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AN ASSESMENT OF EUTHANASIA OR MERCY KILLING AND ITS IMPACT ON HUMAN AND PEOPLE'S RIGHTS

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Abstract.

Keywords; Euthanasia, Killing, Legal framework, Suicide

1.1 Introduction

There is no gain in saying that it that so many people suffering terminal or life-threatening illnesses cry and request that their life be terminated rather than continuous stay on their sick bed for a long time especially when they are in pains and do not have the hope of recovering from such illnesses. An ill patient gets to a stage and becomes worrisome and therefore, request that his or her life be ended since there seem no hope of recovering from such illness. This demand or request on the part of the patient is sequel to the fact that these ill persons have suffered perpetually and it has got to the stage of preferring death to living while the suffering persists and they remain in anguish. A 55-year-old Canadian woman recently requested to die over a continuous illness of COVID which has prevented her from the 'simple joys of living'.[2] However, the question that is begging for an answer is:

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[2]P. Adebayo, 'Canadian Woman Battling Long COVID Applies For Assisted Suicide' https://naijalamp.com/2003/12/12/16/canadian-woman-battling-long-covid-applies-for-assisted-suicide/> , accessed 10 January, 2024.

how did she know that she would not recover from the illness as others who suffered the same COVID survived it? Instances abound where a patient already written off and lost all hope of survival could recover from an illness. Again, what makes a patient feel or believe that the pains he or she feels at a particular period not subside after a while? These are some complex and paradoxical questions that need answers. There has been a raging debate as to whether euthanasia or mercy killing should be legalized or not? Some scholars have argued that since some illnesses are terminal and very serious to the extent that the patients have no hope of recovering, it is pertinent that such ill persons or patients should be allowed to die at willful request. This argument points to the fact that there is no need to keep a sick person in bed perpetually when it is obvious that he or she can never recover from the illness.

On the contrary, another school of thought opined that God Almighty created all beings and that it would be unfair to kill or assist the killing of a person on the ground that he or she is ill or in pain and does not seem to have the hope of recovering. To them, death will come when it will come but killing by any means amounts to murder whether upon the request of the deceased or not. It is argued too that on the ground of morality, it is morally wrong to kill anyone; it is unfair and morally wrong to assist any killing by any means.

The right to life is a constitutional provision and it must not be derogated from. International laws and other legal instruments are to be complied with by countries that are signatories to such laws and treaties. Many of the international, regional and national laws and treaties support the right to life, thus, its contravention becomes penalized. However, the issue of euthanasia or mercy killing has been a subject of international debate the world over. So many people argue that it is the right of a person who is ill and does not have the hope of recovering to seek to die to end his suffering. Again, some medical experts have been prosecuted for carrying out mercy killings upon request by ill persons on the grounds that it is professionally, morally wrong and unlawful to terminate the life of a person whether he or she is in pain or ill.[3] In some countries like the United States of America (USA), different states of the federation have different laws regulating euthanasia. In other countries, there are no known laws regulating euthanasia either because of religious, moral or legal grounds. It follows that in some countries, euthanasia is legal while it is not known to law in other countries. It has become very prevalent in some countries especially where it is legal. However, euthanasia as a concept culminates in the life of an individual, therefore, it has to be given proper consideration and the merits and demerits should be properly weighed and propagated the world over.

One controversial issue on euthanasia is the ability of medical experts to know when and how the patients seeking euthanasia are capable of deciding to die. It is difficult

[3]S. 12 CFRN 1999 (as Amended).

to determine the state of their mind in decision-making at a given time. Could such decisions be from their heart since they are seriously sick and in pains? Are they frustrated or provoked by the family members or hospital personnel? Is it their wish to die? Death is inevitable but it must be noted that death itself is a natural occurrence and should be a thing that occurs freely from nature rather than compelled or coerced. But where life itself has become burdensome, unbearable and robs an individual of his or her joy in living, one may reason that such individual should die and rest eternally instead of continuing in unbearable pain and unending anguish.

1.2 Meaning of Euthanasia

The word ' euthanasia' originated from the Greek words 'eu', meaning 'good', and 'Thanatos' which means 'death'. 'Euthanatos' means 'easy death'.[4] It is described as a 'painless death to ease the suffering of a person.'[5] Often, people who are ill decide on their own volition to die by requesting or seeking from physicians or medical experts that their lives should be terminated upon discovering that there is no hope that they would recover from such illness. It can also be by way of a physician refusing to treat or withdraw treatment of a patient or ill person to pave the way for the ill person to die knowing that such an ill person would not survive such serious pains or illness. This voluntary request for death on the part of an ill person is known as euthanasia or mercy killing.

The Black's Law Dictionary defines euthanasia as follows:[6] the practice or an instance of causing or hastening the death of a person who suffers from an incurable or terminal disease or condition especially a painful one, for reasons of mercy. 'Euthanasia is sometimes regarded by law as a second-degree murder, manslaughter, or criminally negligent homicide.'[7]

From the definition above, three keywords are identified: hastening, incurable and painful. It follows that for euthanasia to be requested or exercised, it must be shown that death must be hastened as a result of incurable or terminal disease such disease must be painful, and there must be reason for mercy. Therefore, euthanasia could also be referred to as 'the causing or hastening of death, particularly of an incurable or terminally ill patient, and at their request'.[8] It is the act of deliberately terminating

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[4]Dictionary - Oxford Languages, https: <languages.oup.com>dictionary.
[5]*Ibid.*
[6]B.A. Garner, Black's Law Dictionary, 11thedn (USA: Thompson Reuters, 2019), 696.
[7]*Ibid.*
[8]D.M. Walker, The Oxford Companion of Law.

an ill person's life to end the person's suffering.[9] It is glaring from the foregoing that euthanasia encompasses the need or request of a person to pass away peacefully in order to end a serious pain or rancor. Euthanasia must follow an event, that is: an illness that has resulted to serious pain; there is no hope of the patient recovering from the illness and the illness or disease must be incurable and the ill person or his relations must consent where applicable.

Some focal or cardinal points are deduced from the meaning of euthanasia above. First, it must be deliberate from the volition of the ill person. Secondly, there must be the assurance that all hope of recovering is lost. Thirdly, the person must be suffering from a terminal disease and there must be opportunity for a second or third physician to attest to the fact that there is no hope of recovering consequent upon the deadly disease. The voluntariness of the person requesting that his life be terminated is therefore, a *sine qua non* (mandatory Condition) in euthanasia or mercy killing.

1.3 Brief Historical Background of Euthanasia

The origin of euthanasia dates back to the 16th and 17th centuries when an English Philosopher, Francis Bacon wrote that extending the life of ill persons with incurable ailments and diseases would increase the suffering of such persons and their families.[10] Again, Thomas More stated that where diseases cannot be cured, it is pertinent to only apply euthanasia or mercy killing upon the request of such patients or persons.[11] Others have argued that 'a life which is not worthy of living should be terminated.'[12] It presupposes that when a person is seriously injured or ill and death become inevitable, such a person's life should be terminated upon his request to stop the person's pain and long-suffering.[13] It has been observed that approach to medical issues these days bothering on the care for terminally ill encompasses assisting the patients psychologically, spiritually, through the instrumentality of series of disciplines and specialties.[14]

Arguments on euthanasia had been raging. Williams was never a physician but he advocated in 1870 that the lives of ill persons could be ended willfully or deliberately

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[9]T.J. Legg and K. Holland, 'Euthanasia: Understanding the Facts'<https://www.healthline.com/healthwhat-is-euthanasia> ,accessed 10 January, 2024.

[10]I. Vechio, C. Tornal, L. Rampello, G.S. Rigo, M. Migliore and L. Rampello, 'Brief History of Euthanasia and the Contribution of Medical and Surgical Ethics to the Cultural Debate', (Acta Medical Mediterranean 28:185 – 90).

[11]*Ibid.*

[12]National Library of Medicine, 'Measuring Quality of Life: Is There Such a Thing as a Life Not Worth Living?' https://www.ncbi.nlm.nih.gov/pmc/articles/pmc1120530/ accessed 14 February 2024.

[13]E.J. Emanuel, 'The History of Euthanasia Debates in The United States and Britain' https://pubmed.ncbi.nlm.nih.gov/7944057/ accessed 14 February 2024.

[14]*Ibid.*

using an aesthetics.[15] The raging arguments on euthanasia show the zeal the people have in euthanasia in the United States of America Britain and even across the globe. Plato was of the view that persons who are mentally and physically derailed or ill should be allowed to die as such persons do not seem to have the right to live.[16] The Romans and Greeks had no human value thus, life was not important to them in the medieval age.[17] The so-called 'Pagan Medicare Officers' were involved in mercy killing in voluntary and involuntary euthanasia. It was consequent upon this that the Hippocratic Oath of medical practitioners was introduced to really stop such killings by medical experts.[18]

There are a series of schools of thought bordering on euthanasia. Olomojobi classified different schools of thought of euthanasia as utilitarian, pro-life, pro-choice and humanist schools of thought.[19]Whereas the utilitarian school of thought recognizes euthanasia as active and passive[20] euthanasia, it also identifies the types of euthanasia as voluntary, involuntary and non-voluntary.[21] Euthanasia focuses on the concept of peace anguish or pain. Whatever act done should lead to joy. If there is no joy or happiness a person can be killed or life taken to avoid unhappiness or lack of joy. Therefore, anything that would jeopardize joy or happiness in a man's life should be jettisoned. Also, the pro-choice school of thought believes that euthanasia terminates a person's suffering. When illness becomes so serious that it culminates in a patient's unending suffering and pains, it is therefore pertinent that such a person's life should be terminated to end the person's suffering. To them, if human beings can terminate the life of their pets at home so that the pets can avoid further suffering, why should a human life not be terminated for the same reason?[22]

The pro-life school of thought argues that people involved in euthanasia are often coerced or compelled to do so. They are opposed to euthanasia because they believe that life itself would have no value any longer if people are killed to end their suffering. They opined that in the process of euthanasia, an ill person could have a change of mind but might not be able to communicate it to the physician or family

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[15]E. J. Emanuel, 'Euthanasia, Historical, Ethical and Empiric Perspectives,' https://jamanetwork.com/journals/jamainalmedicine/article-abstract/619263, accessed 11 January, 2024.

[16]Christian Nordqvist, 'Euthanasia and Assisted Suicide', <https://academia.edu.com, cited in Y. Olomojobi, Medical and Health Law, (Nigeria: Princeton & Asso Publishing Co. Ltd 2019) 372.

[17]Britanica, 'History of Ethics – The Renaissance and the Reformation' https://www.britainica.com/topic/history-of-ethics/The-Renaissance-and-the-Reformation accessed 14 February 2024.

[18]P. Tyson, 'The Hippocratic Oath Today,' http://www.pbs.org/wgbh/nova/body/hippocractic-oath-day-html cited in Y. Olomojobi (Supra).

[19]*Ibid.*

[20]P. Singer, 'Voluntary Euthanasia: A utilitarian Perspective', (2003) 17(5-6) Bioethics 526.

[21]*Ibid.*

[22]See Olomojobi (Supra).

members. This school of thought is of the utmost view that the dignity and sanctity of human life should be preserved and maintained. Their major argument seems to be premised on the fact that if humans are allowed to die or to be killed like animals, human life is, therefore, devalued and reduced to that of animals. However, they seem not to proffer solutions on how persons with incurable diseases or illnesses and severe pains should be handled.

On the other hand, the humanist school of thought thinks that voluntary euthanasia is morally right[23] and they argue that every person has the right to ascertain how he or she lives either in pain or by way of natural death. They are of the view that persons who are ill should not be involved in determining whether their lives should be terminated or not. They abhor involuntary euthanasia.[24]However this school of thought did not as well state how ill persons who are in a coma and do not have the hope of recovering and remain in serious pain should be dealt with.

The arguments canvassed by different schools of thought are very germane and relevant but suffice to state that no matter the raging debates, although, ill persons have their right to continue in serious pain without hope of recovering, it must however, be noted that the right to request to die and end such long-suffering is equally germane and reasonable as this would ease the suffering of not only the patient but the anguish which his family members and medical experts and subordinates would encounter.

1.4 Types of Euthanasia

Euthanasia is of different kinds. It is either active or passive. It can be emphasized that it is generally classified into active or passive. Euthanasia also has different types; they include voluntary, non-voluntary, involuntary and assisted euthanasia. Active euthanasia could be regarded as 'aggressive' or positive euthanasia. Active euthanasia is the process of intentionally injecting a 'lethal dose' of drugs on a patient so that the patient or ill person would die. It includes the removal of life support machines from a patient that would lead to the patient's death.[25] It is a deliberate cause of a patient's death.

On the other hand, passive euthanasia refers to the omission of a physician to carry out his duty to a patient. The physician omits to treat or take Medicare of the patient to pave way for the patient to die. If a physician withdraws or withholds the treatment of a patient for the patient to die, it is known as 'passive euthanasia.'

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[23]Ibid, 376.

[24]*Ibid.*

[25]Center for Health Ethics, 'What is Euthanasia?' https://medicine.missouri.edu/centers-institutes-labs/health-ethics/faq/euthanasia#:~:text=Active%20euthanasia%3A%20or%20feeding%20tube accessed 14 February 2024.

Assuming a physician withdraws oxygen that is fixed to enhance the breath of a patient, it follows that the physician withdrew the oxygen to hasten the death of the patient knowing that the patient does not have the hope of recovering from the illness he is suffering from or that the patient cannot survive without such oxygen.

Again, voluntary euthanasia is the situation where a patient on his volition demands or request that he should be killed to end his suffering. In this case, the incurably ill person is able to inform his physician or relatives that he wants to die to end his suffering. However, it is submitted that an ill person might not have the wherewithal to determine whether to die or not as he is not in his right frame of mind sequel to his illness or pains. Again, non-voluntary euthanasia refers to a situation where the patient is unable to request death from his physician or family members. An infant or a child may not be capable of making such a decision, therefore, an adult or a mature person, probably his parents or family members or relations might make such a decision on behalf of the infant. Also, involuntary euthanasia is known as murder. It emanates from a decision to kill the ill person against his wish or decision to live. It is the right of every ill person to live but when the physician or family members go contrary to his decision or wish and without his consent, it becomes a criminal offence of murder or in some cases, manslaughter.

Nonetheless, euthanasia could be said to be indirect. Indirect euthanasia occurs in a situation where a physician apply drugs to reduce pains which might have adverse effects capable of accelerating a patient's death. This could be justified as the physician never intended to cause the death of the patient. But a physician being an expert in the field he practices should be able to know the dosage of the drugs he should administer in every situation or any health challenge. There is also an assisted suicide. Assisted suicide refers to a situation where a person who has decided to die requests the assistance of another person to perfect his death. It could be by way of assistance in the provision of hard drugs or chemical substances by a third party to facilitate the death of the patient.[26]

From the foregoing, it is glaring that euthanasia comes in different ways. It is submitted however, that whether voluntary or non-voluntary, active or passive, direct or indirect, what is important is the well-being of the patient and his desire to die akin to the seriousness of his illness, pains and loss of hope of survival or recovery from the illness. Again, the interest of the patient and public interest must be considered.

1.5 Right to Life

[26]See BBC – Ethics – Euthanasia: Forms of Euthanasiahttps://www.bbc.co.uk/ethics/euthanasia/overview/forms.shtml , accessed 11 January, 2024.

The right to life is very sacrosanct and it is against the law to unlawfully kill any person except on the grounds permitted by law. Killing of any person is criminal and it is punishable.[27] It is a felonious offence and it is never treated with levity. It is the right of any person to live. Death occurs naturally and it is inevitable but a person must die on a natural cause or as a result of any reason known to law. The Constitution of the Federal Republic of Nigeria 1999 (as amended) stipulates that: every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.[28]

It further provided that:

> a person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary;
>
> a. for the defence of any person from unlawful violence or for the defence of property;
> b. to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
> c. to suppress a riot, insurrection or mutiny.

Going by the provisions of the constitution above, it is glaring that the right to life is a constitutionally guaranteed right and it is fundamental, germane and must not be derogated from except as provided in the constitution.[29] It follows that any person, including a medical practitioner who terminates another person's life contrary to the provisions of the constitution has committed the offence of murder or manslaughter. In *Bello v A.G. Oyo State,*[30] the appellant was convicted of armed robbery at the High Court but he appealed against the judgment. He was later executed while his appeal was pending. The Supreme Court of Nigeria, while frowning at the attitude of Oyo state government stated thus: the premature execution was not only unconstitutional but also illegal and unlawful; by that execution, the deceased had lost both his right to life and the right to prosecute his appeal; and the deceased's dependants had been unjustly deprived of the benefits of his life…

The right to life is a fundamental right and it is inalienable. Every human being must be entitled to the right of respect for his life and integrity of his person.[31]The

[27]See s. 315 and 316 Criminal Code Act of Nigeria.
[28]S. 33 CFRN 1999 (as Amended).
[29]S. 33(2) a-c CFRN 1999 (as Amended).
[30](1986)5 NWLR 820.
[31]Art. 4 African Charter on Human and People's Rights (Ratification and Enforcement Act) CAP. 10 LFN 2004.

arbitrary taking of someone's life is not permitted by law. Local, international and regional laws condemn the taking of people's life. The European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) provides that 'everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally except on the grounds prescribed by the law.[32] Thus, in *R. v Chima*[33], a woman who killed her twins on the grounds of barbaric custom were convicted of murder, although it was further held on appeal that she committed infanticide. The International Bill of Human Rights (Universal Declaration of Human Rights 1948) made provision to the effect that 'everyone has the right to life, liberty and security of persons.'[34] Again, Medical Doctors as professionals are precluded from carrying out acts outside the purview of their ethics. It is against this backdrop that the Declaration of Geneva, adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland in September 1948 provided thus:

> at the time of being admitted as a member of the Medical profession: I solemnly pledge to consecrate my life to the service of humanity; I will give to my teachers the respect and gratitude that is their due; I will practice my profession with conscious and dignity; the health of my patient will be my first consideration; I will respect the secrets that are confided in me; maintain power, the honour and noble traditions of the medical profession; will maintain the utmost respect for human life; will not violate human right and civil liberties…

The above is the prescribed oath of office for medical practitioners across the globe. Physicians are therefore enjoined to act in the best interest of the patients; respect a patient's right to confidentiality; act as a humanitarian agent; and not to enter into sexual relationships with a current patient. A physician must be guided in carrying out his professional duties otherwise he might land himself in criminal charges or breach of the fiduciary relationship between him and his patient. As stated earlier, medical practice is ethical therefore, its rules and regulations must be sustained because it involves the life of humans and not animals after all, humans have dominion over animals and other creatures.

Also, the question has been asked if the right to life encompasses the right to health. The right to health is an economic right and it has to be taken with all forms of seriousness. A country without good health is bound to fail in its economic pursuit; health they say is wealth. The International Convention on Economic, Social and Cultural Rights and the Convention on Human Rights of Persons with Disabilities supports the right to health. Countries across the globe are enjoined to endeavour to

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[32]Ibid, Art. 2 thereof.
[33](1994)10 WACA 223.
[34] See, Art. 3.

propagate the full fledged realization of the right to health. Every person, including prisoners have the rights to the best attainable standard of physical and mental health. The courts have made positive pronouncements on the right to health in Nigeria.[35] Member states are bound by the provisions of these international laws and other legal instruments.

1.6 Legality of Euthanasia

This paper stated earlier that the right to life is universal. In some countries, euthanasia is legal, functioning under legal frameworks. In other countries, euthanasia is not backed by law. Thus, its practice is illegal and unlawful. In countries like Belgium, Canada, Colombia, Luxemburg, Netherlands, New Zealand, euthanasia is gaining legal backing through advocacy from Non-Governmental Organizations and Medical Associations.[36] It is illegal in Nigeria because there is no legal framework that propagates the gamut of the practice of euthanasia. An attempt to introduce a bill in support of euthanasia in Nigeria met a brick wall as the National Assembly swept such a proposal under the carpet. In England, euthanasia and assisted suicide are illegal. It is a crime in India and Canada; it became lawful in 2016 in the case of patients whose deaths are not avoidable. In the US, it is legal in some states such as Washington DC, Hawaii, Maine, New Jersey, California, Vermont, Oregon, Washington and Colorado.[37]

The proponents of euthanasia and mercy killing are of the view that there should be a legal frame work for the practice of euthanasia to enable patients with such diagnosed painful illnesses could die at their request. The argument is that patients or people with such terminal diseases or illnesses which are not likely to be cured or has no hope of recovering should be allowed to die upon their request on their own volition rather than keep them to continue to suffer in perpetuity in their sick bed. Apart from terminal illness, there are equally some chronic diseases with severe pains such as mental diseases that are incurable. Their argument is premised on the fact that it is better for a patient to die than to remain in severe pain especially where it becomes glaring that it would make life unbearable for the patient, family members and relatives. It presupposes that euthanasia is in the best interest of the patients as it tends towards relieving such patients from the shackles of unending suffering and

[35] See, Odafe & Ors v A.G. Fed. &Ors (2004) AHRLR 205, where the court held that the government of this country has incorporated the African Charter on Human and People's Rights Act Law cap. 10 as part of the law of this country. See also Ubani v Director SSS (1999) 11 NWLR (Pt. 129) and Ogugu v State (1994) 9 NWLR (Pt. 600) 228. In both cases, the court held that the African Charter is enforceable in Nigeria since Nigeria is a signatory to such Charter by section 12 of the CFRN 1999 (as Amended).

[36] S.J. Ziegler and G. Bosshard, 'Role of Non-Governmental Organizations in Physician Assisted Suicide' https://www.ncbi.nlm.nih.gov/pmc/articles/pmc1796670/ accessed 15 February 2024.

[37] <https://www.law.cornell.edu>wex>, accessed 12 January 2024.

pains. The proponents are therefore of the view that if legalized, euthanasia or mercy killing would be regulated through a legal framework that would be put in place to cater for the procedure for carrying out euthanasia or mercy killing in every country subject however to their local circumstances. To them, death is inevitable; one day, a man will die and his end will surely come, therefore, it is immaterial that he dies by means of euthanasia or not. The proponents of this argument are of the utmost view that it is in the best interest of a patient who is in pains for an incurable ailment or disease to die than to suffer endlessly even without the hope of recovering. It is further argued that individuals possess the right to die; that human rights encompasses the right to die or live; that where death do not in any way adversely affect others, government or authorities should not interfere with individual affairs.[38]

The protagonist of euthanasia further posited that human beings are born free and their human and fundamental rights should be free. People should be allowed to oversee their body and life and so, should take decisions bothering their life on whether or not to die or live. They add that human beings should be free in all ramifications and that there is no need for any unnecessary restrictions on human beings. To them, this constitutes total freedom and human right. According to the protagonists: in … cases where there are no dependants who might exert pressure one way or the other, the right of the individual to choose should be paramount. So long as the patient is lucid, and his or her intent is clear beyond doubt, there need be no further questions.[39]

Nonetheless, another group of protagonists of euthanasia are the utilitarian school of thought and they argued the effect that it is far better and preferable to allow people to die at their request instead of leaving them to die in their anguish as this would culminate in long-suffering and painful death. A man who requests his death in pain believes he has died peacefully and happily but when he dies after the stress of his life, it is believed that he died an unhappy death. Again, the proponents believe that a person who has the right to life equally has right to die. Patients who have incurable or chronic diseases might not want to be burden to their family members and associates, thus, they prefer to die instead of continuous suffering on their sick bed.[40]

Legalizing euthanasia or mercy killing is not without opposition. The opposing view argued against legalizing it for some reasons. It is strongly believed that if euthanasia or mercy killing is legalized and allowed to be used, there is the likelihood that it

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[38]BBC, 'Ethics Guide-Pro-Euthanasia Arguments' https://www.bbc.co.uk/ethics/euthanasia/infavour/infavour_1.shtml accessed 19 January 2024.

[39]The Independent, March 2022 cited in BBC, Ethics Guides-Pro-Euthanasia (Supra).

[40]S. B. Math and S. K. Chartuvedi, ' Euthanasia: Right to Life v Right to Die' www.ncbi.nlm.nih.gov/pmc/articles/pmc3612319/#:~:text=Caregivers%20burden%3A%20Right%2Dto such%20as%20severe%20metal%20illness> accessed 14 March 2024.

would be wrongly applied in cases where there are no severe pains or where no hope of recovery is established. Again, euthanasia is greatly opposed on religious grounds. God Almighty created humans and commanded that no one should kill another.[41] Also, killing constitutes an offence of murder punishable by death.[42] It follows, therefore, that whoever kills another is liable to a punishment as prescribed by law. Both the Holy Bible and the Qur'an forbids killing[43]. The law also forbids killing except where it is lawful as provided by law.[44] The Universal Declaration of Human Rights, the United Nations Convention on the Rights of Persons with Disabilities and other international laws, conventions and instruments emphasize the respect and fundamental rights of individuals which encompasses the right to life.[45] If the right to die is guaranteed, it follows therefore that the right to kill by the physicians or anyone that may assist in a suicide killing is equally guaranteed. It is submitted that irrespective of the age of an individual or gender, religion and race, it is to be noted that human life must be respected and preserved at all times. Consequently, taking another person's life is a universal prohibition.[46] It was equally argued that serious pain could make a patient ask for euthanasia and not necessarily that he would not survive or recover. Of course, treatment could come or be found at any given time or period, especially in modern-day medicine where research is conducted from time to time to improve and develop. The religious opposition group argues that it is God that gives life and the same God has the right to determine the death of an individual. Again, it must be noted that human rights are not absolute. Euthanasia and mercy killing could affect family friends, physicians and well-wishers psychologically.[47] Every individual must obey the laws of the land. As citizens of a country, people are bound by the laws of such land. It is argued that death could be a bad or good thing. It is bad because there is a value attached to the individual's life; God Almighty gives life and no one should have anything to do with the death of an individual; so many individuals do not prefer to die; humans are autonomous and no one should interfere with their autonomy using euthanasia or mercy killing.[48]

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[41]See, Exodus 20:13; Deuteronomy 5:17, Holy Bible.
[42]See s. 319 Criminal Code Act of Nigeria.
[43]Quran, 5:32.
[44]*Ibid* (n 28).
[45]S. 33 CFRN 1999 (as Amended).
[46]R. Agoi, 'Euthanasia, A Short Overview of Supporting and Opposing,' https://www.grin.com/document1584627?lang=en accessed 12 January 2024.
[47]BBC-Ethics-'Euthanasia Arguments', https://www.bbc.co.uk/ethics/euthanasia/infavour/infavour-i.shtml accessed 19 January 2024.
[48]D.P. Sulmasy, J.M. Travaline, L.A. Mitchell and E. Wesley, 'Non-Faith-Based Arguments Against Physician-Assisted Suicide and Euthanasia' https://www.ncbi.nlm.gov/pmc/articles/pmc5102187/#:~:text=lay%20Summary%3A%20presented%20here%20are,modern%20therapeutics%20more%20and%20more accessed 19 January 2024.

More so, it is argued that Medicare or the Medical profession is geared towards ending or healing an ill patient. It follows, therefore, that euthanasia does not in any way help in ending, curing or healing an illness. In the Netherlands, where euthanasia is practised, elderly persons have been very jittery and afraid of being killed by physicians to the extent that they engaged themselves in card-carrying in protest against euthanasia.[49] To the elderly, euthanasia has become absurd and unacceptable because they do not want to die even if they are ill. They still want to enjoy life as life itself is sweet. Some people write depositions that they should not be killed as they are admitted to the hospital. These are reasons to buttress the point that people do not want to die by way of euthanasia but through natural death. This is done especially in countries where euthanasia has been legalized or practised. Sulmasy stated that 'euthanasia is opposed for these reasons: it offends him; it is a slippery slope; pain can be suspended or healed; physicians have integrity and the need for patients to trust them.'[50]

1.7 *Modus Operandi* of Euthanasia or Mercy Killing

Euthanasia or mercy killing is all about the request of a patient to die or be killed to hasten his death especially or particularly where the patient is involved in an incurable or terminal illness without hope of recovering. So, where there seems no hope of recovering from such an illness whether curable or not but painful at the volition or request of the patient, such patient could be killed by the physician. It is submitted that the conclusion drawn by a particular physician is not enough. One or two more experts or physicians could be involved to handle and investigate the patient to agree that the disease or illness is incurable and that there is no hope of the patient's recovery from the illness after due diagnosis. This is because no one is infallible. Although, no medical expert or physician has right to terminate a patient's life,[51] on the request of such patient, euthanasia or mercy killing could be carried out. Except in climes where it is legalized, euthanasia or mercy killing cannot be subjected to court's approval. A physician who undertakes such venture would be prosecuted for murder. Be that as it may, euthanasia is carried out in so many hospitals and clinics across the globe even in some countries where it is unlawful. However, in Massachussets state of the U.S, the Supreme Court held that the courts make such decision making responsibility. The implication is that in that state, the

[49] *Ibid.*
[50] *Ibid.*
[51] See R v Adams (Unreported) 8/4/57, per Delvin J.

courts must approve the termination of life before euthanasia can be carried out on a patient.[52]

From time immemorial, killing is annihilated religiously and morally because life itself is given by God Almighty and human beings have no absolute control of their lives.[53] Delvin succinctly stated in R v Adams,[54] that 'if the acts done are intended to kill and do kill, it does not matter if a life is cut short by weeks or months, it is just as murder as if it were cut short by years.'[55] Emiri was of the view that on issues bordering termination of life, recourse must be made to the criminal laws that prohibit murder, tort and family law and also negligence and battery, etc.[56] However, it must be noted that in ending the life of a patient, the best interest of the patient should be paramount. Therefore, the decision-maker must consider the interest of the patient before a on whether or not to end his life.[57] Lord Goff stated in the Bland's case as follows: In addition to cases of this kind, there is no question of the patient having aided or abetted him in doing so. It is simply that the patient has, as he is entitled to do declined to consent to treatment which might or would have the effect of prolonging his life, and the doctor has, per his duty, complied with his patient's wishes.

The court has stated that medical opinion of what is best for the patient should not supersede a patient's right in regard to whether or not to submit or agree to be treated or not.[58] Again, the court has upheld the right of a patient to accept or agree on medical in the exercise of the right to freedom of thought, conscience and religious beliefs as enshrined in the constitution and other international laws and conventions.[59]

1.8 Euthanasia in Some Jurisdictions

On the issues of treatment of patients before physicians and medical experts, the preservation of life of the ill patients is of a great importance and paramount. The socio-cultural well-being of the patient too is necessary in considering euthanasia or

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[52]See, J.F. Kennedy Memorial Hospital v Bludworth 45250 2d , cited in F.O. Emiri, Medical Law and Ethics in Nigeria (Malthouse Press Limited, 2012), 34.

[53]J.K. Masun and G.T. Laurie, Law and Medical Ethics, 7thedn (U.S.A: Oxford University Press, 2015) 598.

[54]Dr. Adams Trial for murder (1957) crim. LR365.

[55]*Ibid.*

[56]F.O. Emiri, Medical Law and Ethics in Nigeria (Malthouse Press Limited 2012), 235.

[57]Airedale NHS v Bland (1993) I All ER 821.

[58]See Sideway v Board of Governor Bethlehem Royal Hospital (1985)1 AC 871.

[59]See the Supreme Court of Nigeria in Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo (2002) AHRLR 159 (NGSC 2001) cited by Olomojobi, Medical and Health Law (Lagos: Princeton and Associates Publishing Co. Ltd 2019) 391.

mercy killing. In Africa, it appears that euthanasia is not legalized or every attempt to venture into doing so was jeopardized sequel to the native law and custom deeply entrenched Africa.[60] Africa seem to reject euthanasia, although, there is not much disagreement with passive euthanasia which encompasses withdrawing or withholding treatment from a patient who suffers terminal or chronic disease but do not have the hope of recovery.[61] In some parts of Nigeria, especially in the Bini and Ika nations where so many people have a native protection mechanism from death known as *Idayi*, believed to be protection from death, always tied to any part of the body or kept in a secret part of the home, family members and associates of an ill person who do not have the hope of recovering from an illness normally cut off or remove or destroy the object (idayi) from the body of the ill person or where it is kept where it becomes very clear that the ill person would not survive the illness or do not have the hope of recovering from the illness and has caused hardship to family members and associates to enable the person die and refrain from continuous suffering. It is believed that until the idayi is removed or destroyed, the ill person can never die. It follows therefore, that for the ill person to die and be relieved of his anguish, the idayi has to be removed or destroyed. This no doubt is a form of euthanasia done traditionally. Amzat was of the opinion that the debate on euthanasia in Africa and the entire globe will continue to rage despite the rejection of euthanasia in Africa and the acceptance of passive euthanasia.[62]

In Europe, some countries like Belgium, Netherlands and Luxembourg have legalized euthanasia.[63] In Belgium, children are allowed to apply for euthanasia since 2014 in as much as the child can understand the written consent by his or her parent. Netherlands is the first country to approve euthanasia. In the Netherlands, children under the age of 12 are not permitted to request euthanasia. But children who have attained the age of 12 - 15 could request subject to the approval or consent of the child's parents. Where there is disagreement between the child and his or her parents, euthanasia will not be granted. Euthanasia in Luxembourg can be granted if a person has attained the age of 18. Any person below the age of 18 cannot be granted euthanasia.[64]

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[60]Euthanasia in Africa: A Scoping Review of Empirical Evidence-ubmed https://pubmed.ncbi.nlm.nih.gov/372607381 , accessed 13 January, 2024.

[61]*Ibid.*

[62]*Ibid.*

[63]A. K. Gupta and D. Bansal, 'Euthanasia – Review and Update Through the Lens of a Psychiatrist' https://www.ncbi.nlm.nih.gov/pmc/articles/pmc10236687/#:~:text=most%20Belgium,India%20are%20Netherlands%2C%20Belgium,India%20being%20one%20of%20them. Accessed 18 February 2024.

[64]European Union Agency for Fundamental Rights, 'Requesting Euthanasia' https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu/requesting-

In Asia, especially in China and Korea, euthanasia seems to remain illegal apart from permission to withdraw or withhold life-sustaining treatment of patients such as removal of oxygen or ventolin from patients to end life. However, they ventured to evaluate the raging controversy by asserting 'cross-cultural dialogue'[65]. In 1962, a son provided milk for his ill father to stop the suffering of his father at the request of his father.[66] The son was later charged with 'ascendant homicide.' The court held that:

a. the ill patient was in an incurable disease, if there is no hope of recovery, thus, death becomes imminent;
b. the ill person or patient must be involved in such serious or severe pains that might stop;
c. killing must be geared towards relieving the patient from pain;
d. euthanasia should be applied or granted if the ill person requests for it;
e. euthanasia should be applied or implemented by a physician or another person in special situations;
f. ethical or professional methods must be used in applying or carrying out euthanasia.[67]

In Thailand, euthanasia is equally illegal. But where a patient has a terminal or incurable disease that results in severe pains, the patient reserves the right to neglect treatment.[68] And in Hong Kong, euthanasia is also illegal; it is also unethical medically. No physician heeds the request of a patient to carry out euthanasia as it is an offence to do so.

In Australia and the US, legislation on euthanasia is a matter within the states' purview. The government at the centre does not have the power to legislate for the states or regions on issues bordering euthanasia in those countries. In Queensland, New South Wales, South Australia, Victoria, Western Australia and Tasmania, voluntary assisted euthanasia is legal. In South Australia, certain conditions must be met before euthanasia can be carried out such as:[69]

a. the illness must cause death;

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euthanasia#:~:text=In%20the%20vast%20majority%20of,and%20under%20certain%20conditions/. Accessed 13 January, 2024.

[65]Y. Wang, H. Zhang, Z. Zhang, Y. GU and F. Shao, 'Assisted Suicide and Euthanasia: A Comparative Analysis of Dutch and East Asia cases' (The American Journal of Bio ethics), <https://www.tandfonline.com/loi/uajb20> accessed 13 January, 2024.

[66]Cited in Y. Wang, H. Zhang, Z. Zhang, Y. GU and F. Shao, 'Assisted Suicide and Euthanasia: A Comparative Analysis of Dutch and East Asian Cases' https://www.tandfonline.com/doi/full/10.1080/15265161.2021.2013986 accessed 20 February 2024.

[67]*Ibid.*

[68]See s. 12 Public Health Act.

[69]https://www.sahealthsa.gov.au , wcm, accessed 13 January, 2024.

b. it is incurable;
c. cause death within 6 or 12 months;
d. advance or progressive, etc.

In Canada, voluntary euthanasia is called Medical Assistance in Dying which became legal in 2016 with assisted suicide. This is mainly for patients or ill people that are not likely to survive or recover from their illnesses. Later on, in 2021, the legal framework accommodated persons with serious conditions that are not likely to recover from such conditions but their deaths are not to occur. Canada's euthanasia has a legal framework that regulates and legalizes it.[70] To have access to euthanasia in Canada, a person must meet the following requirements: the person must be qualified for healthcare programmes sponsored by either the central government or the states or province; the person must have attained the age of 18, and must be capable enough to take health decisions; the person must have a very serious health challenge that may result in loss of hope for recovering; the person must request for euthanasia at his or her own volition without being influenced or coerced by any other person; he or she must consent voluntarily to euthanasia, etc.[71]

It is glaring from the foregoing that euthanasia is carried out in different countries vide different ways, while in some countries, it is seen as illegal, in some other countries, it is legal but with such legal framework subject to the country's local circumstances and best practices.

[70]See Bill C-7 in March 2021.
[71]Canada, Health (2022) Medical Assistance in Dying www.Canada.ca accessed 17 January, 2024.

1.9 Conclusion

This work has examined the pros and cons of euthanasia including assessing the debate and arguments in favour and against the concept of euthanasia. It is observed that euthanasia has existed in one way or the other from time immemorial in various parts of the globe. However, life is sweet and worth living. It is submitted that morally and legally speaking, it is barbaric to take life unnecessarily against the provisions of the law. The right to live is not the right to die. But where living a life has become illusory and bitter accompanied by unbearable pains, it heralds unhappiness and enthrones sadness; life may therefore be forfeited for an eternal rest to cushion the effect of such unbearable anguish on the part of the ill person. Where a person is desirous of dying to alleviate his or her suffering and pains in a situation where he finds that he can never recover from his acute illness should not the option be to die? It appears right to state categorically that the answer to the above question is in the affirmative: that he should die rather than remain in serious pain or suffering. Euthanasia, whether active or passive, voluntary, non-voluntary or involuntary, direct or indirect and assisted, leads to the demise of an ill person who does not have the hope of recovering from his illness. Its main purpose is majorly to terminate the life of such an ill person to end his long pains and anguish.

This article has weighed the views of the protagonists of euthanasia and those of the opposing views. It is submitted that both views are germane and effective, however, it is concluded that the preponderance of weight is on the views of the proponents of euthanasia and the arguments of the protagonists seem to outweigh those of the opposing views. It is, therefore, submitted that euthanasia should be encouraged across the globe subject, however to some legal frameworks and modifications that would cater for the general well-being of the ill persons. The prevailing local circumstances in any country and the interest of the ill person should, however, be put into consideration in all cases.

Having concluded above on euthanasia, it is submitted that such conclusion is subject, however, to the following recommendations:

1. Every country intending to practice euthanasia should have a broad-based legal framework that would provide for, guide and cater for the procedure to be adopted in carrying out euthanasia.
2. Medical and psychiatric experts should be consulted to ensure that the disease or illness confronting a patient is deadly and painful and that there is no hope of recovering from such disease or illness in the actual sense.
3. It must be ensured that the request for euthanasia from an ill person must be voluntary and not coerced in any way by family members, friends or medical experts treating the patient.

4. The patient requesting euthanasia must be made to sign or where he cannot sign, close relations should sign and it must be witnessed by at least two members of his family members.
5. In the case of a minor, his request for euthanasia must be corroborated by his or her parents and close family relations where there are no parents.
6. Apart from the physicians treating the patient, other medical experts should be consulted to determine whether the illness is capable of being treated or if the patient has the hope of recovering from the illness before euthanasia can be granted upon request.
7. It must be ensured that in every type of euthanasia, a request must be made either from the ill person directly or his or her relations.
8. In injecting substances for a patient to die, it must be ensured and certified that such substance would not cause more harm, pain or stress to the dying patient.

In legislating on euthanasia, the legislatures whether of the states or regions or a country must advert their minds towards the local and existing prevailing circumstances in their various countries. Therefore, the legislature should consider the moral, religious and customary perspective of a particular clime.