

**The Study of Human Rights Law in the United States and the United
Kingdom Pertaining to Euthanasia**

Abstract

Chapter 1: Overview, Purpose, and Research Methodology

The dissertation's introduction is given in this chapter. It describes the main goal of the study, which is to investigate the legal frameworks and human rights issues related to euthanasia in the US and the UK. In addition, the chapter outlines the study technique and methodology that was selected, serving as a guide for the chapters that follow. It provides the framework for a thorough investigation of the subject.

Chapter 2: 'The Legal Status of Euthanasia in the United Kingdom'

This chapter explores the legal position of euthanasia in the UK and provides a thorough examination of the rules and legislation that are now in place. It investigates the study's background and looks at the relationship between euthanasia and human rights. The chapter also examines the complexity of euthanasia in the UK critically, highlighting the importance of individual autonomy and choice in making end-of-life decisions. This section explores public views, ethical issues, and the difficulties associated with euthanasia, offering a thorough picture of the situation in the UK.

Chapter 3: The Legal Status of Euthanasia in America

This chapter moves the discussion to the US and looks at the euthanasia legal environment there. It explores state court decisions and constitutional issues, providing insight into the complexities of euthanasia laws in the United States. The discussion of euthanasia laws' drawbacks and objections offers a thorough understanding of the American viewpoint on this important matter.

Chapter 4: Examination of Key Euthanasia Cases in the United Kingdom: A Comprehensive Analysis

Some of the most significant euthanasia cases in the UK are examined in this chapter. A thorough analysis is done on two well-known cases: Debbie Purdy's challenge against assisted suicide legislation and Noel Conway's investigation into the right to assisted death. These examples provide important insights into how the legal system handles difficult issues about end-of-life care and how such decisions may affect human rights.

Chapter 5: Examining Landmark Euthanasia Cases in the United States of America: An In-depth Analysis

With an emphasis on significant euthanasia cases in the US, Chapter 5 provides a thorough study of cases like *Cruzan v. Director, Missouri Department of Health* (1990), *Gonzales v. Oregon* (2006), and the Brittany Maynard case. The legal, moral, and human rights aspects of euthanasia in the American setting may be seen through the prism of these instances.

Chapter 6: Conclusion: Findings, Recommendations, and Future Research

The conclusions from the comparative study of euthanasia in the US and the UK are compiled in the last chapter. It responds to the study topics and emphasises the moral dilemmas and effects of euthanasia. Future research paths in this important field of study are recommended and prospective prospects for policy development are examined. This chapter summarises contributions to the fields of euthanasia and human rights law, offering a reflective and comprehensive conclusion.

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Chapter 1: Overview, purpose and research methodology

Introduction

The medical, legal, and ethical communities are sharply divided on the practise of euthanasia, often known as assisted suicide. To put an end to one's own anguish or suffering, with or without medical intervention, is what this term describes.¹The debate about euthanasia revolves on the tension between individual freedom and the necessity to preserve life. One of the key arguments being that people should have the choice to choose when and how they wish to pass away.² An advocate of euthanasia is Derek Humphry, who not only founded the Hemlock Society but also penned the seminal 'Final Exit' in which he argues for the right to die.³ According to Humphry, euthanasia helps people die with peace of mind and dignity, which is good for them and their loved ones.⁴ Similarly, James Rachels argues in his book 'The End of Life: Euthanasia and Morality' that euthanasia is not just a compassionate option but also a moral imperative in some instances, such as when the patient is suffering significantly with little possibility of rehabilitation.⁵ In a similar vein, Australian philosopher Peter Singer has defended euthanasia on the grounds that it is a question of compassion and autonomy, giving people control over their own lives and deaths.⁶ On the other hand, opponents of euthanasia claim that it devalues human life and may even be coerced or subjected to abuse.⁷

¹ Hamilton Inbadas., Shahaduz Zaman, Sandy Whitelaw, and David Clark, 'Declarations on Euthanasia and Assisted Dying' (2017) 41 *Death Studies* 574.

² Jocelyn Downie, 'Permitting Voluntary Euthanasia and Assisted Suicide: Law Reform Pathways for Common Law Jurisdictions' (2016) 16 *QUT Law Review* 84.

³ Derek Humphry, *Final Exit: The Practicalities of Self-Deliverance and Assisted Suicide for the Dying* (3rd edn, Delta 2002).

⁴ *Ibid.*

⁵ Louis Groarke, 'Consistent Liberalism Does Not Require Active Euthanasia' (2018) 60 *The Heythrop Journal* 895.

⁶ Iryna V. Chekhovska, Olha M. Balynska, Roman I. Blahuta, Valeriy V. Sereda, and Serhii O. Mosondz, 'Euthanasia or Palliative Care: Legal Principles of the Implementation in the Context of the Realization of Human Rights to Life' (2019) 72 *Wiadomości Lekarskie* 677.

⁷ Ezekiel J. Emanuel, Bregje D. Onwuteaka-Philipsen, John W. Urwin, and Joachim Cohen 'Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe' (2016) 316 *JAMA* 79.

The legality of euthanasia also raises important questions about the extent of personal autonomy and the government's role in regulating end-of-life care. Euthanasia debates centre on personal autonomy, or the freedom to choose one's life and body. Others believe that anyone should be able to end their life at any time. This perspective emphasises choice and agency but opponents say legalising euthanasia would undermine the state's duty to protect citizens and vulnerable populations. They also worry that legalising euthanasia will target the elderly and disabled for abuse and discrimination. This position emphasises government control of end-of-life care to avoid abuse or coercion of vulnerable people. Euthanasia's legality reflects debates about the state's role in restricting people's freedom.⁸ It raises important questions concerning societal freedom and personal liberty. The debate over legalising euthanasia affects medical ethics, legal precedent, and social norms. The United States and the United Kingdom have extremely diverse legal and cultural systems that regulate euthanasia and end-of-life care in very different ways.⁹ Even though they are both highly developed and prominent countries, the United States and the United Kingdom have quite different legal and cultural systems. Both nations have been at the forefront of discussions about euthanasia and end-of-life care, making them valuable case studies for examining the nuances of this difficult subject.¹⁰

Literature Review

The literature in this area examines the philosophical and historical context of euthanasia as well as the laws that have influenced its legal position.

Proponents of euthanasia argue that terminally ill individuals should have the freedom to choose how they wish to terminate their lives, while opponents of euthanasia argue that it violates the right

⁸ Liliana De Lima, Roger Woodruff, Katherine Pettus, Julia Downing, Rosa Buitrago, Esther Munyoro, Chitra Venkateswaran, Sushma Bhatnagar, and Lukas Radbruch, 'International Association for Hospice and Palliative Care Position Statement: Euthanasia and Physician-Assisted Suicide' (2017) 20 *Journal of Palliative Medicine* 8.

⁹ Andreas Fontalis Efthymia Prousalis and Kunal Kulkarni, 'Euthanasia and Assisted Dying: What Is the Current Position and What Are the Key Arguments Informing the Debate?' (2018) 111 *Journal of the Royal Society of Medicine* 407.

¹⁰ Elizabeth Wicks, 'Lawrence Early, Anna Austin, Claire Ovey and Olga Chernishova (Eds), the Right to Life under Article 2 of the European Convention on Human Rights: Twenty Years of Legal Developments since *McCann v United Kingdom*, in Honour of Michael O'Boyle' (2017) 17 *Human Rights Law Review* 376.

to life.¹¹ Euthanasia opponents have solid moral, ethical, and legal objections. Euthanasia opponents believe human life is sacrosanct and should be protected at all costs. In ‘The Ethics of Killing: Problems at the Margins of Life,’ philosopher Jeff McMahan argues that killing is always wrong, regardless of victim consent.¹²

Some believe euthanasia is biased because it may affect the elderly, disabled, and mentally ill more than others. These worries stem from the Nazi euthanasia practise, which targeted disabled and mentally ill persons.¹³ Some worry that legalising assisted suicide would lead to killing unpopular or burdensome people.¹⁴ In 1997, the Supreme Court ruled that New York’s physician-assisted suicide ban was legal. Except for Oregon, which legalised physician-assisted suicide for terminally ill patients under the Death with Dignity Act in 1997, euthanasia is banned across the United States.¹⁵ Despite several high-profile cases in recent years, like cases of Debby Purdy and Noel Conway in which people sought legal permission to end their lives through assisted dying, euthanasia is still illegal in the United Kingdom. Both the European Convention on Human Rights (ECHR) and the Universal Declaration of Human Rights (UDHR) protect the right to life, which is one of the major human rights at stake in the discussion of euthanasia.¹⁶ Proponents of euthanasia say that the right to life should be seen as the right to be safeguarded against premature death, while opponents claim that euthanasia violates this concept. The right to live and the right to die are treated differently in the United States and the United Kingdom due to their respective legal systems.¹⁷ It is up to individual states in the United States to determine whether or not they will allow assisted suicide or euthanasia, since the Supreme Court has repeatedly ruled that there is no

¹¹ Leslie J. Francis, Ursula McKenna and Abdullah Sahin, ‘Religion, Human Rights and Matters of Life and Death: Exploring Attitude toward Abortion and Euthanasia among Adolescents in England and Wales’ [2018] Religion and Human Rights 139.

¹² Christian Erk, ‘VIII: Postlude: Specific Questions at the Margins of Human Life’ [2022] The Ethics of Killing 245.

¹³ McMahan, Jeff. *The ethics of killing: Problems at the margins of life* (2002) Oxford University Press, USA.

¹⁴ Mulgan, Tim. "The ethics of killing: Problems at the margins of life." (2004) 443.

¹⁵ Michael Grodin, Erin Miller, and Johnathan Kelly, ‘The Nazi Physicians as Leaders in Eugenics and “Euthanasia”: Lessons for Today’ (2018) 108 American Journal of Public Health 53.

¹⁶ Claudia Grosse and Alexandra Grosse, ‘Assisted Suicide: Models of Legal Regulation in Selected European Countries and the Case Law of the European Court of Human Rights’ (2014) 55 *Medicine, Science and the Law* 246.

¹⁷ Hamilton Inbadas,, Shahaduz Zaman, Sandy Whitelaw, and David Clark, ‘Declarations on Euthanasia and Assisted Dying’ (2017) 41 *Death Studies* 574.

such right. The United Kingdom has chosen a more cautious approach, with judges routinely finding against legalisation of euthanasia, despite appeals for a change in the legislation to allow for assisted death under specific conditions.¹⁸

Numerous judicial rulings have influenced the euthanasia debate in the United States and the United Kingdom. The Supreme Court of the United States ruled in *Washington v. Glucksberg (1997)*¹⁹ that states may ban assisted suicide if they have a compelling interest in doing so to safeguard the lives of their residents from potential harm.²⁰ Individuals in the UK who sought legal authority to terminate their life via assisted dying were denied in the instances of *Pretty v. United Kingdom (2002)* and *Nicklinson v. United Kingdom (2014)*.²¹ The impact of the Glucksberg and Pretty trials on the euthanasia issue has been carefully dissected by commentators and sources such as individuals, experts, scholars, ethicists, medical professionals and activists. The Glucksberg ruling has been praised by some for reaffirming the value of human life and criticised by others for restricting personal freedom that have said this. Similarly, some have argued that the rulings in the *Pretty and Nicklinson* cases should be overturned because they violate the right to die on one's own terms, while others have defended them because they protect the value of human life. The continuing discussion on the legal and ethical issues of euthanasia and end-of-life care is reflected in these examples. Constitutional rights, criminal law, and governmental power are all legal basis for the euthanasia debate. The sanctity of life, patient autonomy, and the need to relieve suffering are all important ethical issues. Religion, societal standards, and individual ideals may all serve as moral justifications.²²

¹⁸ Ronald C. Inglehart, Ryan Nash, Quais N. Hassan, and Judith Schwartzbaum, 'Attitudes toward Euthanasia: A Longitudinal Analysis of the Role of Economic, Cultural, and Health-Related Factors' (2021) 62 *Journal of Pain and Symptom Management* 559.

¹⁹ Nicole Cona (Physician-assisted suicide legalization in the United States, 2022) <<https://digitalcommons.sacredheart.edu/cgi/viewcontent.cgi?article=1808&context=acadfest>> accessed 6 September 2023

²⁰ Raffaella Calati, Emilie Olié, Déborah Dassa, Carla Gramaglia, Sébastien Guillaume, Fabio Madeddu, and Philippe Courtet, 'Euthanasia and Assisted Suicide in Psychiatric Patients: A Systematic Review of the Literature' (2021) 135 *Journal of Psychiatric Research* 153.

²¹ M. A. Ashby, 'Sperling, Daniel. 2019. Suicide Tourism. Oxford and New York: Oxford University Press. ISBN 978-0-19-882545-6' (2022) 19 *Journal of Bioethical Inquiry* 177.

²² Montero P and María J ((PDF) Puyol Montero, José María, ed. human dignity and law: Studies on the Dignity of Human Life, 2023) <https://www.researchgate.net/publication/372601825_Puyol_Montero_Jose_Maria_ed_Human_Dignity_and_Law

There has been significant progress in both nations towards legalising euthanasia, but there is still much debate regarding the appropriate boundaries of this practise and whether or not it is in conflict with human rights legislation. Even though there has been movement towards legalisation of euthanasia in the United States and the United Kingdom, the phrase suggests that the issue is continuing. The concept of proper limits implies that there are restrictions on when and when euthanasia should be performed. Human rights law being mentioned implies that some people see euthanasia as a violation of personal freedoms, which in turn fuels continuing debate and discussion.²³

The literature study conducted here reveals that the right to live and the right to die are treated differently in the United States and the United Kingdom. The right to die is frequently seen as a question of personal liberty in the United States, but in the United Kingdom, the focus is on the value of safeguarding life. This has made the legal status of euthanasia in both nations murky and contentious.

This dissertation will provide a critical review of the human rights laws in the USA and the UK in relation to assisted suicide, examining the legal position in both countries. By providing recommendations for change, this dissertation also aims to enhance the laws pertaining to end-of-life decisions and the right to a dignified death in both countries. In order to carry out this examination this study will consider the following questions:

1. What is the legal position of the UK and USA in relation to euthanasia?
2. How do judges in the USA and UK interpret Article 2 of the European Convention on Human Rights 1940?
3. What are the different values that influence the legal position of the USA and UK?

Methodology and approach to research

The methodology of the dissertation will be doctrinal, carrying out an extensive review of literature and case law relating to euthanasia and the right to life. The literature review will make use of

Studies on the Dignity of Human Life Valencia Tirant Lo Blanch 2021_304_pp_ISBN_978-84-1378-816-6>accessed 6 September 2023.

²³ Brendan D. Kelly, 'Invited Commentary On... When Unbearable Suffering Incites Psychiatric Patients to Request Euthanasia' (2017) 211 *British Journal of Psychiatry* 248.

academic resources including JSTOR, Google Scholar, and Westlaw. Search phrases will include versions of ‘euthanasia,’ ‘right to life,’ ‘human rights,’ ‘end of life,’ ‘assisted suicide,’ and ‘physician-assisted dying.’ Find articles, books, and court cases that address the topic at hand by using these search criteria.

The case law and legal framework surrounding euthanasia and the right to life in the USA and the UK will be examined. The moral and ethical problems with palliative care and assisted suicide will also be considered. Using comparative analysis, the legal systems of the United States and the United Kingdom will be compared and contrasted. Better comprehension of the similarities and differences between the two countries by contrasting their approaches to euthanasia and the right to life will be done in this research.

Overview of chapters

Chapter 2 explores ‘The Legal Status of Euthanasia in the United Kingdom.’ This chapter starts by laying out the backdrop and context, going through the human rights considerations, and comparing how other nations handle euthanasia to how the UK does. It critically examines the difficulties of euthanasia, focusing on autonomy and ethical issues while considering problems and public image. The emphasis in Chapter 3 switches to ‘The Legal Status of Euthanasia in America,’ which covers constitutional issues, state court decisions, and the complex web of euthanasia legislation in the USA. Key euthanasia cases from the UK and the USA are examined in Chapters 4 and 5, which provide thorough examinations of crucial legal issues and their ramifications. In order to provide a comprehensive understanding of euthanasia in the UK and the USA, Chapter 6 gives a concluding overview of results, discusses research problems, highlights prospective policy approaches, and indicates areas for further study.

Chapter 2:

'The Legal Status of Euthanasia in The United Kingdom'

Introduction

Euthanasia, the deliberate taking of a life to stop suffering, has generated intense moral, ethical, and legal discussion on a global scale.²⁴ Euthanasia has drawn a lot of attention in the UK, which has sparked debates regarding its legal position and the need for legislative changes. The goal of this critical study is to look at the history, setting, and ramifications of the euthanasia law in the United Kingdom.

Euthanasia has always been seen as criminal under common law in the United Kingdom, which takes a conservative stance on the issue. With penalties of up to 14 years in jail, the Suicide Act of 1961 made aiding or inciting suicide, including euthanasia, a crime.²⁵ This law was enacted in order to defend the sanctity of life and shield weak people from compulsion. However, since society views and public opinion have changed through time, there are now more requests for euthanasia to be made legal under certain situations. High-profile examples, like that of Diane Pretty in 2002, who had terminal motor neuron disease, brought the subject to the public's attention and sparked intense discussion.²⁶

The context for euthanasia in the UK has changed recently as a result of a number of events. These include the emergence of the right-to-die movement, the success of euthanasia laws in other nations like the Netherlands and Belgium, and developments in medical technology that lengthen life without necessarily increasing its quality.²⁷ Additionally, the current legal system has been contested in court instances like Noel Conway's, a motor neurone disease patient who sought the right to an assisted dying in 2018. Conway's case eventually failed, but it prompted fresh debate

²⁴ Anthony A. Braga and Desiree Dusseault, 'Can Homicide Detectives Improve Homicide Clearance Rates?' (2018) 64 *Crime & Delinquency* 283.

²⁵ Charles F Wellford, Cynthia Lum, Thomas Scott, Heather Vovak and J Amber Scherer, 'Clearing Homicides: Role of Organizational, Case, and Investigative Dimensions' (2019) 18 *Criminology & Public Policy* 553.

²⁶ *Ibid*, Note 10.

²⁷ *Ibid*, Note 10.

and brought the subject back into the spotlight. .²⁸ Moreover, euthanasia has continuously received strong support in public opinion surveys, demonstrating a change in cultural views towards personal autonomy and compassion for people who are experiencing unimaginable agony.²⁹

Euthanasia's legal standing in the United Kingdom is still a complicated and divisive subject. Although helping someone commit suicide is illegal under existing law, changing public views and the state of medicine point to the need for reconsideration.³⁰ This critical analysis lays the groundwork for further investigation of the ethical, legal, and practical issues related to euthanasia in the UK, acknowledging the significance of striking a balance between individual autonomy, protecting vulnerable people, and ensuring adequate safeguards in end-of-life decision-making.³¹

Human Rights and Euthanasia

Human rights legislation is essential for preserving individual liberties, advancing equality, and guaranteeing social justice. The Human Rights Act of 1998, along with other national laws, international agreements, and treaties, all work together to preserve human rights in the United Kingdom.³² The merits, limitations, and ramifications of UK human rights legislation are highlighted in this critical study, which also offers a clear and thorough review of them.³³

The European Convention on Human Rights (ECHR) serves as the foundation for most of the UK's legal protection of human rights. The ECHR's rights are made immediately enforceable in UK

²⁸ Anthony A Braga and Desiree Dusseault, 'Can Homicide Detectives Improve Homicide Clearance Rates?' (2018) 64 *Crime & Delinquency* 283.

²⁹ Charles F Wellford, Cynthia Lum, Thomas Scott, Heather Vovak and J Amber Scherer, 'Clearing Homicides: Role of Organizational, Case, and Investigative Dimensions' (2019) 18 *Criminology & Public Policy* 553.

³⁰ Kren M. Hess, 'Criminal Investigation' (Google Books, 1 January 2016) <https://books.google.com/books/about/Criminal_Investigation.html?id=QbYaCgAAQBAJ> accessed 6 September 2023.

³¹ Richard Rosenfeld and Joel Wallman, 'Did De-policing Cause the Increase in Homicide Rates?' (2019) 18 *Criminology & Public Policy* 51.

³² Arend Cornelis Hendriks, 'End-of-Life Decisions. Recent Jurisprudence of the European Court of Human Rights' (2018) 19 *ERA Forum* 561.

³³ Andreas Fontalis, Efthymia Prousalis, and Kunal Kulkarni 'Euthanasia and Assisted Dying: What Is the Current Position and What Are the Key Arguments Informing the Debate?' (2018) 111 *Journal of the Royal Society of Medicine* 407.

courts by the Human Rights Act of 1998, which transposes them into domestic law. By virtue of this law, people now have the option to file lawsuits in domestic courts for alleged human rights abuses.³⁴

In the UK, the protection of basic rights has been made possible by the Human Rights Act of 1998. It protects a number of civil and political rights, including as the right to life, the prohibition against torture and other cruel, inhumane, or humiliating treatment, the right to a fair trial, the freedom of speech, and the right to privacy.³⁵ A democratic society cannot exist without these rights, which are also essential to sustaining the ideals of fairness and equality.³⁶ The Act also established the ‘margin of appreciation’ concept, which enables the UK courts to interpret and enforce human rights in a way that is compatible with the local conditions because of their adaptability, human rights may be adapted to fit the cultural and legal environment of the UK.³⁷

Although there have been substantial improvements in the protection of human rights, the contemporary legal system nevertheless faces major difficulties and complaints. One significant objection is the possibility of a disagreement arising between national courts and the European Court of Human Rights (ECtHR), which has the last say in how the ECHR should be interpreted.³⁸ Some contend that since the rulings of the ECtHR are binding on the UK, legislative authority is constrained and the idea of democratic accountability is compromised. Concerns have also been raised about how some rights, such the freedom of speech and the right to privacy, are

³⁴ Young-An Kim, ‘Examining the Relationship between the Structural Characteristics of Place and Crime by Imputing Census Block Data in Street Segments: Is the Pain Worth the Gain?’ (2018) 34 *Journal of Quantitative Criminology* 67.

³⁵ Sjors Ligthart, Thomas Douglas, Christoph Bublitz, Tijs Kooijmans, and Gerben Meynen, ‘Forensic Brain-Reading and Mental Privacy in European Human Rights Law: Foundations and Challenges’ (2020) 14 *Neuroethics* 191.

³⁶ Janneke Gerards, *General Principles of the European Convention on Human Rights* (Cambridge University Press 2023).

³⁷ Dominique Clément, ‘Human Rights or Social Justice? The Problem of Rights Inflation’ (2017) 22 *The International Journal of Human Rights* 155.

³⁸ James J. Willis, Christopher Koper, and Cynthia Lum, ‘The Adaptation of License-Plate Readers for Investigative Purposes: Police Technology and Innovation Re-Invention’ (2017) 35 *Justice Quarterly* 614.

implemented.³⁹ As seen by instances concerning surveillance, counter-terrorism measures, and press freedom, finding a balance between individual rights and public interest or national security may be difficult. It continues to be difficult to strike the proper balance between upholding social benefit and safeguarding human rights.⁴⁰

Questions have been raised regarding the future of human rights regulations in the UK after its vote to exit the EU. Debatable topics include the prospective removal from ECtHR jurisdiction and the potential creation of a UK Bill of Rights.⁴¹ Proper assessment is needed on how these changes will affect the UK's protection and upholding of human rights.⁴² In the UK, human rights legislation has been very important in maintaining individual liberties and guaranteeing justice.⁴³ The Human Rights Act of 1998's integration of the ECHR has given the preservation of basic rights a solid legal foundation. However, there are also issues and objections, such as worries about clashes with the ECtHR and the precarious balance between rights and national interests. Legal and political events will continue to influence the path of human rights legislation in the UK, necessitating constant critical analysis and careful evaluation of people's rights in a changing social environment.⁴⁴

Around the globe, various nations have distinct laws governing euthanasia. While some nations have passed legislation allowing euthanasia or assisted suicide in certain situations, others continue

³⁹ Dominique Clément, 'Human Rights or Social Justice? The Problem of Rights Inflation' (2017) 22 *The International Journal of Human Rights* 155.

⁴⁰ James Tuttle, Patricia L. McCall and Kenneth C. Land, 'Latent Trajectories of Cross-National Homicide Trends: Structural Characteristics of Underlying Groups' (2018) 22(4) *Homicide Studies* 343.

⁴¹ Grégoire Webber, Paul Yowell, and Richard Ekins, *Legislated Rights: Securing Human Rights Through Legislation* (Cambridge University Press 2018).

⁴² Janneke Gerards, 'Margin of Appreciation and Incrementalism in the Case Law of the European Court of Human Rights' (2018) 18 *Human Rights Law Review* 495.

⁴³ Utyasheva L, Eddleston M, 'Prevention of Pesticide Suicides and the Right to Life: The Intersection of Human Rights and Public Health Priorities' (2021) 20 *Journal of Human Rights* 52.

⁴⁴ Laurence R. Helfer, 'Rethinking Derogations from Human Rights Treaties' (2021) 115 *American Journal of International Law* 20.

to outright forbid these actions. Euthanasia is still prohibited in the United Kingdom, however there are continuous conversations and initiatives to solve the problem.⁴⁵

Several nations, as opposed to the UK, have laws in place that permit some kind of assisted suicide or euthanasia. The Netherlands and Belgium are two significant instances of countries that allow physician-assisted suicide and euthanasia under certain circumstances. People in these nations who have terminal illnesses or excruciating agony have access to medical aid to terminate their lives.⁴⁶ In most cases, strict requirements are in place, such as several medical consultations, mental competency, and a patient's steadfast desire. Similarly, euthanasia or physician-assisted suicide is now allowed in Luxembourg, Colombia, Canada, and several US states including Oregon, Washington, and California. These nations and governments have put in place legal systems with protections to guarantee that the procedure is carried out morally and responsibly.⁴⁷ Euthanasia is still not permitted in several nations. Euthanasia is illegal in certain nations, including Germany, France, Spain, and Italy, yet there have been continuous conversations and debates over the issue. Switzerland has a distinctive philosophy in which active euthanasia is outlawed but assisted suicide is permitted under certain conditions.⁴⁸

Different nations' attitudes towards euthanasia are greatly influenced by their own religious, cultural, and ethical traditions. Some countries, especially those with strong religious traditions, believe that assisted suicide violates the sanctity of life or is ethically wrong. Others contend that people should be able to choose how they want to spend their life, including whether or not to put an end to their suffering.⁴⁹ It is essential to remember that the legal environment around euthanasia is always changing, and that various nations may eventually adopt different strategies. Legislation

⁴⁵ Robert Spano, 'The Future of the European Court of Human Rights—Subsidiarity, Process-Based Review and the Rule of Law' (2018) 18 *Human Rights Law Review* 473.

⁴⁶ 'Euthanasia and Assisted Dying Rates Are Soaring, but Where Are They Legal?' (The Guardian, 15 July 2019) <<https://www.theguardian.com/news/2019/jul/15/euthanasia-and-assisted-dying-rates-are-soaring-but-where-are-they-legal>> accessed 8 September 2023.

⁴⁷ Anthony Braga, Brandon Turchan, and Lisa Barao, 'The Influence of Investigative Resources on Homicide Clearances' (2018) 35 *Journal of Quantitative Criminology* 337.

⁴⁸ Robert Spano, 'The Future of the European Court of Human Rights—Subsidiarity, Process-Based Review and the Rule of Law' (2018) 18(3) *Human Rights Law Review* 473.

⁴⁹ John E. Eck and D. Kim Rossmo, 'The New Detective: Rethinking Criminal Investigations' (2019) 18(3) *Criminology & Public Policy* 601.

in this domain often depends heavily on public opinion, medical progress, and ethical issues.⁵⁰ Despite continuing to prohibit euthanasia, the United Kingdom participates in conversations and debates on the subject, reflecting the continuous worldwide conversation about end-of-life options.⁵¹

On the other hand, several high-profile incidents have occurred in the United Kingdom in which patients and their families have sought legal authorisation to terminate their lives, despite the fact that euthanasia is illegal there.⁵² Tony Nicklinson is one such person who was unable to take his own life due to locked-in syndrome.⁵³ Nicklinson challenged the UK's euthanasia legislation in court in 2012, claiming that the law was unconstitutional because it prevented him from exercising his right to autonomy and self-determination under the ECHR.⁵⁴ Since the question of whether or not to legalise euthanasia should be decided by Parliament, the High Court finally decided to dismiss Nicklinson's appeal which emphasised the necessity for a thorough legal framework for such a delicate subject by claiming that it was within the purview of legislative power rather than judicial interpretation of existing legislation. Nonetheless, the case brought to light the continuing discussion regarding the ethical and legal implications of end-of-life care and euthanasia in the UK, as well as the need to carefully weigh the rights and interests of patients, medical professionals, and the state.⁵⁵ Debbie Purdy, who had multiple sclerosis and wondered whether her husband would face charges if he helped her fly to a facility in Switzerland to terminate her life, was another prominent example. Discuss in more detail – was this before or after Nicolson?

⁵⁰ Thomas L. Scott, Charles Wellford, Cynthia Lum, and Heather Vovak, 'Variability of Crime Clearance among Police Agencies' (2018) 22 *Police Quarterly* 82.

⁵¹ Anthony Braga, Brandon Turchan, and Lisa Barao, 'The Influence of Investigative Resources on Homicide Clearances' (2018) 35 *Journal of Quantitative Criminology* 337.

⁵² Rainey, B., McCormick, P. & Ovey, C. Jacobs, White, and Ovey, *The European Convention on Human Rights* (Oxford University Press, 2021).

⁵³ Szawarski, Piotr. "Classic cases revisited—Tony Nicklinson and the question of dignity." *Journal of the Intensive Care Society* 21, no. 2 (2020): 174-178.

⁵⁴ Ekins, Richard, and Graham Gee, "Submission to the Joint Committee on Human Rights: 20 Years of the Human Rights Act." (Policy Exchange, 2018).

⁵⁵ Jan Eckel, *The Ambivalence of Good: Human Rights in International Politics since the 1940s* (Oxford University Press, 2019).

When assessing whether to charge those who aid another person in committing suicide, the UK's Director of Public Prosecutions released recommendations in 2009.⁵⁶ Detail what these are please and what the responses have been.

Critically Analysing the Complexities of Euthanasia in the United Kingdom

Exploring the Significance of Autonomy and Personal Choice in Euthanasia Decision-Making

In the context of euthanasia, the ethical implications of autonomy and human choice are intricate and diverse. An individual's right to self-determination, which gives them the power to decide whether to live or die, is referred to as autonomy. Arguments in favor of euthanasia are founded on this ethical concept because it emphasises the value of preserving a person's autonomy and ability to make their own decisions.⁵⁷ Critically speaking, the concept of autonomy in the context of euthanasia presents a number of ethical questions. On the one hand, proponents contend that those who are experiencing unimaginable pain or have fatal conditions should have the option to end their suffering via euthanasia. They place a strong emphasis on individual autonomy, contending that everyone has the right to control their own body and life, including the choice to pass away peacefully. They contend that prohibiting euthanasia violates people's autonomy by denying them the freedom to manage their own bodies and how they choose to live or die.⁵⁸ A critical examination of autonomy and personal responsibility in the context of euthanasia, however, also draws attention to possible ethical issues. The degree of autonomy when it comes to end-of-life choices is one of the main issues. Critics contend that due to the seriousness of choices involving life and death, it is imperative to carefully assess all associated risks, negative outcomes, and social ramifications.⁵⁹

According to them, allowing people to choose euthanasia may have unexpected repercussions such as the value of life, greater vulnerability of marginalised communities, or a decline in faith in

⁵⁶ Rainey, Bernadette, McCormick, Michael, and Ovey, Clare, *The European Convention on Human Rights* (Oxford University Press, 5th ed, 2019).

⁵⁷ S Martin, *Assisted Suicide and the European Convention on Human Rights* (Routledge 2021).

⁵⁸ Olena Ivanii, Andrii Kuchuk, and Olena Orlova, 'Biotechnology as Factor for the Fourth Generation of Human Rights Formation' (2020) 9 *Journal of History Culture and Art Research* 115.

⁵⁹ Jelena Gligorijević, 'Children's Privacy: The Role of Parental Control and Consent' (2019) 19(2) *Human Rights Law Review* 201.

healthcare institutions. Furthermore, the moral implications of individual freedom and autonomy converge with wider society standards. Euthanasia debates, according to critics, should not be decided purely on the basis of personal liberty since they have repercussions for societal ethics and values. They argue that it is society's duty to safeguard the defenseless, uphold the value of life, and guarantee that choices about end-of-life care are made in accordance with moral principles that consider the interests and well-being of all people.⁶⁰

One significant ethical issue brought up while discussing the legalisation of euthanasia is the 'slippery slope' theory. It implies that if euthanasia is approved in some situations, it may progressively be extended to include other situations, which might have unforeseen and perhaps immoral results.⁶¹ The slippery slope defense is used by opponents of euthanasia to emphasise the dangers of legalising the practice. They argue that what first seems to be a sympathetic reaction to severe incidents of suffering may result in a slow deterioration of protections and a change in social perspectives on the worth of human life. They contend that once the option to willfully terminate lives in certain conditions is made available, it becomes harder to prevent its spread to previously judged undesirable settings.⁶²

The potential for abuse and coercion is one issue brought up in the slippery slope defence. Sufferers who are vulnerable, such as the elderly or those with disabilities, may feel forced to choose euthanasia because of cultural expectations, financial restrictions, or a lack of access to high-quality treatment, according to critics of the practise.⁶³ There is concern that the qualifying requirements may progressively broaden beyond the intended boundaries, putting at risk those who may not have terminal illnesses but may have other health issues or impairments.

⁶⁰ Elaine Webster, 'Degrading Treatment within Article 3' [2018] *Dignity, Degrading Treatment and Torture in Human Rights Law* 21.

⁶¹ Jelena Gligorijević, 'Children's Privacy: The Role of Parental Control and Consent' (2019) 19(2) *Human Rights Law Review* 201.

⁶² Eisen, Dara. "Dignity, degrading treatment and torture in human rights law: The ends of Article 3 of the European convention on human rights." (2021) 5 *European Human Rights Law Review* 581.

⁶³ Daniele Ruggiu [2018] *Human rights and emerging technologies*.

Additionally, detractors claim that making euthanasia legal might result in a reduction in the value of palliative care services and a lack of focus on enhancing end-of-life care. They argue that resources and attempts to offer thorough and compassionate palliative care might be diverted or weakened if attention is placed on finding a ‘quick fix’ via euthanasia. This may therefore lead to a decrease in the quality of care provided to those with terminal conditions.⁶⁴

Ethical Considerations, Public Perception, and Challenges of Euthanasia

There are many nuanced ethical and moral questions raised by the debate over euthanasia, which is a difficult and emotionally charged issue. It has been argued that euthanasia should be legalised so that people may terminate their own lives if they so desire since it is a humanitarian reaction to intolerable suffering.⁶⁵ Others contend that euthanasia is morally reprehensible because it conflicts with the responsibility of medical experts to protect human life. Autonomy and self-determination, the worth of human life, the responsibility of medical experts, and the effects on society as a whole are only some of the ethical and moral concerns raised by euthanasia.⁶⁶

The moral and ethical aspects of euthanasia and assisted suicide continue to be discussed in the United Kingdom. Supporters of euthanasia say it should be legal because people should have control over their own deaths and because it may help those who are in excruciating pain.⁶⁷ They also say that since euthanasia is illegal in the UK, those who want to terminate their lives have to go to nations where it is permitted. On the other side, many who disagree with euthanasia say it is wrong because doctors should be working to prolong life, not terminate it. Others worry that legalising euthanasia would undermine respect for human life and put vulnerable people at danger of being coerced or abused.⁶⁸ British doctors must adhere to an ethical code that places patients'

⁶⁴ Nigel S. Rodley, ‘Integrity of the Person’ in Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran (eds), *International Human Rights Law*, 2nd edn (Oxford University Press 2018) 57.

⁶⁵ Emma T. Budde and others, ‘A Matter of Timing: The Religious Factor and Morality Policies’ (2017) 31 *Governance* 45.

⁶⁶ Kipperman B, Morris P and Rollin B, ‘Ethical Dilemmas Encountered by Small Animal Veterinarians: Characterisation, Responses, Consequences and Beliefs Regarding Euthanasia’ (2018) 182 *Veterinary Record* 548.

⁶⁷ Schuurmans, J. et al, ‘Euthanasia Requests in Dementia Cases; What Are Experiences and Needs of Dutch Physicians? A Qualitative Interview Study’ (2019) 20(1) *BMC Medical Ethics* 1.

⁶⁸ Jila Alborzi et al, ‘Investigating of Moral Distress and Attitude to Euthanasia in the Intensive Care Unit Nurses’ (2018) 6(11) *International Journal of Pediatrics* 8475.

safety and independence first. However, euthanasia is not explicitly addressed in the code, and there may be disagreements among medical experts over the practice's morality.⁶⁹

Euthanasia has divided views in the United Kingdom. YouGov found in 2019 that 43% of people were in favor of allowing euthanasia for individuals with terminal conditions and extreme suffering, while 32% were against the idea.⁷⁰ The remaining quarter either did not know or did not care. Support for euthanasia has grown over time, according to a separate study done by the British Social Attitudes survey. The percentage of people who agree with the statement that doctors should be authorised to help terminally ill patients end their lives at their request has increased from 75% in 1984 to 90% now.⁷¹ Religious convictions, cultural norms, and views on the proper function of medical experts are only some of the elements that might shape public opinion on euthanasia in the United Kingdom.⁷² Advocates for the rights of the disabled, for example, may be opposed to euthanasia on the grounds that it exposes vulnerable people to the possibility of abuse or compulsion.

Both the legal and ethical frameworks in which euthanasia operates are fraught with complications and debate.⁷³ Autonomy, informed consent, end-of-life care, medical ethics, and the proper role of medical professionals are just a few of the significant concerns and debates. The legality of assisted suicide is a contentious issue in the United Kingdom. As law stands, people who aid a person in committing suicide in the United Kingdom may be prosecuted with murder or manslaughter.⁷⁴ Despite this, there have been a number of high-profile incidents in the UK of people seeking help in terminating their lives, frequently by going to other countries where euthanasia is permitted.

⁶⁹ Outka, Gene. *Islamic Ethics of Life: Abortion, War, and Euthanasia*. (Univ of South Carolina Press, 2021).

⁷⁰ Cayetano-Penman, J., Malik, G. and Whittall, D., 'Nurses' Perceptions and Attitudes about Euthanasia: A Scoping Review' (2021) 39 *Journal of Holistic Nursing* 66.

⁷¹ Hernandez, E., Fawcett, A., Brouwer, E., Rau, J., and Turner, P.V., 'Speaking Up: Veterinary Ethical Responsibilities and Animal Welfare Issues in Everyday Practice' (2018) 8 *Animals* 15.

⁷² Schuurmans, J., Bouwmeester, R., Crombach, L., van Rijssel, T., Wingers, L., Georgieva, K., O'Shea, N., Vos, S., Tilburgs, B. and Engels, Y., 'Euthanasia Requests in Dementia Cases; What Are Experiences and Needs of Dutch Physicians? A Qualitative Interview Study' (2019) 20 *BMC Medical Ethics* 1.

⁷³ Johnstone, Megan-Jane, *Bioethics: A Nursing Perspective* (2nd ed. Oxford: Wiley-Blackwell, 2022).

⁷⁴ Drinkwater, E., Robinson, E.J.H. and Hart, A.G., 'Keeping Invertebrate Research Ethical in a Landscape of Shifting Public Opinion' (2019) 10 *Methods in Ecology and Evolution* 1265.

These incidents have prompted discussions concerning patients' rights to autonomy and their capacity to make choices about their own end-of-life care.⁷⁵ The participation of medical professionals in euthanasia is another major source of debate in the UK. Some physicians and nurses could be eager to help patients commit suicide, while others might be against it for moral or ethical reasons.⁷⁶ This may be problematic for both patients and doctors when there is a clash between what the patient wants and what the doctor is required to do ethically. Different nations and jurisdictions may face quite different euthanasia-related challenges and issues.⁷⁷ Concerns about misuse or compulsion, as well as challenges with informed consent and end-of-life care, may arise in nations where euthanasia is legal, such as the Netherlands and Belgium.

Access to treatment and ensuring that patients have the opportunity to make educated choices about their end-of-life care may present difficulties in nations like the United States where euthanasia is only authorised in select states.⁷⁸ The debate over euthanasia is complicated and diverse because of the many competing legal, ethical, and moral arguments on both sides. Some people may be in favour of euthanasia because they believe it is the most humane way to end a life, while others may be against it because of their moral or religious convictions, or because they are worried about the possibility of abuse or compulsion.⁷⁹ Many people, in the UK and elsewhere, are likely to be talking about the ethics of euthanasia for the foreseeable future.

Conclusion

This chapter has examined the legal situation of euthanasia in the United Kingdom while also looking at human rights, ethical issues, public perception, and the difficulties posed by this complicated topic. The study got started by outlining the backdrop and establishing the parameters of the investigation. It emphasised how crucial it is to comprehend the UK's legal system on

⁷⁵ Charles and others, 'Physician-Assisted Suicide and Euthanasia' (2018) 33 *Journal of Palliative Care* 197.

⁷⁶ Kollias NS and others, 'Psychological Implications of Humane Endings on the Veterinary Profession' (2023) 261 *Journal of the American Veterinary Medical Association* 185.

⁷⁷ Jaye C and others, 'The People Speak: Social Media on Euthanasia/Assisted Dying' (2019) 47 *Medical Humanities* 47.

⁷⁸ Miguel Ricou and Tony Wainwright, 'The Psychology of Euthanasia: Why There Are No Easy Answers' (2019) 24 *European Psychologist* 243.

⁷⁹ Johnstone, M-J., *Bioethics: A Nursing Perspective* (Elsevier Health Sciences, 2022)

euthanasia and its implications for human rights. The part on human rights and euthanasia went in-depth on the legal system, focusing on the protection of rights as well as the difficulties and objections to the current legal system. It also discussed potential outcomes and contrasted other nations' euthanasia policies, providing insightful information about various legal systems. In the research, the intricacies of euthanasia in the UK were critically examined, with an emphasis on the value of autonomy and individual decision-making. It investigated the slippery slope defence, evaluating its advantages and disadvantages. This part provided a thorough grasp of the subject by shedding light on the moral issues underlying euthanasia. This section also looked at how people perceive euthanasia, revealing different viewpoints and attitudes. Euthanasia's difficulties were also addressed, including how it would affect medical personnel and the need for all-encompassing palliative care services.

Chapter 3: The Legal Status of Euthanasia in America

Introduction

In America, the laws that govern assisted suicide vary between states. Ten states have adopted laws that legalise doctor-assisted suicide since Oregon passed the Death with Dignity Act in 1997.⁸⁰ The other states are Maine, New Jersey, Vermont, New Mexico, Montana, Colorado, Washington, California, and Hawai'i and Washington, D.C. It is crucial to keep in mind, nevertheless, that each of these states has different laws and rules regarding euthanasia.⁸¹ States that have passed legislation expressly legalising euthanasia or physician-assisted suicide, including Oregon, Washington, Vermont, California, Colorado, Hawaii, Maine, New Jersey, and New Mexico. These laws lay out particular guidelines and standards for those wishing to terminate their life with the help of medical professionals.⁸² The ten states listed above, have decriminalised euthanasia and physician-assisted suicide which indicates that, despite the lack of explicit legislation authorising it, there are also no laws criminalising the practise of physicians aiding in

⁸⁰ Rachels J, 'Active and Passive Euthanasia' [2017] Applied Ethics 423

⁸¹ Mroz S and others, 'Assisted Dying around the World: A Status Questionis' (2021) 10 Annals of Palliative Medicine 3540.

⁸² Pesut B and others, 'Nursing and Euthanasia: A Narrative Review of the Nursing Ethics Literature' (2019) 27 Nursing Ethics 152.

suicide.⁸³ These ten states have passed legislation that expressly permits medical aid-in-dying.⁸⁴ This phrase describes the practise of doctors giving fatal prescriptions to terminally sick individuals who satisfy certain requirements. In contrast to euthanasia, people administer the drug on their own rather than a medical expert.

Euthanasia remains illegal in the other 40 states in America, along with physician-assisted suicide. These states have not enacted any laws that would have made these practises lawful or less punishable. Euthanasia and assisted suicide are thus largely prohibited in the majority of states in the USA.⁸⁵ The legality of euthanasia in America is subject to constitutional issues. Euthanasia and physician-assisted suicide are both constitutional, but the American Supreme Court has not decided on the subject, leaving it up to the states to decide. The Court has acknowledged the constitutional right to decline life-supporting medical care in certain situations, nevertheless. The justification for legalising euthanasia is based on this right, which is sometimes known as the right to die or the right to decline treatment.⁸⁶

This chapter provides a thorough examination of American policy towards assisted suicide, considering federal legislation, state laws, legal rulings, and constitutional concerns. It provides a thorough analysis of euthanasia legislation, looking at pertinent legal frameworks to clarify the intricacies, difficulties, and effects on the legal system in America. Moreover, it explores many viewpoints, arguments, and deciding factors when it comes to the ethics of end-of-life decision-making. The research also seeks to educate lawmakers, medical professionals, and the public about euthanasia by examining the current legal system, promoting moral decision-making, encouraging informed discourse, and foreseeing future legal developments.

⁸³ Calati R and others, 'Euthanasia and Assisted Suicide in Psychiatric Patients: A Systematic Review of the Literature' (2021) 135 *Journal of Psychiatric Research* 153.

⁸⁴ Emanuel EJ and others, 'Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe' (2016) 316 *JAMA* 79.

⁸⁵ Green G and others, 'Attitudes toward Euthanasia—Dual View: Nursing Students and Nurses' (2020) 46 *Death Studies* 124.

⁸⁶ Cipriani G and Di Fiorino M, 'Euthanasia and Other End of Life in Patients Suffering from Dementia' (2019) 40 *Legal Medicine* 54.

The Legal Landscape of Euthanasia in America: Constitutional Considerations and State Court Rulings

In the District of Columbia and 10 other states, physician assisted suicide is permitted. In Colorado, California, the District of Columbia, Hawaii, Maine, New Jersey, New Mexico, Oregon, Vermont, and Washington, it is a choice that is legally available to people. It is a choice made available to people in Montana by a judicial ruling.⁸⁷ A terminal disease and a prognosis of six months or fewer for survival are prerequisites. The prescription of drugs to accelerate death cannot result in legal action against doctors.

Euthanasia's legal standing in America is very important since it affects whether the conduct is allowed or forbidden by law. Euthanasia laws influence moral guidelines, medical procedures, and individual rights when making end-of-life choices.⁸⁸ The legal situation has broad ramifications for patients, medical staff, and society at large.⁸⁹ In terms of the states of America, there have been reporting applications and deaths reported in every state.⁹⁰ When talking about California, between June 9, 2016, and December 31, 2021, 3,766 persons got prescriptions, and 2,422 of them passed away after ingesting the drug. This information is from the state's 2021 Department of Public Health annual report. Colorado According to the state Department of Public Health and Environment, 316 prescriptions for drugs used as an aid in dying were issued by doctors for patients in 2022, and in 246 of those cases, a pharmacy provided the drugs to the patients. Since 1997, a statute prohibiting physician-assisted suicide has been in effect in Oregon. Since it was put into effect, there has been a consistent rise in both the number of people receiving prescriptions and the death toll. The 2022 Data Summary indicates that as of January 20, 2023, prescriptions had been issued for 3,712 individuals, and 2,454 patients had passed away after taking the

⁸⁷Peters KA, Lee DS and Irwin AN, 'Pharmacist Experiences and Perspectives with Oregon's Death with Dignity Act' (2020) 60 *Journal of the American Pharmacists Association* 874.

⁸⁸ Girma S and Paton D, 'Is Assisted Suicide a Substitute for Unassisted Suicide?' (2022) 145 *European Economic Review* 104113.

⁸⁹ Andrew Rowan and Tamara Kartal, 'Dog Population & Dog Sheltering Trends in the United States of America' (2018) 8 *Animals* 68.

⁹⁰ Snyder Sulmasy L and Mueller PS, 'Ethics and the Legalization of Physician-Assisted Suicide: An American College of Physicians Position Paper' (2017) 167 *Annals of Internal Medicine* 576.

medications.⁹¹ In Vermont between July 1, 2019, and June 30, 2021, a total of 21 prescriptions were written under the statute, and 17 of those patients used the patient choice prescription before their deaths, according to a report from the Department of Health released in January 2022. In terms of Washington, according to an annual report from the state's Department of Health, 400 persons received prescriptions for the drug in 2021, and 291 recorded fatalities from drug intake were reported.⁹²

On the other hand, proponents of euthanasia in America argue for its legalisation. By collaborating with legislators, developing legislation, and advocating for the adoption of legislation that allows physician-assisted dying or euthanasia, supporters participate in legislative advocacy.⁹³ Through educational initiatives and media outreach, they also want to increase public awareness by highlighting individual rights, personal autonomy, and the humanitarian aspect of giving individuals in severe pain a choice to die peacefully. Euthanasia proponents fight against current laws that forbid the process, claiming that doing so violates their basic human rights. These include medical professionals, ethicists, and advocacy organisations, who consider that people with terminal diseases or unremitting pain should have the right to a dignified death.⁹⁴ To influence public opinion and spark debates about end-of-life options, grassroots initiatives, open protests, and social media platforms are used such as mass media campaigns, documentaries, online petitions, and the sharing of first-person accounts from people who have suffered the terrible impacts of terminal diseases. Cancer, Alzheimer's disease, amyotrophic lateral sclerosis (ALS), multiple sclerosis (MS), and severe heart failure are the fatal illnesses that are being investigated. These initiatives seek to foster compassion, educate the public on the difficulties of making end-of-life decisions, and promote the legalisation concerning euthanasia or physician-assisted death.⁹⁵

⁹¹ Physician-Assisted Suicide Fast Facts (2023) CNN. Available at: <<https://edition.cnn.com/2014/11/26/us/physician-assisted-suicide-fast-facts/index.html>> (Accessed: 22 June 2023).

⁹² Fontalis A, Prousalis E and Kulkarni K, 'Euthanasia and Assisted Dying: What Is the Current Position and What Are the Key Arguments Informing the Debate?' (2018) 111 *Journal of the Royal Society of Medicine* 407

⁹³ Borasio GD, Jox RJ and Gamondi C, 'Regulation of Assisted Suicide Limits the Number of Assisted Deaths' (2019) 393 *The Lancet* 982.

⁹⁴ Verhofstadt M and others, 'Belgian Psychiatrists' Attitudes towards, and Readiness to Engage in, Euthanasia Assessment Procedures with Adults with Psychiatric Conditions: A Survey' (2020) 20 *BMC Psychiatry* 1-10.

⁹⁵ Golijan I, 'Ethical and Legal Aspects of the Right to Die with Dignity' (2020) 31 *Filozofija i društvo* 420.

Legislators, politicians, activists, and medical professionals create rules and procedures for euthanasia in collaboration with medical organisations and ethical bodies, ensuring the necessary protections are in place.⁹⁶ Supporters attempt to develop legal frameworks and public acceptability for euthanasia in America via various channels,⁹⁷ their activities include lobbying lawmakers, setting up forums for discussion, running educational campaigns, using media outlets, and sharing first-person accounts of people dealing with end-of-life problems.⁹⁸ These activists Supporters of euthanasia emphasise the need to put in place strict protections and rules to make sure that this activity is carried out morally and responsibly.⁹⁹ They contend that euthanasia may be carried out properly and without misuse with the right restrictions, such as obligatory consultations, waiting periods, and examinations of mental ability.¹⁰⁰ By making euthanasia legal, the possibility of abuse or coercion is reduced due to increased monitoring and control.

The complexity and breadth of the arguments in favour of and against euthanasia must be noted. Diverse civilisations, cultures, and judicial systems have various viewpoints on this matter.¹⁰¹ Deeply held moral, ethical, and religious convictions are often brought up in the discussion, along with questions about society norms, individual liberties, and the function of healthcare professionals.¹⁰²

The legal situation of euthanasia is significantly shaped at the state level by constitutional issues. Individual rights and end-of-life choices may be affected by laws in state constitutions.

⁹⁶ Kułak-Bejda A, Bejda G and Waszkiewicz N, 'Mental Disorders, Cognitive Impairment and the Risk of Suicide in Older Adults' (2021) 12 *Frontiers in Psychiatry*.

⁹⁷ Verhofstadt M, Thienpont L and Peters G-JY, 'When Unbearable Suffering Incites Psychiatric Patients to Request Euthanasia: Qualitative Study' (2017) 211 *British Journal of Psychiatry* 238.

⁹⁸ Simmons KM, 'Suicide and Death with Dignity' (2018) 5 *Journal of Law and the Biosciences* 436.

⁹⁹ Evenblij K and others, 'Public and Physicians' Support for Euthanasia in People Suffering from Psychiatric Disorders: A Cross-Sectional Survey Study' (2019) 20 *BMC Medical Ethics* 1.

¹⁰⁰ Kim SY, 'Ways of Debating Assisted Suicide and Euthanasia: Implications for Psychiatry' (2021) 64 *Perspectives in Biology and Medicine* 29.

¹⁰¹ Miguel Ricou and Tony Wainwright. "The psychology of euthanasia." *European Psychologist* (2018).

¹⁰² Brouwer, Marije, Christopher Kaczor, Margaret P. Battin, Els Maeckelberghe, John D. Lantos, and Eduard Verhagen. "Should pediatric euthanasia be legalized?" *Pediatrics* 141, no. 2 (2018).

Constitutional principles are often cited in talks on euthanasia, while the specifics differ by state.¹⁰³ State constitutions influence end-of-life and individual rights legislation. State constitutions guide legislators and judges through euthanasia's complicated ethical and legal issues, reflecting each state's beliefs and opinions.

Like the Fourteenth Amendment of the American Constitution, the Due Process Clause is contained in many state constitutions. Individuals are guaranteed a number of substantive and procedural rights under this provision. These clauses have been construed by state courts to include the right to privacy, individual choice, and medical care, including end-of-life decisions.¹⁰⁴ This has been a key justification for euthanasia legalisation and the recognition of the right to a dignified death. The justification for the legalisation of euthanasia and the acknowledgment of the right to a dignified death has been crucially based on these views. State constitutions have established a legal foundation for people to make choices about their own lives, including the ability to seek euthanasia in some situations, by recognising the right to privacy and individual autonomy.¹⁰⁵ The chance to exercise end-of-life decisions in a way that is consistent with their beliefs and unique circumstances is ensured by this constitutional right.

The Equal Protection Clause, which guarantees that everyone is treated equally before the law, is often included in state constitutions.¹⁰⁶ Equal protection arguments have been made in relation to euthanasia, contending that those with terminal illnesses should have the same access to euthanasia or assisted suicide as those who are not.¹⁰⁷ Supporters contend that giving terminally ill people access to such alternatives is discriminatory and infringes on their right to equal protection. State

¹⁰³ Bulmer M, Böhnke JR and Lewis GJ, 'Predicting Moral Sentiment towards Physician-Assisted Suicide: The Role of Religion, Conservatism, Authoritarianism, and Big Five Personality' (2017) 105 *Personality and Individual Differences* 244.

¹⁰⁴ Katrina Hedberg and Craig New, 'Oregon's Death with Dignity Act: 20 Years of Experience to Inform the Debate' (2017) 167 *Annals of Internal Medicine* 579.

¹⁰⁵ Sarah Mroz and others, 'Assisted Dying around the World: A Status Quaestionis' (2021) 10 *Annals of Palliative Medicine* 3540.

¹⁰⁶ Admin, 'Knowing the Equal Protection Clause' (Constitution of United States of America 1789, 10 September 2020) <<https://constitution.laws.com/equal-protection-clause>> accessed 24 June 2023.

¹⁰⁷ Mark Schweda and others, 'Beyond Cultural Stereotyping: Views on End-of-Life Decision Making among Religious and Secular Persons in the USA, Germany, and Israel' (2017) 18 *BMC Medical Ethics* 1–11.

constitutions give states the authority to enact laws governing public welfare, safety, and health. This includes the power to control medical procedures and safeguard those who are vulnerable.¹⁰⁸

Along with other constitutional constraints, such as First, fifth, sixth and fourteenth amendments, the Due Process and Equal Protection Clauses are essential in determining the bounds of state police power. The Due Process Clause makes ensuring that state police uphold people's substantive and procedural rights. It requires fair treatment and conformity to established legal processes, such as disclosing charges, providing counsel, and guaranteeing a fair trial.¹⁰⁹ The Equal Protection Clause demands that the law be implemented equally to all people, regardless of protected traits, and forbids state enforcement from participating in discriminating practises. State police shall act impartially and without discrimination against individuals because of their race, gender, religion, or other protected characteristics.¹¹⁰ The Fourth Amendment also protects people against arbitrary searches and seizures by requiring state police to obtain warrants or have probable cause before carrying out such operations, with certain exceptions. State police are further constrained by the Eighth Amendment's ban on cruel and unusual punishment. It makes certain that state police do not use excessive force or treat people cruelly. Collectively, these constitutional limitations protect people's rights, advance justice, and assure accountability in American of state police power.

State constitutions sometimes include clauses that reserve to the states certain powers that are not granted to the federal government. This indicates that subjects not expressly covered by federal law may be subject to state legislation.¹¹¹ Therefore, within the constraints of their state constitutions, states have the freedom to choose their own euthanasia and end-of-life decision-making laws.

The legal position of euthanasia is significantly shaped by court judgements, notably those made by state Supreme Courts. State courts have made significant rulings on the validity of euthanasia,

¹⁰⁸ Christopher J. Wolfe, 'The Future of Assisted Suicide and Euthanasia' (2017) 17 *The National Catholic Bioethics Quarterly* 357.

¹⁰⁹ K. Pormeister, M. Finley, and J. J. Rohack, 'Physician Assisted Suicide as a Means of Mercy: A Comparative Analysis of the Possible Legal Implications in Europe and the United States' (2017) 24 *Va. J. Soc. Pol'y & L.* 1.

¹¹⁰ John A. Dove and Andrew T. Young, 'US State Constitutional Entrenchment and Default in the 19th Century' (2019) 15 *Journal of Institutional Economics* 963.

¹¹¹ C Gamondi and others, 'Family Caregivers' Reflections on Experiences of Assisted Suicide in Switzerland: A Qualitative Interview Study' (2018) 55 *Journal of Pain and Symptom Management* 1085.

even though the U.S. Supreme Court has not specifically addressed the issue. These decisions, which differed throughout states, had a big impact on the legal system because these state court rulings contribute to the continuing discussion and debate over euthanasia at both the state and federal levels of the substantial influence they have on the legal system. The various verdicts underline how complicated the subject is and how important it is to keep looking into and thinking about the ethical and legal ramifications of euthanasia.¹¹² For instance, in *Washington v. Glucksberg*, the U.S. Supreme Court declared in 1997 that there is no basic constitutional right to physician-assisted death.¹¹³

Although this ruling did not directly address euthanasia, it did establish that each state had the authority to regulate assisted suicide. States are now empowered to choose their position on the matter on their own. State supreme courts have been engaged in interpreting state constitutions and determining the legitimacy of euthanasia or assisted suicide legislation since the *Glucksberg* ruling. State court decisions have been inconsistent, with some maintaining laws that make assisted suicide or euthanasia illegal and others recognising constitutional rights to autonomy and privacy that include making end-of-life decisions.¹¹⁴ For instance, in *Baxter v. Montana (2009)*, the Montana Supreme Court ruled that no provisions of Montana law prevent a doctor from granting a patient's request for assistance in dying. The court found that a terminally ill patient's choice to seek physician-assisted suicide was protected by the rights to privacy and dignity guaranteed by the Montana Constitution.¹¹⁵ This ruling essentially made doctor-assisted suicide lawful in Montana.

Similar to this, the New York Court of Appeals reviewed the legitimacy of the state's prohibition on assisted suicide in the case of *Vacco v. Quill (1997)*.¹¹⁶ The court sustained the restriction

¹¹² Joy Cayetano-Penman, Gulzar Malik and Dawn Whittall, 'Nurses' Perceptions and Attitudes about Euthanasia: A Scoping Review' (2020) 39 *Journal of Holistic Nursing* 66.

¹¹³ Turner, Ronald. "W (h) ither Glucksberg?" *Duke J. Const. L. & Pub. Pol'y* 15 (2020): 183.

¹¹⁴ Gian Domenico Borasio et al., "Regulation of Assisted Suicide Limits the Number of Assisted Deaths," (2019) 393 *The Lancet* 982.

¹¹⁵ Ismael Conejero and others, 'Suicide in Older Adults: Current Perspectives' (2018) Volume 13 *Clinical Interventions in Aging* 691.

¹¹⁶ Cona Nicole, 'Physician Assisted Suicide Legalization in the United States' (DigitalCommons@SHU) <<https://digitalcommons.sacredheart.edu/acadfest/2022/all/111/>> accessed 7 September 2023.

because it served the legitimate state objectives of protecting the weak, preserving life, and avoiding possible abuses.¹¹⁷ The legal system is prone to change when new issues are brought before the courts, and court decisions may differ from state to state. The most recent state court rulings and constitutional interpretations must be consulted in order to fully comprehend the current legal situation of euthanasia in a certain state. Euthanasia's legal position is influenced by state constitutional factors, such as due process, equal protection, state police authority, and reserved authorities.¹¹⁸ State courts have an important role in interpreting these constitutional clauses, and they have made decisions that have had a big impact on the legal framework around assisted suicide and euthanasia.

Challenges and criticisms

Since each state in America is responsible for its own healthcare legislation, these laws essentially decide the legal position of euthanasia in America. On the other hand, the Controlled Substances Act (CSA) stands out as an important federal statute that touches on issues of euthanasia.

Federal statutes, usually referred to as federal laws, are very important in determining how the law is applied in America including the complicated question of euthanasia. Although states are largely responsible for determining the legality of euthanasia, federal laws may also have an impact.¹¹⁹ The Controlled Substances Act (CSA) is a key federal statute that pertains to euthanasia. This law governs the production, sale, and use of pharmaceuticals, particularly those used in palliative care. Federal rules governing healthcare, civil rights, and constitutional principles may potentially be in conflict with discussions of euthanasia and have an influence on the whole legal context around this delicate subject.¹²⁰ The Federal Assisted Suicide Funding Restriction Act (FASAFRA) of 1997, a federal legislation, forbids the use of public money to purchase any products or services that are designed to aid in suicide or euthanasia.¹²¹ This law places limitations on how much money

¹¹⁷ Timothy E. Quill and others, 'Voluntarily Stopping Eating and Drinking among Patients with Serious Advanced Illness—Clinical, Ethical, and Legal Aspects' (2018) 178 JAMA Internal Medicine 123.

¹¹⁸ Monica Verhofstadt, Lieve Thienpont, and Gjalte-Jorn Ygram Peters, 'When Unbearable Suffering Incites Psychiatric Patients to Request Euthanasia: Qualitative Study' (2017) 211 British Journal of Psychiatry 238.

¹¹⁹ Claudia Gamondi and others, 'Family Members' Experiences of Assisted Dying: A Systematic Literature Review with Thematic Synthesis' (2019) 33 Palliative Medicine 1091.

¹²⁰ Stutsman Eli (The Oregon Death With Dignity Act - Elistutsman.com) <https://elistutsman.com/wp-content/uploads/2013/03/Death-with-dignity_final.pdf> accessed 7 September 2023.

¹²¹ (2023) H.R.1003 - 105th congress (1997-1998): Assisted Suicide Funding ... Available at: <<https://www.congress.gov/bill/105th-congress/house-bill/1003>> (Accessed: 01 August 2023).

the government may spend on projects that support or make euthanasia or assisted suicide more widely available.¹²² The legislation limits American government funding for initiatives that could support assisted suicide or euthanasia.

The legal position of euthanasia in America is significantly influenced by constitutional factors. Euthanasia debates have brought up a number of constitutional concepts, including the Due Process Clause, the Equal Protection Clause, and the right to privacy.¹²³ Courts have interpreted the Fourteenth Amendment's Due Process Clause, which declares that 'No State shall deprive any Person of Life, Liberty, or Property, without Due Process of Law,' has been construed in numerous ways by the courts.¹²⁴ The Due Process Clause, as discussed above has played a crucial role in various precedent-setting cases involving individual freedom and end-of-life choices. It acts as a constitutional shield against arbitrary government action.¹²⁵ In *Crusan v. Director, Missouri Department of Health* (1990), the Supreme Court upheld a person's freedom to reject life-supporting medical care. In addition, the Court determined in *Washington v. Glucksberg* (1997) that a constitutional right to medical assistance in dying does not exist. These interpretations highlight the continuing debates and legal complications concerning the confluence of euthanasia-related concerns in America with the Due Process Clause of the Fourteenth Amendment.¹²⁶

It highlights to safeguard a number of basic rights, including the freedom to choose one's own medical treatment.¹²⁷ This has been a key argument in favour of legalising euthanasia since supporters contend that people have a basic right to decide when and how they die. Individuals are

¹²² Liliana De Lima and others, 'International Association for Hospice and Palliative Care Position Statement: Euthanasia and Physician-Assisted Suicide' (2017) 20 *Journal of Palliative Medicine* 8.

¹²³ Jesse H. Choper and Stephen F. Ross, 'The Political Process, Equal Protection and Substantive Due Process' [2017] *SSRN Electronic Journal* 983.

¹²⁴ Barsness G. Joseph, Casey R. Regnier, C. Christopher Hook, and Paul S. Mueller, 'US medical and surgical society position statements on physician-assisted suicide and euthanasia: a review' (2020) 21 *BMC medical ethics* 1-7.

¹²⁵ Zachary Gureasko, 'The Expansion of the "Right to Die": Physician-Assisted Suicide, Concepts of State Autonomy & the Proper Political Process for Legalization' (2017) 1 *Belmont Health LJ* 59.

¹²⁶ Lash, Kurt T. "Enforcing the rights of due process: The original relationship between the Fourteenth amendment and the 1866 Civil Rights Act." (2017) 106 *Geo. LJ* 1389.

¹²⁷ Barbara Pesut and others, 'Nursing and Euthanasia: A Narrative Review of the Nursing Ethics Literature' (2019) 27 *Nursing Ethics* 152.

treated equally by the law according to the Equal Protection Clause of the Fourteenth Amendment. Euthanasia-related equal protection claims have been made, arguing that people with terminal illnesses should have the same right to a dignified death as those without such a condition.¹²⁸

Only a small portion of the euthanasia debate has been explicitly addressed by America Supreme Court. Nevertheless, certain well-known cases have raised relevant questions and established crucial legal concepts. The Supreme Court ruled in *Cruzan v. Director, Missouri Department of Health* (1990)¹²⁹ that people have a constitutional right to reject medical care, including life-sustaining treatment. Despite the fact that the case did not specifically address euthanasia, it did establish the general idea that people had the right to choose their own medical treatment, even if doing so could prolong their death.¹³⁰ In a more recent case, *Washington v. Glucksberg* (1997),¹³¹ the Supreme Court considered whether state legislation that outlawed physician-assisted suicide was constitutional.¹³² The Supreme Court declared that governments have a right to prohibit physician-assisted suicide and that there is no fundamental right to it. It is important to note that Supreme Court decisions on euthanasia have been few and have often left it up to individual states to decide. As a consequence, a number of states have different laws governing euthanasia.¹³³ While some states permit euthanasia or physician-assisted suicide, others consider these actions to be crimes.

The Right to Life: Exploring International and National Human Right Laws in the USA

¹²⁸ Christopher J. Wolfe, 'The Future of Assisted Suicide and Euthanasia' (2017) 17 *The National Catholic Bioethics Quarterly* 357.

¹²⁹ Thomas William Mayo, 'Foreword: Cruzan and the "Right to Die"' (SSRN, 16 May 2022) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4109452> accessed 7 September 2023.

¹³⁰ Michael A. Grodin, Erin L. Miller, and Johnathan I. Kelly, 'The Nazi Physicians as Leaders in Eugenics and "Euthanasia": Lessons for Today' (2018) 108 *American Journal of Public Health* 53.

¹³¹ Ronald. Turner, "W (h) ither Glucksberg?" (2020) 15 *Duke J. Const. L. & Pub. Pol'y* 183.

¹³² Naomi Richards, 'Assisted Suicide as a Remedy for Suffering? The End-of-Life Preferences of British "Suicide Tourists"' (2016) 36 *Medical Anthropology* 348.

¹³³ Raffaella Calati and others, 'Euthanasia and Assisted Suicide in Psychiatric Patients: A Systematic Review of the Literature' (2021) 135 *Journal of Psychiatric Research* 153.

A basic human right recognised and safeguarded by international law is the right to life. Despite the fact that the United States does not have particular legislation that addresses the right to life, it is important to research pertinent international laws and consider how they interact with the USA legal system.¹³⁴ The Universal Declaration of Human Rights (UDHR), ratified by the UN General Assembly in 1948, is one of the main pieces of international legislation that defends the right to life. The UDHR's Article 3 declares that 'everyone has the right to life, liberty, and security of person.'¹³⁵ According to this proclamation, everyone has the intrinsic right to life, regardless of their country, race, or any other status. Although the UDHR is not legally obligatory in the literal sense, it has played a significant role in the worldwide evolution of human rights principles. Subsequent international treaties and conventions, which do have legally enforceable responsibilities for signatory governments, have been impacted by the concepts included in the UDHR.¹³⁶

The International Covenant on Civil and Political Rights (ICCPR), which the USA has ratified, is one such agreement. Article 6 of the ICCPR reiterates the right to life and forbids its arbitrary deprivation. It emphasises that every person has the intrinsic right to life and that this right must be upheld by the law.¹³⁷ The ICCPR offers a framework for protecting the right to life and guaranteeing due process, even while it lays certain limitations on the right to life, such as in instances of self-defence or legal execution. The American Constitution and its amendments serve as the main safeguards and guidelines for the right to life in the country. The Due Process Clause of the Fifth Amendment to the Constitution states that no one may be deprived of their life, liberty, or property without first receiving due process of law.¹³⁸ Article 6 ICCPR has been construed by the Supreme Court to include the right to life, and it has been a deciding factor in important cases involving abortion, the death penalty, and end-of-life choices. For example, the Fifth Amendment's

¹³⁴ Monica Florentina Popa, "The Subversive Effect of Utilitarianism on the Right to Life in EU Countries," (2020) 14 *JL & Admin. Sci.* 77.

¹³⁵ Tom Finegan, "The Right to Life in International Human Rights Law," (2020) 24 *The Heritage Foundation* 24.

¹³⁶ Aljona Laska, 'Euthanasia in the Light of the ECHR, Full Paper' [2016] SSRN Electronic Journal.

¹³⁷ HARSH PATHAK, 'Concept of Right to Life and Its Protection under the Constitution of India' [2019] *Revista de Drept Constituțional* 55.

¹³⁸ Siegan, Bernard H. 'Economic liberties and the constitution' (2nd Ed Routledge, 2017).

Due Process Clause has played a crucial role in decisions affecting the American right to life. The United States Supreme Court's decision acknowledged a woman's right to choose abortion in *Roe v. Wade* (1973)¹³⁹ as part of the right to privacy guaranteed by due process.¹⁴⁰ In instances involving the death sentence, the United States Supreme Court has evaluated the execution process to make sure it complies with the Eighth Amendment's prohibition on cruel and unusual punishment. A person's freedom to decline life-sustaining treatment was supported by the United States Supreme Court's in *Cruzan v. Director, Missouri Department of Health* (1990),¹⁴¹ but physician-assisted suicide was not constitutionally protected in *Washington v. Glucksberg* (1997).¹⁴²

It is also crucial to remember that each state in the USA has its own laws and rules that cover certain parts of the right to life. State laws regulating abortion rights, for instance, differ from one another, reflecting the continuous controversy over the protection of unborn children's lives.¹⁴³ Additionally, different jurisdictions have different rules on the use of force in self-defence and other life-saving situations. The ICCPR has assisted states to comply with global right-to-life standards. The ICCPR sets standards, but each state enforces its own laws. States have interpreted and executed abortion rights laws according to their respective viewpoints and social conventions, protecting unborn infants to different degrees.¹⁴⁴ States have also passed legislation on self-defence

¹³⁹ I. Glenn Cohen, Murray M and Gostin LO, 'The End of *Roe v Wade* and New Legal Frontiers on the Constitutional Right to Abortion' (2022) 328 JAMA 325.

¹⁴⁰ Glenn I. Cohen, Adashi EY and Gostin LO, 'The Supreme Court, the Texas Abortion Law (SB8), and the Beginning of the End of *Roe v Wade*?' (2021) 326 JAMA 1473.

¹⁴¹ Thomas William Mayo, 'Foreword: *Cruzan* and the "Right to Die"' (SSRN, 16 May 2022) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4109452> accessed 7 September 2023.

¹⁴² Cona Nicole, 'Physician Assisted Suicide Legalization in the United States' (DigitalCommons@SHU) <<https://digitalcommons.sacredheart.edu/acadfest/2022/all/111/>> accessed 7 September 2023.

¹⁴³ Anjana A. Karumathil and Ritu Tripathi, 'Culture and Attitudes towards Euthanasia: An Integrative Review' (2020) 86 OMEGA - Journal of Death and Dying 688.

¹⁴⁴ Dražan Djukić, "The Iccpr," in *The Right to Appeal in International Criminal Law* (Brill Nijhoff, 2019) 28.

and life-saving force, reflecting regional perspectives on how to balance individual rights and public safety while upholding the ICCPR's essential ideals.¹⁴⁵

Two cases of legislation in the United States that safeguard the lives of unborn infants demonstrate the differences between each state:

The Supreme Court's 1973 *Roe v. Wade*¹⁴⁶ decision established the constitutional right to an abortion. It was decided that governments could not stifle a woman's option to undergo an abortion during the first trimester.¹⁴⁷ States do, however, have the power to control or outlaw abortion in the second and third trimesters, with the exception of situations when it is required to save the mother's life or health. This decision has been the subject of continuing discussions, with some states passing legislation with further restrictions such as ones requiring longer waiting periods or stricter rules for abortion providers while others have attempted to safeguard a woman's right to a safe, legal abortion.¹⁴⁸

Planned Parenthood v. Casey: In this 1992 case, the Supreme Court once again considered the topic of abortion.¹⁴⁹ The Court amended the legal test for determining whether abortion restrictions are constitutional while upholding the fundamental conclusion of *Roe v. Wade*. The 'undue burden' test was established by the Supreme Court, allowing states to regulate abortion so long as such laws do not place an 'undue burden' on a woman's freedom to make her own decisions.¹⁵⁰ This norm has given states considerable discretion to adopt rules, resulting in differences in state

¹⁴⁵ Cona Nicole, 'Physician Assisted Suicide Legalization in the United States' (DigitalCommons@SHU) <<https://digitalcommons.sacredheart.edu/acadfest/2022/all/111/>> accessed 7 September 2023.

¹⁴⁶ Janice Hopkins Tanne, "US Supreme Court Ends Constitutional Right to Abortion" (British Medical Journal Publishing Group, 2022).

¹⁴⁷ Jordyn Silverstein and Katherine Van Loon, 'The Implications of the Supreme Court Decision to Overturn *Roe v. Wade* for Women with Pregnancy-Associated Cancers' (2022) 8 JAMA Oncology 1394.

¹⁴⁸ Mary Ziegler, 'The End of *Roe v. Wade*' (2022) 22 The American Journal of Bioethics 16.

¹⁴⁹ Paul Benjamin Linton and Maura K. Quinlan, "Does *Stare Decisis* Preclude Reconsideration of *Roe v. Wade*? A Critique of *Planned Parenthood v. Casey*," (2019) 70 Case W. Res. L. Rev. 283.

¹⁵⁰ Macarena Saez, "Commentary on *Planned Parenthood of Pennsylvania V. Casey*," *Feminist Judgments: Rewritten Opinions of the United States Supreme Court* (Kathryn M. Stanchi, Linda L. Berger and Bridget J. Crawford, Eds. 2016).

legislation. While some states have put less limits on abortion access, others have imposed harsher laws, such as obligatory counselling, waiting periods, or ultrasound requirements.

Human rights treaties affect American euthanasia legislation. The UDHR and ICCPR protect life and dignity, and these tools have helped the USA draft euthanasia laws that consider morality, protect vulnerable persons, and respect personal liberty.¹⁵¹ The American Convention on Human Rights (ACHR) and other regional human rights accords also shape USA end-of-life policy.¹⁵² These international instruments encourage universal human rights-based euthanasia discussions.¹⁵³

Critically Analysing the Complexities of Euthanasia in the USA

Euthanasia for people is generally prohibited in America. It is prohibited in all 50 states and the District of Columbia of America. Euthanasia is more often carried out on sick or wounded animals.¹⁵⁴ As of June 2021, Oregon, Washington D.C., Hawaii, Washington, Maine, Colorado, New Jersey, California, and Vermont are the only states that permit this practice.¹⁵⁵ Euthanasia is now prohibited in each of the 50 states of America as of 2023.¹⁵⁶ Ten USA states in addition to Washington, D.C. have legalised assisted suicide. These states are California, Colorado, Oregon, Vermont, New Mexico, Maine, New Jersey, Hawaii, and Washington.¹⁵⁷

¹⁵¹ Libal, Kathryn R., and Scott Harding. *Human rights-based community practice in the United States*. (Cham: Springer International Publishing, 2015).

¹⁵² De Pauw, Marijke, Bridget Sleaf, Nena Georgantzi, and Israel Doron. "Ageism and age discrimination in international human rights law." [2018] *Ageing, Ageism and the Law* 174.

¹⁵³ Rodley, Nigel S. "Integrity of the Person." (2018) 3 *International Human Rights Law* 177.

¹⁵⁴ John Keown, *Euthanasia, Ethics and Public Policy: An Argument against Legalisation* (Cambridge University Press, 2018).

¹⁵⁵ *Euthanasia* (2023) *Legal Information Institute*. Available at: <https://www.law.cornell.edu/wex/euthanasia#:~:text=Euthanasia%20is%20more%20commonly%20performed,Jersey%2C%20California%2C%20and%20Vermont>. (Accessed: 12 June 2023).

¹⁵⁶ Ezekiel J. Emanuel and others, 'Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe' (2016) 316 *JAMA* 79.

¹⁵⁷ Peter Robinson, 'Euthanasia and Afterlife Beliefs' [2023] *How Gay Men Prepare for Death* 87.

Both voluntary and involuntary euthanasia are possible examine in detail. In voluntary circumstances, the individual gives their agreement to have their life taken. In a non-voluntary situation, the individual is unable to provide permission, hence a guardian must make the choice. When euthanasia is carried out voluntarily. Currently, Australia, Belgium, Canada, Colombia, Luxembourg, The Netherlands, Spain, Switzerland, and New Zealand all permit voluntary euthanasia. Oregon, Washington D.C., Hawaii, Washington, Maine, Colorado, New Jersey, California, and Vermont are more U.S. states where it is legal. Non-voluntary: When euthanasia is performed on a person who is unable of giving permission because of their present state of health.¹⁵⁸

In this case, another suitable person makes the choice on the person's behalf based on their quality of life. When euthanasia is carried out on a person who is capable of giving informed permission but does not, either because they do not want to die or because they were not asked, it is known as involuntary euthanasia. Since it often occurs against the victim's will, this is known as murder.

This chapter has identified that there are four basic types of state euthanasia legislation:

A) **Legalisation of Euthanasia:** Euthanasia is now legally permitted in a number of states, including Oregon, Washington, Vermont, California, Colorado, Hawaii, Maine, New Jersey, and New Mexico.¹⁵⁹ These rules often demand that certain safeguards and standards be followed in order to guarantee that choices are well-informed and voluntary. For instance, the 1997 Oregon Death with Dignity Act permits terminally ill patients to seek and receive fatal medications from their physicians as long as they satisfy specific requirements.¹⁶⁰

B) **Legalisation of Assisted Suicide:** Nine states have made it lawful for doctors to help terminally ill individuals end their lives by prescribing medicine that can be self-administered.¹⁶¹ States with

¹⁵⁸ John Keown, *Euthanasia, Ethics and Public Policy: An Argument against Legalisation* (Cambridge University Press, 2018).

¹⁵⁹ Charles L. Sprung et al., "Physician-Assisted Suicide and Euthanasia: Emerging Issues from a Global Perspective," (2018) 33 *Journal of Palliative Care*, 203.

¹⁶⁰ Susan M. Wolf, "Gender, Feminism, and Death: Physician-Assisted Suicide and Euthanasia," in *Applied Ethics* (Routledge, 2017) 77.

¹⁶¹ Barsness, et al., "US medical and surgical society position statements on physician-assisted suicide and euthanasia: a review." (2020) 7 *BMC medical ethics*, 21.

precise eligibility restrictions and procedural procedures, including Washington, Vermont, California, Colorado, Montana (through a court ruling), Hawaii, New Jersey, Maine, and the District of Columbia, have legalised physician-assisted suicide.

C) Criminalisation of Euthanasia and Assisted Suicide: States around America have outlawed euthanasia and assisted suicide. To intentionally cause or aid in the death of another person is illegal in those states. For instance, euthanasia and assisted suicide are both prohibited in the states of New York, Massachusetts, and Michigan. The state's criminal code in New York classifies assisted suicide as a crime and imposes punishments for those who aid in the suicide of another person. Both assisted suicide and euthanasia are illegal in Massachusetts because they are seen as manslaughter and are thus crimes. In Michigan, assisted suicide is against the law and is a criminal.¹⁶²

D) Regulatory Frameworks: In order to protect vulnerable individuals and to promote patient autonomy and informed consent on end-of-life decisions, a number of states, including Oregon, Washington, Vermont, California, Colorado, and New Mexico, have passed laws.¹⁶³ These state governments have put into effect legislation that specifies procedures and guiding ideals for choosing an end-of-life option. The goal is to give appropriate protections while respecting human liberty and laying forth clear standards for people dealing with complex medical conditions.¹⁶⁴ These states have chosen to take a regulatory approach, enacting rules and legislation that specify the procedures and principles for making end-of-life decisions. These laws often emphasise protecting vulnerable people and promoting patient autonomy and informed consent.¹⁶⁵ For instance, the Palliative Use of Marijuana Act, passed by Connecticut, permits America to medicinal marijuana in end-of-life treatment.

¹⁶² Benjamin Shibata, 'An Ethical Analysis of Euthanasia and Physician-Assisted Suicide: Rejecting Euthanasia and Accepting Physician Assisted Suicide with Palliative Care' (2017) 37 *Journal of Legal Medicine* 155.

¹⁶³ Hetzler III, Peter T., James Nie, Amanda Zhou, and Lydia S. Dugdale. "Focus: Death: A Report of Physicians' Beliefs about Physician-Assisted Suicide: A National Study." (2019) 92 *The Yale journal of biology and medicine* 575.

¹⁶⁴ Alan. Meisel "A history of the law of assisted dying in the United States." (2020) 73 *SMU L. Rev.* 119.

¹⁶⁵ Susan M. Wolf "Gender, feminism, and death: Physician-assisted suicide and euthanasia." In *Applied Ethics* (Routledge, 2017) 462.

It is crucial to remember that laws may be changed or new legislation can be passed, which might alter the legal framework around euthanasia since laws governing euthanasia are subject to alter throughout time for a variety of reasons. One explanation is that society's viewpoints and attitudes about euthanasia and end-of-life decisions may change. The legislative environment may be affected by public opinion, scientific discoveries, moral concerns, and advocacy activities.

In addition, court challenges to the euthanasia legal frameworks may occur. Existing laws may be shaped or reinterpreted by courts, which may result in modifications to how they are applied or even the elimination of certain sections.¹⁶⁶ For accurate and complete information on the legal status of euthanasia in each state, it is advised to check current sources, investigate particular state legislation, and look into recent changes.

Conclusion

In conclusion, the legal framework surrounding assisted suicide in America is complex and prone to change at both the federal and state levels. Although euthanasia is not specifically addressed by federal law, state laws, court rulings, and constitutional issues have a significant impact on how it is regulated. The U.S. Supreme Court has upheld state restrictions that make euthanasia unlawful while simultaneously recognising the relevance of human liberty and privacy in end-of-life decisions. This decision affirms the states' right to control assisted suicide and euthanasia legislation. Both proponents and opponents of euthanasia have used constitutional protections such the right to privacy, the equal protection clause, and the due process clause to support their claims. State euthanasia laws vary widely in the America, from outright bans to decriminalisation or regulation of assisted suicide and euthanasia. Good State courts, which have different views of the rights to privacy and personal autonomy, are vital in interpreting state constitutions and determining whether euthanasia legislation is lawful. While some courts have supported limits based on the state's interest in protecting life and avoiding possible abuses, other courts have affirmed a wide right to personal liberty. The emphasis of the next chapter, Chapter 4, will be on the United Kingdom which examines significant case law that has influenced the nation's legal framework concerning euthanasia. Landmark case laws like Tony Nicklinson, Debbie Purdy,

¹⁶⁶ Dan Emanuel, Ezekiel J., Bregje D. Onwuteaka-Philipsen, John W. Urwin, and Joachim Cohen. "Attitudes and practices of euthanasia and physician-assisted suicide in the United States, Canada, and Europe." (2016) 316 *Jama* 79.

and Noel Conway, which have sparked important discussions regarding assisted suicide law and the right to die will be discussed in the next chapter. As well as challenging UK laws and practises, some cases have prompted fervent public discussions.

CHAPTER 4

Examination of Key Euthanasia Cases in The United Kingdom: A Comprehensive Analysis

Introduction

The critical examination of notable euthanasia cases in the United Kingdom is the focus of Chapter 4, which also discusses the complicated moral and legal issues surrounding assisted suicide and the right to die. Examined in this chapter are the cases of Tony Nicklinson which established the right to die and considered the legal issues surrounding assisted dying, along with the cases of Noel Conway¹⁶⁷ and Debbie Purdy¹⁶⁸, which both contributed to the current discourse about euthanasia in the UK.

Tony Nicklinson: Establishing the Right to Die

The landmark legal proceedings in the Tony Nicklinson case before the UK Supreme Court in 2014 marked a significant turning point in the prolonged discussions over the legal restrictions on assisted suicide and the inalienable right to decide when to end one's own life.¹⁶⁹ The issue concerned people's rights to request assistance in taking their own lives if individual's had terminal diseases or significant physical limitations.¹⁷⁰ The basis of the case was Tony Nicklinson's personal battle, a man who had a severe stroke and was left paralysed from the neck down. After the stroke, he developed locked-in syndrome, a disorder that causes a total lack of voluntary movement while

¹⁶⁷ Hobson, Clark, and Nataly Papadopoulou. "Regulating Risk and Autonomy in Assisted Suicide: Conway V Secretary of State for Justice." (2021) 29 Medical Law Review 142.

R (Conway) v Secretary of State for Justice [2018] EWCA Civ 1431 and R (Purdy) v DPP [2009] UKHL 45.

¹⁶⁸ Claudia Carr, 'Debbie Purdy, Her Contribution to the Law on Assisted Suicide, the Present and the Future' (University of Hertfordshire (Research Profiles), 11 May 2015) <[https://researchprofiles.herts.ac.uk/en/publications/debbie-purdy-her-contribution-to-the-law-on-assisted-suicide-the-
>](https://researchprofiles.herts.ac.uk/en/publications/debbie-purdy-her-contribution-to-the-law-on-assisted-suicide-the-); accessed 8 September 2023.

¹⁶⁹ Elizabeth Wicks, 'The Supreme Court Judgment in Nicklinson: One Step Forward on Assisted Dying; Two Steps Back on Human Rights: A Commentary on the Supreme Court Judgment in R (Nicklinson) v Ministry of Justice; R (AM) v Director of Public Prosecutions [2014] UKSC 38' (2015) 23Medical Law Review 144.

¹⁷⁰ Papadopoulou, Nataly. "From Pretty to Nicklinson: Changing judicial attitudes to assisted dying." (2017) 3 European Human Rights Law Review 298.

retaining full cognitive function. Nicklinson wished to be allowed to pass away with dignity since he was trapped within his own body and endured intolerable anguish.¹⁷¹

The Suicide Act of 1961 defines assisted suicide as a crime in the United Kingdom. The statute makes it illegal to encourage, advise, or facilitate suicide. Nicklinson and his legal team argued that this legislation violated his rights under the European Convention on Human Rights (ECHR), particularly Article 8, which provides the right to respect for private and family life.¹⁷² The situation brought up significant moral, legal, and ethical issues. On the one hand, advocates for assisted dying said that people with terminal illnesses like Nicklinson should have the freedom to decide when and how to pass away in order to preserve their autonomy and dignity.¹⁷³ It was claimed that the ban on assisted suicide violated the basic tenets of individual freedom and human rights.

Opponents of assisted suicide voiced worries about the sanctity of life and the possibility of misuse on the opposite side of the issue. The opinion was held that legalising assisted suicide may create a dangerous downward spiral wherein weak people would be forced to take their own lives against their choice.¹⁷⁴ It also emphasised the value of palliative care and assistance for those dealing with end-of-life issues. Before the Supreme Court heard the matter, it was heard in lower courts. The Supreme Court has difficult legal and ethical issues to consider while making its decisions. It was necessary to strike a balance between the need for the state to safeguard the sanctity of life and the right of every person to their own personal liberty and self-determination.¹⁷⁵ The Court was entrusted with deciding whether the ban on assisted suicide was an appropriate restraint on the

¹⁷¹ Nataly Papadopoulou and Clark Hobson, ‘The Omid Litigation: Should Courts Hear Oral Evidence When Determining the Proportionality of Section 2 (1) of the Suicide Act 1961?’ (2022) 30 Medical Law Review 348.

¹⁷² Clark Hobson and Nataly Papadopoulou, ‘Regulating Risk and Autonomy in Assisted Suicide: Conway V Secretary of State for Justice’(2021) 29 Medical Law Review 128.

¹⁷³ Lisa Claydon, ‘Should There Be a Right to Die with Dignity in Certain Medical Cases in the United Kingdom? Some Reflections on the Decision of the United Kingdom Supreme Court Regarding the Protection Afforded by Article 8 of the European Convention for the Protection of Human Rights’ (2015) 19 Jahrbuch Für Wissenschaft Und Ethik 91.

¹⁷⁴ *ibid.*, Note 46.

¹⁷⁵ Clark Hobson and Nataly Papadopoulou, ‘Regulating Risk and Autonomy in Assisted Suicide: Conway V Secretary of State for Justice’(2021) 29 Medical Law Review 128.

rights protected by the ECHR 1940. By a vote of seven to two, the Supreme Court ultimately rejected Nicklinson's argument.¹⁷⁶ According to the Court, Parliament should craft any law allowing for assisted suicide, not the courts. It concluded that the existing legal framework adequately balanced the interests of individuals with those of the larger public.¹⁷⁷

Despite there being no change in the legislation as a consequence of the case, it had a significant influence on how people talk about end-of-life decisions. As a result, there have been more in-depth conversations about the moral, legal, and ethical implications of the right to die. It brought the subject of assisted dying to the fore of public awareness.¹⁷⁸

In Tony Nicklinson's case, the ethical and legal issues surrounding assisted suicide and the right to die were directly addressed. Although upsetting for those calling for a reform in the legislation, the court's decision was not wholly unexpected.¹⁷⁹ The court emphasised the legislative function of Parliament in situations that could have wider ramifications for public policy, underscoring the judiciary's unwillingness to interfere. The conflict between individual autonomy and the state's responsibility to protect those who are vulnerable was a crucial element of the case. Nicklinson's indescribable anguish and decline in quality of life were the causes of his wish to terminate his life with assistance.¹⁸⁰

On the other side, those who are against assisted suicide have real worries about abuse, compulsion, and the 'slippery slope' theory. It has been stated that making assisted suicide legal might endanger the lives of people who are already at risk, especially those who are disabled or have terminal diseases and may feel forced to choose death over life because of cultural norms or

¹⁷⁶ John Coggon, 'Lord Sumption and the Values of Life, Liberty and Security: Before and since the COVID-19 Outbreak' (2022) 48 *Journal of Medical Ethics* 779.

¹⁷⁷ Jo Eric Khushal Murkens, 'Judicious Review: The Constitutional Practice of the UK Supreme Court' (2018) 77 *The Cambridge Law Journal* 349.

¹⁷⁸ Clark Hobson, 'Is It Now Institutionally Appropriate for the Courts to Consider Whether the Assisted Dying Ban Is Human Rights Compatible? *Conway v Secretary of State for Justice*' (2018) 26 *Medical Law Review* 514.

¹⁷⁹ Govert Den Hartogh, 'Two Kinds of Physician-Assisted Death' (2017) 31 *Bioethics* 666.

¹⁸⁰ Nataly Papadopoulou "From Pretty to Nicklinson: changing judicial attitudes to assisted dying." (2017) 3 *European Human Rights Law Review* 298.

insufficient support networks.¹⁸¹ While deferring to Parliament, the Court's decision also underscored the need for more thought and future legislative revision. The judiciary justices agreed that the topic of assisted suicide demanded a careful and thoughtful approach since it was so sensitive and important.¹⁸² The Court left open the prospect of future reform by stating that Parliament can examine the issue and perhaps develop a legislative framework for assisted death.

Debbie Purdy: Challenging Assisted Suicide Laws

The legal position on assisted suicide was again in the public eye a few years after the Pretty case. The DPP made his decision not to file charges against Daniel James, a 23-year-old rugby player who had used the help of his family and friends to take his life after being rendered permanently paraplegic in a training accident, public in December 2008. James's parents had assisted him in traveling to a Swiss facility for euthanasia.¹⁸³ The DPP made the unusual move of publicising the factors that had influenced his decision not to press charges in this specific instance. There were things like the fact that James had the full mental ability and that his parents had resisted his desire to die rather than supported it, which deeply upset them before his family ultimately gave in and helped him.¹⁸⁴

Debbie Purdy had multiple sclerosis, a disease marked by the slow and permanent degeneration of the neurological system. This illness is progressive in nature, meaning it worsens over time, and currently lacks a cure. She, like Diane Pretty, foresaw a moment when her life would no longer be bearable and asked the High Court to rule that her husband, Mr. Puente, would not be prosecuted under the Suicide Act if he travelled with her to a suicide facility overseas.¹⁸⁵ After the High Court rejected the request, Purdy appealed the decision to the Court of Appeal using the same arguments

¹⁸¹ Clark Hobson, 'Assisted Dying Challenges: Dynamic and Stasis in the UK Courts: Conway v. Secretary of State for Justice' (2018) 18 *Medical Law International* 256.

¹⁸² Nikola Dacev, 'Assisted Suicide—Legal Aspects and Ethical Dilemma' (2020):32, *Knowledge-International Journal* 38, No. 5.

¹⁸³ Naomi. Richards "Dying to go to court: demanding a legal remedy to end-of-life uncertainty." [2015] *The clinic and the court: law, medicine and anthropology* 214.

¹⁸⁴ M. A. Ashby, 'Sperling, Daniel. 2019. *Suicide Tourism*. Oxford and New York: Oxford University Press. ISBN 978-0-19-882545-6' (Springer, 2022).

¹⁸⁵ Carr, Claudia. "The Assisted Dying (No2) Bill 2015, a missed opportunity?" [2016] *Student Law Review*.

as Diane Pretty. The Court of Appeal disagreed with the ruling of the European Court of Human Rights and did not acknowledge that the statute prohibiting assisted suicide impaired Purdy's right under Article 8 (right to respect for private and family life). The Court's capacity to reach that conclusion was constrained by its sense of obligation to a prior House of Lords decision, moreover; the Court of Appeal refused to declare that Purdy's Article 8 right was engaged by the legislative ban on assisted suicide, determining it was constrained by the previous House of Lords decision.¹⁸⁶ Purdy's attorney also asserted that the ban was illegal because there was insufficient fair warning of the consequences of aiding suicide due to the DPP's refusal to specify his position on prosecuting section 2(1) offenders in compassionate assistance cases. This dismissed by the Court of Appeal.¹⁸⁷

According to Lord Chief Justice of England and Wales, held that the argument was flawed on the basis that section 2(1) of the Suicide Act 1961 definition of culpability was manifestly evident, and because of this, Purdy was not asking for legal clarity; instead, she wanted assurances regarding how prosecutorial discretion would be used in her husband's case.¹⁸⁸ Although the Court sympathised with the couple's 'dreadful predicament,' it rejected the claim that the DPP's reluctance to grant Mr. Puente immunity from prosecution violated legal norms of foreseeability. Purdy appealed to the House of Lords after failing in the Court of Appeal.

The House of Lords followed the Strasbourg decision, departing from its earlier ruling in *Pretty*, and upheld Purdy's argument that the general ban on assisted suicide violated her Article 8 rights to her private and family life.¹⁸⁹ The Strasbourg judgement refers to rulings handed down by the European Court of Human Rights (ECtHR), a tribunal set up in accordance with the European Convention on Human Rights. It makes decisions in matters that governments and people bring up against alleged infringement of the rights and liberties guaranteed by the Convention. For the

¹⁸⁶ "R (Purdy) v DPP [2009] UKHL 45." R (Purdy) v DPP [2009] UKHL 45 - Mental Health Law Online. Accessed August 22, 2023. [https://www.mentalhealthlaw.co.uk/R_\(Purdy\)_v_DPP_\(2009\)_UKHL_45](https://www.mentalhealthlaw.co.uk/R_(Purdy)_v_DPP_(2009)_UKHL_45).

¹⁸⁷ Emily Jackson, 'Legalized Assisted Dying: Cross Purposes and Unintended Consequences' (2018) 41 Dalhousie LJ 59.

¹⁸⁸ Nicholas Cowdery "Hot topic: Will we legalise euthanasia?" (2017) 34 LSJ: Law Society of NSW Journal 26.

¹⁸⁹ Naomi Richards, 'Euthanasia and Policy — Choosing When to Die' [2016] Death and Social Policy in Challenging Times 53.

Council of Europe's member nations, these judgements are significant legally.¹⁹⁰ The European Court of Human Rights had concluded that since the prohibition on assisted suicide fulfilled social needs, the state was not required to approve it.¹⁹¹ Additionally, Article 8 (privacy) was not breached.¹⁹² The court's ruling reaffirmed the UK's position on assisted suicide at the time. The House of Lords also unanimously held that the DPP had a duty to issue official guidelines on the prosecution of section 2(1) offenders.¹⁹³ Lord Hope, who delivered the main judgment, made it clear that he preferred the ECtHR's perspective in *Pretty*, which acknowledged that the right to a private life and self-determination included the freedom from being forced to linger on in old age or in states of advanced physical or mental decrepitude which conflict with strongly held ideas of self and personal identity.¹⁹⁴ In line with Article 8(2) of the Convention, the Lords had to next decide whether the interference with the Article 8 right was 'in accordance with law' by being 'necessary in a democratic society.'¹⁹⁵ The Court's determination that the DPP needed to formalise his policy was largely based on its assessment of what was necessary for compliance with Article 8(2).¹⁹⁶ According to Lord Hope, the Convention principle of legality requires that regulations be sufficiently clear, understandable, and predictable to those who may be impacted by them because the s.2(1) violation violated a Convention right, Ms. Purdy was entitled to assume a high level of

¹⁹⁰ Graham, Lewis. "Taking Strasbourg jurisprudence into account." [2022] *European Human Rights Law Review*.

¹⁹¹ "R (Purdy) v DPP [2009] UKHL 45." R (Purdy) v DPP [2009] UKHL 45 - Mental Health Law Online. Accessed August 22, 2023. [https://www.mentalhealthlaw.co.uk/R_\(Purdy\)_v_DPP_\(2009\)_UKHL_45](https://www.mentalhealthlaw.co.uk/R_(Purdy)_v_DPP_(2009)_UKHL_45).

¹⁹² Andreas Fontalis, Efthymia Prousalis, and Kunal Kulkarni. "Euthanasia and assisted dying: what is the current position and what are the key arguments informing the debate?" (2018) 111 *Journal of the Royal Society of Medicine* 407.

¹⁹³ Simion, Mihaela. "Euthanasia, Pros and Cons in the Jurisprudence of the European Court of Human Rights." (2019) 2 *Fiat Iustitia* 172.

¹⁹⁴ Hazel Biggs, 'From Dispassionate Law to Compassionate Outcomes in Health-Care Law, or Not' (2017) 13 *International Journal of Law in Context* 172.

¹⁹⁵ Claudia Carr, 'Debbie Purdy, Her Contribution to the Law on Assisted Suicide, the Present and the Future' (University of Hertfordshire (Research Profiles), 11 May 2015) < [https://researchprofiles.herts.ac.uk/en/publications/debbie-purdy-her-contribution-to-the-law-on-assisted-suicide-the-;](https://researchprofiles.herts.ac.uk/en/publications/debbie-purdy-her-contribution-to-the-law-on-assisted-suicide-the-) accessed 8 September 2023.

¹⁹⁶ Elizabeth Wicks "Dying with conscience: The potential application of Article 9 ECHR to Assisted Dying." In *Regulating the End of Life*, (Routledge, 2021)142.

confidence about the repercussions of breaching the law.¹⁹⁷ As a result, it was necessary to 'establish with sufficient clarity in the legislation the extent of any such discretion granted upon the relevant authorities and the way in which such discretion should be exercised.'¹⁹⁸ In principle, Lord Hope contended that prosecutorial discretion involving a Convention right must meet the same requirements of predictability and clarity demanded of any statute violating that right.¹⁹⁹

The only issue that remained was whether the DPP's policy as it stood gave Debbie Purdy and her husband sufficient advice to pass the Convention's legality test.²⁰⁰ The response was that it did not. The Code for Crown Prosecutors, a codified code that outlines basic guiding principles for prosecutors in the exercise of their discretion, was the subject of this section of the argument. The DPP contended that the instructions provided in the code were adequate to satisfy the relevant requirements of clarity and predictability.²⁰¹ The judges disagreed. They stated that since the code was vague and applicable to all crimes, it did not provide enough information on the possibility of prosecution for the particular offence of helping suicide, which would need a description of the variables likely to be taken into account by prosecutors.²⁰² The Daniel James ruling was used as an example in this regard.²⁰³ The fact that the DPP released a public policy statement outlining his reasoning for choosing not to charge James's helpers was seen as evidence that the broad Code

¹⁹⁷ Papadopoulou, Nataly. "Dying with Assistance: The Call for an Inquiry, the Power of a declaration, the role of evidence." (2022) 30 *Medical Law Review* 81.

¹⁹⁸ Hazel Biggs "From dispassionate law to compassionate outcomes in health-care law, or not." (2017) 13 *International Journal of Law in Context* 172.

¹⁹⁹ Margaret Brazier and Emma Cave, 'Doctors' Responsibilities: Patients' Rights', in *Medicine, Patients and the Law* (Sixth Edition) (Manchester University Press, 2020) 31.

²⁰⁰ James E. Hurford "Crossing the Natural Frontier: Has Assisted Dying Been De Facto Decriminalised in the UK?" (2020) 25 *Judicial review* 197.

²⁰¹ Sophie Brannan, Ruth Campbell, Martin Davies, Veronica English, Rebecca Mussell, and Julian C. Sheather. "Ethics briefings." (2015) 41 *Journal of medical ethics* 573.

²⁰² Naomi Richards, "Dying to go to court: demanding a legal remedy to end-of-life uncertainty." [2015] *The clinic and the court: law, medicine and anthropology* 214.

²⁰³ Charles Foster "Suicide tourism may change attitudes to assisted suicide, but not through the courts." (2015) 41 *Journal of Medical Ethics* 620.

was insufficient for providing direction that may justify case-specific judgements.²⁰⁴ Finally, it was decided that the DPP had to ‘promulgate an offence-specific policy’ outlining the factors that favour and hinder the prosecution of anyone who aid in or promote suicide.²⁰⁵

Noel Conway: Exploring the Right to Assisted Dying

When given a prognosis of six months or less to live, the claimant, who was terminally sick due to having motor neurone disease, requested the ability to terminate his life with the help of a medical practitioner.²⁰⁶ To encourage or aid another person in committing suicide or trying at suicide is illegal, according to Section 2 of the Suicide Act of 1961, as modified. On the grounds that Section 2 of the 1961 Act was incompatible with the right to respect for individual’s private life, which is protected by Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the claimant sought judicial review through a declaration of incompatibility under Section 4 of the Human Rights Act of 1998.²⁰⁷ The ban in section 2 was said to have interfered with the claimant's right to respect for his private life under Article 8.1.²⁰⁸ When dismissing the claim, the Divisional Court of the Queen's Bench Division stated that legitimate goals of Section 2 included protecting not only the weak and vulnerable but also the sanctity of life and fostering patient-doctor trust and that there was a rational connection between the section's prohibition and all of those legitimate goals.²⁰⁹ The court also stated that the prohibition struck a fair balance between the interests of the weak and vulnerable and those of the patient. A claimant

²⁰⁴ James E. Hurford "Crossing the Natural Frontier: Has Assisted Dying Been De Facto Decriminalised in the UK?" (2020) 25 *Judicial review* 197.

²⁰⁵ Chris Hanretty ‘A court of specialists: Judicial behavior on the UK Supreme Court’ (Oxford University Press, USA, 2020).

²⁰⁶ Clark Hobson, and Nataly Papadopoulou. "Regulating Risk and Autonomy in Assisted Suicide: Conway V Secretary of State for Justice." (2021) 29 *Medical Law Review* 128.

²⁰⁷ Nataly Papadopoulou, ‘Time for a Change? Legalising Assisted Dying in the UK’ [2017] *Frontier* 19.

²⁰⁸ Jonathan Romain and George Carey, ‘There Is Nothing Holy about Agony: Religious People and Leaders Support Assisted Dying Too’ [2021] *BMJ*

²⁰⁹ Schabas, William. *The European convention on human rights: a commentary.* (Oxford Commentaries on Interna, 2015).

filed an appeal. In response to the call, Humanists UK, Care Not Killing, and Not Dead Yet UK intervened.²¹⁰

The appeal was dismissed, on the basis that the issue at hand was whether the complete outlawing of assisted suicide under s.2 of the Suicide Act 1961, as amended, was both necessary and proportionate, taking into account the evidence in front of the court as well as the standards and safeguards outlined in the claimant's alternative statutory scheme.²¹¹ A decision to allow assisted suicide raised significant moral and ethical issues on which society was divided and many people held passionate but opposing views. The legitimate aim of the protection of weak and vulnerable people, as defined by Article 8.2 of the ECHR was a critical issue in evaluating the suitability and effectiveness of the proposed scheme.²¹² Despite the extensive evidence presented supporting the validity of the substantive criteria in the scheme, it was debatable whether it was possible to predict death within six months with any degree of certainty.²¹³ However, it was obvious that there would inevitably be some element of risk involved in determining whether an applicant had satisfied the scheme's requirements. The court's inability to accurately determine the exact level of that danger was underlined by the fact that the evidence was limited to what the parties choose to provide.²¹⁴ Although the court applied established common law or statutory principles to new circumstances to determine what was in a person's best interests, there was one common law right that the court dealt with in cases involving the withdrawal of treatment, namely the absolute right to refuse or terminate medical treatment where the legislature had not intervened so that there was no choice but to address difficult moral, ethical, and social considerations in order to reach a decision.²¹⁵

²¹⁰ Anne Gulland, 'Man Wins Right to Take Assisted Dying Case to Court of Appeal' (British Medical Journal Publishing Group, 2018).

²¹¹ Clark Hobson and Nataly Papadopoulou. "Regulating Risk and Autonomy in Assisted Suicide: Conway V Secretary of State for Justice" (2021) 29 Medical Law Review 12.

²¹² Adam. McCann "The Right to Assisted Suicide and the Institutional Limits of Judicial Governance." (2019) 6 Eur. J. Comp. L. & Governance 1.

²¹³ Anne Gulland, 'Man Wins Right to Take Assisted Dying Case to Court of Appeal' [2018] BMJ.

²¹⁴ Clark. Hobson "Is It Now Institutionally Appropriate for the Courts to Consider Whether the Assisted Dying Ban is Human Rights Compatible? Conway v Secretary of State for Justice." (2018) 26 Medical Law Review 514.

²¹⁵ Kartina A. Choong and Richard Law, 'Assisted Dying in England and Wales: Conway's Challenge – Déjà Vu or Jamais Vu?' [2019] Perspectives of law and culture on the end-of-life legislations in France, Germany, India, Italy and United Kingdom 123.

Given the fiercely disputed social opinions on the moral and ethical concerns presented as well as the dangers and repercussions of any change in the legislation, there could be no question that Parliament was the forum for deciding that tough policy issue.²¹⁶ The reasoning put forth by the Divisional Court was found to be devoid of any notable or fundamental errors. This suggested that the court's logical framework was robust and coherent, devoid of significant errors that could compromise its results. It had material on which to properly draw conclusions about the inadequacy of the scheme to protect the weak and vulnerable, its failure to give proper weight to the moral significance of the sanctity of life, and its potential to erode relationships of trust and confidence between doctors and their patients.²¹⁷ It had not been required to set out in minute detail every piece of evidence in front of it.

Conclusion

An examination of many high-profile euthanasia cases in the United Kingdom, in particular, sheds insight on the complexities and challenges associated with assisted suicide and the right to die. The cases of Nicklinson, Purdy and Conway have brought up important ethical, moral, and legal concerns. As a result, public conversations on individual freedom, the protection of the vulnerable, and the requirement of legislative changes have been sparked as a result of these cases.

The case of Nicklinson in 2014, was a significant turning point in the ongoing debate on assisted suicide and the right to die. Even though Tony Nicklinson's appeal to the Supreme Court of the United Kingdom for assistance in ending his life was turned down, the situation nonetheless raised a number of serious moral and ethical concerns. Those who were against it voiced concerns about the possibility of abuse and coercion, while those who were for it fought for individual liberty and the right to die with dignity. The decision of the court upheld the legal status quo, indicating that any changes would be made by Parliament.

The subject of assisted suicide and the ethical repercussions it carries is very complex, as these examples have shown. The conflicts that arise from respecting human life and individual liberty while also fulfilling the need to look out for vulnerable people are serious. It implies that the

²¹⁶ Hobson, Clark. "Assisted dying challenges: dynamic and stasis in the UK courts: Conway v. Secretary of State for Justice." (2018) 18 Medical Law International 256.

²¹⁷ Clare Dyer, 'Man with Motor Neurone Disease Challenges Ban on Assisted Suicide' [2017] BMJ.

judicial system has encouraged public participation and discourse while underlining the significance of legislative involvement in matters of a like sort. It shows a harmony between the function of the legislative branch and citizen participation in specific issues. For the sake of ensuring that any potential changes to legislation are well-informed, balanced, and protective of the rights and well-being of all parties impacted, the concerns highlighted in these circumstances need comprehensive research, inquiry, and rigorous input from the public. In conclusion, the discussion on euthanasia in the UK is controversial, as seen in the aforementioned cases. Given the complexity of individual rights, ethical concerns, and potential legislative changes, ongoing inquiry and public participation are important in order to arrive at a fair and compassionate approach to end-of-life decisions.

Chapter 5

Examining Landmark Euthanasia Cases in the United States of America: An In-depth Analysis

Introduction

This chapter clarifies the complex ethical and legal issues surrounding assisted suicide and the right to die in the United States via a critical analysis of significant court disputes and individual cases. The chapter begins with a study of *Gonzales v. Oregon*, a significant case that addressed the issue of whether euthanasia laws were within the purview of the federal government. The case's legal repercussions and consequences for the authority of the state in making end-of-life choices are carefully examined. The reported case of Brittany Maynard case is one of the crucial instances covered in Chapter 5. This tragic case brought assisted suicide to the public's attention, sparking vital discussions and raising awareness of the right to a dignified death. The chapter also looks at how *Washington v. Glucksberg* Supreme Court decision affected American euthanasia legislation. The guidelines for the right to die were significantly shaped by this case, which also provided a critical legal foundation for end-of-life choices. This chapter explores the difficulties associated with the continuing campaign to legalise euthanasia in the USA in addition to the legal victories and setbacks. The many obstacles, moral dilemmas, and social repercussions of euthanasia are carefully covered in order to provide readers with a clear understanding of the situation as it is in America today. By thoroughly examining these significant instances and their long-lasting effects, Chapter 5 aims to provide a greater awareness of the nuances and complexity surrounding euthanasia and the right to die in the United States.

Gonzales v. Oregon (2006): Federal Authority and Physician-Assisted Suicide

The relevance of *Gonzales v. Oregon* (2006)²¹⁸ is seen in its crucial role in elucidating the precarious balance between federal power and state rights with regard to physician-assisted suicide.²¹⁹ The case, which centered on the validity of Oregon's Death with Dignity Act, brought

²¹⁸ “*Gonzales v. Oregon*, 546 U.S. 243 (2006).” Justia Law. Available At: <<https://supreme.justia.com/cases/federal/us/546/243/>> Accessed August 22, 2023.

²¹⁹ Vandembroucke, Amy. "Physician Assisted Suicide." (2015) 9 DePaul Journal of Health Care Law 893.

to light the fundamental issue of whether the federal government may overrule a state's choice to allow physician-assisted suicide. The federalism idea was reiterated by the Supreme Court's decision to preserve Oregon's statute, highlighting the independence of the states in establishing their own healthcare regulations.²²⁰ By highlighting the larger consequences for states' rights and individual freedom in end-of-life choices, this judgement establishes a crucial standard for the interplay between federal and state domains. The significance of this case in defining the boundaries of federal power and in influencing the development of physician-assisted suicide demands acknowledgment for its long-lasting influence on legal principles.²²¹

Gonzales v. Oregon resulted from a dispute between the U.S. Attorney General, who attempted to use the CSA to stop physicians from writing deadly dosages of drugs for that purpose, and the state of Oregon, which had legalised physician-assisted suicide under the Death with Dignity Act.²²² The case's legal arguments centred on how the CSA should be interpreted as well as the relationship between the federal government and the several states. Physician-assisted suicide, according to the Attorney General, is not a legal medical procedure and is not covered by the CSA.²²³ It was also argued that in order to safeguard the public's health and stop drug misuse, restricted substances used in physician-assisted suicide ought to be regulated.²²⁴

Oregon, on the other hand, countered that the CSA did not give the federal government the right to stifle state-level medical regulation. It was argued that the decision to legalise physician-assisted suicide was a question of state autonomy and fit within the state's customary role in regulating healthcare.²²⁵ In a significant ruling, the Supreme Court supported Oregon and upheld the state's

²²⁰ Ibid Note, 32.

²²¹ Stephanie M. Richards "Death with Dignity: The Right, Choice, and Power of Death by Physician-Assisted Suicide." (2017) 11 *Charleston L. Rev.* 471.

²²² Elizabeth Rose Schiltz, 'The Contradictory Expressive Functions of the Americans with Disabilities Act and Physician-Assisted Suicide Laws'(2018) 22 *Journal of Disability & Religion* 228.

²²³ Alexandria Abdalla "Dementia and Physician-Assisted Suicide: Why Death with Dignity Acts Should Include People with Dementia and How it Can be Accomplished." (PhD diss., University of Pittsburgh, 2020)

²²⁴ Jane E. Sawtell-Fearn "Death with Dignity." (2017) 1 *Exigence* 3.

²²⁵ Bjørn Hofmann "The death of dignity is greatly exaggerated: Reflections 15 years after the declaration of dignity as a useless concept." (2020) 34 *Bioethics* 602.

right to control physician-assisted suicide. The Attorney General was not given the authority under the CSA, the Court said, to overturn a state's recognition of physician-assisted suicide as a legal medical procedure.²²⁶ It emphasised how crucial it is to respect state autonomy and provide states the freedom to set their own medical standards and regulations.

The *Oregon v. Gonzales* case before the US Supreme Court resulted in a momentous legal ruling on January 17, 2006, with ramifications for the regulation of physician-assisted suicide and the division of authority between the federal and state governments. By a vote of 6-3, the Supreme Court maintained Oregon's position on physician-assisted suicide and declared that the Controlled Substances Act (CSA) did not provide the Attorney General the authority to override state legislation in this area.²²⁷ The majority opinion was written by Justice Anthony Kennedy, who stated that while the federal government still had control over pharmaceutical regulations, the Attorney General did not have the authority under the CSA to disobey state laws governing the proper use of prescription drugs. In regard to state decisions on delicate medical and ethical concerns, this ruling signalled a crucial affirmation of the boundaries of federal jurisdiction.²²⁸ Notably, the Court based its view on the precedent established by *Auer v. Robbins* (1997). Since the regulation essentially reiterated the wording included in the CSA, it was determined that the Justice Department's interpretation of its own rule in this instance did not justify considerable respect. The Court also argued that *Chevron* deference was inapplicable because, notwithstanding the CSA's use of vague language like 'legitimate medical purpose,' it gave the Secretary of Health and Human Services of the United States authority to make medical decisions rather than the Attorney General.²²⁹

Beyond its immediate setting, *Oregon v. Gonzales* is significant from a legal perspective. It acts as an effective reminder of the delicate balance between federal dominance and provincial

²²⁶ Randall K. Hanson, R. D. Mautz, and Joseph Betts, 'Physician-Assisted Suicide-Homicide or Death with Dignity?' (2018) 15 *Journal of Leadership, Accountability and Ethics* 150.

²²⁷ Chhikara, Neelam. "Extending the Practice of Physician-Assisted Suicide to Competent Minors." (2017) 55 *Family Court Review* 430.

²²⁸ Sarah M Gentry "The right to die with dignity: Death, your body, and privacy." (2017) 28 *Geo. Mason UCRLJ* 203.

²²⁹ Richards, Stephanie M. "Death with Dignity: The Right, Choice, and Power of Death by Physician-Assisted Suicide." (2017) 11 *Charleston L. Rev.* 471.

sovereignty. The Court strengthened the idea that states have the freedom to create their own responses to difficult medical and ethical problems by upholding Oregon's right to enable physician-assisted suicide inside its boundaries.²³⁰ This case also serves as an illustration of the greater legal debate about the complex balance of federal and state government authority. The Court reaffirmed the idea that some issues, especially those closely related to societal and ethical concerns, are properly within the purview of states by outlining the limits of federal jurisdiction and emphasising the importance of upholding state legislation in particular domains.²³¹

The Brittany Maynard Case: A Personal Journey and the Impact on Aid in Dying

A turning point in the conversation on physician-assisted suicide occurred in 2014 with the Brittany Maynard case. The case of Brittany Maynard, a young teenager with terminal brain cancer, brought the right to a dignified death and end-of-life decisions to the forefront of legal, ethical, and cultural issues.²³² Brittany Maynard moved to Oregon, a state that permits physician-assisted dying under the Dying with Dignity Act, intended for those facing terminal diseases, at the beginning of the story. As Maynard's case gained notoriety, her choice to talk about her experience sparked a national debate, garnering a lot of attention and coming to represent the developing topic of end-of-life choices.²³³

Similar to the way that *Washington v. Glucksberg* changed the landscape, the Brittany Maynard case had a significant impact on public opinion.²³⁴ It transformed the discussion on assistance in dying from legal arguments that were only considered on an abstract legal level into

²³⁰ Hanson, Randall K., R. D. Mautz, and Joseph Betts. "Physician-Assisted Suicide-Homicide or Death with Dignity?" (2018) 15 *Journal of Leadership, Accountability and Ethics* 150.

²³¹ Megan Neal, 'How Relevant Is the Hippocratic Oath in Guiding Physicians' Views on Physician-Assisted Suicide' (DigitalCommons@University of Nebraska - Lincoln) <<https://digitalcommons.unl.edu/honorstheses/210/>> accessed 8 September 2023.

²³² Aaron Kheriaty, "Social Contagion Effects of Physician-Assisted Suicide: Commentary on" How Does Legalization of Physician-Assisted Suicide Affect Rates of Suicide? " (2015) 108 *Southern Medical Journal* 605.

²³³ Ari Armstrong, "The Pope's Sin and Brittany Maynard's Choice to Die." [2015] *The Objective Standard*.

²³⁴ Magnuson, Jared B. "Let Your Conscience Be Your Guide: Comparing and Contrasting Washington's Death with Dignity Act and Pharmacy Regulations after the Ninth Circuit's Decision in *Stormans, Inc. V. Weisman*." (2017) 52 *Ga. L. Rev.* 613

a story that was both intensely emotional and morally complex.²³⁵ Maynard expanded the discussion by presenting a dynamic and young supporter of the right to die with dignity, including a larger range of people who may not have previously given the topic much thought.²³⁶ The case aroused compassion, raised awareness of human dignity, and highlighted the limits of medical intervention, much like Glucksberg's philosophical observations on the precarious balance between the sanctity of life and individual autonomy.²³⁷ Maynard's campaign highlighted the need for compassionate options for those with severe suffering and fatal illnesses while also igniting discussions about the possible effects on the value of life and the boundaries of medical ethics.²³⁸

Washington v. Glucksberg (1997): Constitutionality of Laws Prohibiting Physician-Assisted Suicide

A notable Supreme Court decision that dealt with the legality of legislation outlawing physician-assisted suicide was *Washington v. Glucksberg*.²³⁹ A challenge to legislation in Washington that made it illegal to assist someone else in killing themselves gave rise to the case.²⁴⁰

The majority decision for the court was written by Chief Justice William Rehnquist. His ruling overturned the Ninth Circuit's finding that the Due Process Clause was violated by the prohibition on physician-assisted suicide.²⁴¹ The Court determined that assisted suicide was not protected by the Fourteenth Amendment because it is not a basic liberty interest. Liberty interests that are not 'deeply rooted in the nation's history' do not meet the criteria for having protected liberty interests,

²³⁵ Bryant, Taimie. "Aid-in-Dying Nonprofits." (2020) 57 San Diego L. Rev. 147.

²³⁶ ("I will not die that way. why should I be forced to?" - helsinki) <https://helda.helsinki.fi/bitstream/handle/10138/301952/Sandstrom_Jenny_Pro_gradu_2019.pdf?sequence=> accessed 8 September 2023.

²³⁷ Legault, Melissa. "I Don't Want to Die, but I Am Dying: Reexamining Physician-Assisted Suicide in a New Age of Substantive Due Process." (2018) 60 ARiz. L. REv. 509.

²³⁸ Casimir Klim "An Institutional Right to Die: Neither Coercive nor Immoral." (2016) 2 Voices in Bioethics.

²³⁹ *Washington v. Glucksberg*, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). Legal Information Institute. Available at: <<https://www.law.cornell.edu/supct/html/96-110.ZS.html>> (Accessed: 02 August 2023)

²⁴⁰ Edward T. Mechmann and Alexis N. Carra, 'Physician-Assisted Suicide and the New York State Constitution' (2017) 81 *Alb. L. Rev.* 1337.

²⁴¹ Myers, Richard S. "The constitutionality of laws banning physician-assisted suicide." (2016) 31 *BYU J. Pub. L.* 395.

as was previously determined in the majority judgement of *Moore v. East Cleveland*.²⁴² The Supreme Court determined that assisted suicide had been offensive for many years and was prohibited in the majority of states. The English common law sanctions for assisted suicide were especially important for William Rehnquist's, who served as a Chief Justice of America from 1986 to 2005.²⁴³ For instance, in early common law, a person who committed suicide had his or her possessions seized by the state. Rehnquist utilised English common law, similar to Blackmun in *Roe v. Wade*, to establish American custom as a benchmark for deciding whether rights were 'deeply rooted in the nation's history.'²⁴⁴ In his judgement, Rehnquist referenced *Roe v. Wade* and *Planned Parenthood v. Casey*.²⁴⁵

The preservation of human life and the defence of the mentally ill and handicapped against negligence on the part of medical professionals as well as compulsion were two strong state interests that the Supreme Court considered the prohibition advanced. It provided further protection for people who were driven to commit suicide due to financial or psychological difficulties. The Supreme Court believed that legalising physician assisted suicide would pave the way for voluntary and maybe involuntary euthanasia if it were to become a constitutionally recognised right.²⁴⁶ Justice Souter, Ginsburg, Breyer, and Stevens all submitted concurring opinions in the court's decision, while Justice O'Connor also joined the opinion.²⁴⁷ The Washington Death with Dignity Act, which created rules for utilising a doctor's services to end one's life, was adopted by Washington voters in 2008 by a margin of 58-42%.²⁴⁸

²⁴² 'Moore v. City of East Cleveland, 431 U.S. 494 (1977)' (Justia Law) Available at: <<https://supreme.justia.com/cases/federal/us/431/494/>> (accessed 2 August 2023)

²⁴³ Brett M. Kavanaugh (2017 Walter Berns constitution day lecture - aei) < <https://www.aei.org/wp-content/uploads/2017/12/From-the-Bench.pdf>> accessed 8 September 2023.

²⁴⁴ Myers, Richard S. "Re-reading *Roe v. Wade*." (2014) 71 Wash. & Lee L. Rev. 1025.

²⁴⁵ Sheraden Seward, 'Planned Parenthood of Southeastern Pennsylvania v. Casey (1992)' [2015] The Encyclopedia of Civil Liberties in America 710.

²⁴⁶ Ibid, Note 63.

²⁴⁷ Jennifer Pauline Starr "Terminal Sedation: Ethical and Legal Concerns." (2014).

²⁴⁸ Johnson, Shara M., Robert J. Cramer, Mary Alice Conroy, and Brett O. Gardner. "The role of and challenges for psychologists in physician assisted suicide." (2014) 38 Death Studies 582.

The main issue to be determined by the Court was whether the Due Process Clause of the Fourteenth Amendment guaranteed the right to physician-assisted suicide.²⁴⁹ The Court determined that there was no constitutional right to physician-assisted suicide in this significant decision. As there was a genuine state interest in protecting life and avoiding the possible erosion of safeguards for vulnerable people, it was decided that the Washington statute did not violate the Due Process Clause.²⁵⁰ The state's interest in preserving the morals and integrity of the medical community, as well as the historical history of forbidding assisted suicide, was emphasised by the court.²⁵¹

Crusan v. Director, Missouri Department of Health (1990): Right to Refuse Life-Sustaining Treatment

Crusan v. Director, Missouri Department of Health was another prominent case about refusing life-sustaining care. Nancy Crusan, a young woman in a vegetative condition, had parents who wanted to discontinue giving her life-sustaining medicine. People's constitutional right to refuse needless medical treatment was at stake.²⁵² The Supreme Court ruled that persons might refuse life-sustaining treatment under the Fourteenth Amendment's Due Process Clause, however, governments may require compelling confirmation of a person's life-sustaining care wishes.²⁵³ The case demonstrated the importance of human liberty in medical decision-making and the need for proper safeguards to ensure patient wishes are explicit and accurate.

Whether people have the right to refuse life-sustaining treatment under the Due Process Clause of the Fourteenth Amendment was the main question up for debate before the Supreme Court. The Court acknowledged that competent people have the right to reject unwelcome medical treatments

²⁴⁹ Jagadish Rao Padubidri, Matthew Antony Manoj, and Tanya Singh, 'Euthanasia: A Good Death or an Act of Mercy Killing: A Global Scenario' (2022) 17 *Clinical Ethics* 21.

²⁵⁰ Wolfe, Christopher J. "The Future of Assisted Suicide and Euthanasia." (2017) 17 *The National Catholic Bioethics Quarterly* 357.

²⁵¹ Emily Newcomb, 'Physician Aid in Dying: Physician-Assisted Suicide as a Constitutionally Protected Liberty Interest Under the Nebraska Constitution' (2023) 101 *Nebraska Law Review* 6.

²⁵² David Orentlicher, 'Cruzan and Surrogate Decision-Making' (2020) 73 *SMU L. Rev.* 155.

²⁵³ *Ibid.*, Note 64

and that choices concerning medical treatment are covered by the right to privacy.²⁵⁴ The Court did, however, recognise that the state has a legitimate interest in preserving an individual's well-being and upholding their best interests when that person is unable to communicate their desires and incapacitated.²⁵⁵ In such circumstances, the state can call for unequivocal and persuasive proof of the patient's intentions to stop receiving life-supporting care. The *Crusan* case brought to light the difficult balance between personal freedom and the government's obligation to protect the weak.²⁵⁶ It illustrated the significance of upholding patients' right to make medical decisions while also highlighting the requirement for adequate safeguards to guarantee that decisions regarding life-sustaining care are based on explicit and accurate expressions of the patient's wishes.²⁵⁷ One of the important ramifications of the *Crusan* ruling is the relevance of advance care planning and the formation of living wills or durable power of attorney for healthcare choices. The case highlighted the significance of people explicitly recording their end-of-life choices while individuals are competent to do so, ensuring that their wishes are respected and followed when they are unable to make decisions for themselves.²⁵⁸

Furthermore, *Crusan* generated debates regarding the role of medical practitioners and the legal framework around end-of-life choices. While physicians and other healthcare professionals are ethically obligated to respect patients' wishes, they must also navigate challenging legal requirements and considerations, particularly when patients' intentions are undocumented.²⁵⁹ Both *Washington v. Glucksberg* and *Crusan v. Director, Missouri Department of Health* demonstrated

²⁵⁴ Mark P. Aulisio "Why did hospital ethics committees emerge in the US?" (2016) 18 *AMA Journal of Ethics* 546.

²⁵⁵ Rosner, Fred. "Death by Withdrawal of Nutrition and Hydration." (2016) 20 *Einstein Journal of Biology and Medicine* 81.

²⁵⁶ David Orentlicher "Cruzan and Surrogate Decision-Making." (2020) 73 *SMU L. Rev.* 155.

²⁵⁷ John W. McKerley, 'Missouri Law and the American Conscience: Historical Rights and Wrongs' (2017) 76 *The Annals of Iowa* 234.

²⁵⁸ Fins, Joseph J. "Cruzan and the other evidentiary standard: A reconsideration of a landmark case given advances in the classification of disorders of consciousness and the evolution of disability law." (2020) 73 *SMU L. Rev.* 91.

²⁵⁹ Thomas William Mayo (Foreword: *Cruzan and the 'Right to die'* by Thomas William Mayo :: SSRN) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4109452> accessed 8 September 2023.

the moral and legal complexities of end-of-life choices. *Crusan* upheld the freedom to refuse life-sustaining treatment, whereas Washington upheld physician-assisted suicide laws.²⁶⁰

Conclusion

Gonsales v. Oregon's importance cannot be overstated. The judgement recognised the responsibility of different states in establishing their own healthcare legislation and upheld the federalism concept. In particular, when it came to issues affecting the practise of medicine and the management of banned drugs, it backed the idea that the federal government should not encroach on territory that has historically been the province of the states. In regards to physician-assisted suicide, the case critically emphasised the continuous conflict between federal authority and state rights. It emphasised the idea of letting local communities choose their own moral and ethical standards while acknowledging the various viewpoints and values held by other governments. However, as the debate over physician-assisted suicide develops, it also allowed opportunity for future discussions and possible legal issues between the federal and state levels.

The *Brittany Maynard* case explored the complex overlaps between cultural norms, medical ethics, and personal autonomy. It closely followed the legal arguments in *Washington v. Glucksberg* (1997) by examining the legality of physician-assisted dying, but within the constraints of state laws. *Maynard's* case clarified the legality of physician-assisted death under particular state legislation, while *Glucksberg* focused on the validity of laws that forbid physician-assisted suicide. It cited well-established legal precedents, both in terms of governments' rights to control medical practises and the changing dynamics of public opinion, much like the jurisprudential underpinnings that drove *Washington v. Glucksberg*. It negotiated the changing environment of physician-assisted suicide by drawing on historical standards and the shifting dynamics of public opinion, much like *Washington v. Glucksberg*. These precedents influenced the case's legal and ethical aspects, illuminating how social changes, historical background, and legal judgements interact to define end-of-life discourse. Given *Glucksberg's* impact on state laws, the case incited legislative responses. This analogy emphasised the idea that how legal principles are interpreted may have a significant impact on how society perceives issues and the direction that policies would take in the future.

²⁶⁰ Liam Butchart, 'On the Status of Rights' (2021) 7 *Voices in Bioethics*

The value of a person's autonomy and final decisions was recognised by the courts. They acknowledged that everyone has the basic right to make their own choices, especially when it comes to their health. But they also emphasised the state's interest in defending the weak, stressing the need of defending the sanctity of life and protecting vulnerable people. The persistent conflict between federal and state authority, as well as the changing dynamics of public opinion and cultural standards, are all made clear by these judicial decisions. They emphasise the need for humane and well-balanced end-of-life policies that uphold the rights of people who may be in vulnerable situations while also respecting individual autonomy.

Finding a fair and cogent foundation for euthanasia in this intricate ethical and legal environment requires constant thought, acceptance of differing viewpoints, and all-encompassing solutions that consider the vast web of human experiences. In the end, the instances covered in this dissertation serve as a moving reminder of how important it is to negotiate these difficulties while respecting human rights and encouraging an ethically sound and compassionate approach to end-of-life choices.

Another important issue examined in this chapter is the legality of legislation outlawing physician-assisted suicide in *Washington v. Glucksberg*. The court emphasised the state's interests in upholding human life and safeguarding the weak when it determined that assisted suicide is not a protected liberty interest under the Fourteenth Amendment. In terms of end-of-life decisions, this case demonstrated the difficult balance between federal and state jurisdiction. *Crusan v. Director, Missouri Department of Health* also demonstrated the value of human autonomy in medical decision-making by addressing the freedom to decline life-sustaining care. The Court emphasised the necessity for strong proof of a person's desires while recognising the freedom to reject unnecessary medical care.

This chapter primarily explores the complicated ethical, legal, and sociological issues that surround euthanasia and the right to die in the United States. It emphasises the urgent need for compassionate end-of-life policies that respect individual autonomy while defending the rights of others who may be vulnerable. A striking conclusion is revealed via the examination of the cases: it is crucial to carefully balance human autonomy and social welfare when making end-of-life choices. This investigation serves as a poignant reminder that developing a coherent and just framework for euthanasia necessitates careful consideration, accepting various viewpoints, and

developing solutions that truly encompass the complex tapestry of human experiences during human assisted suicide. The cases described in this chapter serve as powerful reminders that finding such a balance is essential for forging a kind and moral course of action in this challenging environment.

Chapter 6

Conclusion: Findings, Recommendations, and Future Research

Introduction

This chapter summarises the thorough investigation of the complex field of legalised euthanasia carried out in this dissertation. It is divided into separate sections, summarising the most important findings from the comparative analysis, offering suggestions for further research and potential directions for policy development in the area of end-of-life decision-making and the pursuit of a dignified death. It also addresses the pivotal human rights dimension central to euthanasia in the UK and USA.

Findings

The research carried out in the earlier chapters has been crucial in illuminating the complexities of legalised euthanasia, providing a nuanced view of the differences between the legal systems, seminal cases, and public attitudes in the US and the UK.²⁶¹ It addressed core human rights concerns and explained US and UK legal systems, historical instances, and public opinion. Both country's legislative approaches and judicial rulings illustrate a complex relationship between human rights and the right to die with dignity.²⁶² Legislators and courts have battled to balance individual autonomy's basic right with vulnerable population protection. Research has shown how different countries approach assisted suicide, with the UK's changing legislative framework revealing how cultures have addressed moral and human rights issues. These results show how human rights affect euthanasia legislation. In view of changing social norms and ethical standards, compassionate, comprehensive end-of-life policies that respect the rights of the vulnerable and defend human liberty are needed.²⁶³ The comparative approach emphasises the need to understand the particularities of each jurisdiction while looking for overarching principles that promote human dignity and ethical integrity by diving into the complexity of cultural, historical, and legal

²⁶¹ Lamers, Carolien PT, and Rebecca R. Williams. "Older people's discourses about euthanasia and assisted suicide: A Foucauldian exploration." (2016) 56 *The Gerontologist* 1072.

²⁶² Irena Shala and Kilda Gusha, 'The Debate over Euthanasia and Human Rights' (2016) 12 *European Scientific Journal*, ESJ 73.

²⁶³ Chekhovska, Iryna V., Olha M. Balynska, Roman I. Blahuta, Valeriy V. Sereda, and Serhii O. Mosondz. "Euthanasia or palliative care: legal principles of the implementation in the context of the realization of human rights to life." (2019) 72 *Wiad Lek* 81.

settings.²⁶⁴ The core of the euthanasia debate is highlighted by the recurrent issue of ethical concerns. The case examples examined in earlier chapters highlight the moral conundrums experienced by both patients and medical personnel, demonstrating the fine line that must be struck in order to navigate legalised euthanasia while upholding the intrinsic dignity of all individuals involved.²⁶⁵ These moral considerations provide light on the difficulties that come with balancing individual liberties with social norms. The social effects of euthanasia are essential to the debate around it, including worries about vulnerable groups, the possibility of a slippery slope leading to forced euthanasia, and the potential for a redefining of cultural norms around life and death. The need for thorough safeguards and ongoing watchfulness in ensuring that euthanasia-related choices are anchored in moral principles that put society's overall well-being first is highlighted by these observations.

First and foremost, the study has shed light on the divergent legal perspectives on euthanasia in the US and the UK. Through a thorough analysis of the various legal frameworks, judicial decisions, and legislative initiatives in the US and the UK, the research has shed light on the disparate legal attitudes on euthanasia in each nation. This thorough research highlights the disparate approaches taken by different countries to the intricate moral and legal issues surrounding end-of-life choices. In essence, it draws attention to the complexity and legal variety of the euthanasia issue in the UK and USA.²⁶⁶

The analysis of judicial interpretations of Article 2 of the European Convention on Human Rights (ECHR) highlight the glaring disparities in how the right to life and personal autonomy are applied in euthanasia cases in the US and the UK. These distinctions highlight the significant variances in the relative importance and safeguarding of these essential human rights under the legal systems of both the nations.²⁶⁷ These interpretations reveal stark differences such as in how the basic rights to life and human autonomy are seen and upheld in euthanasia cases in the US and the UK. Human

²⁶⁴ Castelli Dransart, Dolores Angela, Sylvie Lapierre, Annette Erlangsen, Silvia Sara Canetto, Marnin Heisel, Brian Draper, Reinhard Lindner and others "A systematic review of older adults' request for or attitude toward euthanasia or assisted-suicide." (2021) 25 *Aging & Mental Health* 420.

²⁶⁵ Naomi Richards "Old age rational suicide." (2017) 11 *Sociology compass* e12456.

²⁶⁶ Ezekiel J. Emanuel and others, 'Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe' (2016) 316 *JAMA* 79. Need to sort out the gaps here

²⁶⁷ Seatzu, Francesco, and Simona Fanni. "The experience of the European Court of human rights with the European convention on human rights and biomedicine." (2015) 31 *Utrecht J. Int'l & Eur. L.* 5.

rights are significantly impacted by these variations in how Article 2 of the ECHR is interpreted in euthanasia instances. They emphasise that the extent of end-of-life decision-making within a specific jurisdiction may be greatly impacted by the preservation of the right to life and human autonomy, which is context-dependent and susceptible to a variety of legal, ethical, and cultural issues. The cases of *Gonzales v. Oregon* and *R (Pretty) v. DPP* serve as examples of how these interpretations highlight the glaring disparities in how the fundamental rights to life and personal autonomy are seen and protected in euthanasia situations in the US and the UK. This difference highlights the complex ethical and legal foundations of the euthanasia debate and highlights the role of international human rights treaties in influencing these beliefs such as the right to life is included in Article 2 of the European Convention on Human Rights (ECHR). The difference being discussed here is the differing legal and moral stances that the US and the UK have on euthanasia. *Gonzales v. Oregon*, a US case that emphasized personal liberty, affirmed state statutes allowing medical assistance in suicide. *R (Pretty) v. DPP* in the UK brought attention to assisted suicide prohibitions and put the right to live first. The European Convention on Human Rights (ECHR)'s Article 2 is crucial since it requires the preservation of the right to life but permits varied interpretations, which affect how these distinctions are handled in relation to euthanasia.

In the context of end-of-life choices, international human rights treaties such as the European Convention on Human Rights provide member states a framework to negotiate the difficult balancing act between individual autonomy and the protection of vulnerable populations. These accords act as powerful benchmarks, compelling nations such as the United States and the United Kingdom to reconcile their moral and legal obligations with global human rights norms even while they work through the complexities of euthanasia legislation.²⁶⁸

This research has uncovered divergent legal stances on assisted suicide by critically analysing the human rights laws of the United States and the United Kingdom. These divergent legal stances pertain to the legality, regulation, and ethical considerations surrounding end-of-life decisions, revealing significant disparities in how these issues are addressed within each country's legal framework. Assistive suicide is prohibited in the UK according to the Suicide Act 1961; nevertheless, prosecution discretion is used in actual circumstances, inspired by decisions like as

²⁶⁸ Nikolaos Aletras and others, 'Predicting Judicial Decisions of the European Court of Human Rights: A Natural Language Processing Perspective' (2016) 2 PeerJ Computer Science.

R (Pretty) v. DPP and changing Scottish laws. On the other hand, the legal landscape in the USA is varied, with several states like Oregon and Washington allowing physician-assisted suicide under certain circumstances- better. The interpretation of Article 2 of the European Convention on Human Rights 1940 by judges in the USA and the UK differs.²⁶⁹ While judges in the USA frequently prioritise federalism and state autonomy, as demonstrated in *Gonzales v. Oregon*, judges in the UK emphasise a delicate balance between the right to life and individual autonomy, as exemplified by *Pretty*. These opposing legal stances are supported by different values: the UK places more emphasis on protecting the sanctity of life and protecting vulnerable people, whilst the USA favours promoting individual liberty and state sovereignty.²⁷⁰ In order to contribute to a more nuanced understanding of the human rights dimensions of this complex issue, recommendations include cross-country policy exchange and additional research examining the changing legal landscapes, practical implications, and technological advancements in euthanasia regulation in both nations. The conflict between human autonomy, which supports individual choice in end-of-life choices, and the state's obligation to protect its people's well-being lies at the core of this effect.²⁷¹ This conflict underscores how carefully conflicting moral norms and values must be weighed in the euthanasia discussion.

Critical Review of Human Rights Law in the UK and USA Regarding Euthanasia

This chapter presents the critical stance on euthanasia that results from a thorough analysis of the human rights laws in the US and the UK. The following important facts and factors are highlighted by the crucial position:

- **Divergent Legal Approaches:** The critical study draws attention to the significant legal distinctions between the two nations' approaches to euthanasia. In the UK, euthanasia is still prohibited by law, which places a strong emphasis on the value of human life and strict safety measures to protect those who are vulnerable. On the other hand, certain US states have made

²⁶⁹ Simion, Mihaela. "Euthanasia, Pros and Cons in the Jurisprudence of the European Court of Human Rights." (2019) 2 *Fiat Iustitia* 172.

²⁷⁰ Fontalis, Andreas, Efthymia Prousalis, and Kunal Kulkarni. "Euthanasia and assisted dying: what is the current position and what are the key arguments informing the debate?." (2018) 111 *Journal of the Royal Society of Medicine* 407.

²⁷¹ van Wijngaarden, Els, Carlo Leget, and Anne Goossensen. "Ethical uneasiness and the need for open-ended reflexivity: the case of research into older people with a wish to die." (2018) 21 *International Journal of Social Research Methodology* 331.

some parts of euthanasia legal, indicating an indulgent attitude that places a higher value on personal liberty.²⁷²

- Impact of International Human Rights Instruments: The European Convention on Human Rights (ECHR), in particular Article 2, which enshrines the right to life and permits varying interpretations, is acknowledged as having an impact by the critical viewpoint.²⁷³ This effect is especially noticeable in the UK, where legal and ethical issues are greatly influenced by the European Convention on Human Rights.²⁷⁴
- Robust Ethical and Legal Basis: The critical position highlights the complex ethical and legal basis of the euthanasia controversy. It acknowledges the complexity of end-of-life decisions, which include not only basic rights but also social, moral, and cultural considerations. It is difficult to develop a legal framework that is generally applicable because of these complexities.²⁷⁵
- Implications for Human Rights: The critical evaluation recognises that these differences in the law have significant effects on human rights, especially the right to life and the right to self-determination.²⁷⁶ It calls into question how consistently human rights are upheld in various situations and how these variations affect people's access to euthanasia and their capacity to make independent choices about their own lives.²⁷⁷

Recommendations for Future Research

Future research may concentrate on creating impregnable measures to prevent possible coercion or improper influence on susceptible persons. Firstly, understanding the psychological, social, and financial variables that influence end-of-life choices may help create legal solid protections that ensure autonomy is exercised while protecting the welfare of vulnerable people.²⁷⁸ Second, it is

²⁷² Monica Verhofstadt, Lieve Thienpont, and Gjalte-Jorn Ygram Peters. "When unbearable suffering incites psychiatric patients to request euthanasia: qualitative study." (2017) 211 *The British Journal of Psychiatry* 238.

²⁷³ Vera E van den Berg and others, 'Requests for Euthanasia or Assisted Suicide of People without (Severe) Illness' (2022) 126 *Health Policy* 824.

²⁷⁴ Lukas Radbruch and others, 'Euthanasia and Physician-Assisted Suicide: A White Paper from the European Association for Palliative Care' (2015) 30 *Palliative Medicine* 104.

²⁷⁵ *Ibid.*, Note 4

²⁷⁶ *Ibid.*, Note 6

²⁷⁷ *Ibid.*, Note 6

²⁷⁸ Ronald C. Inglehart and others, 'Attitudes toward Euthanasia: A Longitudinal Analysis of the Role of Economic, Cultural, and Health-Related Factors' (2021) 62 *Journal of Pain and Symptom Management* 559.

critical to assess that how medical professionals' roles in euthanasia are developing. Research might look at how medical ethics can change to meet the complex moral issues involved in assisting in a patient's death while preserving the core values of healing and compassion. Medical accountability, individual freedom, and social expectations come together to create a complicated tapestry that calls for ongoing examination.²⁷⁹

²⁷⁹ Soheil Sabriseilabi and James Williams, 'Dimensions of Religion and Attitudes toward Euthanasia' (2020) 46 *Death Studies* 1149.

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Bjørn Hofmann "The death of dignity is greatly exaggerated: Reflections 15 years after the declaration of dignity as a useless concept." (2020) 34 Bioethics 602.

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