

# Euthanasia in Indonesian Criminal Law and Health Law

Vivin Indriani<sup>1</sup>

<sup>1</sup>Program Study Magister Hukum Kesehatan, Pascasarjana UNPAB, Indonesia

Email: [1vivinmerangin@gmail.com](mailto:1vivinmerangin@gmail.com)

## Abstract

*Euthanasia* is an ethical issue in medical practice, where doctors try to treat or alleviate the suffering of patients. There are no current and comprehensive regulations regarding *euthanasia*, but it is important to find a legal basis because it relates to human life. This research aims to examine *Euthanasia regulations* in Criminal and Health Law in Indonesia, with a focus on Article 344 of the Criminal Code as the closest legal basis. Using normative juridical methods and legislative approaches, the findings show that there are differences of opinion regarding *euthanasia*, both among the general public and doctors. Some refuse on religious grounds, considering life to be God's will. Doctors follow a code of ethics that reflects their views on *Euthanasia* in Indonesia.

**Keywords:** *Euthanasia* ; Criminal law ; Health Law

## 1. INTRODUCTION

In its history, profession medical often considered is outside range law. However, awareness developing society related with need will protection law has bringing the world of medicine to in scope law, fine civil nor criminal. According to Hendrik (2010), there are two issues law in ongoing medical become topic warm that is *abortion provocatus* and *Euthanasia*, which are both Already appointed by *Hippocrates* in his oath , signifying that issues This is problem classic in the world of medicine ( M.Yusuf & Amir, 1999). Development technology biomedical, such as use of respirators for extend life patient, has give rise to dilemma new about death. Technology this make death can postponed, so make draft death become felt more as results from intervention technology rather than natural processes. However, death no only phenomenon biomedicine but also social, cultural and religious, which are accompanied by certain rituals within society (Petrus, 2001). Discussion about *Euthanasia*, which originates from the words 'eu' ( good ) and 'Thanatos' ( death ), no regardless from draft right for determine fate itself, which is part from right basic man. Development thought and technology, especially in the fields of medicine, has change understanding about *Euthanasia* dramatically (M.Yusuf & Amir, 1999). In science knowledge, death shared become three type : *Orthothanasia* (death natural), *Dysthanasia* (death no natural), and *Euthanasia* (death with or without help doctor). *Euthanasia*, in particular, has get attention big, though right For dead Still become debate (Ubbe, 2000). In context right basic human rights (HAM), issues This No only concerning field political, economic, social and cultural globally, but also rights individual (TS, 2007). Suffering ongoing patients, though with technology sophisticated, sometimes make patient or his family want termination life as solution final for suffering that is not bearable. Actions like This bring question about human rights violations (Petrus, 2001). Association (IDI) in 1990 established that man considered dead when stem his brain stop works, based on function stem brain as center mover breath and heart (Suprapti, 2001). At level internationally, the Netherlands became the first country to legalize it *Euthanasia* on in 2001, followed Belgium. In Asia, Japan Once legalize *Voluntary Euthanasia* on 1962. In the United States, though *Euthanasia* illegal, there is enabling law *assisted suicide*. However, the case in Indonesia shows this that request *Euthanasia* often rejected by the court (Gunawadi, 2010). The Criminal Code (KUHP ) states *Euthanasia* as action illegal, with threat criminal in accordance with Article 344 of the Criminal Code. In

relation with law criminal, problems *Euthanasia* must analyzed based on three aspect main : prohibited acts, perpetrators, and crimes (Ubbe, 2000). Some experts opinion that without permission patient, action anything by a doctor Can considered as *Euthanasia* passive, which remains is at in category *Euthanasia* (Achadiat , 2007).

## 2. METHODOLOGY

This writing uses a normative juridical approach method with a written legal rules approach in addition to knowing the applicable principles and identifying the meaning, responsibility of doctors towards patients in accordance with the Criminal Code and Health Law as well as controversial issues regarding *Euthanasia*.

## 3. RESULTS AND DISCUSSION

### *Understanding Euthanasia*

*Euthanasia*, a concept originating from the Greek word “ethanatos,” combines “eu” (meaning beautiful, honorable, or done with dignity) and “*thanatos*” (meaning death), literally translated as “good death” or “death.” with dignity.” A writer of Rome, Suetonius, defines *Euthanasia* as a rapid death process without accompanied suffering. According to Amelin (1991), the *Euthanasia* Study Group from KNMG Holland ( Dutch Doctors Association) defines *Euthanasia* as action on purpose avoid intervention medical for speed up or end life patient for good the patient. Since 19th century, term *Euthanasia* has used for describe effort reduce pain and suffering for those who are face death with help medical (Petrus, 2001). *Euthanasia* can classified to in three category based on room scope :

- a. In narrow usage, *Euthanasia* refers to care medical purpose remove suffering without violate legal, ethical, or legal norms tradition
- b. By more broad, term the covers treatments that reduce pain with risk shorten age patient
- c. In its most widespread use, *Euthanasia* interpreted as action shorten age, no as effect side, but as means for remove suffering patient

Based on the process of occurrence, death shared become three kind by science knowledge: *Orthothanasia*, death experience ; *Dysthanasia*, death that occurs in a way no reasonable; and *Euthanasia*, death occurred with or without help medical (Gunawadi, 2010). This definition confirm that *Euthanasia* is action taken for avoid suffering more carry on for someone who suffers consequence disease or condition certain. Understanding about *Euthanasia* different between literature medicine and law, where the dilemma appear between consider it as form kill self or murder. This difficulty appear Because *Euthanasia* often done on request volunteer from the person concerned or Because reason strong from other parties involved (Achadiat , 2007). In the medical world, *Euthanasia* understood as action help somebody die more fast for freeing they from suffering caused by disease they. This shows that although There is acceleration death, practitioner medical differentiate action This of " murder " who has connotation criminal. This raises controversy between expert law, theology, and medicine, which require point meeting in discuss *Euthanasia* (Permono & Nurdini, 2011). In Indonesia, the Code of Ethics Indonesian Medicine (Kodeki) interprets *Euthanasia* in three context :

- a) move to the afterlife calm and safe for those who believe ;
- b) relieve suffering patient moment life end with drug sedative ; and
- c) end suffering somebody in a way on purpose on request patient or his family (Ebrahim, 2007)

*Euthanasia*, therefore it is, defined as action end life somebody in a way on purpose for freeing they from suffering, based decision maturity and agreement from patients, families, and physicians involved. This reflects approach holistic and empathetic to maintenance patient at the end life, with consider aspect medical, ethical, and legal in the retrieval process decision.

### *Types of Euthanasia*

*Euthanasia*, in accordance with Muhammad's view (1992), is divided into five main categories, including:

- a. *Euthanasia*, which refers to hastening death by not providing or stopping routine medical treatment;
- b. *Euthanasia*, which involves direct or indirect action to cause death;
- c. *Euthanasia*, in which death is hastened at the request of the patient. In contrast, involuntary *Euthanasia* or *mercy killing* , is carried out without the request or consent of the patient;
- d. *Euthanasia nonvoluntary*, carried out based on the patient's wishes conveyed by a third party or a decision from the government.

Develop understanding this, Amelin (1991), Muhammad (1992), Prakoso & Djaman (1994) provide categorization more in about *Euthanasia*, including :

- a. *Euthanasia* active, involving action direct or no direct for end life ;
- b. *Euthanasia* active direct (direct), where professional health with on purpose do action medical, like injection overdose morphine, with primary goal for end life patient ;
- c. *Euthanasia* active no direct (indirect), where the action medical done without objective for end life patient, however with known risks can shorten life patient, like giving dose reasonable morphine for relieve intense suffering. The main goal is relieve suffering with consequence side that this can shorten life patient;
- d. *Euthanasia* voluntary, expedited on request or agreement patient;
- e. Nonvoluntary *euthanasia*, performed in accordance with desire patient submitted by the party third or decision government;
- f. The act of letting go death happened, where patient with firm and fast want death ;
- g. Failure act for prevent death, where death happen Because negligence or failure doctor in take possible actions prevent death ;
- h. Positive action for cause death , where is the doctor in a way active speed up death;
- i. *Euthanasia* passive, where professional health on purpose stop give maintenance medical can extend life patient;
- j. Auto *Euthanasia*, where patient in a way aware reject maintenance known medical can shorten life or end life patient.

Basically, *Euthanasia* active often not approved by society Because considered as action murder and immorality. This happened because doctor, with action medical, trying shorten age and speed up death patient. Internal doctor context this see patient in condition dying and choosing for end his suffering with *Euthanasia* active, like give injection for a quiet death (Mangara et al., 2021). *Euthanasia* active is also interpreted as *Euthanasia* rels, where patient give permission and approval for stop extended care life (Wibowo, 2021). Lumerton JP, like quoted by Soekanto (1990), classifying *Euthanasia* become a number of kind of basically is form murder or statement death , namely :

- a. Let somebody dead, where? death happen Because patient no need maintenance more carry on and hope can healed ;
- b. Death mercy pity (*mercy death*), murder done on request patient for end his life ;
- c. Murder mercy pity (*mercy killing*), action murder through decision medical for end life patient, with or without agreement from patient or other parties volunteer ;
- d. Death brain (*brain death*), statement death medical when brain no Again works and doesn't can arrange vital body functions.

Classification the show that *Euthanasia* shared into two types main based on his actions and assumptions, viz *Euthanasia* passive, involving termination maintenance medical for speed up death under conditions certain, and *Euthanasia* active, involving action direct for end live, often with objective for end suffering or disease.

#### *Euthanasia in Indonesian Criminal Law Regulations*

In context law Indonesian crimes, violations and crimes to related legal norms with interest general arranged with strict (Fadlian, 2020). Interest law this includes, among others:

- a. State institutions and regulations legislature, including that country themselves, state institutions, state officials, who handle it cases like criminal, rebellion, humiliation, evasion taxes, and resistance to internal state officials operate his duties ;
- b. Rights individual, which includes soul, body, freedom, honor and wealth object the individual the.

Until moment this, not yet there is Constitution specifically and comprehensively in Indonesia direct arrange about *Euthanasia* (Warjiyati, 2020). Although so, because *Euthanasia* related tightly with security and safety life human , necessary searching for rule or that article at least approach elements action *Euthanasia* (Atmadja & Purwani, 2018). Base applicable law, according to the Indonesian Criminal Code (KUHP), especially related with governing articles about crime to life man. Although in the criminal code no in a way explicit there is article that mentions about *Euthanasia*, articles such as 304, 338, 344, 345, and 359 of the Criminal Code regulate about prohibitive action good *Euthanasia* active nor passive. Article 344 of the Criminal Code Specific state that everyone who ends other people's lives over clear and earnest request from that person will punished prison maximum twelve year. Request this must stated with clear and serious. If not, take action the considered as

murder normal. Importance attention to request this determine is somebody can punished based on Article 344 of the criminal code or no. In assessing truth from action *Euthanasia* based on pity This is very important for prove clear request and seriousness request that, fine through witness nor other evidence. Crime to life human, based target crimes committed, shared become three group :

- a. Crime to soul man in a way general ;
- b. Evil against soul new child or recently born ;
- c. Evil against soul still child in content.

There are five types crime to soul humans , namely :

- a. Murder deliberately , arranged in Article 338 of the Criminal Code;
- b. Premeditated , orchestrated murder in Article 340 of the Criminal Code;
- c. Murder with qualification certain things are aggravating punishment, regulated in Article 339 of the Criminal Code;
- d. Murder on request explicit and serious from the victim, arranged in Article 344 of the Criminal Code;
- e. Deliberate action encourage, help or provide means for kill self, arranged in Article 345 of the Criminal Code.

*Euthanasia* passive, involving termination help medical for extend alive, differentiated become :

- a. *Euthanasia* passive on request patient, no punished ;
- b. *Euthanasia* passive without request patient, arranged in Article 304 jo 306 paragraph 2;
- c. *Euthanasia* passive without attitude clear from patient , arranged in Article 304 jo 359 paragraph 2.

The Criminal Code confirms that life man is the most valuable right you have individual , and every threatening action security and safety man considered as crime big by country. Until moment this, without looking at religion, race, color skin, and ideology, security and safety life humans in Indonesia are guaranteed by la. Although so, deep context law Indonesian crime, *Euthanasia*, Good active nor passive, fixed forbidden. The action " terminates life someone " top the person's request Still qualified as follow criminal, threatened with punishment for the perpetrator is the one who violates it prohibition the.

#### *Euthanasia in Indonesian Health Law*

Development knowledge knowledge and technology, in particular in field medicine, has bring impact significant to evolution law, esp in scope law health. Health law, or health law, according to Koeswadji (1992), includes more spectrum wide than law medicine, which focuses on relationships the law where the doctor or professional health other involved. Health law relate direct with aspect maintenance health, as well application law civil, criminal, and administrative public, also accommodates principles international, jurisprudential, as well knowledge knowledge and literature. Understanding health that alone has develop since its publication decision by the Minister of Health of the Republic of Indonesia in 1982 concerning National Health System, expanding the meaning of health for covers mental and social aspects economics, no only physique. In accordance with WHO and the Law Number 36 of 2009 concerning Health, health covers effort integrated and sustainable preventive, promotive, curative and rehabilitative services. In context law health, problems *Euthanasia* show complexity certain. In Indonesia, before validation Constitution Number 17 of 2023 concerning Health, not yet there is regulations that are explicit arrange about *Euthanasia*. However, with enactment constitution new this, especially Article 75 which emphasizes efforts health a proactive, integrated, comprehensive and sustainable spirit, incl effort prevention kill self, visible clear exists shift view to handling mental health and potential For discuss more carry on about issue *Euthanasia*.

#### *Chapter 75*

- (1) Effort Health soul given in a way proactive, integrated, comprehensive, And sustainable throughout the human life cycle for people who risky, person with disturbance soul, and public.
- (2) Effort Health soul as intended on paragraph (1) includes effort prevention kill self through prevention factor risk kill self, prevention the emergence of thoughts about self-harm, and prevention test kill self.

The author's opinion on Article 75 shows that the Indonesian government recognizes the importance of a preventive and comprehensive approach in dealing with mental health, which can provide new insights into discussions about *euthanasia*, especially in the context of suicide prevention and management of mental disorders. Although Constitution Number 17 of 2023 no in a way explicit arrange about *Euthanasia*, inclusion effort health soul This can interpreted as step beginning going to more understanding holistic and integrated about issue health, incl *Euthanasia*. At level international, practice *Euthanasia* diverse, with several countries such as the Netherlands and Belgium has legalize it, while in other countries such as Spain, Germany, and

including Indonesia, *Euthanasia* Still considered as crime. Exploration to practice international this give context important in understand How views and laws to *Euthanasia* can different based on context social, cultural and legal of each country. Through lens Constitution Number 17 of 2023, understanding new about health soul and prevention kill in Indonesia you can become base for more dialogue carry on about *Euthanasia*, with consider well-being patient, rights basic humans, and ethics profession medicine. This confirms return importance role doctor in protect life humans, as arranged in KODEKI, and maintain principles ethics comes first protection and maintenance life .

#### 4. CONCLUSION

*Euthanasia* is very complex and sensitive issue, involving consideration deep about ethics , morals, rights basic humans, as well law . In context law Indonesian crime, *Euthanasia* Still forbidden, fine that in form active nor passive, as in reflected in the Criminal Code (KUHP). Although not yet There is regulations specifically that explicit arrange about *Euthanasia* in law Indonesian health, development latest through Constitution Number 17 of 2023 concerning Health, especially Article 75 which emphasizes efforts health comprehensive soul, giving perspective new to issue mental health and prevention kill self, that is no direct related with discussion about *Euthanasia*.

1. Harmonization Regulations : Need there is effort more carry on for harmonize regulations law criminal with law health related with management and treatment to terminal patient or patient with disturbance soul heavy. This harmonization important for ensure that patient get appropriate care with dignity humans, all at once protect professional health from potency conflict law.
2. Development Mental Health Policy : Remember importance aspect health soul in discussion about *Euthanasia*, development policy health more soul inclusive and proactive need strengthened. This includes prevention early, detection, and intervention for disturbance soul, as well support social for people with disturbance soul and family.
3. Open Public Discussion : Need exists discussion an open and inclusive public about *Euthanasia*, involve various holder interest including professional health, academia, government, as well public general. This discussion can help build more understanding wide about issue these, as well identify empathetic and ethical solutions.
4. Education and training Health Professionals : Increase education and training for professional health about issues ethical, legal, and communication in handling terminal patient or with disturbance soul heavy . This matter important for ensure that they be equipped with necessary knowledge and skills for face dilemma ethical, incl issue *Euthanasia*.
5. Development Alternative Maintenance : Push development and access to alternative maintenance for terminal patients , such as maintenance palliative, which can give quality more life good for patient and reduce request to *Euthanasia*.

With consider complexity and sensitivity issue *Euthanasia* , is very important for Indonesia to approach topic this with be careful, make sure that every policy or regulations developed honor dignity human, promote justice, and protect right basic all parties involved .

#### REFERENCES

- Achadiat, C. m (2007). Dynamics Ethics & Law Medical In Challenge Era . Book Medical EGC.
- Adhere System Law Europe Continental And System Law Brazier Saxons. Jurisprudentie: Department of Law, Faculty of Sharia and Law , 4 (1), 83–102. <https://doi.org/10.24252/jurisprudentie.v4i1.3666>
- Aditya Devotion. Alumni.
- Amelin, F. (1991). Capita Selecta Medical Law . Graphicstama Jaya.
- Amiruddin, m (2017). Comparison Implementation Euthanasia In Country Which
- Atmadja, IBP, & Purwani, SPME (2018). Patient Legal Protection Euthanasia Reviewed from Perspective Law no. 8 years 1999 Regarding Consumer Protection. Actual Justice: Master's Scientific Journal Law University Postgraduate Ngurah Rai , 3 (1), 50–58.
- Ebrahim, A.F.M. (2007). Euthanasia Cloning , Blood Transfusion, Transplantation Organ And Experiment in animals . Porch Knowledge Universe.
- Fadlian, A. (2020). Accountability Criminal In Something Framework Theoretical. Journal Positum Law , 5 (2), 10–19.
- Gunawadi, J. (2010). Medical Law (Medical Law) . Faculty Publishing House Medical University Indonesia.

- Hendrik. (2010). Health Ethics and Law . EGC Medical Book.
- Koeswadi, H. H. (1992). A number of Problem Law And Medic . Image
- Korowa, I. (2019). Study Juridical About Euthanasia According to Criminal Code. *Lex Crime* , VIII (9), 69–76.
- M. Yusuf, & Amir. (1999). Ethics Medical And Law Sad . Book Medical EGC.
- Mangara, A., Julianto, & Lismawati. (2021). Ethics Nursing: Book Practical Become Nurse Professional . Publisher Manners.
- Muhammad, K. (1992). Technology Medical And The challenge To Biotics . Scholastic References Main.
- Permono, K. S. H., & Nurdini. (2011). Euthanasia Reviewed From Law Islam And Positive Law (Criminal Code) . Guardian Demak Press.
- Peter, K. (2001). Etuhanasia in Perspective Right Asasi Man . Media Pressindo.
- Prakoso, D., & Djaman, N. A. (1994). Euthanasia Right Asasi Man And Law Criminal . Ghalia Indonesia.
- Soekanto, S. (1990). Facets Law And Obligation Patient in Framework Law Health . Mandar Proceed.
- Suprpti, S. R. (2001). Ethics Medical Indonesia . Foundation Build References Sarwono Prawirohardjo.
- T.S., K. (2007). Right On Degrees Health Optimal As HAM in Indonesia .
- Ubbe, A. (2000). Report End Team Assessment Problem Law Implementation Euthanasia .
- Warjiyati, S. (2020). Implementation Euthanasia in Perspective Cleric And Right Asasi Man. *Al-Jinayah: Journal Law Islamic Crime* , 6 (1).
- Wibowo, S. (2021). Overview Juridical To Action Euthanasia in Perspective Interconnective. *Journal Law Messenger Justitia* , 1 (2), 140–158.