CHANGING THE SET TIMES AND THE LAWS

Jon Garvey

The right to suicide

Should the law be forbidden to prosecute a man for helping his terminally-ill wife to commit suicide? A woman with motor neurone disease says "Yes", and asked the High Court to decide. Though it rejected her case, she has now appealed to the European Court.

Her argument is this. All British law must now comply with the European Human Rights Convention. This enshrines the right of individual choice (autonomy), and prohibits "inhuman and degrading treatment". The law already permits suicide, but as she is unable to exercise this right, the law is subjecting her to inhuman and degrading treatment by refusing her husband permission to help her.

Christians may feel "that can't be right", whilst being unable to say exactly why. Pro-life groups are mainly worried about potential abuses like involuntary euthanasia.

But I want to show that even raising the question shows there has been a complete back-flip in the nature of British law. And we have scarcely noticed it. Let me take you back through time, first to the people of Israel, gathered before Mount Sinai after the exodus from Egypt.

The duty to preserve life

"I am the LORD your God, who brought you up out of Egypt, out of the land of slavery…You shall not murder" (Exodus 20:1,13). In other words, God told Israel that since he had created them and rescued them, they owed him the duty of obedience. In this case it meant the duty to preserve life, since life belongs to God. Notice there is no "right to life", but a duty of love and obedience to the life-giver.

Now let's go forward 2,500 years to the start of our own legal system. This was fundamentally a law of Christian Kings. They were (and are) crowned by bishops, which together with the Coronation Oath demonstrated that the king was only empowered to enforce the law of God. Subjects owed a duty of obedience to the king, as the representative of God. All laws, therefore, were supposed to be compatible with God's law in Scripture. In effect, Scripture was the basis of British law.

In practice, then, murder and manslaughter were illegal. So was suicide, because you have a duty to preserve your own life as well as others. Exceptions such as self-defence, just warfare, or judicial execution make good sense because God permits them to save life or punish those who destroy it.

But note this: God can only make such exceptions if *he* is the one who holds the right to life. If life is a fundamental *human* right, then God himself could be taken to court for allowing someone to die. At the last Judgement, God would be the One in the dock.

Does the law give a right to die?

There can only be a right to *assist* suicide if there is a right to suicide. Media treatment of the current case seems to assume there is. "She is fighting for the right to choose when she wants to die," said the husband of the woman with terminal illness. This right is thought to have been given by the 1960 Suicide Act, before which attempted suicide was a criminal act. But does the law give a right to die?

The answer is no – the law simply recognised suicide as a desperate action, and therefore needing compassion, not punishment. The intention was to encourage the desire to live, rather than prosecute despair. Otherwise, to talk someone down from a window-ledge would be an assault on their rights.

The High Court apparently recognised this in rejecting the present case, arguing that the Human Rights Convention gives the right to live, not the right to die. But there remains doubt as to whether this argument is sustainable, in the light of other changes to our legal system over the years.

British law turned on its head

The watershed was the 1967 Abortion Act. This was intended to balance the infant's established right to life against risk to the mother's life and health. But its grounds of fetal abnormality actually established, for the very first time, the concept of "a life not worthy to be lived". So now, every human with Down's syndrome or spina bifida knows they only exist because society has, arbitrarily, forgone its right to kill them.

For this reason disability interest groups are actually challenging the Abortion Act as contrary to the Human Rights Convention. But it is hard to envisage Europe outlawing abortion of the disabled.

Since the Act introduced this devaluation of human life, it is not surprising that we have effectively developed abortion on demand. A woman's autonomy has replaced her duty to preserve life.

In the European Convention on Human Rights, this way of thinking has become the background to all moral issues. What happened a year or two ago, with little rumpus, was that the EU decided all its members' laws should conform to that convention. Nationalists railed against the loss of sovereignty, and libertarians rejoiced that governments could be called to account. Few realised that British law was turned on its head.

For if laws must conform to the Bible, the basis of law is the Bible. If laws must be compatible with Sharia law, you already have Sharia law. And if laws cannot buck the Convention on Human Rights, then the Convention is the basis of our law. The law of duty (ultimately to God) has been abrogated at a stroke and replaced with a law of rights founded, like Adam and Eve's sin, on human autonomy.

The consequences

So what are the consequences? If this is now the basis of European law, then it will be hard for the European Court to find grounds to reject this woman's plea. She has the right to life, so why should she not choose to abrogate it? After all, women can legally abort babies without giving any reason. Her death is, it seems, inevitable anyway; it will not harm anyone else, and her husband is a perfectly willing partner in facilitating it. She is the only judge of whether her suffering is intolerable, and therefore the state is inhumane to prolong it by threatening prosecution.

Only the duty of the state, the husband, and the woman herself to preserve her life stand in the way – and that has in effect been swept aside. And perhaps you might feel, for people who do not accept the rule of God, that is acceptable, or at least inevitable.

But note this: if the state is cruel to prevent a husband "releasing" a suffering wife, then what if there were no husband? Clearly, the state itself, under the Convention, would have to do the

job itself, or be guilty of neglect. It would, of course, have to use agencies to do this, and they would be doctors or nurses.

These could be prosecuted for refusing, though more likely, as with abortion, there would be a conscience clause. After all, “respect for a person's private life” is a human right too, and no government would want to trample professional or religious scruples. Instead, the law would insist that the squeamish doctor refer his patient to a more liberally-minded colleague. That is what happens with abortion, with the result that certain jobs are simply closed to those who rate their duty to preserve life higher than the autonomy of patients.

I doubt that members of the public would be prosecuted for refusing to assist euthanasia. But who would need to if a network of Happy Ending Advisory Centres were funded by health authorities across the country? And who would, after a decade or two, even consider it an issue? Like abortion, it would simply be the way things are.

And if that is the way things are, then who can object if similar “mercy” is extended to those without a voice – to the senile, and the handicapped, and perhaps those misfits who, poor souls, persist in their delusion that God is to be obeyed?