

EXAMINATION OF THE PRACTICE OF EUTHANASIA UNDER THE NIGERIAN  
AND BELGIUM LAWS: A COMPARATIVE ANALYSIS

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**Abstract**

*Euthanasia as act of putting a person's life to an end to alleviate suffering remains a contentious issue and a subject of debate worldwide, most importantly within the realms of medicine, law, and bioethics. Despite euthanasia having historical roots and legal frameworks in several countries such as Belgium and the Netherlands, Nigeria lacks explicit legislation on this issue, putting reliance on cultural, ethical, and religious considerations. The study aims to identify the legal issues surrounding the practice of euthanasia in Nigeria when compared with another jurisdiction like Belgium. The research methodology adopted for this paper is a mixed method comprising of doctrinal and comparative analysis. The data utilized in this study include primary sources such as Criminal Code Act 2010, Penal Code Act 2004, the Constitution of the Federal Republic of Nigeria 1999 as amended, statutes and cases while the secondary sources include scholarly peer reviewed journals, books, periodicals, articles, manuals and online materials. The study concluded that there is a lack of explicit legislation on euthanasia and laws prohibiting terminally ill patients from undergoing voluntary euthanasia are inadequate, especially where such patients are going through excruciating pains, irreversible medical condition and all medical interventions have proved abortive. This study recommended that the Nigerian law prohibiting the right to die should be modified with priority on public education and awareness initiatives and terminally ill patients with irreversible medical condition should be allowed to exercise their right of autonomy.*

**Keywords:** Belgium, Euthanasia, Individual Autonomy, Legal Framework, Nigeria

**1.0 Introduction**

In recent times, euthanasia has progressively and continuously appeared under the spotlight as a result of the mechanization of medicine.<sup>1</sup> Euthanasia, the

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practice of ending a person's life to relieve suffering is one of the most major contentious and ethically challenging topics in modern medical, legal and bio-ethical discourse.<sup>2</sup> Euthanasia has been noted in various forms by individual societies. In the ancient Greek and Rome, assisting or putting others to death was permitted in a few situations. For instance, in Sparta Greek, babies who had a deformity were put to death.<sup>3</sup> Currently, every religion, particularly Christianity and Islam condemn and forbid active euthanasia, however some allow passive Euthanasia in a restricted form. The Anglo-American common law system criminalized assisted suicide and despised it in other ways for more than 700 years.<sup>4</sup> By the middle of the 16th century, the Common Bench court declared that suicide was a crime against God, the King, and nature.<sup>5</sup>

Euthanasia began as an expressly forbidden practice and progressed over time to a more current state of acceptance in some nations such as Belgium, Netherlands, Luxembourg to mention a few. Meanwhile, regulations that were previously largely against it are starting to be changed in societies to allow for some degree of euthanasia.<sup>6</sup> A pivotal worldwide event which shaped the attitude of several nations towards the practice of euthanasia is The Nazi euthanasia program in Germany during World War II, known as "Aktion T4,"<sup>7</sup>. This program targeted people with disabilities and other "undesirable" conditions, ordering a state sanctioned euthanasia and therefore death of thousands of innocent people. Although this program represents a gruesome and morally reprehensible method of euthanasia, it is essential to recognize that has led to a misconception of the practice of euthanasia as opposed to what is obtained in jurisdictions which have legalized euthanasia.<sup>8</sup>

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<sup>1</sup> Adesoji Kolawole Adebayo and Josephine Adejoke Aina, 'An Examination of Ethical Arguments for and against Euthanasia and Physician Assisted Suicide in Nigeria', (2020) 7 Benin Journal of Public Law 42.

<sup>2</sup> Nargus Ebrahimi, 'The ethics of Euthanasia' [2020] Australian Medical Journal, 8

<sup>3</sup> Mohammed Madadin, 'The Islamic perspective on physician assisted suicide and euthanasia' (2020) 60 (4) Medicine, science and the law 278 - 286

<sup>4</sup> Procon.org, '17th Century - Common Law Tradition Prohibits Suicide and Assisted Suicide in the American Colonies - Euthanasia' (Brittanica, 2013) 1.

<sup>5</sup> *ibid*

<sup>6</sup> Sabrina Rahman, 'Euthanasia and assisted suicide: An in-depth review of relevant historical aspects' (2022) 75, Annals, Medicine of Surgery, 2

<sup>7</sup> Adesoji Kolawole Adebayo and Josephine Adejoke Aina, 'Birth Control, Sterilization and Liability of Medical Personnel for Failed Sterilization in Nigeria: A Discuss', [2020] Law Policy and Development Review' 157-173

<sup>8</sup> Michael Grodin, 'The Nazi Physicians as Leaders in Eugenics and "Euthanasia": Lessons for Today' (2018) 108 (1) American Journal of Public Health, 53-58

Thus, with a careful thought and conditions, some jurisdictions have made it legal to use painless method of ending a terminally ill patient' life with no hope of recovery. The Netherlands is first nation to have legalized euthanasia.<sup>9</sup> The lower house of parliament passed the Euthanasia Bill in 2000, and the upper house affirmed it in 2001.<sup>10</sup> It was discovered that neither the criminal justice system nor the decriminalization of euthanasia or any other type of assisted suicide provided protection for the patient.

The Belgium government conducted a countrywide poll in 1990 and 1995, which led to the passing of the Belgian Euthanasia Act of 2002. Research was further conducted in Belgium in May 2002, in order to carefully weight end of life options to for terminally ill patients to avoid placing them at risk.<sup>11</sup> Therefore, the public policy justification for its passage was to provide sufficient regulation of medical practice. In 2002, euthanasia was formally legalized in Belgium through the Belgian Euthanasia Act<sup>12</sup> which allows an adult who went through unbearable suffering which could not be relieved, whether physical or mental to be euthanized.

Originally, euthanasia practice was restricted to adults only but with time, its restriction has been removed and its application was widened. By lifting the age restriction on the practice of euthanasia, Belgium became the first country to legalize euthanasia for children through its 2014 amendment, though with certain restrictions imposed on minors.<sup>13</sup> There is no doubt that issue of childhood euthanasia has initiated several debates. A bio-ethical analysis of the practice of euthanasia focuses on the capacity of minors to make decisions and the Belgian law also pivots on the condition that such child possesses the capacity to understand the practice of euthanasia, its concept and implication.<sup>14</sup>

In Nigeria, there is no specific law or regulation permitting or prohibiting euthanasia. However, the practice by the besieged Nupe in the present Niger state can be said to fall under the category of involuntary euthanasia, which took the form of killing of infants during inter-tribal wars.<sup>15</sup> Euthanasia can be traced

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<sup>9</sup> J. Wise, 'Netherlands, first Country to Legalize Euthanasia' (2001) 79(6), Bull World Health Organization, 2.

<sup>10</sup> *ibid*

<sup>11</sup> Shanthi Van Zeebroeck, 'The Rule of Law and the Belgian Euthanasia Act of 2002' (2018) 39, (3), Statute law Review, 244 - 257

<sup>12</sup> Koninklijke Brill, 'The Belgium Act of Euthanasia' (2003) 10, European Journal of Health Law 329-335.

<sup>13</sup> Leticia Mora, 'Child Euthanasia in Belgium' (2020) O'neill Institute for National & Global Health Law <<https://oneill.law.georgetown.edu/child-euthanasia-in-belgium/>> accessed 12th January, 2025

<sup>14</sup> *ibid*

<sup>15</sup> Mike Chekwube Obi, 'A Critical Appraisal of Euthanasia Under Nigerian Laws' (2014) 5 Nnamdi Azikwe Journal Of International Law and Jurisprudence, 79-80.

back to traditional practices in the Southern region of the country, where killing of twins was permitted. Giving birth to two children at once was considered an abomination.<sup>16</sup> The custom required parents to kill their baby twins shortly after birth and toss them into the demonic forest. The acceptance or rejection of the practice of euthanasia in Nigeria is usually influenced by a moral, culture and emphasis on the sanctity of life especially from religious sectors. The preservation of life has been given utmost consideration disregarding the deliberate termination of life as unacceptable. Nigeria remains denuded of explicit and specific legislation on euthanasia, allowing for extraneous cultural and ethical considerations to play roles in developing attitudes and practices regarding end-of-life care.<sup>17</sup> Euthanasia is illegal in Nigeria, despite the fact that its illegal status is not as a result of a specific law or legislation but is hinged on certain laws which do not specifically provide for the criminalisation of euthanasia.

Euthanasia, under law is an issue surrounded by great controversies. The morality and legality of a doctor actively participating in a patient's death have been subjected to various arguments on the ground that doctors shouldn't have the "Godlike" authority to decide between a patient's life and death because they are obligated by the Hippocratic Oath to treat their patients rather than harm them.<sup>18</sup> The presiding legal regime worldwide is that euthanasia should not be criminalized, however, a lot of critics are of the view that it can be abused if allowed.<sup>19</sup>

However, with major advancements in medicine and medical technology, along with corresponding growth in fundamental human right law, many countries such as Belgium, Netherlands, Luxembourg, Spain to mention a few, have paved way for the legalization of euthanasia. There is no question about the global and worldwide acceptance of a right to life. The question however which forms the basis of the controversy surrounding euthanasia is whether or not there is also alternatively a right to die. For many individuals, quality of life is more important than the sanctity of life or its length. If quality of life is unbearable because a patient is suffering from intractable, untreatable or intolerable pain, the patient should receive mercy and compassion from a physician by direct assistance in

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<sup>16</sup> *ibid*

<sup>17</sup> *ibid*

<sup>18</sup> Caroline Van den Ende; et al., 'Exploring Doctors' Reasons for not Granting a Request for Euthanasia: A Mixed-Methods Study' (2022) 6(4) *British Journal of General Practice* available at <<https://pmc.ncbi.nlm.nih.gov/articles/PMC9904776/>> accessed on 30 April 2025 doi: 10.3399/BJGPO.2022.0015. See also, Adesoji Kolawole Adebayo and Josephine Adejoke Aina, 'An Examination of Ethical Arguments for and against Euthanasia and Physician Assisted Suicide in Nigeria', (2020) 7 *Benin Journal of Public Law* 50

<sup>19</sup> Garima Jain and Sanjeev P. Sahni, 'Euthanasia: A Review on Worldwide Legal Status and Public Opinion' (2018) 1 *Criminology and Criminal Law Review* 66

the dying process with consideration of significant financial burdens on the family members.

Under Nigeria Criminal and Penal Code Act, an individual who kills another person, even with their consent is liable under a charge of murder. This is so because consent does not fall under a defense to murder and the Nigerian legal system has not differentiated between killing carried out with the assistance of a health practitioner. It simply provides the inference that euthanasia is murder.<sup>20</sup> Under the Penal Code applicable in Northern Nigeria, and Criminal Code applicable in Southern Nigeria, the term euthanasia is not used. The killing of a human being by another is a crime under homicide, amounting to murder or manslaughter, depending on the intent with which the killing is done.<sup>21</sup> The absence of specific legislation on euthanasia in Nigeria presents a pressing problem, compounded by the fact that euthanasia remains illegal in the absence of explicit legal provisions. Hence, this paper aimed to examine the practice of euthanasia under the Nigerian and Belgian laws through a comparative study.

## 2.0 The Concept of Euthanasia Practices

The matter of euthanasia is a subject fraught with ethical controversy, primarily stemming from the ultimate outcome of the action and the complexities surrounding the decision to engage in euthanasia.<sup>22</sup> There exists a divergence of opinion among scholars and moral thinkers, with one faction ardently endorsing euthanasia and another vehemently opposing it.<sup>23</sup> The term "euthanasia" has been subject to diverse interpretations, shaped by individual beliefs, dispositions, orientations, or personal experiences. Etymologically, euthanasia is denoted as a "good death", deriving from the amalgamation of two Latin words, "eu" signifying "well or good," and "thanatos" signifying "death."<sup>24</sup> This linguistic derivation gives rise to the concept of "euthatanos," connoting a "good death" or "dying well."<sup>25</sup>

The underlying implication in this conceptualization is the acknowledgment of both positive and negative connotations of death, prompting an exploration into the nature of what constitutes a good or bad death. The existential question emerges: can death, as the ultimate endpoint, be categorized as either good or bad? Some contend that death, by its very nature, remains an unequivocal event, regardless of its quality.<sup>26</sup>

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<sup>20</sup>Oluyemisi Bamgbose, 'Euthanasia: Another Face of Murder' (2014) 48(1), International Journal of Offender Therapy and Comparative Criminology, 111 - 121.

<sup>21</sup>Section 220 Penal Code of Northern Nigeria

<sup>22</sup>E. A. Asira and J. N. Ogar, 'Studies in Professional Ethics' (Jochrisam Publishers, 2009) 12

<sup>23</sup>ibid

<sup>24</sup>See supra note 7

<sup>25</sup>ibid

<sup>26</sup>Oluyemisi Bamgbose, 'Euthanasia: Another Face of Murder' (2014) 48(1), International Journal of Offender Therapy and Comparative Criminology, 111 - 121.

The Oxford Advanced Learners' Dictionary defines euthanasia as "a mercifully easy and painless death for persons suffering from incurable and painful diseases".<sup>27</sup> This interpretation characterizes euthanasia as a compassionate and pain-free demise. It endeavors to articulate a practical definition of euthanasia, describing it as the intentional, direct or indirect, termination of the lives of those who are incurably ill. Such is done at explicit request of the dying patient or at the behest of their parents, guardians, or other representatives in cases where such patient lacks capacity to make a decision.<sup>28</sup>

Euthanasia, a contentious subject at the intersection of ethics and medicine, manifests itself in two distinct forms: active and passive.<sup>29</sup> Active euthanasia, as defined by Black's Law Dictionary, involves a facilitator, often a healthcare practitioner, who not only provides the means of death but also carries out the final act causing death.<sup>30</sup> This may encompass administering lethal injections or medications, including overdoses of painkillers or sleeping aids.<sup>31</sup> On the other hand, passive euthanasia permits the natural death of a terminally ill individual by either withholding or withdrawing life-sustaining support, such as a respirator or feeding tube. In essence, it involves the deliberate cessation of medical treatment with the intention of causing the patient's death.<sup>32</sup>

The crux of the distinction between active and passive euthanasia lies in the actions taken: active euthanasia involves affirmative steps to terminate life, while passive euthanasia entails actions or omissions that could have preserved or prolonged the patient's life. Furthermore, euthanasia is categorized into three types: voluntary, non-voluntary, and involuntary.<sup>33</sup> Voluntary euthanasia is a consensual act performed with the explicit consent of a terminally ill individual. This consent may be granted in advance, often through a living will or directive, expressing the desire for life termination or the cessation of life-saving treatments. An illustrative example is the 1992 case of *R v Cox*, where the defendant in defiance of the law, acceded to a 70-year-old Mrs. Boyes' persistent request for voluntary active euthanasia, resulting in a suspended sentence.<sup>34</sup>

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<sup>27</sup> A. S. Hornby, Oxford Advanced Learners Dictionary of Current English (7th ed, New York: Oxford University Press, 1997) 500

<sup>28</sup> E. Emmanuel, "Euthanasia: Historical, Ethical, and Empiric Perspectives" (1994) 154(17) Arch Intern Med 1890-901

<sup>29</sup> J. Bryant 'Health and the Developing World' (Cornell University Press 1969) 12.

<sup>30</sup> Black H.C, Black's Law Dictionary (USA: St Paul's Minn-West Publishing Co, 1991) 554

<sup>31</sup> *ibid*

<sup>32</sup> *Ibid*

<sup>33</sup> G. O Ozumba, 'Medical Ethics: Background and Contemporary Issues' (Pyramid, 2003) 11.

<sup>34</sup> [1992] 12 BMLR 38.

Non-voluntary euthanasia, conversely, involves the euthanizing of an incompetent person who cannot provide consent.<sup>35</sup> The *Airedale N.H.S v. Bland* case exemplifies this form, where Anthony Bland, in a persistent vegetative state following a tragic football club incident, was allowed to die based on medical opinions and the consensus of his parents and the House of Lords.<sup>36</sup> Involuntary euthanasia is the most controversial form, involving the euthanizing of a competent individual who can provide informed consent but does not, either due to a desire to live or a lack of consultation. It is universally opposed and deemed a criminal act in legal jurisdictions.<sup>37</sup> Such practice is distinct from non-voluntary euthanasia, where the patient is unable to provide informed consent.

### 3.0 The Current Legal Stance on Euthanasia in Nigeria

Indisputably, the right to life stands universally acknowledged.<sup>38</sup> Contrarily, the pivotal question in the euthanasia discourse revolves around whether there exists a legitimate right to die, a matter at the core of contentious debate.<sup>39</sup> The inquiry into whether euthanasia, commonly described as assisted suicide and mercy killing, embodies an entitlement to a dignified death traverses international boundaries and legal frameworks.<sup>40</sup> Some countries criminalized euthanasia and assisted suicide under their legal structure such as; Australia, Germany, New Zealand and some regions within the United States. Nevertheless, the progressions in medical technology, allowing the preservation of human life far beyond previously conceived limits, have led numerous nations to sanction assisted suicide and euthanasia. These developments have coincided with an upswing in human rights legislation.<sup>41</sup>

Attempts have been made to establish a connection between the right to life and the right to choose one's death, sparking debates in The debate sprang up from the decision of the Supreme Court of Nigeria in the case of *Medical and Dental Practitioners Disciplinary Tribunal v Dr John Emewulu Nicholas Okonkwo*<sup>42</sup> where the Supreme Court held that an adult has the right of autonomy to accept or

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<sup>35</sup>Ozumba, G. O supra at page 12.

<sup>36</sup> [1993] AC 789

<sup>37</sup>Andreas Fronralis, Efthyinia Prousalis and Kumal Kulkarni, 'Euthanasia and Assisted Dying: What is the Current position and what are the key Arguments informing the Debate?' (2018) 111(11) *Journal of the Society Royal of Medicine* 407-413

<sup>38</sup>Article 3 of the Universal Declaration of Human Rights 1948

<sup>39</sup>Keown J., 'Euthanasia, Ethics, And Public Policy: An Argument Against Legalisation New York' (2002) Cambridge University Press 24

<sup>40</sup>Usman D. Vicki, 'Voluntary Stopping of Eating and Drinking: An Ethical Alternative to Physician Assisted Suicide', (2015) 22 *Ethics, Law and Policy* 57.

<sup>41</sup>Angelos Stuompous, 'Digital Transformation in Healthcare: Technology Acceptance and Its Applications' (2023) 20(4) *International Journal of Public Research and Environmental Health*. 3407

<sup>42</sup>(2002) AHRLR 159 (NgSC 2001)

reject treatment such as blood transfusion even when such rejection could lead to the death of such a person. The position raised an opinion that passive euthanasia could be permitted since a patient can deliberately refuse treatment even at the point of death. While the illegality of murder is unequivocal in the country, the definitive standpoint on euthanasia remains absent.<sup>43</sup>This is because many Nigerians perceive euthanasia as a perplexing paradox, akin to masked homicide, where a healer ostensibly transforms into an executioner.<sup>44</sup>

In Nigeria, the legal landscape concerning euthanasia lacks a specific statute explicitly addressing the matter. Instead, the legal framework for euthanasia and assisted suicide is intricately interwoven within the country's criminal and penal laws, rendering it a matter of statutory regulation. Furthermore, the constitutional dimension is introduced through the human rights provisions embedded in the 1999 Constitution of Nigeria (as amended), which are pivotal to understanding the legal stance on euthanasia in Nigeria.

The Criminal Code Act, applicable to southern states, the Administration of Criminal Justice Act, applicable to the Federal Capital Territory and other northern states, along with the Penal Code in northern states and Sharia Penal Code in certain northern states, collectively contribute to shaping the legal framework surrounding euthanasia and assisted suicide in Nigeria. The 1999 constitution enshrines the right to life, thereby prohibiting the intentional termination of any individual's life except under specific circumstances sanctioned by the law. To elucidate, the pertinent segment of the legal code reads as follows: Section 33 (1) asserts the unequivocal right to life for every person, stipulating that no one shall be deliberately deprived of their life, except through the lawful execution of a court sentence for a criminal offense in Nigeria.<sup>45</sup>

Section 33 (2) clarifies that an individual shall not be considered as having their life unlawfully deprived if their demise results from the authorized use of force, to the extent and under the circumstances permitted by law.<sup>46</sup> Subsections (a), (b), and (c) of Section 33 (2) delineate situations where such force is deemed justifiable for the defense against unlawful violence, to effect a lawful arrest or prevent the escape of a lawfully detained person, or for the purpose of quelling a riot, insurrection, or mutiny.<sup>47</sup>

Significantly, within this constitutional provision, there is a conspicuous absence of any endorsement for assisted suicide or euthanasia. Nowhere does the law

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<sup>43</sup> O. Abimbola, 'Law and Medicine: A Meeting Point,' (2014) 2 Research Journal of Health Science 192.

<sup>44</sup> *ibid*

<sup>45</sup> Section 33 (1) of the 1999 Constitution of the Federal Republic of Nigeria Cap C 23 2004 (as amended)

<sup>46</sup> *Ibid* Section 33 (2)

<sup>47</sup> *ibid*

stipulate that such actions are justified, thereby establishing that euthanasia, as a principle or practice facilitating a humane death for a suffering patient, lacks constitutional protection. Consequently, this legal void renders the act of euthanasia illegal, as the law serves as the foundational norm governing the societal order of beings.<sup>48</sup>Section 34 of the Nigerian Constitution guarantees human dignity.<sup>49</sup> In it, it states that every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subjected to torture or to inhuman or degrading treatment.<sup>50</sup>Section 34 could be construed as promoting individuals' right to make dignity and autonomy-based decisions about their own end-of-life care. It could be claimed that denying someone the option of euthanasia, particularly in circumstances of terminal disease or severe pain, is a breach of their right to dignity.<sup>51</sup>

Regarding euthanasia, the legal standpoint is unequivocal in Nigeria.<sup>52</sup> Section 326(3) of the Criminal Code Act stipulates that assisting someone in self-killing constitutes a felony, punishable by life imprisonment. The legal doctrine is explicit: the consent of an individual to their own demise does not absolve any party causing such death from criminal responsibility.<sup>53</sup>In the case of *State v. Okezie*, where a native doctor created charms for a deceased person, the individual, desiring to test the charm, was shot and killed by the accused.<sup>54</sup> This act resulted in a murder conviction, emphasizing the criminal offense and life imprisonment penalty for aiding suicide in Nigeria. The language of Section 326 in the Criminal Code Act reinforces this, stating that aiding another in self-killing is a felony with the consequence of life imprisonment.<sup>55</sup>

The Penal Code, applicable in Northern Nigeria, further underscores the severity of any form of killing, with death penalty implications under Sections 220 and 221.<sup>56</sup> This legal framework applies uniformly and does not take into consideration factors such as terminal illness, consent, or the patient's lifespan. Irrespective of these considerations, facilitating the suicide of another, as indicated in Section 326 of the Criminal Code, is deemed a felony, warranting life

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<sup>48</sup>Adesoji Kolawole Adebayo and Josephine Adejoke Aina, 'An Examination of Ethical Arguments for and against Euthanasia and Physician Assisted Suicide in Nigeria', (2020) 7 Benin Journal of Public Law 42

<sup>49</sup> Section 34(1) 1999 Constitution of the Federal Republic of Nigeria Cap C 23 2004 (as amended)

<sup>50</sup> Ibid Section 34(1)(a)

<sup>51</sup> Andrea Rodriguez, 'Patient Perspectives of Dignity, Autonomy and Control at the End of Life: Systematic Review and Meta-Ethnography' (2016) 11 (3) Plos One Publishing 2

<sup>52</sup>Mike Chekwube Obi, 'A Critical Appraisal of Euthanasia Under Nigerian Laws' (2014) 5 Nnamdi Azikwe Journal of International Law and Jurisprudence, 79-80.

<sup>53</sup> Section 326(3), Criminal Code Act, Cap. C38, LFN 2004.

<sup>54</sup> (1972), 2 E.C.S.L.R. 419

<sup>55</sup> Section 326, Criminal Code Act, Cap. C38, LFN 2004.

<sup>56</sup>Section 220, Penal Code, Cap.P3 LFN, 2004.

imprisonment.<sup>57</sup>The attempt to end one's own life, according to Section 327 of the Criminal Code, is treated as a misdemeanor in Nigeria, punishable by one year of imprisonment.<sup>58</sup> However, the critical query arises: does a patient's consent to die absolve a physician assisting in the act from criminal liability? Unfortunately, under Nigerian law, Section 299 of the Criminal Code specifies that even if an individual consents to their own demise, it does not exempt the party causing the death from criminal responsibility.<sup>59</sup>

The penal laws in Nigeria, governed by statutes such as the Penal Code in the north and the Criminal Code in the south, do not recognize consent as a defense in cases involving death. The term "euthanasia" may not be explicitly mentioned, but the inference is evident. Any act resulting in the death of a human being is considered a crime, falling under homicide, and is classified as either murder or manslaughter, contingent on the intent behind the act. The absence of distinction in the penal laws, regardless of whether a physician assists or the patient's health condition, deems euthanasia tantamount to murder.<sup>60</sup>

While the prevailing sentiment among stakeholders leans towards upholding the existing legal stance, which criminalizes active euthanasia in Nigeria, the majority of viewpoints remain conspicuously silent on passive euthanasia, encompassing actions such as withholding or withdrawing treatment. Intriguingly, this investigation challenges the notion perpetuated by the Criminal Code and Penal Code that all forms of euthanasia and assisted suicide are universally illegal in Nigeria, revealing a nuanced perspective.<sup>61</sup> A significant discovery underscores that the Supreme Court, through its ruling in the case of *John Okonkwo*, has implicitly sanctioned passive euthanasia as legal, despite lacking explicit endorsement.<sup>62</sup>

#### 4.0 The Belgian Legal and Ethical Approach to Euthanasia

In 2002, Belgium passed legislation to decriminalize euthanasia, making it the second country to do so after the Netherlands, which had done so only months prior.<sup>63</sup> According to the Belgian law, euthanasia is defined as the deliberate termination of life by a person other than the individual in question, at the explicit request of the latter. Therefore, euthanasia in Belgium is contingent upon the consent of the person undergoing the procedure.<sup>64</sup> This definition, while

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<sup>57</sup> *ibid*

<sup>58</sup> Section 327, Criminal Code Act, Cap. C38, LFN 2004.

<sup>59</sup> *Ibid* section 229.

<sup>60</sup> Mike Chekwube Obi, 'A Critical Appraisal of Euthanasia Under Nigerian Laws' (2014) 5 *Nnamdi Azikwe Journal of International Law and Jurisprudence*, 79-80

<sup>61</sup> *ibid*

<sup>62</sup> *Medical and Dental Practitioners Disciplinary Tribunal v Dr John Emewulu Nicholas Okonkwo* (2002) AHRLR 159 (SC 2001)

<sup>63</sup> "Belgium (Euthanasia)" (2003) *European Journal of Health Law*, 10(3), pp. 329-335

<sup>64</sup> *J Law 'A Dictionary of Law'* (Oxford University Press: Oxford, 8th ed., 2015) 240

somewhat peculiar, more accurately reflects what is commonly known as voluntary euthanasia, as euthanasia itself does not inherently require consent. However, this definition is not unique, as it closely mirrors the definition used in the Netherlands, which was unanimously adopted during the consultation processes leading to Belgium's decriminalization of euthanasia.<sup>65</sup>

One notable aspect of Belgium's situation is that euthanasia was relatively prevalent and well-documented even while it was illegal. Two studies published in the *Lancet* highlight this phenomenon. The first study conducted by Deliens, surveyed physicians in Flanders regarding their end-of-life decisions. The findings estimated that there were: 705 deaths resulting from euthanasia and physician-assisted suicide (equivalent to 1.3% of total deaths); 1,796 deaths due to lethal prescriptions administered without patient consent (3.2% of deaths); and 3,261 deaths resulting from the withholding of treatment with the explicit intention of hastening death (5.8% of deaths).<sup>66</sup> This data serves as clear evidence that illegal end-of-life practices were relatively common in Belgium, with at least 4.5% of deaths being achieved through illegal means.<sup>67</sup>

The second study analyzed data from nearly 3,000 deaths in Belgium up to February 2002. According to its findings, 1.82% of these deaths were attributed to both voluntary and non-voluntary euthanasia, with the latter accounting for 1.5% of the total deaths.<sup>68</sup> This suggests that euthanasia and other illegal end-of-life practices were prevalent before the formal decriminalization of euthanasia in 2002.<sup>69</sup> Additionally, prior to 2001, there were minimal to no instances of prosecution, let alone punishment, for physicians who performed euthanasia.<sup>70</sup>

The prevalence of illegal euthanasia was not only evident but also lacked legal consequences, leading to the absence of Belgian case law on euthanasia, in contrast to the Dutch euthanasia laws, which largely incorporated existing case law. Consequently, Belgium found itself in the peculiar situation in 2002 of legalizing something that certain members of the medical community were already engaging in without repercussions. There appeared to be little inclination to report euthanasia cases, and authorities showed minimal willingness to pursue legal action. Therefore, Belgium's retrospective legislation

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<sup>65</sup> J Finnis, *Human Rights and Common Good: Collected Essays Volume III*. (Oxford University Press: United Kingdom, 2011) 253.

<sup>66</sup> L Deliens, et al., 'End-of-life Decisions in Medical Practice in Flanders, Belgium: A Nationwide Survey' (2000) 356 *The Lancet*, 1806-1811.

<sup>67</sup> *ibid*

<sup>68</sup> A van der Heide; et al., 'End-of-life Decision-Making in Six European countries: Descriptive Study' (2003) 362(9381), *The Lancet*, 345-350.

<sup>69</sup> B Broeckaert, 'Belgium: Towards a Legal Recognition of Euthanasia' (2001) 8(2), *European Journal of Health Law* 95.

<sup>70</sup> *ibid*

could be interpreted as a natural progression in euthanasia practice, reflecting a diminishing moral conviction toward prosecution or punishment.<sup>71</sup>

This sentiment toward euthanasia is further reflected in the formation of pro-euthanasia societies.<sup>72</sup> In 1983, the Association Beige pour le Droit de Mourir dans la Dignité was established, followed by its Flemish counterpart, Vereniging voor het Recht Waardig Sterven, in the same year<sup>73</sup> and both organisations remain active. Additionally, certain pro-euthanasia physicians have gained prominence through the Belgian media, notably Professor Wim Distelmans, who has reportedly performed euthanasia on hundreds of patients and has become somewhat of a prominent figure in euthanasia advocacy.<sup>74</sup>

Between 1984 and 1996, nine euthanasia bills were presented to the Belgian Parliament. Despite various political factors, these bills had minimal impact on legislative change. However, they did illustrate a favorable political inclination towards euthanasia and helped raise public awareness of the issue.<sup>75</sup> This increasing acceptance of euthanasia mirrors a broader shift in attitudes across Europe. A study examining twelve European countries from 1981 to 1999 noted a significant rise in euthanasia acceptance in nearly all countries, with an average increase of 22%, whereas, Belgium showed particularly strong acceptance, with an average increase of 69%.<sup>76</sup> The Belgian experience with euthanasia is far from being an anomaly which represents one of the initial manifestations of shifting moral sentiments. Thus, its experience emerges as a consequence of deeper and more fundamental shifts in morality.<sup>77</sup>

1. The Belgian Euthanasia Law contains a set of specific criteria that must all be met in order for euthanasia to be legal which are;

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<sup>71</sup> M Adams, 'Comparative Reflections on the Belgian Euthanasia Act 2002' (2003) *Medical Law Review*, 11(3), 353-354

<sup>72</sup> R Scruton, 'The Meaning of Conservatism', (St Augustine's Press: South Bend, Indiana, 3rd ed., 2002) 72

<sup>73</sup> Belgian Association for the Right to Die with Dignity. Today they offer doctors and patients practical and theoretical advice about end-of-life decisions <[http://www.admd.be/Moyens\\_Action.html](http://www.admd.be/Moyens_Action.html)> accessed 7<sup>th</sup> February 2025

<sup>74</sup> Death by Doctor: Controversial physician has made his name delivering euthanasia when no one else will <<https://nationalpost.com/news/canada/death-by-doctor-controversial-physician-has-made-his-name-delivering-euthanasia-when-no-one-else-will>> accessed on 10<sup>th</sup> February 2025

<sup>75</sup> J Cohen, and other, 'Trends in Acceptance of Euthanasia Among the General Public in 12 European Countries (1981-1999)' (2006) 16(6) *The European Journal of Public Health* 663-669.

<sup>76</sup> T Meulenbergs, and P Schotsmans, 'Law-Making and Ethics and hastiness: the Debate on Euthanasia in Belgium' (2002) 9(2-3) *Ethical Perspectives* 86.

<sup>77</sup> *ibid*

2. The patient has to be an adult, an emancipated minor, or a minor with capacity for discernment<sup>78</sup>
3. The patient has to make a voluntary, well-considered, repeated request that is not the result of external pressure<sup>79</sup>
4. The patient has to be in a medical condition without prospect of improvement<sup>80</sup>
5. The patient has to experience constant and unbearable physical or psychological suffering that cannot be alleviated<sup>81</sup> and
6. The patient's suffering should result from a serious and incurable disorder caused by illness or accident.<sup>82</sup>

In order to undergo euthanasia, these individuals must adhere to the eligibility criteria outlined in the euthanasia law. In the legal case of *Mortier v. Belgium*<sup>83</sup>, which marked the European Court of Human Rights' first consideration of a euthanasia matter, concerns arose over the euthanasia of a 64-year-old woman with treatment-resistant depression and a personality disorder. The appellant, her son, discovered his mother's euthanasia only after it occurred, alleging a violation of his or her rights to life and family privacy under the European Convention on Human Rights. The Court in its ruling affirmed that the conditions specified in Belgian euthanasia legislation satisfy four key criteria:

1. A precise delineation of the right to request medical assistance in dying  
Establishment of a procedure ensuring voluntary requests,
2. Implementation of enhanced protections for vulnerable individuals, and
3. Regulation of decision-making by those assessing requests to ensure compliance with eligibility criteria.
4. Notably, the Court emphasized additional safeguards for euthanasia in cases of mental suffering due to psychiatric disorders, such as consultation with two independent physicians, including one psychiatrist, and a waiting period.<sup>84</sup>

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<sup>78</sup> Section 1, Belgian Euthanasia Law, 2002

<sup>79</sup> *ibid* section 2

<sup>80</sup> *ibid* section 3

<sup>81</sup> *ibid* section 4

<sup>82</sup> *ibid* section 5

<sup>83</sup> *Mortier v. Belgium*, Application no. 34403/17, Eur. Ct. H.R. (2020).

<sup>84</sup> *ibid*

Furthermore, the Court determined that the euthanasia procedure for the patient aligned with Belgian law.<sup>85</sup>

### **5.0 A Comparative Examination of Legal to Euthanasia in Belgium and Nigeria**

Belgium and Nigeria have seen significant public discourse and advocacy surrounding euthanasia. Debates, shaping public opinion and influencing legislative decisions are conducted by both supporters and opponents. The active participation is a reflection of the common recognition, both in terms of law and ethics of challenges related to end-of-life care.

Belgium has enacted laws to decriminalize euthanasia, albeit with differing historical backgrounds and legal structures. Belgium's decision to legalize euthanasia in 2002 was prompted by widespread but illegal and undocumented end-of-life practices within its jurisdiction.<sup>86</sup> Nigeria, on the other hand, has a conservative approach to this issue because of its lack of an analogous history in terms of tolerance and acceptance.

In Nigeria, the legal terrain concerning euthanasia is enmeshed within broader penal statutes and constitutional provisions, lacking explicit legislation devoted to overseeing the practice. This marked contrast highlights the intricate nature of Nigeria's legal position on euthanasia, implicitly branding it unlawful under existing criminal and penal regulations.<sup>87</sup>

Nigeria's stance on euthanasia is significantly influenced by religious beliefs, particularly Christianity and Islamism, which often oppose assisted dying<sup>88</sup>. In contrast, Belgium has more secular societies where religious influence on ethical matters is relatively lower, allowing for greater acceptance and legalization of euthanasia<sup>89</sup>.

In addition, Belgium has implemented rigorous and due care criteria that must be satisfied for euthanasia to be considered legally permissible. Belgium's criteria encompass patient eligibility, voluntary consent, the presence of unbearable suffering and an incurable condition. In contrast, Nigeria's penal laws explicitly criminalize any involvement in self-killing, imposing severe penalties,

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<sup>85</sup> *ibid*

<sup>86</sup> R. Cohen-Almagor, 'The Right to Die with Dignity: An Argument in Ethics, Medicine, and Law' (Piscataway, NJ: Rutgers University Press, 2001) 20

<sup>87</sup> Mike Chekwube Obi, 'A Critical Appraisal of Euthanasia Under Nigerian Laws' (2014) 5 Nnamdi Azikwe Journal Of International Law and Jurisprudence, 84

<sup>88</sup> Shanthi Van Zeebroeck, 'Kill First, Ask Questions Later: The Rule of Law and the Belgian Euthanasia Act of 2002' (2018) 39(3) Statute Law Review, 244–257

<sup>89</sup> J. Cohen, and others 'Public Acceptance of Euthanasia in Europe: A Survey Study In 47 Countries', (2014) 59 International Journal of Public Health, 143-156.

including life imprisonment, as delineated in the Criminal Code Act and the Penal Code.<sup>90</sup>

In Belgium, healthcare providers who comply with the legal requirements for euthanasia are protected from criminal prosecution<sup>91</sup>. They have clear guidelines and legal immunity when carrying out euthanasia procedures under specific circumstances. In Nigeria, however, healthcare providers face potential legal repercussions and lack legal protection if they participate in euthanasia due to its criminalization under penal laws<sup>92</sup>.

In Belgium, euthanasia procedures typically involve collaboration between physicians and other healthcare professionals<sup>93</sup>, such as nurses and psychologists, to ensure comprehensive patient care and decision-making. In Nigeria, the involvement of medical professionals in euthanasia is strictly prohibited by law, leaving patients and families with limited options for end-of-life care.

The establishment of robust medical oversight mechanisms is critical in ensuring compliance with legal mandates and ethical standards. Belgium has established regional euthanasia review committees tasked with retrospectively evaluating reported cases of euthanasia. These committees meticulously assess compliance with due care criteria and deliver definitive judgments on the legality of euthanasia procedures. However, Nigeria lacks comparable oversight mechanisms, primarily relying on penal statutes for governance.<sup>94</sup>

Belgium with legalized euthanasia, have well-developed palliative care systems that provide alternative options for end-of-life care, including pain management and psychological support<sup>95</sup>. In Nigeria, where euthanasia is illegal, access to comprehensive palliative care services may be limited, leading to ethical dilemmas for patients and families facing terminal illnesses and unbearable suffering<sup>96</sup>.

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<sup>90</sup> A. F. Uduigwomen, 'Contemporary Socio-Ethical Issues & Problems: The Biblical/Moral Perspective' (Ultimate Index Book Publishers, 2013) 45.

<sup>91</sup> T. Smets and others 'The Medical Practice of Euthanasia in Belgium and The Netherlands: Legal Notification, Control and Evaluation Procedures', (2009) 90 (2-3) Health Policy 181-187.

<sup>92</sup> I. Kolade-Faseyi, 'The Right to Die: The Place of Religion, Ethics and the Law', (2017) 8(1) Nnamdi Azikiwe University Journal of International Law and Jurisprudence 100-108.

<sup>93</sup> *ibid*

<sup>94</sup> T. Smets and others 'The Medical Practice of Euthanasia in Belgium and The Netherlands: Legal Notification, Control and Evaluation Procedures', (2009) 90 (2-3) Health Policy 181-187.

<sup>95</sup> S. Dierickx and others, 'Involvement of Palliative Care in Euthanasia Practice in a Context of Legalized Euthanasia: A Population-Based Mortality Follow-Back Study', (2018) Vol. 32(1) Palliative Medicine 114-122.

<sup>96</sup> J. A Balogun, 'Emerging Trends and Best Practices in Hospice and Palliative Care', (2021) Contemporary Obstetrics and Gynecology for Developing Countries 663-686.

Both countries place a high priority on patient autonomy in end-of-life decisions. Despite differences in legal and cultural contexts of the two countries, they have strict adherence to medical and professional standards in the field of end-of-life care. In Nigeria and Belgium, the importance of respecting the wishes of patients in relation to their own care is recognized through explicit legislation or social norms<sup>97</sup>. The provision of high-quality end-of-life care, within the established legal and ethical frameworks, is a priority for each country. While approaches may vary, the shared goal is to ensure that individuals receive compassionate and dignified care, whether through palliative measures or the option of euthanasia where legally permissible.

Careful consideration of patients' medical condition, treatment options, and quality of life is required in each country when making decisions on end of life. While euthanasia may be legally permissible in Belgium, patients and healthcare professionals engage in discussions about palliative care, pain management and treatment preferences in both countries.<sup>98</sup>

Moreover, while Belgium has legalized euthanasia under specific circumstances, Nigeria maintains a staunchly conservative stance, lacking explicit provisions for legalization or regulation. This dearth of clear legal guidelines in Nigeria breeds uncertainty regarding the safeguarding of patients' rights and the ethical comportment of healthcare practitioners in end-of-life care.<sup>99</sup>

In view of the comparison above, the legal approaches to euthanasia practice in Belgium and Nigeria underscore the influence of diverse cultural, historical, and legal contexts. While Belgium embraced legalization alongside stringent regulations and oversight mechanisms, Nigeria's stance remains firmly entrenched in conservative legal frameworks.

## 6.0 Conclusion

The thorough investigation into euthanasia practice in Nigeria, as detailed through the examination of collected materials, illuminates a multifaceted landscape influenced by cultural, religious, ethical, and legal dimensions. The various headings of the paper provide a deep dive into the comparative analysis of the practice of euthanasia under the Nigerian and Belgian laws, providing valuable insights into societal attitudes and perceptions regarding end-of-life decisions. As the narrative progressed, the pervasive influence of cultural and religious beliefs emerged as a dominant factor shaping attitudes and opinions

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<sup>97</sup>Viko I. and Essien Q, 'Comparative Analysis of the Legal Approach to Mental Health in Nigeria and Netherlands', (2021) 16 *The Nigerian Juridical Review* 62-78.

<sup>98</sup> *ibid*

<sup>99</sup> *ibid*

toward euthanasia, emphasizing the deeply entrenched values within Nigerian society.

The examination of contrasting viewpoints on the moral acceptability and legalization of euthanasia underscored the polarizing nature of the debate, with strong convictions on both ends reflecting the complex interplay of individual autonomy, ethical considerations, and societal values. While some advocate for the acknowledgment of individual rights and autonomy in end-of-life decisions, others express reservations grounded in moral and religious convictions, as well as concerns about potential abuses and ethical implications.

The comparative analysis with Belgium with Nigerian laws on euthanasia practice provided valuable insights into international perspectives on euthanasia, offering a nuanced understanding of legal frameworks, ethical approaches, and societal attitudes toward end-of-life care. While serving as benchmarks for euthanasia legislation and practice, the divergence in cultural, legal, and ethical contexts underscores the necessity for a tailored approach in addressing euthanasia within the Nigerian context.

In conclusion, the paper provides a thorough exploration of euthanasia in Nigeria, unraveling the complex tapestry of beliefs, values, and perspectives that influence attitudes toward end-of-life care. By delving into demographic data, public perceptions, and international comparisons, the study contributes to a nuanced understanding of euthanasia within the Nigerian context, laying a solid foundation for informed policy discussions and ethical deliberations in navigating the intricacies of end-of-life care.

### **7.0 Recommendation**

This paper recommends the following as a way forward on the clarity and better understanding of the concept of euthanasia practice within the Nigerian legal parlance;

#### **Public Education and Awareness Initiatives**

There is a need for comprehensive scrutiny of euthanasia practice in Nigeria which underscores the critical necessity for public education and awareness initiatives. This will foster informed discourse and dispel misconceptions regarding end-of-life care decisions. There is a notable gap in knowledge and awareness among various segments of populace in Nigeria and such initiatives can empower individuals to make well-informed choices concerning end-of-life care, both for themselves and their loved ones. This can be accomplished through collaborative efforts among governmental bodies, healthcare institutions, educational institutions, religious organizations, and civil society groups to formulate comprehensive educational resources and outreach programs.

**Legislative Revision and Policy Formulation**

It is important to draw from insights gleaned from the comparative analysis of euthanasia practices in Belgium and Nigeria. The need to review our laws and policies by the legislature is imperative for end-of-life decision-making in Nigeria. The present absence of specific legislation addressing euthanasia leaves healthcare providers, patients, and families in a precarious position and grappling with legal ambiguities. This can be achieved when policymakers prioritize the crafting and enactment of comprehensive legislation delineating clear guidelines and safeguards for the practice of euthanasia and associated end-of-life care interventions.