

# *Euthanasia and Assisted Suicide: Sweetness in Bitterness*

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## Abstract

In this paper, a review of the concepts of euthanasia and assisted suicide is conducted. It begins by describing the historical trends from the beginning of the 20th century to the modern-day view. In doing this, some notable cases of these practices in the identified periods are discussed in a separate section. This qualitative study revealed that the doctrine of assisted suicide and the practice of euthanasia differ for different regions. This paper further analyzed the argument for and against the doctrine of euthanasia. The theories and the school of thoughts on euthanasia are being examined. The study gives a clue to Nigeria legal perspective on euthanasia. The method of the study adopted was doctrinal in nature with the aid of textbooks, articles and internet sources. The research recommends among others, the improvement of Nigeria Constitution and legislation to promote and protect its citizen's basic right to human dignity, personal liberty, freedom of thought and right to life as embedded in Chapter IV of the Constitution and to support their health care right. It further notes that there is absolutely no evidence of harms to society or to vulnerable individuals as a result of legalization of assisted suicide and euthanasia, rather than depriving competent adults who want to die sooner their freedom of choice.

**Keywords:** Euthanasia, Physician Assisted Suicide, Human Rights, Medical Ethics

## I. INTRODUCTION

Each person has the inherent right to life. According to the various international human rights instruments<sup>1</sup>, every individual is required to enjoy some legally enforceable rights that protect them from violations of their human rights. These rights are fundamental rights that accrue in every sense of the world regardless of race, gender, age or economic status. Any attempt to infringe on this inherent right to life is regarded as violation against the right itself. This is because life emanate from natural existence of every human being and thus universal in its application. The sanctity of life been sacrosanct must therefore be treated with uttermost value, equality and respect without any sense of inequality in treatment. A right, according to human rights activists<sup>2</sup>, is a freedom of some kind; it is something to which you are entitled to simply because you are human. Human being as rational being is entitled to human dignity, equality, and privacy. Human rights are founded on the principle of individual dignity<sup>3</sup> and as such should be allowed to choose to die in a dignified manner. Every human being is worthy of respect and as such should be accorded to them. Waldron define dignity as "the status of a person, predicated on the fact that he or she is recognized as having the ability to control and regulate his or her actions in accordance with the apprehension of norms and reasons that apply to every person."<sup>4</sup>

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<sup>1</sup> Universal Declaration of Human Right (UDHR), *Art. 2, 1948*, International Covenant on Civil and Political Rights (ICCPR), *6, 1962* and African Charter on Human and People's Rights, *4, 1981*.

<sup>2</sup> "Human Rights Activism and the Role of NGOs - Manual for Human Rights Education with Young people", online: <<https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos>>.

<sup>3</sup> Christopher McCrudden, "Human Dignity and Judicial Interpretation of Human Rights" (2008) 19:4 *European Journal of International Law* at 655-724.

<sup>4</sup> Jeremy Waldron, "How Law Protects Dignity" (2012) 71:1 *The Cambridge Law Journal* at 202.

From the broad to the specific, right to life remains the major significant right, and its protection is therefore critical, particularly in considering the current subject matter of discussion. The right to life asserts that human life is sacred. "Human beings are inviolable<sup>5</sup>," says the African Charter on Human and Peoples' Rights. Every person has the inherent right to be honored for their life and personal integrity. No one's right can be revoked against their wish. The Federal Republic of Nigeria's 1999 constitution states in Section 33(1) of the constitution and attests to the fact that every individual's right should not be deprived of him.<sup>6</sup> There have been numerous cases of human rights violations in Nigeria, without minding the fact that these rights are protected under the supreme law of the land.<sup>7</sup> for example, discrimination at workplace base on sex, race, health status, arbitrary arrests, detentions without trial etc. This study will narrow its discussion down to the violation of the right to life through euthanasia (mercy killing) and physician assisted suicide, which has posed a serious threat to human life since it came to limelight. One kept on wondering whether right to life invariably means right to die? Most people are now seeing death as an event or normal activity<sup>8</sup> and felt they can just demand for death at any point in time contrary to the known notion of death as a natural occurrence. Schafer is of the view that there is insufficient evidence of harms to society or to vulnerable individuals because of legalization to continue denying competent adults who want to choose to die sooner their right and liberty<sup>9</sup>, thereby seeing death as an event as suppose the natural occurrence that is meant to be. Giving death a specific definition has pose a lot of challenges as it depends on individual experience and perception. *Lord Browne-Wilkinson, Keith and Goff* gave a definition of death that is widely acceptable in the UK, he sees whoever that is brain-stem dead, whose heart has stops pumping and the breath ceases; whose organs has stopped working; whose human cell has ceased to function; who has failed to regain consciousness after a long period of time to have ceased to live.<sup>10</sup> Bagheri<sup>11</sup> sees death as a subjective term. It is perceived by the patient but cannot be measured by the healthcare provider. The question that comes to mind is that can we argue that such individuals live with dignity? For example, can we say an individual who suffer from an immense pain, who cannot feed or bath or take care of themselves, live with any dignity at all? If such an individual cannot have that dignified life again, then he or she should be able to die with dignity, (a dignified death) the author submits.

This will bring us to the conceptualization of Euthanasia. Euthanasia, simply put, is the practice of assisting dying patients to end their lives without any pain. The meaning of euthanasia is "good death", "Mercy Killing" or "painless death"<sup>12</sup> gotten from Greek word "eu" and "thanos". It can be defined according to the Webster dictionary to mean an easy deliberate

<sup>5</sup> "African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986: [excerpts] . . .", online: <<http://hrlibrary.umn.edu/instree/zlafchar.htm>>.

<sup>6</sup> Constitution of the Federal Republic of Nigeria, 1999, 33 (1).

<sup>7</sup> Corissajoy, "Human Rights Violations", online: Beyond Intractability <[https://www.beyondintractability.org/essay/human\\_rights\\_violations%20](https://www.beyondintractability.org/essay/human_rights_violations%20)>

<sup>8</sup> Jonathan Herring, *Medical Law and Ethics* (Oxford University Press, 2006).

<sup>9</sup> Arthur Schafer, "Physician assisted suicide: the great Canadian euthanasia debate" (2013) 36:5-6 *International Journal of Law and Psychiatry*.

<sup>10</sup> "Airedale NHS Trust v Bland [1993] 1 All ER 821 (HL)", (1993), online: <<https://cascaidr.org.uk/2017/03/21/airedale-nhs-trust-v-bland-1993-1-all-er-821-hl/>>.

<sup>11</sup> A Bagheri, "Individual choice in the definition of death" (2007) 33:3 *Journal Medical Ethics* at 146.

<sup>12</sup> Ronald Hamowy, *The Encyclopedia of Libertarianism* (SAGE, 2008).

killing of a person experiencing an incurable disease or condition or who is helpless and aged.<sup>13</sup> It is an act of ending a person's life owing to distressing physical and mental conditions and taking the step to intentionally end the life of a patient by their family, friends or doctor, to end their pains or miserly health.<sup>14</sup> Adefarasin defines euthanasia and or assisted suicide as the "act of permitting the death or killing of a hopelessly injured or sick person for reasons of mercy".<sup>15</sup> Kure Joseph opines that despite the painless or peaceful exist, it still involves emotions.<sup>16</sup>

The practice of euthanasia has been the subject of heated debate in recent years<sup>17, 18, 19</sup>. Physician Assisted Suicide (PAS) is like euthanasia as well. It is the act of assisting or encouraging a person to consent to taking his or her life. It involves another person, most of the time a physician to commit the act of suicide. The difference between PAS and other forms of euthanasia is that there is higher degree of patient control in PAS. The physician must have seen and concludes that the patient is in a very severe, painful and hopeless situation with no hope or chances of survival. A lot of people have given several opinions on the morality<sup>20</sup> of helping people who are terminally ill or who are very old to end their lives in a painless manner.<sup>21</sup>

Some human rights organizations in Nigeria<sup>22</sup> have advocated for euthanasia to be indoctrinated and that it is legally unsound to deny people their decision to pass on in a painless and dignified way. Critics, on the other hand, have claimed that killing people with pains or mercifully ending their lives to relieve them of life-threatening illnesses is a violation of their right to life<sup>23</sup>, which was given unto them by the *Supreme Being* and must be taken by the same supreme being alone.

Because of the above diametrically opposed viewpoints, it became necessary to discuss a brief history of the doctrine of euthanasia by considering its historical development. The reminder of this paper is organized as follows. Section 2 describes euthanasia and it closed allied, physician assisted suicide. Section 3 describes theories and the school of thoughts on euthanasia. Section 4 discusses arguments for and against euthanasia, whereas Section 5 presents a summarized story of some selected landmark foreign cases on euthanasia. The study is concluded in Section 6 by giving a clue to Nigeria Legal Perspective on Euthanasia.

<sup>13</sup> The New Webster's Dictionary of the English language, international ed (New York: Lexicon International, 2004).

<sup>14</sup> Lisa Firth, *Euthanasia & the Right to Die* (Independence Educational Publishers, 2008).

<sup>15</sup> Adefarasin VO, "Euthanasia: an Act of Mercy or Murder?" (2012) 4 Cenresin Publications at 69.

<sup>16</sup> Josef Kure, *Euthanasia - The "Good Death" Controversy in Humans and Animals* (In Tech, 2001) at 3-5.

<sup>17</sup> E J Emanuel, "The History of Euthanasia Debates in the United States and Britain" (1994) 121:10 *Annals of internal medicine* at 793-802.

<sup>18</sup> "The Euthanasia Debate - GRIN", online: < <https://www.grin.com> >.

<sup>19</sup> Irena Shala & Kilda Gusha, "The Debate Over Euthanasia and Human Rights" (2016) 12:8 *European Scientific Journal* at 73-81.

<sup>20</sup> John Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation* (Cambridge University Press, 1995).

<sup>21</sup> John M Finnis, "Euthanasia, Morality, and Law" (1997-1998) *Publication Information* 31 *Loy L A L Rev* at 1123.

<sup>22</sup> "The Status of Human Rights Organizations in Sub-Saharan Africa Overview", online: <<http://hrlibrary.umn.edu/africa/charactr.htm>>.

<sup>23</sup> "Arguments Against Euthanasia", online: *Vivre dans la Dignité* <<https://vivredignite.org/en/against-euthanasia>>.

## II. DISCUSSION

### A. History of the Doctrine of Euthanasia

*Euthanasia* is derived from the Greek words *eu* (which means *well or good*) and *thannatos*, which means *to die or death*.<sup>24</sup> It is the act of ending a person's life voluntarily to relieve pain and suffering caused by an incurable illness or vegetative state. In America, Death has long been a subject matter of no discussion, but it rose to prominence in the early 1970s after the publication of Elisabeth Kübler-Ross' book, *On Death and Dying*<sup>25</sup>, between 1969 and 1973, as well as 1973 and 1975, the number of new books, articles, and magazines on death in the United States increased. As a result, some people began to advocate for discussions about possible ways to hasten death for terminally ill people, as well as laws that could legalize voluntary euthanasia in America. Unsurprisingly, those anticipated laws on voluntary euthanasia were not accepted nor passed into law.

As modern medical technology advanced, public concern about death grew rapidly. This is partly because, in the traditional setting, most people died at home; however, nearly 71 percent of people died in hospitals, nursing homes, clinics, and other facilities in 1978, with the number rising to more than 80 percent in the late 1990s. In his book "How We Die," Sherwin Nuland<sup>26</sup>, a physician as well as a writer, describes death as a situation where people are denied and deprived of the tranquillity they had hoped for and separated from family and friends who will not let them die.<sup>27</sup>

The hospice, a home that provides care for the sick or terminally ill, first appeared in 1970 as an alternative to euthanasia.<sup>28</sup> In 1974, the oldest hospice, which bears a root as hospital, opened in New Haven, Connecticut, a state in the north-eastern United States. Despite the fact that some hospitals are separate organizations, Nursing homes now refer to a philosophy of end-of-life care rather than a collection of structures. Most often than not, healthcare professionals assist people in dying comfortably at home. However, neither the hospital organization nor the reasons for it were well-known in the 1970s.

### B. Euthanasia and Assisted Suicide in the 20<sup>th</sup> Century

The first attempt in America to institutionalize euthanasia and assisted suicide by medical doctors was a bill introduced in the Ohio legislature in 1906. The opinion was held that when a person in his right state of mind has an incurable disease and it is medically obvious that it is impossible to recover and return to good health, or when a person suffers from excruciating pain with no signs of healing, his or her predicable doctor, who is not related to him and has no ulterior motive in his Property, can ask him in the presence of two or three other witnesses, who are medical doctors whether he is willing to die.<sup>29</sup>

If such a person agrees in the presence of other doctors who are concerned about the patient's health, and who are not related in anyway with the patient, the predicable doctor

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<sup>24</sup> "Euthanasia - MU School of Medicine", online: <<https://medicine.missouri.edu/centers-institutes-labs/health-ethics/faq/euthanasia>>.

<sup>25</sup> Elisabeth Kubler Ross, *On Death and Dying* (2014).

<sup>26</sup> Sherwin B Nuland, *How We Die: Reflections on Life's Final Chapter*, new edition paperback ed (1995).

<sup>27</sup> Derek Humphrey & Mary Clement, *Freedom to Die: People, Politics, and the Right-to-Die Movement* (Macmillan, 2000).

<sup>28</sup> "History - Connecticut Hospice", online: <https://www.hospice.com/> <<https://www.hospice.com/history/>>.

<sup>29</sup> Derek Humphry & Ann Wickett, *The right to die: understanding euthanasia* (New York: Harper & Row, 1986).

can assist the patient in ending his life. Euthanasia was the legal term for such procedure. It is the intentional taking of a life in order to free a person from a terminal or incurable disease or malady. This proposed law<sup>30</sup> was met with strong opposition. The opponents, for instance, warned against the dangers of physician assistant suicide and euthanasia in the twenty-first century, such as people using it for personal gain, to gain inheritance, wealth, and property of the person invited or to get rid of any burdensome family members. It also stated how such laws can destroy the trusting relationship between a doctor and his patient, as it can make the sick person fearful and frightened once he or she becomes aware of the visit of the latter. On the election of seventy-eight (78) to twenty-two (22), the state assembly's committee rejected this proposed law.

A new major attempt to constitutionalize *mercy killing* occurs in Britain in the 1930s, when C. Killick Millard, a medical doctor from Leicester, provided a template for mercy killing in 1931, and the British Mercy Killing Group was formed in 1935 to publicize the bill.<sup>31</sup> Although the term was not used, this group was basically the pioneer of right to die association. Nonetheless, when the proposed law was presented in parliament in 1936, it was met with strong opposition, with a vote of 35 to 14. This organization continued to raise awareness about euthanasia until 1950, when it was brought back before the legislature. In the year 1938, Charles Potter, a Unitarian minister, organized the Euthanasia Society in America, which proposed not only legalizing Euthanasia for terminally ill people suffering from incurable diseases, but also "include children suffering from chronic psychological and bodily impairment ("evolution's defects") criminals and hopeless lunatics."<sup>32</sup> The group<sup>33</sup> introduced a law affirming voluntary Euthanasia to hopeless patients in New York legislations in the year nineteen-thirty-nine, although it was unsuccessful. Other attempts by the mercy killing group continued until 1960, with some success.

In opinion polls conducted in the 1930s, approximately forty percentage of Americans and sixty-nine percentage of Britons supported euthanasia for critically hopeless patients. When family members of terminally ill patients have been caught committing acts like EU and AS, they are rarely imprisoned or penalized. For example, in the year ninety-thirty-eight, a New York panel of judges declined to prosecute Harry C. Johnson for gassing his cancer-stricken wife. He claimed that she asked for it.<sup>34</sup> This act of euthanasia was carried out in the presence of 3 psychiatrists who confirmed that the act was executed during her temporal insanity. Numerous parents were acquitted or received suspended sentences after terminating the lives of their mentally ill children<sup>35</sup>.

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<sup>30</sup> *Ibid.*

<sup>31</sup> I Dowbiggin, "A prey on normal people: C. Killick Millard and the euthanasia movement in Great Britain, 1930-55" (2001) 36:1 JSTOR at 59-85.

<sup>32</sup> *Ibid.*

<sup>33</sup> British Mercy Killing Group was formed in 1935 to publicize the bill

<sup>34</sup> David R Schanker, "Of Suicide Machines, Euthanasia Legislation, and the Health Care Crisis" 68:3, Art. 3 Indiana University School of Law.

<sup>35</sup> Omayra Issa, "25 years after conviction, Robert Latimer still believes he was right to kill his daughter", (15 November 2019), online: *CBC News* <<https://www.cbc.ca/news/canada/saskatoon/robert-latimer-25-years-later-1.5360711>>.

Germany gave mercy killing a deadly and terrible image throughout the second World War which has never been contested.<sup>36</sup> From 1939 to 1941, Hitler's regime conducted a public awareness campaign about euthanasia for people with *life unworthy of living*. The awareness campaign began with mentally challenged children and had since expanded to include adults with both mental and physical disabilities. Part of the reason for this awareness was biological. That is, a desire to save money on so-called useless people, as well as a faith in genetics, which states that only healthful people would procreate. German mercy killing awareness is estimated to have affected up to 100,000 disabled people.<sup>37</sup> This realization paved way for the notorious final solution to the Jewish and other minorities dilemma of people whose lives are not worth living. Of a truth, the mercy killing package was a kind of choice practice for the Holocaust, with the mixture of gas-emitting mock shower cubicles, continuously working incinerators, and most critically, in the opinion of contemporary opponents of mercy killing, the complete involvement of many German doctors, the euthanasia program was indeed a sort of choice exercise for the Holocaust. Leo Alexander, a researcher for the Nuremberg War Crimes Tribunal, wrote:

*With the unique mixture of gas-emitting mock shower cubicles, continuously working incinerators, and most critically, in the opinion of contemporary opponents of mercy killing, the complete involvement of many German doctors, the euthanasia program was a sort of choice exercise for the Holocaust.*<sup>38</sup>

### *C. Reasons People Commit Assisted Suicide or Voluntary Euthanasia*

People commit assisted suicide or voluntary euthanasia for a variety of reasons, however, for the sake of this study, a few of them are considered here. Firstly, to stop Embarrassment or shame. Shame is a sensation of utter rejection, or misery that a person experiences when he is in a particular situation. Only the dying patients understand the pains he is passing through and how it affects the value of his life. Every person should have the opportunity to die with dignity. Any situation that may lead to shame and embarrassment should be avoided. Many people who have witnessed others' slow deaths believe that physician assisted death should be legalized.<sup>39</sup> Focusing on life-saving treatments for individuals with hopeful situations rather than people who have little chance of surviving again makes more sense in terms of resources such as skilled employees, technology, hospital beds, and drugs. As soon as a dying patient shows interest in mercy killing because of shame or embarrassment and ceaseless pains, such request should be granted to the dying patient, in honour of his human right to dignity. It is more humane and considerate to provide someone with ceaseless suffering the opportunity to end their suffering and pain in a painless manner, than passing through the experience of shame, embarrassment and worthlessness of life. Putting an end to such shame can aid in the alleviation of loved ones' sadness, endless wasting of resources and suffering. For example, in a situation where a dying patient with the case of leukaemia becomes a burden to

<sup>36</sup> "Euthanasia Program and Aktion T4", online: <<https://encyclopedia.ushmm.org/content/en/article/euthanasia-program>>.

<sup>37</sup> "The Murder of People with Disabilities", online: <<https://encyclopedia.ushmm.org/content/en/article/the-murder-of-people-with-disabilities>>.

<sup>38</sup> *Ibid.*

<sup>39</sup> "BBC - Ethics - Euthanasia: Pro-euthanasia arguments", online: <[https://www.bbc.co.uk/ethics/euthanasia/infavour/infavour\\_1.shtml](https://www.bbc.co.uk/ethics/euthanasia/infavour/infavour_1.shtml)>.

her husband, children and relatives, she will prefer to terminate such shame, pains via assisted suicide or voluntary euthanasia.<sup>40</sup> Another situation is where a child battling with autism prefers to make use of the available option of euthanasia or assisted suicide to relief herself of ceaseless pains and psychological trauma, shame and embarrassment on the part of his or parent.<sup>41</sup>

The second major controversial reason against euthanasia is the expressions of religious beliefs.<sup>42</sup> This school of thoughts believes that it is in conflict with God's will.<sup>43</sup> Different religion is of the same view that since humans cannot make a life, they do not either have the right to take one as it is against God's authority on when to choose to live or die.<sup>44</sup> Assisted suicide or euthanasia is considered a severe sin in the Catholic religion. Catholic religion is of the view that if euthanasia is legalized, there will be no respect for sacredness of life again, people either terminally sick or not can decide to terminate their life anytime they wish to without any substantial or justiciable reason, thereby weakening the sanctimonious reason for existence. This can be seen as a slippery slope argument as the act can lead to involuntary euthanasia in a situation where a patient or person's life is taken away against their wishes and denying them of their right to life<sup>45, 46</sup>. The follower of Allah sees life as sacred and vehemently oppose and denounced euthanasia. Their believe is that it is only Allah that gives and take life.<sup>47</sup> The people of Islamic faith see euthanasia or assisted suicide as a sin that incur the wrath of God. The Muslim law of medical ethics notes that: *Mercy killing is the atheistic way of thinking, believes that our time on this globe is followed by void, provides sanction for killing, much as suicide. The claim that murdering occurs due to excruciating, hopeless illnesses is also debunked because no human pain cannot be entirely eliminated by medication or with the help of appropriate neurosurgery....*<sup>48</sup> Other perspectives on assisted suicide defers. Hinduism For example, recognizes the right to die for individuals suffering from terminal illnesses or who have no desire, ambition, or duties left. For such a group of people, death is permitted.<sup>49</sup> Another example is in a situation where a Jehovah-witness patient needed transfusion of blood; he or she declines blood transfusion and rather prefer to go for Assisted Suicide instead. According to their religious belief blood transfusion is not allowed.<sup>50</sup>

<sup>40</sup> "Assisted dying: The motivations, benefits and pitfalls of hastening death", online: <<https://www.apa.org/monitor/2017/12/ce-corner>>.

<sup>41</sup> Issa, *supra* note 35.

<sup>42</sup> "Christian Beliefs About Euthanasia - 1569 Words | Bartleby", online: <<https://www.bartleby.com/essay/Beliefs-of-Different-Religions-About-Euthanasia-P36NCPSWG8SX>>.

<sup>43</sup> Exodus 20:13, Thou shall not Kill.

<sup>44</sup> Shane Sharp, *Belief in Life After Death and Attitudes Toward Voluntary Euthanasia* (Sage Publication, 2017).

<sup>45</sup> "BBC - Ethics - Euthanasia: Anti-euthanasia arguments", online: <[https://www.bbc.co.uk/ethics/euthanasia/against/against\\_1.shtml](https://www.bbc.co.uk/ethics/euthanasia/against/against_1.shtml)>.

<sup>46</sup> Firth, *supra* note 14.

<sup>47</sup> Qur'an 17:33 Mohammed Hilali and Msuhin Khan, *The Noble Qur'an; English Translation of the Meanings and Commentary* (King Fahd Complex).

<sup>48</sup> Islamic Organization of Medical Sciences, *Islamic Code for Medical and Health Ethics* (2004).

<sup>49</sup> Coward H, Lippner J & Young K, *Euthanasia: Traditional Hindu views and the contemporary debate in Hindu ethics: Purity, Abortion and Euthanasia* (State University of New York Press, 1995).

<sup>50</sup> "Ethical and legal aspects of refusal of blood transfusions by Jehovah's Witnesses, with particular reference to Italy", online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3934270/>>.

Thirdly, some sick people give in to euthanasia and assisted suicide due to their Self-determination or bodily integrity. There are some dying patients who still value their bodily integrity even in their dying stage and will not want to be seen as object of pity by anyone. These reason make some dying patient determines to willing end their lives with the assistance of a physician. As soon as the patient got to know that he is suffering from a terminal disease and been fully aware of his or her medical condition may self-determine to opt for assisted-suicide to save himself and his loved ones from terrible situation that will still end in death.

Fourthly, some people view euthanasia and or assisted suicide as a way of saving resources, both medical and financial resources to support other patient who is not terminally ill thereby adding value to the society at large. The idea is that euthanasia supports a dying individual, in case the pains is becoming unbearable, then the dying patient can opt for euthanasia. As suppose living such a dying patient to untold pains and torment.

#### *D. The Theories on Euthanasia and Assisted Suicide are being Examined*

The different school of thoughts on the current topic of discussion shall be examined under this section. The John Stuart Mill's theory of utilitarianism mainly emphasises euthanasia from the concept of pleasure and pain. Mill's argument is that whatever action that is done by men generally, whether constituting to a person's life or death should always lead to happiness. Happiness is the sole factor for consideration under *Mills* school of thought. *John Stuart mill's* utilitarianism theory of euthanasia mainly emphasises that since people have sovereignty and self-determination over themselves, they should in turn be able to make decisions for themselves accordingly. Individuals should be able to pursue their happiness and avoid anything that causes them pains.<sup>51</sup> This school further opines that choice of life and death lies solely within individual's power and capacity. It is within individual's right to privacy and should not be interfered with. This theory opines that euthanasia should only be explored when other options and remedies have been explored and failed.

The Humanist School of Thought based their theory on moral principles grounded on human reasoning. The humanist school of thoughts based their theory on respect for one another and respect of rules that are human and not harmful to individual existence. This school of thought based their theory on the worth of life and respect for individual autonomy thereby conceding to a voluntary euthanasia, which according to this school of thought is morally right. Their school of thought is that each individual has the right of choice. For example, an individual may decide to end his life in a painless manner, while another individual may opt for the natural causes of death. The humanist school of thoughts opines that by rejecting or denying an individual of his right to die amount to violation of the individual's right of choice and leads to no gain or benefit for all. This school of thought based their theory on respect and maintenance of certain obligations that must be met, for example, the humanist believes that before an individual can opt for voluntary euthanasia, such an individual must have consulted several medical doctors before the process, to ensure that involuntary

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<sup>51</sup> "Euthanasia And John Stuart Mills Theory On Utilitarianism Philosophy Essay", online: <<https://www.ukessays.com/essays/philosophy/euthanasia-and-john-stuart-mills-theory-on-utilitarianism-philosophy-essay.php>>.

euthanasia is prevented. Involuntary euthanasia is not acceptable or tolerated to the humanist school of thought.

The Pro-Choice School of Thought opines that putting an end to a dying patients suffering can be achieved through euthanasia. It is the opposite of the pro-life school of thought. Pro-choice believe that death is within the right to privacy of an individual and as such individual can determine to die and how to die in a dignified manner, to alleviate suffering rather than expending resources on a terminally ill patient. This school of thought believes that the resources can be used on a hopeful situation.

The pro-life school of thought simply opposes euthanasia. The school of thought believes in sanctity and sacredness of life. They believe in value that life worth rather than easing the suffering of the terminally ill patient.<sup>52</sup> Pro-life believes that recovery of health can still occur, the current circumstances notwithstanding. Former Chief Rabbi of England, *Dr Immanuel Jakobovits* has this to say on the sanctity and sacredness of life. "*Cripples and clod, whichever debilitated, have and enjoy the same human rights and privileges (though not legal capacity) as every other person. One human life and a million lives are both equal and precious.*"<sup>53</sup>

The school opines that the first point of duty of every physician is to save life. The doctor-patient relationship can be marred if euthanasia is legalized. Pro-life stands with the fact that if patient is treated under standard health facilities, suffering can in turn be reduced, thereby giving no need for euthanasia.

#### *E. Review of Selected Foreign Cases on Euthanasia*

In *Re B Adult: Refusal of Medical Treatment*<sup>54</sup>, Ms. B suffered from haemorrhage of the spinal column in her neck and had been treated severally without any hope of improvement got paralysed from her neck down and had to depend on a ventilator. After a period of time, she made her intention known that her ventilator be permanently turned off. Her physicians who have been so closed to her during her illness were so emotional and not willing to grant her desire. The court held that the best interest of the patient was not held paramount, as her physicians were not willing to grant her the access to her right of privacy and dignity. The court held National Health Services liable to pay damages.

In *NHS Foundation Hospital v. P*<sup>55</sup>, a young lady of age 18+ in the United Kingdom, had overdose on paracetamol and was admitted in the hospital according to her mother's wish as against her own desire. According to her, *her life was shit* and she refused to be treated. Now, going by the act, she had the capacity and authority to make such decisions been of age, but her mother insisted and sought treatment for her. The court held that since the patient is of age and able to decide what is good for her, gave them no option but to override the decision of her mother as the lady's best interest was of primary consideration.

Another case is that of *Vacco, Attorney General of New York et al v Quill et al*.<sup>56</sup> The bone of contention is on the provision of the New York state law. The physicians asserted their right

<sup>52</sup> Matt Lamb, "Pro-Life Means Opposing Euthanasia, Assisted Suicide", online: <<https://studentforlife.org>>.

<sup>53</sup> Christian Nordqvist, "Euthanasia and Assisted Suicide", online: <[https://www.academia.edu/22358241/Euthanasia\\_and\\_Assisted\\_Suicide](https://www.academia.edu/22358241/Euthanasia_and_Assisted_Suicide)>.

<sup>54</sup> 2 FCR 1, 2002.

<sup>55</sup> EWHC 1650, 2014.

<sup>56</sup> 521 US 793, 1997, This case brought to question the position on the interpretation.

to assisted suicide, and that the standards of practice allowed them to prescribe lethal injection for dying patients, experiencing great and excruciating pains. The law however allowed the dying patients to refuse treatment, which the physician contended to be of same inclination. The Supreme Court made its ruling on the basis of the perceived right to die. The court ruled such a ban was constitutional and in line with the state law, as such the doctors were further disallowed from aiding patients in taking their lives.

From the case of *Washington vs Glucksberg*<sup>57</sup>, the medical practitioner claimed that as much as they wish to assist the patient in ending their lives painlessly, the law has not allowed them to carry out their physician assisted help. A non-profit organization been the respondent with three terminally ill patient sued on the claims that the ban on the physically assisted suicide is unconstitutional in the year 1993.

The author concludes this section with the case of *Lee Carter vs. Attorney General of Canada's case*, The Supreme Court ruled in honour of Ms. Taylor, who is sixty-three years of age and battling with amyotrophic lateral sclerosis (ALS) and other plaintiff to the suit, on the plea that there should be an amendment to the Criminal Code of British Columbia to lawfully permit dying patients to choose Physician Assistance Suicide (PAS) or Voluntary Active Euthanasia (VAE) in quickening their easy passage after having been guided appropriately. It is their constitutional right to choose and consent to how, where and when to die which should not be deprived of them.

#### *F. Euthanasia under Nigeria Law*

Nigeria has practised non-voluntary euthanasia and still practising it up till date. Historically, during the inter-tribal wars<sup>58</sup>, there was massive killing of infants. The wailing of the infants attracted enemies to attack their parents and caregivers thereby leading to the neglect of the infants to starvation and death.<sup>59</sup> In Calabar, Southern-east part of Nigeria, there was the practice of non-voluntary euthanasia as it is in their custom to kill and throw newly born twins into the evil forest.<sup>60</sup> This art was abolished through the help of *Mary Slessor*, a foreign missionary, who brought the gospel of Christianity in the year 1940, among others. A woman that committed this act of non-voluntary euthanasia even after the murderous custom has been abolished was convicted of murder in *R v. Chima*, it was however held on appeal that she was liable for infanticide, and not murder.

Currently, Nigerians that dominated the northern part of the country are being faced with non-voluntary euthanasia, against their wishes. This is done by the group of terrorist called "Boko Haram". They massacre people against their wishes, thereby denying them of their human right to life.

Jungle justice is another form of non-voluntary euthanasia been practiced under Nigeria legal system. It is a situation where an alleged offender is openly attacked, knocked down, and then executed without trial by the extremely angry crowd or vigilantes. This type of non-voluntary euthanasia is mostly found in Nigeria and Cameroon.<sup>61</sup> All this are forms of

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<sup>57</sup> 521 US 702, 1997.

<sup>58</sup> *Euthanasia in Nigeria* (Faculty Lecture, Faculty of Law, University of Ilorin 2014), also see Omipidan B A, "Euthanasia: The 21st century Culture of Death" (2011) 7:1.

<sup>59</sup> Adaramola F, *Basic Jurisprudence* (Raymond Kunz Communications, 2004).

<sup>60</sup> Akin Ibidapo-Obe, *Essays on Human Rights Law in Nigeria* (Concept Publications, 2005).

<sup>61</sup> En.m.wikipedia.org

euthanasia in disguise that are contrary to human existence and invariably violation of human right to life.

Under the Nigeria law, there is no specific legislation that provides for Euthanasia and Assisted Suicide; hence it remains illegal. Looking at euthanasia from our penal and criminal code, Section 306 of the Criminal Code Act provides that killing of a person in whatever form, if not authorized is against the law. The offender will be charged for an offence of manslaughter or murder. The prescribed punishment is a sentence of death or life imprisonment, respectively.<sup>62</sup> Similarly in a situation where assisted suicide is committed with the aid and assistance of a third party, or where the action is done under some malady, the person is deemed to have killed the said victim.<sup>63</sup>

Taking a further look at euthanasia and assisted suicide from the Nigeria Criminal Code, Section 326<sup>64</sup> provides that: Any person who;

1. Induce someone else to commit suicide (Assisted suicide)
2. Encourages another person to commit suicide in order to persuade him to do so, or (non-voluntary euthanasia).
3. Helping another person kill themselves (non-voluntary euthanasia) is a crime that carries a life sentence in prison.

Depending on any of the above circumstances, any doctor or medical professional who provides a deadly injection at a patient's request could be charged with aided suicide, manslaughter, or murder.

Nigeria Penal Code, however, also recognises the act of murder and manslaughter. Section 249 of the Penal Code says that "Anyone who administers to, or causes to be taken by, another person any stupefying, intoxicating, or unwholesome substance or thing with the intent to harm that person, to commit or assist in the commission of an offense, or with knowledge that it is likely that he will harm that person as a result of doing so will be punished with up to ten years in prison and a fine."<sup>65</sup>

From the above provision of the law, it is obvious that the Penal Code prohibits the doctrine of euthanasia and assisted suicide in its various forms and capacity.

### III. CONCLUSION

This paper gave a brief account of the doctrine of euthanasia and assisted suicide in some selected states in the US, as well as the events that led to them and its major goal which is to alleviate suffering of terminally ill patient in a painless manner. The study found that euthanasia is a sensitive concept that runs counter to many people's views and values in Nigeria, regardless of whether modernism or whatever else shaped such attitudes and values. As a result, this research finds out that any attempt to make it legal in any countries or communities where it has not been legalized would result in social upheavals and the eventual abolition of social tolerance. It has also been found out that if euthanasia were permitted in

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<sup>62</sup> *Criminal Code Act*, s. 316.

<sup>63</sup> *Criminal Code Act*, s. 311.

<sup>64</sup> *Criminal Code Act*, s. 326.

<sup>65</sup> *Penal Code Act*, s. 249.

poor countries like Nigeria, the poor would undoubtedly be the victims of death caused not by incurable or terminal illnesses, but by an inability to provide adequate care as a result of high poverty level, which is caused by bad leaders, who had rendered the poor defenceless and marginalized and in turn leading to involuntary euthanasia.

It has been clearly stated that euthanasia is an ideological point of view that will always raise questions socially, legally, morally, and religiously, and that whatever decision or law a country makes on the topic at hand, will always raise legal and social issues.

It is worth noting that many countries' established rules are silent or ambiguous on the issue of right-to-die, while many countries have ratified it into their domestic law. This Study recommends that the international community create universally acceptable codes that will govern and protect people's right to life, freedom of thoughts and expression. Euthanasia and assisted suicide remain indeed a sweetness rapped in bitterness.

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