SCHOLARLY DEBUT
by Scholarly Review

Fall 2025

The United Kingdom's Terminally Ill Adults (End of Life) Bill: Is the Bill Compatible with the European Convention on Human Rights?

By Joanna Fung

AUTHOR BIO

Joanna Fung is a Year 13 student from Hong Kong. She volunteers at the Hong Kong University Law OUTLET where she educates elders on wills, property rights and medical law. This sparked her interest in medical ethics and end-of-life rights, leading her to explore interpretations of the European Convention on Human Rights on ethically controversial topics such as Do Not Resuscitate agreements and assisted dying.

ABSTRACT

The United Kingdom's Terminally Ill Adults (End of Life) Bill (the "Bill") represents a pivotal legislative effort to legalize assisted dying for terminally ill, mentally competent adults in England and Wales. This paper addresses the question: Is the Bill compatible with the European Convention on Human Rights (the "ECHR")? Through analysing key decisions of the European Court of Human Rights, this paper will argue that the Bill would satisfy the ECHR's requirement for the UK to effectively balance personal autonomy against the State's obligation to protect the lives of vulnerable people.

Keywords*: assisted dying, euthanasia, the European Convention on Human Rights (ECHR), English Law, the Suicide Act 1961, blanket ban, Pretty, Haas, Koch, Gross, European consensus, margin of appreciation, Nicklinson, slippery slope, Karsai*

SCHOLARLY DEBUT
by Scholarly Review
Fall 2025

INTRODUCTION

The United Kingdom's Terminally Ill Adults (End of Life) Bill (the "Bill") represents a pivotal legislative effort to legalize assisted dying for terminally ill, mentally competent adults in England and Wales. Introduced as a Private Members' Bill by Labour MP Kim Leadbeater, the Bill passed its third reading in the House of Commons on the 20th of June 2025 with a narrow majority of 23 votes (314–291) (Bosotti, 2025). If implemented, this will be a significant change from the UK's blanket ban under the *Suicide Act 1961*, which criminalises assisted suicide with a maximum 14-year prison sentence.

Central to the debate is the Bill's compatibility with Articles 2, 8, and 14 of the European Convention on Human Rights (the "ECHR"). While Article 2 ("Art 2") protects the right to life and Article 8 ("Art 8") safeguards personal autonomy — principles that were highlighted in *Pretty v United Kingdom* (2002) ("*Pretty*") — the European Court of Human Rights (the "ECtHR") noted a tension between the State's obligation to protect life and respecting an individual's autonomy in end-of-life decisions.

This paper will address the question: Is the UK's Terminally Ill Adults (End of Life) Bill compatible with the ECHR? To answer this question, this paper will analyse and evaluate the compatibility of the Bill, drawing from case law such as *Pretty*, the ECtHR's jurisprudence after *Pretty*, including *Karsai*, and analyse Leadbeater's Bill. This paper will argue that the ECHR requires the UK to effectively balance personal autonomy against the State's obligation to protect the lives of vulnerable people through clear regulations — a requirement that the Bill will successfully meet.

THE CURRENT BLANKET BAN AND *PRETTY* (2002)

The Current Suicide Act 1961

The *Suicide Act 1961*, initially introduced as a Private Members' Bill by Sir Charles Fletcher-Cooke, a Conservative MP, decriminalised suicide. However, under Section 2 of the Act, a new offence of "complicity in suicide", or assisted suicide, was created, and offenders would be liable to imprisonment for up to 14 years. The creation of this new offence had a legitimate aim, recognised by the ECtHR, to safeguard life by protecting the vulnerable, especially those who are not in a condition to make informed decisions, against acts of assisted suicide (*Pretty v United Kingdom*, (2002), 35 EHRR 1, at para. 74).

Pretty v United Kingdom (2002)

In *Pretty*, the applicant suffered from advanced motor neurone disease (MND), which left her paralysed and reliant on tube feeding. Distressed by the suffering and the need to continue living in an "undignified" manner, she wished to control how and when she dies, seeking her husband's assistance for suicide. The applicant requested the Director of Public Prosecutions (the "DPP") not to let her husband be prosecuted if he assisted her in committing suicide. Her request was refused. When Pretty applied for judicial review, the Divisional Court upheld the DPP's decision. Her appeal was then dismissed by the House of Lords in November 2001.

In the ECtHR, Pretty claimed that the UK violated five Articles of the ECHR, notably Art 2 (right to life) and Art 8 (right to respect for private and family life). However, the ECtHR found no violation of all five articles. The ECtHR states that Art 2 protects the right to life, which, as it is an absolute right, its language

cannot be interpreted as the "right to die", nor can it create a right to choose death rather than life. The ECtHR says:

> Article 2 cannot, without a distortion of language, be interpreted as conferring the diametrically opposite right, namely a right to die; nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life (*Pretty* (2002), at para. 39).

The ECtHR refers to the difference in language: "Everyone's right to life *shall be* protected by law. *No one shall be* deprived of his life…" (Art 2), while "Everyone *has the right* to respect for his private and family life…" (Art 8). Unlike some Articles that are understood to protect the negative aspects of the rights, e.g. freedom not to speak or the right not to marry, the negative aspects of the right to life do not stand as, according to the ECtHR, Art 2 uses different language than those Articles. Therefore, the UK's positive obligation to refuse to give an undertaking not for the DPP to prosecute the husband for assisting the wife to commit suicide is justified and does not violate Art 2.

As for Art 8, in applying the proportionality test, the ECtHR acknowledged the UK's wide margin of appreciation, affirming that its aims of preserving life and maintaining legal integrity were legitimate and justifiable. According to Kathryn Willington, a Health and Social Care Policy Officer for Help the Aged, the blanket ban on assisted suicide is "designed to protect some of the most vulnerable members of society… Any change in the law would run the risk of abuse and would fundamentally change the doctor/patient relationship" (Wade, 2004). Therefore, the ECtHR rejected Pretty's arguments, emphasising that the UK's legitimate aim of protecting vulnerable individuals and maintaining the integrity of the UK medical services was justified.

Pretty also claimed that the UK violated Article 3 (freedom from torture and inhuman or degrading treatment) ("Art 3"). Paragraph 52 explains that "inhuman or degrading treatment" includes any physical and mental suffering that diminishes human dignity, that causes extreme fear, anguish, or inferiority, breaks an individual's moral and physical resistance, or if the government's actions worsen conditions. However, the ECtHR, while sympathetic to Pretty's suffering, rejected her argument that the UK's ban on assisted suicide violated Art 3, ruling that forcing her to endure terminal suffering did not amount to "treatment" under the ECHR. There is also no positive obligation that exists under Art 3 to exempt her husband from prosecution or to legalise assisted suicide, as this would conflict with Art 2, meaning the UK's laws did not breach the ECHR.

Through *Pretty's* case, it is observed that the current *Suicide Act* puts a heavier emphasis on safeguarding vulnerable people over individual autonomy. Despite a justified, legitimate aim of the *Suicide Act*, it poses a contradiction, where the Act restricts those vulnerable people from living a "dignified" life due to their suffering and their inaccessibility to assisted suicide. Thus, the Bill, which similarly prioritises safeguarding vulnerable individuals against coercion and abuse, would also likely be deemed compatible with the ECHR due to the margin of appreciation the UK enjoys under Art 8, if it aligns with the legitimate aims recognised in *Pretty*.

THE ECtHR'S JURISPRUDENCE AFTER PRETTY

Background

The ECtHR established a significant precedent in *Pretty*, shaping its jurisprudence in subsequent cases concerning the right to die with dignity through assisted suicide. This line of reasoning continued in *Haas v Switzerland* ("*Haas*"), *Koch v Germany* ("*Koch*"), and *Gross v Switzerland* ("*Gross*"), each reflecting the ECtHR's evolving stance on end-of-life autonomy.

Haas v Switzerland (2011)

In *Haas*, the applicant suffered from bipolar disorder and wished to commit suicide. He requested a lethal dose of sodium pentobarbital, which is available only by prescription, from several psychiatrists but was unsuccessful. The applicant claimed the government violated Art 8 of the ECtHR.

In the judgement, the ECtHR affirmed the existence of "an individual's right to decide by what means and at what point his or her life will end, provided he or she is capable of freely reaching a decision on this question and acting in consequence" (*Haas v Switzerland*, (2011), 53 EHRR 33, at para. 51). However, the ECtHR found that the restriction of access to sodium pentobarbital pursued the State's legitimate aim of "protecting everybody from hasty decisions and preventing abuse, and, in particular, ensuring that a patient lacking discernment does not obtain a lethal dose of sodium pentobarbital" (*Haas* (2011), at para. 56), justifying that there is no violation of Art 8.

In addition, considering the "margin of appreciation" enjoyed by national authorities, the ECtHR concluded that, even assuming States have "a positive obligation to adopt measures to facilitate the act of suicide with dignity" (*Haas* (2011), at para. 61), the Swiss authorities did not fail to comply with it in this case. Thus, the ECtHR held unanimously that there has been no violation of Art 8.

Koch v Germany (2012)

In *Koch*, Koch's late wife, who suffered from complete quadriplegia, was not granted authorisation to obtain a lethal dose by the German Federal Institute for Drugs and Medical Devices ("Federal Institute") on the grounds that the *German Narcotics Act* allowed authorisation for life-supporting or life-sustaining purposes only. Therefore, the couple travelled to Switzerland, and the wife committed suicide there with Dignitas. The applicant, Mr. Koch, later challenged the legality of the Federal Institute's decisions but faced inadmissible appeals in domestic courts.

The applicant argued that the refusal infringed his right to respect for private and family life under Art 8 of the ECHR. The applicant also relied on Article 13 in conjunction with Art 8 of the ECHR as he complained that "the German courts had violated his right to an effective remedy when denying his right to challenge the Federal Institute's refusal to grant his wife the requested authorisation" (*Koch v Germany*, (2012), 56 EHRR 6, at para. 83). He claimed this refusal interfered with his own rights under Art 8, as it forced him to take his wife to Switzerland for assisted suicide instead of allowing it at home.

The ECtHR recognised his close relationship with his wife, noting their 25-year marriage and his support during her suffering. Therefore, he would have been directly affected by the refusal. After Mrs. Koch's death, he pursued an appeal in his own name. However, the German courts found that there is no right under German law to help a spouse die by suicide. They argued that the refusal did not interfere with Koch's private or family life because he had no legal right to demand lethal drugs for his wife. This was because his wife's right to dignity could not be claimed by him

after her death as it is a non-transferable right (Puppinck & Popescu, 2011).

The ECtHR also distinguishes the differences between “the choice to avoid an undignified and distressing end of life” (*Pretty*) and “a right to decide how and when to end one’s life” (*Haas*). In *Koch*, the ECtHR further reiterates that the notion of “private life” within the meaning of Art 8 of the ECHR is a broad concept which does not lend itself to exhaustive definition (*Koch* (2012), at para. 51).

In *Pretty*, the ECtHR was “not prepared to exclude” that preventing the applicant by law from exercising her choice to avoid what she considered would be an undignified and distressing end to her life constituted an interference with her right to respect for private life as guaranteed under Art 8(1) of the ECHR (*Pretty* (2002), at para. 67). The ECtHR considered that, “in an era of growing medical sophistication combined with longer life expectancies, many people were concerned that they should not be forced to linger on in old age or in states of advanced physical or mental decrepitude which conflicted with strongly held ideas of self and personal identity”. Therefore, the ECtHR considers that it is under Art 8 that notions of the quality of life take on significance (*Pretty* (2002), para. 65). This was a cautious acknowledgment that personal autonomy in end-of-life decisions could engage Art 8, but the ECtHR did not establish it as an absolute right.

In *Haas*, the ECtHR explicitly recognised that the autonomy to “decide in which way and at which time his or her life should end, provided that he or she was in a position freely to form her own will and to act accordingly”, falls within the scope of Art 8. However, Paragraph 61 of *Haas* noted that Swiss authorities had not violated the obligation to adopt measures facilitating a dignified suicide. Therefore, the ECtHR decided that it was up to the German courts to examine his case on the merits because there was no consensus among the member States of the Council of Europe as to the question of whether to allow any form of assisted suicide. This is because member States enjoy a wide margin of appreciation under Art 8, so it is important that domestic courts examine claims in their contexts. “The Court has found above that the domestic authorities are under an obligation to examine the merits of the applicant’s claim” (*Pretty* (2002), at para. 71).

However, the German domestic courts refused to examine his complaint, which violated Koch’s right under Art 8, and so, the Federal Institute’s interference was unjustified. The domestic courts’ refusal to examine the merits of the applicant’s motion violated the applicant’s right to respect for his private life under Article 8 of the Convention” (*Koch* (2012), at para. 72).

Gross v Switzerland (2013)

In *Gross*, an elderly woman, who had not been suffering from terminal illness, wished to end her life. She asked permission to be provided with a lethal dose of a drug to commit suicide but was denied by Swiss authorities. The applicant claimed that denying her right to decide when and how she died breached Art 8. In its Chamber judgement in May 2013, the ECtHR held that there was a violation of Art 8 because Swiss law was not clear enough, in the evidence given, as to when assisted suicide was permitted. The case was then referred to the Grand Chamber at the request of the Swiss Government. However, in January 2014, the Swiss government was informed that the applicant had already died in November 2011, so this case was declared the application inadmissible and previous findings were no longer legally valid because the applicant had constituted an abuse of the right of individual

application under Article 35(3)(a) and Article 35(4) of the ECHR.

In Paragraph 45 of *Gross*, the ECtHR highlighted the self-contradictory nature of the Swiss Supreme Court judgement. The Supreme Court denied Gross' access to lethal medication because she did not "fulfil requirements of the medical ethics guidelines", which required her to be terminally ill. However, the ECtHR found it incompatible with Switzerland's principle that "any person who was able to form his or her judgment had the right to decide on the time and manner of their own death" without any need for "medical justification". The ECtHR also pointed out that the medical ethics guidelines "had not been adopted through the democratic process," so they lacked democratic legitimacy. In fact, such guidelines did not apply to the applicant because they were designed for terminally ill individuals, for whom Gross was not (*Gross v Switzerland*, (2013), ECHR 429, at para. 45). Therefore, the ECtHR ruled that Switzerland violated Art 8 due to the absence of clear legal guidelines regarding who should have access to lethal drugs, as the ECtHR emphasised that it is primarily up to national authorities to define the exact policies for non-terminally ill individuals like the applicant. The ECtHR takes a neutral stance on whether assisted suicide should be allowed, only ruling that the lack of legal clarity is a breach (*Gross* (2013), at para. 69).

European Consensus & the Margin of Appreciation

Based on case law, the majority view among member States, or the European consensus, seems to place more weight on the protection of an individual's life under Art 2 than on the right to end one's life. However, the research conducted by the ECtHR enables it to conclude that:

> Member States of the Council of Europe are far from having reached a consensus with regard to an individual's right to decide how and when his or her life should end […] vast majority of member States seem to attach more weight to the protection of the individual's life than to his or her right to terminate it. It follows that the States enjoy a considerable margin of appreciation in this area (*Haas* (2011), at para. 55).

Therefore, due to a lack of European consensus, States have a considerable margin of appreciation in this area and can take action to prevent individuals from ending their lives. In Paragraph 21 of *Pretty*, with reference to section 1 of the Canadian Charter, Sophinka J emphasised that the prohibition on assisting suicide is intended to safeguard life and protect vulnerable individuals in society. He supports the European consensus, medical organisations, and the Canadian Law Reform Commission that a ban on assisted suicide is the most effective approach. And so, due to the range of views regarding assisted dying, the ECtHR regards the ECHR as a "living instrument" so that it can be interpreted considering "present day conditions" (Dzehtsiarou, 2011). Thus, even though there is a European consensus that protecting the lives of vulnerable individuals in society takes the highest priority, these cases still highlight the ongoing tension between public health concerns and the principle of personal autonomy, and bring to light the need to review regulations surrounding assisted dying in the modern context.

Comparative Analysis of Case Law: A Summary of *Pretty*, *Haas*, *Koch*, and *Gross*

From the cases mentioned above, there are some key distinctions between them. *Pretty* involves a terminally ill applicant, whereas

Haas, *Koch,* and *Gross* address non-terminal suffering. All these cases have found that there is no violation of Art 2 of the ECHR.

From case law, it is evident that the ECtHR defers the issue of assisted suicide to Member States, given the lack of European consensus. Both *Pretty* and *Haas* emphasise that, due to the State's considerable margin of appreciation, their aim to protect the lives of vulnerable individuals in their respective State laws over individual desires to end suffering was legitimate. On the other hand, *Koch* and *Gross* found a violation of Art 8, even if there was a lack of European consensus. Both cases show that there should not be any uncertainty in assisted suicide laws that are implemented by States. Each case should be judged in its context, and fair and consistent legal procedures should be in place for each case. Thus, the UK would be complying with the ECHR regardless of the scope of rights that is laid out in the Bill, but the ECtHR only requires clear regulations and an effective balance between State obligations and personal autonomy.

R V NICKLINSON

In addition to *Pretty*, *R v Nicklinson* ("*Nicklinson*") was another case that enforced the *Suicide Act 1961* and resulted in a failed appeal for the applicant. However, this case was a pivotal point in the Supreme Court as they began to defer this ethically controversial issue to the Parliament, raising awareness among the Members of Parliament to reconsider the Act.

Mr Nicklinson suffered a stroke which made him completely paralysed since, only being able to move his head and his eyes. For nine years, he had wanted to end his life, but could not do so without assistance, other than by self-starvation, which is a painful and distressing exercise. He wanted someone to kill him by injecting him with a lethal drug but, if necessary, he was prepared to kill himself by means of a machine invented by a Dr Nitschke which, after being loaded with a lethal drug, could be digitally activated by Mr Nicklinson, via an eye blink computer.

Even though previous ECtHR rulings confirm a wide margin of appreciation,[1] the majority (7–2) held that the interference would be justified under Art 8(2) as "necessary in a democratic society" to protect vulnerable individuals.

Mr Nicklinson then applied to the High Court for a declaration that the current state of law was incompatible with his right to a private life under Art 8. In the judgement, the Supreme Court emphasised that the Human Rights Act 1998 (the "HRA") allows the UK courts to issue a declaration of incompatibility ("DoI") if they believe it breaches ECHR rights, even if the ECtHR has ruled (based on end-of-life case law) that it is within a member State's margin of appreciation. However, the majority of the Justices in the Supreme Court refused to issue a DoI because they deferred to Parliament, ruling that "Parliamentary process is a better way of resolving issues involving controversial and complex questions of fact arising out of moral and social dilemmas in a manner which allows all interests and opinions to be expressed and considered" (*R (Nicklinson) v Ministry of Justice* [2014] UKSC 38). In other words, the majority argues that democratic legitimacy is needed on morally contentious issues like assisted dying.

On the other hand, the minority, namely Lady Hale and Lord Kerr, disagreed, holding that the blanket ban is incompatible with Art 8. Lord Kerr emphasised that when courts make a DoI, they do precisely what Parliament, through

[1] see para. 74 of Pretty, para. 55 of Haas and paras. 70 and 71 of Koch.

Section 4 of the HRA, has empowered them to do as they have constitutional authority.

However, Lords Neuberger, Mance and Wilson took the view that, while a DoI should not be issued in the present proceedings, such relief might at some point in the future be appropriate if the law was not to be changed by Parliament (Elliot, 2014).

ANALYSIS OF LEADBEATER'S TERMINALLY ILL ADULTS (END OF LIFE) BILL

The Bill

The Terminally Ill Adults (End of Life) Bill is a Private Members' Bill that seeks to legalise assisted dying for terminally ill adults, modifying the blanket ban enforced by Sections 1 and 2 of the *Suicide Act 1961*. Private Members' Bills have been written for ethically controversial issues ranging from abortion to homosexuality. This Private Members' Bill was introduced by Labour backbench MP Kim Leadbeater in October 2024. The Bill outlines that, to be eligible to access assisted dying services, the patient must:

- "be over 18, live in England or Wales
- have registered with a GP for at least 12 months
- have the mental capacity to make the choice and be deemed to have expressed a clear, settled, and informed wish, free from coercion or pressure
- be expected to die within six months
- make two separate declarations, witnessed and signed, about their wish to die
- have two independent doctors to be satisfied that they are eligible, and there must be at least seven days between the doctors' assessments
- have their application for assisted dying reviewed by a panel consisting of a senior legal figure, a consultant psychiatrist, and a social worker.
- have the fatal substance self-administered by themselves (rather than by a doctor)" (Difford, 2025)

As shown by the eligibility requirements, the Bill includes strict safeguards to prevent abuse, which ensure that the decision to pursue assisted dying is both voluntary and thoroughly considered from various medical points of view.

The "Slippery Slope" Argument

The "slippery slope" argument, supported by Philip Murray, warns that legalising assisted dying, even with strict limits initially, will inevitably expand, allowing more groups of people access to assisted dying due to judicial and political pressures under human rights law and the domestic court's power to issue DoIs. Once permitted for some (i.e., the terminally ill), denying it to others with comparable suffering (e.g., severe disabilities or mental illness) becomes difficult to defend under Article 14 (prohibition of discrimination) ("Art 14"), leading to widening the scope of the law (Murray, 2024). Therefore, the UK would need the clearest justification for terminally ill adults being able to end their lives, but not those experiencing equal or greater suffering.

Paragraph 239 of the House of Lords Select Committee on Medical Ethics: Select Committee Report in 1994 have previously pointed out that the legalisation of euthanasia will cause vulnerable people to feel pressure to request early death. These vulnerable people include the elderly, the lonely, the sick, the distressed or the depressed. They believe that "the message which society sends to vulnerable people should not encourage them to seek death,

but should assure them of our care and support in life" (HL Deb 09 May 1994 vol 554 cc1344-412). Other pressures could include financial, family, and societal pressures. This report is referenced in Paragraph 74 of *Pretty*, where the justices said that there are "clear risks of abuse" because "doubtless the condition of terminally ill individuals will vary. But many will be vulnerable, and it is the vulnerability of the class which provides the rationale for the law in question".

John Finnis argues that legalising assisted dying devalues the lives of those who are sick, disabled, or elderly because he believes that every human life has inherent value, regardless of a person's physical or mental condition. In fact, he argues against legalising assisted dying. He anchors his argument in natural law theory. He argues that human life is intrinsically valuable, and intentionally killing an innocent person (even with consent) violates this principle. Finnis argues that the current legal and moral principle — never intentionally kill a patient or assist in suicide — is clear and sound, as it is grounded in respect for human dignity. In addition, Finnis also warns of the erosion of trust in medicine if assisted dying were legalised because physicians' role as healers would be undermined as they would be seen as agents of death.

Murray referred to Finnis to support his "slippery slope" argument, where the law will expand beyond its initial intended scope, potentially including individuals with non-terminal conditions or even those who are not competent to make such a decision. It may also add pressure on vulnerable groups, including those who are facing financial hardship or disabilities, making them feel obligated to request assistance for suicide to avoid being a "burden". Finnis also notes the contradiction between autonomy and restrictions:

> If patient autonomy holds utmost importance, why limit euthanasia to the terminally ill or those in severe pain? […] If autonomy is the principal or main concern, why is the lawful killing restricted to terminal illness and unbearable suffering? If suffering is the principle or concern, why is the lawful killing restricted to terminal illness? Why must the suffering be unbearable if there is real and persistent discomfort? […] If suffering and terminal prognosis are the concern, why is relief restricted to those who are capable of asking for it? (Terminally Ill Bill HL Deb 18 January 2025 Q1971a-1979)

Moreover, Finnis cites Dutch government reports to show that legalising euthanasia leads to widespread abuse. In the Netherlands, thousands of patients are euthanised annually without explicit consent, and many of those cases violate legal procedures (e.g., no second opinion, no documentation). He even projected that, through scaling Dutch data to the UK, over 12,000 non-consensual euthanasia deaths will occur per year if assisted dying is legalised.

Karsai v Hungary (2024)

In *Karsai v Hungary*, the applicant, who was diagnosed with Amyotrophic Lateral Sclerosis (ALS) in July 2021, has progressively lost mobility and speech, requiring daily care. He fears becoming fully paralysed, trapped in unbearable suffering with no relief except death. He wishes to access physician-assisted dying ("PAD") to avoid prolonged agony, but euthanasia and assisted dying are illegal in Hungary. His only option would be the refusal or withdrawal of life-sustaining treatment ("RWI"). However, in his case, such treatment may only arise immediately before death, leaving him no

meaningful control over his suffering. In terms of Art 14, the claimant argued that allowing RWI while not allowing PAD has no "proper justification". The meaning of discrimination under Art 14 is explained in Paragraph 173:

> The Contracting State enjoys a margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment. The notion of discrimination within the meaning of Article 14 also includes cases where a person or group is treated, without proper justification, less favourably than another (*Karsai v Hungary* App no 32312/23 (ECtHR, 13 June 2024), at para. 173).

Considering this, the ECtHR carried out a substantial assessment, concluding that the ECtHR did not find Hungary's distinction between passive euthanasia and assisted dying discriminatory.

The ECtHR acknowledges that Hungary's absolute ban on assisted dying is justified, particularly due to the heightened risks of abuse (extending beyond those involved in RWI) and broader societal implications associated with PAD. The significant margin of appreciation granted to States in this area further supports this distinction (*Karsai* (2024), at para. 176). The State's considerable margin of appreciation extends to "both to their decision to intervene in this area and, once they have intervened, to the detailed rules laid down in order to achieve a balance between competing interests" (*Karsai* (2024), at para. 144). Under Art 14, the differing treatment of terminally ill patients — those dependent on life-sustaining treatment (who can hasten death through RWI) and those who are not — is also objectively justified. This distinction is reinforced by the widespread European consensus permitting RWI, which does not extend similar protections to PAD. Thus, the ECtHR finds no improper discrimination in this differential treatment (*Karsai* (2024), at para. 176).

Stevie Martin cites Karsai to rebut the slippery slope argument because the ECtHR accepted justifications for limiting assisted dying to terminally ill patients due to risks of abuse. Because Hungary also have a blanket ban surrounding euthanasia and assisted dying, it can be reflected in the unlikeliness of the ECtHR ruling that the UK will be discriminatory by restricting asssisted suicide only to terminally ill individuals (who have less than 6 months to live) and not for non-terminally ill individuals due to the margin of appreciation, they would respect their decisions on regulations. This suggests that the ECtHR may be receptive to assisted dying regimes that differentiate between conditions. Therefore, Martin argues that, because States have a "wide margin of appreciation" to regulate assisted dying, making a successful discrimination claim is unlikely.

Deb and Graham add to the rebuttal of the slippery slope argument, stating that remedial orders under the HRA are heavily scrutinised because they must be approved by both Houses of Parliament and require 60-day consultation periods. Therefore, the "slippery slope" is overstated because the Parliament still retains control, and constitutional procedures would also be extensive.

The Act of Balancing as the "Proper Justification" under Article 14

The Terminally Ill Adults (End of Life) Bill effectively balances between upholding personal autonomy and protecting vulnerable individuals, offering terminally ill adults the right to a dignified death rather than enduring prolonged suffering while remaining compatible with the ECHR. By moving away from the blanket ban under the *Suicide Act 1961*, the Bill

introduces a safeguarded framework that mitigates risks of abuse while respecting individual choice. Its strict eligibility criteria, such as its limit to only mentally competent adults with less than six months to live, ensure that only those experiencing unbearable suffering can access assisted dying. This has a broader social implication as the strict eligibility criteria would reduce the potential for external pressures that are unrelated to an individual's physical or mental medical conditions (e.g. familial or financial pressures) to affect an individual's end-of-life decision, thus minimising the risk of abuse. People would also be psychologically impacted as public attitudes toward assisted dying would shift — they would view assisted dying as a means for terminally ill adults to relieve their suffering.

If the Bill passes, the UK could expand regulated third-party organisations to ensure access while complying with the ECHR. This approach would address the inequity of "suicide tourism", where hundreds of Britons annually travel to Dignitas in Switzerland, which is a costly and inaccessible option for many.

Despite Murray's warning of a "slippery slope", comparative analysis disproves these concerns. In Oregon (United States) and Victoria (Australia), where similar requirements operate assisted dying services, including independent medical assessments and mandatory reflection periods, there has been no evidence of systemic abuse or expansion to non-terminal cases (Nelson, 2016). Oregon's model under the *Death with Dignity Act 1997*, which has been in place for over 25 years, demonstrates that well-regulated assisted dying can be both compassionate and safe, while remaining effective.

In addition, as shown in *Karsai*, the margin of appreciation the UK enjoys also reduces the risk of abuse, or the "slippery slope", as the ECtHR found that Hungary was justified under Art 14 for their blanket ban on assisted dying and euthanasia, thus reducing the likeliness of Art 14 being a strong argument in future cases that may arise. Moreover, the extensive Parliamentary procedures required to debate new laws would also inhibit the slippery slope.

In addition, by limiting assisted dying access to terminally ill patients instead of expanding the scope to those who are experiencing "unbearable suffering", there is less ambiguity before the law, as "suffering" is a subjective term which is not quantified. Therefore, there may be a greater risk of abuse if the UK allows assisted dying for both terminally ill and non-terminally ill individuals, so the Bill is an effective way to prevent ambiguity while striking an effective balance between State obligations to protect lives and an individual's autonomy.

Public opinion further reinforces the support for reform. A YouGov poll (May 2025) found that 75% of Britons support legalising assisted dying in principle, with only 14% opposing — a figure unchanged since the Bill's second reading (Difford, 2025). This reflects a consensus that the current law fails those facing intolerable end-of-life suffering and that there is widespread support for reform.

Globally, over 300 million people now live in jurisdictions with safe and effective laws that legalise assisted dying — none of which have been repealed (Dignity in Dying, n.d.). These systems prove that robust eligibility assessments, anti-coercion measures, and transparent oversight can protect vulnerable individuals while granting dignity to those who seek it. Furthermore, throughout the years, especially after *Pretty*, *Haas*, *Koch,* and *Gross*, it is also observed that there is an emergence of a European consensus where member States are

legalising assisted dying, limiting it to certain groups (such as The Netherlands, Austria, and Portugal). However, because there is a lack of consensus on where exactly the line should be drawn to distinguish which groups are allowed access, the ECHR still grants member States a margin of appreciation to make their own requirements at their own discretion. The UK's Bill aligns with the other jurisdictions' principles, offering a compassionate alternative to the status quo, which allows for personal autonomy while complying with the ECHR where the UK effectively protects vulnerable individuals by providing them access to end their lives in a dignified manner.

CONCLUSION

This paper has explored decisions made by the ECtHR previously, such as *Pretty*, *Haas*, *Koch*, *Gross,* and *Nicklinson*, and identified that the UK enjoys a margin of appreciation under Art 8 to implement strict safeguarding requirements surrounding assisted dying. Even though the ECtHR in *Pretty* recognised that the current blanket ban falls within the margin of appreciation, the ECtHR jurisdiction after *Pretty*, comparative studies, public opinion and campaigns such as Dying in Dignity suggest that there is support for some expansion in assisted dying rights.

The Terminally Ill Adults (End of Life) Bill shows a significant effort to balance the competing principles of individual autonomy and protection for vulnerable people in the context of assisted dying. Through its strict eligibility criteria, the Bill succeeds in creating a framework that prioritises dignity while minimising risks of coercion or abuse.

Given the analysis of the ECtHR's judgement on *Karsai*, a claim against the UK on the grounds of discrimination (Art 14) seems unlikely as *Karsai* established that there is "proper justification" for distinguishing and allowing assisted dying for terminally ill adults only. Additionally, evidence from jurisdictions like Oregon and Victoria, where similar models have operated safely for decades, as well as an emerging European consensus in which more member States are allowing terminally ill individuals access to assisted dying, emphasises the viability of this approach without any risk of abuse in the long term.

Rather than viewing this Bill as a dangerous "slippery slope", it should be seen as a progressive step toward reforming the UK's blanket prohibition on assisted dying under the *Suicide Act 1961*. By establishing safeguarded access to assisted dying for terminally ill adults, the Bill demonstrates that serious debates are happening regarding end-of-life rights and shows how the UK is taking an effective approach to balance autonomy for those suffering with necessary protections, offering a dignified alternative to living in a prolonged, unbearable illness, while complying to State obligations under the ECHR.

REFERENCES

Primary Sources

Council of Europe. (1950, November 4). European Convention on Human Rights, ETS No. 5. https://www.echr.coe.int/documents/convention_eng.pdf.

Death with Dignity Act (Or.) 1997

Human Rights Act (U.K.) 1998

Suicide Act 1961 (U.K.)

Cases

Gross v Switzerland, App no 67810/10 [2013] ECHR 429

Haas v Switzerland, App no 31322/07 [2011] 53 EHRR 33

Karsai v Hungary, App no 32312/23 (ECtHR, 13 June 2024)

Koch v Germany, App no 497/09 [2012] 56 EHRR 6

Pretty v United Kingdom, App no 2346/02 [2002] 35 EHRR 1

R (on the application of Nicklinson and another) v Ministry of Justice; *R (on the application of AM) v The Director of Public Prosecutions* [2014] UKSC 38

Secondary Sources

Bosotti, R. (2025, June 20). MPs narrowly back legalising assisted dying in England and Wales by 23 votes. BBC. https://www.bbc.co.uk/news/live/cg4ry0pge4kt.

Difford, D. (2025, June 19). Support for assisted dying unmoved by the debate. YouGov. https://yougov.co.uk/health/articles/52413-support-for-assisted-dying-unmoved-by-the-debate.

Dignity in Dying. (n.d.). Assisted dying around the world. Campaign for Dignity in Dying. https://www.dignityindying.org.uk/assisted-dying/assisted-dying-around-the-world/.

Dzehtsiarou, K. (2011, October 30). European Consensus and the Evolutive Interpretation of the European Convention on Human Rights, German Law Journal, Vol. 12, pp. 1730-1745, 2011. https://ssrn.com/abstract=1951371

Elliot, M. (2014, June 26). The right to die: deference, dialogue and the division of constitutional authority. Public Law for Everyone. https://publiclawforeveryone.com/2014/06/26/the-right-to-die-deference-dialogue-and-constitutional-authority/.

Murray, P. (2024, October 30). Looking down the slippery slope: Can assisted suicide be restricted to the terminally ill?. UK Constitutional Law Association. https://ukconstitutionallaw.org/2024/10/30/philip-murray-looking-down-the-slippery-slope-can-assisted-suicide-be-restricted-to-the-terminally-ill/.

Nelson, R. (2016, September 28). Death With Dignity in Oregon: No Evidence of Abuse or Misuse. End of Life Washington. https://endoflifewa.org/news/death-dignity-oregon-no-evidence-abuse-misuse/.

Puppinck, G., & Popescu, A. (2011, September 1). Koch v Germany: The ECHR called again to decide on assisted suicide. European Centre for Law & Justice.

Wada, E. (2005). A Pretty Picture: The Margin of Appreciation and the Right to Assisted Suicide, Loyola of Los Angeles International and Comparative Law Review, 27(2), 275-289. https://digitalcommons.lmu.edu/ilr/vol27/iss2/4.