

## EUTHANASIA AND RIGHT TO DIE: THE NEED FOR A LEGAL FRAME WORK IN NIGERIA.

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**Abstract:** The most important singular duty of a doctor to his patient is to either completely remove or minimize his pain. Since the beginning of time it is considered important for medical practitioners to have an ethical duty to their patient. Though they are free to exercise their skills in whatever manner they deem fit. However, the debate around the world is whether a doctor can decide for his patient to end his life in order to completely remove or lessen his pain. Euthanasia is one of the recognised ways of relieving the pain of a hospitalized patient by law in countries like Netherland and Belgium. In Nigeria there are such cases of patient suffering from agonizing and incurable terminal diseases or in a vegetable or comatose stage for long. These cases are rampant in our hospitals and physicians are always confronting them day-in-day-out, but the most challenging issue is the legal and ethical concern of removing or lessening their pain via euthanasia. Some developed countries enacted laws to give physician the legal backing to indulge in relieving the pain of their patients where necessary. In Nigeria any such act is a crime whether or not it is done with the consent of the patient or his relatives. This paper intends to look at the reason for the need to provide a legal framework for Euthanasia, the right to life and the legal implication of embarking into such act without consent of the parties, and the patient right to life as protected under the Nigerian constitution. Finally to be able come out with a reason whether or not to follow suit the position in the countries that either liberalized or completely permitted it

**Introduction:** In Nigeria taken somebody's life by whatever means or motive is a crime save as provided by the law. Euthanasia, as some people will argue concerns human rights to self determination and dignity of human person, even though there is much to be seen in that regard. Patient with terminal illness stay alive only to experience more pain and agony some time even their family members and relatives are affected. The argument has always been that instead of allowing them to continue to suffer a framework shall be provided where they will be put to sleep endlessly, or in other words terminate their life if it is certified that they cannot make it, but surviving only under respirators and feeding under tube. India and Nigerian legal system are similar. They operate a constitutional system with full recognition of human rights as enshrined in all the international instruments. Just like in Nigeria euthanasia is not allowed in India, and the Indian supreme court interpreted Article 21 not to include right to die. This is because there is no legal framework for euthanasia in India. However recently the same Indian supreme allowed passive euthanasia on one Aruna Shaunbag, refusing mercy killing. The patient was in a vegetative state for 37 years in Mumbai hospital. Now if confronted with such kind of situation how will the Nigerian courts approach such issues? This and many more question are set out to be answered in this paper, especially, the argument for and against the legalization of euthanasia and the countries that have legalized it what were they able to achieve.

**Literature review:** Onwuteako-pjilipson B. D. etal this paper was written as of a result of survey carried

out on the Netherlands euthanasia law before and after 1990 to 2010. In the study they took sample from the death registry and find out the causes in respect of age, sex, marital status and provide an insight of the consequence of legalizing euthanasia. The reasons and causes of euthanasia in this country are going to be different from other developing countries like Nigeria. This paper will look at the reasons and the need for legalizing it in Nigeria. Dyer O. addressed the problem encounter with the Euthanasia Bill in the Quebec country. Quebec is one of the first countries in northern America to legalised euthanasia, even though it only legalized voluntary euthanasia. This is in a law called "Dying with dignity Bill" in the bill a physician can personally administer the lethal dose rather than simply prescribing it. This paper also talked about critics from right to life group. The bill before being considered, a survey was taken in Netherlands and Belgium who have earlier on legalized euthanasia. The bill avoids the use of the term euthanasia rather it used medical aid in dying. The paper has addressed peculiar reasons to Quebec as a nation with a better resource management than Nigeria. So this paper will bridge the gap to address Nigerian problem.

Stephanie O. in this article addressed the recent development in Netherlands regarding legalization of euthanasia. It was noticed that 10% of the death in Netherlands was as a result of involuntary euthanasia. The article try bring the relevance of psychiatry in determining euthanasia as it relate to mental condition of the patient and the need to involve psychiatry in determining who is to be administered with morphine. However, this paper will try to look at

the need to come off with the framework first and the problem bedeviling the Nigerian health sector.

Hagger L. and Rahmann-sutter C. In their article Organized Assistance to Suicide in England. Talked about public prosecution's guideline that anyone assisting another to commit suicide in England will not be prosecuted provided there are no self-seeking motives and no active encouragement, which is a similar position in Switzerland though no difference is made between assistance and inducement. The guideline does not change the penal system, but only that one may not be prosecuted since suicide is not a crime while assisting someone to do so is a crime. This paper will show the position is different in Nigeria because assisting someone to die in whatever circumstances or the motive is a crime.

Macquoid-mason D.J made a point that physician are not hold responsible for their conduct or omission, that is for withdrawing or hastening death for murder or prescribing potentially fatal palliative dose medicine, not because there is no intention to kill but because of societal conviction that such conduct or omission is lawful, and the society regard their conduct as lawful.

Huddle T. S. In this article another debate is opened as to what kind of euthanasia shall be legalized. It is argued that there is strong difference between killing and allowing-to-die. The main difference is between removing life sustaining treatment and active euthanasia, which cannot be morally equated with voluntary active euthanasia. While the other argument is that there is even no need for the difference. This article will be helpful in determining the kind of euthanasia to be legalized in Nigeria.

Vodiga B. In this article the conditions to be satisfied for a patients to have his life terminated are provided. Among -them are that the patient's condition must be irreversibly terminal, his condition must be incurable within the definition of the then current state of medical technology and the patient, his family or a medical review board must request or concur in any decision to permit the patient to die.

Griffith R. this article try to look into the position of euthanasia in UK and the need to reform the law as the sanctity of life continues to be a principle protected by law. Any action calculated to endanger or recklessly threaten life is a crime severely punished by the law. However, from a moral stance in the UK, and from a legal stance in other countries such as the Netherlands, Belgium and Switzerland, the notion that death must be avoided at all costs is being replaced. There is an increasing consensus that, for some, death is preferable to the intractable pain and

suffering that result from their incurable or terminal illness.

These are some of the current literatures regarding euthanasia and its application in some developed societies. However, the reasons given for legalizing it in all the countries are far different from the reasons that obtainable in Nigeria. A country with abundant resources, but with a deeply rooted corruption and mismanagement of resources. There is no good health care system; the hospitals are like death trap. Poor are made to be poorer. These and many more reasons make the literature to be fundamentally different.

#### **Research method**

The method to be used in this research is doctrinal methodology. The primary reference materials shall be the Universal Declaration of Human Rights, African Charter of Human and People Rights, Social Economic and Cultural Rights and more importantly the Nigerian Constitution 1999 as amended and other laws legalizing euthanasia in different countries like Euthanasia Act in Australia and Human Rights Act in England and other penal laws.

The research shall also consult books, journals Articles, conference/seminar papers and the internet as secondary sources. The research shall also rely on data and statistics primarily from countries where euthanasia is legalized, World Health Organization and other health related agency.

#### **Finding**

The finding of this paper shall be about the need to amend the penal system with regard to criminal responsibility. This shall be by putting of physicians in determining their guilt about euthanasia. There is another need to come off with a law that will provide a legal framework for the application of euthanasia. The need for the judiciary to be considerate in case of terminally ill patients like for the example, the case cited above a patient being in a coma for 37 years, the court shall do something about it in the absence of law.

#### **Theoretical and practitioner implications**

The only implication of this research is the moral and religious nature of the Nigerian Nation. For both Christian and the Muslim who are the most predominant religious are against any form of euthanasia, even though one may say that it is a question of rights.

#### **Limitation**

This research work is going to be limited to the Nigerian situation. However reference will be made to other jurisdictions like India, Belgium and Netherlands.

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