The Ninth Circuit Court’s Treatment of the History of Suicide by Ancient Jews and Christians in Compassion in Dying v. State of Washington: Historical Naiveté or Special Pleading?

Darrel W. Amundsen, Ph.D.†

ABSTRACT: In this article, Prof. Darrel Amundsen critiques Judge Reinhardt’s comments regarding “Historical Attitudes Toward Suicide” in his Compassion in Dying opinion. Amundsen demonstrates that the court’s characterization of ancient Jewish and Christian practices is inaccurate and misleading because it fails to acknowledge the complexities of the moral issue of suicide. Amundsen discusses martyrdom, suicide in general, suicide by the ill, and euthanasia in ancient Judaism. In contrast to the court’s commentary, Amundsen demonstrates that regard for human life is a central feature of Jewish ethical monotheism. Furthermore, the author challenges the court’s conclusions about early Christianity, and explains why its

† Professor of Classics and Chair, Department of Modern and Classical Languages, Western Washington University; B.A., Western Washington University, 1967; M.A., University of Washington, 1969; Ph.D., University of British Columbia, 1980. The section on ancient Judaism was adapted and expanded from chapter one of Edward J. Larson & Darrel W. Amundsen, A Different Death: Euthanasia in the Christian Tradition (1998), written by me and used by permission of InterVarsity Press, P.O. Box 1400, Downers Grove, Illinois 60515. In preparing the section on early Christianity, I have drawn extensively upon some of my earlier publications, e.g., Suicide and Early Christian Values, in Suicide and Euthanasia: Historical and Contemporary Themes 77 (B.A. Brody, ed., 1989); Medicine, Society, and Faith in the Ancient and Medieval Worlds 70 (1996); Did Early Christians “Lust After Death”? A New Wrinkle in the Doctor-Assisted Suicide Debate, Christian Res. J., Spr. 1996, at 11; and The Significance of Inaccurate History in Legal Considerations of Physician-Assisted Suicide, in Physician-Assisted Suicide: Ethical Positions, Medical Practices, and Public-Policy Options 3 (R. Weir, ed., 1997).
treatment of the issue of suicide in early Christianity is misleading and inaccurate. Amundsen’s discussion of early Christianity includes suicide, martyrdom, and especially the Augustinian teaching on suicide. He concludes that the court’s treatment of the issue of suicide in early Christianity is so historically and conceptually muddled as to be fundamentally inaccurate.

“In all cases, our analysis of the applicability of the protections of the Constitution must be made in light of existing circumstances as well as our historic traditions,” Judge Reinhardt opined, writing for the majority in the Ninth Circuit Court’s en banc ruling that reversed its own three-judge panel’s earlier ruling on Compassion in Dying v. State of Washington. Introducing a section of the opinion entitled “Historical Attitudes Toward Suicide,” he declared:

The majority opinion of the three-judge panel claimed that ‘a constitutional right to aid in killing oneself’ was ‘unknown to the past’ . . . our inquiry is not so narrow. Nor is our conclusion so facile. The relevant historical record is far more checkered than the majority would have us believe.’

He noted that “[w]hen the Court turns to history, it does not limit its inquiry to the practices at the time of the founding or the time of the adoption of the Fourteenth Amendment.” Hence, “[i]ke the Court in Roe, we begin with ancient attitudes.”

Seeking to emulate Justice Blackmun as an historian, Judge Reinhardt has achieved the dubious distinction of falling below the less than adequate standards of historical inquiry of the Roe Court’s majority, at least when dealing with antiquity. Judge Reinhardt criticized the three-judge panel for its “narrow” historical purview and for its consequent “facile” conclusion. I submit that by broadening his historical horizons to include ancient Jewish and Christian practices, Judge Reinhardt’s painfully obvious historical naivete, perhaps coupled with a revisionist agenda, renders his survey of suicide by ancient Jews and Christians not only facile but inaccurate and misleading.

His survey of suicide in classical antiquity, although simplistic, is essentially correct and may be condensed to the following.1

1. Not only was suicide not “universally prohibited” in classical antiquity,

---

1 Compassion in Dying v. Washington, 79 F.3d 790, 803 (9th Cir. 1996) (en banc).
2 Id. at 806.
3 Id. at 806 n.21.
4 Id. at 806.
5 Id. at 806-08.
but it “was often considered commendable in literature, mythology, and practice.” It was “glorified” by the Stoics and the magistrates of some communities “even supplied those who wished to commit suicide with the means to do so.”

2. “In Roe, while surveying the attitudes of the Greeks toward abortion, the Court stated that ‘only the Pythagorean school of philosophers frowned on the related act of suicide’ . . . [i]t then noted that the Pythagorean school represented a distinctly minority view.” He notes, however, that the Platonists set some moral restrictions on the act.

Most importantly, he presents ancient Jewish and Christian attitudes toward suicide as essentially the same as those of pagans. I shall seek to demonstrate that his passing and inconclusive references to Judaism do no justice to the complexities of the moral issue of suicide in that ancient tradition, and that his analysis of suicide in early Christianity is not only simplistic but is essentially inaccurate.

Ancient Judaism

Judge Reinhardt turned directly from the Greeks and Romans to early Christianity, making only passing reference to Judaism in two footnotes:

1. “The stories of four suicides are noted in the Old Testament—Samson, Saul, Abimlech [sic], and Achitophel—and none is treated as an act worthy of censure.”

2. “Other ancient peoples [besides the Greeks and Romans] also viewed suicide with equanimity or acceptance. Hundreds of Jews killed themselves at Masada in order to avoid being captured by Roman legions.”

In order to illustrate how misleading these two statements are, made as they were in a judicial ruling on the constitutionality of physician-assisted suicide, I shall first make some introductory observations and then discuss (1) martyrdom, (2) suicide in general, and (3) suicide by the ill and euthanasia in ancient Judaism.

Although the earliest generations of the Hebrew people may have been primarily henotheists, the monotheism that became revealed orthodoxy presented God as One, the sovereign Creator of all things, eternal, omnipotent, omniscient, and immutable. And the Jews regarded their God as one who had chosen them as his special people. God is portrayed in the Hebrew Scriptures, which constitute the Christian Old Testament, as jealous of his people’s loyalty, devotion, and trust. Hebrew Scriptures nearly pulsate with the heartbeat of God who not only loved his people but commanded them to “love the Lord your God with all your heart and with all your soul and with all your might” (Dt. 6:5).

The elder Pliny (A.D. 23-79), an urbane and highly educated Roman

---

6 Id. at 808 n.25.
7 Id. at 807 n.24.
military officer, magistrate, scientist, man of letters, and intimate friend of
the emperor Vespasian, wrote,

I think it a sign of human weakness to try to find out the shape
and form of God. Whoever God is—provided he does exist—and in
whatever region he is, God is the complete embodiment of sense,
sight, hearing, soul, mind and of himself . . . it is ridiculous to think
that a supreme being—whatever it is—cares about human affairs.8

A little later, Pliny remarks, “The chief consolation for Nature’s
shortcomings in regard to man is that not even God can do all things. For he
cannot, even if he should so wish, commit suicide, which is the greatest
advantage he has given man among all the great drawbacks of life.”9

There is little, if anything, in these quotations from Pliny with which a
contemporary Jew could have agreed. And the idea that man has one
advantage over God, namely that man can kill himself—would this not have
been repugantly blasphemous to Pliny’s Jewish contemporaries? The
answer, of course, is yes. Let us explore why.

The Hebrew Scriptures unequivocally proclaim God’s total and ultimate
sovereignty over life and death. God the Creator “formed man of dust from
the ground, and breathed into his nostrils the breath of life; and man became a
living being” (Gen. 2:7).10 God imposed as a penalty for sin both spiritual
death and physical death: “[f]rom the tree of the knowledge of good and evil
you shall not eat, for in the day that you eat from it you shall surely die”
(Gen. 2:17) and “[b]y the sweat of your face you shall eat bread, till you
return to the ground, because from it you were taken; for you are dust, and to
dust you shall return” (Gen. 3:19). The first act of murder brought forth a
curse upon the murderer. After Cain had slain his brother Abel, God said,
“What have you done? The voice of your brother’s blood is crying to Me
from the ground. And now you are cursed from the ground, which has opened
its mouth to receive your brother’s blood from your hand” (Gen. 4:10-11).
The law given by God to Noah immediately after the flood addressed
homicide: “Whoever sheds man’s blood, by man his blood shall be shed, for in
the image of God He made man” (Gen. 9:6). And he commanded the
Israelites: “[y]ou shall not pollute the land in which you are; for blood
pollutes the land and no expiation can be made for the land for the blood that
is shed on it, except by the blood of him who shed it” (Num. 35:33).

The sovereignty of God over life and death is repeatedly emphasized in the
Old Testament. “It is I who put to death and give life” (Dt. 32:39). “The
Lord kills and makes alive” (1 Sam. 2:6). Job rhetorically asks, “In whose

9 Id. at 14.
10 Genesis 2:7 (All Old and New Testament quotations are from the New American Standard
Bible (1960-1971)).
hand is the life of every living thing, and the breath of all mankind." (Job 12:10). The context supplies the unequivocal answer: God. “Thou dost turn man back into dust” (Ps. 90:3). “Thou dost take away their spirit, they expire and return to their dust” (Ps. 104:29). “There is an appointed time for everything. And there is a time for every event under heaven—a time to give birth, and a time to die” (Eccl. 3:1-2). “No man has authority . . . over the day of death” (Eccl. 8:8). “Then the dust will return to the earth as it was, and the spirit will return to the God who gave it” (Eccl. 12:7). “Behold, all souls are Mine; the soul of the father as well as the soul of the son is Mine’ (Ez. 18:4). Although God is equally sovereign over the deaths of all men, the deaths of his people touch him deeply: “Precious in the sight of the Lord is the death of His godly ones” (Ps. 116:15). For God placed before his people two paths, life and death: “[I] have set before you life and death, the blessing and the curse. So choose life in order that you may live, you and your descendants, by loving the Lord your God, by obeying His voice, and by holding fast to Him; for this is your life and the length of your days . . . .” (Dt. 30:19-20). And he made it abundantly clear that, within the strictures of the Mosaic covenant, prosperity, military success, fertility, health, and long life were rewards for his people’s love, loyalty, and obedience. The curses, diametrical opposites of these blessings, God would visit upon his people if they spurned his love and disobeyed his Law. He continually wooed his people into fellowship with himself and urged them to choose life.

**Martyrdom**

The Hebrew phrase *pikhu’ah nefesh* means “regard for human life.” It is used in rabbinical literature to express the duty to save human life, i.e., the life of a fellow Israelite, when it is in peril, which is one of the most sacred obligations in Judaism. This obligation included the sacred duty to preserve one’s own life under most circumstances. But sometimes a Jew had to die rather than violate the Law. *Kiddush ha-Shem* (“sanctification of the [Divine] name”) and *hilul ha-Shem* (“defamation of the [Divine] name”) are antithetical concepts in rabbinic Judaism, reflecting the positive and negative precepts of Leviticus 22:31-32: “So you shall keep My commandments, and do them: I am the Lord. And you shall not profane My holy name, but I will be sanctified among the sons of Israel: I am the Lord who sanctifies you.”

---

11 See e.g., Jacob Neusner, *The Mishnah: A New Translation* 591 (1988) (according to the *Mishnah, Sanhedrin* 4.5, “man was created alone, to teach you that whoever destroys a single Israelite soul is deemed by Scripture as if he had destroyed a whole world. And whoever saves a single Israelite soul is deemed by Scripture as if he had saved a whole world.”). This attitude is reflected in various talmudic texts where, e.g., it is stipulated that the sabbath must be violated to save the life of an Israelite, or if the person’s ethnicity were in doubt, but not a heathen (to include a Samaritan or Christian), as in the Babylonian Talmud, *Yoma* 84b-85b. (All Babylonian Talmud quotations from *The Babylonian Talmud: Translated into English with Notes and Glossary* (I. Epstein, ed., various trans., New York: Traditional Press, 1983).
In his apologia for Judaism, rebutting Apion’s anti-Jewish writings, the Jewish general and then historian Josephus (A.D. 37-ca.100) asseverated that he and his fellow Jews regard as the most essential task in life the observance of our laws and of the pious practices, based thereupon, which we have inherited.\textsuperscript{12} Earlier in the same work he had remarked about their Scriptures:

\textsuperscript{12}Josephus, \textit{Against Apion} 1.60 (Unless otherwise indicated, quotations from Flavius Josephus’ works are from the Loeb Classical Library edition, various trans., Cambridge: Harvard University Press, various dates).
it is an instinct with every Jew, from the day of his birth, to regard
them as the decrees of God, to abide by them, and, if need be,
cheerfully to die for them. Time and again are now the sight has
been witnessed of prisoners enduring tortures and death in every
form in the theatres, rather than utter a single word against the
laws and the allied documents.\textsuperscript{13}

This was a reality of such importance to Josephus that he reverted to it twice
more in this treatise:

Each individual, relying on the witness of his own conscience and
the lawgiver’s prophecy, confirmed by the sure testimony of God,
is firmly persuaded that to those who observe the laws and, if they
must needs die for them, willingly meet death, God has granted a
renewed existence and in the revolution of the ages the gift of a
better life. I should have hesitated to write thus, had not the facts
made all men aware that many of our countrymen have on many
occasions are now preferred to brave all manner of suffering rather
than to utter a single word against the Law.\textsuperscript{14}

He believed that Jews were exposed to such horrible deaths by some of their
conquerors, “not from hatred of those at their mercy, but from a curiosity to
witness the astonishing spectacle of men who believe that the only evil which
can befall them is to be compelled to do any act or utter any word contrary
to their laws.”\textsuperscript{15}

The laws of martyrdom were formulated at a rabbinic council held in the
early second century A.D. In the Babylonian Talmud we read

R. Johanan said in the name of R. Simeon b. Jehozadak: ‘By a
majority vote, it was resolved in the upper chambers of the house
of Nithza in Lydda, that in every [other] law of the Torah, if a
man is commanded: “Transgress and suffer not death” he may
transgress and not suffer death, excepting idolatry, incest [which
includes adultery], and murder.’

Later in the same text this qualification is made:

When R. Dimi came, he said: ‘This was taught only if there is no
royal decree [i.e., forbidding the practice of Judaism], but if there is
a royal decree, one must incur martyrdom rather than transgress
even a minor precept.’ When Rabin came, he said in R. Johanan’s
name: ‘Even without a royal decree, it was only permitted in
private; but in public one must be martyred even for a minor
precept rather than violate it."\textsuperscript{16}

\textsuperscript{13}\textit{Id.} at 1.42-43.
\textsuperscript{14}\textit{Id.} at 2.2.18.
\textsuperscript{15}\textit{Id.} at 2.233.
\textsuperscript{16}Babylonian Talmud, \textit{Sanhedrin} 74a.
Upon this text hang all subsequent halakhic interpretations of the licitness and illicitness of martyrdom and suicide under the duress of persecution. The qualification made above is further refined in other Talmudic tractates. Commenting on the sentence, “He shall live by them, but not die by them,” R. Ishmael observed,

This is only meant when in private, but not in public; for it has been taught . . . Whence can we deduce that if they say to one, ‘Worship the idol and thou wilt not be killed,’ that he may worship it so as not to be killed? because Scripture says, ‘He shall live by them,’ but not die by them; you might take this to mean even in public, there Scripture says, ‘And ye shall not profane my holy name’ (Lev. 22:32).  

And Raba said about the same sentence, “[i]t excludes the man who acts under pressure. After that, however, the All-merciful wrote, ‘And ye shall not profane My holy name’—i.e., not even under compulsion! How is it, then?—The former refers to an act in private, the latter to an act in public.” In another tractate the same Raba said,

If a Gentile said to a Jew, ‘Cut grass on the Sabbath for the cattle, and if not I will slay thee,’ he must rather be killed than cut it; ‘Cut and throw it into the river,’ he should rather be slain than cut it. Why so?—Because his intention is to force him to violate his religion.

The Talmud sees in the story of Shadrach, Meshach and Abed-nego, related in Daniel 3, an Old Testament example of kiddush ha-Shem:

This too did Thaddaeus of Rome teach: What [reason] did Hananiah, Mishael and Azariah see that they delivered themselves, for the sanctification of the [Divine] Name, to the fiery furnace? They argued a minora to themselves: ‘If frogs, which are not commanded concerning the sanctification of the [Divine] Name, yet it is written of them, “and they shall come up and go into thy house . . . and into thine ovens, and into thy kneading troughs” [Ex. 7:28], when are the kneading troughs to be found near the oven? When the oven is hot. We, who are commanded concerning the sanctification of the Name, how much the more so.”

---

18 Id. at 54a.
19 Babylonian Talmud, Sanhedrin 74b.
20 Babylonian Talmud, Pesahim 53b.
Regardless of whether these three engaged in such Talmudic casuistry, their lives were preserved in the fiery furnace as was Daniel's in the lions' den (Dan. 6), though they were, of course, willing to die rather than violate the Law. But were there any actual martyrs in the Old Testament other than prophets who had been killed by apostate Jews? We are aware of none, unless we thus categorize Jews killed by invading armies.

It is in the intertestamental literature that Jewish martyrdom truly came into its own. In 2 Maccabees, the deaths of Eleazar and seven brothers along with their mother are the most spectacular martyrdoms recounted. The events leading up to the Jewish revolt against Antiochus IV Epiphanes provide the context. Eleazar, a ninety year old man, submitted to torture and death rather than eat pork publicly, "preferring an honourable death to an unclean life... and by his death he left a heroic example and a glorious memory, not only for the young but also for the great body of the nation."21

Immediately following Eleazar's martyrdom, the martyrdoms of seven brothers and their mother are related. All eight are put to death for refusing to violate the Law, the test case again being the public eating of pork (7:1-42). The author of 2 Maccabees puts the following theological pronouncement in the mouth of the sixth brother: "It is our own fault that we suffer these things; we have sinned against our God and brought these appalling disasters upon ourselves" (7:18). The author had prefaced the story of Eleazar with a similar theological emphasis:

Now I beg my readers not to be disheartened by these calamities, but to reflect that such penalties were inflicted for the discipline of our race and not for its destruction. It is a sign of great kindness that acts of impiety should not be let alone for long but meet their due recompense at once. The Lord did not see fit to deal with us as he does with other nations: with them he patiently holds his hand until they have reached the full extent of their sins, but upon us he inflicted retribution before our sins reached their height. So he never withdraws his mercy from us; though he disciplines his people by calamity, he never deserts them. Let it be enough for me to have recalled this truth... (6:12-17).

This theological understanding, which is consistent with the provisions of the Mosaic covenant, will continue to condition Jewish theodicy.

---

To see persecution, including martyrdom, as God's chastening and disciplining of His people is, of course, fully consistent with the Mosaic Covenant. To develop this into a theology of vicarious and redemptive suffering of the persecuted, especially martyrs, on behalf of the sins of the people Israel, however, goes beyond the specifics, and perhaps even the spirit, of the Mosaic covenant and, perhaps, depends upon interpreting the Suffering Servant of Isaiah 53 as the people Israel in general, the persecuted in particular, and martyrs most specifically.

The fourth book of Maccabees was written very early in the Christian era, possibly as early as the first half of the first century A.D. 22 H. Anderson observed,

Doctrinally, the most significant contribution of 4 Maccabees is the development of the notion that the suffering and death of the martyred righteous had redemptive efficacy for all Israel and secured God's grace and pardon for his people. Eleazar first expresses the idea in his prayer in 6:28f: 'Be merciful to your people and let our punishment be a satisfaction on their behalf. Make my blood their purification and take my life as a ransom for theirs.' Later, we find the same thought: 'The tyrant was punished and our land purified, since they [sc., the martyrs] became, as it were, a ransom for the sin of our nation. Through the blood of these righteous ones and through the propitiation of their death the divine providence rescued Israel, which had been shamefully treated' (17:21f.). 23

---


23 Id. at 539.
The central theme of 4 Maccabees is martyrdom. Chapters 5-7 recount and expatiate on the martyrdom of Eleazar; the remainder of the book (chs. 8-18) is devoted to the martyrdoms of the seven brothers and their mother. Substantially longer than the account in 2 Maccabees, the version of the death of the seven brothers and their mother in 4 Maccabees is not only embellished with considerable gory detail, lengthier speeches by all eight martyrs, and extensive panegyrics and theological commentary by the author. But the story in 4 Maccabees also includes some differences in detail from that in 2 Maccabees. While in the earlier account the mother and sons encourage each other to face death bravely, and all die courageously, in the later rendition they display a zealous eagerness to die. And in 4 Maccabees the seventh and youngest brother “threw himself into the braziers and so gave up his life” (12:19). Of the mother’s death 4 Maccabees says, “Some of the guards declared that when she, too, was about to be seized and put to death, she threw herself into the fire so that no one would touch her body” (17:1). Anderson comments, “There is no hint of the mother’s suicide in 2 Mac[c], and at this point our author himself is rather squeamish about it . . . . He attributes the report of it to the guards (Did he possess no tradition on this matter?) and refers to the matter in a strangely oblique and fleeting way.”

Suicide

Suicide as martyrdom. Was the author of 4 Maccabees in fact uneasy about the suicide of the mother of the seven martyred youths? Rabbinic tradition certainly was not. In the Babylonian Talmud Rab Judah maintained that the text “Yea, for thy sake we are killed all the day long, we are counted as sheep for the slaughter” (Ps. 44:23) “refers to the woman and her seven sons.” Then the account, which is very brief, simply relates that the first six brothers were led away and killed and that the soldiers “were leading [the seventh brother] away to kill him when his mother said: ‘Give him to me that I may kiss him a little.’ She said to him: ‘My son, go and say to your father Abraham, “Thou didst bind one [son to the] altar, but I have bound seven altars.”’ Then she also went up on to a roof and threw herself down and was killed. A voice thereupon came forth from heaven saying, ‘A joyful mother of children’ [Ps. 113:9].” There is obviously no reticence in this Talmudic account. Indeed, God himself commended her action. The Israeli judge H. H. Cohn has recently remarked, “The former source [4 Maccabees] implies that she killed herself in order to forestall being seized and killed by the guardsmen, while from the latter [the Talmud] it would appear that she committed suicide voluntarily, whether to identify with her children, or out of the agony of her

---

24 Id. at 562 n.17a.
25 Gittin 57b.
heart at seeing them tortured and assassinated. Both versions carry the same undertone of approval and admiration.  

Whether, as Anderson contends, the author of 4 Maccabees was uneasy about the suicide of this mother or, as Cohn asserts, approved and admired her act, the account of the suicide of Razis in 2 Maccabees is unequivocally positive. Several hundred soldiers had been sent to arrest Razis.

The troops were on the point of capturing the tower where Razis was, and were trying to force the outer door. Then an order was given to set the door on fire, and Razis, hemmed in on all sides, turned his sword on himself. He preferred to die nobly rather than fall into the hands of criminals and be subject to gross humiliation. In his haste and anxiety he misjudged the blow, and with the troops pouring through the doors he ran without hesitation on to the wall and heroically threw himself down into the crowd. The crowd hurriedly gave way and he fell in the space they left. He was still breathing, still on fire with courage; so, streaming with blood and severely wounded, he picked himself up and dashed through the crowd. Finally, standing on a sheer rock, and now completely drained of blood, he took his entrails in both hands and flung them at the crowd. And thus, invoking the Lord of life and breath to give these entrails back to him again, he died (14:37-46).

The concluding sentence reflects the same hope of physical resurrection that the third martyred brother expressed (as recorded in 2 Macc.) when asked whether he would publicly eat pork to escape death: “[h]e at once showed his tongue, boldly held out his hands, and said courageously: ‘The God of heaven gave me these. His laws mean far more to me than they do, and it is from him that I trust to receive them back’” (2 Macc. 7:10-11). The two deaths, though, are significantly different: the youth was a passive martyr, Razis was an active suicide. Both, however, were regarded as worthy of praise. Both incidents occurred under conditions of severe persecution. So also the following recorded in the Babylonian Talmud:

---

On one occasion four hundred boys and girls were carried off for immoral purposes. They divined what they were wanted for and said to themselves, 'If we drown in the sea we shall attain the life of the future world.' The eldest among them expounded the verse, 'The Lord said, "I will bring again from Bashan, I will bring again from the depth of the sea"' [Ps. 68:23]. 'I will bring again from Bashan,' from between the lions' teeth. 'I will bring again from the depths of the sea, "those who drown in the sea."' When the girls heard this they all leaped into the sea. The boys then drew the moral for themselves, saying, 'If these, for whom this [i.e., the sexual activity for which they had been selected] is natural, act so, shall not we, for whom it [i.e., the male prostitution awaiting them] is unnatural?' They also leaped into the sea. Of them the text says, 'Yea, for thy sake we are killed all the day long we are counted as sheep for the slaughter' [Ps. 44:23].

All the suicides discussed thus far were regarded as honorable, indeed praiseworthy—suicide as martyrdom, consistent with Talmudic casuistry. Many other suicides are recorded in Jewish literature from the Old Testament through the end of the Talmudic period (ca. A.D. 500). None of them, however, offer support for medical euthanasia or physician-assisted suicide, because they do not involve situations similar to those faced by terminally or seriously ill patients. Let us attempt to categorize them.

War-related suicides by individuals. First chronologically in this category is Abimelech. After capturing the city of Thebez, he assaulted a fortified tower in the center of the city. The Old Testament account of his death reads, "So Abimelech came to the tower and fought against it, and approached the entrance of the tower to burn it with fire. But a certain woman threw an upper millstone on Abimelech’s head, crushing his skull. Then he called quickly to the young man, his armor bearer, and said to him, 'Draw your sword and kill me, lest it be said of me, "A woman slew him."' So the young man pierced him through, and he died" (Judg. 9:52-54). Although Scripture neither explicitly approves or disapproves of this act of assisted suicide, it was a fitting end for an evil man: "Thus God repaid the wickedness of Abimelech, which he had done to his father, in killing his seventy brothers" (Judg. 9:56). Josephus echoes Scripture’s moral judgment.

Second, Saul’s death has evoked considerable discussion. The accounts in 1 Samuel 31:1-6 and 1 Chronicles 10:1-6 are virtually identical. In the words of the former,
And the battle went heavily against Saul, and the archers hit him; and he was badly wounded by the archers. Then Saul said to his armor bearer, ‘Draw your sword and pierce me through with it, lest these uncircumcised come and pierce me through and make sport of me.’ But his armor bearer would not, for he was greatly afraid. So Saul took his sword and fell on it. And when his armor bearer saw that Saul was dead, he also fell on his sword and died with him.

In 2 Samuel 1 a variant is introduced. A young man approached David after the battle in which Saul had died and said,

By chance I happened to be on Mount Gilboa, and behold, Saul was leaning on his spear. And behold, the chariots and the horsemen pursued him closely. And when he looked behind him, he saw me and called to me. And I said, ‘Here I am.’ And he said to me, ‘Who are you?’ And I answered him, ‘I am an Amalekite.’ Then he said to me, ‘Please stand beside me and kill me; for agony has seized me because my life still lingers in me.’ So I stood beside him and killed him, because I knew that he could not live after he had fallen. And I took the crown which was on his head and the bracelet which was on his arm, and I have brought them here to my lord.

Instead of rewarding him, David asked him, “How is it you were not afraid to stretch out your hand to destroy the Lord’s anointed?” David then ordered him to be put to death (2 Sam. 1:6-16). Either the young Amalekite had fabricated his story in the hope of winning David’s favor, in which case Saul’s suicide attempt had been successful, or his account was factual, in which case Saul’s suicide attempt had been unsuccessful and the young man had administered the coup de grace, just as Abimelech’s armor bearer had done.

Josephus melded the two accounts into one:

He himself, after fighting magnificently and receiving numerous wounds, until he could no longer hold out nor endure under these blows, was too weak to kill himself and bade his armour-bearer draw his sword and thrust it through him before the enemy should take him alive. But, as the armour-bearer did not dare to slay his master, Saul drew his own sword himself and, fixing it with its point toward him, sought to fling himself upon it, but was unable either to push it in or, by leaning upon it, to drive the weapon home. Then he turned and, seeing a youth standing there, asked him who he was, and, on learning that he was an Amalekite, begged him to force the sword in, since he could not do this with his own hands, and so procure him such a death as he desired. This he did...  

---

Saul is condemned in both 1 Samuel and in 1 Chronicles. In 1 Samuel 28:16-19, Samuel’s spirit, conjured by the “witch of Endor” the previous night, had rebuked Saul and told him that he would die the next day because of his disobedience to the Lord. In 1 Chronicles 10:13-14 we read:

So Saul died for his trespass which he committed against the Lord, because of the word of the Lord which he did not keep; and also because he asked counsel of a medium, making inquiry of it, and did not inquire of the Lord. Therefore He killed him, and turned the kingdom to David the son of Jesse.

Hence, according to the chronicler, God himself killed Saul either directly by Saul’s own hand or by that of the Amalekite who killed Saul at the latter’s request. Nevertheless, rabbinic tradition generally treats his death favorably, categorizing it as martyrdom.31

Third, both Scripture and Josephus report Saul’s armor bearer’s suicide laconically and without comment. His duress was twofold. Not only did he choose to die with his king (suicide by identification) but his only alternative was death at the hands of the enemy.

Fourth, Ahithophel (or Achitophel), who was King David’s counsellor, became Absalom’s when the latter revolted against his Father David. David prayed that his advice would be made foolishness (2 Sam. 15:31). “Now when Ahithophel saw that his counsel was not followed, he saddled his donkey and arose and went to his home, to his city, and set his house in order, and strangled himself; thus he died and was buried in the grave of his father” (2 Sam. 17:23). Josephus wrote that when his proposal was not accepted he thought that he would soon perish.

Therefore, he said, it was better for him to remove himself from the world in a free and noble spirit than surrender himself to David to be punished for having in all ways helped Absalom against him. [So] he went into the innermost part of the house and hanged himself. Such was the death to which Achitophel, as his own judge, sentenced himself.32

Josephus is hard to understand here. He seems to have agreed that suicide in this case was preferable to dying at the hand of the king whom he had betrayed, and he allowed Ahithophel’s ostensibly classifying his suicide as “remov[ing] himself from the world in a free and noble spirit” to stand unchallenged. Yet Josephus appears to have regarded Ahithophel’s self-inflicted death as an appropriate self-imposed penalty.

Fifth, Zimri (or Zamrias) gained the throne of Israel by assassination. He lacked popular support and, after a reign of only one week, was attacked by a rival.

32Josephus, Antiquities 7.228-229.
And it came about, when Zimri saw that the city was taken, that he went into the citadel of the king’s house, and burned the king’s house over him with fire, and died because of his sins which he sinned, doing evil in the sight of the Lord, walking in the way of Jeroboam, and in his sin which he did, making Israel sin (1 Kings 16:18-19).

Scripture unequivocally maintained that Zimri’s death was judgment for his sins. Josephus was equally forthright: “[i]t came about that, because of his impiety, his house perished root and branch in the same way as the house of Jeroboam was destroyed.” A little later Josephus remarked, “From these events one may learn how close a watch the Deity keeps over human affairs and how He loves good men but hates the wicked, whom He destroys root and branch.”

Sixth, during a battle in 164 B.C., Eleazar Avaran engaged in a suicidal attack on an elephant on which he erroneously thought that King Antiochus was riding. The account in 1 Maccabees includes the statement, “So he gave his life to save his people and win everlasting renown for himself” (6:44). Not long after this event, Jesus Ben Sirah referred to him as one of “the heroes of our nation’s history,” one of those who “made themselves a name by their exploits.” Josephus, in his Jewish War, however, made this assessment:

He had done no more than make a heroic attempt, putting glory before life itself. The rider of the elephant was in fact a commoner; even if he had happened to be Antiochus, Eleazar would have achieved nothing by his daring but the reputation of having gone to certain death in the mere hope of a brilliant success.

In his Antiquities, which he wrote some years later, Josephus gave a short account of Eleazar’s death in which he remarked that, “after bravely destroying many of the foe, Eleazar met his end.” Heroic suicides are, indeed, subject to subjective judgment.

Seventh, there are some instances of suicide by prisoners. Two examples are Samson and Phasael. Samson’s death is thus recorded in Judges:

It so happened when [the Philistines] were in high spirits, that they said, ‘Call for Samson, that he may amuse us.’ So they called for Samson from the prison, and he entertained them. And they made him stand between

---

33Id. at 8.309.
34Id. at 8.314.
35Ecclus. 44:1, 3.
36Josephus, Jewish War 1.41-45 (All quotations are from Flavius Josephus, Jewish War, (G. A. Williamson, trans. E. Mary Smallwood, revised, New York: Dorset Press, 1985)).
37Josephus, Antiquities 12.374.
the pillars . . . . Now the house was full of men and women, and all the lords of the Philistines were there. And about 3,000 men and women were on the roof looking on while Samson was amusing them. Then Samson called to the Lord and said, ‘O Lord God, please remember me and please strengthen me just this time, O God, that I may at once be avenged of the Philistines for my two eyes.’ And Samson grasped the two middle pillars on which the house rested, and braced himself against them, the one with his right hand and the other with his left. And Samson said, ‘Let me die with the Philistines!’ And he bent with all his might so that the house fell on the lords and all the people who were in it. So the dead whom he killed at his death were more than those whom he killed in his life (16:25-30).

Scripture passed no judgment on the manner of his death. It is probably reasonable to regard his death as simply incidental to the simultaneous destruction of a multitude of the enemies of Israel. Josephus wrote that Samson deemed as more severe than all his ills his inability to be avenged of the Philistines’ mockery and insults. After describing Samson’s death, Josephus observed:

Such was his end, after governing Israel for twenty years. And it is but right to admire the man for his valour, his strength, and the grandeur of his end, as also for the wrath which he cherished to the last against his enemies. That he let himself be ensnared by a woman must be imputed to human nature which succumbs to sins; but testimony is due to him for his surpassing excellence in all the rest.\(^{38}\)

Herod’s brother Phasael had fallen into the hands of the priest-king Antigonus, whom the Parthians had placed on the throne in Jerusalem. Josephus recounts his death in both the *Jewish Wars* and the *Antiquities*. The account in the latter:

\(^{38}\) *Id.* at 5.317.
As for Phasael, one must admire his courage, for though he knew that he was marked for slaughter, he did not look upon death as terrible in itself but believed that it was a most bitter and shameful thing to suffer at the hands of a foe; and so, not having his hands free to destroy himself because of his chains, he dashed his head against a rock and removed himself from the world of the living, which he thought was the best thing to do in view of his helpless position, and thus he deprived the enemy of the power of killing him as they pleased. But some say that when he had incurred this serious wound, Antigonus quietly sent physicians as if to heal it, and had him killed by deadly poisons which they applied to his wound.  

In the *Jewish Wars*, Josephus comments that Phasael “showed himself to be a true brother of Herod”—to Josephus, Herod was no unmitigated villain—and “he died like a hero, crowning his life’s work with a fitting end.” After mentioning the alternative version—here only one physician administered the coup de grace—he concludes, “Whichever version is correct, all honour to him for his attempt.”

*War-related suicides by groups.* First, in the Talmud and Josephus’ writings there are several accounts of suicide by civilians when the besieging army had successfully breached the walls of their city and destruction was imminent. The following are some examples. In the Babylonian Talmud we read:

Our Rabbis have taught: When the First Temple was about to be destroyed bands upon bands of young priests with the keys of the Temple in their hands assembled and mounted the roof of the Temple and exclaimed, ‘Master of the Universe, as we did not have the merit to be faithful treasurers these keys are handed back into Thy keeping.’ They then threw the keys up towards heaven. And there emerged the figure of a hand and received the keys from them. Whereupon they jumped and fell into the fire. It is in allusion to them that the prophet Isaiah laments: ‘The burden concerning the Valley of Vision. What aileth thee now, that thou art wholly gone up to the house tops, thou that art full of uproar, a tumultuous city, a joyous town? Thy slain are not slain with the sword, nor dead in battle’ [Is. 22:1-2]. Of the Holy One, blessed be He, also it is said, ‘Kir shouting, and crying at the mount’ [Is. 22:5].

When the Roman general Pompey conquered Jerusalem in 63 B.C., soldiers entered the temple precinct:

---

39 *Id.* at 14.367-68.
41 *Ta‘anith* 29a.
Many of the priests, though they saw the enemy approaching sword in hand, quietly went on the with sacred rites and were cut down as they poured libations and offered incense, putting the service of God before their own preservation. Most who fell were killed by their own countrymen of the rival faction; others beyond number threw themselves over the precipices; some, maddened by their hopeless position, fired the buildings round the wall and perished in the flames. ⁴²

When the Romans were at the point of taking Joppa during the Jewish revolt, its residents embarked on ships but were caught in a storm that kept driving them back toward land, causing many ships to be dashed to pieces on the rocks. “[S]ome, thinking it less painful to die by the sword, cheated the sea by killing themselves.” ⁴³

A little later, about 5000 residents of Gamala had sought refuge in the high citadel of the city. “Despairing of escape and hemmed in every way, they flung their wives and children and themselves too into the immensely deep artificial ravine that yawned under the citadel. In fact the fury of the victors seemed less destructive than the suicidal frenzy of the trapped men.” ⁴⁴ It is indeed difficult to predict when Josephus will react negatively or positively to suicide under duress or simply report the case without passing judgment.

Second, in Josephus’ writings are several accounts of suicide by soldiers or partisans when defeat was inevitable. First is an example that could also be placed in another category. I include it here because of some similarities with the mass suicides at Masada (the third example in this category). Shortly after the inception of the Jewish revolt against Rome, Jewish insurgents attacked the predominantly Gentile city of Scythopolis (west of the Jordan, east of Mt. Gilboa). “They found the Jews there opposed to them; for they lined up with the Scythopolitans, and treating their own safety as of more importance than the ties of blood, they joined battle with their countrymen.” ⁴⁵ Josephus described one Simon, son of Saul, whose:

bodily strength and personal courage were exceptional, but to the injury of his countrymen he abused both. He went out every day and killed many of the Jews who were attacking Scythopolis . . . .But he was overtaken by the punishment he had deserved by the slaughter of his own flesh and blood.

When the Gentile Scythopolitans turned against the Jewish residents of the city, Simon made no move against them but instead exclaimed with great emotion:

---

⁴²Josephus, *Jewish War* 1.150.
⁴³Id. at 3.425.
⁴⁴Id. at 4.79-80.
⁴⁵Josephus, *Jewish War* 2.466.
It serves me right for what I have done—I and the rest who have murdered so many of our own kith and kin to prove our loyalty to you Scythopolitans. Small wonder we have found foreigners treacherous when we have utterly betrayed our own nation; so let us die in disgrace by our own hands; we are not fit to die by those of the enemy. The same act can be the punishment my foul deeds deserve and the proof of my courage, so none of my foes shall boast of my death or gloat over my body.’ So saying he glanced round with a look of mingled pity and rage at his own family—wife, children, and aged parents. Then first seizing his father by his grey hairs he ran him through with his sword; next he killed his unresisting mother, and finally his wife and children, each of them almost falling on the sword, so eager were they to forestall the enemy. Then Simon, having gone through all his family, stood over the bodies in view of everyone, and raising his right hand aloft for all to see plunged the whole length of the blade into his own throat. We may well feel pity for the young man in view of his prowess and courage; but his trust in foreigners made his tragic end inevitable.  

Second, the two most spectacular examples in this category are very instructive: the first, which occurred at Jotapata fairly early in the revolt against Rome, involved Josephus directly. Before describing this episode, two earlier events warrant comment. In his autobiography, Josephus describes a perilous situation in which he found himself while governor of Galilee. In dire straits and threatened with death by disgruntled compatriots, Josephus was entreated by his friend and bodyguard “to die honourably, as a general, by my own hand, before my foes arrived to force me to such action or to kill me themselves . . . but I, committing my fate to God, hastened to go forth to the people.” Shortly before the episode on which we shall soon focus, as Jotapata fell, “Many even of Josephus’ picked soldiers were driven to suicide; for when they saw that they could not kill a single Roman, they made sure that at least they should not die at Roman hands, and collecting at the far edge of the town they killed themselves.”

---

46 Id. at 2.469-76.
47 Josephus, Life 137-38.
48 Josephus, Jewish War 3.331.
Now Josephus and his men are hiding in a cave outside Jotapata. The Romans are preparing to smoke them out if they do not surrender. This is precisely what Josephus wants to do. His men, however, are appalled and outraged. “Well may a cry go up to heaven from the laws of our fathers,” they say, “ordained by God Himself, who endowed our race with spirits that despise death! Are you so in love with life, Josephus, that you can bear to live as a slave?” Is his reputation for bravery a sham? Does he really think that the Romans will spare him? “But if you have been dazzled by Roman success, we must take care of our country’s good name. We will lend you a sword and a hand to wield it. If you die willingly, you will die as commander-in-chief of the Jews, if unwillingly, as a traitor.”

Josephus then delivers a closely argued case against the moral probity of suicide in their particular circumstances, an argument more likely to have been thus neatly crafted in the leisure of his scriptorium in Rome after the war than in the traumatically conditioned environment in which he ostensibly delivered this speech (the contents of which we shall consider shortly). Josephus’ soldiers are not convinced; hence he must either die at their hands or join their suicide pact. Never without a clever plan,

Putting his trust in divine protection he staked his life on one last throw. ‘You have chosen to die,’ he exclaimed; ‘well then, let’s draw lots and kill each other in turn. Whoever draws the first lot shall be dispatched by number two, and so on down the whole line as luck [tyché] decides. In this way no one will die by his own hand—it would be unfair when the rest were gone if one man changed his mind and saved his life.’ The audience swallowed the bait, and getting his way Josephus drew lots with the rest. Without hesitation each man in turn offered his throat for the next man to cut, in the belief that a moment later his commander would die too. Life was sweet, but not so sweet as death if Josephus died with them!

Josephus, incidentally, was not crippled by excessive humility. As it turned out, he and one other man were left. The latter “did not relish the thought either of being condemned by the lot or, if he was left till last, of staining his hand with the blood of a fellow Jew. So he used persuasion, they made a pact, and both remained alive.”

When he wrote his Jewish War, Josephus asked, “Shall we put it down to divine providence [pronoia] or just to luck [tyché]?” There is, perhaps, another explanation. Mireille Hadas-Lebel suggests that Josephus may have been

---

49Id. at 356-59.
a mathematician of genius. Thus he managed to organize the drawing in such a way as to ensure that he got the highest number. Here is the form this ploy has been given in a recent French mathematics textbook: ‘Flavius Josephus’ Permutation. In the year 67, in the course of a Jewish revolt against the Romans, forty Jews were taken prisoner. Unwilling to be taken as slaves, they decided to form a circle and number themselves from 1 to 40. Every seventh man was then to be killed until only one was left; the last man left was to commit suicide. Flavius Josephus, the future historian, positioned himself so that he would be the last, and then did not commit suicide. Determine the number Flavius Josephus chose.50

Josephus had always opposed the revolt of his countrymen against Rome. To put it bluntly, he was convinced that the Jewish rebels were not only acting against their own best interests, but also were opposing God himself. In short, God was on the Romans’ side. And God had destined the Roman commander-in-chief, Vespasian, for the purple. This was the prophecy that Josephus felt God had entrusted to him to deliver to Vespasian. Hence, immediately before he suggests that he and his men surrender, he prays:

Inasmuch as it pleaseth Thee to visit Thy wrath on the Jewish people whom Thou didst create, and all prosperity hath passed to the Romans, and because Thou didst choose my spirit to make known the things to come, I yield myself willingly to the Romans that I may live, but I solemnly declare that I go, not as a traitor, but as Thy servant.51

When his men refuse to surrender and insist on suicide, Josephus delivers a speech along these lines. While it is a glorious thing to die in war, it is a craven and cowardly act to take one’s own life. God has placed in all creatures the instinct to survive. Hence suicide is an act of impiety toward God. It is, in short, to treat God’s gift of life with contempt. “It is from Him we have received our being, and it is to Him we must leave the right to take it away.” Our soul, after all,

is immortal for ever, a fragment of God dwelling in our bodies. If a man destroys something entrusted to him by another man or misuses it, he is judged a faithless rogue, is he not? Then if a man throws away what God has entrusted to his personal keeping, does he think the One he has wronged is unaware? To punish runaway slaves is considered right, even if the masters they are leaving are rogues; if we ourselves run away from the best of masters, God,

51 Josephus, Jewish War 3.354.
shan’t we be judged impious? Don’t you know that those who depart this life according to the law of nature, and repay the loan they received from God at such time as the Lender chooses to claim it back, win everlasting glory?

Consequently, “It is our duty then, comrades, to choose the honourable course and not to add to our human sufferings impiety towards our Creator.”

Some scholars are determined to attribute to Josephus here a direct dependence on Plato’s Phaedo. Josephus was certainly acquainted with that work. The resemblances between part of his speech and parts of the Phaedo have to be more than simply coincidental. Nevertheless, Joseph’s religious arguments are, indeed, religious and, although they have much in common with the religio-philosophical arguments of the Phaedo, their essence is that of Judaic monotheism rather than of Platonic monism.

After the fall of Jerusalem in A.D. 70, zealots remained atop Masada. After a long and arduous siege, the Romans took that mountain fortress in May 73, only to find everyone, except two women and five children, dead: 960 men, women, and children. According to the survivors, who had hidden themselves but were apparently able to observe, or at least to hear what had transpired, each man had slain his own wife and children. Next, ten men had been chosen by lot to kill the rest of the men, then one of the ten chosen by lot to kill the other nine and, finally, himself. According to Josephus, the zealots had been convinced to take this course of action by their leader, Eleazar. Josephus later constructed two speeches that he would have his readers believe represented the arguments Eleazar had employed.

Eleazar’s first speech contains this sequence of arguments. He and his fellow zealots had determined from the beginning never to submit. At the present juncture, they can neither escape from nor defeat the Romans. “But we are free to choose an honourable death with our loved ones.” From the very beginning, having

suffered such constant misery at each other’s hands and worse at the enemy’s, we ought perhaps to have read the mind of God and realized that His once beloved Jewish race had been sentenced to extinction . . . . God Himself without a doubt has taken away all hope of survival . . . . these things are God’s vengeance for the many wrongs that in our madness we dared to do to our own countrymen. For those wrongs let us pay the penalty not to our bitterest enemies, the Romans, but to God—by our own hands.²³

---

²²Id. at 3.362-82.
²³Id. at 7.323-36.
This short speech was greeted with mixed reactions. Fearing that the tears and lamentations of some would weaken the resolve of those who were favorably disposed to his proposal, he launched into a lengthier exhortation. After berating those of his fellow zealots "who fear death even when it means the end of utter misery" he asserts that

life is the calamity for man, not death. Death gives freedom to our souls and lets them depart to their own pure home where they will know nothing of any calamity; but while they are confined within a mortal body and share its miseries, in strict truth they are dead. For association of the divine with the mortal is most improper. Certainly the soul can do a great deal even when imprisoned in the body . . . But when, freed from the weight that drags it down to earth and is hung about it, the soul returns to its own place, then in truth it partakes of a blessed power and utterly unfettered strength . . . .

After making the commonplace analogy between death and sleep, he says, "It might be expected that we, so carefully taught at home, would be an example to others of readiness to die." He then gives the example of the Indians who "hasten to release their souls from their bodies . . . though no misfortune presses or drives them away . . . . Are we not ashamed to show a poorer spirit than Indians, and by our want of courage to bring the Law of our fathers, the envy of all the world, into utter contempt? He continues:

Even if from the very first we had been taught the contrary belief, that life is indeed the greatest good of mankind and death a disaster, the situation is such that we should still be called upon to bear it with a stout heart, for God's will and sheer necessity doom us to death. Long ago, it seems, God issued this warning to the whole Jewish race together, that life would be taken from us if we misled it . . . a mightier hand [than that of the Romans] has intervened to give them the outward shape of victory.

Eleazar next rehearses various cases of Jews being slaughtered by non-Roman gentiles early in the revolt, including the Jews of Scythopolis who "had the effrontery to make war on us to please the Greeks, and would not join with us, their own kith and kin, to drive out the Romans." Jerusalem has been destroyed, the countryside has been ravaged and the women ravished. The zealots, their wives, and their children have unimaginable horrors awaiting them if the Romans take them alive. So, he concludes,
Let us die unenslaved by our enemies, and leave this world as free
men in company with our wives and children. That is what the
Lawordains, that is what our wives and children demand of us, the
necessity God has laid on us, the opposite of what the Romans
wish—they are anxious that none of us should die before the town
is captured. So let us deny the enemy their hoped-for pleasure at
our expense, and without more ado leave them to be dumbfounded
by our death and awed by our courage.\(^{54}\)

Josephus maintained that one of the women who had survived had provided
the Romans “a lucid report of Eleazar’s speech.”\(^ {55}\) Regardless of whether
Josephus had opportunity to interview this woman or any of the other
survivors or had heard an account from the Romans, it is unlikely that a
Jewish zealot would have constructed such arguments, based as they are so
heavily on Greek philosophy. So why did Josephus formulate such arguments
to attribute to the zealot chief? The question is complicated by Josephus’
character and reputation and by the mythic aura that has come to surround
the fall of Masada (of which, surprisingly, there is no reference in the
Talmud). It is at Masada, after all, that Israeli soldiers are sworn into military
service today. Josephus was, and still is, typically regarded by Jews as a traitor
and the zealots as martyrs and heroes.

Most scholars regard Josephus’ account of the death of the zealots on
Masada as his acknowledgment that, by their death, they had proved
themselves to be true heroes, thus vindicated of their earlier acts for which he
had castigated them. Perhaps by thus vindicating them, Josephus, the traitor,
was attempting to vindicate himself. But elsewhere in his writings Josephus
had nothing good to say about the zealots. Indeed, for him they were the
real traitors. Not only had they instigated suicidal revolt against Rome but,
during the course of the war, they had killed many more of their fellow Jews
than they had Romans. Furthermore, some modern translations distort the
meaning of crucial vocabulary.\(^ {56}\) For example, Josephus consistently used the
word \textit{tolméma} to convey the idea of boldness in the sense of audacity.
Translators who thus render the word elsewhere in the \textit{Jewish War} translate it
as “fortitude” when Josephus applies it to the mass suicide at Masada.\(^ {57}\) It is
as if they approach the narrative about Masada with the assumption that
Josephus regarded the final events there as truly heroic and laudable and
translate accordingly.

\(^{54}\textit{Id.} \text{ at 7.341-88.}\)

\(^{55}\textit{Id.} \text{ at 7.404-05.}\)

\(^{56}\text{See David J. Ladoceur,} \textit{Josephus and Masada, in Josephus, Judaism, and Christianity} 104-
\textit{06 (Louis H. Feldman & Golèi Hata, eds., 1987).}\)

\(^{57}\textit{Josephus, Jewish War} 7.405. \text{See, e.g., Thackray’s translation in the Loeb series.}\)
Since Josephus, however, had always and consistently opposed rebelling against Rome as rashly suicidal and had consistently portrayed the zealots negatively, David J. Ladouceur may be correct when he asserts that, in his entire narrative of the fall of Masada,

Josephus is carefully controlling his presentation and thus manipulating his audience’s response. The suicide he portrays is retributive, both atonement for and acknowledgment of crimes against the rebels’ own countrymen. In Eleazar’s enumeratio malorum, the suicide becomes a means of escaping brutal Roman punishment. The irony lies in the fact that the defenders display resolution not in fighting the Romans but in murder and suicide.\textsuperscript{58}

It is worthy of note as well, that Simon the Sycophant’s enumeratio malorum, which we considered above when discussing his slaying of his family and then himself, bears some resemblance to Eleazar’s.

Josephus’ speech at Jotapata and Eleazar’s speeches at Masada bear little resemblance to each other. The one most significant similarity is at the same time the most significant difference. Both indicate a familiarity with Plato’s Phaedo. Each takes a different interpretation of a matter about which scholars are still uncertain: Is the soul entrusted to a person, like a loan or a deposit, perhaps like a sentinel assigned to a post, or is it a captive, imprisoned in the body? Josephus at Jotapata presents it favorably as the former. But he causes Eleazar to depict it negatively as the latter.\textsuperscript{59}

Suicide as salvation. The story is told in the Babylonian Talmud of a R. Eleazar b. Dorda, who had a propensity to seek out and buy the services of any and every prostitute. Finally, stricken with deep remorse, he despaired of salvation. In the depths of gloom and hopelessness, “Having placed his head between his knees, he wept aloud until his soul departed. Then a bath-kol [a voice from heaven] was heard proclaiming: ‘Rabbi Eleazar b. Dorda is destined for the life of the world to come!’” A particular rabbi, on hearing of it, “wept and said: ‘One may acquire eternal life after many years, another in one hour’”\textsuperscript{60}

Another story in the Babylonian Talmud relates that


\textsuperscript{59}See David Daube, Josephus on Suicide and Liability of Depositee, 76 JURIDICAL REV. 212-24 (1964).

\textsuperscript{60}Babylonian Talmud, ‘Abodah Zarah 17a.
On the day that [a particular] Rabbi died a *bath-kol* went forth and announced: ‘Whosoever has been present at the death of Rabbi is destined to enjoy the life of the world to come. A certain fuller, who used to come to him every day, failed to call on the day; and, as soon as he heard this, went up upon a roof, fell down to the ground and died. A *bath kol* came forth and announced: ‘That fuller also is destined to enjoy the life of the world to come.’

Yet another account in the Babylonian Talmud involves the salvation through suicide of a Roman military officer. When R. Gamaliel heard that he had been sentenced to death, he hid himself.

Thereupon the officer went up secretly to him and said, ‘If I save you will you bring me into the world to come?’ He replied: ‘Yes.’ He then asked him, ‘Will you swear it unto me?’ And the latter took an oath. The officer then mounted the roof and threw himself down and died . . . . Thereupon a Voice from Heaven was heard declaring, ‘This high officer is destined to enter into the world to come.’

The last account in this category, also from the Babylonian Talmud, involves martyrdom and provides some preliminary insights into active voluntary euthanasia and assisted suicide. During the persecution of Jews under the emperor Hadrian, some Roman officials

---

61 *Kethuboth* 103b.  
62 *Ta’anith* 29a.
found R. Hanina b. Teradion sitting and occupying himself with the Torah, publicly gathering assemblies, and keeping a scroll of the Law in his bosom. Straightaway they took hold of him, wrapt him in the Scroll of the Law, placed bundles of branches round him and set them on fire. They then brought tufts of wool, which they had soaked in water, and placed them over his heart, so that he should not expire quickly. His daughter exclaimed, 'Father, that I should see you in this state!' He replied, 'If it were I alone being burnt it would have been a thing hard to bear; but now that I am burning together with the Scroll of the Law, He who will have regard for the plight of the Torah will also have regard for my plight.' His disciples called out, 'Rabbi, what seest thou?' He answered them, 'The parchments are being burnt but the letters are soaring on high.' 'Open then thy mouth' [said they] 'so that the fire enter into thee.' He replied, 'Let Him who gave me [my soul] take it away, but no one should injure oneself.' The Executioner then said to him, 'Rabbi, if I raise the flame and take away the tufts of wool from over thy heart, will thou cause me to enter into the life to come?' 'Yes,' he replied. 'Then swear unto me' [he urged]. He swore unto him. He thereupon raised the flame and removed the tufts of wool from over his heart, and his soul departed speedily. The Executioner then jumped and threw himself into the fire. And a bath-kol [a voice from heaven] exclaimed: 'R. Hanina b. Teradion and the Executioner have been assigned to the world to come.' When Rabbi heard it he wept and said 'One may acquire eternal life in a single hour, another after many years.'

We should note that the first of these four examples of "suicide as salvation," if it can even be, strictly speaking, classified as suicide, involved the sinful but repentant rabbi who wept himself to death. The concluding Talmudic comment was "One may acquire eternal life after many years, another in one hour!" Our last example involved the rabbi who was being slowly roasted to death. When his disciples pleaded with him to inhale the flames to expedite his death, he refused saying, "Let Him who gave me [my soul] take it away, but no one should injure oneself." Nevertheless, when the executioner volunteered to increase the intensity of the fire and take away the impediments, which had been placed on his chest to prolong the dying process, if the rabbi would promise his admission to heaven, the rabbi agreed. As soon as the rabbi died, the executioner committed suicide by leaping into the fire. After a voice from heaven proclaimed that both the rabbi and the executioner had been "assigned to the world to come," then the same concluding observation was made as in the first story: "One may acquire eternal life in a single hour, another after many years."

\[63\] Babylonian Talmud, "Abodah Zarah" 18a.
Given what we have seen thus far under the rubrics of martyrdom and suicide, it is no wonder that the ancient texts may cause some modern readers, including some scholars, to regard ancient Judaism as open and sympathetic to suicide generally. Nevertheless, when one turns to authoritative modern Jewish sources (i.e., rabbinic responsa) that speak for any branch of Judaism (e.g., Orthodox, Conservative, and Reform), one uniformly encounters such statements as the following, made in 1997 by a Responsa Committee of Reform rabbis: “Jewish tradition, as is well known, prohibits suicide, if by ‘suicide’ we mean a rational, premeditated act of self-killing.”\(^\text{64}\) A little later in the article the Responsa Committee added the qualification that “the prohibition against suicide is not absolute.”\(^\text{65}\) They then gave martyrdom on the principle of kaddush ha-Shem as the primary exception.

We have seen that Rabbi Hanina b. Teradion’s reason for refusing to hasten his own death was two-fold: it is for God, who had given life, to take it, and no one should injure oneself. The talmudic text typically cited as forbidding suicide deals with the question of whether it is permitted to injure oneself. Tannaim\(^\text{66}\) differ on this matter,

[T]here is one view maintaining that a man may not injure himself and there is another maintaining that a man may injure himself. But who is the Tanna maintaining that a man may not injure himself? It could hardly be said that he was the Tanna of the teaching, ‘And surely your blood of your lives will I require’ [Gen. 9:5]. R. Eleazar remarked [that] it meant I will require your blood if shed by the hands of yourselves, for murder is perhaps different. He might therefore be the Tanna of the following teaching: ‘Garments may be rent for a dead person as this is not necessarily done to imitate the ways of the Amorites.’ But R. Eleazar said: ‘I heard that he who rends [his garments] too much for a dead person transgresses the command, “Thou shalt not destroy” [Dt. 20:19], and it seems that this should be the more so in the case of injuring his own body. But garments might perhaps be different, as the loss is irretrievable . . . and R. Hisda whenever he had to walk between thorns and thistles used to lift up his garments saying that whereas for the body [if injured] nature will produce a healing, for garments [if torn] nature could bring up no cure. He must therefore be the Tanna of the following teaching: R. Eleazar Hakkapar Berabbi said: ‘What is the point of the words: “And make an atonement for him, for that he sinned regarding the soul” [Num. 6:11]. Regarding what soul did this [Nazarite] sin unless by having deprived himself


\(^{65}\)Id. at 13.

\(^{66}\)Tanna literally means “one who studies.” The period of the tannaim began with Hillel and Shamai (late first century B.C.) and ended with the close of the second century A.D.
of wine? Now can we not base on this an argument *a fortiori*: If a Nazarite who deprived himself only of wine is already called a sinner, how much the more so one who deprives oneself of all matters?"\(^6^7\)

It was in the tractate *On Mourning (Semahot)* that Jewish law governing suicide was first formalized. The date of this tractate has been and still is much disputed. Some scholars place it as late as the eighth century, and others as early as the third. I incline toward the earlier date on the basis of the arguments articulated by Dov Zlotnick in the introduction to his translation of *Semahot* that is part of the Yale Judaica Series.\(^6^8\) The section on suicide reads as follows:

1. For a suicide, no rites whatsoever should be observed. Rabbi Ishmael said ‘He may be lamented: “Alas, misguided fool! Alas misguided fool!”’ Whereupon Rabbi ‘Akiña said to him: ‘Leave him to his oblivion: Neither bless him, nor curse him!’ There may be no rending of clothes, no baring of shoulders, and no eulogizing for him. But people should line up for him and the mourners’ blessing should be recited over him, out of respect for the living. The general rule is: The public should participate in whatsoever is done out of respect for the living; it should not participate in whatsoever is done out of respect for the dead.

2. Who is to be accounted a suicide? Not one who climbs to the top of a tree or to the top of a roof and falls to his death. Rather it is one who says ‘Behold, I am going to climb to the top of the tree,’ or ‘to the top of the roof, and then throw myself down to my death,’ and then upon others see him climb to the top of the tree or to the top of the roof and fall to his death. Such a one is presumed to be a suicide, and for such a person no rites whatsoever should be observed.

3. If a person is found strangled hanging from a tree, or slain impaled upon a sword, he is presumed to have taken his own life unwittingly; to such a person no rites whatsoever may be denied.

4. It happened that the son of Gorgos ran away from school. His father threatened to box his ears. In terror of his father, the boy went off and cast himself into a cistern. The incident was brought before Rabbi Tarfon, who ruled: ‘No rites whatsoever are to be denied him.’

---

\(^6^7\)Babylonian Talmud, *Baba Kamma* 91b.

5. Another incident is that of a child from Bene Berak who broke a flask. His father threatened to box his ears. In terror of his father, the child went off and cast himself into a cistern. The matter was brought before Rabbi Akiba, who ruled: ‘No rites whatsoever are to be denied him.’ As a result of this, the Sages said ‘A man should not threaten his child. He should spank him at once, or else hold his peace and say nothing.’  

The Hebrew expression for suicide (hame‘ abed atzmo leda ‘at) literally means “he who destroys himself knowingly.” The primary concern with suicide in Semahot was with distinguishing those who had taken their own lives deliberately and willfully from those who had done so without premeditation, as the result of mental illness, or being youths who should not be held responsible for such an act. The burden of proof rested on those who maintained that one who had killed himself had done so knowingly and with premeditation.

In sum, in antiquity Judaism appears to have striven to be compassionate and nonjudgmental by assigning moral and spiritual culpability for suicide only if the evidence for rational premeditation was unequivocal. Yet it did not condone suicide except when motivated by kiddush ha-Shem and in those rare instances of “suicide as salvation.”

Suicide by the Ill and Euthanasia

Of the three major branches of Judaism today, Reform Judaism is the most liberal and progressive. The Reform rabbis who authored the Respona Committee’s statement on euthanasia, from which I have quoted above, call themselves “liberal Jews who seek guidance from our tradition in facing the moral dilemmas of our age.” They acknowledge that some voices within Judaism today use examples of martyrdom and King Saul’s suicide “to argue that Judaism actually permits suicide and mercy killing for those who face the pain and agony of terminal illness.” The Respona Committee’s reaction to such an interpretation bears quoting extensively:

On the one hand, it is certainly true that these stories might plausibly be read so as to support the option of active euthanasia. On the other hand, through the long history of the Jewish study of the Bible and the Talmud, the texts in question have not been understood in this way. This is a point of no little importance to our discussion. We wish to know, after all, whether the ‘Jewish tradition’ offers evidence in support of active euthanasia. It is for this reason that advocates of mercy killing cite these stories in the first place. Yet we find that the very tradition of learning which created these passages and which has studied them for fifteen years

---

69 Id. at 33-34, 2.1-5.
70 See supra note 64, at 23.
71 Id. at 13.
centuries and more as sources of moral meaning declares consistently and unequivocally against euthanasia. Indeed, the message that emerges from traditional halakhic thought on this subject is quite clear and uniform: we do almost anything to relieve the suffering of the terminally ill, but we do not kill them and we do not help them kill themselves. It is always possible to read these texts differently than they have ever been read by the Jewish religious community, to discover in them levels of meaning that generations of rabbis and talmidey hakhamim may have missed. Still, the unequivocal voice of the halakhic literature renders it most difficult to sustain an argument, based upon the citation of a few stories from the Bible and the Talmud, that the ‘Jewish tradition’ permits euthanasia. As Reform Jews, of course, we consider ourselves free to ascribe ‘new’ Jewish meanings to our texts, to depart from tradition when we think it necessary to secure an essential religious or moral value. In this case, though, we fail to see why we should do so.\textsuperscript{72}

The Responsa Committee then gives three reasons for remaining faithful to the “traditional” Jewish understanding of the issues: “We see no good reason, first of all, to abandon the traditional Jewish teaching concerning the inestimable value of human life.”\textsuperscript{73} “Second, we do not believe that the existence of pain and suffering constitutes a sufficient Jewish justification for killing a human being in the name of compassion.”\textsuperscript{74} “Third, we are uncomfortable with arguments for assisted suicide that proceed from judgments concerning the ‘quality of life.’”\textsuperscript{75}

\textsuperscript{72}Id. at 13-14 (emphases in the original).
\textsuperscript{73}Id. at 14.
\textsuperscript{74}Id.
\textsuperscript{75}Id. at 15.
What this Responsa Committee is stressing is that there is no evidence that Jewish religious tradition has ever understood the pertinent issues in such a way as to approve either suicide by the ill or euthanasia. To interpret any of the texts of historic Judaism as supporting these acts requires a revisionism to which Reform Judaism is not ipso facto inimical. But so basic to historic Judaic values are the underlying issues that even Reform Judaism cannot condone suicide by the ill and euthanasia as consistent with Jewish values. Hence, the burden of proof rests upon those who would interpret the relevant texts as supporting these acts. Yet Jewish scholars, although not ahistorical in their approach, base much of their arguments against euthanasia and suicide of the ill on medieval, Renaissance, early modern, and modern interpretations of ancient texts, interpretations that have often themselves become authoritative texts in their own right. One could argue that the cumulative and dynamic interpretations of these ancient texts have rendered these early texts themselves dynamic and evolving and that the original meanings of these texts have inevitably been altered. So it is my purpose now to consider the relevant ancient texts without immediate reference to later Jewish halakhic tradition.

Before looking at any of these texts, all of which are post-biblical, let us survey the background. In the Old Testament, there are no cases of people committing suicide or having others assist them in doing so in order to put an end to suffering caused by illness. Two Old Testament figures, Abimelech and Saul, after having been severely wounded in battle, killed themselves or requested another to administer the coup de grace. There are, however, in the Old Testament, several examples of people who were severely despondent and prayed (or at least wished) for death.

Moses, crushed by the burden of leading an obstinate and rebellious people, pleaded with God, “Please kill me at once, if I have found favor in Thy sight . . .” (Num. 11:15). Elijah cried out in despair, “It is enough; now, O Lord, take my life . . .” (1 Kings 19:4). Jeremiah cursed the day of his birth and wished that he had died in his mother’s womb (15:10; 20:14-18). Jonah became despondent when God spared the repentant Ninevites and said, “Therefore now, O Lord, please take my life from me, for death is better to me than life” (4:3). Shortly thereafter, Jonah was cheered by the shade of a plant that God had provided. When God caused the plant to die, “the sun beat down on Jonah’s head so that he became faint and begged with all his soul to die, saying, ‘Death is better to me than life’” (4:8). And Job, that most outstanding exemplar of tried faith, when, after the loss of his children and his estate, was urged by his wife to “curse God and die,” reproved her and asked, “Shall we indeed accept good from God and not accept adversity?” (2:9-11). Soon, however, when his body was sorely afflicted, he cursed the day on which he had been born and wished that he had died at birth (3:1-19). He then identified himself with those “who long for death, but there is none, and dig for it more than for hidden treasures; who rejoice greatly, they exult
when they find the grave” (3:21-22). Later he cried out, “Oh that my request might come to pass, and that God would grant my longing! Would that God were willing to crush me; that He would loose His hand and cut me off!” (6:8-9) and then he exclaimed, “My soul would choose suffocation, death rather than my pains” (7:15). But regardless of how intensely these men yeamed for an end to their suffering, indeed for death itself, there is not a scintilla of evidence that they even for an instant seriously considered suicide as an option.

In the entirety of Jewish literature from the Old Testament through the fifth century A.D., I know of not one case of a Jew taking his own life (or having someone kill him) in order to escape from illness. There is only one instance of which I am aware of anyone in the sources attempting suicide when ill, and that was Herod. According to Josephus, when Herod the Great was nearing death,

he was so tormented by lack of food and a racking cough that his sufferings mastered him and he made an effort to anticipate his appointed end. He took an apple and asked for a knife, it being his habit to cut up apples when he ate them; then looking round to make sure there was no one to stop him he raised his hand to stab himself. But his cousin Achiab dashed up and stopped him by grasping his wrist.76

Why is this literature devoid of examples of Jews committing suicide, assisted or unassisted, when painfully or terminally ill? Obviously one could maintain that the practice was so common and accepted that it simply did not warrant mention. The onus probandi for such a stance, however, would be onerous indeed and would require a truly creative and imaginative collocation of deconstructionism, revisionism, and special pleading. One could also maintain that the practice was known to rabbis but that they were shy of dealing with such a delicate issue. This, of course, flies in the face of the most salient feature of such halakhic literature as the Talmud, that most casuistically intricate and thematically inclusive of documents. Hence we must, at least tentatively, conclude that suicide by the ill was so far from the Jewish experience that it did not present itself as a matter which the rabbis and interpreters of the Law had occasion to address.

76Josephus, Jewish War 1.663. The same account is given in Antiquities 17.183-84.
We should note that the Hebrew expression that can be translated as “euthanasia” (mitah yafah—“pleasant death”) occurs in the Babylonian Talmud several times, but always with reference to the scriptural injunction, “You shall love your neighbor as yourself” (Lev. 19:18), as the basis for choosing the least painful execution for a condemned criminal. But the Talmud and, of course, Semahot have much to say about death that was the result of natural processes, accident, or violence (other than that of war or persecution).

The opening sentence of Semahot is, “A dying man is considered the same as a living man in every respect.” The Hebrew word translated “dying man” is goses (or gosses). It is important to distinguish this category of the dying from that of the terefh (or terefa). We quote from Zlotnick’s introduction to his translation of Semahot:

The term goses . . . must not be confused with terefh, a man who cannot possibly survive because of a fatal injury to a vital organ. Since the imminent death of the terefh is certain, he is called gaba ketila, ‘a man slain,’ and if one kills him, he cannot be tried, for in the eyes of the Sages he has killed a man already dead. Our text, however, is concerned only with the goses, a man who is dying but not necessarily of an obviously fatal organic injury. Although the Sages accept the rule that ‘most gosesim die,’ i.e. succumb to this illness, yet up to the moment of death the goses is legally alive, the rule itself conceding that some may live.

There is a crucial text in the Babylonian Talmud on the distinctions between a goses and a terefh:

Our Rabbis taught: If ten men smote a man with ten staves, whether simultaneously or successively, and he died, they are exempt. R. Judah b. Bathrya said: ‘If successively, the last is liable, because he struck the actual death blow.’ R. Johanan said: ‘Both derive [their rulings] from the same verse. “And he that killeth kol nefesh [lit. ‘all life’] of man shall surely be put to death”’ (Lev. 24:17). The Rabbis maintain that kol nefesh implies the whole life; but R. Judah b. Bathrya holds that kol nefesh implies, whatever there is of life. Raba said: ‘Both agree that if he killed a terefh, he is exempt; if he slew one who was dying through an act of God, he is liable; their dispute refers only to one who was dying through man’s act; the one likens him to a terefh, the other to a person dying naturally. Now, he who likens him to a terefh, why does he not liken him to a person dying naturally?—Because no injury has been done to the latter; but an injury has been done to this one.

---

77Babylonian Talmud, Baba Kamma 51a: Kethuboth 37b; Pesahim 75a; Sanhedrin 45a, 52a, 52b; and Sotah 8b.
78Semahot 1.1; See Zlotnick, supra note 68, at 31.
79Id. at 9.
Whilst he who likens him to a person dying naturally, why does he not liken him to a terefah?—A terefah has his vital organs affected, but this one has not. 80

Baruch A. Brody, a philosopher and rabbi, comments:

This is a difficult text, one which has attracted considerable attention. The crucial point to keep in mind is that this is not a controversy about the licitness of the actions in question. Both parties agree, for example, that no one is punished if all ten beat the victim simultaneously, but obviously they all agree that doing that is illicit. So this text, as important as it is for understanding the full rabbinic attitude to the dying patient, is not relevant to the question of the moral licitness of killing a dying individual, even one whose vital organs have been fatally injured. 81

It is imperative to be aware that halakhic discussions of the killing of a terefah focus entirely on the question of legal liability in a chain of causality, not moral culpability.

Semahot not only defined a goses as “the same as a living man in every respect,” but also forbade anything to be done that would hasten his dying:

2. His jaws may not be bound, nor his orifices stopped, and no metal vessel or any other cooling object may be placed upon his belly until the moment he dies . . .

3. He may not be stirred, nor may he be washed, and he should not be laid upon sand or salt, until the moment he dies

4. His eyes may not be closed. Whosoever touches him or stirs him sheds blood. Rabbi Meir used to compare a dying man to a flickering lamp: the moment one touches it he puts it out. So, too, whosoever closes the eyes of a dying man is accounted as though he has snuffed out his life.

5. There may be no rending of clothes, nor baring of shoulders, nor eulogizing, and no coffin may be brought into the house, until the moment he dies

6. There may be no heralding for him and no acclaiming of his works. Rabbi Judah said: If the man was a scholar, his works may be acclaimed.

The purpose of these stipulations was to ensure that nothing be done that would hasten the death of the goses. As Zlotnick remarks, “All these are post-mortem practices, and are forbidden in the case of a goses because, being

80 Babylonian Talmud, Sanhedrin 78a.
81 See Brody, A Historical Introduction to Jewish Casuistry on Suicide and Euthanasia, in Suicide and Euthanasia: Historical and Contemporary Themes 63 (B. A. Brody, ed., 1989).
premature, they might hasten his death.”82 In I.2 those post-mortem practices that would ostensibly retard the process of putrefaction are interdicted. The stipulations of I.3 involve the preparation of a corpse for burial. Placing the cadaver on sand or salt was also thought to retard putrefaction. Sections I.5 and 6 deal with mourning for or eulogizing the dead. If a dying man, other than a scholar, heard his works acclaimed, he would regard such as probably the hyperbolic encomium for the deceased. Bringing in a coffin would obviously not encourage a dying person either.

In regard to I.4, we read in the Mishnah: “They do not close the eyes of a corpse on the Sabbath, nor on an ordinary day at the moment the soul goes forth. And he who closes the eyes of a corpse at the moment the soul goes forth, lo, this one sheds blood.”83 The Gemara on this mishnaic passage in the Babylonian Talmud begins, “He who closes [the eyes of a dying man] at the point of death is a murderer. This may be compared to a lamp that is going out: If a man places his finger upon it, it is immediately extinguished.”84

The rabbinic literature of antiquity drew some lines, but not always precisely, between pikku’ah nefesh—the duty to preserve life—and the propriety of letting a gores die. Pikku’ah nefesh was the basis for the interdiction of any act that would hasten death. It was also the basis for not only permitting but actually mandating that the sabbath be violated to care for the ill.85 But there is a text in the Babylonian Talmud that is difficult to reconcile with the principle of pikku’ah nefesh. The passage in question is in the context of a sustained discussion of the propriety, indeed the licitness, of employing the services of the heathen (including Samaritans and Christians), especially those of midwives, wet-nurses, and physicians. In regard to the latter,

82 See Zlonick supra note 68, at 97.
83 See Mishnah, supra note 11, Mishnah Shabbat 23.5, at 207.
84 Shabbath 151b, cf. Mishnah Shabbat 30b.
85 According to the Babylonian Talmud, Yoma 84b, the sick must be cared for on the sabbath and those who were in peril must be rescued. See id., 85a-b, for the rabbinic justification.
said Raba in the name of R. Johanan: ‘In the case where it is doubtful whether [the patient] will live or die, we must not allow them to heal; but if he will certainly die, we may allow them to heal.’ ‘Die [etc.]’! Surely there is still the life of the hour [to be considered]! The life of the hour is not to be considered. What authority have you for saying that the life of the hour is not to be considered?—The scriptural words, ‘If we say: we will enter into the city, then the famine is in the city and we shall die there’ [2 Kings 7:4]. Now there is the life of the hour [which they might forfeit]! This implies that the life of the hour is not to be considered. An objection was raised: ‘No man should have any dealings with Minim, nor is it allowed to be healed by them even [in risking] an hour’s life.’

Baruch Brody comments:

The rabbis prove that claim [sc., that there is no necessity to be concerned about the loss of such a short period of life] by reference to the story in II Kings 7, of the four lepers who risked the short period of life they had left without food to enter a city in which they might be killed in the hope of finding food that would keep them alive. There is, despite this proof, an obvious difficulty with this text . . . the Talmud specifically allows the violation of the Sabbath to save a person’s life for a short period to time. Why then does this text say that we do not worry about short periods of remaining life?  

Brody answered his rhetorical question by quoting a text of Tashafot, a rabbinic work composed a millennium after the completion of the Talmud. It appears that ancient halakhic authorities did not wrestle with the ambiguities of this talmudic text.

A question about which modern Jews continue to debate is whether or not it is licit to refrain from administering medical care that would only extend the dying process of the hopelessly ill or discontinue such treatment. There is a richly dynamic tradition of halakhic considerations of this issue from antiquity to the present. I shall limit my discussion to the relevant talmudic texts. The central feature of these texts is prayer.

---

86Babylonian Talmud, Abodah Zarah 27b.
87See Brody, supra note 81, at 71, Historical Introduction.
While there are, as we have seen above, several examples in the Old Testament of people praying for death—requests that God did not grant—in the Babylonian Talmud there is one instance in which God did answer the prayer in the affirmative. Honi the Circle-Drawer had slept for seventy years. When he awoke no one would believe that he was whom he claimed to be “nor did they give him the honour due to him. This hurt him greatly and he prayed [for death] and he died.”

Was it permissible to pray for the death of others to bring an end to their suffering? Rabbi Johanan “was plunged into deep grief” because of the death of a close friend. When some rabbis who had tried to comfort him found him to be inconsolable, they prayed for him, and he died.

Was it a duty to pray for the recovery of the sick? We read in the Babylonian Talmud.

R. Helbo is sick. But none visited him. He rebuked them [sc. the scholars] saying, ‘Did it not once happen that one of R. Akiba’s disciples fell sick, and the Sages did not visit Him? So R. Akiba himself entered [his house] to visit him, and because they swept and sprinkled the ground before him, he recovered. “My master,” said he, “you have revived me!” [Straightway] R. Akiba went forth and lectured: “He who does not visit the sick is like a shedder of blood.”’ When R. Dimi came, he said: ‘He who visits the sick causes him to live, whilst he who does not causes him to die.’ How does he cause [this]? Shall we say that he who visits the sick prays that he may live, whilst he who does not prays that he should die—‘that he should die!’ can you really think so? But [say thus]: ‘He who does not visit the sick prays neither that he may live nor die.’ Whenever Raba fell sick, on the first day he would ask that his sickness should not be made known to any one lest his fortune be impaired. But after that, he said to them [his servants], ‘Go, proclaim my illness in the market place, so that whoever is my enemy may rejoice, and it is written, “Rejoice not when thine enemy falleth . . . lest the Lord see it, and it displeases him, and he turn away his wrath from him” [Prov. 24:17-18], whilst he who loves me will pray for me.”

The only talmudic text that directly speaks to passive euthanasia is the following: A famous rabbi was ill. His

---

88 Ta'anith 23a.
89 Babylonian Talmud, Baba Mezi'a 84a.
90 Nedarim 40a.
handmaid ascended the roof and prayed: ‘The immortals desire Rabbi [to join them] and the mortals desire Rabbi [to remain with them]; may it be the will [of God] that the mortals may overpower the immortals.’ When, however, she saw how often he resorted to the privy, painfully taking off his tefillin and putting them on again, she prayed: ‘May it be the will [of the Almighty] that the immortals may overpower the mortals.’ As the Rabbis incessantly continued their prayers for [heavenly] mercy she took up a jar and threw it down from the roof to the ground. [For a moment] they ceased praying and the soul of Rabbi departed to its eternal rest.91

Recourse to this incident is had with regularity by Jewish scholars today. It has been central to halakhic discussions of passive euthanasia from the close of the talmudic period until the present.

Conclusions

The evidence that I have surveyed suggests that in ancient Judaism the active hastening of the death of a goses was tantamount to homicide. While actively hastening the death of a terefah was not actionable as homicide (unless the terefah became a goses), nevertheless the killing of a terefah was condemned as morally reprehensible. While respect for life—specifically pikku’ah nefesh, the obligation to preserve life—was the moral imperative that condemned the active taking of the life of a dying person, it did not foster a sense of obligation to attempt to preserve at all costs the life of the dying or of the suffering. Not only is this the surface meaning of the texts, but also halakhic tradition has thus interpreted these texts and has built upon them accordingly during the fifteen hundred years since the end of antiquity.

The Israeli judge H. H. Cohn maintains that:

Jewish law does not take formal cognizance of any ‘rights’ . . . [It] is a system of duties: the service and worship of God is its general and overriding purpose, and as all law is God’s law, it is self-evident that the duty to obey God is paramount . . . the object of divine law can only be to establish divine rights and impose on human beings the corresponding duties. The conferment of rights by divine law can only be a consequence incidental to compliance with duties.92

This is a vitally significant consideration. Add to it Rabbi Brody’s observation that

[O]ne of the major [secular] arguments for the licitness of suicide is that one’s life, like one’s body and one’s property, is one’s own to control, to use, and to dispose of as one sees fit . . . . Judaism

---

91Babylonian Talmud, Kethuboth 104a.
92See Cohn, supra note 26, at 31, Dichotomy.
rejects that whole line of thought. One’s life, as well as one’s body
and one’s property, is not one’s own to use and to dispose of as
one sees fit.\(^{93}\)

A little later he asserts, “The opposition to suicide is part of the general
opposition to the view that human autonomy is the (his emphasis)
fundamental moral value.”\(^{94}\) This reflects an essential difference between the
pagan attitude so well illustrated by Pliny’s statement quoted early in this
article—virtually unlimited autonomy to take one’s own life—and the Jewish
determination to honor the God, who had chosen them as his people, by
keeping his Law.

It should be obvious that Judge Reinhardt’s two remarks about suicide in
ancient Judaism, although not entirely inaccurate, convey the impression that
ancient Jews gave to suicide an unequivocal approval, or at least were as open
to the act as were the pagan Greeks and Romans. The differences, however,
between the most foundational values of Jews and pagans are so profound that
to portray them as essentially, or even functionally, the same is to trivialize
the principle of pikku’ah nefesh, “regard for human life,” that is such a
central feature of Jewish ethical monotheism.

**Early Christianity\(^{95}\)**

Judge Reinhardt’s historical and theological presuppositions and conclusions
are consistent with those of many philosophers, sociologists, anthropologists,
psychologists, and popular authors who have written, even incidentally, on
suicide in early Christianity during the last several decades. The current
popularly held understanding of suicide in early Christianity suggests not only
an ignorance of early Christian theology and history but also the conceptual
influence of Émile Durkheim, the father of academic sociology in France. In
his *Le suicide: étude sociologique*, published in 1897 but not translated into
English until 1951,\(^{96}\) Durkheim had created three categories of suicide that he
viewed as etiologically explicable with reference to social structures: (1)
egoistic (resulting from a lack of social integration); (2) anomic (precipitated
by the destabilizing effects of sudden negative or positive social change); and

---

\(^{93}\)See Brody, *supra* note 81, at 41, *Historical Introduction*.

\(^{94}\)Id. at 62.

\(^{95}\)In citing the works of church fathers, I have used the following abbreviations:
FC. Fathers of the Church (Various trans., Washington, D.C: Catholic University of America, 1948-).

\(^{96}\)ÉMILE DURKHEIM, *SUICIDE: A STUDY IN SOCIOLOGY* (John A. Spaulding & George Simpson, 
trans., 1951).
(3) altruistic (resulting from over-integration, especially when the individual is completely controlled by religious or political groups).

Durkheim’s definition of suicide is very well known to students of the social sciences: “All cases of death resulting directly or indirectly from a positive or negative act of the victim himself, which he knows will produce this result.” Durkheim was determined to avoid the question of motivation or even whether the individual actually desired to die. It is suicide if one believes that one’s actions or passivity will eventuate in one’s own death. Hence, he classifies the death of Christian martyrs as (altruistic) suicide, since they

without killing themselves, voluntarily allowed their own slaughter . . . .

Though they did not kill themselves, they sought death with all their power and behaved so as to make it inevitable. To be suicide, the act from which death must necessarily result need only have been performed by the victim with full knowledge of the facts. Besides, the passionate enthusiasm with which the believers in the new religion faced final torture shows that at this moment they had completely discarded their personalities for the idea of which they had become the servants.

According to Durkheim, dying for one’s beliefs is suicide. Since those who commit suicide are, in Durkheim’s construct, victims of pathological social phenomena, martyrs are victims not of the people who kill them but of their own religious group’s demand for excessive integration, control, and regimentation. It is not surprising that when scholars who appear to be as ignorant of historic Christianity as they likely are of Buddhism apply Durkheim’s grid to the history of early Christianity the results are as distorted as those of Judge Reinhardt’s. In his treatment of the early history of

---

97 Id. at 44.
98 Id. at 227; cf. 67.
99 When two theologians, Arthur J. Droge and James D. Tabor, both trained in history and in patristics, recently wrote A Noble Death: Suicide and Martyrdom among Christians and Jews in Antiquity (1992), one could reasonably have anticipated a more perspicacious historical analysis. But they have added confusion to inaccuracy. Rejecting for their purposes the word suicide as “a recent innovation and pejorative term” they prefer the designation voluntary death. “By this term we mean to describe the act resulting from an individual’s intentional decision to die, either by his own agency, by another’s, or by contriving the circumstances in which death is the known, ineluctable result.” They concede that their definition of voluntary death is quite similar to Durkheim’s definition of suicide and assert that theirs is “intended to be morally neutral, since our enterprise is not one of moral (or clinical) judgment but an attempt to understand the ways in which voluntary death was evaluated in antiquity.” Id. at 4. Emphasizing that both “suicide” and “martyrdom” are semantically and conceptually ambiguous, Droge and Tabor think that they have reduced the ambiguity and confusion by providing the concept of voluntary death as a much more objective grid for the historian. They dislike the word suicide especially because of its typically pejorative connotations. They, of course, convey a positive view of voluntary death; after all, a voluntary death is a noble death, as the title of their book declares. They acknowledge in their “Conclusion” that their purpose
had been “to deconstruct the ‘linguistics of suicide’ by examining the precise terms and formulations employed in antiquity to denote the act of voluntary death.” Id. at 187.

“It is a profound irony of Western history,” they maintain, that Christian theologians, beginning with Augustine, “condemned the act of voluntary death as a sin for which Christ’s similar act could not atone . . .” Id. at 5. “Despite the claim of Augustine and later theologians, the New Testament expresses no condemnation of voluntary death . . . Yet, to say only that the writers of the New Testament did not condemn voluntary death is to miss the positive significance they attached to the act. The authors of the Gospel created [sic] a Jesus who died by his own choice, if not by his own hand.” Id. at 125. They ask regarding Jesus’ death, “Was it the legal execution of a criminal, an example of heroic martyrdom, or a case of suicide?” Id. at 114. Judas’ death was similar to Jesus’ in that both were voluntary: “In the Umwelt of early Christianity the act of taking one’s life was judged to be acceptable and, in certain circumstances, noble . . . this was Matthew’s implicit judgment on Judas’ death. Judas was condemned for betraying the Messiah, not for killing himself. According to Matthew, Judas’ act of self-destruction was the measure of his remorse and repentance.” Id. at 125.

Droge and Tabor are especially fascinated with the apostle Paul’s supposed “fascination with death and his desire to escape from life” (Id. at 119) and suggest that “for Paul, an individual could kill himself and be ‘glorifying God with his body’ by doing so . . . In a world-negating system like the apostle Paul’s, the question became how to justify continued existence in the world rather than voluntary death.” Id. at 124, 187. “Voluntary death,” as they conclude their book, was one of the ideals on which the church was founded.” Id. at 189.

Droge and Tabor begin and end their book with reference to the current debate regarding physician-assisted suicide. Although they insist that “when the conventional distinction between ‘suicide’ and ‘martyrdom’ is read back into antiquity, it conceals rather than reveals the issues” (Id. at 187), it is actually their own faddish linguistic deconstructionism and historical revisionism that are blantly anachronistic and do violence to the texts that they “deconstruct.” So effectively have they blurred even the most commonsensical distinctions between different categories of so-called “voluntary death” and created such a conceptually amorphous and morally ambiguous realm in which to include physician-assisted suicide that Derek Humphry, founder of the Hemlock Society, enthusiastically exclaims on their book’s dust jacket, “This book will upset traditional Christian views about the right to choose to die.”

Droge and Tabor’s determination to label such a diverse variety of motives and actions “voluntary death” is so conspicuously special pleading and hence so entangles them in contradictions and inconsistencies that it becomes laughable. Two of a plethora of examples: (1) When dealing with the Old Testament, Droge and Tabor discuss the suicides of Abimelech, Saul and his armor-bearer, Samson, Ahithophel, and Zimri, and then say of Elijah’s request that God take his life (1 Kings 19:4-5): “Though no act of self-destruction is involved, we might term this a ‘voluntary departure’ or perhaps even a ‘voluntary death’.” Id. at 61-62. Aaron’s “death is voluntary in the sense that he submitted to God’s decision” that it was time for him to die! Id. at 62. They speculate that “whether Moses himself took a hand in his own death or not is left unclear, though it might well be implied,” and then say, “The point we want to emphasize here is that the distinctions tend to be blurred between a request that God take one’s life, God’s determining the time of death, and one’s taking a hand to carry out such a choice or decision.” Id. at 63. Indeed. (2) A recurring theme in their book is that Augustine condemned voluntary death. Nevertheless, they maintain that he “attempted to draw a distinction between two kinds of voluntary death: ‘self-homicide’ and ‘martyrdom.’ The former was condemned as reprehensible; the latter was praised as noble and ennobling.” Id. at 179. It appears, then, that although Augustine ostensibly condemned voluntary death, nevertheless, since he made a distinction between self-homicide (sic, “suicide”), which he condemned, and martyrdom, which he praised, he did not actually condemn Droge and Tabor’s meaningless category of “voluntary death” per se. After all, who could? Only Durkheim and his followers who insist
suicide, Judge Reinhardt relied primarily upon a popularized account written by a poet, literary critic, and playwright, Alfred Alvarez, which has exercised an enormous influence in the English-speaking world.\textsuperscript{100} Alvarez's assumptions about suicide in early Christianity are:

1. The New Testament nowhere forbids suicide. Indeed, the one suicide that it relates, that of Judas, is presented as a mark of his repentance rather than as a further sin. Even Jesus' death was, in a sense, suicide. And there is a real possibility that the Apostle Paul committed suicide.

2. So eager were many early Christians to realize their fullness of joy in heaven that they committed suicide if they were unable to provoke pagans to put them to death as martyrs.

3. So depressing was the burden of sin and guilt of many early Christians that they killed themselves in despair.

4. So intensely did many early Christians despise their sinful flesh that they killed themselves, often through severe asceticism.

5. So low a regard did early Christians have for their lives that they were willing to die for their faith, some even volunteering for or provoking martyrdom. And martyrdom, of course, is suicide.

6. Augustine was the first Christian to denounce suicide as a sin. His negative influence has subsequently tempered the Christian attitude to suicide, including both active and passive euthanasia.

Judge Reinhardt's discussion of the place of suicide in early Christianity, contains four assumptions.\textsuperscript{101}

1. Because the church promoted such a bleak view of life and such a glorious view of heaven, suicide became an increasingly strong temptation for early Christians.

2. The type of suicide in question is martyrdom.

3. These martyrdoms, which were predominantly of Donatists (a splinter group that arose nearly simultaneously with the legalization of Christianity), so threatened to deplete the ranks of Christendom that Augustine condemned suicide in general as a damnable sin.

\textsuperscript{100} Judge Reinhardt's quotations are from Alfred Alvarez, The Background, in Suicide: The Philosophical Issues 7-32 (M. Pabst Battin and David J. Mayo, eds., 1980), which is also chapter one of Alvarez's very influential book, Alfred Alvarez, The Savage God: A Study of Suicide (1970).

\textsuperscript{101} Compassion in Dying, 79 F.3d at 808.
4. Before Augustine's time, however, there was considerable confusion between suicide and martyrdom within the Christian community.

It is my purpose to demonstrate that Judge Reinhardt's description of suicide in early Christianity, which appears to have depended primarily on Alvarez, is not only simplistic but is essentially inaccurate. I shall address each of his four assumptions, although indirectly, in the substance of this article, but I shall return to them in the "Conclusions."

Martyrdom

In antiquity Christians reacted to persecution in five different ways: (1) accepting whatever penalties were inflicted, including death; (2) avoiding martyrdom through, for example, bribery or forged documents; (3) fleeing; (4) volunteering for or provoking martyrdom; and (5) apostatizing. The first of these was always praised and the fifth consistently denounced during the patristic period. The second, third, and fourth, about which there was considerable disagreement within the Christian community, especially between rigorists and moderates, are much more problematic.

The preponderance of known cases of martyrdom that occurred before the legalization of Christianity in 313 are of those who did not actively seek martyrdom but, when arrested, were martyred rather than apostatize, or who, as spectators of others being interrogated, tortured, or executed, identified themselves as Christians and suffered the consequences. These varied from the theatrically eager to the resigned. This is not to say that there were not some who actively sought to provoke pagans to martyr them. *Indisputable* examples of such, however, are extremely rare. Scholars are hard pressed to provide many except by the most contorted hermeneutical gymnastics and special pleading.

There is an even greater scarcity of recorded instances of those who actively took their own lives in the face of, or as, martyrdom. The extremely small number of Christians who are recorded as actively taking their own lives before the legalization of Christianity in 313 did so only under extreme duress. There are three categories:

---

102 The numerous issues that make the subject of martyrdom in early Christianity complex are only tangential to our present concerns and, hence, must not detain us here. There is a continually expanding literature on martyrdom and persecution in early Christianity. Still the most authoritative and reliable treatment is W.H.C. Frend, *Martyrdom and Persecution in the Early Church: A Study of Conflict from the Maccabees to Donatus* (1965).

103 Some groups that were peripheral to the orthodox community, e.g., the Gnostics, maintained that apostasy—even a cavalier denial of one's beliefs—was acceptable if death were the alternative, since what one said under duress was irrelevant to the condition of one's heart. The reaction of the orthodox community to such a perspective was unequivocally condemnatory.
First, those who killed themselves to avoid arrest, imprisonment, and excruciating torture. The only example, recorded by Eusebius (ca. 265-339), occurred during the “Great Persecution” (303-312):

Need I rekindle the memory of the martyrs at Antioch, who were roasted over lighted braziers, not roasted to death but subjected to prolonged torture? Or of others who plunged their hands right into the fire sooner than touch the abominable sacrifice? Some of them were unable to face such a trial, and before they were caught and came into the hands of their would-be destroyers, threw themselves down from the roofs of tall houses, regarding death as a prize snatched from the scheming hands of God’s enemies.104

Eusebius expresses neither approval nor disapproval of their self-destruction. Ambrose (ca. 339-97) and Jerome (ca.345-ca.419), as we shall see, condemn suicide to avoid the tortures that typically attended martyrdom.105 Both, however, lived comfortably after the legalization of Christianity. Eusebius, however, lived through the “Great Persecution,” which may suggest why the latter does not condemn the act. Augustine (354-430), although he was extremely thorough in his various analyses of suicide, makes no reference to this category of self-killing in spite of his diligent perusal of both pagan and Christian literature for references to suicide. Hence, we may reasonably conclude that suicide by Christians in the face of imminent martyrdom, occurred very rarely while Christians were still a persecuted minority.

Second, those who had already been arrested but dramatically ended their lives before being executed. Eusebius gives two examples: The first was in Alexandria in 249 under Decius:

Next they seized the wonderful old lady Apollonia, battered her till they knocked out all her teeth, built a pyre in front of the city, and threatened to burn her alive unless she repeated after them their heathen incantations. She asked for a breathing-space, and when they released her, jumped without hesitation into the fire and was burnt to ashes.106

The second occurred during the “Great Persecution”:

There was a conflagration in the palace at Nicomedia, and through a groundless suspicion word went round that our people were responsible. By imperial command God’s worshippers there perished wholesale and in heaps, some butchered with the sword, others fulfilled [teleio = perfected, made perfect or complete] by

---

105 See NPfN-2, supra note 95, Ambrose, Concerning Virgins 3.7.32; Jerome, Commentarius in Ionam prophetam 1.6.
106 EUSEBIUS, supra note 104, 6.41.7, at 276.
fire; it is on record that with an inspired and mystical fervour men and women alike leapt on to the pyre.\textsuperscript{107}

Third, women who committed suicide to avoid sexual defilement. The earliest examples that I have found date from the "Great Persecution." Nearly a century later, in A.D. 410, Rome was captured and ravaged by Alaric and his Goths who raped pagan and Christian women alike. Some Christian women committed suicide to preserve their chastity. A consideration of such suicides prompted Augustine to write his lengthy but diversionary discussion of suicide in book one of his City of God.

Putting aside these three categories of suicide, which arose in the context of persecution or, in the case of those women who committed suicide to preserve their chastity in the face of imminent ravishing by barbarians, let us return to the subject of martyrdom. I stated above that there was considerable disagreement within the Christian community especially between rigorists and moderates regarding the two extremes of fleeing in the face of persecution and volunteering for or provoking martyrdom. All Christians held that martyrdom was the most perfect display of love toward God and was to be desired above any other form of death. Never could any other form of death provide the spiritual glory and rewards that martyrdom provided.

Hence, for moderates (a substantial majority in our sources), who condemned seeking or provoking martyrdom, the very basis for their condemnation of actively contriving that one most coveted form of death would eo ipso preclude (1) their approving of one's intentionally ending one's own life through some lesser means, much less (2) their formulating a theological justification for taking one's own life guaranteed by one's own hand. Rigorists (a minority in our sources), who approved of volunteering for martyrdom, regarded any form of death, including suicide, as an obstacle to that one most cherished form of death, martyrdom. Accordingly, it is not surprising that in the entirety of extant patristic literature written before the legalization of Christianity, there is not even one recorded instance of Christians' committing suicide after having failed to provoke pagans to martyr them.

Suicide

Suicide is never discussed, much less condemned, in the New Testament.\textsuperscript{108} The only suicide recorded there is that of Judas (hardly a model of Christian virtue), and his self-destruction is reported without comment (Mt. 25:5; Acts 1:18). Suicide arises incidentally on some other occasions. When Jesus said, "Where I go, you cannot come," this made the Jews ask, "Will he kill himself?" (Jn. 8:21-22). One suicide is prevented in the New Testament. Paul

\textsuperscript{107} Id., 8.66, at 334.

\textsuperscript{108} For a more thorough discussion of suicide in the New Testament, see Fr. Barry, supra note 28.
and Silas had been freed from prison in Philippi by an earthquake. When the jailer was about to kill himself in despair, Paul intervened by offering him salvation, which he joyfully accepted (Acts 16:25-34). In some cases of demon possession self-destructive tendencies are manifested, e.g., in Mark’s accounts of the Gerasene demoniac (Mk. 5:5) and of the mute boy (Mk. 9:14-29). In the latter, the boy’s father told Jesus that the demon had “often thrown him into the fire or water to kill him” (Mk. 9:22). The New Testament contains no other reference to potential or realized suicide.

Although suicide is a topic that evoked little comment by church fathers before Augustine, passing references do occur:
First, an anonymous author of the *Shepherd of Hermas*, a work that was composed in stages between 90 and 150, contends that one who is harassed by distress (*incommoda*) should be assisted, for “many bring death on themselves by reason of such calamities when they cannot bear them. Whoever therefore knows the distress of such a man, and does not rescue him, incurs great sin and becomes guilty of his blood.” This suggests that the author held the suicide of one who resorted to such a deed because of distress as so serious a matter that whoever could have helped but failed to do so not only was guilty of a serious sin but of the suicide’s blood.

Second, Justin Martyr (ca. 100-165) envisages a pagan exclaiming, “All of you, go kill yourselves and thus go immediately to God and save us the trouble.” Justin responds,

If . . . we should kill ourselves we would be the cause, as far as it is up to us, why no one would be born and be instructed in the divine doctrines, or even why the human race might cease to exist; if we do act thus, we ourselves will be opposing the will of God.

This occurs in juxtaposition to Justin’s assertion of Christians’ willingness to die for their faith. This passage, although it is an unequivocal condemnation of suicide for Christians, is only an explanation provided to pagans of why Christians do not kill themselves. Justin appears not to have felt it incumbent upon himself to provide any moral explanation or scriptural defense of his position. Although his argument is sufficiently Platonic to be familiar to educated pagans, it contains ingredients that even Platonists would find unpalatable. Christians must not kill themselves because God wants them in the world and humanity needs them, for if there were no Christians not only would there be no one to instruct pagans in the truth, but also since God sustains the world for his people’s sake, the human race would cease to exist if all Christians were removed from the face of the earth.

Third, a similar message is contained in the late second-century, anonymous *Epistle to Diognetus*:

---

The soul is locked up in the body, yet is the very thing that holds
the body together; so, too, Christians are shut up in the world as in
a prison, yet are the very ones that hold the world together.
Immortal, the soul is lodged in a mortal tenement; so, too,
Christians, though residing as strangers among corruptible things,
look forward to the incorruptibility that awaits them in heaven.
The soul, when stinting itself in food and drink, is the better for it;
so, too, Christians, when penalized, increase daily more and more.
Such is the important post to which God has assigned them, and it
is not lawful for them to desert it.111

The similarity of the reasoning of Justin and of the author of the Epistle to
Diognetus is striking. The presence, in such early Christian sources, of a
Christianized form of the Platonic argument that God has assigned people to
a post that they must not abandon renders the assertion of Rousseau and
others that Augustine took his arguments from Plato’s Phaedo less than
compelling. Clearly Augustine inherited a Christian argument that was already
more than two centuries old.

Fourth, in the so-called Clementine Homilies, probably redacted to their
present form in the mid-fourth century but based on a late second/early third-
century original, the apostle Peter encounters a pagan woman who is
considering killing herself because of various afflictions. He says to her, “Do
you suppose, O woman, that those who destroy themselves are freed from
punishment? Are not the souls of those who thus die punished with a worse
punishment in Hades for their suicide?”112 It is uncertain whether the
conviction that suicide will compound one’s future punishment was in the
original or added by a fourth-century redactor.

Fifth, Clement of Alexandria (ca.155-ca.220) viewed as a praeparatio
evangelica those features of Greek philosophy that he regarded as consonant
with divine revelation. He especially admired the Stoic concept of apatheia
(insensibility to suffering). But in his thought the Stoic concept is so
thoroughly informed by scriptural principles that the apatheia that he lauds
as a Christian ideal could never reasonably lead to, much less justify, suicide:

111Epistle to Diognetus, in Johannes Quasten, 1 Patrology: The Beginnings of Patristic
[By] going away to the Lord [the Christian] does not withdraw himself from life. For that is not permitted to him. But he has withdrawn his soul from the passions. For that is granted to him. And on the other hand he lives, having put to death his lusts, and no longer makes use of the body, but allows it the use of necessaries that he may not give cause for dissolution [of the body].

Clement’s was a Stoicism that had been Christianized to such a degree that suicide was permitted neither in the active sense (i.e., “withdrawing from life,” a popular Stoic expression for suicide) nor in the passive sense (i.e., allowing the dissolution of the body by failing to provide it with necessities).

Sixth, Tertullian (ca.160-ca.220), commenting on Christ’s having commanded his followers “to give to the one who asks,” says that “if you take His command generally, you would be giving not only wine to a man with a fever, but also poison or a sword to one who wanted to die.” It was regarded as exceedingly harmful for the febrile to consume wine. Tertullian includes in the same category assisting one to commit suicide. A Christian simply will not supply the means if asked. In another work Tertullian classifies as demented or insane (possibly demon possessed) anyone who “cuts his own throat.”

There is no suggestion in the sources thus far surveyed that for contemporary Christians suicide either posed a theoretical, much less a practical, problem or was an attraction to them. Such will continue to be the case through the end of the patristic era.

Seventh, Lactantius (ca. 240-320), appointed professor of oratory in Nicomedia by the emperor Diocletian, and later converted to Christianity, resigned his position when the “Great Persecution” began in 303. He wrote his major apologetic work, the Divine Institutes, to persuade educated pagans of the truth of Christianity and to edify and encourage Christians who were troubled by philosophical attacks against their faith. Discussing various pagan philosophers, he says that many of them, “because they suspected that the soul is immortal, laid violent hand upon themselves, as though they were about to depart to heaven.” He then asserts:

Nothing can be more wicked than this. For if a homicide is guilty because he is a destroyer of man, he who puts himself to death is under the same guilt, because he puts to death a man. Yea, that crime may be considered to be greater, the punishment of which belongs to God alone. For as we did not come into this life of our own accord; so, on the other hand, we can only withdraw from this

---

113 See ANF 2:497, supra note 95, Clement, Stromateis 6.9.
114 See FC 40:304, supra note 95, Tertullian, Flight in Time of Persecution 13.2.
115 See FC 10:71-72, supra note 95, Tertullian, Apology 23.3. See also FC 46.14, 50.4-11, supra note 95, To the Martyrs 4.9; and Timothy D. Barnies, Tertullian: A Historical and Literary Study 218-19 (1971).
habitation of the body which has been appointed for us to keep, by
the command of Him who placed us in this body that we may
inhabit it, until He orders us to depart from it . . . All these
philosophers, therefore, were homicides. 116

Some years later Lactantius yielded to requests to write an abridgement of
the Divine Institutes. In his Epitome he asks whether we should approve those
who, that they might be said to have despised death, died by their
own hands? Zeno, Empedocles, Chrysippus, Cleanthes,
Democritus, and Cato, imitating these, did not know that he who
put himself to death is guilty of murder, according to the divine
right and law. For it was God who placed us in this abode of flesh: it
was He who gave us the temporary habitation of the body, that we
should inhabit it as long as He pleased. Therefore it is to be
considered impious, to wish to depart from it without the
command of God. Therefore violence must not be applied to
nature. He knows how to destroy His own work. And if any one
shall apply impious hands to that work, and shall tear asunder the
bonds of the divine workmanship, he endeavours to flee from God,
whose sentence no one will be able to escape, whether alive or
dead. Therefore they are accursed and impious, whom I have
mentioned above, who even taught what are the befitting reasons
for voluntary death; so that it was not enough of guilt that they
were self-murderers, unless they instructed others also to this
wickedness. 117

In his Divine Institutes Lactantius condemns suicides as worse than homicides
on the Christianized Platonic grounds that suicides desert the place to which
God has appointed them. In his Epitome he adds the offenses of attempting
to flee from God by committing violence against nature, and encouraging
others to do likewise. In his second work his tone is even more vitriolic and
outraged than in the first: suicides are not only homicides but are impious as
well.

Eighth, Lactantius’ contemporary, Eusebius (ca.265-339), whom we have
already considered in our discussion of martyrdom, writes

It is worthy of note that, as the records show, in the reign of Gaius
. . . Pilate himself, the governor of our Saviour’s day, was involved
in such calamities that he was forced to become his own
executioner and to punish himself with his own hand divine
justice, it seems, was not slow to overtake him. The facts are

116 See ANF 7:88-89, supra note 95, Lactantius, Divine Institutes 3.18.
117 See ANF 7:237, supra note 95, Lactantius, Epitome 39.
recorded by those Greeks who have chronicled the Olympiads together with the events occurring in each.\[118\]

Eusebius clearly regarded Pilate's suicide from despair as God's just penalty, a condemnation for his sin of sentencing Jesus to death by crucifixion.

Eusebius quotes from the anti-Montanist work of Bishop Apolinarius of Hierapolis, written during the reign of Marcus Aurelius, the following account of the deaths of Montanus (the founder, in the late second century, of the charismatic and prophetic sect that bears his name) and one of his prophetesses, Maximilla:

It is thought that both of these were driven out of their minds by a spirit, and hanged themselves, at different times; and on the occasion of the death of each, it was said on all sides that this was how they died, putting an end to themselves just like the traitor Judas. . . . But we must not imagine that without seeing them we know the truth about such things, my friend: it may have been in this way, it may have been in some other way, that death came to Montanus . . . and [his] female associate.\[119\]

Neither Eusebius nor his source would vouch for the accuracy of this account. Including it, however, they suggest death by suicide as appropriate for two whom they regarded as notorious heretics.

Ninth, Basil of Caesarea (ca.329-379), in one of his "canonical letters" (so called because their contents—they deal with aspects of church discipline—became part of the canon law of the Eastern Church), writes that a woman who has an abortion is guilty not only of the murder of the fetus but also of "an attempt against her own life, because usually the women die in such attempts."\[120\] There may have been no precedent for Basil's regarding an abortion as tantamount to making an attempt on one's own life because of the high probability of the mother's death owing to the dangers involved in procedures then available. Nevertheless, it is obvious that Basil was speaking for and to a community that regarded even an attempt on one's own life as sinful.

Tenth, John Chrysostom (349-407), writing on Galatians 1:4 (Jesus "gave himself for our sins to rescue us from the present evil world, according to the will of our God and Father"), castigates those dualistic heretics who viewed the material world as evil. He takes the words "evil world" to mean:

  evil actions, and a depraved moral principle . . . . Christ came not to put us to death and deliver us from the present life in that sense, but to leave us in the world, and prepare us for a worthy participation of our heavenly abode. Wherefore He saith to the Father, 'And these are in the world, and I come to Thee; I pray

\[118\] Eusebius, supra note 104, 2.7.1, at 81.
\[119\] Id., 5.16.13,15, at 220.
\[120\] See FC 2:12-13, supra note 95, Letters 1882.
not that Thou shouldest take them from the world, but that Thou shouldest keep them from the evil,’ i.e., from sin. Further, those who will not allow this, but insist that the present life is evil, should not blame those who destroy themselves; for as he who withdraws himself from evil is not blamed, but deemed worthy of a crown, so he who by a violent death, by hanging or otherwise, puts an end to his life, ought not to be condemned. Whereas God punishes such men more than murderers, and we all regard them with horror, and justly; for if it is base to destroy others, much more is it to destroy one’s self.\textsuperscript{121}

Chrysostom thus asserts that dualistic heresy encourages suicide. True Christians—‘we all’ would be the orthodox community—according to Chrysostom, justly regard suicide with horror. Such a statement would be preposterous if there had been any sympathy within the orthodox community with suicide ‘the present evil world.’

Eleventh, Augustine’s erstwhile mentor, Ambrose (ca. 339-97) says of Paul’s statement ‘For to me, to live is Christ and to die is gain’ (\textit{Phil. 1:21}):

\begin{quote}
For Christ is our king therefore we cannot abandon and disregard
His royal command. How many men the emperor of this earth
orders to live abroad in the splendor of office or perform some
function! Do they abandon their posts without the emperor’s
consent? Yet what a greater thing it is to please the divine than
the human! Thus for the saint ‘to live is Christ and to die is gain.’
He does not flee the servitude of life like a slave, and yet like a
wise man he does embrace the gain of death.\textsuperscript{122}
\end{quote}

Once again we see a Christianized form of the Platonic argument against suicide. Elsewhere Ambrose writes to his sister Marcellina,

\begin{quote}
You make a good suggestion that I should touch upon what we
ought to think of the merits of those who have cast themselves
down from a height, or have drowned themselves in a river, lest
they should fall in the hands of persecutors seeing that holy
Scripture forbids a Christian to lay hands on himself.\textsuperscript{123}
\end{quote}

He gives the example of a virgin’s committing suicide to preserve her chastity and then of a woman’s enduring torture that resulted in her death. The implied answer to Marcellina’s question is that suicide to avoid persecution is wrong but to preserve chastity is right. It is very significant that Ambrose simply states that Scripture forbids suicide and does not seem to feel compelled to defend that contention. He speaks with the same degree of

\textsuperscript{121} See NPNF-1 13:5, \textit{supra} note 95, John Chrysostom, \textit{Commentary on Galatians} 1:4.

\textsuperscript{122} See FC 65:73-74, \textit{supra} note 95, Ambrose, \textit{Death as a Good} 3.7.

\textsuperscript{123} See NPNF-2 10:386, \textit{supra} note 95, Ambrose, \textit{Concerning Virgins} 3.7.32.
confidence that his audience will agree as does Chrysostom when he says, "we all regard suicides with horror, and justly."

Tenth, in a letter to the lady Paula, who was distraught over the death of her daughter Blaesilla, Jerome (ca. 345-ca. 419) asks,

Have you no fear, then lest the Savior may say to you: 'Are you angry, Paula, that your daughter has become my daughter? Are you vexed at my decree, and do you, with rebellious tears, grudge me the possession of Blaesilla? You ought to know that my purpose is both for you and for yours. You deny yourself food, not to fast but to gratify your grief, and such abstinence is displeasing to me. Such fasts are my enemies. I receive no soul which forsakes the body against my will. A foolish philosophy may boast of martyrs of this kind; it may boast of a Zeno, a Cleombrotus or a Cato. My spirit rests only upon him "that is poor and of a contrite spirit and that trembleth at my word [Is. 66:2]."

Jerome qualifies this apparently unlimited condemnation of suicide elsewhere:

It is not ours to lay hold of death, but we freely accept it when it is inflicted by others. Hence, even in persecutions it is not right for us to die by our own hands, except when chastity is threatened, but to submit our necks to the one who threatens.

Both Ambrose and Jerome regard the preservation of chastity as the only exception to their otherwise sweeping condemnation of suicide. Only a small minority of patristic sources prior to Augustine mention this category of suicide; those who do, approve it. Augustine’s rejection of the licitness of suicide for the preservation of chastity stimulated him to embark on a comprehensive analysis of suicide in book one of the City of God. In 414, four years after the Goths’ sack of Rome, he published the first installment of this massive work.

Augustine

In book one of the City of God, Augustine condemns suicide when done: (1) to avoid or escape from temporal problems; (2) to avoid or escape from another’s sinful actions (including doing so to preserve chastity); (3) because of guilt over past sins; (4) because of a desire for heaven; and (5) to avoid sinning. He maintains that if there were any conceivable justifiable cause for suicide, it would be to avoid sinning. Nevertheless, the sin of such a well-

---

125 Jerome, Commentarius in Ionam Prophetam 1.6, in Patrologia Cursus Completus 1,1:2:390-91 (Jacques Paul Migne, ed., Series Latina, 1844-65) [author’s translation].
127 See FC, supra note 95, Augustine, City of God 16-28.
motivated suicide would be greater than any sin that one might avoid by taking one’s own life. He then justifies his position thus:

1. Scripture neither expressly permits nor, of course, commands one to commit suicide to gain heaven to escape or avoid evil.
2. The sixth commandment explicitly prohibits suicide.
3. No private party has the authority to kill a criminal who deserves capital punishment; hence, those who kill themselves are homicides.
4. Suicide eliminates any and every opportunity to repent.

In this digression on suicide Augustine refers to martyrdom only when refuting pagan approval of suicide to avoid captivity. He reminds his readers that the patriarchs, prophets, and apostles did not commit suicide to escape persecution or martyrdom.

Roughly ten years before he published the first installment of the City of God, Augustine had already addressed the subject of martyrdom, not that of Catholics persecuted by pagans, but rather the courting of martyrdom by, and, when unsuccessful, the theatrically spectacular suicides of, members of a schismatic, heretical group, the Donatists.¹²⁸

In the early fourth century, led by a cleric named Donatus, some discontented rigorists, who condemned the church’s accepting back into fellowship those who had apostatized during the “Great Persecution,” founded a separatist movement named after its earliest leader. Donatists regarded themselves as the only upholders of the purity of spiritual discipline in the face of Catholic “compromise with the world” that they were convinced had been steadily increasing since the practice of Christianity had been legalized. From its inception, this movement was a considerable annoyance to the Catholic leadership. Persecution of the Donatists by the Catholic Church and by the imperial government began in 317. Finally, in 415, the death penalty was enacted for those Donatists who continued to assemble. In response to such measures, some Donatists, primarily a fringe group known as the Circumcellions, increased their indiscriminate as well as systematic acts of violence against Catholics. They even once attempted to ambush and kill Augustine. Their favorite ploy was to provoke the authorities to put them to death. When unsuccessful in being thus martyred, some Donatists staged sensationalistic suicides.

For nearly twenty years, Augustine intermittently composed anti-Donatist treatises, regularly focusing on the Donatists’ attitude toward and practice of suicide. The major themes of his anti-Donatist writings, which do not occur in his digression on suicide in book one of the City of God, are:

1. Provoking martyrdom is a form of suicide and hence a sin.

2. "Heroic" suicide by those who are unable to provoke others to martyr them is a sin.

3. The Donatists' suicides violate the foundational Christian principle of patient endurance. This argument is presented in one of his last anti-Donatist writings (Letters 204, composed in 420).

In 415 Augustine had written a treatise entitled De patientia, in which he gives the example of Job's endurance as a rebuke to the Donatists (without actually naming them):

At him let those men look who bring death upon themselves when they are being sought out to be given life, and who, by taking away their present life, reject also the life to come. For, if they were being forced to deny Christ or to do anything contrary to justice, they ought, as true martyrs, to bear all things patiently rather than to inflict death upon themselves in their impatience. If he could have done it righteously to escape evil, holy Job would have destroyed himself so that he might have escaped such diabolic cruelty in his own possessions, in his own sons, in his own limbs.  

Perseverance in suffering will prove to be the climax of Augustine's final statement on the subject of suicide, in book 19 of the City of God, published in 426 or 427.

Perseverance in Suffering: A Consistent Theme in Early Christian Literature

The theme of perseverance in suffering was, of course, not unique to Augustine. Even a casual reading of the church fathers shows that they saw suffering as an essential component of God's sanctifying work. This conviction, coupled with a firm belief in divine sovereignty, and an equally firm confidence that God does all things for the ultimate good of his people, engendered in them a sense of responsibility to preach and practice endurance in the face of all afflictions. An outstanding but not atypical, example is Cyprian (ca.200-258). Writing to his fellow Christians while the city was being ravaged by plague, he comments on the phenomenon that some of them were troubled because:

[This] disease carries off our people equally with the pagans, as if a Christian believes to this end, that, free from contact with evils, he may happily enjoy the world and this life, and, without having endured all adversities here, may be preserved for future happiness. . . . But what in this world do we not have in common with others as long as this flesh . . . still remains common to us?

He gives as examples famine, the devastation of war, drought, shipwreck, "and eye trouble and attacks of fever and every ailment of the members we

---

129 See FC 16:246, supra note 95, Augustine, Letters 13.10.
have in common with others as long as this common flesh is borne in the world." He reminds his readers that this

endurance the just have always had; this discipline the apostles maintained from the law of the Lord, not to murmur in adversity, but to accept bravely and patiently whatever happens in the world . . . We must not murmur in adversity, beloved brethren, but must patiently and bravely bear with whatever happens. Accordingly, “the fear of God and faith ought to make you ready for all things,” such as loss of possessions, sickness, loss of loved ones.

[So] let not such things be stumbling blocks for you but battles; nor let them weaken or crush the faith of the Christian, but rather let them reveal his valor in the contest, since every injury arising from present evils should be made light of through confidence in the blessings to come . . . Conflict in adversity is the trial of truth.

Cyprian consistently emphasizes the activity of God and the passivity of Christians in death. He maintains that Christians who died of the current plague “have been freed from the world by the summons of the Lord.” Later he asserts that “those who please God are taken from here earlier and more quickly set free, lest, while they are tarrying too long in this world, they be defiled by contacts with the world.” He then advises that “when the day of our own summons comes, without hesitation but with gladness we may come to the Lord at His call.” For “rescued by an earlier departure, you are being freed from ruin and shipwrecks and threatening disasters!” Hence, “Let us embrace the day which assigns each of us to his dwelling, which on our being rescued from here and released from the snares of the world, restores us to paradise and the kingdom.” He encourages them to consider their loved ones already in heaven and the joys that await them there. “To these, beloved brethren, let us hasten with eager longing! Let us pray that it may befall us speedily to be with them, speedily to come to Christ.”

It is God who calls; it is he who issues the summons. God takes Christians from the world; God frees them; God rescues them; God releases them; God restores them to heaven. Christians are passive—they are being freed; they are being rescued; they are being released; they are being restored. It is God who is the active party. Christians are to yearn for heaven and to pray for an early departure from life. Yeaming for death and praying to die are

---

130 See FC 36:204-05, supra note 95, Cyprian, Mortality 8.
131 Id. 11, at 207.
132 Id. 12, at 208.
133 Id. 20, at 215.
134 Id. 26, at 220-21.
categorically different from taking one's own life. There is no room here for suicide. Patient endurance of all afflictions, perseverance to the end, final resignation to God's will in the midst of those very circumstances that God is using to test and refine the Christian: such thought is antithetical to the taking of one's own life. And such thought permeates patristic literature.

An Augustinian Reversal?

Did Augustine formulate the Christian position on suicide? The answer must be an unequivocal "no." He based his condemnation of suicide most fundamentally on the same presuppositions and values that had caused the earlier church fathers to condemn the act. Recall the terms with which they had condemned it: it is opposed to the will of God (Justin); it is not lawful (Epistle to Diognetus); suicides are punished more severely than others (Clementine Homilies); it is not permitted (Clement); God punishes suicides more than homicides and we all justly regard them with horror (John Chrysostom); nothing can be more wicked than suicide (Lactantius); the sin of abortion is compounded by the dangers of the procedures that render it virtually an act of attempted suicide (Basil); Christ will not receive the soul of a suicide (Jerome); Scripture forbids Christians to lay hands on themselves (Ambrose). Augustine was simply the first Christian on record to discuss the issue thoroughly, although a century earlier Lactantius had already devoted considerable space in his Divine Institutes to suicide and then enlarged significantly on the subject in his Epitome.

I should point out that Augustine's influence has been minimal in Eastern Christianity. Indeed, it has long been fashionable in some quarters of Eastern Orthodoxy virtually to excoriate Augustine as the veritable font of fundamental theological errors. Hence, it should be troubling to those who credit Augustine with introducing a negative attitude to suicide into Christian theology and practice that the same position that Augustine articulates on suicide also prevails in Eastern Christianity.

Conclusions

Before Augustine's time suicide apparently was not a debated issue in the Christian community. Martyrdom, however, was. The probity of provoking or volunteering for martyrdom was hotly disputed before the legalization of Christianity. Furthermore, those few approved suicides that we encounter in early Christian literature occurred under the extreme duress of persecution or imminent sexual violation. It was the questionable probity of the latter that stimulated Augustine to deal with suicide per se, bolstered by the antics of Donatist Circumcellions.

Why was suicide not a debated issue within the Christian community? Not because the church fathers were afraid to condemn sin and to confront their fellow Christians for their moral failings. Nevertheless, there does not appear to be even one exhortation to refrain from suicide even in the writings of
those authors who condemn the act unequivocally. The absence of a debate over suicide, however, does not suggest that Christians were indifferent to suicide as an ethical issue. It simply appears not to have been a sufficiently attractive and viable option for them to have regarded it as a threat to the moral integrity of the Christian community.

Patristic condemnations of suicide prior to Augustine are comparatively rare because they are not part of the broad moral indignation voiced by church fathers against pagan depravity. Their outrage, especially against abortion and infanticide, was greatly stimulated by the perceived helplessness of the victim, whether a fetus or an infant. So also with gladiatorial combat and viciously cruel forms of torture and execution. Even acts of sexual immorality were more severely condemned when there were victims such as slaves who were forced to be the objects of their owners' lusts or of their greed when they were compelled to act as prostitutes for their owners' profit. The moral indignation of Christian authors was especially animated by the helplessness of the victims of others' sins. Suicide, as practiced by pagans, simply did not evoke passionate denunciation, for it is not an act in which an innocent party is victimized but an act in which one harms only oneself.

Although early Christians lived in a secular milieu in which suicide by the ill was frequently practiced and its probity seldom questioned,\textsuperscript{135} not only is there no discussion of the issue in patristic literature but there is also not a single example of Christians committing suicide, asking others' assistance in doing so, or requesting others to kill them directly, in order to escape from the grinding tedium of chronic, or the severe suffering of terminal, illness. So foundational are the goodness of God and his sovereignty in patristic theology and patient endurance of affliction so regularly and consistently stressed as an essential Christian virtue that it is not in the least surprising that patristic texts are void of any reference to suicide by the ill.

I shall now address directly Judge Reinhardt's four assumptions regarding the place of suicide in Early Christianity.

1. Because the church promoted such a bleak view of life and such a glorious view of heaven, suicide became an increasingly strong temptation for early Christians.

There is no evidence of any Christian, during the period under consideration, committing suicide, in the ordinary sense of the word, in order to accelerate his entering heaven.

2. The type of suicide in question is martyrdom.

Martyrdom was a special situation involving, prior to the legalization of Christianity, state persecution of a specific religion. Martyrdom was not

indicative of a general desire for death, but only for death at the hands of another for the sake of Christ, an imitation of Christ’s death. It was that which was tempting. Death as a release from physical or mental suffering was not at issue here. Hence, Christianity did not teach that one had a general right to control the end of one’s own life, but to the contrary, that one was not permitted to do so.

3. The martyrdoms, that were predominantly of Donatists (a splinter group that arose nearly simultaneously with the legalization of Christianity), so threatened to deplete the ranks of Christendom that Augustine condemned suicide in general as a damnable sin.

There is a logical absurdity here:

a. If the church were to have adopted an anti-suicide stance because of utilitarian concerns with the ranks of Christendom being depleted by martyrdom, it surely would have done so earlier, when Christians were a small minority, rather than during Augustine’s lifetime when the church was being flooded with converts whose attraction to Christianity were the social and political advantages legally available to Christians.

b. If Augustine’s concern was that the ranks of Christendom were being depleted by martyrdom and if these martyrs were Donatists, i.e., members of an heretical sect, then allowing the practice to continue would have reduced the ranks of the very people who were the Catholic Church’s greatest religious competition at that time.

c. To regard the antics of the Donatists (primarily those of the Circumcellions, an extremist group of Donatists) as normative for the Christian community of late antiquity is tantamount to portraying cult leaders such as Jim Jones and David Koresh as typical of late twentieth-century American Christianity.

Hence, Judge Reinhardt’s argument is not only historically inaccurate, but it is logically nonsensical as well.

4. Before Augustine’s time, however, there was considerable confusion between suicide and martyrdom within the Christian community.

There is still considerable confusion and disagreement regarding the precise nuances and application of the word suicide. An entirely objective and consistent definition of suicide will never be made to everyone’s satisfaction. The differences are so significant between, for instance, hanging oneself after being jilted by one’s lover, burning oneself to death as a public protest against a government’s policies, sacrificing one’s life to save others’ lives, and being executed for refusing to renounce one’s most deeply held convictions, that to label them all as suicide and then insist that anyone who approves of any of them approves of all forms of suicide flies in the face of even the most basic logic and common sense.

Although Judge Reinhardt is eager to regard early Christian martyrs as suicides, he balks at the use of the expression physician-assisted suicides:
While some people refer to the liberty interest implicated in right-to-die cases as a liberty interest in committing suicide, we do not describe it that way. We use the broader and more accurate terms, ‘the right to die,’ ‘determining the time and manner of one’s death,’ and ‘hastening one’s death’ for an important reason. The liberty interest we examine encompasses a whole range of acts that are generally not considered to constitute ‘suicide.’

[We] are doubtful that deaths resulting from terminally ill patients taking medication prescribed by their doctors should be classified as ‘suicide’ . . . . We believe that there is a strong argument that a decision by a terminally ill patient to hasten by medical means a death that is already in process, should not be classified as suicide. Thus, notwithstanding the generally accepted use of the term ‘physician-assisted suicide,’ we have serious doubt that the state’s interest in preventing suicide is even implicated in this case.

Nevertheless, to Judge Reinhardt, martyrs are suicides. Martin Luther King asserted, “He who has nothing for which he is willing to die is not fit to live.” Was King’s refusal to stop his work in the face of death threats suicidal? Durkheim, Alvarez, and, apparently, Judge Reinhardt would respond in the affirmative. The former two would almost certainly regard one’s taking of a lethal dose of medication in the face of terminal illness as suicide. Judge Reinhardt would not.

In short, Judge Reinhardt’s treatment of the issue of suicide in early Christianity is so historically and conceptually muddled as to be fundamentally inaccurate.

---

136 Compassion in Dying, 79 F.3d at 802.
137 Id. at 824.
138 Id. It is interesting to note that Judge Reinhardt makes a theological judgment for which he undoubtedly does not have the hermeneutical competence. He asserts, “In the New Testament, the suicide of Judas Iscariot is not treated as a further sin, rather as an act of repentance.” Id. at 808 n.25. Even Judge Reinhardt’s major source, Alvarez, was less dogmatic, saying of Judas’ suicide that it “seems a measure of his repentance;” see supra note 100, Alvarez, at 12. It is unlikely that any more than an extremely small minority of theologians throughout the history of Christianity would agree with Judge Reinhardt’s theological prejudices.