INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed JournalMulti Disciplinary
Peer Reviewed Edition :

www.ijlra.com

 ISSN: 2582-6433

DISCLAIMER

 ISSN: 2582-6433

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India.India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020).Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

 ISSN: 2582-6433

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi.Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.

Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

 ISSN: 2582-6433

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANLAYSIS ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

 ISSN: 2582-6433

LIFE, LIBERTY AND LETTING GO RETHINKING THE RIGHT TO DIE

AUTHORED BY - SNEHA M,
Student, VIT School of Law, Chennai
CO-AUTHOR - VEENAVARTHINI A,
Student, VIT School of Law, Chennai

Abstract

Life and liberty are vast concepts, but what about death? This paper delves into a seeming contradiction within the right to life and liberty enshrined in the Constitutions of the World, specifically in India as under ***Article 21***. India being a diverse country, understanding the cultural and religious influences on decision making of *PAS* is vital. Even though there are less research, it is noticed that varying attitudes among the medical professionals are influenced by the religious and cultural background which eventually contributes to the complexity of the issue.

Firstly, we explore the criminalization of attempted suicide. Does it truly deter suicide or hinder conversations about mental health? This section proposes alternative solutions that prioritize the well-being of individuals in crisis, such as research-backed interventions and mandatory support systems.

Secondly, we turn to euthanasia, the act of hastening death to alleviate suffering. Euthanasia and assisted suicide are two highly discussed concepts in medicine that may cause discomfort on certain occasions while providing relief on others. While some forms, like withdrawing life support, are allowed, physician-assisted suicide remains illegal. Should individuals facing terminal illness and unbearable pain have the right to choose a dignified death? We argue for a legal framework that recognizes the right to avoid prolonged suffering and acknowledges a doctor's duty to prioritize a patient's well-being, even if it means hastening death in a humane manner.

This paper aims to analyse on the moral, legal, and social components of the right to die by examining relevant legal cases and international approaches on the same. We advocate for a more nuanced understanding of individual autonomy, ensuring the protection of all citizens and their

 ISSN: 2582-6433

liberty throughout life, even as they contemplate its end.

Keywords

Physician-assisted suicide (PAS), Euthanasia, right to die, Liberty, Dignified death, Mental Health.

1. INTRODUCTION:

Life and liberty are fundamental principles that society holds, entrenched in the constitutions of nations around the world. Amidst this disclosure on such rights, an often and overlooked aspect is the Right to Die. While exploring this facet, we come across a collision of rights, that is: an innate freedom to make choices regarding one's life and the societal obligation to preserve life. This paper delves into this collision, focusing on the paradoxical nature of end-of-life choices.

As we live in a multicultural and multi-religious world, it is critical to understand the impact of culture and religion on decision-making processes, particularly in the field of PAS. Inadequate attention has been paid to the cultural, religious, and socioeconomic foundations that underpin the differing attitudes on assisted suicide held by different segments of society.[1]

In India, diverse religious beliefs shape attitudes towards suicide and euthanasia. For example, Suicide is considered a violation of nonviolence in Hinduism, whereas Islam and Sikhism consider euthanasia to be a serious sin. Despite the fact that Christianity considers suicide to be a severe sin, it provides hope for salvation. And suicide is prohibited in Buddhism, which emphasizes the sanctity of life. This religious mosaic highlights the complexities of end-of-life decisions and healthcare ethics in India.[2]

In India abetment of suicide and attempt to suicide are both criminal offences[3]. It was contended that "while the 'right to life' is a natural right enshrined in Article 21, suicide is an unnatural termination or extinction of life, and hence incompatible and inconsistent with the concept of 'right to life'. The State has a duty to safeguard life, and physicians have a duty to give treatment

[1] Shikha Mishra and Uday Veer Singh, Euthanasia and its Desirability in India (Teerthanker Mahaveer University, Moradabad, U.P., 2020).
[2]Vinod K. Sinha, Sujit Sarkhel, et.al., Euthanasia: An Indian Perspective (Indian Journal of Psychiatry 54(2):177-83, 2012).
[3] Suresh Bada Math and Santosh K. Chaturvedi, "Euthanasia: Right to Life v. Right to Die" Indian Journal of Medical Research 899–902 (2012).

 ISSN: 2582-6433

and not harm patients. If euthanasia is legalized, there is a serious concern that the state will refuse to invest in health (working towards the right to life)."

Despite the growing recognition of the importance of end-of-life autonomy, research on PAS remains limited, particularly regarding its impact on medical professionals' decisions. Although it may appear that physicians support the act of euthanasia since they are in direct and frequent touch with end-of-life conditions, such as palliative care, terminally ill, and critically ill patients. It is crucial to note that the Hippocratic medical oaths made at professional graduations are typically unambiguous in their opposition of euthanasia and assisted suicide This condition implies that many medical students have behaviors built on humanist ideas under the protection of faith and religion, and hence reject the notion of euthanasia.

This study argues for a more compassionate and nuanced approach to end-of-life care by exploring the criminalisation of attempted suicide as well as the discussion over euthanasia and PAS[4]. It argues for a legal framework that recognizes individuals' right to avoid prolonged suffering and acknowledges healthcare professionals' duty to prioritize patients' well-being, even if it means hastening death in a humane manner.

The purpose of this research is to provide an international overview in order to provide ethical support for the debate on this subject. By creating a deeper knowledge of individual autonomy and the intricacies of end-of-life decisions, we hope to advocate for a more humane and dignified end-of-life experience for all.[5]

2. CRIMINALIZATION OF ATTEMPTED SUICIDE: A FLAWED STRATEGY

Should the desperation of a suicidal act be met with handcuffs? Criminalizing attempted suicide not only fails to deter self-harm but actively hinders open communication and effective prevention strategies. In this section, the authors make the arguments explaining the problem with such criminalisation and proposes a more humane, evidence-based approach.

2.1 Current legal framework

Laws criminalizing attempted suicide exist in various forms around the world, often

[4] Yelson Alejandro Picón-Jaimes, Ivan David Lozada-Martinez, et.al., "Euthanasia and Assisted Suicide: An In-Depth Review of Relevant Historical Aspects" 75 Annals of Medicine and Surgery (2020).
[5] Matteo Scopetti, Donato Morena, et.al., "Assisted Suicide and Euthanasia in Mental Disorders: Ethical Positions in the Debate Between Proportionality, Dignity, and the Right to Die" Mdpi (18 May 2023).

 ISSN: 2582-6433

carrying punishments like imprisonment or fines. These laws have their roots in historical conceptions of suicide as a sin or a crime against the state.[6] However, such views are increasingly incompatible with modern understandings of mental health.

Section 309[7] of the Indian Penal Code (IPC) are prime examples of such legal relics. This section holds that whoever attempts to commit or does any action towards the commission of such offence, shall be punished with simple imprisonment. While this section remains in effect, it has been superseded by the Mental Healthcare Act of 2017 – Section 115[8] of which decriminalizes attempts to commit suicide. This newer legislation recognizes the mental distress underlying attempted suicide and prioritizes treatment over punishment. This shift reflects a growing global consensus – suicide is a symptom of a deeper struggle, not a crime.

2.2 Does Criminalization Deter Suicide or Hinder Open Communication?

In India, over 135,000 people died by suicide in 2012 alone, a staggering number. This alarming figure reflects a worrying trend. Suicides across the country have risen by 22.7% over the decade from 2002 (110,417) to 2012 (135,445).9 Contrary to its purpose, criminalizing attempted suicide creates a chilling effect, deterring people in crisis from seeking help. Fearing legal repercussions, they may retreat further into isolation and despair.

This reinforces the stigma surrounding suicide and mental health, silencing open communication, a crucial step towards recovery. Think about a loved one struggling. Would the threat of jail time encourage them to confide in you, or would it push them deeper into silence? Criminalization does not deter suicide; it hinders the very support system that saves lives.[10] Studies show no evidence of criminalization lowering suicide rates. In fact, it can create a climate of fear and shame, making it harder for people to reach out for the help they desperately need.

[6] N. Gabriel (2020), The Right to Life versus the Right to Die, Journal of Logos Universality Mentality Education Novelty: Law, Vol. 8, Issue 1, 1-15.
[7] Section 309, Indian Penal Code, Act 12 of 1891.
[8] Section 115, Mental Healthcare Act, Act 10 of 2017.
[9] Accidental deaths and suicide in India. National Crime Records Bureau. Ministry of Home Affairs. 2012. [Last accessed on May 2 2024].
[10] N. Gabriel (2020), The Right to Life versus the Right to Die, Journal of Logos Universality Mentality Education Novelty: Law, Vol. 8, Issue 1, 1-15.

 ISSN: 2582-6433

2.3 A Culture of Shame vs. A Network of Support

Criminalization sends a dangerous message – those in crisis are criminals, not individuals in desperate need of help. This outdated approach prioritizes punishment over the support systems crucial for effective suicide prevention. "Suicide is a cry for help, not a crime," emphasizes Dr. Hunt[11], a renowned mental health professional.

The threat of punishment creates a terrifying effect, deterring individuals from reaching out for help. Criminalization pushes them further into isolation and silences open communication, a vital step in recovery. Law enforcement involvement, intended as intervention, can feel punitive and retraumatizing for someone already in crisis.

Decriminalization paves the way for a more supportive environment. It sends a clear message that individuals in crisis are not criminals but valued members of our community worthy of compassion and support. Making evidence-based therapies,12 crisis hotlines, and strong peer support networks readily available is paramount. Schools and communities can play a vital role by promoting mental health awareness and education programs that normalize seeking help.

2.4 Alternative Solutions: Prioritizing Well-being with a three-pronged system

The current approach to suicide attempts, often focused on punishment, fails to address the underlying mental health issues. A more effective strategy would prioritize providing immediate support and comprehensive treatment. Here is a proposed three-pronged approach to post-suicide attempt intervention, one prioritizing care and not punishment:

1. Outreach and Contact:
    - Upon identification of a suicide attempt, a designated support team makes immediate contact with the individual. This could involve trained mental health professionals, social workers, or crisis intervention specialists.
    - The focus should be on offering support and resources, building trust, and de-escalating any immediate crisis.

[11] Jessica Hunt, Punishing the tortured: Criminalisation of suicide, 401 The Lancet 1241 (2023).
[12] S.R. Laxman & Ali M.R. (2018), The Concept of Right to Die in India: A Critical Analysis, Indian Journal of Creative Research Thoughts, Vol. 6, Issue 2.

 ISSN: 2582-6433

2. Mandated, Government-Funded Psychiatric Evaluation:
    - A government-funded psychiatric evaluation becomes mandatory for all suicide attempt survivors. This ensures a thorough assessment of mental health needs, free of financial burden on the individual.
    - The evaluation should not be punitive but serve as a gateway to appropriate treatment options.

3. Treatment in Quality Rehabilitation Centers:
    - Based on the evaluation, individuals relate to high-quality rehabilitation centers specializing in treating the underlying mental health issues that led to the attempt.
    - Treatment plans should incorporate evidence-based therapies tailored to the individual's needs. This might include therapy sessions, medication, and support groups.

This proposed system prioritizes treatment over punishment and offers a clear pathway to recovery. It removes the stigma associated with seeking help and ensures access to quality care, which is crucial for preventing future attempts and promoting long-term well-being. Additionally, the authors suggest a system for the training of first responders and healthcare professionals on handling post-suicide attempt situations effectively – one which teaches them to empathise and defuse the situation instead of letting personal bias add fuel to the fire. Further, it is advised to attempt partnering with community organizations that already provide ongoing support and address any social determinants impacting mental health. Laslty, there must be better enforcement of a strict confidentiality protocol to ensure individuals feel safe seeking help without fear of judgment or repercussions.

By implementing this three-pronged approach and its supporting elements, we can create a comprehensive safety net for those struggling with suicidal thoughts. This shift in focus, from punishment to care, can be a turning point in suicide prevention efforts.

 ISSN: 2582-6433

3. EUTHANASIA AND PHYSICIAN-ASSISTED SUICIDE: RELIEF VS. DISCOMFORT IN END-OF-LIFE CARE

3.1 Defining euthanasia and pas

The significant improvement of medicine in recent years has raised the question of whether it is necessary to employ all conceivable measures to keep a person alive, in other words, whether we should use all available therapy even when there is a slim possibility of success. For some, dying with dignity means death without pain13. Any death that is accompanied by suffering is considered undignified.

Physicians are required to respect a patient's autonomy and beneficence, and according to the classical Hippocratic Oath, any form of euthanasia or Physician Assisted Suicide (PAS) will violate the patient's rights. This raises the question of whether physician assisted suicide and euthanasia violate the Hippocratic Oath, or if they can be interpreted as a way to respect the patient's autonomy and beneficence.[14]

Physician Assisted Suicide, also known as Physician Assisted Death, is the act of a physician providing medication to intentionally end a patient's life at the patient's explicit request. PAS allows the physician to supply the drug, which the patient then administers on their own. In other words, the physician provides the patient the life-ending medication but does not administer it. The final decision is totally up to the patient. Along with PAS comes euthanasia, which changes slightly but has one significant difference. In some circumstances, the physician both provides and administers the drug to the patient, thus ending their lives rather than the patient's own.[15]

Euthanasia has several characteristics, ranging from active (introducing anything to cause death) to passive (withholding treatment or supporting measures); voluntary (consent) to involuntary (approval from guardian). Sedatives or neuromuscular relaxants are commonly employed in these situations, causing all physical processes to gradually decline and eventually cease.

[13] Manjari Shah and Disha Tiwari, “Death by Choice: Is It Worth It?” 5 Cancer Research, Statistics, and Treatment 623-624 (Oct–Dec 2022).
[14] Farooq Khan and George Tadros, “Physician-Assisted Suicide and Euthanasia in Indian Context: Sooner or Later the Need to Ponder!” 35 Indian Journal of Psychological Medicine (2013).
[15] Eduardo Rodriquez, “The Arguments for Euthanasia and PhysicianAssisted Suicide: Ethical Reflections” 68 The Linacre Quarterly (2001).

 ISSN: 2582-6433

Euthanasia and its regulation raise difficult ethical concerns. On the one hand, there is the patient's ongoing suffering, as well as the need to terminate the suffering in the absence of hope for future recovery. On the other hand, we have questions regarding whether a person has the right to end their own life, and if so, how the State may manage the catastrophic consequences.[16]

3.2 Withdrawing life support (WLST) vs. physician-assisted suicide (pas)

The traditional ethical contrast between PAS/E and WLST is the physician's intent: in the former, life is intentionally ended, whereas in the latter, the patient is allowed to die. The physician's main objective is to promote comfort in both PAS/E and WLST; the only difference is the instrumental act. As a result, we must compare the instrumental acts: willfully ending life vs deliberately ending life support. Are they morally equal? Importantly, we identify a distinction between the two, but we do not believe the difference is significant enough to justify outlawing one while letting the other.[17]

WLST is ethically distinct from PAS/E due to significant differences in intention, causality, and other considerations.

First, whereas PAS/E necessitates intent to cause death, WWLST does not. Life support is not withheld or discontinued in order to take the patient's life. Rather, WWLST's objective is to respect the patient's decision that any given intervention is unduly demanding or disproportionate in his or her specific living circumstances and should therefore be avoided in order to minimize suffering and maximize dignity. Death is a predictable but unintentional outcome of WLST.

Second, death is not a means for achieving WLST aims. It can be considered successful regardless of whether or not the patient dies.

The ethical significance of the distinction between intending and foreseeing consequences has been well argued, and it is commonly accepted in end-of-life care decision-making. Given this contrast, we argue that WLST is distinct from PAS/E, and that we can accept the former as an essential component of benevolent care while rejecting the latter as a

[16] Daniel Munday, Jeremy Dale, et.al., "Choice and Place of Death: Individual Preferences, Uncertainty, and the Availability of Care" 100 Journal of the Royal Society of Medicine (2007).
[17]Joseph M. Taraska, Withdrawing Life Support/ Physician-Assisted Suicide and Euthanasia (Holland-Frei Cancer Medicine, 6th edn., 2003).

 ISSN: 2582-6433

violation of the patient-physician contract.[18]

3.3 Supreme court's decision on the right to die with dignity

- P. Rathinam vs Union of India, 1994

  P. Rathinam and Nagbhushan Patnaik filed petitions contesting the constitutionality of Section 309 of the Indian Penal Code. Section 309 punishes anyone who attempts suicide with up to a year of simple prison. The Supreme Court made a connection between the other fundamental rights: just as the right to free expression under Article 19 provides the right to speak but also includes the choice not to speak, the right to life under Article 21 includes the right to die. Thus, Section 309 was declared invalid.

- Gian Kaur vs State of Punjab, 1996

  Gian Kaur and her husband Harbans Singh were found guilty by a Trial Court under Section 306 of the Indian Penal Code. They were sentenced to six years in prison and a Rs. 2,000 fine for abetting Ms. Kulwant Kaur's suicide. Section 306 penalizes anyone who assists in the act of suicide, while Section 309 penalizes anyone who attempts to commit suicide. It was contended that, as decided in P. Rathinam v. Union of India, the Article 21 right to life includes the right to die. As a result, a person abetting suicide is just assisting in the enforcement of Article 21. The Supreme Court's five-judge bench overruled P. Rathinam case.

  The bench ruled that the 'Right to Life' as declared in Article 21 of the Indian Constitution does not encompass the 'Right to Die'. The Supreme Court highlighted that the 'right to life' includes the 'right to a dignified life' until the person dies.

- Aruna Shanbaug vs Union of India

  The Supreme Court, in Aruna Shanbaug vs Union of India, established detailed processes and rules for awarding passive euthanasia under the "rarest of rare circumstances," dismissing the petitioner's request. It clarified that the High Court might make decisions on the discontinuation of life support under Article 226.[19]

  The Supreme Court earlier rejected the recognition of the right to die under Article 21

[18] Stanley Macaden, Naveen Sulakshan Salins, et.al., “End of Life Care Policy for the Dying: Consensus Position Statement of Indian Association of Palliative Care” 20 Indian Journal of Palliative Care (2014).
[19] Euthanasia and the Right to Die in India, 2023

 ISSN: 2582-6433

of the Indian Constitution in the famous Gian Kaur case. This new decision represents a watershed moment in Indian history, authorizing passive euthanasia in order to alleviate the suffering of patients who are in severe and prolonged pain. It admits that, despite technological improvements, people must govern and sustain technology, not the other way around. The verdict emphasizes that every citizen is entitled to and has the right to die in dignity.

4. THE RIGHT TO DIE: A LABYRINTH OF MORAL, LEGAL, AND SOCIAL CONSIDERATIONS

The right to die, often discussed in the context of physician-assisted suicide (PAS), presents a complex ethical and legal conundrum. What is the morality-oriented argument in this debate – is the grant of a right to die moral? What is the internationally accepted norm? The social and cultural beliefs on mental health a society play a crucial role in the debate surrounding right to die.

4.1 Navigating the Moral Labyrinth: Arguments for and against PAS

Why grant right to die?

Respect for Individual Autonomy and a Dignified Death: Indian philosophy emphasizes individual freedom and liberation (moksha).[20] In the context of a terminal illness with unbearable suffering, PAS allows individuals to make a conscious choice about their final days. This upholds their autonomy and dignity, allowing them to die peacefully on their own terms, surrounded by loved ones.

Compassion and Minimizing Suffering: The concept of Ahimsa (non-violence) extends to minimizing suffering. When a cure is unavailable and pain is excruciating, PAS can be seen as a compassionate act, allowing a peaceful end to a life already marked by immense suffering. This alleviates not only the patient's pain but also the emotional burden on their loved ones.

Why not?

Sanctity of Life and the Role of Karm; Many Indian religions view life as sacred and a gift. Suicide, even with assistance, could be seen as a violation of this sacredness and a

[20] Boruah. J (2021), Euthanasia in India: A Review on its Constitutional Validity, LEX HUMANITARIAE: Journal for A Change, 1-10.

 ISSN: 2582-6433

disruption of one's karmic journey. Furthermore, the concept of Sanskaras (life experiences) suggests that even terminal illness can offer opportunities for spiritual growth and learning.

Legalizing PAS raises concerns about a potential slippery slope where the sanctity of life diminishes. Vulnerable populations, like the elderly or those facing financial hardship, might feel pressured to choose PAS. Additionally, the possibility of misdiagnosis or coercion by family members raises ethical concerns about potential abuse of this practice.

4.2 International Approaches to Physician-Assisted Suicide: A Comparative Analysis

The question of physician-assisted suicide (PAS) legality sparks fervent debate across the globe. This brief explores the international landscape, highlighting variations in legal status and suicide rates.

Legalization with Safeguards:

- Switzerland: Pioneering PAS legislation[21] allows terminally ill, competent adults to access lethal medication after a thorough review by two doctors.
- Netherlands: The Termination of Life on Request and Assisted Suicide Act (2001)[22] establishes strict guidelines for PAS, requiring a terminal illness, unbearable suffering, and a repeated request from a fully informed patient.
- Belgium: The Act Euthanasia (2002)[23] legalizes both PAS and euthanasia (physician-administered lethal medication) under specific criteria, including a terminal illness, unbearable physical or mental suffering, and a competent patient's repeated request.
- Canada: The Medical Assistance in Dying (MAiD) legislation (2016), which came after a Supreme Court ruling[24], permits PAS and euthanasia for eligible patients with a grievous and irremediable medical condition and foreseeable natural death.

Partial Legalization:

- United States: PAS remains illegal in most states. However, 10 states[25] and the

[21] Section 311, The Swiss Criminal Code, 1942.
[22] Termination of Life on Request and Assisted Suicide (Review Procedure), 2001, Dutch Ministry of Security and Justice.
[23] Section 3, The Belgian Act on Euthanasia, 2002.
[24] Carter v Canada (AG), 2015 SCC 5.
[25] The states are California, Colorado, Washington, Oregon, Montana, Vermont, Maine, Hawaii, New Mexico, New Jersey.

 ISSN: 2582-6433

District of Columbia[26] have legalized physician-assisted dying (PAD), where a physician prescribes lethal medication for self-administration. These laws typically require a terminal illness, a waiting period, and multiple physician consultations.

Complete Prohibition:

- Many countries, including India, Ireland, and most of Asia, have no legal framework for PAS. Suicide itself might be illegal or carry social stigma.

The international landscape surrounding PAS is constantly evolving. Countries that have legalized PAS grapple with refining their legal frameworks and addressing concerns about potential abuse and the emotional impact on physicians. Meanwhile, countries wrestling with the issue must weigh individual autonomy against safeguards and potential societal shifts. Ultimately, navigating the complex moral, legal, and social considerations surrounding PAS remains a work in progress for many nations.

5. RECONCILING LIBERTY WITH THE RIGHT TO DIE: A FRAMEWORK FOR PATIENT AUTONOMY

The right to die ignites a fierce bioethical debate. At the heart lies the question: how do we reconcile individual autonomy with the protection of vulnerable lives, particularly at the end of life? This section proposes a framework that respects patient autonomy while ensuring safeguards against abuse.

5.1 Ensuring Patient Protection Throughout Life, Including End-of-Life Decisions

- Respecting Patient Autonomy: A core principle is respecting a competent adult's right to make informed decisions about their medical care[27], including end-of-life decisions. This autonomy stems from the fundamental right to self-determination and bodily integrity. In Indian context, Article 21[28] may be cited to confer such right impliedly along with the right of personal liberty.
- Competence and Informed Consent: Crucially, the patient must be mentally competent to make their wishes known. This requires a clear understanding of

[26] District of Columbia Death with Dignity Act, 2015.
[27] Boruah. J (2021), Euthanasia in India: A Review on its Constitutional Validity, LEX HUMANITARIAE: Journal for A Change, 1-10.
[28] Article 21, the Constitution of India.

 ISSN: 2582-6433

their diagnosis, prognosis, treatment options, and the implications of PAS. Informed consent, obtained through open communication with healthcare professionals, is paramount.

- Safeguards Against Coercion: Measures must be put in place to prevent coercion or undue influence on vulnerable individuals. This could involve independent assessments, mandatory waiting periods after expressing a desire for PAS, and ensuring access to social and psychological support.

5.2 Balancing Liberty with the Right to Avoid Prolonged Suffering: A Compassionate Approach

Balancing Autonomy and the Sanctity of Life is a tricky challenge, all opponents of PAS often cite the sanctity of life as an absolute principle. However, this framework proposes a balance. While life is valuable, the right to avoid intolerable suffering in terminal illness should also be considered. Clear guidelines are crucial. Eligibility for PAS could be restricted to terminally ill patients with a demonstrably short lifespan and experiencing unbearable suffering, despite palliative care.

Physicians play a vital role in ensuring ethical practice. Doctors should not feel obligated to participate in PAS but should respect a patient's competent wishes and facilitate access to the appropriate channels if desired. A mandatory psychological evaluation can help ensure the decision is not rooted in depression or temporary emotional distress. Addressing underlying mental health issues is crucial before considering PAS.

A system for reporting and reviewing PAS cases can promote transparency and identify potential areas for improvement.[29] This ensures the practice adheres to ethical guidelines and prevents abuse. This brief framework prioritizes patient autonomy while safeguarding against potential misuse. It must be added on and emphasized to ensure open communication, robust safeguards, and a compassionate approach towards end-of-life decisions. By striking a balance between individual liberty and the right to avoid prolonged suffering, we can create a system that respects patient dignity and offers a humane option for those facing a terminal illness.

[29] Darekar, S.D. (2021), Euthanasia – meaning, types and its Indian framework, International Journal of Multidisciplinary Research and Analysis, Vol, 4, Issue 9.

 ISSN: 2582-6433

CONCLUSION:

This study calls for a more compassionate and nuanced approach to end-of-life care by addressing two crucial issues: the criminalization of attempted suicide and the debate over euthanasia and physician-assisted suicide (PAS). The purpose of end-of-life care is to avoid or alleviate suffering as much as possible while honoring the wishes of dying patients[30]. While the landmark Supreme Court decision on passive euthanasia is an important step toward recognizing the right to die with dignity, further legislative action and rules are required to effectively govern euthanasia and PAS in India. Any legislation should prioritize patient autonomy, protect against abuse, and provide access to palliative care and support services for people with terminal illnesses[31].

Furthermore, continued discussion and study on end-of-life issues are critical for informing evidence-based legislation and promoting compassionate and ethical care for all people, including those nearing the end of life.

6. REFERENCES

- Boruah. J (2021), Euthanasia in India: A Review on its Constitutional Validity, LEX HUMANITARIAE: Journal for A Change, 1-10.
- N. Gabriel (2020), The Right to Life versus the Right to Die, Journal of Logos Universality Mentality Education Novelty: Law, Vol. 8, Issue 1, 1-15.
- M. Balai (2020), An Analytical Study on Right to Die and Euthanasia, Indian Journal of Legal Studies & Innovation, Vol. 2, Issue 3.
- S.R. Laxman & Ali M.R. (2018), The Concept of Right to Die in India: A Critical Analysis, Indian Journal of Creative Research Thoughts, Vol. 6, Issue 2.
- Darekar, S.D. (2021), Euthanasia – meaning, types and its Indian framework, International Journal of Multidisciplinary Research and Analysis, Vol, 4, Issue 9.

[30]Melahat Akdeniz, Bülent Yardımcı, et.al., "Ethical Considerations at the End-Of-Life Care" SAGE Journals (2021).
[31] J. Pereira, "Legalizing Euthanasia or Assisted Suicide: The Illusion of Safeguards and Controls" PubMed Central (2011).