

Law, Morality and Medicine: The Euthanasia Debate

Wole Iyaniwura

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Abstract

Introduction-On Monday 20 th of January 2003, the British Broadcasting Corporation (BBC) reported that a 74 years old Briton, who was terminally ill travelled to Zurich Switzerland and pain

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Index terms—

1 Introduction

On Monday 20 th of January 2003, the British Broadcasting Corporation (BBC) reported that a 74 years old Briton, who was terminally ill travelled to Zurich Switzerland and paid \$60 to a group, Digital (dying with dignity) and he drank a cupful of barbiturates with a straw and died. His wife who assisted him was arrested on arrival in Britain. Why? Euthanasia and assisted suicide is illegal in Britain. The issue to be discussed here is euthanasia, its historical background, the scope of its otherwise, the religious aspect, the human rights dimension, problems and prospect of future. As Joubert said in the eighteenth century. It is better to debate a question without settling a question than to settle a question with debating beyond it ?? The goal is to debate the subject through probably not settled. The restriction against physicians aiding or assisting suicide. Its author and exact dates are unknown. The Hippocratic Oath is most famous for its command "to help or at least do no harm" and to respect all human life. It states "Neither will I administer a poison to anybody when asked to do so, nor will I suggest such a course. ?? Since it arouses question about the morality of killing, the effectiveness of consent, the duties of the physicians, and equity in the distribution of resources the problem of euthanasia is one of the most acute problems in medical ethics.

The problem of the taking of human life is based on fundamental and deeply held ethical and religious convictions, in the Judaeo-Christian tradition, the concept is founded on the notion that life is a gift over which we have stewardship but no final control. This conviction is expressed in many ways, the common feature of which is that there is a value in life which must be taken as moral absolute. The right of each person to life is something which is intrinsic to his status as a human being and which is a necessary commitment of human existence. ?? Those with a religious outlook believe that human life itself is of divine and are therefore, out of human disposal. Those who deny existence of a creator can however maintain a different strict view. ?? II.

2 Historical Perspectives

It is not difficult to construct a utilitarian argument in favour of such a position which is founded on the proposition that the consequence of allowing the taking of life is, ultimately, destructive of greater societal happiness.

Nevertheless, few of those who recognize its value will deny that life may be taken in at least some circumstances. The principle of self defense either in the private context or in the context of a just war may admit the killing of others. Similarly those who would normally condemn murder might nonetheless, see legal execution as an appropriate part of criminal justice.

In medicine too, stout opponents of euthanasia may accept the legitimacy in a process which by any standards, involves the taking of some of life. We admit the right of a person to commit suicide and do them on the grounds that in general, the right to self-determination is the most fundamental of all human rights. The door is thereby opened for considering euthanasia in some forms as a morally acceptable practice. However this is not the end of the euthanasia problem.

In 1935, the world's first Euthanasia Society was established in London, England and by 1938; the Euthanasia Society of America was founded.

4 B) INVOLUNTARY EUTHANASIA

In 1958 Werterbroker published *Death of a Man* describing how she helped her husband commit suicide. It was the first book of its genre. In 1973 Dr. Gertruida Postma, who gave her dying mother a lethal injection received a light sentence in Netherlands. The furore launched the euthanasia movement in that country (NVVE). 5 3 Lingere Center. Report of a Working Party Euthanasia and Clinical Practice (1982) p. 37. ?? For a discussion of non-religion grounds for opposition to euthanasia, see P. Foot *Virtues and Vices* (1978) p.33 et. Sec. A short appraisal for the lawyer is to be found in wilkson *The Ethics of Euthanasia* (1990) On April 14, 1975 Karen Ann Quilan a 21 year old woman lapsed into a coma from which she never emerged. This began the most famous case in the history of American medical ethics. The combination of valium, aspirin and three gin and tonic at a party, may have deprived persistent vegetation that was to last 10 years while the family, the hospital and the courts angrily fight over her body. The national media caught every breath and blow in the action.

After months of watching their adopted daughter's body curled up in a foetal position and maintained by life supports, Joseph and Julia asked the physicians at ST. Clares Hospital In Danvitte. New jersey, to disconnect the ventilator. Dr. Robert Morse attending physician, agreed and had the Quilans sign a form absolving him of liability. A few days refused to disconnect the ventilator, telling, the Quinlan that since Karen was 21 they needed a court order appointing. Mr. Quinlan as Karan's legal guardian before the ventilator could be switched off as Karen was not brain dead under New Jersey law.

There was some electroencephalographic activity, through neurologist agreed that her comatose condition was irreversible.

Meanwhile Medicare was paying the Medical Costs of \$450 per day.

The Quinlan's lawyer. Paul Armstrong first argued that since Karen was brain dead, she should be unhooked from life-support systems. But when Judge Muir pointed out that Karen had not met the criteria for brain death under New Jersey law Armstrong amended his brief, arguing for a right to die based on three grounds: religious claimed that Karen's wish to die was based on her religious beliefs. The second compares the physicians at the hospital to prison guards who were punishing prisoners. The third the right to privacy, appealed to the *Roe v. Wade* abortion decision of the Supreme Court which spoke of an individual's right to make personal decisions. The New Jersey Attorney-General declined pulling the plug arguing to do so "would open the door to Euthanasia". Morse's lawyer Ralph Porzio, argued that to allow Karen to die would start a slippery slope leading to the killing of people who lives a poor quality of life 6 "And first in our minds are the Nazi atrocities. Fresh in our minds are the human experiment (Dr. Joseph Mengel) also fresh in our mind are the Nuremberg code" ?? In Rome, a Vatican theologian, Gino Concetti, condemned the act of removing Karen from life support system. "A right to death does not exist. Love for life, . even a life reduced to a ruin drives one to protect life with every possible care. ?? The New York Times recently reported that presently over 10,000 people in the June 1990 the United Supreme Court decided that unless there is prior clear proof of intent the matter of allowing a patient in a persistent vegetative state to die should be left up to individual's states.

The case was appealed and on January, 26, 1976, the New Jersey Supreme Court overruled Judge Muir, it set aside all criminal liability in removing Karen from a respirator. St Clare's Hospital, fearing bad publicity in allowing Karen's death, stalled and even added a second machine to control Karen's body temperature. Finally, after several weeks of waiting, Karen was waned off the ventilator St. Clare's asked that she should be transferred to another institution. But that proved difficult to do. Twenty hospitals and nursing homes refused to accept Karen, the Morris View Nursing Home took her on June, 9 1976, some five and a half months after the Courts decision to allow her to die.

For 9 years Karen Quilan lay in a comatose state via a feeding tube. Each day her father would talk to Karen massage her back and even sing to her. His comatose daughter was still a person to him. On June 11, 1985 Karen died. 9 III.

3 What is Euthanasia?

The subject of euthanasia is clouded by uncertainties of definition. Steadman's Medical Dictionary has two citations, a quiet, painless death and the intentional putting to death by artificial means of persons with incurable or painful disease. The former is etymologically correct but the latter more closely mirror the public view. Thus, Collins English especially to relieve suffering from an incurable illness: To hide behind accept, the admittedly unpalatable, fact that it involves some form of killing, it is only by so doing that the moral and legal implications can be reviewed in a clear light. 10 a) Voluntary Euthanasia From time to time euthanasia has been classified into different categories in the following ways. This implies that the patient specifically request that his or her life be put to an end for this form of euthanasia to have resemblance of validity the request must come from a patient who is either in intolerable pain or who is suffering from an incurable or terminal illness. It may be made prior to the development of the illness, or during its course. 11 those caring for the patient. Should there be, it is no longer voluntary.

4 b) Involuntary Euthanasia

This term is used to describe the killing of a person in opposition to his or her wishes. It involves ending the part. The motive for involuntary euthanasia relief from suffering may not be different from that of voluntary euthanasia; the ground of its justification lies on a paternalistic decision as to what is good for the decease.

5 c) Active Euthanasia

This occurs by causing death through a direct, positive action in response to a request from that person. An example was the mercy Killing of in 1998 of a patient with ALS (Lon Gellin's Disease) by Dr. Jack Kervorkian, a Michigan physician. The patient was afraid to die a terrible death and opted for a quick painless exit thus causing his death. Dr. Jack Kervorkian was found guilty of 2nd degree murder in 1999. 12 d) Passive Euthanasia This is causing the patient death by withdrawing some form of support that should have possibly kept the patient alive for a longer period, and letting nature takes its course. Examples are: removing life support equipment (e.g turning off a respirator as in Karen Quilan's case, stopping medical procedures, medications etc) not delivering cardio pulmonary resuscitation and allowing a person whose heart has stopped to die.

6 e) Physician Assisted Suicide

In this situation a physician supplies information and / or the means of committing suicide (e.g. prescription for lethal dose of sleeping pills or a supply of carbon monoxide gas) it is thereafter left to the patient whether or not to take the ultimate step. This form of euthanasia is commonly referred to a voluntary passive euthanasia. ??? IV.

7 Distinguishing etween Euthanasia and Assisted Suicide

The important aspect of agency marks the difference between euthanasia and assisted suicide. Euthanasia in which the physician in the agent, is an intentional act to cause the immediate death of a person with a terminal incurable, or painful disease by the medical administration of a lethal drug wit instruction for its use; but the patient is the agent who decide when and if to use the drug. ??? V.

8 Euthanasia and the Law in Nigeria

In Nigeria shorn of all forms of linguistic accoutrements the practice of euthanasia in any of its afforested categories fall within the ambit of homicide which is a subject of Criminal law as stipulated in the Criminal Code and related laws. ??? "Except as hereinafter set forth any person who causes the death of another, directly or indirectly, by means of whatever, is deemed to have killed that person".

It is clear from the provisions of the Criminal Code that none of the aforestated categories of euthanasia is legalized in Nigeria. For clarity, a comparative study of Criminal Code provision vis leads of euthanasia is made as follows:

Primarily, section 306 of the Criminal Code provides: it is unlawful to kill any person unless such killing is excused or justification by law. Section 308of the code provides that: 16 Apart from the above stated general provisions there are some provision, which specifically go to root in illegalizing the practice of euthanasia in its different categories.

From the above provision, it is obvious that involuntary euthanasia is unlawful. What is the position of other forms of euthanasia?

The main justification for other forms of euthanasia other that involuntary euthanasia is that they are based on the freewill or consent of the patient. Nonetheless under the Criminal Code, the consent or freewill of the dead cannot. Section 299 of the Criminal Code takes the situation beyond debate by providing "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".

In further establishing euthanasia as illegal, Section 326 of the Criminal code provides that any person who procures another to kill himself or counsels another to kill himself and thereby wishes him to do so, or any person who aids another in killing himself; is guilty of a felony and is liable to imprisonment for life. euthanasia in some countries to elucidate the development over the years.

9 VI.

10 The Neither Lands

Holland has been in the forefront of liberalization of gay abortion rights and it is not surprising that it was the first country to legalize euthanasia was illegal in the Netherlands. In that year Dr. Gertruida Postima was arrested and put on trial for killing her terminally-ill mother with morphine.

The court gave her a suspend sentence of one week in jail and a must have been taken to eliminate the pain. Finally, the patient must have clearly expressed his or her consent. Judge Matsuura said that the action of Dr. Tokonag did not reunite all the conditions, he also discussed that the patient had not made clear expressions on his physical plain nor had he given his consent. Consequently, the action of the doctor cannot be considered as euthanasia but it represented an illegal completion of the life of the patient. ??? VII.

11 United Kingdom

In the United Kingdom suicide and attempted suicide are no longer criminal offences. ??? Whether or not this implies a legal right to end one's life is debatable but it is at least now firm law the refusal of life sustaining

treatment is not a matter of attempted suicide. ??0 The major interest, here lies in the residual offence of counseling, procuring, aiding and abetting suicide which remain an offence in England and Wales by virtue of the Suicide Act 1961. Section 2 (1) ??1 In practical terms and particularly, in view of the British jury's well demonstrated benign attitude to the medical practitioner it would be difficult to prove beyond It is now clear that while counseling or assisting a suicide remains an offence this can be illegal if conducted on a basis of immediacy and intent-the impersonal distribution of advice or information is unlikely to attract legal sanction.

We are unaware of any prosecution of doctor in the United Kingdom and whether such a prosecution would succeed depends, very much on the type of assistance given. It might for example, be perfectly clear to a patient that he would die were he to use a conveniently located switch to disconnect an electrically operated life, sustaining apparatus, the fatal dose of a drug would be far less obvious and its "successful" use might depend upon advice from the medical attendant and in law, counseling, procuring, aiding and abetting are talking as a whole.

18 Ibid at p.3 . ??9 Ibid at p.3. ??0 For a discussion of the different between suicide and the refusal of treatment, see 223: D Lanham. The Right to Choose to Die with Dignity (1990) 14 Crime J. L.J 401 considers the subject in details. ??1 It is also on offence throughout the US, save in Oregon which has legalized abetting suicide by physicians (Already discussed above).

reasonable doubt an intent to commit a crime. Leaving the pills could certainly be an offence but law might turn t least, an unseeing eye. The situation is however, likely to be different when the doctor's assistance necessarily involves some activity. ??2 to change) the law on assisted suicide despite polls showing that 82 percent of British people want reform.

In 1999 British's Parliament rejected by 234 votes to 89 (which was the seventh attempt in 60 years 23 VIII.

12 The Vatican

In February, 2000 Pope John Paul issued one of his strongest condemnations of euthanasia in Vatican city. The Pontiff was addressing participants at a meeting to commemorate the 5th anniversary of the release of his 1995 encyclical *Evangelium Vitae* (The Gospel of Life) which branded euthanasia as an unjustifiable evil. Encyclical are the highest form of papal writing and the world's billion Catholics are expected to obey their teachings. 24 IX.

To be or not to be: The Euthanasia Debate

Various people from all shades of life have put up arguments in support of one form of euthanasia or another. They have not failed to buttress their arguments with sound reasons. In fact I quote from the great Indian apostle of passive resistance "Should my child be attacked with rabies and there was no helpful remedy to relieve his agony. I should consider it my duty to take his life" ??5 Should we take life them antagonists of active euthanasia will say that it violates National Law. We have a natural inclination to preserve life, which is trespassed in this act of relieving the man from agony Frankly speaking, the notion of natural laws can't be used to argue against either suicide or euthanasia. Medicine itself would be prohibited if we only followed the natural course of things. Certainly we wouldn't year's Ghandi understood that at least one situation the great trinity-benevolence beneficence and caring loverequires that we take life.

R.M Hare tells the story of a truck driver whose truck hard had turned over and who was lay pinned under the cabin while the truck is on fire. The driver, who was slowly roasting away begged the on lookers to hit him on the head so that he would not roast to death. Should they have done so as they watched the man slowly die in agony?

13 probation! 26

An informal, defacto arrangement in 1974 allows physicians in Netherlands to help patients die and avoid litigation as long as certain safeguards are followed. The patient for example, has to be terminally ill, in considerable pain and mentally competent and must repeatedly express a wish to die. The system is popular with the Dutch and a model for euthanasia supporters around the world .

This set a precedent and the courts established a set of guidelines for when it was permissible for physicians to assist a patient committing suicide. ??? But there is the dark side to the Dutch practice. In slightly more than half of euthanasia cases, for instance, the doctors kill without the patient knowledge or consent. ??8 By 1997 the Dutch Voluntary Euthanasia Society's (NVVE) membership had reached over 90,000 out of whom 900 made request for help in dying to its Members' Aid Service. 29 X.

14 The United States of America

In the euthanasia debate America has presented a distorted picture with the good, bad and ugly emerging at various times. With the aid of an effective media (print and electronics) euthanasia legal tussles become a national event.

In 1906 the first euthanasia bill was drafted in Ohio ?? it failed.

Recently, the state of Oregon came to the forefront. In 1994 Oregon voters approved Measure 16, a Death with Dignity Act (ballot Act) which permitted terminally ill patient under proper safeguards, to obtain a physician's prescription to end life in a humane and dignified manner. The vote was 51-49 percent. ??0 On March 7, 1996

a Circuit Court of Appeal declared unconstitutional a law of Washington that criminalized acts of a doctor that helped terminally ill patients. The court by a majority of 8 to 3 said that the law infringed the right to the freedom and the equal protection guaranteed by article 14 of the constitution of the United States. The court said "When the patient cannot pursue freedom or happiness and does not wish to have life, The Essential Ghandi 215 (Loud Fisher ed. 1962). the rigor and vigour of the state to maintain them alive is less obligatory". The mentally incompetent, the adult terminal patient having lived approximately all his life, has a strong interest in the freedom to choose a humane and dignified death instead of being reduced to the state of impotence, and incompetence. The decision was condemned by the Medical Association of America, the Roman Catholic Church, AIDS activists received it with enthusiasm.

In 1998, 16 people died by making use of the Oregon Death with Dignity Acts by receiving physician assisted suicide in its full year of implementation. In 1999, Dr. Jack Kervorkian (Alias Dr. Death) was sentenced to 10-25 years imprisonment for second degree murder of Thomas York after showing a video of death by injection on national television. In the year 2000 a citizens' ballot initiative in Maine to approve the lawfulness of physician-assisted suicide was narrowly defeated by 51 to 49 percent. With a vote of 6 to 3 judge will have to write a regulation and to consider each case separately. 34 c) Japan On the 28th of March, 1995, the Court of District of Yakahoma found culpable a doctor that helped in a patient that hoped to die in a few days commit suicide. The doctor got a two year suspended sentence.

However, the court enunciated four conditions under which euthanasia will be allowed in Japan -The patient must suffer a continuous physical pain. Death must be inevitable and imminent. All measures possible build air planes or dams just as we use dam to divert a river from its course to prevent flooding of a city, so it seems natural to use a knife to divert a few pints of blood from reaching the brain to release a terminally ill patient from a period of hopeless suffering.

Another argument is that voluntary active euthanasia is "Playing God" and violates the sanctity of life. Only God is allowed is that voluntary euthanasia is "Playing God" and violates the sanctity of life. Only God is allowed to take and innocent life. Our right to life cannot be waived. The use of the term "Playing God" is just a pejorative way of expressing emotion against an autonomous action. The use of medicine to keep a sick person from dying is playing God is so far as it means affecting the prospects of death. To kill harmful bacteria is playing God. Defending one's self from a rapist by killing him as playing God, as is feeding the starving or administering population control programs. All difficult moral decisions involve the kind of reasoning and action that might be labeled playing God".

If playing God simply means doing what will affect the changes of life and death then a lot of responsible social action does that. If on the other hand, the term means unwarrantably affecting the life chances of someone, then the question boils down to what is morally correct behavior in dealing with the dying process. What we need to know is which types of playing God are normally correct and which are not. ??5 XI.

15 Compassion and Dignity

The euthanasia debate has been characterized by the liberal use of tragic stories and hard cases on which a lethal injection is portrayed as the only compassionate and human option. It is painted as "find rest peace at least" and "aid in dying" Compassion is a universal human experience, one which can lead to positive acts of care and alleviation of another's suffering. However, feelings of compassion are not adequate justification for just any kind of measure to be taken o end that suffering.

Feeling of compassion should accompany acts of kindness to end the suffering, but do not justify immoral acts if the suffering must be expressed within an ethical framework. Emotion including those of compassion divorced from a basis in morality can lead to all sorts of abuse. ??6 True compassion is costly, sacrificial and cause one to give off oneself, Euthanasia is the easy way out, divulging careers of the distress of seeing and helping another human being particularly one they love, through their suffering. Euthanasia and physician assisted suicide are the ultimate act of abandonment and social isolation. ??7 "Mercy killing" is not a true expression of mercy, as one cannot care for another person following his or her arranged death. 38 ??5 John F Kilner et al (eds) Dignity and Dying. ??6 Jonathan Moreno (Ed) Arguing Euthanasia New York Touchstone 1995 p.ss135-135). ??7 Jonathan Moreno (Ed) Arguing Euthanasia New York Touchstone 1995 p.ss135-135). ??8 John Kilner, op cit 1996, 112-113.

Human dignify is inherent, it does not rely upon the degree to which one is independent or capable. The intellectually or physically disabled, the demented, ill or comatose have not lost their human dignity. To assert that they have to is deny respect for their personhood and make them vulnerable to "compassionate dismissal from life".

A suffering person retains innate dignity even while he or she takes advantages of all available options for relief of pain and other forms of suffering and loss. ??9 The issue of dying with dignity is a reason for the provision of good quality holistic palliative care which is responsive and respective of patient and their families needs and desires. It is not a reason to legalize euthanasia or assisted suicide. ??0 That healing is a physician's priority has served society well, argues University of Chicago physician-ethicist Leon Kass because it allows patients to trust their doctors, "Physicians are always tried by patients slipping or not getting better," Say Kass. "Once they think of death as a treatment option then physician simply gave in to their weakness". ??1 The person make the

decision in light of information regarding the benefits and risk of a treatment and understanding of his or her medical condition.

The issues surrounding the withdrawal and omission of treatment care are complex and decisionmaking is often difficult and painful for family members.

A competent person cannot be treated without his or her consent.

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XII.

17 Foregoing and Withdrawing Treatment

Most difficult arise when treatment decisions need to be made for incompetent patient According to historical moral and legal tradition. Decision is made by relatives or guardians who consider the medical advice. It is assumed that they have the best interest of the patient at heart. Where there is doubt about this, other measure, can be taken (e.g tribunal hearing). Incompetent patient should be awarded the same basic standard of treatment which would be made available to a competent. A competent patient would be offered treatments considered to be beneficial and not futile or inordinately burdensome or expensive.

The option of withholding a particular treatment (where appropriate), while preventing, life from being should not have as its purpose the hastening a death. ??3 As the ethic of the intrinsic value of human life has begun to crumble there has come about a belief ??9 that a person can be in such a condition that his or her or at least not loss (in which case death may benefit him or her). This has led to the practice of omission of treatment according to quality of life by the judgment of another rather than according to the efficacy or benefit of the treatment to the patient i.e. a decision is made about which the patient is worthy of the treatment rather than whether the treatment will improve his or her condition, comfort or length of life.

The logical extension of quality of the judgment is that an incompetent patient is better off dead, why not omit treatment with purpose of hastening death (in contrast to not prolong life)? To achieve an early death in patients who would not die quickly of their medical condition alone (for example, some patients in a persistent vegetative state and some disabled newborns) the administration of nutrition and fluids by any method have been recategorised from "comfort care" to "extraordinary treatment" and can therefore be legally withdrawn in many jurisdictions. There have been cases of hastened death by thirst and starvation with sedation to reduce the unpleasant symptoms of both competent and incompetent patients, particularly disabled newborns in western countries. ??4 There are situations in which omission or withdrawal of life sustaining treatment is appropriated. However, when the decision is based upon a unable to fend for himself and becomes vulnerable to inadequate treatment and hastened death. Nutrition and fluid s by whatever method of administration are not a form of treatment. They do not treat a disease and healthy people require food and fluids every day. There are some instances in which food and fluids would be detrimental for example during the last hours of the dying process in which the body "shuts down and food is no longer able to be digested. However, apart from such cases withdrawal of fluids amount to intentional killing because it is dehydration and starvation which is the cause of death rather than the patient's illness alone.

18 XIII.

19 Living Wills

There is also issue of living wills which are advance directives or documents in which people request in advance the withdrawal or omission of treatment in certain circumstances. The living will was originally formulated in 1967 by the Euthanasia Educator Council in the USA due to increased acceptance of euthanasia. ??6 Living wills become increasingly popular following a stream of court cases notably that of Quinlan in which substitute judgment were made by relatives in order to determine whether life support treatment should be discontinued for an incompetent patient.

They are promoted as the opportunity to make one's own end-life decisions so that one's own wishes will be upheld if incompetence supervenes at a later date. A typical living will looks like this.

Death is much a reality as maturity and old age is one certainty of life. If the time comes when I can no longer take part in decision of my wishes.

While I am still of sound mind in which there is no reasonable expectation of my recovery from physical or mentally disability, I request that I be allowed to die and not be kept alive by artificial means or "heroic measures". I do not fear death itself as much as the indignities of deterioration, dependence, and hopeless pain, therefore ask that medication be mercifully administered to me alleviate suffering even though this may hasten the moment of death.

This request is made after careful consideration. I hope you who care for me will feel morally bound to follow its mandate. I recognize that this appears to place a heavy responsibility upon you, but it is with the intention of relieving you of such responsibility of placing it upon myself in accordance with my strong conviction that this statement is made publicly. ??7 After the deaths of former President Richard Nixon and former Lady Jacqueline Kennedy Onassis, it was reported that both had signed advance directives.

In 1993 President Clinton and Hillary Rodham Clinton supported advance and signed living wills, acting after the death of Hugh Rodham, Hillary's father. By 1994 more president living wills were revealed.

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In theory living wills should make decision making much easier for doctors and families because the now incompetent patient's wishes are in writing. However, practical experience has highlighted many difficulties and uncertainties about their use.

The public generally views these documents favourable for a number of reasons. People are afraid of being forced to undergo burdensome, unnecessary and expensive treatment. This fear is largely unjustified as in reality economic pressures and principle of good medical practices is strong disincentives to give such treatment. Patients do not want to suffer pain and distress longer than necessary as a result of treatment keeping them alive if they become terminally ill. Again this rarely occurs in clinical practice. Many patients fear surviving an accident or illness which leaves them chronically disabled in a wheel chair or on a persistent vegetative state. Many patients fear chronic degenerative illness such as dementia.

Living wills assume that prognosis is a precise art, when in fact it is far from being so. There than expected and countless instances of patients defying the odds and living far longer than expected and even going into remission.

The living will indicates the patients past rather than his or her present attitude to disability and terminal care. People change their minds about many things. And care able to adjust to an illness and lifestyle change with the passage of time. The healthy do not choose the same way as the sick. Life seems much more precious when one has less of it. Also, while well, the patient may have unrealized fear about unknown possible illness and treatments and therefore make inappropriate decision as to which treatments to have and not to have.

Even discussion with a doctor cannot fully inform the patient as to be anticipated and many conditions are too complex to address in a simple document.

Living will can be used by hospitals, governments and health funds to advance money by encouraging patients to decline future resuscitation and other treatment. United States of America Federal law requires all death providers receiving Medicaid reimbursement to provide all patients being admitted to hospitals the opportunity to sign an advance directive. ??0 One fund in the United State reduces it premiums, if a living will is signed. ??1 In fairness to former US President Bill Clinton, it was NBC's Tom Brokaw who in question to him expressed living wills in the context of saving money. Nonetheless the President's answer was jarring. There are "a lot of extra costs in medical care at the end of life, and getting more American to sign living wills is one way to weed some of them out" Clinton replied. ??2

21 Medical decision regarding cessation of burdensome or futile treatment for incompetent parties

Clinton's answer raised an issue rarely spoken but highly feared that a right to die can easily become a "duty to die" for the elderly, the sick, the poor and others devalued by the society.

Once a living will is signed family input into decision making is ruled out it is the doctors prerogative to decide when and how a living will is to be applied even though it is possible that the patient was possible that the patient was previously unknown to him or her. Living will can also remove the possibility of negotiation and adjustment of treatment according to the patient's progress. Instead a "blanket" statement written in ignorance of the present circumstances must be followed. ??0 should be undertaken only after frequent discussion between medical staff and close family so that the different facets of the patients illness and treatment and the likely prognosis are fully understood. A balanced decision can be made with all the factors in mind. Unlike the use of the living will, this system allows the true circumstances to be evaluated by those who know the patient best and would have the most accurate understanding of what the patient would have wanted.

XIV.

22 The Slippery Slope Argument

The legal scholar. Yale Kamisar, echoes the fears of many people he argues that we ought not to permit voluntary euthanasia of terminally ill patient since Such a practice may bring us closer to involuntary euthanasia. ??3 The moral theologian Joseph V. Sullivan puts it this way: if voluntary euthanasia were legalized there is good reason to believe that at a later date another bill for compulsory euthanasia would be legalized. Once respect for human life is so low that innocent person may be killed directly even all his own request compulsory euthanasia will necessarily be very near. This could lead easily to killing all incurable charity patients the aged who are a public care, wounded soldiers, all deformed children, and the mentally afflicted and so on. Before long the danger would be at the door of every citizen. ??4 It would be impossible to prevent abuse of sanctioned or legalized physician assisted -suicide or voluntary euthanasia.

As Euthanasia becomes increasingly acceptable voluntary euthanasia will be provided to competent patients, who in the opinion of others should have requested euthanasia but have not done so. Even with every conceivable safe-guard in place, diagnostic and prognostic errors can be made depression may not be detected or treated and

24 XV. THE VIEW POINT OF MAJOR RELIGION OR SECTS ON EUTHANASIA

subtle pressures can cause the elderly, chronically terminally ill and the disabled to feel themselves to be a burden and head them to request euthanasia for their relative or other's convenience. An inheritance could provide ample temptation to a patient's relation suggest to "granny" that she does not have to suffer any longer as she does not wish to. Doctors are also subject to the emotions and pressure that characterize human experience. In the case of Hue Hasscher. The 50 years Old Dutch woman was not terminally ill; deeply depressed she had faced a bitter divorce and the death of her two sons, one by cancer and the other by suicide. She, too, had wed to commit suicide. When she threatened it again her psychiatrist thought that in a society that allows the self-sacrifice of those in physician it was suitable for a doctor to help someone in unbearable emotional misery end his life. ??6 It might be a little too easy to accede to a request for euthanasia from a difficult and demanding chronically ill patient without carefully help rather than being a true desire for death. ??? Economics pressures on health care would provide a strong incentive to encourage euthanasia-it is far less expensive than patient care, long-term treatment of a chronic illness or personal source for militate against research development and wide provision of palliative care techniques and research into treatments for currently incurable condition. ??8 The New York State Task Force on Life and Law in 1994 stated that "??laws barring assisted suicide assistance and euthanasia serve valuable societal goals: they protect vulnerable individuals who might otherwise seek suicide assistance or euthanasia in response to curable depression, coercion or pain: they encourage the active care and treatment of the terminally ill: and they guard against the killing of patients who are incapable of giving and knowing consent. ??9 Hitler's extermination policies grew out of the systematic killing of people with disabilities and mental illness. The justification was that such people are not truly human beings and that they would be better off dead, both for their own sakes, and for the sake of others who would be relieved of the burden of providing for and caring of them.

There is an aspect of human tendency which includes the rejection of other humans who are in plights or condition which one would dislike for oneself. Their presence makes one uncomfortably aware of one's own morality and frailty. There is crude and deep repugnance which if allowed to surface can express itself through efforts to rid society of such people.

This was exemplified by the practice until less than a few years ago of hiding away the physically, intellectually or psychiatrically disabled in institutions from major towns.

The attitude has also marked the many eugenically motivated atrocities which have occurred with tragic respective throughout the history of human kind.

23 60

Unfortunately, it appears that there is a failure to learn from the past. The pre World War II doctors in Germany portrayed the disabled and mentally ill as sub human and akin to criminals in order to justify ??6 involuntary euthanasia. 61 Australia bio ethicist Peter Singer attempts to equalize animals and humans by altering the definition of what constitutes a person. He uses this new definition to justify infanticide of congenitally disabled infants. 62 Singer writes "some members of other species are persons some members of our own species are not" so it seems that killing a chimpanzee is worse than killing a gravely septic human who is not a person. 63 Perhaps such a philosophy in which like Singer's concept personhood, human attributes were denied to certain groups of people. 64

24 XV. The View Point of Major Religion or Sects on Euthanasia

Euthanasia within a philosophical framework such as that of Singer would pose a great danger to those who were considered "non-person".

At this juncture a discourse on the position of major religions on Euthanasia will elucidate the controversial and complex subject the more. Interestingly while some religion has been very static on their anti euthanasia stance, some have shifted grounds in attempt to win converts in advanced world. The ancient Greek and Romans did not win converts concept of intrinsic human worth or value of a universal right to life. 65 Whilst most ancient pagans did not endorse suicide for anyone for any reason they do not appear to have condemned it under all circumstances. Apart from Pythagoras and some Platonist, it seems there were exceptions for the terminally ill. 66 a) The Jews and the Christians The ancient Jews, unlike the ancient Greeks and Romans maintained a strong belief in the inherent value of the human being based upon Genesis 1:27 God created man in His own image Throughout the Old Testament the emphasize is on God's sovereignty over life and death. "It is He who kills and gives life (Deuteronomy 32:39). Jewish tradition therefore opposes suicide and euthanasia. This belief has been carried over into Christianity which shares the Old Testament foundation with the Jews.

Christianity espouses the equality and inestimable value of every human being. Christian are also exhorted by Jesus example in the writings of the New Testament to show sincere and practical love, compassion and concern for the sick and to attempt to alleviate their suffering. Christianity brought about a duty to care. This includes restoring and enhancing health where possible but where impossible caring for the suffering is paramount until the day on which God takes that life. In Christianity, there remains hope and meaning in the midst of suffering so that while life is not extended at all cost death is not to be expedited. From such admonitions to be charitable grew hospitals, orphanages and houses for the aged and poverty-stricken. ??? Interestingly traditional medical

ethics grew out of the marriage of Christianity and Hippocratic values. In Christendom views on euthanasia has started changing. Some ministers such as the Methodist, Dr Leblie Weather land advocates euthanasia in the future if the dignity of human life is to be maintained. Some Jewish leaders believe that if a dying person is kept alive by outside means, such as a life support machine, his or her soul is being prevented from entering heaven. If there is anything which causes a hindrance to the departure of the soul, then it is presumable to remove it (Rabbi Moses).In such event, it is justifiable to let the patient die, because it is seen by many Jews as the natural course intended by God. 68 b) Traditional African society Africans are deeply spiritual in their view about life and death. For example, among the Yoruba's. God (Olodumare) is believed to be the giver of life and death. Suicide is seen as an aberration and euthanasia is definitely out of the way. Consequently even when faced with death rituals are performed to the gods for life. Life should be preserved at all costs but where death occurs the traditional African, in the absence of linkage with sorcery or witchcraft, regards it as God-sent. The belief of the African is akin to the Jewish Christian position. The traditional the African will not take his own life nor assist another person to do.

25 c) Islam

The sanctity of human life is a basic value as decreed by God even before the times of Moses, Jesus and Mohamed. Commenting on the killing of Abel by his brother Cain (the two sons of Adam). God says in the Quran "On that account we ordained for the spreading mischief in the land-it would be as if he slew the whole people. ??9 Older people are highly respected members of the Muslim Community. Younger generations recognize that old people were the carers and providers of yesterday and when the elderly can no longer care for themselves, it is the younger Muslim's duty to take on the role of provider and care. ??0 The Sharia listed and specified the indications for taking life (i.e. he exceptions to the general rule of sanctity of human life), and these do not include mercy killing or make allowance for it. The concept of a life not worth living does not arise in Islam. The patient should receive every possible psychological support and compassion from family and friends, including the patient's spiritual (religions) resources. The doctor also participates in this, as well and provides the therapeutic measures for the relief of pain.

Muslim who assists suicide in the name of euthanasia would be failing to do their duty according to Islam and would, therefore, forfeit their place in paradise. Euthanasia is seen as an act of suicide, and is totally prohibited and not forgivable. "Whoever throws himself from the top of a mountain to kill himself he will be in hell fire doing the same thing forever? Whosever swallow a poison to kill himself, he will be in hell fire doing the same thing to himself forever (Hadit). 71

26 d) Buddhism

Buddhists believe that euthanasia is an issue that has to be resolved for each separate case, within keeping to the principle of avoiding harm to others. If relatives are extremely distressed by keeping the person alive in such a condition, then it may be more humane to allow the person to die. 72 e) Hinduism Historically, Hinduism which is considered to be oldest religion by its followers has gone through many changes in its attitude to euthanasia. The current position is that euthanasia can be a very respectable and thoughtful way to die. In Hinduism the main goal is that of Moksha or liberation. Liberation is only achieved by way of Samsara. To go through many cycles of Samsara, an individual must die. ??3 To be released of the pain and burden of a disease caused by age or illness by way of euthanasia is considered liberating the person and helping them to achieve Samsara and inevitably reaching Moksha. ??4 The use of euthanasia is condoned as long as the suffering individual wants to die based on self will. ??5 Thus, Hinduism though an ancient religion has progressed into the twenty-first century quite smoothly. It has dealt with the issues put forth by the experiences of the modern day. Euthanasia being an issue that Hindus has somewhat an alternative view on; they have supported their views with the fact that euthanasia has ??1 The Holy Quran Surah 17:23-24. ??2 In India, Sikhs rarely have to deal with the normal debate which surrounds euthanasia because the phenomenon does not really exist there. The morality of keeping someone alive on a life-support machine for years rarely arises, simply because so few of these artificial aids exist in developing countries.

Death is not resisted in Sikhism, nor is it feared, because it is seen as a gateway into another life.

"The dawn of the new day is the herald of a sunset. Earth is not your permanent home".80 Sikhs believe that life is giving by God. It may be joyful or sorrowful. It may be long or short, but they firmly believe that no one but God has the right to shorten it "God sends us and we take birth. God calls us back and we die".81 g) Rastafarianism Euthanasia is forbidden by Rastafarians. Anyone who takes a life including their own is condemned forever ???7 In instances of serves illness or accident, members exercise faith in God the Lord and also seek competence medical assistance. If death is inevitable it should be regarded as a blessing and a purposeful part of eternal existence. One should not feel obliged to extend mortal life by unreasonable mean.

The Mormons-The Church of Latter Day Saints To the Mormons, deliberately assisting violates the commandment of God. 78 XVI.

27 Current Trends on Euthanasia

From the above discussions on euthanasia it is evident that in the past euthanasia in whatever form was regarded as an anathema. However things are changing in the advanced world, we are being confronted with remarkable moves towards medical participation in euthanasia.

Recent polls show support for euthanasia in some countries as follows: Moreover, in the religious realm which used to be greatest source of anti-euthanasia. Cohen Brown: Hinduism and Euthanasia. Ravidas -Gur Granth Sahib 793. Ibid 1239.

The Evangelical Lutheran Church in America in a 1992 statement declared:

"Health care professionals are not requirement to use all available medical treatment in all circumstances medical treatment may be limited in some instances, and death allowed to occur". XVII.

28 The Nigerian Situation and the Writers Position

Despite the above current trends in the international circles it is succinct that only Netherlands and the state of Oregon has legalized euthanasia in any form.

The parameters of the advanced economies on the issue of euthanasia is incongruous to Nigeria. There are no available statistics with regard to acceptance or otherwise of euthanasia in any form. For a very long time Nigeria's economy has been in bad shape consequently, the health facilities and insufficiently motivated and overstressed personnel. Substantially most Nigerian hospitals have acquired the status of more "consulting clinics".

Moreover, about 38% of Nigerian citizens have no access to basic primary health care. In Netherlands where euthanasia has been legalized the Dutch patients now have less control over the way they die. According to Richard Ferigsen an retired Dutch physicians and euthanasia opponent. "The euthanasia movement actually promised liberation by death from Doctors determine instead the powers of doctor increased immensely. Doctor determine how euthanasia is predicted, they establish the diagnosis they inform the patient if they wish, they decided With such a disturbing scenario, it is not surprising that many terminally ill people in agony are deprived of adequate pain management therapy, abandoned to painfully await the time death would be gracious enough to come and take them away. Definitely the administration of a lethal injection cannot be a solution to the relief of the patient nor can it bring succor to the relatives that look on powerlessly. Even if they pray for death for their relatives in agony, euthanasia in any form cannot be the answer at this level of our medical development.

Undoubtedly, it can be quite expensive in Nigeria to keep an incurable critically ill person alive particularly when we bearing mind the slippery slope argument, economic pressure, inheritance prospects can open the floodgate for abuse of euthanasia in any form is legalized.

Though there have been calls from some quarters that voluntary euthanasia should be legalized in Nigeria. Where will the line drawn? XVIII. Recommendation-Palliative Care "Killing" occasioned by insufficient care posses an even greater threat to the vulnerable and marginalized poor in Nigeria than terminal illness.

Provision of compassionate and humane care of the disabled chronically ill and dying can be activated without having to kill them or enable them to commit suicide. Palliative care is a specialized medical discipline for the care of those living with a terminal illness. Palliative care is usually undertaken by a multidisciplinary team and is based upon a holistic model of care. The family is regarded with the patient as part of the "unit of care". Dr. Cicely Saunders, who founded the first modern hospice, demonstrates a basic level of palliative care. "You matter because you are you. You matter to the last moment of your life and we will do all we can not only to help you until you die peacefully but also to live until you die". The dying process is an integral human experience Kubler Ross identifies stages in the dying process which if dealt with appropriately and with the aid of sensitive counseling for patient and family can lead to personal growth. A supportive and reasoning environment must be provided in which the patients can express themselves and be helped to work through their emotions.

Illness and dying are part of living and care must not only address the physical but the emotional and the spiritual aspects of this period of life. People in the dying process or who have disabilities or chronic illness often a burden on family and the community, Because of negative community attitudes, such feelings are widespread, and therefore the opportunity must be taken to develop interventions to address them. Physician pain and other distressing symptoms can always be alleviated in circumstances in which there is competent medical care available. The fact that such care is not always accessible gives reason for the necessary resources to be provided rather than giving reasons for the provision of euthanasia. possible because at the end of life relationships are of paramount importance.

There are uncommon circumstances in which the administration of pain relieving medication at appropriate levels may bring forward the time of a patient's death as an unnecessary side effect.

The purpose of giving the medication is to relieve pain not hasten death and therefore is not immoral. However, the common effect of adequate pain relief is to give the patient "lease of life" after enabling patients to return to some of their former activities . The hospice movement began in the 1970's. Hospices are facilities through which the terminally ill patients can access high quality pain and other physical and emotional management in an environment in which comfort care rather than life prolonging technology is provided. XIX.

29 Conclusion

Modern hospices system provide domiciliary care for patients who wish to die at home or remain at home for as long as adequate symptom of relief can be provided for in the home setting.

The quest for humane care of the dying must continue, but without violating the ancient proscription against killing which are so fundamental to the protection of the vulnerable. This is consistent with African values of total and unequivocal respect for human life.

The euthanasia debate is the surface manifestation of an underlying clash between two opposed philosophies, the ethic of the intrinsic value and worth of the human being versus the concept of individualism and assert one's right defines one's value and dignity.

Parliaments and courts must protect the weak and vulnerable in society by upholding of laws which prohibit the taking of another's life.

Physicians must resist the pressure to become merchants of death and rather retain and maintain their singular role of caring and healing within a doctorpatient relationship characterized by integrity and trust. ??9 Elisabeth Kubler-Ross on Death and Dying New York Collier Books 1969. ??0 Robert Weir op cit. P. q 122-123.

Advances in palliative care have resulted in the development of sophisticated techniques for pain and other symptomatic relief and contrary to the assertions of many euthanasia proponent is rarely made contrary to the necessary resources to "pharmacological oblivion". Instead efforts are usually successfully made to enable patients to remain lucid and live as full a life as



Figure 1:

[Note: 41 Luke Gormally (ed) op. cit p.61.42 Ibid p. 67-68.43 Rita Marker and Wesley Smith Words International Anti-Euthanasia Task Force.]

Figure 2:

[Note: 52Yale Kamisar "Euthanasia Legislation" Some Nonreligious objections" Minnesota Law Review Vol.42, No.6 (1958).]

Figure 3:

Figure 4:

¹Nancy W. Dickey ,M.D-Euthanasia: A Concept whose Time Has Come. Issues in laws and Medicine Vol.8 No 4 1993 2 Venion D. Plueckilahn and Stephen M. Corder Ethnicns. Legal Medicine and Forensic Pathology 1991p.2-3.

²Pojman Louis. P. Life and Death Grapping with the Moral Delemmas of our Time, Published by Bouton Jones and Berthlett 1992, chapter 5 -Euthanasia pg. 53-54. 7 Gregory Pence Classic Cases in Medical Ethics (New York McGraw-Hill, 1990), p. 11.

³Quoted in Ibid p. 13. 9 10 Law and Medical Ethics: Fifth Edition Euthanasia. P.414 11 Manson and McCall South, Law and Medical Ethics (2 nd Eition,1987) p. 231.Circumstances must be request come as a result of pressure from relations or

⁴B.A Robinson, Euthanasia and Physician assisted suicide all sides of the issues Hitbox com. (Essay obtained in the internet July 25 th 2000). 13 B.A. Robinson Loc cit. 14 Mahend, S. Kochar Kasavan Kuty: Kochar's Concise Textbook of Medicine 3 rd ed Maryland:Wilkins, 1998 p. 22.

⁵However, the position on euthanasia varies from country to country especially in the advanced countries. It will be desirable to examine the state of the law on Nigeria is not the only country or jurisdiction where euthanasia or any other taking of human life under any unjustifiable guise as unlawful.15 Nigeria has two codes, Criminal Code for the Southern parts of the country and the Penal Code for the Northern part. The provisions of the two code's respect of homicides are substantively similar. For this paper the provision of the Criminal Code is adopted.16 It should be noted that depending on the circumstances surrounding death, the killing may amount to murder or manslaughter -Section 315 Criminal Code. 17 See inter alia section 330,308 311 343(1) e.f. Criminal Code. b

⁶Present Legal Condition of Euthanasia p.2. Source: Internet: Euthanasia htm 01/09/2001. 33 Ibid at p.2. 34 Pojman, Louis P. Life and Death Groppling with Moral Dilemmas of our Time-p 57-58 published by Booston Jones and Bartolet 1992.

⁷Dr. Elose Grawler Euthanasia Physician-Assisted Suicide and the Withdrawal of Life Sustaining Treatment.1545 International Anti-Euthanasia Task Force: The Living Will: Just a Simple Declaration.46 Pojman, Louis P. op. cit p.63.

⁸Pojman, Louis Op. cit P. 183. 81 Pojman, Louis P. Op. cit P. 173. whether to report it to the authorities and most cases are not reported". 82 82 B.A Robinson Op. cit.Once euthanasia is accepted within a society, it becomes impossible to certain with safe boundaries.

Figure 5:

[Note: 73 Ibid .74 Coward: Lipner and Young, 1989.75 Campbell, 2000.]

Figure 6:

Figure 7:

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- 587 [Burleigh Op] , Michael Burleigh Op . p. .
588 [Burleigh Op] , Michael Burleigh Op . (cit 298)
589 [Burleigh ()] *Death and Deliverance Euthanasia in Germany 1900-1994* Cambridge, Michael Burleigh . CL.1.
590 1994. Cambridge University Press.
591 [Rist ()] 'Human Value: A Study in Ancient Philosophical Ethics Ler cen L'. John M Rist . *J Brill* 1962. p. .
592 [Singer ()] *Practical Ethics* Cambridge Melbourne University Press, Peter Singer . 1979. p. 79.
593 [Singer ()] *Rethinking Life and Death, Melbourne. The Text Publishing Company*, Peter Singer . 1994. p. .