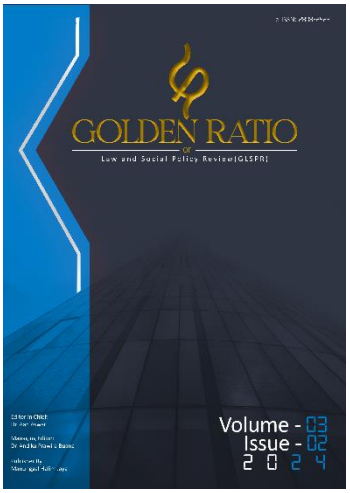

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LAW & SOCIAL POLICY | RESEARCH ARTICLE

A Comparative Legal Study: Euthanasia for Psychological Reasons

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Abstract:. This research conducts a comprehensive examination of euthanasia within the legal frameworks of Indonesia and the Netherlands, aiming to elucidate the criminal liability associated with this act. Employing a normative legal research approach, the study analyzes written legal materials, including regulations, legislation, books, journals, and related legal sources, to facilitate a cross-jurisdictional comparison. The findings reveal distinctive legal perspectives in the two countries. In the Netherlands, euthanasia was initially deemed a criminal offense under penal code sections 293 and 294. However, the landscape evolved with the enactment of the Dutch Law on Termination of Life on Request and Assisted Suicide in 2001. This legislation, effective from April 1, 2002, decriminalized euthanasia under specific conditions. Conversely, in Indonesia, euthanasia, particularly active euthanasia, lacks explicit recognition in positive law. Despite the absence of clear regulations, it is generally treated as a form of murder due to its implication in ending a person's life. Examining criminal liability in Indonesia, the study identifies article 344 of the Criminal Code as the closest provision related to euthanasia. However, detailed regulations are lacking. Additionally, the medical code of ethics plays a role in shaping responsibility. Doctors violating article 7d of the medical code of ethics, which mandates the immediate protection of human life, particularly patients, may face consequences. In conclusion, this research underscores the contrasting legal stances on euthanasia in Indonesia and the Netherlands. While the Netherlands has embraced a legalized and regulated framework, Indonesia's legal landscape remains silent on the matter. The study also highlights the need for clearer legal provisions in Indonesia and emphasizes the role of medical ethics in shaping the responsibility associated with euthanasia.

Keywords: Euthanasia Law; Euthanasia Patient; Ending Life;

1. INTRODUCTION

Euthanasia is a request that can be made or requested by a patient or patient's family where the patient has experienced or has a serious illness where the possibility of survival is very small. Euthanasia is one of the parts contained in the science of health (Bocelo & Lozano, 2022; Ebrahim, 2007; Gupta & Bansal, 2023; Heintz, 1994). One part of human rights that we know is health, which is one of the welfares that must be realised in accordance with the goals of the Indonesian nation. We know that at this time, technology in the field of medicine is very rapidly developing, various discoveries that can provide life expectancy for humans who have a disease. Various facilities and infrastructure as well as the provision of experts are so pursued so as to meet the needs and demands of the medical world in this day and age. However, the development of technology and science in the field of medicine does not rule out the possibility that someone will still be affected or suffer from certain diseases categorised as serious diseases, such as brain death, heart failure, malignant cancer and also other diseases where we all know that the level of safety in patients experiencing certain diseases is unlikely (Razy & Ariani, 2022; Singh et al., 2007).

Various serious diseases can make a patient feel so much pain that not a few of the patient's family feel sorry for the patient's illness. This often leads to requests from the patient or the patient's family to the doctor to be able to take Euthanasia or lethal injection. However, the problem with taking euthanasia is that not all countries in their legal system can give permission to take this action. In its conception, the rules of euthanasia in various countries are very different. In some countries, euthanasia is categorised as legal by fulfilling certain conditions, while in other countries euthanasia is considered as an unlawful act because it has ended someone's life (Tack, 2011).

The act of euthanasia has not been regulated in Indonesian legislation. This is as in Law Number 36 Year 2009 on Health Law and Law Number 24 Year 2007 on Medical Practice, there is no regulation on Euthanasia. The absence of such regulation is very reasonable because Indonesia is a country that upholds as a religious country, where religion clearly prohibits the act of Euthanasia given by doctors for patients who have certain diseases and are also serious. This is because every religion believes and believes that only God can control the life and death of a person. From the point

of view of human rights in Indonesia, Article 9 paragraph (1) of Law No. 39/1999 emphasises, "every human being has the right to live, maintain life and improve their standard of living". And humans have the right to be able to determine their lineage, which is called self-determination, which is the inherent right to live healthy, prosperous, and not the slightest thought about the right to die. It is clear that the act of euthanasia is an act of violation of human rights, because it has violated the essence of a human being's right to life, which has been regulated in the 1945 Constitution protecting the right to life in Article 28A of the 1945 Constitution which states that everyone has the right to life and the right to defend his life and life. So that the right to die is not contained in it.

Euthanasia is an act that can be categorised as an unlawful act because it can end the life of a patient who is experiencing a serious illness, or stop the treatment and handling of the patient. In this case, the doctor who plays a role at the same time can be used as a perpetrator of a criminal offence even though the intentions and objectives of the doctor are good. In this context, if a doctor commits an act of euthanasia not only violates criminal law, the doctor can also be sanctioned for violating what has been stated in the Code of Medical Ethics (Alias et al., 2014).

When connected with Indonesian positive law, especially in Article 344 of the Criminal Code which reads "Anyone who takes the life of another person at the request of the person himself, which he states clearly and seriously, shall be sentenced to imprisonment for a maximum of twelve years". Article 345 of the Criminal Code prohibits any person from assisting, encouraging, and providing facilities for people who want to end their lives, so that doctors or people who provide assistance to a patient to carry out acts of euthanasia can be punished under these articles. Previously, euthanasia was also illegal in the Netherlands under articles 293 and 294 of the Dutch penal code. However, over time, on 10 April 2001 the Netherlands passed a law allowing euthanasia, the wet van. This law was declared effective on 1 April 2002. The regulation of euthanasia in Dutch positive law is regulated in Article 2 of Wet van 12 April 2001 *Wet toetsing levensbeeindiging op verzoek en hulp bij zelfdoding* or the Act on Procedures for Voluntary End of Life and Exceptions to Criminal Provisions.

One such case was experienced by a patient named Marieke Vervoort, a paralympic athlete from Belgium who decided to end her life with euthanasia or lethal injection. The 40-year-old woman had a spinal cord injury that caused constant pain, making it difficult for her to sleep. After battling the pain for her entire life, Vervoort decided on euthanasia with the approval of three different doctors. Vervoort revealed that he was no longer afraid of death (Sloan, 1995). According to her, euthanasia is peaceful because through this procedure she does not have to feel like dying and like going to sleep but never waking up again.

So far there are still many pros and cons regarding this procedure, especially in Indonesia and the Netherlands. Indonesia has Article 344 of the Criminal Code, which can also be referred to as the Euthanasia Article, while in the Netherlands this provision is contained in Code Penal Section 40 or the written rules of Dutch criminal law. The pro-euthanasia side argues that every human being has the right to life and the right to be able to end their life for humanitarian reasons (prolonged pain / unbearable pain). Meanwhile, those who oppose the act of euthanasia assert that every person's life and death is only God who can regulate it, and this right is absolute from the almighty God.

Reviewing the legal comparison between Indonesian law and Dutch law related to the act of euthanasia, the term comparative law itself in foreign languages is translated as Comparative Law, vergleihende rechstlehre, Droit Compare. This term in higher legal education in the United States is often translated differently, namely as conflict law or translated into dispute law which means it becomes different for legal education in Indonesia. Legal comparison will be more comprehensive if what is compared is not only different legal systems but also laws in different legal systems or legal traditions. According to several expert opinions regarding comparative law, among others, saying that comparative law is a method of investigation with the aim of being able to obtain a deeper knowledge of certain legal materials. Comparative law is not a set of legal rules and principles nor is it a branch of law, but rather a technique for dealing with foreign legal elements of a legal problem .(Huda, 2020) Euthanasia for Psychological Reasons in the Perspective of Indo-Positive LawThe meaning of the word compare here is to look for and signal differences as well as similarities by providing explanations and examining how useful the law is and how the juridical solution is in practice and which non-legal factors affect it. The importance of comparative law is evident from the fact that sub-specialisations have arisen in the following areas: Indonesian and Dutch. Descriptive Comparative Law is a study that aims to collect materials about the legal systems of various societies. The way of presenting comparisons can be based on certain legal institutions that are part of the institution. The emphasis is on descriptive analysis based on legal institutions. Comparative History of Law is closely related to history, legal sociology, legal anthropology and legal philosophy. Comparative Legislation or Comparative Jurisprudence uses materials used in comparative law in the form of materials directly obtained from the community as primary data, as well as library materials as secondary data. The literature materials can be primary, secondary or tertiary legal materials in terms of their binding force. Comparing laws is not just to collect laws and regulations and look for

differences and similarities, but the most basic special attention in comparative law is addressed to the question of how far the laws and regulations or unwritten rules are implemented in community life. Therefore, differences and similarities are sought so that this legal comparison can be known that in addition to the many differences there are also similarities (Hartono, 1998).

The approach to the theory of legal objectives because it has a goal to be achieved, and in its function as the protection of human interests, the law has its own objectives. The purpose of law is the direction or target to be realised by using law as a tool in realising this goal by regulating the order and behaviour of society. The history of the development of legal science is known as three types of conventional schools about the purpose of law, namely as follows:

The ethical school, which considers that basically the purpose of law is to achieve justice, the utilitarian school, which considers that basically the purpose of law is solely to create benefits or happiness of citizens and the formal juridical school, which considers that basically the purpose of law is solely for legal certainty. The purpose of law according to this ethical theory is solely to achieve justice and give everyone their rights. Meanwhile, the purpose of law according to utilities theory is to provide benefits or benefits for everyone in society. In essence, the purpose of law is to provide happiness or great pleasure and benefit to a person or group in a society in large numbers.

The purpose of law according to experts is as follows: Aristotle put forward an ethical theory according to which the law is solely to achieve justice. The point is in giving something to every person or society, for what is right. It is called an ethical theory because the content of the law is solely determined by ethical awareness of what is fair and unfair. Jeremy Bentham put forward the utilitis theory, according to which the law aims to achieve usefulness or expediency. This means that the law aims to ensure happiness for as many people or communities as possible. Purnadi and Soerjono Soekanto stated that the law aims for the peace of life of every human being consisting of external order between individuals and internal peace of each community. According to his opinion, namely to provide safety and happiness and order in the community environment. In its conception, the law is used to achieve the goals of a country which is inseparable from this goal is to prosper its people with a fair context. The relevance of the theory of legal objectives to the title that focuses on legal comparison and certainty is to realise the occurrence of legal objectives after a legal comparison to sort out whether Euthanasia can be legalised in Indonesia or is still contrary to the conception of positive law, religion, and customary law that still applies in Indonesia.

Legal System Theory when the formation of a country's legal system is inseparable from the history and legal culture that grows and develops from a society. The legal culture that develops causes a country to implement a written or unwritten legal system (Huda, 2020).

The implementation of the legal system is influenced by sub-systems, which in Friedman's view consist of legal substance, legal structure, and legal culture. The three subsystems are indicators of the successful application of law in society, legal system theory is an overall interrelated statement regarding the conceptual system of legal rules and legal decisions. However, not every set of interrelated statements can be called a legal system theory. To be called a legal system theory, 3 (three) conditions are required, namely: (Hasanah & Suatuti, 2019)

There must be a problem that is studied, there must be a certain method, there is a set of consistent statements that embody the theory as a product of scientific activity. In the context of comparative law, the legal system that applies in the Netherlands is a legal system characterised by civil law with a civil law system, or what is commonly referred to as the European continental legal system. Basically, every law must be codified as the basis for the enactment of law in a country. In other words, the main source of law in the civil law system is written laws or rules. The Continental European legal system is characterised by an abstract model of thought that gives birth to abstract, well-conceptualised legal concepts as seen in the statute book. So that the Continental European legal system is a legal system characterised by the existence of several legal provisions that are codified (compiled) systematically which will be further interpreted by judges in their application (Holijah, 2021).

The main principle of the Continental European legal system is that the law obtains binding force, because it can be realised in regulations in the form of laws and arranged systematically in certain codifications or compilations. As for some of the characteristics of countries with continental European legal systems, namely: (Is, 2021) Namely the existence of a system of state government based on the sovereignty of the people, that the government in carrying out its duties and obligations must be based on law or legislation, there is a guarantee of human rights in the context of citizens, there is a division of powers in the state, there is supervision from judicial bodies, there is a real role of members of the community or citizens to participate in overseeing the actions and implementation of policies carried out by the government, there is an economic system that is useful to be able to ensure equitable distribution of resources needed for prosperity for every citizen. Adherents of the civil law system provide great flexibility for judges to decide cases without the need to hesitate to follow the decisions of previous judges or jurisprudence. The written rules that judges are guided by

are the rules made by parliament, namely the law. In the Indonesian legal system, for many positive law experts, law can reflect the history of the formation of a nation. In fact, the story of the development and progress of a nation over the years can be seen from the history of the development of the legal system of the nation. (Syukri, 2008)

The Indonesian state in its content adheres to a law called positive law, as stated in the 1945 Constitution of the Indonesian State. Indonesian law is the applicable law, consisting of and manifested by legal rules that are interconnected with each other, and therefore It is an arrangement or order that is called the Indonesian legal system. Indonesia is a country that adheres to the continental European legal system or civil law or rechtaat. This can be seen from history, legal politics, legal sources and the law enforcement system. However, the formation of applicable laws and regulations in Indonesia is influenced by the customary law system and also the Islamic law system. This legal system is known as positive law, which is a translation of ius positium from Latin, which literally means established law. In the Indonesian positive law system there are civil law subsystems, criminal law subsystems, constitutional law subsystems and others, where each subsystem is different, however all subsystems in the Indonesian legal system are a unified whole to realize security, order and justice in society, so that legal awareness is everyone's obligation to obey the legal rules or norms that apply in Indonesia (Raharjo, 2018).

The civil law adopted by Indonesia whose main principle is to posit law in the form of written rules or stated in the form of laws, however in Indonesia in terms of legal aspects it is also influenced by the Islamic legal system and the customary legal system. Islamic law as part of the law that has lived in Indonesian society since hundreds of years ago has apparently influenced the style of law in Indonesia, this is because the majority of the population in Indonesia adheres to the Islamic religion which allows Islamic law to become an important and influential part of the legal system in Indonesia, so Islamic law or Islamic jurisprudence can essentially be interpreted as a law that regulates human actions and attitudes in two directions, namely: (Ahmad & Lolo, 2022) Regulating the relationship between humans and God is called the law of worship or sharia, and regulating the relationship between humans and humans in society is called muamalah.

Customary law as native Indonesian law is experiencing a period of fluctuation with the increasingly disappearing existence of customary law as a source of law in Indonesia. The main reason is because of the perception that customary law is very primitive, backward and ancient. The implications of Indonesian legal politics can be seen in solving problems in society which tends to ignore customary law and prioritize state law, even though it is actually more relevant than using state law. There are many horizontal conflicts between indigenous communities in one area which should be resolved through the role of indigenous community resolution institutions in that area.

In 1981, in Indonesia a new branch of legal science emerged that was previously unknown. This started when the “Dr. Setianingrum” in Pati, Central Java. This case caused a lot of reactions from both the medical profession and the legal world, especially from the public (Takdir, 2018). Since this incident, the world of law (*Themis*) and the world of medicine (*Aesculapius*) met in a new forum in Indonesia, becoming a new branch of the legal discipline, namely Medical Law, then became Medical Law, and finally expanded into various the scope of discussion becomes Heath Law or *Gezondheitsrecht*. The result of the "Pati" case has awakened society from its long 'sleep' to know the rights of victims in the world of medicine and the world of health (Takdir, 2018).

Medical Law and Health Law began to be introduced in Indonesia with the formation of the Study Group for Medical Law at the University of Indonesia on November 1 1982 at RSCM, by several doctors and law graduates who took part in the World Congress of Medical Law in Gent, Belgium in 1982. This study group was then formed Association for Indonesian Medical Law (hereinafter referred to as: PERHUKI) on July 7 1983. In its journey and development, it appears that there is an imbalance if only Medical Law is developed, while other branches of Health Law are not developed, such as Pharmacy Law, Nursing Law, Law Hospitals, and others (Sjahdeini, 2021). At the First National Congress of PERHUKI in 1987, on the advice of the Minister of Justice and the Directorate General of Health, and based on the aspirations of the majority of PERHUKI members, it was agreed to change the scope of this association to become the Association for Indonesian Health Law.

Health law is all legal provisions that relate directly to health maintenance or services and their implementation. (Sjahdeini, 2021) Health law, including the "*lex specialis*" law, specifically protects the duties of health professionals (providers) in human health service programs towards the goal of the declaration "health for all" and specifically protects patient "receivers" to obtain health services. (Triwibowo, 2014).

Health law is a series of statutory regulations in the health sector that regulate medical services and medical facilities. Health law can also be interpreted as rules regarding healthy conditions, both physically, mentally, spiritually and socially, which can enable everyone to live productively, both socially and economically. This means that health law is a written rule regarding the relationship between health service providers and the community or community members. So that this health law

regulates the rights and obligations of each service provider and service recipient or community, both as individuals as patients or community groups who can receive medical services. (Diwyarthi et al., 2023).

Health law is the totality of legal provisions that are directly related to health services and the application of the rules of civil law, state administrative law, and also criminal law in relation to this matter. Thus, it can be said that health law is all norms or a collection of regulations that regulate matters relating to medical services (Siswati, 2013). Increasing the nation's resilience and competitiveness for national development considering that health is a human right and an element of prosperity that must be realized in accordance with the ideals of the Indonesian nation as intended in Pancasila and the 1945 Constitution of the Republic of Indonesia (Afriko, 2016).

Health law is a branch of legal science that has relatively recently developed in Indonesia. Health law covers aspects of civil law, administrative law, criminal law and disciplinary law aimed at the health subsystem in society. One of the elements in health law are these definitions, namely legal subjects, rights and obligations, legal events, legal relationships, legal objects, and legal society. The scope of health law is known to be broader than medical law. Health laws are not reflected in special books, such as the Civil Code or Criminal Code, but are spread across various statutory regulations regarding human health alone. Health law is divided into several statutory regulations, including in the fields of application, interpretation and evaluation of facts relating to criminal, civil and administrative law, as well as health care or medicine (Afriko, 2016). Currently, health legal regulations in Indonesia refer to Law no. 36 of 2009 concerning Health. Several important matters regulated in this law concern various matters, including health efforts, health workers, health facilities, as well as medicines and health equipment.

There are various reasons for carrying out euthanasia, due to economic factors, not finding a cure for the patient's disease or the patient no longer has anyone to care for him, but if it is related to human rights, euthanasia certainly violates human rights, especially the "right to life", which is intended to protect one's life against the arbitrary actions of others. Therefore, the issue of euthanasia, which is defined as death that occurs due to the help of a doctor at the request of himself or his family, or the action of a doctor who leaves a sick patient alone, is considered a violation of the patient's right to life (Damar et al., 2020).

A legal country like Indonesia must see the legal basis of Euthanasia itself in Indonesian national law which is specifically seen in the scope of criminal law. If we talk about criminal law, all regulations regarding criminal law itself are sourced from the Criminal Code, the Criminal Code regulates Euthanasia explicitly in article 304 The Criminal Code and Article 344 of the Criminal Code, these two articles expressly state Articles 304 and 344 of the Indonesian Criminal Code (Damar et al., 2020). After looking at the two articles, it is certain that euthanasia is prohibited in Indonesia in any form and for any reason, killing with deliberate intention to cause suffering and even at the request of the victim is still subject to criminal penalties for the perpetrator. Thus, in the context of positive law in Indonesia, euthanasia is still considered a prohibited act. Thus, in the context of positive law in Indonesia, it is not possible to end a person's life even at the person's own request. This act is still qualified as a criminal act, that is, an act that is punishable by crime for anyone who violates the prohibition. In fact, the perpetrator of euthanasia could be the perpetrator of a criminal act because the perpetrator of euthanasia fulfills the elements of a criminal act, namely the presence of intention and deliberateness, not only that, the initial act of active or passive euthanasia fulfills the elements of the crime of premeditated murder. If you look deeper, there are even several articles in the Criminal Code that can strengthen it. that euthanasia is a criminal act (Damar et al., 2020).

Doctors or medical personnel who carry out euthanasia can also be threatened with Article 57 of the Criminal Code, Article 56 of the Criminal Code, and Article 55 of the Criminal Code regarding participating in committing a criminal act because the medical action carried out must be carried out by the doctor and medical personnel together. The act of participating in a criminal act can be declared if in the occurrence of a criminal act there is the participation of another person or several people (Murty et al., 2020). The Criminal Code also regulates things that can reduce or eliminate penalties for criminal acts, so that not everyone who commits a criminal act receives a criminal sentence. This also applies to medical personnel or doctors who have carried out euthanasia. In the provisions of Article 48 of the Criminal Code which states that "whoever commits an act under the influence of a coercive force, shall not be punished", the sentence "due to the influence of a coercive force" must be interpreted as whether physical, physical or spiritual influence is included in the influence of a coercive force. With the influence of this article, it can be said that a doctor or medical personnel who carries out euthanasia due to the influence of coercive force, the doctor or medical personnel will receive a reduced criminal sentence, will not be charged with punishment and can be freed from the threat of criminal punishment contained in the Criminal Code (Murty et al., 2020).

Based on the provisions contained in the articles that have been described, this analysis shows that there are only very few policies to implement euthanasia in Indonesia even though the Criminal

Code itself has expressly prohibited euthanasia in Indonesia. Professor Separovic, an expert in medical law, believes that Contemporary developments have posed a whole series of new problems. One could even say: if medicine is in trouble because of too much change, law is in trouble because of too little change. Based on this opinion, although in the future there is an opportunity for euthanasia to be implemented in Indonesia, it would be better if its implementation were given certain limitations, so that the policy of implementing euthanasia can protect the interests of patients, patient families, medical personnel and doctors, and even the wider community (Murty et al., 2020).

2. Research Method and Materials

This research is basically normative legal research which focuses on analysis of the legal aspects of euthanasia in Indonesia and the Netherlands. Normative research methods rely on legal data sources, with the types and sources of legal materials used including primary, secondary and tertiary legal materials. Primary legal materials are the main focus of this research, especially binding laws in both countries, namely Indonesia and the Netherlands. Analysis of the significant changes in legal views towards euthanasia in the Netherlands was carried out through a study of legislation, especially The Dutch Law on Termination of Life on Request and Assisted Suicide which was enacted in 2001. The use of primary legal material provides a basis for understanding regulatory developments that influence assessment. Laws against euthanasia in the Netherlands. Apart from that, this research also utilizes secondary legal materials, which provide further explanation and context regarding primary legal materials. It includes legal literature, journals, and academic writings that support a deeper analysis and understanding of legal views on euthanasia in both countries. Secondary legal materials act as a complement to enrich the interpretation and understanding of the relevant legal context (Irwansyah & Yunus, 2020). Tertiary legal materials, which provide information about primary and secondary legal materials, also provide support in compiling a comprehensive picture of euthanasia regulations in Indonesia and the Netherlands. By combining these three types of legal material, this research can provide a holistic perspective on the comparison of euthanasia laws between the two countries. In analyzing the data, the author applies descriptive - prescriptive techniques. Descriptive techniques are used to provide a clear and detailed picture of the concept of euthanasia, existing regulations, and legal developments in Indonesia and the Netherlands. Meanwhile, prescriptive techniques are implemented with the aim of providing views or suggestions on the problems faced, especially in the context of euthanasia regulations in Indonesia. Overall, this research not only tries to explore the legal aspects of euthanasia in terms of regulations and laws, but also involves an in-depth analysis of legal views and developments in a broader context. This approach is expected to provide a substantial contribution to the understanding of the issue of euthanasia in the global legal community.

3. Results and Discussion

The development of euthanasia thought began when there were new thoughts related to euthanasia. The first thought considers that people have the right to self determination. The second thought considers that every person does not have the right to die, but rather The right to choose between life and death in this case it can be interpreted that if a person has the right to live, then so does that person also have the right to determine the end of his life (A. M. Sofyan & Munandar, 2021). Looking at the development of euthanasia comprehensively, the basis for the division of euthanasia is based on the results of the 1979 World Congress on Medical Law and the views of health law experts, resulting in a reflection on euthanasia which can be seen as follows (A. M. Sofyan & Munandar, 2021): That euthanasia consists of active voluntary euthanasia, passive voluntary euthanasia, active involuntary euthanasia, and passive involuntary euthanasia. That basically voluntary euthanasia is accepted, but in reality, there is doubt as to its boundaries with active euthanasia which is a violation of legal norms, but in certain cases is exempted as a reason for the abolition of punishment. That the legal institutions regarding behaviour in an emergency which includes *Overmacht* (force) Article 48 of the Criminal Code which can be assessed from an objective view of the medical profession and medical ethics, will be a reason for criminal expungement.

The next development is in 1986, there is a development of normative medical limitations to apply punishment or not against doctors who perform Euthanasia, the following are the limitations or measures, among others (A. M. Sofyan & Munandar, 2021):

1. Related to people suffering from an incurable disease.
2. The suffering is so severe or intense that the pain cannot be endured any longer.
3. The perpetrator is the treating doctor
4. The patient has entered the end-of-life period

5. The patient himself has repeatedly made requests to end his life
6. There must be consultation with other experts.

The above limitations are of course still abstract, so in the next development, namely in 1987, there was a new thought as a standardisation of law enforcement which is complementary, among others: Can release from lawsuits if doctors have carried out their duties in accordance with medical ethics and acted professionally and can release themselves from lawsuits if in the form of Euthanasia.

When viewed from the development of euthanasia in Indonesia, it will be found that there is no data that proves the occurrence of euthanasia activities. This is because, as explained earlier, it is closely related to crucial ethical problems, and medical science is assumed to be a science that can extend a person's life (A. M. Sofyan & Munandar, 2021).

Basically, morality and humanity Euthanasia is very inappropriate. So that not everyone agrees to this, including doctors who are bound by humanitarian values and professional codes of ethics. The reasons for rejecting euthanasia are not only at the level of morality or humanity, but also at a broader level, including religious reasons. The impact of religious reasons is that everything is God's will, including death and human health. The term Euthanasia comes from the Greek language, namely the word Ethanathos. Eu which means good, without judgement, while tanathos which means death. Thus, Euthanasia can be interpreted as dying well without suffering, or in other words dying quickly without suffering (Muntaha, 2013). Euthanasia until now still raises debates in various fields of science including human rights, morality, law and religion, besides that Euthanasia also raises ethical dilemmas for medical personnel. Do medical personnel have the right or have the obligation to fulfil the request to end the patient's life with Euthanasia, while the basic principle of a person working in medicine is to help the patient recover from his illness so that he can extend his life (Kadek Mery Herawati, 2022).

Interpreting euthanasia by drawing the conclusion that euthanasia is an act of killing a patient or allowing the death of a patient naturally, where the patient is suffering from a disease that according to medical science is incurable, and with the aim of not prolonging the suffering experienced by the patient (Muntaha, 2013).

Euthanasia is the act of ending human life with the aim of alleviating suffering. In essence, the meaning of euthanasia is nothing but a doctor's deliberate action, at the request of the patient or his family to end the patient's suffering calmly and well. Touching on the issue of death according to the way it occurs in medical science, is (Muntaha, 2013)

1. Orthotanasia, which is death that occurs due to a natural process.
2. Dysthanasia, which is a process of death that occurs unnaturally.
3. Buthanasia, which is a death that occurs with or without the help of a doctor.

This third type is categorised as Euthanasia and for the first time began to be debated, both scientifically and socially among the public, especially in liberal capitalist countries in the European part of the world. The development of euthanasia is inseparable from the development of the concept of death. The human endeavour to prolong life and avoid death by using medical science and technology raises new issues in Euthanasia, especially with the determination of when a person is declared dead. Some concepts of death are known as death as the cessation of blood flow, death as the moment of detachment of life from the body, as well as the permanent loss of body abilities. Traditionally, death has been determined by medical science using cardiopulmonary standards. These standards refer to the functioning of the heart or lungs. To determine whether a patient is dead or even alive is by feeling for a pulse in several parts of the body, listening to the breath, placing a glass in front of the nose to test the condensation of the breath, and seeing if the pupils of the eyes are still functioning. (Sjahdeini, 2020)

According to medicine, there are three phases (stages) in the process of death, namely:

1. Clinical death, where the signs are the cessation of breathing and the cessation of heartbeat, as well as brain impulses fading and the senses no longer reacting which makes no more movement can be done.

2. Brain stem death, which is the term in the Indonesian medical world, as well as according to the Indonesian Minister of Health Regulation No. 37 of 2014 concerning Determination of Death and Utilisation of Donor Organs called brain stem death abbreviated as "MBO" is the phase before the last phase of the process of death.

3. Biological death, which is the phase where the body becomes rigid and the freezing process begins.

According to Islamic teachings, death is a necessity, as confirmed by Allah SWT in Surah Ali Imran (3: 185) that: "Every (body) that has a soul will taste death" According to Islamic teachings, death is the departure of the spirit from the human body. A person is called dead when his spirit has left his body.

A request for the termination of the life of a patient with a chronic disease or one for which it is no longer possible to provide help, does not necessarily have to be carried out or fulfilled by a doctor, even though in this situation it is a therapeutic relationship between doctor and patient. Therapeutic

agreements do not have to override the basic norms of a state, which do not require the termination of the lives of its citizens, such as the basic norms embodied in Indonesia's constitution.

Regarding the definition of euthanasia, we need to know that there are several types of euthanasia, including (A. Sofyan, 2017): Active euthanasia, is an act carried out medically through active intervention by a doctor with the aim of ending human life. And passive euthanasia, is the act of stopping or revoking all ongoing actions or treatment to maintain the patient's life, or in other words, actions that do not provide any more treatment to terminal patients to end their lives (Hartati & Suryadin, 2022).

Active euthanasia, whether requested or unsolicited, can also be divided into: Direct active euthanasia, which is the performance of a directed medical act, which is calculated to end the life of a patient, or shorten the life of a patient. This type of euthanasia is also known as mercy killing. And indirect active euthanasia, is where a doctor or health worker performs a medical act to alleviate the suffering of a patient, but knowing the risk of shortening or ending the life of the patient. Both types of euthanasia are divided into two parts: Euthanasia at the request of the patient, which is euthanasia performed at the patient's conscious and repeated request. And non-demand euthanasia, is euthanasia performed on a patient who is already unconscious, and usually the patient's family requests it. There is also Auto Euthanasia where the patient himself consciously refuses to get medical treatment from a doctor in order to end his life.

Legal comparison of Euthanasia against Indonesian positive law and Dutch law as well as Euthanasia rules in various countries:

3.1. Euthanasia in Netherland Law

Euthanasia according to a study by a medical group in the Netherlands is deliberately not doing something (nalaten) to prolong the life of a patient or deliberately doing something to shorten or end the life of a patient and all this is done specifically for the benefit of the patient himself (Juwanda & Mahfud, 2019).

The Netherlands was the first country to legalise euthanasia. The Dutch Parliament's approval of the proposal to legalise the activities of Dutch doctors to help patients with severe illnesses who choose to end their lives was obtained after a vote. The support of 104 votes against 40 votes against has proven the parliament's partiality to immediately enact the Euthanasia legalisation law.

On 10 April 2001 the Netherlands passed a law allowing euthanasia, the wet van. This law was declared effective on 1 April 2002, making the Netherlands the first country in the world to legalise the practice of euthanasia. Patients who are suffering from chronic and incurable illnesses are given the right to end their suffering.(Paulus, 2013)

On 10 April 2001. Prior to that date active euthanasia was a criminal offence under article 293 of the dutch penal code: (Amiruddin, 2017)

"He who takes the life of another person on this person expicit and serious request will be punished with imprisonment of up twelve years or a fine of the fifth category."

Then in article 294 of the dutch penal code article 294 of the Dutch Criminal Code: "he who deliberately incites another to sucide, assist him therein orprovides him with the means, is punished, if the suicide follows, with a sentence of at most three years or a fine of the fourth category".

At the same time, section 40 of the same penal code states that an individual is not penalised if he has been driven by an irresistible force. The law is known as force majure to put the welfare of others above the law This may include circumstances where the doctor is faced with a conflict between the legal obligation not to take life and the humane duty to end the patient's unbearable suffering.

In the Netherlands, Euthanasia is contained in The Dutch Law on Termination of Life on Request and Assisted Suicide. This law was passed in 2001. Euthanasia, which used to be a criminal offence in the Netherlands, has been decriminalised. A person may still be subject to criminal sanctions if they do not fulfil the conditions for committing an act of euthanasia (Kurnia, 2021).

For an act of euthanasia to be carried out, the patient and doctor must fulfil the conditions:

1. The patient is in extreme and excruciating suffering, no
2. Unbearable, and incurable;
3. Realised by the doctor's opinion;
4. Physically healthy;
5. Voluntarily requested by the patient;
6. The patient is experiencing severe physical suffering;
7. Patients aged 12 to 16 years require parental or guardian consent.

Euthanasia, once legalised in the Netherlands, does not mean that it can be performed by anyone. The law states that termination of life on request and assistance to commit suicide can only be done by a doctor. To do so, there are several requirements that must be fulfilled, including:

1. the doctor must be convinced that the patient's request is made voluntarily and with careful consideration

2. the doctor must be convinced that the patient's suffering will be prolonged and unbearable.

3. the doctor has informed the patient of his condition and prospects for recovery and the patient believes that there is no longer a reasonable solution to the situation he faces.

Another condition is that the doctor who will perform euthanasia must first consult at least one independent doctor. The referred doctor, after examining the patient, is of the same opinion as the previous doctor, and this must be stated in a written opinion. The last requirement, termination of life or assistance in suicide, must be done in accordance with the law.

Long before the enactment of Euthanasia laws in the Netherlands, there was already an essay entitled "The Slippery Slop of Dutch Euthanasia" published in Human life international magazine, special report 67, November 1998, on page three reporting that since 1994 every doctor in the Netherlands may perform Euthanasia and will not be prosecuted in court as long as they follow some existing procedures, namely consulting with peers about 50 questions.

Although euthanasia is still a pro and con in many countries, the legalisation of euthanasia in the Netherlands has allowed doctors to do so and it is also noted that a large number of Dutch citizens support the legalisation of euthanasia.

Reflecting on the regulation of euthanasia in the Netherlands, in accordance with the theory put forward by Paul Scholten, which states that a good law is a law that is in accordance with the values of the society concerned. This theory is then reflected in the legalisation of euthanasia in the Netherlands.

Furthermore, the theory according to Paul Scholten says that the law seeks understanding of existing / new things. However, this understanding cannot be achieved without connecting the law with historical and societal materials (Yudhanegara et al., 2024).

Psychologically, the act of euthanasia puts strong psychological pressure on doctors who often perform euthanasia. In the Netherlands, there is no formal conscientious objection clause for doctors, so they cannot object to euthanasia on personal, moral or ethical grounds. In 2011, the KNGM (Royal Netherlands Medical Association) produced guidelines that set out the conditions for performing Euthanasia, and involved doctors in the decision-making process for some operations.

In its concluding recommendations, the 3rd Five-Year Evaluation Report (2012-2016) on Dutch legislation emphasised that "the government should reaffirm the fact that doctors are not obliged to grant requests for euthanasia". The report also gives the following advice: "Abolish the legal provision requiring referral to a colleague for cases where a doctor refuses a request for Euthanasia or assisted suicide through the Conscience Clause".

However, this puts strong psychological pressure on doctors. Prominent figures such as Professor Theo Boer have criticised the tendency to trivialise and lose control over Euthanasia, which tends to become the standard way of death for cancer patients.

In 2015, the KNMG conducted a survey to poll 500 doctors regarding their opinions on Euthanasia. The doctors criticised the act as being trivialised, and lamented that more and more patients are seeking Euthanasia rather than a natural death. The survey showed that 60% felt "pressured to perform Euthanasia by the patient or their family" and 90% felt that the burden on doctors to perform Euthanasia was not underestimated.

The first associations about the Netherlands over the years are related to beautiful canals, parks, windmills, rich museums and unique architecture. Today, the country is best known for two things: decriminalising the enjoyment and distribution of soft drugs and legalising euthanasia and assisted suicide. The first known case of euthanasia in the Netherlands occurred in the early fifties of the last century, when the doctor performed euthanasia on his own brother, whose illness was at a terminal stage and was causing him a lot of pain, so he repeatedly asked his brother to take his life. However, this case has not attracted public attention, unlike the Postma case in 1973, when the doctor was tried for injecting a low dose of morphine to his mother, who was in very poor health, but did not have a terminal illness. In this highly emotional case, the court sentenced the doctor to one year's probation, but the execution was not carried out. Amsterdam in 1977, Rotterdam in 1981, and Alkmaar in 1982 followed. (Banović & Turanjanin, 2014)

The increasing number of acts of euthanasia has raised questions about its legalisation, especially thanks to the activities of the Nederlands Vereniging voor Vrijwillige Euthanasie (NVEEJ). The Dutch Parliament in the winter of 1993 reached a compromise between two opposing concepts on the issue of euthanasia. Parliament passed a law that, in general, represented a kind of codification of the rules and procedures under which euthanasia was practised some three decades before the liberal laws governing it in Europe. These standards and procedures are applied in medical practice and in the practice of courts adjudicating the crime of deprivation of life from mercy, and there is no broad theoretical and legal doctrine on the subject, which provides guidance in understanding the act of

euthanasia Therefore, the law is only considered to be the tip of the iceberg (Banović & Turanjanin, 2014; Cohen-Almagor, 2009).

The Netherlands sets out the liberal conditions necessary for the implementation of euthanasia. Firstly, it should be noted that the Law on the termination of life does not contain the term euthanasia, but uses the term termination of life on request, without providing its definition, although guidelines in the 80s of the XX century used the term euthanasia. According to the law, euthanasia is allowed if it fulfils the following conditions: (Banović & Turanjanin, 2014)

1. The request comes from the patient, and is provided free of charge and voluntarily;
2. The patient is suffering from unbearable pain that cannot be relieved:
3. The patient is aware of his/her condition and medical point of view;
4. Euthanasia is the last refuge for the patient, as there is no other alternative;
5. The doctor who will perform euthanasia consults with a colleague who has experience in this field and has examined the patient and agreed that all requirements are met for euthanasia or assisted suicide, and
6. Euthanasia or assisted suicide is performed with care.

Therefore, a doctor who performs euthanasia will be protected from prosecution only if he or she fulfils all substantive and procedural requirements. Therefore, euthanasia must be controlled. To obtain information on whether they have committed a criminal offence, doctors sometimes have to wait for a period of eight months from the time of the euthanasia. In fact, after the euthanasia, the doctor has the obligation to fill out the appropriate protocol and inform about the euthanasia to the city pathologist, by filling out the appropriate form and attaching all the necessary documents, related to Euthanasia which is legalised in the Netherlands, it is the right of the country to legalise the act of Euthanasia, more deeply according to him the Netherlands has its considerations in legalising the law, but when viewed in terms of psychology there are various supports because rather than burdening himself and those around him it would be better to do Euthanasia.

3.2. Euthanasia in Indonesian Law

The act of euthanasia in the Indonesian legal system is inversely proportional to the legal system in the Netherlands, if Dutch law legalises the act of euthanasia, then the applicable law in Indonesia strictly prohibits the act of euthanasia.

This is because according to Indonesian positive law, the act of euthanasia is the same as taking someone's life or the same as committing the crime of murder. Even though in Indonesia there are no clear rules related to euthanasia, there is one article in the Criminal Code that can explicitly be used as an article on euthanasia, which is contained in Article 344 of the Criminal Code which explains that a person is still said to kill or eliminate the life of another person even though the action is carried out based on the victim's own request in a state of consciousness and without coercion from any party, will be punished with imprisonment for 12 years.

Article 344 of the Criminal Code clearly explains that the Indonesian state as a state of law highly upholds the right to life of every citizen, without exception as has also been regulated in the 1945 Constitution and the Human Rights Law, so that the act of Euthanasia is difficult to be legalised as is the case in the Netherlands which is a country that has a criminal law that is almost the same as Indonesia.

The Criminal Code does not contain an article that explicitly regulates euthanasia. However, if examined closely, the article used to show the prohibition of euthanasia is Article 344 of the Criminal Code, which is about murder committed with a strong and firm request by the victim.

Euthanasia in the perspective of Human Rights in Indonesia is a very interesting matter, in the Human Rights Law, Human Rights as a natural right that must be respected, upheld and protected by the State, law, Government and every person for the sake of honour and protection of human dignity (Suparta, 2018).

This is clarified in the explanation of Article 4 of Law No. 39 on Human Rights which states that "every person has the right to life, the right not to be tortured, the right to freedom of person, thought and conscience, the right to religion, the right not to be enslaved, the right to be recognised as a person and equality before the law and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances and by anyone".

The issue of euthanasia is basically a form of taking the life of another person, but in a way that does not cause pain, but from a human rights perspective, the right to life should not be eliminated at all, even with the permission of the person concerned, so that all forms of removal of one's right to life are clearly a violation of human rights which of course has legal consequences if it is done.

In line with Human Rights, several recognised religions also agree to prohibit the act of Euthanasia in Indonesia, in Islam itself, life and death are only God's right to determine. Whatever the form of

suffering experienced by humans, no one is allowed to take away the life of the person who is suffering, especially through the practice of Euthanasia. Islam recommends to always be patient and have a good prejudice and get closer to Allah SWT in facing the tests of life including disease. The Prophet SAW said "If someone is loved by Allah then he will be faced with various trials". If people despair in the face of suffering, then Allah promises a way out in QS Az Zumar verse 53: "O My servants who transgress against themselves, do not despair of the blessings of Allah. Verily, Allah forgives the sins of all. Indeed, He is the Most Forgiving, the Most Merciful"(Prihastuti, 2018). In principle, the issue of euthanasia in the medical profession is also declared forbidden or considered as something that is not allowed to be done. This is due to the Indonesian Medical Code of Ethics and the "*Hippocrates*" oath of doctors, which clearly and explicitly states in Article 9 that, "A doctor must always remember the obligation to protect the life of human beings." This article was revised in PB IDI Decree No. 221/PB/A.4/2002 dated 19 April 2002 on the Implementation of the Indonesian Code of Medical Ethics (changed to Article 7d) (Krisnalita, 2022).

From the understanding of article 7d of the Indonesian medical code of ethics, it can be stated that based on ethics and morals, the act of euthanasia is not allowed. From all this, it can be seen that the field of medicine actually has a set of normative rules that uphold the meaning of life. Euthanasia, in all these declarations of medical ethics, is prohibited because it is not in accordance with basic moral principles.

As according to Oemar Senoadji, he stated: "According to the code of ethics itself, then in Indonesia as a religious country and Pancasila to the absolute power of God Almighty, while doctors must exert all their intelligence and ability to alleviate suffering and maintain life, not to end it. Therefore, a doctor does not want euthanasia to be carried out by a doctor because, among other things, it is considered contrary to medical ethics itself and is a violation of the law."

According to Amir Syarifuddin, killing someone to end his suffering is the same as killing children to end poverty, which is forbidden by Allah. Intentional killing occurs when a doctor deliberately kills a patient by administering drugs or injections. Even if the purpose is to end the patient's suffering or absolve the family of guilt, it is to preempt God's plan (Pebrianto, 2022). A patient with certain diseases will cause anxiety, depression, to cause disturbances in the quality of life of a patient. This is what sometimes makes patients want to end their lives more quickly with the act of euthanasia (Wibowo, 2021).

Crimes against the body and life are regulated in the Criminal Code, consisting of crimes against the body or persecution (articles 351-361 of the Criminal Code) and crimes against life or murder (articles 338-350). The Criminal Code does not mention euthanasia. In the case of euthanasia, the perpetrator can be threatened with articles in the Criminal Code, namely articles 338, 340, 344, and 345 (Hartawan et al., 2020).

Referring to the view of Indonesian positive law, euthanasia is murder. According to Moeljatno, in Pradjonggo, formally in positive criminal law in Indonesia, there are only two kinds of euthanasia, namely active euthanasia, which is euthanasia carried out at the request of the patient, and passive euthanasia, which is euthanasia carried out by deliberately neglecting the patient (Hartawan et al., 2020).

For active euthanasia, the perpetrator may be charged with Article 344 of the Criminal Code. The obvious difference between murder in Article 344 of the Criminal Code and murder in Article 338 of the Criminal Code is that in murder in Article 344 of the Criminal Code there are elements of the victim's own request, which is clearly stated in earnest, and there is no element of intent as formulated in Article 338 of the Criminal Code. The element of the victim's request proves that the initiative to commit murder lies with the victim himself. Articles 304, 306 and 531 of the KUHP state that abandoning a person in need of help is also included as a criminal offence. This confirms the prohibition of passive euthanasia in Indonesia. The incident of a patient requesting a forced discharge and then being allowed by his doctor can be classified as passive euthanasia. Although the doctor argued that the patient was discharged out of respect for the patient's rights, the doctor knew the consequences of the forced discharge on the patient. The doctor can be considered as neglecting the patient at home so that the patient dies. So, doctors who perform euthanasia can be considered to have committed a criminal offence. However, doctors are not burdened with criminal liability or get leniency or even legal exemption if they follow Article 48 of the Criminal Code by extension.

The behaviour of doctors is regulated in a guideline, the Indonesian Medical Code of Ethics. This guideline not only regulates doctors in carrying out their duties but also regulates the doctor's relationship with the community on a daily basis. Doctors' behaviour is expected to reflect commendable behaviour because the medical profession is a noble profession. Doctors will carry out their profession with noble intentions and the right path. The public does not need to worry that euthanasia will be very easily carried out by a doctor even though doctors are human beings who cannot be free from mistakes, a legal umbrella is needed to control the act of euthanasia in the future (Hartawan et al., 2020).

In the context of serious illness, it can be categorised in two forms, namely;

1. Serious illnesses with patients who are still able to move. Diseases that fall into this category are coronary heart disease, stroke, diabetes, HIV/AIDS, tuberculosis, chronic obstructive pulmonary disease. These seven diseases are included in the category of serious diseases that must be watched out for. It is not uncommon for patients who have diseases such as the above, to have anxiety to depression which results in a reduced quality of life for a patient. So it is necessary to approach and morally support these patients both from doctors, psychologists, close friends and from family. In this way, the patient's enthusiasm for recovery will increase again, so that the patient's quality of life will improve again and no longer think about hastening his death.
2. Serious illnesses where the patient is unconscious (unable to move). Diseases that include brain death, and prolonged coma. Of course, such diseases are not easy for a patient to go through, and such diseases have a high probability of the family asking for Euthanasia to be carried out in order to accelerate the relief of extraordinary pain experienced by a patient by removing the life of the patient.

However, this is where the role of a doctor is to morally approach the patient's family to keep fighting for everything. In this context, the doctor clearly needs to provide an understanding to the patient's family regarding the prohibition of euthanasia, and in addition, a doctor must convince the patient's family to continue to do their best to cure the patient. Thus, from a psychologist's point of view, euthanasia also has no place because a doctor must still try to do his best to cure his patient, and also from a legal point of view that euthanasia is a form of taking one's life which can be categorised as a form of murder.

The responsibility of medical personnel in the field of law, especially in criminal law, is regulated in the Criminal Code as a general provision and/or other laws and regulations as special provisions. The fundamental difference between ordinary criminal offences and medical criminal offences lies in the focus of the criminal offence. The focus of ordinary criminal offences lies on the consequences of the criminal offence, whereas in medical criminal offences the main focus lies on the cause/causes of the criminal offence. In medical criminal offences, criminal liability must be proven regarding the existence of professional errors committed by medical personnel.

Euthanasia cases have not been specifically regulated in either the Health Law or the Medical Practice Law. However, so far the closest article is Article 344 of the Criminal Code which explicitly prohibits active euthanasia. Active euthanasia can be categorized as medical malpractice carried out intentionally or can be said to be criminal medical malpractice. Anyone who takes someone's life in any situation without the rights they have, unless this is justified by law, is considered a crime as in Articles 48, 49, 50 and 51 of the Criminal Code.

Even though in a case it is the patient himself who requests euthanasia, the medical personnel involved may be subject to criminal sanctions. Looking at Article 7d Chapter II of the Indonesian Medical Code of Ethics regarding the obligations of doctors to patients, it is stated that every doctor must always remember the doctor's obligation to protect everyone. This means that a doctor must not end the life of someone who is sick, even though in this case the possibility of recovery or recovery is very small.

Examining the criminal liability carried out by doctors or medical personnel in Euthanasia cases, in terms of the Criminal Code, it actually only sees the doctor as the main perpetrator of Euthanasia without looking at the background to which the Euthanasia was carried out, perhaps it was done because of the patient's own request to reduce his pain and suffering, so it is said that the doctor's position was awry.

If we trace it formally in positive criminal law in Indonesia, only 2 forms of euthanasia are known: (Pramanasari, 2013)

1. Euthanasia carried out at the patient's own request is called active euthanasia which is regulated in Article 344 of the Criminal Code which reads: "Whoever takes the life of another person at the person's own request which is clearly expressed with sincerity, is threatened with imprisonment for a maximum of twelve year"
2. Euthanasia which is carried out by deliberately neglecting a patient is called passive euthanasia, which is regulated in Article 304 of the Criminal Code which states: "Anyone who deliberately places or leaves a person in a state of misery, even though according to the law that applies to him or because of his consent he is obliged to give life." , care or maintenance of that person, is punishable by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah."

The article revealed can be said to state that a person is not permitted to commit murder against another person, even if the murder is carried out for reasons of consent (Article 304) and at the person's own request (Article 344) because the perpetrator will still be subject to criminal penalties even if the perpetrator is a doctor. The formulation of Article 344 of the Criminal Code confirms

that euthanasia is an act that is prohibited and not possible by positive law in Indonesia. This is a very dilemma because in the country of origin of the Criminal Code which is currently in force in Indonesia, euthanasia is now possible with the issuance of the Law on Euthanasia because it is felt that there is a need for a regulation that regulates this act.

Some examples of criminal malpractice in the form of deliberate action are having an abortion without medical indication, divulging medical secrets, not providing assistance to someone in an emergency, carrying out euthanasia, issuing an incorrect doctor's certificate, making an incorrect post mortem et repertum and providing incorrect information. not true in court in his capacity as an expert, so that the doctor who committed the crime can be punished after being proven and having fulfilled the four elements of guilt, namely: (Manoppo, 2017)

1. Clearly committing a criminal act, the act is against the law
2. Able to be responsible
3. Carrying out the act intentionally or through negligence.
4. No excuses.

So that a doctor who has been proven to have euthanized a patient can be held criminally responsible because the doctor has fulfilled the elements of a criminal act and has committed an unlawful act so that he can be punished under Article 304 of the Criminal Code (Passive Euthanasia) which is punishable by two prison terms. years and eight months or a fine of four thousand five hundred rupiah and Article 344 of the Criminal Code (Active Euthanasia) is punishable by a maximum imprisonment of twelve years.

According to Simons, the basis for criminal responsibility is the fault that exists in the perpetrator's soul in relation (that fault) to the behavior that can be punished and based on that psychology the perpetrator can be blamed for his behavior.

3.3. Euthanasia in Belgian Law

The idea to legislate or legalize euthanasia in Belgium emerged in the early 80s of the XX century, in the action of two associations for the right to die with dignity. However, unlike the Netherlands, Belgium does not have a long history of euthanasia and prosecuting doctors, and has not been able to set precise guidelines for legislators to react more quickly. At the same time, it is not the case that there are doctors who practice in secret and support the idea of euthanasia. According to several studies, carried out in the late 90s of the last centuries, about 5% in Flanders of the total number of deaths was caused by euthanasia, that is, the use of drugs to shorten the patient's life. Of particular concern is the fact that 3.2% to 3.8% of deprivations of life occur without explicit request from the patient (Banović & Turanjanin, 2014).

The euthanasia law came into force on 16 May 2002. In Belgium, prior to the enactment of the law, there were no guidelines or case law regarding mercy killings. Therefore, Belgian law is much more detailed than Netherland law, which is more the result of regulatory codification. Therefore, the Belgian legislator issued detailed provisions, in order to provide a greater level of protection and security to doctors and patients.

A distinctive feature of this law is that the legislators in both the title and text use the term euthanasia, which is defined as intentionally taking another person's life at their request. Its meaning, as a term, is on the one hand taken from Netherland law and theory; while on the other hand, Dutch law currently does not use these terms or definitions. At this point, it is worth noting the fact that euthanasia law in Belgium does not specifically regulate assisted suicide, and the reason for this can be found in the fact that there has never been a social need to regulate assisted suicide as an unnecessary act, separate crimes, and the difference between these crimes and mercy killings is very small. Therefore, the provision regarding assisted suicide in this law is unnecessary – as is the excessive mention that doctors must perform this procedure with care and attention.

The requirements for the act of euthanasia not to be considered a criminal offense are regulated in almost the same way as the legislation in the Netherlands. Before carrying out the deprivation of a patient's life, a doctor must inform the patient about his health and life expectancy, discuss with him the request for euthanasia and palliative care options, as well as the consequences of such decisions. The patient and physician must work together and conclude that there is no reasonable alternative for the patient's situation, and the request is made voluntarily. Then, the doctor must be satisfied of the patient's permanent physical and/or mental suffering, and of the fact that the request is made on a permanent basis. What is certain is that doctors need to conduct more interviews with their patients, but over a longer period of time, in order to better follow developments in their state of mind. The doctor should also consult with other doctors regarding the patient's condition, and inform him of the request for euthanasia. Another doctor will review the medical records and talk with the patient. He must be convinced that the patient's suffering cannot be relieved. The findings must be

documented. He must be completely independent from the patient as well as the acting doctor, and must be competent to give an opinion about the disease in question, which will be communicated to the patient. The next requirements are related to the medical field, first with nurses. That is, if concern for the patient is carried out by those who are in constant contact with the patient, the doctor needs to talk to them about requesting a mercy killing (Banović & Turanjanin, 2014).

3.4. Euthanasia in Swiss Law

Active euthanasia is illegal in Switzerland (performed by a third party), however providing the means to die is legal (assisted suicide), as long as the act that directly causes death is performed by the person who wishes to die. Assisted suicide in this country has been legal since 1941, and Switzerland was the first country in the world to allow any type of assisted death. In 2014, there were a total of 752 assisted suicides (330 men, 422 women), compared with 1,029 unassisted suicides (754 men, 275 women); most cases of assisted suicide occur in elderly people suffering from terminal illnesses. In what critics call suicide tourism euthanasia organizations in Switzerland have been widely used by foreigners. In 2008, 60 percent of the total number of suicides committed by the Dignitas organization were German citizens.

3.5. Euthanasia in American Law

Countries that adhere to the Anglo Saxon legal system, such as the United States, strictly prohibit the implementation of euthanasia, both passive and active. Euthanasia is strictly prohibited in the United States because it is an unlawful act. However, in one of the states in America, namely Oeregeon, this is legal, this provision is based on the Oeregeon death with dignity act, which states that a patient who cannot be cured can end his life. This issue of the right to die in several developed countries , there is already a regulation in the legislation in that country, like European countries, but the right to die is not absolute, as in the Leeuwarden District Court decision from the District Court setting the benchmark for the formulation of "unknown law" or without punishment, regarding Euthanasia which is conducted. (Arwani, 2020).

Countries that adhere to the Anglo-Saxon legal system, such as the United States, strictly prohibit the implementation of euthanasia, both passive and active. Euthanasia is strictly prohibited in the United States because it is an unlawful act. However, in one of the states in America, namely Oregon, it is legal, this provision is based on the Oregeon death with dignity act, which states that a patient who cannot be cured can end his life. This right to die problem in several developed countries , there is already a regulation in the legislation in that country, like European countries, but the right to die is not absolute, as in the Leeuwarden District Court decision from the District Court setting the benchmark for the formulation of "unknown law" or without punishment, regarding euthanasia which is conducted (Amiruddin, 2017).

The implementation of euthanasia, even in the American states of Oregion, the implementation of euthanasia is very strict, with certain conditions, including: (Amiruddin, 2017)

1. People whose lives want to end are people who are really sick and cannot be treated, for example cancer.
2. The patient is in a situation where his chances of survival are small and he is just waiting to die.
3. The patient must be suffering from so much pain that his suffering can only be reduced by administering morphine,
4. The only party who has the right to end a patient's life is the family doctor who is treating the patient and there is a basis for assessment by two specialist doctors to determine whether or not euthanasia can be carried out. All these requirements must be met before euthanasia can be carried out.

A majority of Americans, 72%, continue to believe that doctors should be legally permitted, at the request of patients and families, to end the lives of terminally ill patients using painless means. Although support for legalized euthanasia is strong across nearly all subgroups of American society, men, young people, Democrats, and liberals are most likely to support it. However, until now, the United States still strongly opposes euthanasia on patients.

Euthanasia is linked to Human Rights (HAM). The right to health care in a broad sense is generally recognized as a social right, one way or another because health care (including health services) as a system provides space and opportunities for everyone to participate in opportunities. given, provided or offered by social life, Leenen mentions participation rights (participatie rechten), and the content of these rights is developing along with the progress of society. So these basic social rights contain responsibilities (compare Article 29 Universal Declaration of Human Rights, which reads: "Everyone

has duties to the community" and so on). And one of the responsibilities is to strive to defend individual basic rights, including the right to self-determination. In fact, the right to health care has a very broad reach when compared with the right to health care, which is essentially the right of sick people, at least the rights of people seeking health care (Badu, 2016).

The general principle of the Criminal Law relating to matters of the human soul is to provide protection, so that the right to live naturally in accordance with human dignity is guaranteed, so according to Indonesian law euthanasia is an act that is against the law. This can be seen in the existing laws and regulations, namely in Article 344 of the Criminal Code which states that "Anyone who takes the life of another person at that person's own request, which he states clearly and truly, is punished with imprisonment for a maximum of 12 years (Siregara, 2020).

The emergence of pros and cons surrounding euthanasia has become a burden for the legal community, namely the issue of the legality of euthanasia. Clarity regarding the extent to which positive criminal law provides regulation/regulation of euthanasia will be a big issue in helping society in responding to this problem. Moreover, among Indonesian people who adhere to the ideology of communion, this gives rise to pros and cons.

The development of thinking about Human Rights has entered all human life, including in the field of medicine or health. Often times, technological developments in the medical field will give rise to various problems that must be answered in order to uphold human rights. Therefore, the issue of Euthanasia has always been the subject of long debate and study, because Euthanasia is related to human rights. Perspective of Human Rights in Indonesia, Article 9 paragraph (1) Law no. 39 of 1999 emphasizes, "every human being has the right to live, maintain life and improve his standard of living". Humans also have the right to determine their own destiny or self-determination, the right to live a healthy and prosperous life, but not the slightest thought about the existence of a right to die.

Law and human rights are a unity that is difficult to separate, they are like two sides of the same coin. If a legal building is built without Human Rights which is the guardian of the law in realizing the realization of the values of human justice, then the law becomes a tool for the authorities to perpetuate their power. On the other hand, if human rights are built without being based on a clear legal commitment, then human rights are built without being based on a clear legal commitment, then these human rights will only be a fragile building and easy to deviate from. This means that the law must function as a juridical instrument, a means and/or tool for paying attention to respect for human rights principles.

From an international human rights perspective, the meaning of euthanasia itself has shifted, in principle euthanasia is an action that is very contrary to human rights values where everyone has the right to live, not the right to die. However, in recent years, because several countries have legalized the act of Euthanasia for various specific reasons and conditions that must be met before the act of Euthanasia is carried out, now the meaning of Euthasia has shifted, what was once taboo has now become something that continues to be discussed. After the Netherlands issued the Euthanasia law which allowed this action, since then several years later there have been several countries that have also legalized the act of Euthanasia due to certain factors. This is of course a topic of discussion both in the national and international realm. The legalization of euthanasia in various countries certainly has pros and cons in the international world.

The Relevance of Theory to Research Results. The theory used as material for analysis in this research is comparative legal theory. The theory of legal objectives and legal system theory are supporting theories in answering the problems studied in the research that has been carried out. The following is stated about the relevance of theory to research results, namely: Comparison can also be interpreted as the beginning of the creation of a rule that did not exist or that previously existed. An attempt to obtain something better than what was before. Comparative legal theory is a method of investigation with the aim of gaining deeper knowledge about certain legal materials. Comparative law is not a set of rules and legal principles and is not a branch of law, but is a technique for dealing with foreign legal elements of a legal problem. According to him, research shows that the comparison between the law of euthanasia in Dutch law and Indonesian law lies in factors both in terms of religion, medicine, law, moral ethics and psychology, which are also part of the legal system and the purpose of the law itself. Euthanasia regulations apply in Indonesia.

4. Conclusion

Overall, this research is an in-depth comparison of legal views on euthanasia in Indonesia and the Netherlands, exploring differences in legislative approaches as well as related criminal liability. In the Dutch context, euthanasia was originally considered a criminal offence as stated in Penal Code Articles 293 and 294. However, significant changes occurred with the adoption of the Dutch Law on Termination of Life on Request and Assisted Suicide in 2001. Coming into effect on 1 April 2002,

the law confirmed that euthanasia, when qualified, is no longer considered a crime. In contrast, in Indonesia, the concept of euthanasia, especially active euthanasia, does not receive explicit recognition in positive law. Although there is no clear regulation governing it, euthanasia is generally considered a form of murder because it ends a person's life. In relation to criminal liability in Indonesia, this study found that there are no articles that specifically regulate euthanasia. Article 344 of the Criminal Code was identified as a relevant article, but detailed regulations are still absent. In addition, the medical code of ethics, particularly Article 7d, plays a role in determining liability, especially for doctors who violate the obligation to immediately protect the life of a human being, in this case, the patient. In light of these findings, it is important to highlight the need for clearer legal provisions in Indonesia in relation to euthanasia, in line with the rapid advances in the medical and health fields. There is an urgent need for the authorities, especially the relevant government, to respond to these developments by making detailed and adequate regulations that can accommodate the act of euthanasia. This needs to be done to maintain a balance between freedom in medical practice and the protection of human rights, particularly the right to life and choice. The recommendations resulting from this research emphasise the need for a quick and appropriate response from the authorities to the need for regulation in the field of euthanasia. Given the dynamic medical developments, the government must play an active role in regulating controversial medical practices such as euthanasia so that the public can feel protected and fair in obtaining quality health services.

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