. What is wrong cannot be a right.<sup>18</sup>

It is not surprising, therefore, that traditionally we find divine or natural-law prohibitions on suicide—or that we later see such traditions embodied in common and statutory law.<sup>19</sup> Indeed, it is no coincidence that Western cultures uniformly discourage—if not condemn—the act of suicide and those who assist in it.<sup>20</sup> These cultures base their ethical and legal systems on the Judeo-Christian tradition,<sup>21</sup> which teaches that taking human life is fundamentally wrong.<sup>22</sup> Because God creates human life with moral purpose, only He can authorise the taking of it—and nowhere in His Word does He authorise suicide or assisting someone to commit suicide.<sup>23</sup> God's inviolable standard is expressed in His command: “*Thou shalt not kill.*”<sup>24</sup>

Because of the respect for life imbued by the Jewish religion,<sup>25</sup> suicide was rare in ancient Judaic culture.<sup>26</sup> Although one historian opines that suicide was generally

considered the result of derangement and thus not punishable in Hebraic culture,<sup>27</sup> it is also reported that suicide victims and their families were punished by denial of the customary burial rites<sup>28</sup> (though this would hardly seem exculpatory toward an assistor). Although Hellenistic culture may have influenced some later Jewish writers to relax their disapprobation of the act,<sup>29</sup> Rabbinic and Talmudic writings after the Jewish exile included prohibitions on suicide and maintained funeral sanctions.<sup>30</sup>

Roman law forbade suicide and, at least under limited circumstances, forfeited the violator's personal and real property to the state, so they could not pass to the offender's heirs.<sup>31</sup> Early Christian culture eventually came to influence Roman law with the conversion of the Emperor Constantine.<sup>32</sup> Christian doctrine, as later most famously expounded by Augustine and Aquinas, clearly forbade suicide,<sup>33</sup> which, at the very least, implicitly prohibited assistance in suicide. Because of the dominant influence Christianity had on Western legal systems,<sup>34</sup> the Judaic and Roman legal penalties for suicide persisted in Western cultures for many centuries after the fall of the Roman Empire.<sup>35</sup> Luther, Calvin, and the majority of influential Christian scholars of the Reformation continued the Christian condemnation of suicide, although there were a few Christian writers in the seventeenth century who questioned the extent to which suicide should be punished as a culpable act.<sup>36</sup> Despite these debates, the law in Western countries continued to prohibit suicide.<sup>37</sup>

Historically, the United Kingdom never recognised a "right" to suicide (or assistance in committing suicide by physicians or others).<sup>38</sup> On the contrary, the common law generally viewed suicide as self-murder.<sup>39</sup> As is the case with murder, assisting or attempting suicide were also criminal acts at common law.<sup>40</sup> English common law<sup>41</sup> also continued the Judaic and Roman traditions of ignominious burial and adopted a more expanded version of the Roman penalty of forfeiting the personalty (personal property) of one who committed suicide, although it discontinued the escheat of realty (reversion of real property to the feudal lord or to the Crown).<sup>42</sup>

Whether by common law, statute, or both, the American colonies also generally condemned suicide and largely continued England's legal sanctions.<sup>43</sup>

When natural-law theory dominated Western legal philosophy,<sup>44</sup> judges, lawyers, and scholars recognised God's existence, and referred to His natural law as a source of our rights.<sup>45</sup> These judges, lawyers, and legal scholars widely agreed that the common law was an expression of natural or divine law.<sup>46</sup> The highest courts of Western nations cited the writings of three of Europe's greatest natural-law scholars (Grotius, Puffendorf, and Vattel).<sup>47</sup> Blackstone, whose *Commentaries on the Laws of England* was once the "bible" for lawyers and judges,<sup>48</sup> characterised suicide as "self-murder" and "among the highest crimes."<sup>49</sup> Indeed, courts sometimes referred to "self-preservation" as "the first law of nature."<sup>50</sup>

Thus, viewed through the lens of the first worldview, one discovers divinely-revealed, objective standards on the value of human life. In the revealed is the inviolable, objective standard that killing human life by suicide is wrong. Underlying this sacred standard is a presumption that human life has value and purpose at all times. Divine law, natural law, English common law, and Britain's statutory law traditions all historically embody this standard. Throughout history God clearly revealed His inviolable objective standard that killing a human being by suicide is wrong.

**B. The Subjective Worldview Lens:  
Substituting Moral Relativism for the Sacred Standard**

Contrasting the worldview lens through which lawmakers perceive a sacred objective standard and prohibit suicide, is a worldview lens through which contemporary pro-suicide proponents propose to create law authorising assisted suicide. Rejecting the moral absolute of the inviolable standard, proponents of assisted suicide favour a *subjective, human-centred* worldview. Viewed through the subjective lens of moral relativism, individuals determine, as a matter of personal convenience, whether a particular human life has value in certain circumstances and—without looking to any objective standard of right or wrong—create law accordingly.

Contrary to the foundational worldview of the United Kingdom, the human-centred subjectivist worldview cuts us off from the realm of an absolute reality.<sup>51</sup> It has no place for God—or, rather, it puts man in God's place.<sup>52</sup> There is no objective truth; the human subject is the source of all rights and laws, all concepts of truth and justice.<sup>53</sup> The subjective, human-centred view obviously cannot compare human laws to absolute standards of truth or justice. The reason it cannot is because each individual decides what is true, good, and just, based on the individual's power of reason (apart from any objective moral reference point). Thus, terms such as "truth" or "justice" merely represent subjective, relativistic viewpoints and not absolute standards. We do not "know" truth or good so we must make it up as we go. The absurd result of this theory, of course, is that one who holds it cannot actually claim it is true or good.<sup>54</sup> It may be "true" or "good" in the relativist sense for the speaker, but need not be for the listener, which is no meaningful truth at all.

**Part II.**

**Contemporary U.K. Law on Assisted Suicide**

When formulating law concerning suicide killing, the two jurisprudential worldviews collide. The Parliament and the judiciary in the United Kingdom face a

choice. On the one hand, they may look to the objective standard revealed in divine or natural law as the benchmark and promulgate provisions reflecting that standard. Alternatively, they may, using subjective moral relativism, create law without looking to any objective standard of right or wrong.

### **A. The 1961 Suicide Act: Parliament Prohibits Assisted Suicide Killings**

Reflecting the objective standard, the United Kingdom enacted statutory law prohibiting assisted suicide.<sup>55</sup>

As originally promulgated, the United Kingdom's Suicide Act 1961, provided that:

*A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be liable on conviction on indictment to imprisonment...*<sup>56</sup>

On its face, the 1961 Act broadly covered all aspects of assisted suicide. To be sure, like many other governments, the UK Government dropped criminal sanctions for the person attempting suicide in the 1961 Act.<sup>57</sup> It is important to note, however, that neither the U.K. nor these other governments did so because they believed the conduct acceptable.<sup>58</sup> Thus, after the United Kingdom statutorily decriminalised suicide in the 1961 Act, judicial opinions in the House of Lords described the change as a way to promote life.<sup>59</sup>

The 1961 Act inherently acknowledged that legitimising assisted suicide threatens the most vulnerable. Judicial opinions in the House of Lords likewise historically recognised such risks.<sup>60</sup> Undeniably, many people in the final stages of life cannot communicate effectively. Whilst they may have once indicated a preference to avoid suffering at their end of lives, no-one knows whether, at the point they cannot communicate, they still desire to extinguish their lives unnaturally.

Britain's statutory proscriptions against assisted suicide additionally appreciate that government-authorized suicide creates a frightening duty to die. Judicial opinions in the House of Lords also historically recognised the elderly might choose suicide "not from a desire to die or a willingness to stop living, but from a desire to stop being a burden to others."<sup>61</sup>

### **B. The Pro-Suicide Statutory Proposals: Advocates Unsuccessfully Attempt to Legalise Assisted Suicide Killings in the U.K.**

Consistent with Britain's cultural heritage and legal traditions, Parliament repeatedly defeated endeavours to undercut the protections provided in the Suicide Act 1961. To be sure, several serving in Parliament relentlessly sought to shift the paradigm. Lord Joffe, whose self-proclaimed life mission is to promote dying,<sup>62</sup> led the attack. In 2002 and 2003, Lord Joffe tried unsuccessfully to legalise assisted

suicide by proposing the Patient (Assisted Dying) Bill, (later known as the Assisted Dying for the Terminally Ill Bill).<sup>63</sup> Parliament again rejected the pro-suicide proposal in 2005 and in 2006.<sup>64</sup>

The situation involving British pro-suicide advocate, Debbie Purdy, activated another attempt to pass pro-suicide legislation.<sup>65</sup> Diagnosed with a terminal disease, Ms. Purdy wanted to kill herself after the illness progressed to a certain stage.<sup>66</sup> She stated she could not accomplish the act without assistance.<sup>67</sup> When the time came, she wanted her husband to assist in her suicide killing by helping her to travel to another country where suicide was legal.<sup>68</sup> While Purdy's situation sought limelight, Parliament debated the Coroners and Justice Bill.<sup>69</sup>

Consistent with the cultural heritage and legal traditions of the United Kingdom, members of Parliament originally introduced the Coroners and Justice Bill to strengthen British anti-assisted suicide law. The provisions, included in the Coroners and Justice Act 2009, clarified that Britain's proscription against assisting suicide: 1) extended to those who do not know the person who wants to die; and 2) applied to assisters of attempted suicides whether or not an attempted suicide or suicide occurs.<sup>70</sup>

Pro-suicide proponents in Parliament, however, attempted to use the Coroners and Justice Bill as a vehicle to legalise assisted suicide.<sup>71</sup> Using Ms. Purdy's situation as justification, pro-suicide proponents proposed various amendments. One amendment sought to authorise assisted killing of British citizens in Ms. Purdy's situation. The proposed amendment counter-intuitively indicated that "*an individual ... is not to be treated as capable of ... assisting the suicide ... of another adult ... if ... the act is done ... principally for the purpose of ... assisting [an individual to travel to a country to commit suicide as permitted there].*"<sup>72</sup> This proposed amendment would have codified the government-sanctioned killing of human life under prescribed conditions.<sup>73</sup> Thus, an individual in the U.K. could, for example, put another human being on a train, sending that person to another country to be killed. The proposed amendment cloaked the individual assisting in the killing with complete immunity. Again counter-intuitively, the proposed law continued to protect human life if the train did not leave the U.K.

Another amendment proposed to put lawyers or doctors, serving as coroners, in the position of authorising the killing of a human being. Upon "certification from a coroner", the amendment sought to allow an individual to assist another in committing suicide if the person wishing to die was "suffering from a confirmed, incurable and disabling illness which prevents him from carrying through his own wish to bring his life to a close."<sup>74</sup>

The pro-suicide proposal aggressively challenged long-established ethical elements of medical practice in the United Kingdom. The British Medical Association and other respected health care organisations, nonetheless continued to affirm the moral proscription against assisted suicide as the very foundation of medical ethics.<sup>75</sup>

The Hippocratic Oath, written during the fifth to fourth centuries B.C. declares, “I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.”<sup>76</sup> Such a standard is consistent with God’s revealed, inviolable standard reflected in the common law and other historical and legal traditions of the United Kingdom.<sup>77</sup> Indeed, assisted suicide is entirely irreconcilable with a doctor’s calling to heal.<sup>78</sup> Astonishingly, the pro-suicide proposals before Parliament failed to provide any ethical standards of implementation or enforcement mechanisms for compliance by physicians. Not surprisingly, therefore, no data-collection requirements that might provide some accountability even existed. Furthermore, despite vague, subjective requirements concerning the physical and mental state of the patient, no definitional safeguards existed to protect vulnerable or elderly patients. Moreover, no duty to discuss other treatment options or palliative care alternatives for pain management existed anywhere in the proposed statutory scheme.

Thus, with virtually no protection for the vulnerable, the proposed pro-suicide amendments to the Coroners and Justice Bill would have expressly authorised individuals to assist, in prescribed circumstances, in the suicide killing of a live human being.<sup>79</sup> Consistent with (and informed by) the deeply-rooted first principles reflected in Britain’s legal history and tradition, a majority of those voting on the pro-suicide provisions voted against them.<sup>80</sup>

### **C. The Purdy Decision: Five Law Lords Surrender Sovereignty and Conscience**

Not long after Parliament rejected pro-suicide amendments to the Coroners and Justice Bill, a court case initiated by Ms. Purdy came before five Law Lords. Although the 1961 Act broadly covered all aspects of assisted suicide, Purdy raised the issue as to whether an individual could assist someone to travel to another country where assisted suicide is “legal” and expect to escape prosecution.<sup>81</sup> Among other things, Ms. Purdy contended the assisted suicide prohibition in the 1961 Act constituted an interference with her privacy rights under article 8(1) of the European Convention on Human Rights.<sup>82</sup> Thus, Purdy asserted she possessed a human right grounded in privacy to decide to kill herself—and that the statutory proscription against assisting suicide infringed this right.<sup>83</sup>

To understand fully the context of the *Purdy* case before the five Law Lords, one must review what happened beforehand. Prior to *Purdy* came *Pretty v. DPP*.<sup>84</sup> *Pretty* involved another woman who also desired to kill herself with the assistance of her husband.<sup>85</sup> When *Pretty v. DPP* reached the House of Lords, the Court clearly confirmed that no right to commit suicide existed in the United Kingdom:

*[W]hile the 1961 Act abrogated the rule of law whereby it was a crime for a person to commit suicide, it conferred no right on*

*anyone to do so... The policy of the law remained firmly adverse to suicide.*<sup>86</sup>

Moreover, on the issue raised by Ms. Pretty, the Law Lords held Article 8 pertained to protecting personal autonomy while the individual was alive, but *did not* confer a right to decide to commit suicide.<sup>87</sup>

The *Pretty* case then travelled to European Court of Human Rights, now styled as *Pretty v The United Kingdom*.<sup>88</sup> Turning a blind eye to the cultural and legal traditions of Great Britain, the European judges reached a very different conclusion from the British Court on the interpretation of Article 8. The European Court of Human Rights ("ECtHR") concluded that exercising a choice to kill human life via suicide constituted a human right under article 8(1). The Court also held that Britain's 1961 assisted suicide law interfered with this right.<sup>89</sup> However, the ECtHR decided that the interference was justified to protect the vulnerable.

With the dichotomy of the *Pretty* decisions serving as prologue, *Purdy* began its journey through the British courts. The Court of Appeal faced the issue of whether Purdy possessed a human right to decide to kill herself under Article 8(1).<sup>90</sup> Before deciding the issues, the Court of Appeal had to first determine which prior court authority to follow. Should it follow the *Pretty* precedent established in the British Court? Or should it follow the ECtHR's reasoning in the *Pretty* decision? The Court of Appeal applied the former confirming that Article 8(1) of the Convention conferred no right to commit suicide.<sup>91</sup> Ms. Purdy appealed the decision to the House of Lords.

The five Law Lords began by relying upon the European Court's analysis in *Pretty* to resolve the issues raised by Ms. Purdy, rather than standing by their previous precedent in *Pretty v. DPP*.<sup>92</sup> In so doing, the Law Lords' discarded the deeply-rooted British cultural and legal traditions protecting human life against suicide killings. In its place, the Law Lords adopted the European Court's construction of Article 8(1) of the European Convention<sup>93</sup> to hold that deciding to kill human life via suicide was a human right. Thus, each Law Lord concluded that Ms. Purdy possessed a human right under the Convention to decide to kill herself.<sup>94</sup>

How could the five Law Lords in *Purdy* interpret existing pro-life law so inconsistently with the deeply-rooted first principles reflected in its nation's legal history and tradition? The answer lies in understanding the lens through which they view the world. The Law Lords and other assisted suicide proponents reject the moral absolute of an inviolable standard. In its place, they employ a human-centred, subjective, morally relative worldview. When the five Law Lords deemed the killing of human life via suicide a human right, they did more than defer to the European Court. They shifted a nation's jurisprudential worldview. Historically, human life has been deemed worthy of the full protection of the law. The five

Law Lords in *Purdy* instead chose to view the matter through the subjective lens of moral relativism, enabling them to create law without looking to any moral standard of right or wrong. Viewed through the subjective lens of moral relativism, deciding to kill human life via suicide descends into a matter of personal autonomy. Thus, the value of a particular human life in the United Kingdom now varies with the circumstances.

As the public debate on assisted suicide continues, it makes sense to review the implications for a nation that accompany such a shift in worldviews.<sup>95</sup> In the next section, therefore, we address the implications of viewing the world through the lens of moral relativism. It is with this final point that we conclude and present the reader with a challenge.

### **Part III.**

#### **The Grave Implications of Devaluing Human Life and Rejecting God's Sacred Standard**

We begin with what should be an obvious point. Assisting in the commission of a suicide killing proceeds from the fundamentally erroneous premise that human life in certain conditions no longer has positive value or purpose. That premise has incalculably grave implications for all of us. When the value of life becomes an immorally relative individual choice, no benchmark exists against which to measure right from wrong or good from evil. If no moral reference point exists, nothing prevents taking human life in other ways, for other people, in other situations. History suggests that such an approach has horrific consequences. Once “liberated” from objective moral standards by subjectivist relativism, the individual is completely subject to the will of any stronger individual or group; for no moral standard exists to prevent the imposition of that stronger subject’s “morality.”<sup>96</sup> Thus, instead of leading to the freedom it promises (from the alleged “oppression of tradition”), the moral relativist view opens the door wide to tyranny.<sup>97</sup>

Numerous scholars have documented that while contemporary pro-suicide proposals may be the next step toward the precipice, they certainly were not the first steps taken down the slippery slope.<sup>98</sup> Euthanasia societies grew during the late-nineteenth and early-twentieth century eugenics movements that advocated the elimination, by various means, of “less valuable” human beings.<sup>99</sup> The Nazis first legalised voluntary euthanasia, then killed hundreds of thousands of the mentally ill—all prior to the unspeakable tragedy of the Holocaust.<sup>100</sup> The Holocaust is, of course, a story in itself—a story of wanton abandonment of objective moral standards. As late as the 1940s, one of the world’s leading euthanasia proponents, Dr. Foster Kennedy, advocated compulsory euthanasia for retarded children on eugenics grounds.<sup>101</sup> By

the 1970s, the euthanasia movement's focus shifted to easing the "burden" of caring for the elderly, and then to easing suffering<sup>102</sup>—and now to "liberty" of "choice."

The Dutch experiment in physician-assisted suicide failed frighteningly. "Safeguards" in the pro-suicide law there utterly failed to protect Dutch citizens. Doctors consistently violated unenforceable legal restraints on "abuses" of the new "right."<sup>103</sup> Evidence showed that at one time, sixty percent of Dutch assisted-suicide cases went unreported.<sup>104</sup> Most non-reporting involved cases in which physicians failed to follow established guidelines for voluntariness or consultation.<sup>105</sup> Worse, in several thousand cases, physicians ended patients' lives without the patients' consent.<sup>106</sup> Twenty-five percent of physicians terminated one or more lives without a request.<sup>107</sup> In a 1995 study, forty percent of the more than 6,000 cases in which physicians actively intervened to cause death involved no explicit request from the patient.<sup>108</sup> Each major Dutch measure enacted to control and regulate physician-assisted suicide (including "informed consent", consultation, and reporting) largely failed, was modified, or was violated.<sup>109</sup> A more recent report indicated an increased number of "terminal sedation deaths."<sup>110</sup> This slow euthanasia process involves "a continuous deep sedation," usually while withholding food and fluids, so unconscious patients die from dehydration if not the underlying illness.<sup>111</sup> The report further documented that "[i]n 2005, the ending of life was not discussed with patients because they were unconscious (10.4%) or incompetent owing to their youth (14.4%) or because of other factors (15.3%)."<sup>112</sup>

Unfortunately, that which pro-suicide proponents present as a limited right to assisted suicide "is likely, in effect, [to lead to] a much broader licence, which could prove extremely difficult to solve and contain."<sup>113</sup> When the positive value of life depends on an individual's morally relative choice, nothing prevents individuals (or governments) from choosing death in other ways, for other people. Indeed, what we sowed yesterday, we are reaping today. A Dutch healthcare facility now concedes it euthanized newborn infants, and a physician who killed the disabled babies unapologetically asserts his conduct is proper.<sup>114</sup> So society continues to slouch toward Gomorrah—and at an increasingly faster pace as it replaces God's inviolable moral standard with an immorally relative individual convenience.<sup>115</sup>

Since the beginning of time, divine and natural law traditions of the United Kingdom embodied God's sacred standard that we should not assist in the killing of human life He created. Discerning the Truth of His inviolable standard, the common and statutory law of Britain reflect its moral reference point and prohibit assisted suicide. *Purdy*, and the recent pro-suicide parliamentary proposals, reject the inviolable standard underlying current statutory proscriptions against assisted killing. The grave implications for a nation that accompany such a choice is historically clear and profoundly frightening.

## Part IV.

### A Challenge to Christians and Those Who Love Liberty

The conscience of a nation is a fabric comprised of much more than statutes and court decisions. Those who came before us built good governance under the Rule of Law upon fundamental foundations of decency. That foundation is chipped away with each attempt to shift the predominant paradigm from the traditional objective worldview to the morally relative, subjective one. More than just viewing suicide through the lens of moral relativism, such a worldview shift subtly seeks to transform a pluralistic nation (where everyone may freely participate in public-policy development) into a secular nation (where everyone except the religious may do so). Citizens of the UK, exercising freedoms of speech and conscience, for the time being, are free to view assisted suicide through either lens. If these fundamental freedoms mean anything, they at least must protect the right to manifest what one sees through these lenses. In this regard, U.K. citizens with viewpoints informed by sacred tenets have as much of a right to participate in the public policy-making process as any other citizen. This article is a challenge to them to stand and to speak the truth.

The *Purdy* decision abandons the moral absolute and follows a morally relative approach. The serious implications of such a worldview shift ought to sober, and then persuasively inform, the public debate. While public policy grounded in the objective, traditional worldview holds the potential to help restore and preserve the intrinsic value of human life, public policy ultimately depends on the will of a morally motivated citizenry. If, in the name of an individual's morally relative choice, we fail to condemn the state-authorized killing of a human being, we merely create an illusion of a nation willing to protect fundamental freedoms. Such a course inevitably erodes essential foundations of freedom. Although structural institutions of free government may stand for a time, the essence for which they stand eventually ceases to exist.

Foundations matter. The House of Lords' *Purdy* decision and recent pro-suicide parliamentary proposals grieve millions around the world who know that God made us in His image, and therefore know that life is sacred. It is good for us to recall, therefore, the ancient Biblical truth that "righteousness exalts a nation,"<sup>116</sup> for it is equally true that "sin is a disgrace to any people." In the end, viewing the issue through the lens of moral relativism destroys the sanctity of life because it denies the only one who can truly sanctify. Only the Creator can rightfully destroy either life or liberty. He gave us both, and only He can rightfully separate us from them, or permit us to do so.<sup>117</sup> In the case of self-murder, He nowhere provides an exception to the inviolable objective standard expressed in His command, "*Thou shalt not kill.*"<sup>118</sup>

## Endnotes

<sup>1</sup> Exodus 20:13 (King James); Deuteronomy 5:17 (King James).

<sup>2</sup> THE ANIMALS, *It's My Life*, on RETROSPECTIVE (Columbia Records 1965).

<sup>3</sup> The Suicide Act 1961.

<sup>4</sup> See e.g., Coroner's and Justice Bill (2009) proposed new clauses 49 and 174. <http://services.parliament.uk/bills/2008-09/coronersandjustice.html>.

<sup>5</sup> *R (on the application of Purdy) v Director of Public Prosecutions* [2009] UKHL 45 (Hereinafter Purdy).

<sup>6</sup> *Id.* Keeping the debate in the global spotlight, two particular doctors, each known as Dr. Death, publicly pander their poisonous ideas throughout the world. Australian physician Dr. Philip Nitschke founded a right to die organization and campaigns to legalise euthanasia. *Dr. Death Brings First Suicide Workshop to UK*, *Telegraph.co.uk* (5 May 2009). Most recently, he brought suicide workshops to the United Kingdom where he panders his suicide kits. *Id.* American Dr. Death, Jack Kevorkian, served eight years on a murder conviction. Kathleen Gray, *Kevorkian Paroled: "I'm Not Going to Do It Again,"* *Detroit Free Press*, Dec. 14, 2006, at A1. Upon his release from prison, Kevorkian immediately began campaigning for laws authorising assisted suicide. *Id.* Among other things, Kevorkian advocates for human experimentation on individuals committing suicide. Jack Kevorkian, *The Last Fearsome Taboo: Medical Aspects of Planned Death*, 7 *Med. & L.* 1, 8-9 (1988) (advocating, for example, experimentation on handicapped infants and incompetent elderly individuals). Nitschke, Kevorkian, and the five Law Lords, view the world through a very different lens from those who oppose this lethal conduct.

<sup>7</sup> See Daniel M. Crone, *Assisted Suicide... A Philosophical Examination...* 31 *U.S.F.L. REV.* 399, 422 (1997) [hereinafter Crone, *Assisted Suicide*]; see also Michael W. McConnell, *The Right to Die and the Jurisprudence of Tradition*, 1997 *UTAH L. REV.* 665, 667-69 (1997).

<sup>8</sup> Crone, *Assisted Suicide*, *supra* note 7.

<sup>9</sup> See, e.g., Charles E. Rice, *Rights and the Need for Objective Moral Limits*, 3 *AVE MARIA L. REV.* 259, 260 (2005).

<sup>10</sup> See generally *id.* at 264-65. See also Crone, *Assisted Suicide*, *supra* note 7, at 423.

<sup>11</sup> See Crone, *Assisted Suicide*, *supra* note 7, at 422 (quoting THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776)).

<sup>12</sup> *Id.* at 426.

<sup>13</sup> Crone, *Assisted Suicide*, *supra* note 7, at 428-29 n.106 (citations omitted).

<sup>14</sup> *Id.*

<sup>15</sup> See, e.g., Dwight G. Duncan & Peter Lubin, *The Use and Abuse of History in Compassion in Dying*, 20 *HARV. J. L. & PUB. POL'Y* 175, 177 (1996) ("[A]ll civilized nations . . . demonstrate their commitment to life by treating homicide as a serious crime' and . . . 'the majority of states in this country have laws imposing criminal penalties on one who assists another to commit suicide.' " (quoting *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 280 (1990)).

<sup>16</sup> Thomas Jefferson, Address to Republican Citizens of Washington County, Maryland, Assembled at Hagerstown on the 6th Instant, Monticello (Mar. 31, 1809), in 16 *THE WRITINGS OF THOMAS JEFFERSON* 359 (Andrew A. Lipscomb & Albert Ellery Bergh eds., 1905).

<sup>17</sup> See *Washington v. Glucksberg*, 521 U.S. 702, 741 (1997) (Stevens, J., concurring).

<sup>18</sup> Although this proposition is self-validating, Hadley Arkes provides a typically illuminating discussion of the matter in *FIRST THINGS: AN INQUIRY INTO THE FIRST PRINCIPLES OF MORALS AND JUSTICE* 24 (1986).

<sup>19</sup> See, e.g., Nelson Miller, *The Nobility of the Lawyer: The Ennobling History, Philosophy, and Morality of a Maligned Profession*, 22 *T.M. COOLEY L. REV.* 209, 220-30 (2005).

<sup>20</sup> *Id.*, at 1273 (citations omitted).

<sup>21</sup> Duncan & Lubin, *supra* note 15, at 185.

<sup>22</sup> See, e.g., Exodus 20:13 (King James); Deuteronomy 5:17 (King James). In this regard, God reveals in His Word that the life He creates has worth, value, and significance. He declares His creation of human life good:

- God created man in his own image, in the image of God he created him; male and female he created them. Genesis 1:26, 27 (NIV)
- God saw all that he had made, and it was very good. Genesis 1:31 (NIV).

Moreover, God intimately communicates that He has a plan and purpose for each life He creates:

- 'For I know the plans I have for you,' declares the Lord Jeremiah 29:11 (NIV).
- For we are God's workmanship, created in Christ Jesus to do good works, which God prepared in advance for us to do. Ephesians 2:10 (NIV)
- For you created my inmost being; you knit me together in my mother's womb. . . [Y]our eyes saw my unformed body. All the days ordained for me were written in your book before one of them came to be. Psalm 139:13, 16 (NIV);
- For by him all things were created: things in heaven and on earth, visible and invisible, whether thrones or powers or rulers or authorities; all things were created by him and for him. Colossians 1:16 (NIV)

- [E]very one who is called by my name, whom I created for my glory, whom I formed and made. Isaiah 43:7 (NIV)
- The God who made the world and everything in it is the Lord of heaven and earth . . . . From one man he made every nation of men, that they should inhabit the whole earth; and he determined the times set for them Acts 17:24, 26 (NIV).
- . . .if only I may finish the race and complete the task the Lord Jesus has given me—the task of testifying to the gospel of God’s grace—(Paul’s statement, just prior to facing humanly unbearable adversity) Acts 20:24 (NIV).

<sup>23</sup> See Genesis 1:27, 5:1-2, 6:7; Job 27:8; Isaiah 42:5; John 3:36; Revelation 22:19 (King James).

<sup>24</sup> Exodus 20:13 (King James); Deuteronomy 5:17 (King James) see also Genesis 9:6 (indicating that humans are not to be killed because “in the image of God has God made man”). Although the duty of those created to reverently respect the commands of the Creator is self-evident, it becomes especially compelling when one reads the commandment not to kill in *pari materia* with the first (“I am the LORD your God . . . You shall have no other gods before me.” (Exodus 20:2-3 (NIV); Deuteronomy 5:6-7 (NIV)) and the greatest (“[L]ove the Lord your God with all your heart, and with all your soul, and with all your mind.” (Matthew 22:37-40 (NIV))).

<sup>25</sup> Daniel M. Crone, *Historical Attitudes Toward Suicide*, 35 DUQ. L. REV. 7, 10 (1996) [hereinafter Crone, *Historical Attitudes*] (citing N. ST. JOHN-STEVAS, *THE RIGHT TO LIFE* 59 (1964)).

<sup>26</sup> *Id.* (citing MARGARET PABST BATTIN, *ETHICAL ISSUES IN SUICIDE* 31 (Samuel Gorovitz ed., 1982)).

<sup>27</sup> Crone, *Historical Attitudes*, *supra* note 25, at 10 (citing JACQUES CHORON, *SUICIDE* 13-14 (1972)). This view gained eminence in the West in the nineteenth century.

<sup>28</sup> Crone, *Historical Attitudes*, *supra* note 25 at 10 (citing Norman L. Faberow, *Cultural History of Suicide, in SUICIDE IN DIFFERENT CULTURES* 4 (Norman Faberow ed., 1975)).

<sup>29</sup> Crone, *Historical Attitudes*, *supra* note 25 at 10. Although Greek culture apparently discouraged suicide generally, there were instances of its approval in what it deemed “heroic” circumstances, such as avoiding capture and humiliation in battle. *Id.* at 11-16.

<sup>30</sup> Crone, *Historical Attitudes*, *supra* note 25 at 11 (citing BATTIN, *supra* note 26, at 32); see also Duncan & Lubin, *supra* note 15, at 187.

<sup>31</sup> Crone, *Historical Attitudes*, *supra* note 25, at 16 (citing FABEROW, *supra* note 28, at 6); Duncan & Lubin, *supra* note 15, at 192-94, 199-200 (highlighting that Roman law criminalised assisting in suicide, “mercy killing” was deemed murder, and forfeiture occurred only in limited circumstances).

<sup>32</sup> Crone, *Historical Attitudes*, *supra* note 25, at 17.

<sup>33</sup> *Id.* at 17-22; see also Duncan & Lubin, *supra* note 15, at 194-95, 197.

<sup>34</sup> See Glucksberg, *supra* note 17, 521 U.S. at 711 n.9 (1997). See generally Harold Berman, *LAW AND REVOLUTION* (1983).

<sup>35</sup> Crone, *Historical Attitudes*, *supra* note 25, at 16.

<sup>36</sup> *Id.* at 22-24.

<sup>37</sup> *Id.*

<sup>38</sup> See, e.g., *The Suicide Act 1961 supra* note 3; *R. (on the application of Pretty) v. DPP* para. 35 [2002] 1 A.C. 800 (hereinafter, *Pretty v DPP*).

<sup>39</sup> *Purdy, supra* note 5 at para 5, citing *Russ. & Ry 523; R v Croft* [1944] KB 295. See also, Glucksberg, 521 U.S. at 711 (“[F]or over 700 years, the Anglo[] common-law tradition has punished or otherwise disapproved of both suicide and assisting suicide.”).

<sup>40</sup> *Purdy, supra* note 5, at para. 5, citing *Russ. & Ry 523; R v Croft* [1944] KB 295. See also, Willard C. Shih, Note, *Assisted Suicide, the Due Process Clause, and “Fidelity in Translation,”* 63 *FORDHAM L. REV.* 1245, 1274 (1995). Interestingly, if the assister provided the assistance prior to the suicide act, and was not present at the time of the act, the assister escaped prosecution. This is because at common law an accessory before the fact could not be prosecuted until the government prosecuted and convicted the principal felon (here the person committing felonious suicide). *Purdy*, citing *R v Russell* (1832) 1 *Mood* 356; *R v Croft*. To rectify this problem Parliament enacted the Accessories and Abettors Act of 1861. Section 1 of the Act made clear that such an assister could be “indicted, tried, convicted and punished in all respects as if he were a principal felon” *Purdy*, citing *Accessories and Abettors Act 1861* §1; *R v Croft*. Although a provision of the Homicide Act of 1957 later mitigated to manslaughter certain factual circumstances involving a suicide pact, those assisting suicide generally still faced murder charges. *Purdy*, citing *Homicide Act 1957* §4(1).

<sup>41</sup> Thomas J. Marzen et al., *Suicide: A Constitutional Right?*, 24 *DUQ. L. REV.* 1, 63-64 (1985) [hereinafter Marzen I].

<sup>42</sup> *Purdy, supra* note 5, at para 5, citing *Russ. & Ry 523; R v Croft* [1944] KB 295. See also, Marzen I, *supra* note 41, at 64-67; Thomas J. Marzen et al., *Suicide: A Constitutional Right?—Reflections Eleven Years Later*, 35 *DUQ. L. REV.* 261, 264 (1996) [hereinafter Marzen II]; Duncan & Lubin, *supra* note 15, at 177.

<sup>43</sup> Glucksberg, *supra* note 17, 521 U.S. at 712 n.10 (1997); Marzen I, *supra* note 41, at 63-67.

<sup>44</sup> Richard H. Helmholz, *The Law of Nature and the Early History of Unenumerated Rights*, 9 *U.P.A.J. CONST. L.* 401, 403-04 (2007); Douglas W. Kmiec, *Natural Law Originalism for the Twenty-First Century—A Principle of Judicial Restraint, Not Invention*, 40 *SUFFOLK U. L. REV.* 383, 385, 391 (2007).

<sup>45</sup> Helmholtz, *supra* note 44, at 404-07; Miller, *supra* note 19, at 217. See e.g., Romans 1:19-29; Rom 2:14-15. For a lucid discussion of divine law as natural law see David VanDrunen, *A Biblical Case for Natural Law* (Grand Rapids: Acton Institute, 2008) citing, Thomas Aquinas, *Summa Theologiae*, 1a2ae 91.2; John Calvin, *Commentaries on the Epistle of Paul the Apostle to the Romans*; Douglas J. Moo, *The Epistle to the Romans*, (Grand Rapids: Eerdmans, 1996), 148-51; A. Andrew Das, *Paul, the Law, and the Covenant* (Peabody, Mass.: Hendrickson, 2001), 180-82.

<sup>46</sup> Helmholtz, *supra* note 44, at 416-18; Jonathan T. Molot, *The Rise and Fall of Textualism*, 106 COLUM. L. REV. 1, 7-8 (2006) (“[T]he Founders expected judges to draw upon natural law principles as sources of decision in both common law cases and in the course of interpreting legislative enactments”); Mark L. Jones, *Fundamental Dimensions of Law and Legal Education: An Historical Framework—A History of U.S. Legal Education Phase I: From the Founding of the Republic Until the 1860s*, 39 J. MARSHALL L. REV. 1041, 1106-08 (2006); Russell Kirk, *Natural Law and the Constitution of the United States*, 69 NOTRE DAME L. REV. 1035, 1038-40 (1994).

<sup>47</sup> Helmholtz, *supra* note 44, at 407. David Hume prominently opposed the notion that suicide should be prohibited as a violation of natural law, arguing that we regularly “violate” natural law and that is not necessarily negative. See Marzen I, *supra* note 41, at 35-36. His argument was cast, however, largely in terms of the physical laws of nature, and was based on his assertion that human life had no special sanctity or importance. See *id.* at 36 (“The life of a man is of no greater importance than that of an oyster.”) He cannot, therefore, be said to represent the views of the majority of Western people or legal history, although more than a few prominent legal scholars have also fallen into that black hole and called it light. See, e.g., Crone, *Assisted Suicide*, *supra* note 7, at 412-15.

<sup>48</sup> Marzen I, *supra* note 41, at 62, 71, 72; Kirk, *supra* note 46, at 1038 (noting that Edmund Burke reported that by 1775, nearly as many copies of the Commentary had been sold in America as in England); Jones, *supra* note 50, at 1055-57; Kmiec, *supra* note 44, at 391-92; Miller, *supra* note 19, at 219.

<sup>49</sup> WILLIAM BLACKSTONE, 4 COMMENTARIES \*189.

<sup>50</sup> Helmholtz, *supra* note 44, at 409 (quoting cases).

<sup>51</sup> The holders of this view may object to a discussion of God in the affairs of government or law because such discussion supposedly reflects a prejudicial ideology. In other words, they believe the existence of God is irrelevant to good government (and good jurisprudence). They cannot seriously deny, however, that to say God is irrelevant is to express that prejudicial ideology. See, e.g., Crone, *Assisted Suicide*, *supra* note 7, at 399 (quoting Stanley Jaki, *Evicting the Creator, in THE ONLY CHAOS AND OTHER ESSAYS* 152, 158 (1990) (“Ideologies . . . are avoidable only if one says nothing.”)) Saying God is irrelevant is hardly “neutral.” It is merely another subjective view that, under the subjectivist’s own rules, we are free to ignore as “untrue for us,” because there is no objective truth.

<sup>52</sup> Crone, *Assisted Suicide*, *supra* note 7, at 408-10.

<sup>53</sup> *Id.*

<sup>54</sup> See, e.g., Rice, *supra* note 9, at 267-68.

<sup>55</sup> The Suicide Act 1961 *supra* note 3; *Pretty v DPP*, *supra* note 38; see also, *Glucksberg*, 521 U.S. at 710 (noting that in almost every Western democracy it is a crime to assist a suicide).

<sup>56</sup> The Suicide Act 1961 *supra* note 3 (cl. 2(1)). By enacting the Suicide Act 1961, Parliament displaced the common law offence. See e.g., *Purdy*, *supra* note 5 at para. 25. The Coroners and Justice Act amended the language of the Suicide Act so that a person commits an offence if he or she does an act capable of encouraging or assisting the suicide or attempted suicide of another person. See Coroners and Justice Act 2009, ss. 59-61; [http://www.opsi.gov.uk/acts/acts2009/ukpga\\_20090025\\_en\\_5#pt2-ch1-pb4-llg59](http://www.opsi.gov.uk/acts/acts2009/ukpga_20090025_en_5#pt2-ch1-pb4-llg59).

<sup>57</sup> The Suicide Act 1961 *supra* note 3. In the late-eighteenth and early-nineteenth centuries, many governments abolished the penalties for suicide by statutory or constitutional provisions. Marzen I, *supra* note 41, at 67-68. How governments treated those who assisted in suicides is unclear because of the lack of reporting and codification of cases and legislation. *Id.* at 70-76 (concluding that in the nineteenth century, many governments apparently prohibited assisted suicide). From a drafting perspective, the wording of the statute creates an interesting point of criminal law. This is because “the offence of aiding and abetting the suicide of another in section 2(1) Suicide Act 1961 is unique in that the critical act—suicide—is not itself unlawful, unlike any other aiding and abetting offence.” *Purdy*, *supra* note 5, at para. 49, quoting the *Decision on Prosecution—The Death by Suicide of Daniel James*, para. 29 (9 December 2008).

<sup>58</sup> Rather, governments came to view the penalties themselves as inappropriate either because they imposed unjustifiable hardship on the victims’ families or because the act was deemed a manifestation of mental illness, and thus not culpable. Marzen I, *supra* note 41, at 67-100; Marzen II, *supra* note 42, at 264-65; see also *Glucksberg*, *supra* note 17, 521 U.S. at 728 (1997).

<sup>59</sup> See, e.g., *Pretty v. DPP*, *supra* note 38 at para. 106: “There were good reasons for wishing to decriminalise the act [suicide] itself. The removal of the fear of prosecution and of the stigma was likely to make it easier to deter those who were joining of attempting suicide. Broadly speaking, it was a measure in favour of saving life.” Ironically, in *Purdy*, Lord Brown turns this underlying policy designed to protect life on its head by using it to legitimise assisting suicide.

In paragraph 82 he contends: "...the assistance criminalised by section 2(1) is assistance which those lawfully intent on suicide may require so as to enable them to fulfil their chosen end." *Purdy*, *supra* note 5 at para 82.

<sup>60</sup> See, e.g., *Pretty v. DPP*, *supra* note 38 at para. 28: "The Government can see no basis for permitting assisted suicide. Such a change would be open to abuse and put the lives of the weak and vulnerable at risk" (quoting a Government Response concurring with a report by the House of Lords Select Committee on Medical Ethics).

<sup>61</sup> *Pretty v. DPP*, *supra* note 38 at para. 29: "We are also concerned that vulnerable people—the elderly, lonely, sick or distressed—would feel pressure, whether real or imagined, to request early death" (quoting a report by the House of Lords Select Committee on Medical Ethics).

<sup>62</sup> See: <http://www.guardian.co.uk/society/2005/oct/24/health.politics.1>. Last visited 26 September 2009.

<sup>63</sup> *Id.*

<sup>64</sup> See: <http://www.publicwhip.org.uk/division.php?date=2006-05-12&number=1&house=lords>.

<sup>65</sup> Coroners and Justice Bill *supra* note 4, New Clause 49.

<sup>66</sup> *Purdy*, *supra* note 5, at para. 17.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Coroners and Justice Bill, *supra* note 4.

<sup>70</sup> Coroners and Justice Bill, *supra* note 4.

<sup>71</sup> See e.g., Coroners and Justice Bill, *supra* note 4, New Clause 49.

<sup>72</sup> Coroners and Justice Bill, *supra* note 4, New Clause 49.

<sup>73</sup> New Clause 49 reads in part:

*An act by an individual ("D") is not to be treated as capable of encouraging or assisting the suicide or attempted suicide of another adult ("T") if*  
*(a) the act is done solely or principally for the purpose of enabling or assisting T to travel to a country or territory in which assisted dying is lawful...*

<sup>74</sup> Coroners and Justice Bill, *supra* note 4, Amendment 174.

<sup>75</sup> British Medical Association "BMA Reaffirms Opposition to Assisted Dying", at: [http://www.bma.org.uk/whats\\_on/annual\\_representative\\_meeting/arm09\\_wednesday/arm09bmanews/wednesday03.jsp](http://www.bma.org.uk/whats_on/annual_representative_meeting/arm09_wednesday/arm09bmanews/wednesday03.jsp), last visited on 6<sup>th</sup> July 2009. See e.g. Brief of the Am. Medical Ass'n, Am. Nurses Ass'n, Am. Psychiatric Ass'n, et al., as Amicus Curiae Supporting Petitioners at 5, *Glucksberg*, *supra* note 17, 521 U.S. at 733 (1997) (No. 96-110), 1996 WL 656263; accord AMA CODE OF MEDICAL ETHICS, § 2.21 I (2004-2005) (prohibiting physician assistance in assisted suicide or euthanasia).

<sup>76</sup> LUDWIG EDELSTEIN, *THE HIPPOCRATIC OATH: TEXT, TRANSLATION, AND INTERPRETATION* 6 (Henry E. Sigerist ed., 1943).

<sup>77</sup> The creation of the Hippocratic Oath in ancient Greek culture has been foundational in Western medical ethics, and it remains centrally relevant in contemporary medical practice. See, e.g., C. Everett Koop, *Introduction*, 35 DUQ. L. REV. 1 (1996).

<sup>78</sup> *Id.*

<sup>79</sup> Amendment 174 read:

*Notwithstanding sections 49 to 51, no offence shall have been committed if assistance is given to a person to commit suicide who is suffering from a confirmed, incurable an disabling illness which prevents him from carrying through his own wish to bring his life to a close, if the person has received certification from a coroner who has investigated the circumstances, and satisfied himself that it is indeed the free and settled wish of the person that he brings his life to a close.*

Coroners and Justice Bill, *supra* note 4, Amendment 174.

<sup>80</sup> See <http://www.publicwhip.org.uk/division.php?date=2009-07-07&number=1&house=lords>. See also, *Purdy*, at para. 58.

<sup>81</sup> See, e.g., *Purdy*, *supra* note 5 at para. 18-25; 90-93.

<sup>82</sup> *Purdy*, *supra* note 5 at para. 28. The European Convention in paragraph 1 of Article 8 provides: "Everyone has the right to respect for his private and family life, his home and his correspondence."

<sup>83</sup> She also contended that because the Government failed to provide an offence-specific prosecution policy for assisted suicide, such interference violated Article 8(2) (which requires interference with a right to be "in accordance with the law") *Id.* In this regard, *Purdy* contended that without such guidance she lacked enough information with which to make a decision—so as to be able to challenge a government authority if it arbitrarily interferes with rights safeguarded by the Convention. See *Id.* at para 30 and 31. The European Convention in paragraph 2 of Article 8 provides: "There shall be no interference by a public authority with the existence of this right except such as is in accordance with the law...."

<sup>84</sup> *Pretty v. DPP*, *supra* note 38.

<sup>85</sup> *Id.* See also, *Purdy*, *supra* note 5 at para. 71.

<sup>86</sup> *Pretty v. DPP*, *supra* note 38 at para 35. See also, e.g., *Glucksberg*, 521 U.S. at 711 (commenting on the common-law tradition of disapproval toward suicide and assisting suicide).

<sup>87</sup> *Pretty v. DPP* *supra* note 38; see also, *Purdy*, *supra* note 5 at para. 32.

<sup>88</sup> *Pretty v United Kingdom* (2002) 35 EHRR 1 (Hereinafter, *Pretty v UK*).

<sup>89</sup> In *Pretty v. UK*, the European Court of Human Rights plainly disagreed with the British Court, asserting: "The Court is not prepared to exclude that this constitutes an interference with her right to respect for private life as guaranteed under Article 8 paragraph 1 of the Convention. *Pretty v UK*, *supra* note 88 at para. 67. Given that a right existed, the Court then proceeded to evaluate whether this interference conformed with the requirements of Article 8, paragraph 2. See paragraphs 74 and 78 of the decision. The court concluded the interference in this instance was justified.

<sup>90</sup> *Purdy* *supra* note 5, at para. 32. (Note: The Court of Appeal decision is reported at [2009] EWCA Civ 92).

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> The European Convention in paragraph 1 of Article 8 provides: "Everyone has the right to respect for his private and family life, his home and his correspondence." *Purdy*, *supra* note 5 at para. 29.

<sup>94</sup> After the Law Lords held that *Purdy* had a human right, it further concluded the assisted suicide prohibition in the 1961 Act constituted an interference with that right. Because the Government failed to provide an offence-specific prosecution policy for assisted suicide, the Law Lords further found, therefore, that such interference violated Article 8, paragraph 2 of the Convention—since the Government's interference with the right was not "in accordance with the law". In this regard, the Court held that without such guidance, individuals like Ms. *Purdy* lacked enough information with which to make a decision—so as to be able to challenge a Government authority if it arbitrarily interfered with rights safeguarded by the Convention. See, e.g., *Purdy* *supra* note 5, at para 30, 31, and 40-56. The European Convention in paragraph 2 of Article 8 provides: "There shall be no interference by a public authority with the existence of this right except such as is in accordance with the law...."

<sup>95</sup> See Crone, *Assisted Suicide*, *supra* note 7, at 422; see also McConnell, *supra* note 7.

<sup>96</sup> HADLEY ARKES, NATURAL RIGHTS AND THE RIGHT TO CHOOSE 31 (2002).

<sup>97</sup> See Rice, *supra* note 9, at 270-71, 274. That it may be a tyranny of the majority is no comfort, for today's majority may become tomorrow's minority. See ARKES, *supra* note 97, at 31.

<sup>98</sup> Kathleen Foley & Herbert Hendin, *Introduction: A Medical, Ethical, Legal, and Psychosocial Perspective*, in THE CASE AGAINST ASSISTED SUICIDE FOR THE RIGHT TO END-OF-LIFE CARE 6-7 (Kathleen Foley & Herbert Hendin eds., 2002).

<sup>99</sup> *Id.* Thirty American states passed sterilisation laws embraced by both Presidents Theodore Roosevelt and Woodrow Wilson. *Id.* at 6.

<sup>100</sup> *Id.* at 7.

<sup>101</sup> *Id.* at 6-7.

<sup>102</sup> *Id.* at 8. Remarkably, no suffering requirement exists in the pro-suicide proponents' proposal that were before Parliament. See the Coroners and Justice Bill, Amendment 174. Nor do these proposals require anyone to advise the patient of palliative care and hospice options. *Id.*

<sup>103</sup> Foley & Hendin, *supra* note 99, at 10.

<sup>104</sup> *Id.*

<sup>105</sup> See *id.* at 11.

<sup>106</sup> *Id.* at 104.

<sup>107</sup> *Id.* at 104-05.

<sup>108</sup> Herbert Hendin, *The Dutch Experience*, in THE CASE AGAINST ASSISTED SUICIDE at 105 (Kathleen Foley & Herbert Hendin eds., 2002); see also Zbigniew Zyllicz, M.D., *Palliative Care and Euthanasia in the Netherlands: Observations of a Dutch Physician*, in THE CASE AGAINST ASSISTED SUICIDE 123 (Kathleen Foley & Herbert Hendin eds., 2002).

<sup>109</sup> Hendin, *supra* note 109, at 103 (citing CARLOS F. GOMEZ, REGULATING DEATH: EUTHANASIA AND THE CASE OF THE NETHERLANDS (1991)).

<sup>110</sup> Agnes van der Heide et al., *End-of-Life Practices in the Netherlands under the Euthanasia Act*, 356 NEW ENG. J. MED. 1957, 1960 (2007).

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> Glucksberg, *supra* note 17, 521 U.S. at 733.

<sup>114</sup> Steven Ertelt, *Dutch Doctor Who Engages in Euthanasia of Newborns Unapologetic*, Dec. 27, 2004, <http://www.lifeneews.com/bio623.html>.

<sup>115</sup> ROBERT H. BORK, SLOUCHING TOWARD GOMORRAH 173-92 (1996).

<sup>116</sup> Proverbs 14:34 (New International Version).

<sup>117</sup> See Crone, *Assisted Suicide*, *supra* note 7, at 430 ("Just as human rights exist only because of a person's relation to God, the only justifiable prohibition against self-murder exists solely because of his or her relation to God as the Creator and Master of life!")

<sup>118</sup> Exodus 20:13 (King James); Deuteronomy 5:17 (King James).

## Make Your Voice Heard

If you agree that Christian liberties need to be defended and want to raise your voice, you can do so by joining more than 20,000 people who support the work of Christian Concern for Our Nation and the Christian Legal Centre. Please visit [www.ccfon.org](http://www.ccfon.org) to find out more about how the law is changing in the area of Christian freedoms, and other issues of moral and social concern. You can join our e-mail list by clicking on the “join mailing list” button. This means you will receive the “Christian Weekly News” every Friday in your inbox, keeping you informed and up-to-date in a concise way through news summaries, web links and video links. Joining the e-mail list also means you can get involved and take action through prayer meetings, action rallies, quick and simple way to join others in writing to MP and other decision-makers—all of which makes a real difference on the key issues of the day. You can also help by volunteering or by making a donation.

## About Christian Concern for Our Nation (CCFON) and the Christian Legal Centre (CLC)

Christian Concern for Our Nation and its sister organisation, the Christian Legal Centre, are multi-disciplinary team of lawyers, IT and media specialists, church leaders, academics, development and support staff. Our mission is to put the hope of Christ at the heart of the nation. We do this through:

- Policy analysis and development
- Empowering individual Christians and the Church to act through information and campaign leading
- Informing key influencers in Parliament, the media and the Church
- Influencing the law through consultation responses and casework
- Defending the rights of Christians who have suffered discrimination because of the stand they have made for the Christian Faith

Our information and legal support services are free of charge to the user. We are not-for-profit and rely entirely on the generosity of supporters to sustain our work. Please help us if you can with a one-off or regular gift. Visit [www.ccfon.org](http://www.ccfon.org) for details of how to join our free e-mail update list, make a donation and become a campaigner for Christian liberties and standards.

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