

EUTHANASIA, MURDER OR MERCY: EXAMINING THE RIGHT TO DIE UNDER THE NIGERIAN CONSTITUTION

Patricia Izuka Tom, Dauda Momodu***

Abstract

At the mention of death an avalanche of human emotions are educed and the air of conservativeness surrounding death compels an instinctive reluctance to dwell on the subject. But to speak of death as 'a right' bespeaks an abnormality for which views of highly volatile and controversial nature have been expressed on the parlance of legal, ethical, religious and pragmatic considerations. The concept of death by consent has been viewed differently in various jurisdictions, but these views are informed by atypical contexts peculiar to each jurisdiction. What is clear is that most jurisdictions around the globe maintain a conservative standpoint on the question of the right to die. This work, through a doctrinal methodology, examined the concept of death by consent (euthanasia) and its historical antecedents. A deeper analysis of the Nigerian context was done and it was suggested that legalizing euthanasia in Nigeria will open a floodgate of significant unintended consequences for which it is considered

* Lecturer, School of Humanities and Social Sciences, Delta State Polytechnic, Ozoro.

** Lecturer, Department of Humanities and Social Sciences, School of General Studies, Federal Polytechnic, Auchi, Edo State of Nigeria.

imprudent to give constitutional backing to euthanasia in Nigeria.

Keywords: Euthanasia, Constitution, Right to Die, Consent.

Introduction

On the 12th of March, 2003, a Conservative front bench member of the UK House of Lords, Frederick Howe, shared a story of a friend whose mother had a massive stroke and apparently could not move or communicate in any way. The doctors declared that she was in a Persistent Vegetative State (PVS) and recommended withdrawal of all fluids and nutrition so the patient was euthanized. His friend, dubious about the doctors' recommendation, refused that option and spent hours talking to her mother and soon realized from blinks and slight movements of her eyes that her mother could not only understand every word that was said but also was rational and could also communicate by means of blinks. In fact the lady in the bed had all her mental faculties. When the doctors realized this the patient was treated differently from then on.¹

The euthanasia debate, heated and knotty as it were, is far from seeing a settled position in most jurisdictions around the globe. The inviolability of life, being the most imperative human right engrained in any society grund norm, challenges any possible acceptance the concept of mercy killing could have. Yet the debate consistently deepens beyond mere barneys. The prohibitions placed on the taking of life are very well founded on ethical, legal and

1

Frederick Howe, 'Human Life is Intrinsically Valuable and Sacrosanct' <<https://conservative-speeches.sayit.mysociety.org/speech/600849>> accessed 23 July, 2018.

pragmatic considerations. God in the Islamic faith for instance is the giver and taker of life. This position is replicated in the Judo-Christian faith as well as many other religious faiths. This is provided for the Bible, Genesis 9, Exodus 20 and Psalm 139. The Quranic verses are; Q7 v1584, Q15 v 23 and Q30 v 50. Based on this position there is a strong moral obligation surrounding rendering of medical treatment to a patient which resonates the principle of *primum non nocere* that is ‘first do no harm’² derived from the Hippocratic Oath³. The Oath raises concerns about the

² Lloyd, Geoffrey, Hippocratic Writings [ed.] (Penguin Books 1983) (1983) 94.

³ The oath is still in use in many countries for swearing in new doctors, but has been variously modified from its original version. The earliest version of the Oath, was translated into English from latin by James Loeb; “I swear by [Apollo](#) the Healer, by [Asclepius](#), by [Hygieia](#), by [Panacea](#), and by all the gods and goddesses, making them my witnesses, that I will carry out, according to my ability and judgment, this oath and this indenture. To hold my teacher in this art equal to my own parents; to make him partner in my livelihood; when he is in need of [money to share](#) mine with him; to consider his family as my own brothers, and to teach them this art, if they want to learn it, [without fee or indenture](#); to impart precept, oral instruction, and all other instruction to my own sons, the sons of my teacher, and to indentured pupils who have taken the physician’s oath, but to nobody else. I will use treatment to help the sick according to my ability and judgment, but never with a view to injury and wrong-doing. Neither will I administer a poison to anybody when asked to do so, nor will I suggest such a course. Similarly I will not give to a woman a pessary to cause abortion. But I will keep pure and holy both my life and my art. I will not use the knife, not even, verily, on sufferers from [stone](#), but I will give place to such as are craftsmen therein. Into whatsoever houses I enter, I will enter to help the sick, and I will abstain from all intentional wrong-doing and harm, especially from abusing the bodies of [man or woman, bond or free](#). And whatsoever I shall see or hear in the course of my profession, as well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets. Now if I carry out this oath, and break it not, may I gain for ever reputation among all men for my life and for my art; but if I break it and forswear myself, may the opposite befall me”. Hippocrates of Cos ‘The Oath’ (Loeb Classical Library1923)147^{doi:10.4159/DLCL.hippocrates_cos-oath.1923}accessed 29th August, 2018

morality of killing, the effectiveness of consent and the duties the physician owes his patient. These responsibilities which naturally trickle down from a religion-moral obligation form the basis for which law frowns at any transaction resulting in taking of human life such as murder and manslaughter. Yet the necessity of violating the otherwise sacred human life in some contexts like self defence, just war, legal execution, etc., which contexts admit the taking of human life for the greater good, remains undeniable.

In medicine subjects like the justification or otherwise of abortion find a basis on this ground. For rightists, the constitutional right to self-determination should admit debates on suicide. Hence the probable standpoints from which the discussions on euthanasia are had, introduce various perspectives into the concept of Euthanasia from which proponents and opponents have addressed the subject. These perspectives reflect the various idiosyncrasies, eccentricities, distinctiveness and perhaps the innate naiveties and oddities of a people. The Nigerian Medical Association (NMA) and the National Medical Associations of five other African countries, viz South Africa, Kenya, Botswana, Zambia and Cote D’Ivoire all rejected euthanasia at the World Medical Association (WMA) Regional meeting held in February, 2018 in Abuja, noting that since many African countries are characterized by poor healthcare institutions, poor healthcare finances with low government budgets, it will be more proactive to adopt palliative care for the terminally ill in these countries.⁴

This article seeks to add a voice to this debate within the parlance of the Nigerian legal jurisprudence upon the submission that for

⁴ Nkechi Onyedika-Ugoeze ‘Nigeria, Five other Reject Physician-Assisted Suicide, Euthanasia’ *The Guardian* (Abuja, February 04 2018) <<https://guardian.ng/features/nigeria-five-others-reject-physician-assisted-suicide-euthanasia/>> accessed 3 September, 2018.

both ethical and pragmatic considerations, euthanasia should not be encouraged in Nigeria.

Concept of Euthanasia

Like other legal concepts, defining the term ‘euthanasia’ has proven problematic⁵ considering its changing dimensions and how, in various jurisdictions, it is perceived, accepted, understood and distinguished from other notions with analogous character of fatality. The British House of Lords Select Committee on Medical Ethics defines euthanasia as ‘a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering.’⁶ In Belgium and Netherlands, the term is understood to mean ‘termination of life by a doctor at the request of a patient.’⁷ The Dutch law describes euthanasia as ‘assisted suicide and termination of life on request.’⁸

According to its simplistic Grecian origin, the term comes from the Greek word ‘Eu’ (good) and ‘Thanatosi’ (death) and it means good

⁵ Definitions by their nature are hardly ever easy, more so of legal concepts. As a matter of fact this has been observed by the Supreme Court in *Federal Republic of Nigeria v Mike Amaechie* (2004) 1 SC (pt II) 27] at 25 per Niki Tobi JSC in this dictum: ...definitions are definitions because they reflect the idiosyncrasies, prejudices, slants and emotion of the person offering them, while a definer of a word (concept) may pretend to be impartial and unbiased, the final product of his definition will, in a number of situations, be a victim of bias.

⁶ N.M.Harris, ‘The euthanasia debate’ (2001) 147(3) J R Army Med Corps; 367–70 doi:10.1136/jramc-147-03-22. PMID 11766225 accessed 25 August, 2018.

⁷ BBC ‘Euthanasia and assisted Suicide’ <https://web.archive.org/web/20110719071151/http://www.bbc.co.uk/health/support/terminalillness_euthanasia.shtml> accessed 25 July, 2018.

⁸ Claudia Carr, *Unlocking Medical Law and Ethics* [2nded](Routledge, 2014) 374.

death.⁹ The first recorded use of the word was by Suetonius, a Roman historian, to describe the death of Augustus Caesar who died quickly in the hands of his wife and without suffering; although Augustus' death while termed euthanasia was not hastened by another person's action.¹⁰ In history *orthothanasia* which means 'passive death' that is the act of withholding treatment, was practiced. Here another person, usually the care giver, was involved but only passively by withholding treatment and his death was made easy in a passive form. Thus in *orthothanasia* active killing is not involved but passive actions are involved in order to achieve death. Today *orthothanasia* is encompassed in the definition of euthanasia as non-voluntary euthanasia.

In medical history the term was used by Francis Bacon in the 17th century to refer to an easy, painless, happy death in which the physician had a responsibility to relieve the physical sufferings of the body.¹¹

In modern usage euthanasia has been defined as 'painless inducement of quick death.'¹² This definition can be criticize for

⁹ 'A General History of Euthanasia' <<http://www.life.org.nz/euthanasia/abouteuthanasia/history-euthanasia1>> accessed 25 July, 2018

¹⁰ In his book *De Vita Caesarum--Divus Augustus (The Lives of the Caesars--The Deified Augustus)*, Suotonius describes the death of Augustus thus; "...while he was asking some newcomers from the city about the daughter of Drusus, who was ill, he suddenly passed away as he was kissing Livia, uttering these last words: "Live mindful of our wedlock, Livia, and farewell," thus blessed with an easy death and such a one as he had always longed for. For almost always, on hearing that anyone had died swiftly and painlessly, he prayed that he and his might have a like euthanasia, for that was the term he was wont to use." See *Ibid*.

¹¹ Bir Singh Chavan and Suravi Patra 'Euthanasia: Evolving Role of the Psychiatrists in India' [2012] 54(2) *Indian Journal of Psychiatry*; 108.

¹² Marvin Kohl, *The Morality of Killing: Sanctity of Life, Abortion, and Euthanasia* (Humanities Press 1972)94. A similar definition is offered by

leaving open the room for a number of actions which though not intended as mercy killing but will qualify as euthanasia under the definition. Such situations include killing a person painlessly for personal gain, or accidental deaths that are quick and painless but not premeditated.¹³

The Oxford English Dictionary introduces the notion of assuaging suffering as a necessary component of euthanasia. According to the Oxford English Dictionary, euthanasia is ‘the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma.’ Again this definition is not fortified against some other undesirable possibilities. An example is killing a person suffering from an incurable disease for personal gain such as for inheritance.

Other definitions introduced the element of intention i.e. the death is intended rather than accidental. It has been argued that this intention or motive must be good and to achieve ‘mercy killing’. The difference between this motive and murder *simpliciter* is that the agent of death must set out to achieve the good of the person killed.¹⁴ Hence Baruch Brody views an act of euthanasia as one in which one person ... (A) kills another person (B) for the benefit of the second person, who actually does benefit from being killed’,¹⁵ while Draper identifies four elements that must be present in a

Blackburn (1994) with "the action of causing the quick and painless death of a person, or not acting to prevent it when prevention was within the agent's powers."

¹³ Tom L. Beauchamp and Arnold I. Davidson, ‘The Definition of Euthanasia’ [1979] 4(3) *Journal of Medicine and Philosophy*; 294–312.

¹⁴ Michael Wreen, ‘The Definition of Euthanasia’ [1988] 48(4) *Philosophy and Phenomenological Research*; 53.

¹⁵ Baruch Brody, ‘Voluntary Euthanasia and the Law’ in Marvin Kohl (ed), *Beneficent Euthanasia* (Prometheus Books 1975), 94

definition of euthanasia viz, (1) a subject (the person euthanized) and a causal agent (who facilitates the doing of the killing by omission or commission); (2) intention (the motive which is for ‘merciful killing’ of the subject); (3) causal proximity which directly leads to the outcome; (4) the outcome (death).¹⁶

A key point to consider is the consent of the subject of euthanasia especially in circumstances where he is unable to give his consent. It must be noted that justifying euthanasia under this circumstance in view of the subject’s right to life is both a moral and legal challenge. It has been argued that euthanasia has to be voluntary rather than involuntary or non-voluntary.¹⁷ In this regard EPAC Ethics Task Force, describing euthanasia as ‘medicalized killing’, offered some thoughts; ‘Medicalized killing of a person without the person’s consent, whether non-voluntary (where the person is unable to consent) or involuntary (against the person’s will) is not euthanasia: it is murder. Hence, euthanasia can be voluntary only.’¹⁸

Euthanasia is generally classified into three types: voluntary, involuntary and non-voluntary euthanasia. Any of these can be active or passive as analyzed in the figure below, depending on the role or extent of involvement of the intervener agent which brings about the death.

Figure 1

¹⁶ Heather Draper, ‘Euthanasia’ in Ruth Chadwick (ed), *Encyclopedia of Applied Ethics* (Academic Press 1998) 176.

¹⁷ Michael Wreen, ‘The Definition of Euthanasia’ [1998] 48(4) *Philosophy and Phenomenological Research* (1988); 645

¹⁸ Lars Johan Materstvedt and others, ‘Euthanasia and physician-assisted suicide: a view from an EAPC Ethics Task Force’[2003] 17(2) *Palliative Medicine*, 97-101.

	Active	Passive
Voluntary	A consents to B's actively bringing about their death.	A consents to B's withdrawing treatment that preserves A's life.
Non-Voluntary	B actively brings about A's death. A is not in a position to communicate consent.	B withdraws life-preserving treatment from A when A is not in a position to consent.
Involuntary	B actively brings about A's death against A's communicated will.	B withdraws life-preserving treatment from A against A's communicated will.

Courtesy:

<https://computerscience.johncabot.edu/courses/F2014CS130/ddimaggio/Pages/Types.html>

Euthanasia and the Moral Question of Right or Wrong

It is hardly possible to discuss the views on euthanasia without considering the ethicists' arguments on the subject; though a minority believes that we shouldn't be having that argument at all. Epicurus (342 BC) observed that 'death is of no concern to us; for while we exist death is not present, and when death is present we no longer exist.'¹⁹

¹⁹ BMJ 'Why Active Euthanasia and Physician Assisted Suicide Should be Legalized' (2001) <https://doi.org/10.1136/bmj.323.7321.1079> accessed 2 September, 2018.

Stoic philosophical views have given strong backing to the practice of euthanasia in the form of suicide. Under the Roman Law it was permissible to end a life because of terminal illness, insanity or fear of possible dishonor.²⁰ Roman Stoic philosopher, Seneca held the view that ‘mere living is not good but living well’, hence a wise person lives as long as he ought to and not as long as he can.²¹ It therefore follows that quality as against quantity is what counts to Seneca’s view in support of euthanasia. However, this quality is based more on a communal quality rather than individual quality. The stoics held the view that whenever the means to a naturally flourishing life becomes unavailable, suicide might be justified. Aristotle holds the view that suicide is wrong to the state. Aristotle cares little about the role of the individual and his autonomy but looks more at the social roles and obligations.

Stoic views prevailed until the influence of Christianity which opposed suicide and considered same as an inexcusable violation of God’s directive that is “do not kill”. According to St. Augustine suffering is decreed by God and it is human responsibility to bear this burden. St. Thomas Aquinas argues that suicide is always morally wrong for it transgresses our duty to God, to others and to ourselves. But David Hume posited that God had given us free will to shape our lives and death and that sometimes the death of an individual can be good for the community.²²

The Islamic faith is strongly opposed to euthanasia like the orthodox Christian faith. The Islamic scripture, Al-Qur’an, stresses

²⁰ Irene Shala and Kilda Gusha, ‘The Debate over Euthanasia and Human Rights’ [2016] 2(8) *European Scientific Journal*.

²¹ Aristotle and Euthanasia’ <<https://www.slideshare.net/maddiedenton/aristotle-and-euthanasia>> accessed 29 August, 2018.

²² BMJ *ibid* n. 19.

the sanctity of life and the strong prohibition against taking it.²³ Most views among Islamic scholars are to the effect that all forms of euthanasia are forbidden because they are designed to bring the life of a human being to an end.²⁴ However under very restricted exceptions they permit some form of passive euthanasia, for instance removal of life supporting apparatus. This will be permitted on the condition that doctors believe these systems will serve no purpose other than to keep the heart or respiratory system functioning as nothing can expedite death or delay it if appointed.²⁵ However Al Qardawi (like Tantawi and Uthaimin) distinguishes the ‘physician’s act of stopping medication’ from ‘mercy killing’ as it does not imply a positive action on the part of the physician.²⁶ Other religious views have been expressed on the justifiability or otherwise of euthanasia. Generally all religions are not unanimous in their view on euthanasia, but their teachings generally sanctify life and mostly prohibit any form of killing.

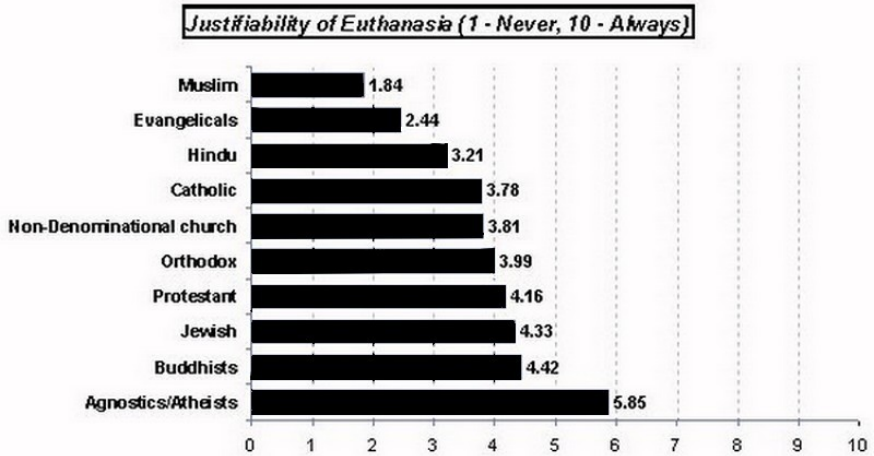
Figure2

²³ Quran Chapter 5 verse 32, 17 verse 33, 6 verse 151, 17 verse 32.

²⁴ Mufty Siraj Desai ‘What is the Islamic Ruling on Euthanasia’ <<http://islamqa.org/hanafi/askmufti/45457/>> accessed 27 July, 2018.

²⁵ *Ibid.*

²⁶ Yusuf Al Qardawi, ‘Islam’s Stance on Euthanasia’ <<https://archive.islamonline.net/?p=1005>> 27 July, 2018.



A survey conducted in 2008/09 by the World Values Survey Association found in <https://computerscience.johncabot.edu/courses/F2014CS130/ddimaggio/Pages/Ethics.html>

In some civilizations, particularly the western societies, religion is considerably amenable to change and transformation and its core principles readily susceptible to modification and in some cases totally sidelined at the behest of modernity and sophistication. This proneness opens room for liberal and somewhat selective application of religion to societal issues like the subject of euthanasia. Intrinsicly, people in these societies are willing to part ways with religion and settle for new positions when occasion serves. Euthanasia is therefore gaining acceptance in parts of these societies including Luxemburg, Netherlands, Colombia, Canada and Belgium. Nevertheless euthanasia remains hotly controversial in most parts of the world, drawing separate camps of irreconcilable proponents and opponents whenever it is mentioned.

Constitutionality of Euthanasia in Nigeria

Nigeria is a conservative society where morality is defined along the lines of religious beliefs. Subjects like abortion, homosexuality, etc. are legally prohibited despite arguments offered in their support under some other legal crimes. Euthanasia is not explicitly mentioned anywhere in the statute books in Nigeria but it is generally discussed under the various criminal laws prohibiting killing in whatever form. More direct provisions are found under the Criminal Code and Penal Code touching on the various types of euthanasia.

In some jurisdiction like United States of America and Denmark, Euthanasia or Mercy is killing prohibited by law. There is an exception and this is where the patient's health condition has so degenerated to such a condition that death would be imminent there is no amount of medical treatment can save him or her.

However, voluntary or involuntary Euthanasia is strictly prohibited in Nigeria under section 33 of the Nigerian Constitution which guarantees right to life. The court's decision in *Nigeria Medical Council v Okonkwo*,²⁷ where the doctor was discharged is not a precedent on the confirmation of Euthanasia. This is because Okonkwo did not kill or assisted the deceased to die. Rather, Okonkwo merely adhered to the deceased's religious fundamental right which said deceased objected to transfusion of blood. There is therefore no law that permits a person to die under any condition. Such assistance is treated as murder under the Nigerian Constitution and Criminal Code.

Criminal Code on Euthanasia

²⁷ (2001) 6 NWLR (pt 710). See also *State v Okezie* where the court held that consent by the victim does not absolve an accused person of criminal liability in case of murder to raise a defence of consent.

Various sections will be considered under the Criminal Code on killing generally of which euthanasia is naturally subsumed. Section 326 of the Criminal Code provides that “any person who procures

- a. Another to kill himself, or
- b. Counsels another to kill himself and thereby induces him to do so or
- c. Aids another in killing himself is guilty of a felony and is liable to imprisonment for life.

Under section 299 consent by the subject to his being killed does not absolve the agent of criminal responsibilities. It therefore follows that any physician, family member or any other person who procures the death of another person either actively or passively will be considered liable under this provision of the law. In the case of *State v. Okezie*²⁸ accused prepared some charms for the deceased who then invited the accused to test the charms on him. The accused shot the deceased and killed him upon which he was convicted of murder.

Penal Code on Euthanasia

Like the Criminal Code, chapter XVIII on the offences affecting life prohibits the taking of human life. Section 221 provides thus:

Whoever causes death—

- (a) by doing an act with the intention of causing death or such bodily injury as is likely to cause death; or
- (b) by doing an act with the knowledge that he is likely by such act to cause death; or
- (c) by doing a rash or negligent act, commits the offence of culpable homicide.

²⁸ (1972) 2 E.C.S.L.R 419.

It is clear from the above that it does not matter the prevailing circumstances, it is a crime to kill or facilitate the suicide of anyone, old or young, healthy or sick person in Nigeria. This position is alike under both the Criminal and Penal Code.

However what can be considered a legal nod to passive euthanasia in Nigeria is reflected in the Supreme Court landmark case of *Medical and Dental Practitioners Disciplinary Tribunal v. Okonkwo*²⁹:

“The sum total of the rights of privacy and of freedom of thought, conscience or religion which an individual has, put in a nutshell, is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary.’ ...Law’s role is to ensure the fullness of liberty when there is no danger of public interest. ‘This is why, if a decision to override the decision of an adult competent patient not to submit to blood transfusion or medical treatment on religious grounds, is to be taken on the grounds of public interest or recognized interest of others, such as dependent minor children, it is to be taken by the courts.”

The Supreme Court in arriving at the above decision allowed itself to be persuaded by several affirmative judicial decisions³⁰ on the

²⁹ (2001) 3 S.C. 76 and (2001) All N.L.R. 305.

³⁰ *Re Yetter* (1973) 62 Pa D & C2d 619; *Re Osborne* (1972), Dist Col App 294 A2d 372. *Sideway v. Board of Governors Bethlem Royal Hospital* (1985) 1 ALL E R. at pp. 645 and 666 per Lords Scarman and Templeman respectively. In *Re Yetter*, the patient who was childless refused medical

supremacy of the patient's consent over the physician's opinion and relatives'. What is important in these cases is that the decision to override the patient's decision is removed from the hands of the physicians, the relatives and any other person other than the patient himself, even if the cause chosen by the patient would ultimately lead to his death.

Should there be the Right to Die in Nigeria?

Right to life is as fundamental as it is inalienable. Proponents of euthanasia have capitalized on an end-to-end argument of the right to life to justify euthanasia. The argument is that if you have the right to live, it conversely means that you have the freedom to elect to die. This foundation may seem simple enough not to admit further argument on the matter of euthanasia; unfortunately the irreversibility and infiniteness of death compels these arguments. Besides, there are serious social implications of opening a floodgate for euthanasia without considering the anthropological perspectives, religio-moral viewpoints, and pragmatic angles to the issue.

While the paramountcy of the patient's consent to the form of treatment he receives is nonnegotiable, it is misplaced to leave such consent in the hands of the patient if same will lead to his sure death. This is especially so where there is medical treatment such as blood transfusion that can help the patient get well.

Among all human cultures life is sacrosanct and must be preserved and not destroyed. The impact left by death transcends its victim

treatment and sought court order in pursuance thereof. The court agreed that it was the constitutional right to privacy of a competent adult to refuse treatment that may prolong his life even if such refusal may be unwise, foolish or ridiculous to others.

and touches on other members of the society such as dependents, loved ones, creditors, and beyond. The sudden death of an important person may paralyze a society. Thus death is capable of potential demoralization as well as impactful economic, political and social consequences. This certainty reaffirms the core value of inviolability of life, that legalizing euthanasia in Nigeria is a slippery slope that is capable of culminating in a chain of significant unintended consequences such as non-voluntary and involuntary euthanasia. Since euthanasia often involves a third party (physician and family members) where the patient is incapable of taking such decision, it is dangerous to rule out ill-motives as basis for euthanizing a patient. It is also difficult to rule out the possibility that their decision is ill-informed such as the earlier mentioned case related by Frederick Howe where the doctors prescribed that the patient be euthanized, only for it to be discovered later that the patient was conscious and communicating through blinks and slight movements of her eyes.³¹ Even where the patient is able to communicate such decision, it is respectfully submitted that his physiological condition can hardly admit of a rational decision over a serious matter as euthanasia considering the incertitude of his judgment.

Furthermore, legalizing euthanasia could be abused. The argument here is that allowing this practice could occasion circumstances where euthanasia could be said to be taken out of context. The unique but depressing story of a set of deaf identical twins that were diagnosed of a genetically caused form of glaucoma which would make them go blind in a near future further offers an idea of how consent could be carried too far. The remarkably similar double, against the entreaties of his parents and sibling, decided to

³¹ Frederick Howe *ibid* n. 1.

be euthanized to avoid the trauma of blindness. In this case no pains or any physical suffering was involved. Despite the fact that euthanasia was legal under Belgium's law, it took the duo two years before they could get a hospital willing to administer the lethal injection to end their life.³² This difficulty expressed by the society that typically wields a flippant attitude towards death³³ further reaffirms that the decision to be euthanized is not simplistic or individualistic. Chris Gastmans, a professor of Medical Ethics at the Catholic University of Leuven, expressed fear over the wider implications of mercy killing and opined that it is more judicious to find another caring way to deal with human frailty.³⁴

The fear has been expressed that legalizing euthanasia in Nigeria could be detrimental to vulnerable population such as children, the physically and mentally handicapped. Obi noted that the slippery slope argument is well instanced in the practice of euthanasia in Germany. Those targeted for euthanasia were the terminally ill, mentally and physically inhibited, those with the most florid schizophrenic, paranoid psychos and children with severe mental and physical handicaps. At first it was only the children under 3, then the age limit was raised to 8, then to 12 and then to 17. The total number killed include more than 300,000 mentally retarded,

32

The Daily Telegraph, 'Deaf Twins Killed by Legal Euthanasia Had to Search Two Years Before They Found Someone Who Would Do it' <<https://nationalpost.com/news/deaf-twins-killed-by-legal-euthanasia-had-to-search-two-years-before-they-found-someone-who-would-do-it>> accessed 5 August, 2018.

³³ It has been observed that in the Western society, attitude towards death is decidedly 'deviant'. See Henry Abramovitch, 'Anthropology of Death' <<http://henry-a.com/death/anthropology-of-death>> accessed 5 August, 2018.

³⁴ *Ibid.*

and more than one million children killed for reasons of odd shaped ears, chronic bed wetters, behavior problems, difficult to educate, having very dark complexion, dark eyes, the aged, the infirm, the ill who could not work.³⁵

It is submitted that a country such as Nigeria, whose criminal and judicial institutions in terms of corruption and ineptitude are poorly rated, should be exceedingly wary of legalizing euthanasia. If trifling reasons such as ‘bed wetting’ can be a basis for euthanizing a child in Germany, it is likely for even more trivial reasons or altogether malicious ones to be the motivation behind it in Nigeria. The possibility also exists that the drive to advance research in some critical and new diseases will wane since there is the comfortable option of ‘killing’ the patient. Imagine if euthanasia was legal when *ebola* attack hit Nigeria. In a country where the health institutions are far below standard and little is being done about it, the needed motivation to be injected into the system is improved sophistication, innovation and taking advantage of new advancements in medicine. This is consistent with the practice of medicine whose vocation is healing rather than killing.

Conclusion and Recommendation

This article has canvassed the argument that legalizing euthanasia in Nigeria is imprudent, inconsistent with the country’s peculiar societal norms and detrimental to the Nigerian society. Life is precious and must be preserved especially with the availability of cutting edge advancements in technology which can enable better quality of life for patients. It is submitted that to withdraw medical treatment under any circumstance is irrational and irreconcilable

³⁵ Mike Chekwube Obi ‘A Critical Appraisal of Euthanasia under Nigerian Laws’ [2014] 5 *NAUJILJ*; 11

with the calling of medicine which is the hallowed business of saving life, hence it is the view of this writer that such request by a patient should be refused by the doctor. There seem to be no difference between killing simpliciter and letting to die. The Nigerian constitution does not provide for the right to die. Thus any attempt to distinguish euthanasia from murder is merely academic. It is therefore recommended that the relevant laws be amended to allow the doctors and other relevant health workers to save the life of their patients even in the face of express directives to the contrary. Furthermore, it is recommended that punitive measures be put in place to prevent the misuse of law in promoting euthanasia.