

AN APPRAISAL OF EUTHANASIA AND THE NIGERIAN LEGISLATION: A CALL FOR LAW REFORM

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Abstract

Euthanasia has been a contentious concept among scholars. Though it is not expressly mentioned in Nigerian penal laws, some provisions relate to it, since the right to life is sacrosanct and inalienable. In Nigeria, it is unlawful to kill any person except on the grounds permitted by law. The objective of this paper is to interrogate the legal status of euthanasia and make appropriate recommendations to improve the provisions on this subject. The paper adopted the doctrinal method of research; it discovered that all Nigerian laws make euthanasia a felonious and punishable offence. It recommended that Nigerian laws on euthanasia should be reviewed to reflect the socio-legal conditions of our communities, and the health sector should be improved to care for the citizens.

Keywords: Euthanasia, right to life, Death, Penal Laws, Reform

1. INTRODUCTION

The right to life is the most important of all human rights, mainly because the enjoyment of other rights depends on it. This right is sacrosanct, and it evolves from the natural existence of every man; it is universal in application, and every human being is expected to enjoy it without discrimination on grounds of gender, age, religion, economic

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status, among others. However, death remains the inevitable end of life; every individual must die at some point. Death is a natural end of life; it is viewed from different perspectives, and there are social, theological, and political dimensions of death. Bagheri opined that death is a subjective term. Since death is inevitable, there have been arguments that, in situations where a person is brain dead, in serious pain, terminally ill, in a vegetative state, or terribly injured, the killing of such a person on the grounds of mercy is legally justifiable;¹ can such a person's life be painlessly terminated? Sometimes, patients suffering life-threatening or terminal illnesses plead and request that their life be terminated rather than continuously going through excruciating pain and anguish. There has been fierce debate as to whether euthanasia or mercy killing should be legalized or not. The issue of euthanasia has been a subject of debate all over the world. Some have argued that God created all human beings, so he owns life; it is wrong to kill or assist the killing of a person on the ground that the person is begging or requesting the termination of his life, while some argue that it should be the right of a person who is ill and does not have hope of recovering to seek the termination of his life and end the suffering.

The right to life is a constitutional provision that must not be derogated from; this right is also supported by some international laws and other legal instruments. Euthanasia, or mercy killing, has been a subject of international debate; some argue that a person who is ill and has no hope of recovering can seek or accept to die, to end his suffering, while some scholars and nations are completely against euthanasia. The pendulum of argument has always been between the fact that death, as a natural occurrence, must occur freely from nature

¹2 V. O. Adefarasin, *Euthanasia: An Act of Mercy or Murder?* (Vol. 4, Censresin Publications 2012) 69

rather than compelled or coerced, and where an individual feels he can no longer recover from an illness, is it not good to allow him to depart and rest in peace? This is the focus of this research.

1.2 Meaning of Euthanasia

Etymologically, euthanasia is a Greek term coined from two words: “eu” meaning good, and “thanatos” meaning death; thus, it is often called ‘good death’². Euthanasia, like many legal concepts, is a subject of dialectics; it has no specific definition. The Oxford Advanced Learners Dictionary defines euthanasia as the painless killing of a patient suffering from an incurable disease or an irreversible coma; the Webster Dictionary defines it as the painless and deliberate killing of a person suffering from an incurable disease or condition, or who is helpless and aged.³ According to Black’s Law Dictionary, euthanasia is the practice 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.⁴ Ling John explains that euthanasia is the deliberate putting to death of a person suffering from an incurable disease. He perceives it as the deliberate act or omission, in this regard, of a third party, usually a doctor, as part of the medical care to be accorded a patient.⁵ From the definition above, there are three focal words: ‘hastening’, ‘incurable’, and ‘painful’. 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.

² U. A. Ikono, ‘Criminalizing Euthanasia in Nigeria: A Stitch in Time (2020) (3) *International Journal of*

Multidisciplinary Research and Growth Evaluation 28

³ The New Webster’s Dictionary of English Language (Intl.ed., Lexicon Publications 2008) 156-158

⁴ B. A. Garner, Black’s Law Dictionary (10th edn, Thompson Reuters 2019, 696

⁵ John Ling, *The Edge of life: Dying, Death and Euthanasia* (Day one Publication 2012) 81

2. 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. He postulated that science should help relieve the pain of individuals whenever the need arose; he argued that a physician's duty is not only to restore health but to mitigate pain, and not only when such mitigation will result in recovery, but when it may serve a fair and easy passage.⁶ Between the 15th and 17th centuries, English writers made references to 'euthanasia'. Thomas More thought that if disease could not be cured, it was appropriate to apply euthanasia or mercy killing upon the request of such patients.⁷ Euthanasia was practiced in ancient Greece and Rome, as hemlock was used as a means of hastening death among the Greeks and Romans.⁸

A Roman historian, Gaius Suetonius Tranquillus, is said to be the first person to have employed the word 'euthanasia' in his work while describing the death of Augustus Caesar. The 18th century saw the emergence of writers and physicians, such as Samuel D. Williams, John Warrn, Joseph Buller, and others, who were strong advocates of euthanasia or mercy killing; from the 19th century to date, euthanasia has attracted arguments for and against by many scholars.

⁶ F. Bacon, *New Atlantis* (Oxford University Press 1924)

⁷ I. Venchio, C. Tornal, L. Rampello, G. S. Rigo, M. Migliore and I. Rampello; *Brief History of Euthanasia and the Contribution of Medical and Surgical Ethics to the Cultural Debate* (*Acla Medical Mediterranean* 28:185-190)

⁸ D. K. Nehra, P. Kumar and S. Nehra 'Euthanasia: An Understanding' [https://www.coursehero.com/file/P7_e9nnf/conclusion – Euthanasia-as-a-form-of-merciful killing-or-peaceful-death-has/](https://www.coursehero.com/file/P7_e9nnf/conclusion-Euthanasia-as-a-form-of-merciful-killing-or-peaceful-death-has/) accessed 25th May 2026.

2.2 Right to Life

The right to life is the paramount right of all human beings; there is a statutory provision for it in the Nigerian Constitution.⁹ It is an important right, and the enjoyment of other rights depends on it. The right to life is sacrosanct, and it is unlawful to kill any person except on grounds permitted by law. Killing another man unlawfully is criminal and punishable by law in Nigeria.¹⁰ Every person has the right to life.

The Constitution of Nigeria provides further that:¹¹

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 defense of any person from unlawful violence or for the defense 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

From the provisions of the 1999 Constitution of Nigeria (as amended), it is crystal clear that the right to life as a constitutionally guaranteed right cannot be derogated from except it is in accordance with the Constitution.

In *Nosiru Bello V A. G. Oyo State*¹² The appellant was convicted of armed robbery at the High Court; he filed an appeal against the

⁹ Section 33 of the 1999 CFRN (as amended)

¹⁰ Sections 315 and 316 Criminal Code Act of Nigeria

¹¹ Section 33 (2) a-c of the 1999 CFRN (as amended)

judgment, and while the appeal was pending, he was executed. The Supreme Court of Nigeria frowned at the attitude of the Oyo State government and declared the premature execution of the appellant as not only unconstitutional, but also unlawful; by that action, the deceased had lost his right to life and the right to prosecute his appeal.

It is therefore firmly established that the right to life is fundamental, sacrosanct, and inalienable; every human being is entitled to the right of respect for his life and integrity of his person. The international and regional laws also uphold the respect for the right to life of every person.¹³

2.3 Classification of Euthanasia

Euthanasia can be classified into these forms:

2.3.1. Active Euthanasia

Active euthanasia is an act of commission¹⁴. This euthanasia involves intentionally causing the death of a person through a direct action, in response to a request from that person. The physician is the instigator of death. If a patient suffers from cancer, which could be a terminal illness, the doctor who gives the patient a lethal injection has caused his death,¹⁵ whereas if he merely ceases the treatment and the patient dies, cancer is the cause of his death.¹⁶ Active euthanasia entails the taking of active positive steps to bring about the death of another, such

¹² (1986) 5 NWLR 820

¹³ Art 4 African Charter on Human and People's Rights (Ratification and Enforcement Act) CAP 10 LFN 2004

¹⁴ J. A. Dada, *Legal Aspects of Medical Practice in Nigeria* (2nd edn, University of Calabar Press, 2013)

¹⁵ D. Brock, 'Voluntary Active Euthanasia' in H. J. Curzer (ed.), *Ethical Theory and Moral Problems* (Belmont: Wadsworth, 1999, 46-54

¹⁶ J. Rachel, 'Active Passive Euthanasia' (292) No. 19 1975, *New England Journal of Medicine*, 1911-1914.

as injecting a patient with a lethal injection or administering killer medications, or an overdose of painkillers or sleeping medication.

2.3.2. Passive Euthanasia

This form of euthanasia is the act of allowing a terminally ill person to die either by withholding or withdrawing life-sustaining support such as a respirator or feeding tube. It could also be by the removal of a life support machine, cessation of administration of injections, drugs, and other essential care. Passive euthanasia is legal in the United States of America following the decision in *Cruzan V Director, Missouri Department of Health*.¹⁷ This form of euthanasia is also known as negative euthanasia.

2.3.3. Voluntary Euthanasia

Voluntary euthanasia is one which is done with the consent of the terminally ill person. Such consent might be granted by the patient in advance, by way of a directive which may declare that his life be terminated or that life-saving machines be disconnected in certain circumstances stipulated in the directive.

2.3.4. Non-Voluntary Euthanasia

This is applied when a person, though terminally ill, has not expressly requested to be killed to end his pain and suffering.

2.3.5. Involuntary Euthanasia

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,

¹⁷ 497 US 261 (1990)

it becomes a criminal offence of murder or, in some cases, manslaughter.

3. RELIGIOUS PERSPECTIVES OF EUTHANASIA IN NIGERIA

Nigeria is a secular state; every person is entitled to the freedom of religion, including the freedom to change his religion,¹⁸This right is constitutionally guaranteed. Islam, Christianity, and Traditional worship are the three main religions in Nigeria, and this paper examines euthanasia from the three religious perspectives:

3.1. Islamic Perspective

Under Islamic Law, life is considered sacred and a trust from God. The Holy Quran considers life as a sacred entity and provides: ‘Do not take life which Allah makes sacred, other than in the course of justice’¹⁹. Taking a life is considered a serious sin committed against Allah, and if anyone kills a person, unless it is for murder or spreading mischief in the land, it would be as if he kills the whole people.²⁰ Allah declares that life and death are solely in His discretion and that life can only be taken away when he wishes; He says, ‘He who created death and life to test you, as to which of you is best in deed.’²¹

The Quran states that giving and taking of life is within the exclusive jurisdiction of Allah, and no human has the power to, or should try to, assume the position of Allah by taking the life of another. The Quran provides that ‘when their time comes, they cannot delay it for a single

¹⁸ Section 38 of the 1999 CFRN (as amended)

¹⁹ Quran 17:33

²⁰ Quran 5:32

²¹ Quran 67:2

hour nor can they bring it forward by a single hour.²² And no person can ever die except by Allah's leave and at an appointed time.²³

According to Allah, in the Quran, life and death are exclusively at His discretion,²⁴... and they possess no power (of causing) death, nor (of giving) life, nor of raising the dead.²⁵ No soul can die except by permission of Allah at an appointed time.²⁶ Based on the plethora of Qur'anic verses cited above on the sanctity of life, any person who intentionally ends another person's life or deliberately assists another person to die commits an offence of murder, and he too should, on conviction, be killed. The same thing applies to any person who intentionally ends his life; he will be punished on the Day of Judgement because he disobeys Allah and for denying His mercy. Islamic law prohibits any form of intentionally causing death regardless of the circumstances; this prohibition extends to euthanasia and assisted suicide.

Allah says in the Quran, 'don't kill yourselves, verily, Allah is most Merciful to you'²⁷. To show the gravity of the offence of killing another person, Allah likens the killing of one person to the killing of all persons.²⁸ The only killing which is justifiable in Islamic law is the execution carried out by those in authority on a person who has committed an offence of murder. The Holy Quran provides thus:

²² Quran 16:61

²³ Quran 3:145

²⁴ Quran 67:2

²⁵ Quran 25:3

²⁶ Quran 3:145

²⁷ Quran 4:29

²⁸ Quran 5:32

And do not kill anyone whom Allah has forbidden, except for a just cause, and whoever is slain unjustly, we have indeed given to his heir authority, so let him not exceed the just limits in slaying, surely, he is aided.²⁹

3.2 The Christian Perspective

In both the Old and New Testaments of the Bible, there is no specific reference to euthanasia or mercy killing. The Bible specifically forbids the killing of another person; hence, the sixth commandment states that 'Thou shalt not kill',³⁰ This is an express provision prohibiting the killing of a man. Christianity is fundamentally based on the expression that man is made in the image of God,³¹ If a man decides to put an end to life, it means he is usurping the power of God; the Bible provides thus;

Whoso sheds man's blood, by man shall his blood be shed; for in the image of God made the man.³²

Christianity teaches that sufferings have value, and it is not a reason for one to terminate his life.

Yea, and all that will live godly in Christ Jesus shall suffer persecution.³³

Yet if any man suffers as a Christian, let him not be ashamed, but let him glorify God on this behalf.³⁴

²⁹ Quran 6:151

³⁰ King James Version, The Holy Bible, Genesis 20

³¹ King James Version, The Holy Bible, Genesis 1:27

³² King James Version, The Holy bible, Genesis 9:6

³³ King James Version, The Holy Bible, 2 Timothy 3:12

³⁴ King James Version, The Holy Bible, 1 Peter 4:16

There are some instances in the Bible that could be understood in the light of euthanasia or desire for it. At a point during Job's travail, he no longer saw any reason to continue living; he said, 'Why is light given to those in misery, and life unto the bitter in soul, which long for death, but it cometh not?'³⁵ Other incidents in the Bible that could serve as examples of the willingness to die are those of Abimelech³⁶ and Saul.³⁷ While the request of Abimelech was granted, Saul's request was rejected; his armor bearer did not slay him, but Saul chose suicide. Abimelech believed he had suffered a fractured skull after being hit on the head by a millstone. He asked his armor bearer to kill him to save him from the indignity of being killed by a woman; his armor bearer declined, and he fell on a sword and died. This was suicide and not a form of euthanasia. The Catholic Church's standpoint regards euthanasia as morally wrong; the church regards any law that permits killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, as an act of sin. Euthanasia as an intrinsically unjust law holds that nothing and no one can in any way permit the killing of innocent human beings.³⁸

The Catholic Church became a leading opponent of the modern euthanasia movement in the early 1900s. Pope Pius XII was a vocal critic of euthanasia in the 1940s.³⁹ On 5 May 1980, the Vatican issued the Declaration on Euthanasia, condemning it as a "violation of the divine law, an offence against the dignity of the human person, a crime

³⁵ King James Version, The Holy Bible, Job 3:20-21

³⁶ King James Version, The Holy Bible, Judges 9:52-55

³⁷ King James Version, The Holy Bible, 1 Samuel 31:4

³⁸ <https://www.religioustolerance.org/euthanas>.

³⁹ M. Panscola 'Catholic Teaching on Prolonging Life Settling the Record straight' The Hastings Center Report, JSTOR, 2001, 31, 6

against life and an attack on humanity⁴⁰. The Presbyterian Church in the United States of America in 1988 stated that euthanasia is murder,⁴¹ so the church is not in support of euthanasia.

3.3 Traditional Religion Perspective

Religion is a huge part of the customs and culture of the Nigerian people; tradition and religion cannot be separated from the life of Nigerian citizens. Traditional religion practitioners worship different gods and deities in various parts of Nigeria; they have acts and omissions that are considered taboos to protect their religions and the sanctity of their societies. Among the Igbo people of South East Nigeria, life is seen as a gift and prerogative of God. Life is precious, and it is treated with an utter sense of sacredness; this explains why children are given names such as 'Chinenyewa' – it is God that gives children, and 'Chinenyeomumu' – God gives children/potency/fertility, 'Chiwendu,' God owns life.⁴² It can be inferred from this standpoint that life is a general and sacred gift from God, and it must be kept and respected as such. Suicide is perceived as abhorrent in Igbo cultural belief and value system. Preservation of 'nau', that is 'life' in Igbo religious view, is a cultural imperative, as well as an inherently human attitude, since life is seen as sacred; any willful dangerous attitude, action, or intention against it is interpreted both as malevolent and as a taboo against humanity.

Among the Yorubas⁴³ of Southwestern Nigeria, though no life is believed to be completely useless, despite this standpoint, some practices could be understood in terms of euthanasia. Some Yorubas

⁴⁰ Declaration on Euthanasia Congregation for the Doctrine of Faith, 5 May, 1980

⁴¹ O. O. Familusi, 'A Religious Response to the Paradox of Euthanasia and the Sanctity of life'(2017) (27) *Ibadan Journal of Humanistic Studies*, 132,

⁴² Ibid

⁴³ Yoruba is one of the three dominant tribes from the South-Western Nigeria.

believe that death is more honorable than the long experience of pain and suffering due to chronic disease.⁴⁴ There is a Yoruba proverb that says “*iku ya ju esin*”, which means “death is more honorable than shame”. This philosophy has led to several deaths in the form of subtle murder and suicide; however, it is the firm opinion of this researcher that the Yorubas are still culturally opposed to euthanasia or mercy killing.

4. THE LEGALITY OF EUTHANASIA IN NIGERIA

In Nigeria, the practice of euthanasia is prohibited by law. The 1999 Constitution (as amended) is supreme, and where any law is inconsistent with its provisions, to the extent of that inconsistency, the other law shall be void.⁴⁵ Enshrined in Chapter IV of the Constitution are the elaborate provisions relating to the recognition and protection of the Fundamental Human Rights of Nigerian citizens. Some of the provisions have direct bearing on euthanasia and mercy killing; these include the right to life,⁴⁶ human dignity⁴⁷liberty, freedom of thought, conscience and religion ⁴⁸ and freedom from discrimination ⁴⁹ torture, inhuman or degrading treatment.

Every person has a right to life, and this is the most significant of all the fundamental rights in the constitution; therefore, no person 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 convicted. However, the right to life cannot be interpreted in a vacuum or apart

⁴⁴ O. Bamgbose, “Euthanasia: Another Face of Murder” *International Journal of Offender Therapy and Comparative Criminology* 48 (2004) III

⁴⁵ Section 1 (1) and 1 (3) of the 1999 CFRN (as amended)

⁴⁶ Section 33 (1) 1999 CFRN (as amended)

⁴⁷ Section 34 1999 CFRN (as amended)

⁴⁸ Section 38 1999 CFRN (as amended)

⁴⁹ Section 42 1999 CFRN (as amended)

from other constitutional provisions. This was the decision of the Supreme Court in *Nafiu Rabi V State*.⁵⁰ The Supreme Court stated that constitutional provisions, particularly as they relate to fundamental human rights, must be read broadly and together and not disjointedly.

The penal laws of Nigeria are governed by statute under the Criminal Code, applicable in Southern Nigeria, and the Penal Code, applicable in the Federal Capital Territory and Northern Nigeria. The term euthanasia is not used in the penal laws of Nigeria; the codes criminalize euthanasia. Under the criminal code, any form of killing of any person is unlawful, unless such killing is authorized or justified by law.⁵¹ Therefore, except as set forth, any person who causes the death of another directly or indirectly, by any means whatsoever, is deemed to have killed that other person.⁵² In all of these instances, an offender may be found guilty of murder or manslaughter, depending on the circumstances of the case.⁵³ A conjunctive reading of Sections 306, 308, 315 and 316 of the Criminal Code points to the fact that euthanasia of whatever form is unlawful under the Criminal Code. The practice of assisted suicide is specifically made an offence in section 326 of the Code. Under this provision:

Any person who

- (1) Procures another to kill himself
- (2) Counsels another to kill himself or thereby induces him to do so or,

⁵⁰ (1980) 8-11 SC 130

⁵¹ Section 306 Criminal Code Act Cap 41 LFN

⁵² Section 308 Criminal Code Act

⁵³ Section 315 Criminal Code Act

(3) Aids another in killing himself, is guilty of a felony and is liable to imprisonment for life.⁵⁴ It is not a defense that a person consents to his own death.⁵⁵

Like the Criminal Code, the Penal Code creates the offence of Murder and Manslaughter. Although these offences are referred to as culpable homicide punishable with death⁵⁶ for murder and culpable homicide not punishable with death⁵⁷ for manslaughter. The definitions and prescribed punishments are similar to the ones in the Criminal Code. Under the Penal Code, abatement of suicide of persons lacking legal capacity, such as a minor under the age of 18, an insane person, a delirious person, any idiot, or any person in a state of intoxication, in committing suicide, is criminalized and made punishable with death.⁵⁸

The Penal Code has a provision that could be interpreted as a criminalization of euthanasia, thus:

Whoever administers to or causes to be taken by any person, any stupefying, intoxicating or unwholesome drugs or things with intent to cause hurt to that person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment for a term which may extend to ten years and shall be liable to a fine.⁵⁹

5. CONCLUSION AND RECOMMENDATIONS

Euthanasia is a multidisciplinary concept, and it remains deeply contentious among scholars; however, some provisions relate to it

⁵⁴ Section 326 Criminal Code Act

⁵⁵ Section 299, Criminal Code Act, *State V Okezie* (1972) 2 E.C.S. L. R 419

⁵⁶ Section 221 Penal Code

⁵⁷ Section 222 Penal Code

⁵⁸ Section 227 Penal Code

⁵⁹ Section 249 Penal Code

directly or indirectly. This research has examined the meaning, history, types, and legality of euthanasia; the paper brought to the fore the religious perspectives of this concept. It has been mentioned that there is no direct mention of the word euthanasia in Nigerian Penal Laws, and any such act or omission will be considered an offence of murder. Euthanasia is illegal under Nigerian law, and it is considered a criminal act; however, there is a need to critically examine and review the Nigerian Penal Laws. It is on this ground that the following recommendations are proffered.

Nigerian healthcare sector must be improved. Presently, Nigerians pay a huge amount to get medical care; the rich, especially the political leaders, travel overseas to access good healthcare. This is detestable.

Affordable and accessible healthcare will reduce pains associated with death and agitation for euthanasia; the right to health must be justifiable. It is necessary to reform Nigerian Penal Laws on issues relating to euthanasia; in doing this, the legislators must direct their minds towards the existing and prevailing laws and peculiar customary, religious and social circumstances of every community; also, the judicial pronouncements on euthanasia, such as the decision of the Supreme Court in the case of the Medical and Dental Practitioners Disciplinary Tribunal V Dr. John Emewulu Okonkwo,⁶⁰ should be reviewed to reflect the socio-legal condition of Nigerian communities.

⁶⁰ (2001) 3 S.C. 76