Right to commit suicide in India: A comparative analysis with suggestion for the policymakers

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Abstract: Every year an alarming number of people of all ages and genders are committing suicide or attempting to extinguish their own life globally and India is not an exception. Under Section 309 of the Indian Penal Code, 1860 attempt to commit suicide is still considered an offense. In many countries of Africa, suicide is considered legal and in Asia, most of the countries have decriminalized attempted suicide except a few countries like India. The scenario is also changing in the USA and UK. This paper provides a structural literature review on the existing legal framework in different jurisdictions regarding the right to commit suicide from a comparative perspective. The paper scrutinized the compared data and intends to conclude that the state should not curtail the liberty of people attempting suicide by imprisoning or punishing them as the right to life also includes the right to a dignified death. Several recommendations for the policymakers have been made in the last part of the paper.

Subjects: Human Rights Law & Civil Liberties; Regulation; Socio-Legal Studies

Keywords: Right to Suicide; right to die; euthanasia; right to a dignified death; comparative law

1. Introduction
Around the world, suicide or attempt at suicide has been a concerning issue both for the sociologist and lawmakers, for a long time. The study of suicide in society reveals that the complex
problem is the fusion of social, legal, and medical phenomenon (Heibron et al., 2014). The civilized jurisprudence globally is shifting focus on the prospects for the decriminalization of suicide or attempts by the state legislatures (Stefan, 2016). Suicide and attempts are still considered a crime in India but in a very recent time, different stakeholders are debating on decriminalizing suicide or attempts upon various aspects and creating a controversy (Singh, 2019). According to the World Health Organization, suicide indicates any lethal behavior by a person to extinguish his life, and suicide attempts mean any injurious behavior which is self-directed, non-fatal, and with the intent to extinguish one’s own life. Every year an alarming number of people of all ages and genders are committing suicide or attempting to extinguish their own life globally and India is not an exception. In India, the rate of suicide among married women is higher among all other portions of society. Several social phenomena like child marriage, domestic violence, lower economic status, and early age motherhood are the major reasons for married women’s suicide and that rate is higher among all others. According to a report of “Lancet Public Health Journal”, more than 60% reported suicide in India were between the ages of 15 to 40. A total number of almost 1, 40,000 suicides were reported in India during 2019 which is comparatively 3.4% higher than the previous year (Crime in India-2018, 2020). The number of attempted suicide is generally 20 times higher in comparison to the ratio of completed suicide. One-third of the suicide attempter within years eventually try to repeat the tendency and the success rate is to commit suicide is almost 11% (Pirkis, Beaufrais & Durkee, 2009). Although many countries have decriminalized suicide attempts considering the problem India has walked to a different path. For improper harvesting and being caught in debts traps, it’s near too impossible for the farmers to figure out the problems and find no other way they are choosing suicide as a solution. The state has a great responsibility to solve the problems of their farmers. States need to determine policies regarding farming loans that could make farming easier and proper value must be ensured to farmers in return for their harvest. For proper harvesting, the state may provide training on harvesting to the farmers through regular campaigns so that they may know about harvesting. Recently the Indian Government announced Pradhan Mantri Farmer Bima Yojana, an updated category of existing schemes like the National Agricultural Insurance Scheme and the Modified National Agricultural Insurance Scheme, is a step in the right direction although some voices have been raised against it. The act of committing suicide is still considered a punishable offense although it is recognized as a psychological disorder and despite the enactment of ‘Mental Health Care Act, 2017. Attempt to suicide and abetment to suicide both are considered a crime under the Penal Code of India (Indian Penal Code, 1860). In 1994, section 309 was challenged before the Apex Court on the ground of its constitutional validity and the court declared the section inconsistent with the provision of the right to life guaranteed by Article 21 of the Indian constitution (P. Rathinam v. Union Of India, 1994). The government was directed by the court to re-examine the validity of Article 309 and to remove it from the code. The right to life is guaranteed by the Indian Constitution under Article 21 which declared that this right is protected by law and no deprivation of a person's life and liberty is permissible, except the expressed provision of law permits so. The question of whether the “Right to life includes the Right to die”, was first raised in the case of State of Maharashtra v. Maruti Sripati Dubai before the Bombay High Court. The court recognized the right to die as a part of the right to life and section 309 of the Penal Code was declared unconstitutional (Maharashtra v. Maruti Sripati Dubai, 1987). In the case of Gian Kaur v. The State of Punjab, the Supreme Court of India denied the prayer of the applicant that Article 21 of the Indian Constitution involves the right to have a dignified death. The court opined that the right to be killed is not a part of the right to life (Gian Kaur v. The State of Punjab, 1996). The court also declared that “the right to die is not a natural right and no one has a right to finish his life unnaturally.” Some crucial questions were emerging in the case of a cancer patient and bedridden person and their right to euthanasia. In the case of Aruna Ramchandra Shanbaug v. Union of India, the Apex Court give a positive interpretation of passive euthanasia (Aruna Ramchandra Shanbaug v. Union of India, 2011). After the judgment of the case, critics started arguing again that with the right to have a dignified death, the right to life is not fulfilled. They questioned the reasonability of keeping a cancer patient alive in the final stage when the pain becomes unbearable or in the case of a bed-driven person who is completely dependent on other persons, which is not acceptable by the near and dear ones. These
conditions opposed the true meaning of a dignified life and it was argued that the only effective alternative was active euthanasia to ensure a dignified life by granting the right to die. Although people demanded constituting a medical board to examine special cases where active euthanasia is the only possible option to provide the patient a dignified life, the issue wasn’t settled (The Wire, 2018). In 2001, the Dutch Parliament passed the world’s first Euthanasia Act. The Act provided detailed regulations to end one’s life when he is suffering from such medical conditions that only provide unbearable pains, no chance of recovery is available and such solution is recommended by the physician (De Haan, 2002). The request of the person must be voluntary, without any force or misappropriation and there should be no alternatives available (Onwuteaka-Philipsen, et al., 2003). Proper medical care and consultation with an additional independent medical expert should be the prerequisite of active euthanasia (Strinic, 2015). When the medical of a person is so severe that he is unable to speak, the medical officer should follow the instruction provided by him, if any, and if able to. If the patient had expressed any desire previously, it could be taken into consideration but if no such things are available, the medical officer should consult the family members for their consent. United States Senator Attorney Rick Santorum who was representing Pennsylvania made a statement in 2012 that more than 10% of death in the Netherlands are from euthanasia (Scherer & Simon, 1999). Some vital preconditions to be fulfilled for physician-assisted suicide are (i) confirmation of the suffering which is unbearable by at least one independent physician; (ii) free consent is given by the patient or family, and (iii) performance of the procedure following the prescribed medical standard. However, there are many antagonists of physician-assisted suicide. They try to justify their argument by pointing out that some societies have never legalized euthanasia for the fear that the doctor-patient relationship would be seriously impaired by such a practice. The physician’s involvement in euthanasia radically undermines the relationship between patient and doctor. A dying patient may not be in a fit mental state to make a rational decision as to his death. Moreover, there are many instances wherein the individuals had recovered after being “written off” by medical practitioners. It is argued by the people who criticized legalized euthanasia that in all cases suffering of a patient could be controlled to a satisfactory limit. They suggest complete sedation as an alternative to alleviate a patient’s pain when pain control measures fail. The critics believed that any such activity associated with the extinguishment of life is considered murder. From that point of view, they believe that even after consent has been provided by a patient, any doctor shouldn’t help him (Battin, 2011). The issue regarding decriminalizing attempted suicide has always been debated with lots of controversies taking the moral and humanitarian points of view into account. It has both challengers and followers (Singer, 1995). The humanitarian philosophy and the development of human rights have developed the concept of decriminalization of suicide attempts. Human dignity can’t be ensured without permitting an individual the right to choose life or death as it is a personal autonomy (Singer, 1995). Few developed nations have affirmed suicide as well as active euthanasia (mercy killing) (Tharien AK, 1995). India too seems to have joined the club and is about to decriminalize attempted suicide, with an initiative through the recent Mental Health Care Act of 2017 to delete the associated sections of the Indian Penal Code relating to suicide. More often, differences arise as to the question of what constitutes an offense. An act or omission is regarded as an offense because it is supposed to cause harm to others. But certain contentions have arisen that are independent of hurt caused to others by one’s activities, the nearness of public ethical quality keeps the establishment of the society in adjusting. It shows individual autonomy keeps a close connection with the morality of the public and their accountability to society. Criminal law, while considering a certain act to be punishable by distinguishing it from the other, the immensity of the harm which is going to be caused by such an act must have been calculated. The attempt to decriminalize specific modes of conduct tagged as a crime in a definite legal system has started with the motive that the imposition of punishments or sanctions on such conduct is not thoroughly apt under the particular circumstances. It comes out of differing qualities of contemplations including the unending con- tentions concerning the right scope and degree of criminal law in upholding profound quality. Other than, certain sorts of conduct against which sanctions have been connected, may, by efflux of time, be considered as not appropriate for the utilization of such sanctions- for the occasion, conduct that’s worth ethical condemnations or dissatisfaction may not fundamentally be made
the subject matter of criminal sanction. The other aspect relating to the decriminalization of attempted suicide includes the possible implications of decriminalization and relinquishment of the State’s role. Though suicide would no longer be a penal offense after decriminalization, it would still be a deviant behavior in society. The state’s role though would be diminished in the ambit of criminal law, but State’s responsibility to guarantee the basic fundamental rights to its citizens cannot be absolved. Access to mental health is one of the significant human rights to which every citizen is entitled, under different international legal instruments like the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), UN Declaration on the Rights of Mentally Retarded Persons (UN Declaration, 1971), The Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (Standard Rules, 1993), and the Convention on Rights of Persons with Disability (CRPD, 2006). The importance of this is evident from Goal 3 of the Sustainable Development Goals of 2030 which demands the fulfillment of healthy lives of the people and fostering their well-being (“Transforming our world: the” 2030 Agenda).

2. The right to commit suicide from the global perspective

Centuries back, the proponent of natural law theory, St. Augustine (354–430 CE) declared suicide to be a sin. Most of the lawful restrictions against suicide started from this declaration. Traditionally, the influence of religious institutions including the Church was prominent and instrumental in moulding the approach favoring criminalization of suicidal attempts. However, the French Revolution brought out sociocultural changes in Europe; and consequently, the attitude towards suicide gradually started to be diluted and most of the developed States have decriminalized attempted suicide. Nevertheless, some countries continue to treat attempting to commit suicide as a criminal offense. Such countries are mainly from two regions: North African and South Asian regions. In the former, Ghana (Criminal Code of Ghana, 1960), Kenya, Malawi, Nigeria, Rwanda (Penal Code of Rwanda, 2018), Tanzania, Uganda (Penal Code Act, 1950), etc. currently criminalize non-fatal suicidal behavior. In the latter, Bangladesh, India, Malaysia Pakistan, and Singapore (Singapore Penal Code, 2008), etc. continue to criminalize suicidal attempts. North Korea provides an extreme instance wherein the law criminalizes the family members and relatives of the suicide victim as a form of collective punishment for the act of suicide. However, such jurisdictions that have decriminalized attempts to commit suicide to continue to criminalize abetment to suicide, suicide agreements, and intentional self-harm. For instance, in the State of Victoria (Australia), the survivor of a suicide agreement can be punished for manslaughter and abetment of suicide. In New Zealand also abetment of suicide is a crime. Similarly, in Russia, inciting someone to commit suicide is punishable with imprisonment which may be extended up to five years. In Ireland, two and a half-decade ago, an attempt to commit suicide has been decriminalized. But self-harm continues to be considered not as a form of “attempted suicide.” Under the Roman-Dutch law, suicide and its attempt are not punishable. Some of the States of the US including Alabama, South Carolina, and Oregon continue to penalize persons involved in “suicide pacts,” persons who aid and/or abet; and for insurance, purposes intended to defeat the provisions of law. In South Asia, only a few countries including Indonesia, Maldives, Sri Lanka, and Thailand do not penalize attempts to commit suicide. Compared to continental Europe and the Scandinavian region, in countries that were influenced by the British common law, decriminalization of suicidal attempts took place relatively late. Quite contrarily to continental Europe and the Scandinavian region wherein doctors are permitted to certify suicidal deaths without recourse to legal authorities, in common law countries involvement of legal authorities in suicide certification also tends to be much higher. Anyway, the attempt to commit suicide has been decriminalized in Europe and North America; and much of South America, and a few parts of Asia. Currently, World Health Organization (WHO) has identified fifty-nine countries worldwide that decriminalized attempts to commit suicide. Concerning mercy killing (“euthanasia”), in some jurisdictions, “physician-assisted suicide” is legal; while some prohibit even this practice. This disparity in the law of various jurisdictions itself has negative consequences. For instance, this has paved the way for a new phenomenon—“suicide tourism” or “euthanasia”. At the beginning itself, it should be reminded that not indeed a single worldwide law record recognizes the “right to die.” Indeed casual scrutiny of
the arrangements of the worldwide human rights records makes it clear that it is outlandish to determine such a right. All human rights instruments give for the acknowledgment of the “right to life” and call upon the State parties to secure this basic right (Hrvoje V). However, as discussed earlier, euthanasia is legal in Belgium, Colombia, Netherlands, and Luxembourg. Similarly, assisted suicide is legal in Canada, Japan, Germany, and Switzerland; and in some US states. On the other hand, the majority of the members of the United Nations adhere to norms relating to the protection of the “right to life” envisaged under the basic human rights instruments. The Universal Declaration of Human Rights (UDHR), 1948 declares in unequivocal terms that everyone has the right to life, liberty, and security of person (The Universal Declaration of Human Rights UDHR, 1948). The UDHR is reinforced by several other legally binding UN treaties including the International Covenant on Civil and Political Rights (ICCPR), 1966, the UN Convention on the Rights of the Child (UNCRC), 1989, and Convention on the Rights of Persons with Disabilities (CRPD), 2008. The ICCPR, 1966 does not mention a right to die; instead specifically states that each human being has the inalienable right to life. This right should be secured by law. No one should be subjectively denied of his life (ICCPR, 1966). Similarly, the UNCRC, 1989 says that each child has the inalienable right to life (UNCRC, 1989). The CRPD, 2008 is more explicit in this regard. It provides thus: States Parties reaffirm that each human being has the inborn right to life and might take all essential measures to guarantee its viable delight by people with incapacities on a rise to the premise with others. This particular concern for persons with disabilities is further underlined by the UNCRC providing that a rationally or physically debilitated child ought to appreciate a full and better than average life, in conditions that guarantee nobility, advance self-reliance, and encourage the child’s dynamic interest within the community. These documents are highly significant in the context of the present discussion on the right to die because they highlight the legal protections offered by the international instruments for vulnerable groups like aged persons and persons with disabilities, who are more likely to be affected by euthanasia laws. Many a time, the United Nations treaty monitoring bodies have expressed their disapproval of the practice of euthanasia. Once, while condemning the Dutch euthanasia of infants permitted under the “Groningen Protocol,” the United Nations Human Rights Committee remarked that the Committee was gravely concerned at reports that newborn disabled newborn children have had their lives finished by the therapeutic workforce. Further, during its 96th session in the Netherlands (2009), the Committee made concluding observations that the Committee remains concerned at the degree of willful extermination and helped suicides within the State party. The Committee repeats its past suggestions in this respect and inclinations that this enactment is checked on in light of the Covenant’s acknowledgment of the proper to live. At the regional level also, trends similar to that of international conventions are visible. “Right to life” is expressly recognized under various regional human rights instruments. (The European Charter of Fundamental Rights, 2000; The European Convention on Human Rights, 1950); the African Charter on Human and Peoples’ Rights (also known as the Banjul Charter), 1981; and the American Convention on Human Rights, 1978 are glaring examples. Thus, neither international nor regional human rights instruments mention the “Right to die.” In Europe, the Parliamentary Assembly of the Council of Europe (PACE) categorically declares that euthanasia, within the sense of the deliberateness murdering by act or exclusion of a subordinate human being for his or her charged advantage, must continuously be precluded (Resolution of the Parliamentary Assembly of the Council of Europe 1859, 2012). This PACE Resolution was brought “to the attention of member States, with a request for implementation” (Recommendation of the Parliamentary Assembly of the Council of Europe, 1993). The significance of the aforesaid PACE resolutions lies in the fact that they are considered to be “valuable guides” as far as the European Court of Human Rights (ECHR) is concerned. In Pretty v. the United Kingdom, (Pretty v. the United Kingdom, 2002) a PACE Recommendation was quoted with approval to declare that Article 2 of the European Convention on Human Rights, 1950 cannot be deciphered as conferring the oppositely inverse right, specifically a right to pass on; nor can it make a right to self-determination within the sense of conferring on a person the entitlement to select passing instead of life. It is irrational to infer from Article 2, a right to die, whether at the hands of a third individual or with the help of a public specialist. It was advance held that the arrangement forces upon the State not as it were a negative commitment to abstain from the purposefulness and illegal taking of life, but to
a positive commitment to require suitable steps to secure the lives of people inside its jurisdiction. Similarly, in Sales v. Spain, (Sales v. Spain, 2004) the Court considered the issue regarding the right to die and dismissed the application. When the case was brought to the Human Rights Committee later, it was again dismissed. In another decision in 2011 in Haas v. Switzerland, (Haas v. Switzerland, 2011) also the claim to the right to die was rejected. The ECHR reiterated that Article 2 ensures no right to die, whether with the help of a third party or of the State and that the proper to live has no comparing negative opportunity. Two years later, in Gross v. Switzerland, (Gross v. Switzerland, 2013) also a comparative pointless endeavor to set up the right to die as a “Privacy right” under Article 8 of the Convention was made.

3. The right to commit suicide in the United States
Suicide and attempted suicide are decriminalized in almost all the countries in the United States. In the United States, there are almost 40,000 suicides a year, making suicide the tenth leading cause of death in the country. However, an attempt to commit suicide was regarded as an offense in some States. But prosecutions are uncommon where the wrongdoer is terminally sick. In Wackwitz v. Roy, (Wackwitz v. Roy, 1992) wherein the Virginia Supreme Court was confronted with the legality of suicide, it was observed: “We are mindful of as it were one legislative sanctioning that addresses suicide as a crime. Code § 55-4 describes that ‘no suicide should work a debasement of blood or relinquishment of an estate’. In this way, even though the General Assembly has canceled the discipline for suicide, it has not decriminalized the act. Suicide, hence, remains a common-law crime in Virginia because it does in a few other common-law States. Those states have criminalized the act of suicide in the case of Southern Life & Health Ins. Co. v. Wynn, (Southern Life & Health Ins. Co. v. Wynn, 1940), Commonwealth v. Mink (Commonwealth v. Mink, 1877), State v. Willis (State v. Willis, 1961), State v. Carney (State v. Carney, 1903), State v. Leveille (State v. Leveille, 1891), and State v. Torrence (State v. Torrence, 1991). Euthanasia or mercy killing is illegal in almost all States in America. However, assisted suicide is legal in some jurisdictions including California, Colorado, (Chen Angela, 2016) Maine, New Jersey, (Hefer, 2019) Oregon, Vermont, and Washington (Donovan, 2019). In Montana, its status remains unsettled. The major difference between willful extermination and helped suicide is that within the case of the last mentioned, a person gets help, but eventually voluntarily causes his death. Within the case of euthanasia, a person does not straightforwardly end his life, but another individual act to cause his death (Harris, Richard & Khanna, 2006). In the US, euthanasia advocacy reached its zenith during the 1930s; but diminished during the post-World War II period. Be that as it may, willful extermination endeavors were restored amid the 1960s and 1970s, beneath the right-to-die rubric. Several decisions of the courts including Karen Ann Quinlan’s case (In re Quinlan, 1976) also strengthened the rights of patients or their guardians to resort to voluntary passive euthanasia/physician-assisted death (Gostin, 1986). In Washington v. Glucksberg, (Washington v. Glucksberg, 1997) the US Supreme Court unanimously held that the Due Process Clause of the US Constitution does not recognize a right to assisted suicide. After the judgment in the Karen Ann Quinlan case, (In re Quinlan, 1976) the moral, ethical and lawful debates on euthanasia in the United States of America became more important. Karen Ann Quinlan Case appeared in 1975. Karen Ann Quinlan was a 21-year-old girl who had taken an overdose of alcohol and valium by mistake. She went into a coma after this overdose. But one ventilator and other life-longing medicines kept her alive. This case was sometimes called the case of sleeping beauty. The whole country started to contemplate the solution to the patient’s wretched situation. Ultimately, the case of Quinlan helped redefine the term brain death and the legal basis for voluntary and involuntary decision-making in cases of these brain-dead patients. Before the New Jersey Supreme Court, a petition was filed for the removal of life support. This decision was made in 1976 and luckily it was focused on her irreversible position and the privacy rights of replacements that the death supports allowed to be excluded. The Court added fuel to the right to die campaign with this decision to recognize passive euthanasia. Following this decision, some 50 bills were tabled by 38 legislatures in the next year (1977) to enact legislation to broaden legal authority, sanction living wills, etc. Living will do mean to seek what is known as passive euthanasia by the people at large. Indian Supreme court has also allowed people to draw up living wills and medical treatment can
be withdrawn at people's will when they feel insecure regarding their life. It generally sets out the wish of a patient that how they want to be treated at their time of illness. On the other hand, however, the American Medical Association reiterated its opposition to euthanasia further. It also argued that the ethical acceptability of passive euthanasia is only final terminally ill cases where exceptional or courageous methods are required to preserve life in a way inconvenient and wasteful for the patient. In *Cruzan vs. Director, Missouri Department of Health* (Cruzan v. Director, Missouri Department of Health, 1990)—In this particular case, the Supreme Court observed that the State could prohibit the termination of treatment if there is no evidence much convincing that there is stable consent of the terminally ill patient. Through this judgment, the individual state gets freedom for appropriate standards to determine involuntary passive euthanasia. In April 2019, New Jersey got to be the seventh US state to permit help dying after the Senator signed the bill that was effective 1, 2019. From 1 January 2020, Maine gets to be the eighth US state to legalize helped death. In June 2019, the Maine assembly passed a bill to legalize helped death. During the same month, the government signed the bill. In 1999, the State of Texas passed the Advance Directives Act which engages the Texas doctors to withdraw life support mechanisms from terminally sick patients when such treatment is found to be worthless and unseemly. This can be now and then alluded to as detached euthanasia.

4. The right to commit suicide in the United Kingdom
For quite a considerable period suicide was considered offensive to God and the crown in England. In 1961, the Suicide Act was enacted to amend the law relating to suicide in England and Wales. The prevailing rule of law which regarded the commission of suicide, a crime was abrogated by this statute (Suicide Act, 1961). However, for complicity in another's suicide the legislators had taken care in providing criminal liability (Suicide Act, 1961). According to this provision, an individual commits an offense if—he does any act able of assisting the suicide or attempted suicide of another individual and his act was aiming to empower or help suicide or a suicide attempt. The individual requires not to be a particular individual (or class of people) known to or distinguished. It is immaterial whether or not a suicide, or a suicide attempt, occurs. The offender is liable to imprisonment for a term not exceeding fourteen years. Acts capable of encouraging or assisting suicide are also made punishable (Suicide Act, 1961). In the United Kingdom, Active euthanasia is considered unlawful. Indeed even though it is an offense, numerous specialists still help their patients with their wishes by withholding treatment. This, in any case, is as it turned to where the specialists feel that the passing of a patient could be a few days away and after counseling patients, relatives, or other specialists (Dougall, Jennifer & Marita Contemporary World Issues: Euthanasia 70–73). In England and Wales, the Mental Capacity Act of 2005 enables individuals to make a progress choice or designate an intermediary in this respect. This arrangement is planning to make accessible a progressed refusal of life-saving treatment when the individual is not of a sound mind and in addition, it must be considered to be substantial and appropriate by the therapeutic staff (Johnston & Liddle, 2007). In a very recent case in 2018 (An NHS Trust and others v Y and another, 2018), the Supreme Court of the United Kingdom held that if the person is in a permanent vegetative state, legal consent is not required in case of treatment withdrawing. In December 2018, consequently, the Royal College of Physicians (RCP) and the British Medical Association (BMA) together published guidance enumerating the circumstances wherein physicians can ethically resort to such practice that allows a patient to die. The chairman of the BMA ethics committee, John Chisholm has expressed the present medical trend that the point of restorative treatment isn’t essential to extend life at all costs (Mowat & Chisholm, 2019).

Although euthanasia is not legally permitted in the United Kingdom in many cases a patient's death needed to be rushed and there is no practice to make the physicians responsible. In the case of *Airedale NHS Trust v Bland*, (Airedale NHS Trust v Bland, 1993) Lord Goff held that specialists who intentioned do everything vital and suitable to diminish a patient's suffering and pain, indeed with the prescience of conceivable terminal results, are considered legitimately ensured when death is hurried. In England, they have not legalized Euthanasia or mercy killing even though time to time attempts have been made in this direction. In the year 1936, the first attempt was taken to legalize euthanasia which turned off into an unsuccessful one. Again in
the year 1950, a motion was passed which was defeated. At present in England euthanasia is considered murder. The consent of the victim would be irrelevant to liability as the law does not recognize consent to serious injury or death. The intentional taking of one’s life that is Suicide was a criminal offense in England. However, in the cases of mercy killing the courts in England have taken a lenient view and some of the accused have been acquitted. The House of Lords also initiated a bill called An Assisted Dying Bill to this effect in November 2005 where an inability to execute either helped suicide or voluntary euthanasia is possible to a capable, terminally ill adult. It needs a doctor to ensure that the patient dies after a matter of months of natural causes. In the case of Pretty vs. United Kingdom Case (Pretty v. the United Kingdom, 2002)—In this case, a forty-three years old woman named Diana Pretty was suffering from motor neuron disease in Britain battled for the right to die in vain in the courts. In 2002, finally, she died. Her husband Brian Pretty after her death sustained a country-wide Campaign for legalizing Euthanasia went up to the European Courts of Human Rights and sent the petition even to British Prime Minister Tony Blair.

5. The right to commit suicide in Switzerland
Swiss law does not recognize committing suicide as a felony or aiding suicide as complicity. Swiss law has a rational view toward suicide and no special status has been provided to the medical officers to assist it. After declaring an assisted suicide, like all other unnatural death, a police inquiry is conducted and most of the cases are open and shut as there is no commission of the crime, as well as criminal motive, is absent. When there is a question of the patient’s competency to make an autonomous decision, there is a chance of prosecution. This is rare. Switzerland provides a quite strange picture as far as assisted suicide is concerned. Assisted suicide is condoned according to Swiss law and a non-medical person is capable of performing it. Euthanasia is, however illegal under the law. Currently, the decriminalization of euthanasia and the participation by non-physicians are being debated frequently. No one will argue that in the case of assisted suicide and euthanasia, the involvement of a doctor is crucial. The law in this regard in Australia, Belgium, Holland, and the US State of Oregon endorses this fact. The relation between a patient and physician is fiduciary and the physician is in the position to provide alleviative care with knowledge. As a result, they are trusted in case of ensuring a painless death without misusing these practices. Switzerland seems to be the only jurisdiction that limits the circumstances under which assisted suicide is considered to be a crime, thereby decriminalizing it in other cases, without requiring the involvement of a physician. It should be noted that assisted suicide has been participated by non-medical personals. A clear distinction has been made by the law between the issue of whether assisting death is permissible in special circumstances and whether the doctors are permitted or not. In the case of assisted suicide and euthanasia, this distinction has not resulted in moral desensitization (Hurst & Mauron, 2003). In Switzerland, 752 assisted suicides (330 men and 422 women) were recorded in 2014 in comparison to 1,029 suicides (754 men and 275 women) which are non-assisted. Most of them were the aged suffering from terminal diseases. Assistance or incitement to suicide which is intended for a selfish motive has been penalized by the Swiss Criminal Code of 1937 (Swiss Criminal Code, 1937). The decree of prohibition also covered any assistance to euthanasia which is involuntary (like manslaughter on request), even if committed bona fide (respectable motives) as in the case of mercy killing (Swiss Criminal Code, 1937). In the case of assisted suicide with non-selfish motives is considered legal. For instance, lethal drugs may be administered to patients as long he responds. However, active euthanasia by administering a lethal injection cannot be legally sustained. In Switzerland, every type of active euthanasia is prohibited under the law. Indeed even though Swiss law permits giving for the means to commit suicide, it is specific that the reasons for the same must not be based on self-interest such as financial gain (Assisted Suicide, 2019). The regulation of assisted suicide in Switzerland which grants the help of intentional willful extermination for non-resident outsiders has driven the marvel of suicide tourism. A police inquiry is required along with the declaration in case of assisted suicide. Since no wrongdoing has been committed within the nonappearance of a selfish motive, these are generally open. The Swiss Penal Code under Article 115 declares aiding suicide to be a felony if the intent is selfish and even so. For altruistic purposes,
it condones assisting suicide. In most cases, an obligation to save lives cannot overcome the permissibility of altruistic assisted suicide.

6. The right to commit suicide in other countries

Around the world, the right to die has been recognized differently. In some jurisdictions, it’s been considered a felony/ misdemeanor and on the other hand in other jurisdictions, suicide ipso facto is not considered a crime.

6.1. The scenario of Belgium

In Belgium, an attempt to commit suicide was not an offense. Euthanasia and physician-assisted suicide were illegal till 2002. The Euthanasia Act 2002 recognized the legal status of euthanasia but assisted suicide was declared illegal. Under certain conditions, in 2006, changes were brought to legalize euthanasia law. The conditions included:

(a) The patient must be a grown-up and in “futile therapeutic condition” with “physical or mental suffering” that cannot be cured.
(b) Patients must moreover have a long-standing history with the doctor that plans on being a portion of the method.
(c) There must be a few demands that are looked into by a commission and endorsed by different doctors before the action (Belgian Act on Euthanasia, 2002).

6.2. The scenario of Australia

By ipso facto, suicide is not recognized as a crime in the State of Victoria. A charge of manslaughter could be made when one party survives from a pact of suicide. When a person assists another to commit suicide, that is considered a crime, and a person is empowered by the law to take any relevant measure for preventing suicide under section 16 of the Crimes Act 1900 (Australian Capital Territory; The Australian Capital Territory Crimes Act, 1900), section 31 of the Crimes Act 1900 of the New South Wales (The New South Wales Crimes Act, 1900), section 4 of the Queensland Criminal Law Amendment Act 1979, and section 289 of the Western Australia Criminal Code Amendment Act 1972. If there is any suicide pact between two or more persons then they will be held liable. The first proper euthanasia law was of the world was passed in the northern territory of Australia in the Nova Scotia case. Brenda Barnes who was a diabetic, and her companion Mary Fogarty helped her to commit suicide since she thought that she would advantage of Barnes’s $100,000 life insurance policy. Mary Fogarty assisted the suicide Barnes by giving her the syringe so that she could inject amphetamines; she also conceded to composing the suicide note for Barnes at Barnes transcription but claimed not to have known that it was a suicide note (Demont, 1995). The conviction of Mary Fogarty included a probation period of 3 years in addition to the condition of providing 300 hours of community service. Mary Fogarty was the first person who was charged with section 241 (b) of the criminal code over 30 years. In the case of Brightwater Care Group (Inc) v. Rossiter (Brightwater Care Group (Inc.) v. Rossiter, 2009)—an Australian quadriplegic named Christian Rossiter in 2009 was granted the right to die, and allowed to refuge sustenance. It was ruled by the Supreme Court of Australia that to decide whether to continue to receive medical care depends on a patient who was aged 49. Rossiter, later on, died following a chest infection.

6.3. The scenario of France

In France, all forms of assisted suicide are declared unlawful and anyone who helps to commit suicide will be prosecuted. The nation is scheduled to hold a referendum on the topic in 2013, and several surveys indicate overwhelming support for an assisted suicide law. Publishing any suicide-related materials is illegal in France. The legislation came into force in France in 2016, providing the right to prolonged deep sedation until the death of terminally ill patients. As an alternative to euthanasia and as the “French solution” to end-of-life concerns, this right has been proposed. The statute separates euthanasia from CDS and other means of regulation of
end-of-life symptoms. France became the first country in the world to implement CDS regulations (Horn, 2018).

6.4. The scenario of Pakistan
The Pakistan Penal Code (PPC) has made suicide or attempted suicide punishable under Section 325 (Pakistan Penal Code Act, 1860). Suicide attempts are punishable either by imprisonment which may be extended up to one year or a fine may be imposed and there is scope to impose both imprisonment and fine under the PPC. In Pakistan, there was an opinion to decriminalize the attempt to commit suicide but the motion was rejected in the parliament saying that it will against the teachings of Islam to take their own life. In cases of attempted suicide measure consideration is given to the intention as such when the intention is found out the victim can be prosecuted only once for that reason. In every case is not so easy to find out as their law is having very strong contention for assuming another persons’ intention.

6.5. The scenario of Bangladesh
In Bangladesh, Suicide here is considered an unnatural death and a long-term social issue. The Bangladesh Penal Code contains similar provisions to the Indian Penal Code by penalizing suicide attempts under Section 309 (Bangladesh Penal Code Act, 1860).

6.6. The scenario of Malaysia
In-Laws of Malaysia: Act 574 Penal Code Section 309 provides an attempt to commit suicide which states that “Whoever attempts to commit suicide, and does any act towards the commission of such offense, shall be punished with imprisonment for a term which may extend to one year or with fine or with both” (Penal Code of Malaysia Act, 1997). In Malaysia, the government is planning to take steps to decriminalize the attempt to commit suicide from its penal code. Attempted suicide and any kind of self-harm done by a person, needs treatment as a patient not as a prisoner.

6.7. The scenario of Nepal
In Nepal, there is no law regarding suicide or attempt to commit suicide. However, recently the Nepal government endorsed the new Criminal Code Act in 2018. Section 185 of the act has criminalized abetment to suicide (Nepal Criminal Code Act of 2018). It is prohibited for any individual to create any circumstances which may cause or lead another person to suicide or suicide attempts. If any person abets another to suicide or committing suicide attempts, will be punished by imprisonment for a maximum term of five years with a fine which may be a maximum of fifty thousand rupees.

7. Recommendation for the policy makers
The right to life is a basic human right that indicates the guarantee of a dignified human life. This right doesn’t only impose a mere negative duty upon the state for not interfering with the individual’s life or bodily members. This also imposed a positive obligation upon the state a positive duty to uphold the sanctity and dignity of human life. As the civilized jurisprudence globally is shifting focus on the prospects for the decriminalization of suicide or attempts by the state legislatures, it is high time for definite national and international legal guidelines. At least, domestic regulation is necessary for conducting physician-assisted suicide and gradually some international standards are only in demand of time. While making policy, the primary focus should be given to make the following definition very clear without any ambiguity:

(1) Under which circumstances it will be permissible. The term “Terminal illness” should be explained clearly
(2) The modes of communication for taking consent of the person, seeking physician-assisted suicide. A certificate of request should be a mandatory requirement to initiate the process. The exceptional grounds where a person is unable to sign a certificate of request must be covered with relevant directions

(3) The term “Physician”, “Medical practitioner”, “Health care provider” should be explained properly

(4) A provision for the re-examination of the person seeking qualified psychiatrist by a psychiatrist is required to confirm the sanity of the person and the term “Qualified psychiatrist” should be subjected to the specific elaboration

(5) The terms and conditions for granting “Request of and for physician-assisted suicide” should be very specific

(6) The response guideline of any medical practitioner after getting such a request should be provided. The condition under which such request is acceptable and the exceptions should be explained by the law

(7) A clear guideline should be provided on the restriction of physician-assisted suicide where options are available for “Palliative care” for the remission of the patient’s pain or suffering

(8) “Right to rescind request”, in specific cases should be allowed and guided with relevant directions

(9) Some penal provisions are very necessary to stop malpractices and improper conduct by any concerning persons.

(10) All medical records should be kept under specific legal guidelines. The policy should also be explained to which authorities, a record must be forwarded after every case of physician-assisted suicide

8. Conclusion

Attempt to commit suicide is still an offense under Section 309 of the Indian Penal Code, 1860. The said offense is bailable, non-compoundable, and triable by any Magistrate. One of the key reasons a person is held criminally liable for his or her conduct is that the illegal or dangerous activities cause damage to society or another citizen. Another reason an offender is prosecuted for his actions is that it dissuades someone from doing an act that is immoral or detrimental to society. By attempting to commit suicide is a punishable crime that does not prevent a person from committing suicide. A person who tries suicide because of his adverse psychiatric state will not investigate the fact whether or not he would be disciplined for his actions. Prisons or some such type of punishment do not dissuade a person from committing suicide. Besides, punishment will also fail to support a person who has suicidal impulses, as individuals may be unable to talk about their problem, causing them to commit suicide. In many countries of Africa, Suicide is considered Legal except in a few countries attempt to commit suicide is illegal like Ghana, Kenya, Uganda. However, physician-assisted suicide and euthanasia are considered illegal in almost all African countries. In Asia, most of the countries have decriminalized attempted suicide except a few countries like Bangladesh, Malaysia, Myanmar, Oman, Pakistan, Syria, and United Arab Emirates. However, physician-assisted suicide is illegal in all countries except China. In America, attempting to commit suicide is not an offense and in almost all countries suicide is legal except in Guyana and the Bahamas. However, physician-assisted suicide and euthanasia are illegal in many countries of America except a few. In the United Kingdom also attempting to commit suicide is not considered an offense under Suicide Act whereas physician-assisted suicide and euthanasia are considered illegal in a few countries. The state should not curtail the liberty of people attempting to suicide by imprisoning or punishing them in any manner because if a person attempts to commit suicide it is neither way harming any other individual or the society at large. According to John Locke, if it does not affect the rights of another individual, the state should not infringe upon individual liberty.
Funding
The authors received no direct funding for this research.

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Disclosure statement
No potential conflict of interest was reported by the author(s).

Citation information
Cite this article as: Right to commit suicide in India: A comparative analysis with suggestion for the policymakers, Farhana Helal Mehtab, Arif Mahmud, Riaduzzaman, Mahabub Ul Alam Khan & Fariha Hossen,Cogent Social Sciences (2022), 8: 201754.

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