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BRAIN DEATH AND EUTHANASIA: HELPING OTHER PATIENTS LIVE

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Abstract

Debates over the legality or otherwise of euthanasia also is not novel, but the arguments lingers due to the irreconcilability of perspectives from religion, culture and policy. Euthanasia itself, suggests that someone has requested to die from the hand of another. Without that intention, it is rather best described as mercy killing. The purpose of this paper is not to delve into conceptual analysis but to seek a justification for executing death either by request (the one willing to die) or by the mercy of another (usually a physician). Hence, the focus on patients who have been confirmed brain dead. Medically, patients who are confirmed brain dead are legally dead and can only be sustained by a life machine for the rest of their lives. While a patient who is brain dead cannot even make decisions again, his family members then stands in his place as one who may be willing to make a request to allow the patient die. This paper argues that mercy killing done on patients who are brain dead provides some values to other patients who require organ transplants such that the organs of one who is brain dead may be upon consent by family members be given to other patients who needs it. Organ transplants have become very common in recent times and patients who had hopes to live dies from unavailability of donors (understandably). However, it is important to legally inquire into the possibility of patients with brain dead conditions and is legally declared dead and whether their family would be willing to allow and intentional death to happen for the good cause of helping the other patients live. This paper concluded that mercy killing is not mystical and cultural or religious argument should not becloud the possibility of a positive side of euthanasia when the patient concerned is brain dead. Doctrinal research was adopted in this work.

Keywords: Euthanasia, Mercy killing, Brain dead, Patient, Religion, Culture

Introduction

Mercy killing is the act of ending a person's life to end their suffering. It is also called euthanasia or assisted suicide. This term does not imply that one who performs the act of mercy killing, a euthanasia provider, has a degree of moral superiority or forgives any sin committed by the recipient of mercy killing. Mercy killing is an international human rights issue, and it is not legal in most countries without explicit consent from the deceased person.[2]"Voluntary euthanasia", refers to euthanasia carried out at the request and with the informed consent of

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the decedent. The term “involuntary euthanasia” has been used to refer both to the compassionate killing of persons incapable of communicating their wishes, such as comatose patients, and to the killing of unwilling persons regarded as unproductive and burdensome to society.[3] There is no doubt that quite a number of patients are in this position.

The 1952 American Medical Association's Code of Medical Ethics suggested that certain patients should be allowed to relieve their suffering with the help of medical professionals. In 1962, Dr Jack Kevorkian became famous for his “death machines”, which he used to help people end their lives. Although he was convicted of second-degree murder, he was sentenced to a little above 10 years in prison, and Michigan made it illegal to provide assistance in suicide (the law was eventually changed after his release).[3] The American Medical Association (AMA) and the American Bar Association (ABA), say that doctors should not help patients die, even though they both believe that doctors can help patients who want to commit suicide.[4]

Euthanasia or mercy-killing can also be expressed as the intervention of other human agency to end the life. It is a form of killing for the purpose of alleviating undesired or burdensome suffering. It implies active participation by another person or group, with or without consent of the victim.[5] According to Islam, the act of euthanasia is considered murder and the punishment for murder is death. It is stated in “Sunnah” (the teachings and sayings of Islamic prophet Muhammad), that if a person asks to be poisoned they should be poisoned.[4] Supreme Court of India has observed that:

> Life is a boon given to us by God. He alone can take it away according to his will. We have no right to dispose of the same as per our wish and pleasure. It
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> is a duty to protect the life of every human being and it is a sin to terminate it by killing. But, at the same time, we cannot act like blindfolded persons not knowing what is happening around us.[4]

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[1] Prakruthi Balla, 'Should Mercy Killing Be Legalised?' (2022) 4 Indian Journal of Law & Legal Research 1

[2] An infamous example of this second kind of killing under medical auspices was the National Socialist's systematic annihilation of "racially valueless" children. From 1939 through 1944, an estimated 5,000 mentally and physically disabled children were put to death, generally by injection, under the auspices of the disingenuously named Reich Committee for Scientific Research of Hereditary and Severe Constitutional Diseases *("Reichsausschuss zur wissenschaftlichen Erfassung von erb-und anlagebedingten schweren Leiden").* Lucy DAWIDOWICz, THE WAR AGAINST THE JEWS 1933-1945, at 131-33 (1975); *see generally* ROBERT J. LIrON, THE NAZI DOCTORS: MEDICAL KILLING AND THE PSYCHOLOGY OF GENOCIDE (1986); Andrew C. Ivy, *Nazi War Crimes of a Medical Nature,* 139 J. AM. MED. Ass'N 131 (1949). For examples of authors who conflate these two disparate forms of homicide by applying the term "involuntary euthanasia" to both, see Philip G. Peters, Jr., *The State's Interest in the Preservation of Life: From* Quinlan *to* Cruzan, 50 OHIO ST. L.J. 891, 952 (1989); *Developments in the Law-Medical Technology and the Law,* 103 HARV. L. REV. 1519, 1652 n.70 (1990); Suzanne Levant, Comment, *Natural Death: An Alternative in New Jersey,* 73 GEO. L.J. 1331, 1342 (1985); Steven J. Wolhandler, Note, *Voluntary Active Euthanasia for the Terminally Ill and the Constitutional Right to Privacy,* 69 CORNELL L. REV. 363, 365 n. 12 (1984).

[3] Ibid

[4] Ibid at 2

[5] Ibid at 5

[6] Ibid at 6

[7] Ibid at 10

In other countries however such as Belgium and the Netherlands, it is legal and has been practiced without any problems at all. The Netherlands, Ireland, Columbia, India (passive euthanasia) and
Luxembourg have also legalized euthanasia. In Canada and South Africa a physician can lawfully treat a mentally competent patient only when there is consent to treatment. The physician in Canada who treats such a patient without consent commits a battery in civil law and an assault in criminal law. In South Africa the act may constitute a civil and criminal assault, although it has been suggested that where the failure to receive consent arises from negligence, it may not amount to an assault.[5]

The South African Law Commission has suggested that any uncertainty could be removed by the introduction of legislation which might include clauses such as:

> 3(1) Every person
> (a) above the age of 18 years and of sound mind, or (b) above the age of 14 years, of sound mind and assisted by his or her parents or guardian, is competent to refuse any life-sustaining medical treatment or the continuation of such treatment with regard to any specific illness from which he or she may be suffering.
>
> (2) Should it be clear to the medical practitioner under whose treatment or care the person who is refusing treatment as contemplated in subsection (1) is, that such a person's refusal is based on the free and carefully considered exercising of his or her own will, he or she shall give effect to such person's refusal even though it may cause the death or the hastening of death of such a person.[6]

The purpose of this paper is not to delve into the full discourse of the legality or the illegality of euthanasia, but to provide a perspective to euthanasia especially in the context of patients who are brain dead and have been declared legally dead. Usually the families of such patients will be responsible for the high bills of placing the patient on life support machine with no hope of recovery. Should the family of the brain dead patient insist on keeping the patient on life support machine or seek that his organs be used to keep other patients who have hope alive? This paper will consider the medical perspective to patients who have been declared brain dead and the chances of survival. It will also consider the fundamental right to life and how euthanasia is not an attempt to threaten this right but rather to create an exception that can be legally recognized by law. Other headings will examine how patients who require organ transplant may be helped to live, if patients who are medically confirmed to die may voluntarily

relinquish their organs to be used to help others live. This is thereafter followed by the recommendations and conclusion.

[8] *Broude v Mcrntosh* 1998 3 SA 60 (A).

[9] **LC** Rep n 14 above at xv-xvi, Draft Bill on End of Life Decisions s 3.

Brain Death and Chances of Survival

Brain death is a legal definition of death. It is the complete stopping of all brain function and cannot be reversed. It means that because of extreme and serious trauma or injury to the brain, the body's blood supply to the brain is blocked, and the brain dies. Brain death is death. It is permanent.[7] A patient who is brain dead is placed on a ventilator which helps the patient to breathe and to perform some other functions. Where brain death is confirmed, the heart may continue to work as the ventilator provides enough oxygen to keep the heart beating for several hours and without this artificial help, the heart would stop beating.[8] The Kidney Foundation states very emphatically that everything required to save a patient's life is done before being confirmed brain dead. Organ trafficking in recent times, is on the increase and this is because there are quite a number of persons who require organ transplant for survival. There is great difficulty in getting donors which often lead to loss of patients who had hopes to live. Recently, one of Nigeria's reputable politicians was jailed along with his wife in the United Kingdom having being found guilty of organ trafficking. The desperation to harvest people's organs illegally in order to give other persons, shows that the demand for organs in hospitals is high and there is no means of meeting these medical needs. This is where this research seeks to examine the possibility of identifying medically hopeless medical conditions like brain death and how the voluntary or the involuntary killing of such patients may help other patients live.

Let us examine the English case of *Airedale N.H.S v. Bland* (The Airedale case),[9] decided by the House of Lords on euthanasia. In that case, Anthony Bland, a 17 year old, was one of the Liverpool football club supporters crushed in the Hillsborough football club tragedy of 15th day of April 1989. In the course of this unfortunate disaster, his lungs were crushed and punctured. Supply to his brain was interrupted. As a result, he suffered catastrophic and irreversible damage to his brain. For 3 years, he was in a persistent vegetative state (PVS). He could not see, hear, or feel anything. In order to maintain him in this condition he was fed and rehydrated by artificial means of nasogastric tube. According to eminent medical opinions, there was no prospect whatsoever that he would ever make a recovery from this condition, but there was likelihood that he would maintain this state of existence for many years to come, provided the artificial means of medical care was maintained. In this state, doctors took the view supported by his parents that no useful purpose would be served by continuing medical care and that artificial feeding and other measures aimed at prolonging his existence should be stopped. However, since there was doubt whether this might constitute an offence, the hospital sought a declaration from the English High Court seeking legal pronouncement on this. The case eventually went to the House of Lords. The Lords were unanimous in their decision that Anthony Bland be allowed to die.

The argument in favour of voluntary euthanasia in the terminal stages of painful diseases is quite a simple one, and is an application of two values that are widely recognised. The first value- is the prevention of cruelty.[10] Much as men differ in their ethical assessments, all - agree that cruelty is an evil - the differences in perspective would be in the definition of circumstances

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[10] National Kidney Foundation, Brain Death available at www.kidney.org <accessed 29 January 2024>

[11] Ibid

[12] (1993)ALL ER 82 (HL)

[13] Glanville Williams, 'Mercy-Killing Legislation--A Rejoinder' (1958) 43 Minn L Rev 1; The Sanctity Of Life And Tim Criminal Law 334-39 (1957).

that may be regarded as cruel.[11] Those who plead for the legalization of euthanasia, think that it is to allow a human being to linger for months in the last stages of agony, weakness and decay, and to refuse him his demand for merciful release. There is also a second cruelty involved - not perhaps quite so compelling, but still worth consideration: the agony of the relatives in seeing their loved one in his desperate plight. Opponents of euthanasia are apt to take a cynical view of the desires of relatives, and this may sometimes be justified.[12] But it cannot be denied that a wife who has to nurse her husband through the last stages of some terrible disease, may herself be so deeply affected by the experience that her health is ruined, either mentally or physically. Whether the situation can be eased for such a person by voluntary euthanasia, I do not know; probably it depends very much on the individuals concerned, which is as much as to say that no solution in terms of a general regulatory law can be satisfactory. The conclusion should be in favour of individual discretion. The second value involved is that of liberty. The criminal law should not be invoked to repress conduct unless this is demonstrably necessary on social grounds. What social interest is there in preventing the sufferer from choosing to accelerate his death by a few months? What positive value does his life still possess for society that he is to be retained in it by the terrors of the criminal law? And, of course, the liberty involved is that of the doctor as well as that of the patient. It is the doctor's responsibility to do all he can to prolong worth-while life, or, in the last resort, to ease his patient's passage. If the doctor honestly and sincerely believes that the best service he can perform for his suffering patient is to accede to his request for euthanasia, it is a grave thing that the law should forbid him to do so.[13] This is the short and simple case for voluntary euthanasia, and, as Kamisar admits, it cannot be attacked directly on utilitarian grounds. Such an attack can only be by finding possible evils of an indirect nature. These evils, in the view of Kamisar, are (1) the difficulty of ascertaining consent, and arising out of that the danger of abuse; (2) the risk of an incorrect diagnosis; (3) the risk of administering euthanasia to a person who could later have been cured by developments in medical knowledge; (4) the "wedge" argument.[14]

The fear of abuse is very crucial to the issue of euthanasia. How can we control its abuse by medical doctors who are being poorly paid remunerated in teaching hospitals, especially in Nigeria? For example, Nigeria is currently experiencing high medical brain drain challenge.

Access to health in Nigeria, is becoming more and more difficult and this is because the medical man power to attend to the numerous numbers of patients is low.[15] The few available medical doctors in Nigeria are faced with unbeatable load of patients and struggling finances. These two factors have resulted in several unethical conducts in medical practice such as illegal transfer of patients from teaching hospitals to their privately owned clinics, dishonest billings of patients, intentional delay in treatment of patients and in many occasions verbal abuse of patients. In a terrain prone to medical abuse, it may be risky to legalize euthanasia. However,

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[11] Ibid

[12] Ibid

[13] Ibid

[14] Glanville Williams, 'Mercy-Killing Legislation--A Rejoinder' (1958) 43 Minn L Rev 1; The Sanctity Of Life And Tim Criminal Law 334-39 (1957).

[15] Lara Adejoro, 'Nigerians has One Doctor to 10,000 Patients – NMA (Nigeria Medical Association) <https://punchng.com/nigeria-has-one-doctor-to-10000-patients-nma/> accessed 23 September 2023

the purpose of this heading is to substantiate that brain death is a medical condition which is otherwise referred to as legal death and it has no chances of survival if all diagnosis are correct.

Right to Life is not threatened by Euthanasia

Right to life, is an absolute right and it is vital to reiterate the importance of safeguarding human life. Article 3 of the Universal Declaration of Human Rights and Article 6 of the International Covenants on Civil and Political Rights recognizes the inherent right of every person to life, adding that this right shall be protected by law and that no one shall be arbitrarily deprived of his life. It is important to also state that Article 4 paragraph 2 of the International Covenant on Civil and Political Rights, provides that exceptional circumstances such as internal political instability or any public emergency, may not be invoked to justify any derogation from the right to life and security of person.[16] The Nigerian law provides that:

> 1. Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.
>
> 2. A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary:
>
> a. for the defence of any person from unlawful violence or for the defence of property;
>
> b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
>
> c. for the purpose of suppressing a riot, insurrection or mutiny.[17]

The above provision is in sync with the various international provisions on right to life. However, Section 2 is of the clear view that there are circumstances where life may be lost and such circumstances are as permitted by law are found in paragraphs a, b and c. This further for this research means that the law contemplates circumstances when right to life may be breached but such circumstances must be expressly permitted by law. This research hereby advocates that voluntary euthanasia through family members of a brain dead patient may be included as one of such circumstances as permitted by law. However, since the weight of this legal matter rests on the physician, it may be important to also examine what the basic role of a physician is to the patient.

The principal objective of the medical or dental practitioner, shall be the promotion of the health of the patient. In doing so, the practitioner shall also be concerned for the common good while at the same time according full respect to the human dignity of the individual.[18] This ethical requirement is gradually losing its value as far as certain medical doctors are concerned.

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[16] Article 4 paragraph 2 International Covenant on Civil and Political Rights

[17] Section 33 Constitution of the Federal Republic of Nigeria 1999 (As Amended)

[18] 9(a), Rules of Professional Conduct for Medical and Dental Practitioners in Nigeria

Practitioners have a responsibility in promoting not only individual health but also the general health of the community and in pressing for an equitable allocation of health resources.[19] Practitioners must strive at all times not only to uphold the honour and to maintain the dignity of the profession, but also to improve it. Practitioners shall deal honestly with colleagues and patients at all times.[20]

The history of euthanasia in Nigeria cannot be without mentioning the Supreme Court decision in *Medical and Dental Practitioners Disciplinary Tribunal v. John Nicholas Okonkwo*.[22] In that case, the Supreme Court per Ayoola JSC, held among other things that, 'if a competent adult patient exercising his right to reject lifesaving treatment on a religious grounds, thereby chooses a path that may ultimately lead to his death, in the absence of judicial intervention overriding the patient's decision, what meaningful option is the practitioner left with, other, perhaps than to give the patient the comfort?'[21] It was also the Supreme Court decision in this case, that a patient has a constitutional right to object to medical treatment on religious grounds. In that decision, the Court held that "the right to freedom of thought, conscience or religion implies a right not to be prevented, without lawful justification, from choosing the course of one's life, fashioned on what one believes in, and a right not to be coerced into acting contrary to one's religious belief."[26] It is important to examine the ratio of the court in the above case. If a patient elects not to be treated by a physician, why is it not classified as suicide? On the other hand, if the right not to be treated is denied, the court has stated that it denies the patient right to conscience and religious beliefs. This further suggests that there are instances where these fundamental rights clashes. However, the clash may only be resolved by the patient in the context of the case under discussion.

Let us examine the John Locke's theory of natural rights. He explained that natural rights are basic rights which are derived from the law of nature and encompass such things as life**,** liberty and property. The theory holds that the highest priority must be given to individual self-preservation and whatever is necessary to achieve the preservation of the individual. Locke does not simply advocate an egoistic self-preservation, but also admonishes people to consider others as their equals. For example, the right to life is applicable to every human being, but the preservation of others by not harming or killing them must also be taken into consideration. According to Locke "we are all the workmanship of one omnipotent, and infinitely wise maker. So, what further makes those rights natural is that we are all entitled to them since we do not own ourselves but are the property of God."[22] There can be no justifiable argument against taking one's life or being taken by another but it is also a fact that what is natural may be altered by circumstances making it impossible to retain that which is natural and this is why laws do not exist without exemptions. These exemptions especially where right to life is concerned must unambiguously be expressed in a written law.

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[19] 9(b), Rules of Professional Conduct for Medical and Dental Practitioners in Nigeria

[20] 9(c), Rules of Professional Conduct for Medical and Dental Practitioners in Nigeria

[22] [2001] FWLR (pt. 44) 542.

[21] Ibid, per Ayoola J.S.C, pp. 244-245. [26] Ibid at 219

[22] Daniel, P. (2016). What is John Locke's theory of natural rights and justification for a limited government? Retrieved from https://medium.com/patrickdaniel/ paragraph 14 <accessed 28 January 2024>

[25] S 306 Criminal Code Act

Helping Other Patients Live: Towards legalizing Euthanasia in Nigeria

Should Euthanasia be legalized in Nigeria? The answer should be dependent on several factors. For example, in recent times, there have been cases of Nigerian doctors and few hospitals that have begun to perform organ transplant. If the expertise available to actually treat patients needing organ transplant is low or ignoble, it may be less important to consider euthanasia. It is important to reiterate that the only justifiable reason for legalizing euthanasia is a situation where a patient has been confirmed brain dead with a corresponding need by another patient for an organ transplant. Following Kamisar's argument above, it is important to take caution against abuse when considering legalizing euthanasia.

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The extant laws in Nigeria clearly suggest that euthanasia is not legalized. For example, a number of Criminal Code provisions relate either directly or otherwise to euthanasia and assisted suicide. For instance, under the Act, any form of killing of any person (euthanasia clearly inclusive) is unlawful unless such killing is authorized, justified or excused by law.[25]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.[23] In all of these instances, an offender may be found guilty of murder or manslaughter, depending on the circumstances of the case.[24]In the case of the former, the prescribed punishment is a mandatory sentence of death.[25] Whilst in the latter, it is life imprisonment. Under the Code, the offence of murder is defined as comprising the following: "... A person who unlawfully kills another under any of the following circumstances, *that is to say*-

(1) If the offender intends to cause the death of the person killed, or that of some other person;

(2) If the offender intends to do to the person killed or to some other person some grievous harm;

(3) If death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

(4) If the offender intends to do grievous harm to some person for the purpose of facilitating the commission of an offence which is such that the offender may be arrested without warrant or for the purpose facilitating the flight of an offender who has committed or attempted to commit any such offence;

(5) If death is caused by administering any stupefying or over powering things for either of the purposes aforesaid;

(6) If death is caused by willfully stopping the breath of any person for either of such purposes.[26]

[23] Ibid S 308

[24] Ibid S 315

[25] Ibid S 319

[26] Ibid S 316

Under this section, it is immaterial that the official did not intend to hurt the particular person who is killed. Other than the above instances, a person who unlawfully kills another in such circumstances as not to constitute murder is guilty of manslaughter.

Similarly section 326 of the Criminal Code, it provides that;

> Any person who-
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> (1) Procures another to kill himself, or
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> (2) Counsels another to kill himself and thereby induces him to do so or,
>
> (3) Aid another in killing himself is guilty of a felony and is liable to imprisonment for life.[27]

Consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused. It is therefore not a defense under the law to raise a defense of consent.32 From the above any person, physician or other health care who at a patient's request, administers a lethal injection or medication on a patient, would be criminally liable for murder, manslaughter or assisted suicide depending on the facts and circumstances of the case. The position of the law is clear and it is concrete that there can be no justification for taking one's life or taking another's life, consent regardless.

For some jurisdiction who have been very deliberative over the issue of euthanasia, there are certain legal procedures that have been stated where the issue of mercy killing is about to be considered. The English Society would require the eligible patient, i.e., one over twenty-one and "suffering from a disease involving severe pain and of an incurable and fatal character," to forward a specially prescribed application - along with two medical certificates, one signed by the attending physician, and the other by a specially qualified physician -to a specially appointed Euthanasia Referee "who shall satisfy himself by means of a personal interview with the patient and otherwise that the said conditions shall have been fulfilled and that the patient fully understands the nature and purpose of the application"; and, if so satisfied, shall then send a euthanasia permit to the patient; which permit shall, seven days after receipt, become "operative" in the presence of an official witness; unless the nearest relative manages to cancel the permit by persuading a court of appropriate jurisdiction that the requisite conditions have not been met.[28]

In the United States, the American Society would have the eligible patient, *i.e.,* one over twenty-one "suffering from severe physical pain caused by a disease for which no remedy affording lasting relief or recovery is at the time known to medical science,"[29] petition for euthanasia in the presence of two witnesses and file same, along with the certificate of an attending physician, in a court of appropriate jurisdiction; said court to then appoint a committee of three, of whom at least two must be physicians, "who shall forthwith examine the patient and such other persons as they deem advisable or as the court may direct and within five days after their appointment, shall report to the court whether or not the patient understands the nature and purpose of the petition and comes within the *act's+ provisions"; whereupon, if the report is in the affirmative, the court shall – "unless there is some reason to believe that the

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[27] Section 326 Criminal Code Act

[28] Section 2(1) of the English Bill. The full text is set forth in Roberts, Euthanasia and Other Aspects of Life and Death 21-26 (1936).

[29] Section 301 of the American Bill. The full text is set forth in Sullivan, The Morality of Mercy Killing 25-28 (1950).

report is erroneous or untrue" - grant the petition; in which event euthanasia is to be administered in the presence of the committee, or any two members thereof.

The above legal procedure offers a very comprehensive and detailed process for the purpose of careful determination of medical verdict and proposed act of mercy killing. This research believes that any jurisdiction that seeks a justification for euthanasia could adopt and carefully modify the above procedure to suit the peculiar demands of their jurisdiction.

Arguments For and Against Euthanasia vis-a-vis Current SocioEconomic Hardships

The debate on euthanasia on opposite sides cannot be regarded as unsound. The first group in favour of euthanasia argues from the standpoint of right which is described as 'right of choice'.[30] Some are of the view that since life belongs to the individual, they should not be restricted from ending it.[31] It is doubtful if right of choice is a recognizable fundamental right in Constitutions of nations. Right of choice is implied in Constitutions and Treaties. For example, the

Nigerian Constitution protects right to family life[32] and right to association[33] amongst many others where free choice is allowed. However, there is none that implies right of choice die otherwise suicide ought not to be a crime. Other school of thought argues that euthanasia ends sufferings by relatives and friends.[34] This argument seem quite reasonable but shallow because occasionally relatives would still prefer to see their sick ones alive than dead especially where the relatives have necessary economic means to put the patient on life support for as long as possible.

On the other hand, those who argue against euthanasia vehemently opposed it because it is termed 'license to murder'. This view may have been strengthened by socio-cultural and religious factors. Similarly, arguments have also been taken from the standpoint of fundamental rights to life which is believed is absolute with no implication that a person can elect to take his own life by himself or by another.[35] Also, Jackson expresses disappointment in legalizing euthanasia because he saw it as a selfish way of ending someone else' life because of the need to reduce health costs. This argument is against the background that relatives who have incurred huge costs on the treatment of the patient may elect for euthanasia to avoid further costs. Jackson is of the view that this basis defeats the purpose of euthanasia considering that it already possesses the element of selfishness.

Following the above argument, can socio-economic hardships present reasonable cause for legalization of euthanasia? Economic related arguments on euthanasia require certain level of caution. First, how does economy affect the legalization of euthanasia?

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[30] Arguments For and Against Euthanasia with relation to Switzerland available at https://www.lawteacher.net/free-law-essays/medical-law/undergoing-euthanasia-inswitzerland-medical-lawessay.php <accessed 29 August 2024>

[31] Ibid

[32] S 37, Constitution of the Federal Republic of Nigeria 1999 (as amended)

[33] S 40, Constitution of the Federal Republic of Nigeria 1999 (as amended)

[34] Gail Tulloch, 'Euthanasia – Choice and Death' (2005) Edinburgh University Press available at https://philpapers.org/rec/TULEC <accessed 29 August 2024>

[35] Institute of Clinical Bioethics, 'Religious Perspectives on Euthanasia' available at https://www.sju.edu/centers/icb/blog/religious-perspectives-oneuthanasia#:~:text=Christians... <accessed 29 August 2024>

Whose economy is measured? Is it the patient, the relatives or the family? An argument in Germany proposes that if mental patients are ridden off, 300,000 hospital beds will be made available to other patients.[36] This has been considered to be inappropriate economic justification of euthanasia.[37] However, the context of this justification favours the larger society.

While discussing the impact of economic hardships and financial pressures of a dying patient, Fr. John Flader in an interview explained that when a patient is doomed to die, even organizations are not willing to offer help. While granting an instance states that where the dying person has properties to bequeath to his family members, most times the family members will choose to let the man rest rather than spend all the fortune which they hope to inherit on sickness that may not heal.[38] This measure of economics stands in favour of the family. It does not matter if the family in question is poor and could not afford treatment; the end decision to end the life of the individual is inevitable. The current economic realities in Nigeria when placed side by side the desire for euthanasia may lead to favourable consideration of euthanasia, this does not mean family members will not grief over the loss. No matter what the case is, ethical considerations and economic considerations in euthanasia must be balanced to avoid abuse.

Conclusion and Recommendations

A discourse on euthanasia presents a conglomerate of emotional, medical, social and legal aspects. Emotional because the patient seeking to be killed or being sought to be killed by another is faced with an option of death which is not an easy decision that can be made. The situation is worse where the patient cannot voluntarily make that decision. Where the decision for euthanasia is being made by family members of the patient, the emotions are far worse and intense as to make a decision for your family member to be killed as the best available option. Medical because the physician is faced with either to continue to treat a patient who has been confirmed legally dead and writhing in pain while the family is spending huge money to no avail or to discharge the patient against his professional ethics? Social because the societal pulse concerning mercy killing is important in order to avoid unhealthy protests and antagonism. In fact, the most important aspect of the social segment of euthanasia is a look out for possible abuse by medical doctors. Recently medical doctors in Nigeria are being confronted with several issues of malpractices and life threatening errors. The legal consideration for euthanasia must necessarily consider the other three aspects in order to safely legalize it. However, if the family of a patient who is brain dead or legally confirmed dead agrees to euthanasia while seeing other patient live because of their decision to allow that the organs of the dying be used to save another be regarded as a succor? This question is rather left unanswered.

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[36] Wertham F, The Geranium in the Window, in Wilkie, J.C. (Editor), Assisted Suicide and Euthanasia Past and Present' (Cincinati:Hayes 1998) 24

[37] Stephen Heasell and David Paton, 'Economics and Euthanasia' (2001) Health Services Management Research Vol. 14, 62-63 abstract

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