The Terminally Ill Adults (End of Life) Bill is currently passing through the legislative process. The Bill is considered to be a landmark piece of legislation due to the long campaign leading to its introduction as a private members' bill.

'To what extent do you think the Bill balances the competing requirements of an individual's right to autonomy and the need for safeguards.'

Introduction

Autonomy, described by Professor Johnathan Herring as the foundation of 'much liberal political thought'[1], is a central pillar of the rights protected under the European Convention on Human Rights (ECHR). It has long shaped legal, political, and ethical debates surrounding assisted dying, with the right to choose the 'manner and timing of one's own death' (*Pretty v United Kingdom* [2002] 35 EHRR 1 [58]) often framed by those in favour as the ultimate expression of self-determination. Yet neither the United Kingdom nor the European Court of Human Rights (ECtHR) has endorsed autonomy in absolute terms. In *Pretty*, the ECtHR accepted that the wish to avoid an 'undignified and distressing end' to life may fall under Article 8, but upheld the UK's blanket prohibition on assisted suicide as a proportionate means of protecting the vulnerable ([67], [76]).

This cautious judicial approach contrasts with the reality of UK medical practice. One survey of GPs found that sixty-three percent of deaths in England involved clinical interventions in the dying process[2]. This reflects an important distinction in UK law between acts and omissions[3], where doctors may lawfully withdraw futile treatment (*Airedale NHS Trust v Bland* [1993] AC 789) and patients may refuse any care (*R (Nicklinson) v Ministry of Justice* [2014] UKSC 38), yet consensual acts to assist death, often based on the same ethical grounds, remain criminalised. These tensions risk creating an arbitrary legal distinction, permitting autonomy in death in some circumstances, while criminalising it in others.

The Terminally Ill Adults (End of Life) Bill seeks to resolve this inconsistency. Its aims are to give those already dying greater choice embedded within a framework of palliative care and to create a piece of legislation which both protects autonomy and safeguards the vulnerable[4]. This essay assesses whether the Bill, in limiting assisted dying to the terminally ill, strikes a Convention-compliant balance between autonomy and protection. It examines the interaction between Articles 2 and 8, the potential for discrimination under Article 14, and the adequacy of safeguards designed to prevent coercion. It concludes that, while imperfect, the

[1] J Herring, *Medical Law and Ethics* (9th edn, Oxford University Press 2022), 622.
[2] Ibid, p578.
[3] Ibid, p613.
[4] Department of Health and Social Care and Ministry of Justice, *Terminally Ill Adults (End of Life) Bill: Equality Impact Assessment (as introduced to the Lords)* (26 June 2025) https://www.gov.uk/government/publications/terminally-ill-adults-end-of-life-bill-equality-impact-assessment accessed 26 October 2025, 4.

Bill represents a proportionate and ethically coherent reconciliation of competing rights at end of life.

Article 8 and Article 2

At the core of the assisted dying debate, a tension exists between the right to autonomy under Article 8 and the right to life under Article 2. In *Boso v Italy* (App no. 50690/99, ECHR 2002) the ECtHR reaffirmed the state's dual obligations to protect life and prohibit its intentional deprivation [1]. Critics of the Bill argue that this is absolute, particularly regarding the negative obligation not to intentionally take life, raising concerns over Convention compatibility[5]. However, this debate must be understood within the broader ethical framework of sanctity of life compared to quality of life[6]. While UK law has historically prioritised the former, its approach is increasingly nuanced. In *Rabone v Pennine Care NHS Foundation Trust* [2012] UKSC 2, the courts upheld strong protective duties under Article 2. Yet following the decriminalisation of suicide by the Suicide Act 1961 and post-*Purdy* guidelines, judicial decisions such as *R v Inglis* [2010] EWCA Crim 2637 and *Gloucestershire CCG v AB* [2020] EWCOP 39 demonstrate a growing recognition of autonomy and compassion in end-of-life care.

The judgment in *Lambert v France* (2015) 62 EHRR 2 demonstrates that quality of life should be considered highly relevant in discussions relating to Article 2, including the right to shape one's own end-of-life. Taking mind of the judgment of the ECtHR in *Mortier v Belgium* App no 78017/17 (2022*)*, the Court accepted that euthanasia may be compatible with Article 2 provided sufficient safeguards exist, the Bill recognises the 'competing interests at play under Article 2 and Article 8', while enshrining the 'need to safeguard the sanctity of life'[7]. Mechanisms including self-administration, medical oversight, and proxy declarations[8] directly address the proportionality and procedural requirements identified in *Mortier*, enabling autonomy at the end of life while preserving the state's duty to protect[9]. In doing so, the Bill seeks to reconcile Articles 2 and 8 within the UK's evolving ethical and legal landscape, providing long-awaited legislative clarity following judicial deference to Parliament in cases such as *Nicklinson*.

Article 14 and the 'slippery slope'

Further complexity arises when its restricted scope is examined under Article 14. Philip Murray argues that once Article 8 is engaged to protect a person's 'right to avoid a distressing

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[5] R Shah, 'Guest Post: Assisted Suicide on the NHS would breach ECHR' (UK Human Rights Blog, 1 November 2024) https://ukhumanrightsblog.com/2024/11/01/guest-post-assisted-suicide-on-the-nhs-would-breach-echr/ accessed 25 October 2025.
[6] Herring (n1), 622.
[7] Department of Health and Social Care and Ministry of Justice, *Terminally Ill Adults (End of Life) Bill: ECHR Memorandum (as introduced to the Lords)* (26 June 2025) https://www.gov.uk/government/publications/terminally-ill-adults-end-of-life-bill-echr-memorandum accessed 24 October 2025, 38.
[8] Ibid, 9-10.
[9] A Deb and L Graham, 'No, legislating to allow euthanasia would not breach the ECHR' (UK Human Rights Blog, 7 November 2024) https://ukhumanrightsblog.com/2024/11/07/no-legislating-to-allow-euthanasia-would-not-breach-the-echr/ accessed 24 October 2025.

and undignified end to life', affirmed in *Nicklinson* [29], it becomes difficult to justify the exclusionary parameters of the Bill, preventing those with chronic or degenerative conditions who suffer comparably from enjoying the same rights[10]. If autonomy is a foundational principle of the Bill, its application cannot be contingent solely on a terminal diagnosis, for 'terminally ill people do not have a right to more autonomy than others'[11]. Given that, under the *Carson* framework, illness and disability fall within a 'relevantly similar' status (*Glor v Switzerland* (13444/04)), and because suffering is not exclusive to those close to death, the Bill risks differential treatment between groups in analogous situations without objective justification[12]. As Professor McCann has noted, the six-month threshold relies on an arbitrary and often imprecise estimate, failing to reflect the lived reality of many who endure prolonged, intolerable suffering[13].

However, this concern, while compelling, must be balanced against broader Convention legislation and the structure of the Bill itself. The ECtHR has consistently afforded states a wide margin of appreciation in 'complex legal, social, moral, and ethical issues' (*Mortier* [142]), of which assisted dying is certainly one[14]. Domestic courts have exercised similar restraint, often deferring to Parliament in judgments involving profound ethical question (see: *Nicklinson*, *SC*). On this basis, Martin has defended the Bill's restriction as a proportionate and justifiable attempt to control the manner of death in its final certainty, rather than a universal right to choose death[15]. This is supported by an *obiter* comment in *Karsai v Hungary* (App No 32312/23, 2024 [148]), that terminal-only frameworks can be acceptable in upholding the 'delicate balance to be struck between respect for human dignity and the right to self-determination'. As Professor Jackson observes, most applicants for assisted dying are already in the final stages of life, and the six-month protocol reflects legislative practicality rather than arbitrary exclusion[16]. The Bill mirrors the comments in *Karsai* by grounding justification for interference with Article 14 in the need to avoid 'implicitly devalu[ing] the lives' of those with disabilities or mental illness[17]. In this light, the Bill can be seen as a considered limitation aimed at upholding dignity and safeguarding the vulnerable, consistent with Convention principles.

Self-determination, Safeguards, and Legislative Responsiveness

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[10] P Murray, 'Assisted Suicide and the ECHR: Some Further Thoughts' (UK Constitutional Law Association, 19 November 2024) https://ukconstitutionallaw.org/2024/11/19/assisted-suicide-and-the-echr-some-further-thoughts/ accessed 25 October 2025.
[11] Ibid.
[12] Murray (n 10).
[13] A McCann, 'Assisted dying bill would create the worst thought-out legal framework anywhere in the world – legal expert' (The Conversation, 26 November 2024) https://theconversation.com/assisted-dying-bill-would-create-the-worst-thought-out-legal-framework-anywhere-in-the-world-legal-expert-219847 accessed 26 October 2025.
[14] Deb and Graham (n 9).
[15] S Martin, 'Differentiation in dying: can limiting assisted suicide to the terminally ill be justified?' (UK Constitutional Law Association, 27 November 2024) https://ukconstitutionallaw.org/2024/11/27/differentiation-in-dying/ accessed 26 October 2025.
[16] House of Commons, *Written evidence submitted by Professor Emily Jackson FBA OBE (TIAB310), Terminally Ill Adults (End of Life) Bill* (13 February 2025, Session 2024–25, UK Parliament) https://committees.parliament.uk/writtenevidence/132310/html/ accessed 20 October 2025.
[17] Department of Health and Social Care and Ministry of Justice, *ECHR Memorandum* (n 7), 47.

Concerns about coercion raise questions as to whether assisted dying can be truly autonomous, particularly in the context of terminal illness[18]. Critics note that physical pain and depression may undermine capacity, and point to evidence that many elderly patients are disproportionately at risk of abuse or pressure[19]. These systemic injustices can create among the elderly or terminally ill the 'indirect social pressure to end their lives' referred to by Lord Sumption in *Nicklinson* ([228]).

However, many of these concerns have been addressed in the Bill's design. Detailed procedural safeguards have been introduced, including the creation of a new criminal offence for coercion or undue influence (34), and a requirement that any individual seeking assisted dying must demonstrate both 'a full understanding' and a 'free and informed desire' to proceed, free of external pressure[20]. Doctors are required to undergo training in capacity assessment and abuse awareness (8(10)). In response to Law Society criticism as being overly burdensome[21], the requirement for High Court approval has been repealed and replaced with oversight by two independent doctors and a Review Panel[22]. The Bill marks a significant departure from the limited oversight of refusing life-preserving treatment, and gestures toward a model which balances individual agency with a the state's duty to protect the vulnerable.

Conclusion

Support for assisted dying does not typically equate to support in an unqualified right to die. Leading autonomy theorists such as Dworkin have acknowledged the need for legitimate boundaries, himself recommending a six-month prognosis threshold[23]. While critics suggest this limitation undermines the very autonomy it seeks to protect, boundaries are inherent to the legal realisation of rights[24].

The position in Oregon offers a final reflection. There, only half of those issued with life-ending medication ultimately take it[25]. This suggests that the legal availability of assisted dying serves a critical autonomy-based function, even when not acted upon. The Bill reflects this by legislating for the possibility, rather than the inevitability, and safeguards individual agency within a tightly controlled framework, while preserving the state's duties under Articles 2 and 8 of the Convention. While it is unlikely that any framework will fully resolve the ethical and legal tensions surrounding assisted dying, the Bill represents a careful attempt to reconcile them in a manner consistent with Convention law.

Word Count: 1493 (excluding bibliography, footnotes, and title).

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[18] Herring (n 1), 627.
[19] Department of Health and Social Care and Ministry of Justice, *Equality Impact Assessment* (n 4), 15.
[20] Department of Health and Social Care and Ministry of Justice, *ECHR Memorandum* (n 7), 45.
[21] Law Society of England and Wales, 'Safeguards needed if Bill on assisted dying is to become law' (11 February 2025) https://www.lawsociety.org.uk/news/press-releases/safeguards-needed-if-bill-on-assisted-dying-is-to-become-law accessed 22 October 2025.
[22] Department of Health and Social Care and Ministry of Justice, *Equality Impact Assessment* (n 4), 3.
[23] Herring (n1), 628.
[24] Ibid, 629.
[25] Ibid, 640.

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