

JURIDICAL ANALYSIS OF THE CRIME OF EUTHANASIA AND THE DEATH PENALTY UNDER POSITIVE LAW

Fayola Issalillah, Yeni Vitrianingsih, Titik Ustiani, Siti Nur Halizah, Rafadi Khan Khayru

Correspondence: fayola.issalillah@gmail.com

Universitas Sunan Giri Surabaya

ABSTRACT

Euthanasia, the act of ending one's life at one's own request, is a controversial issue that is still being debated in various circles. Some are in favor of euthanasia, while others are against it. This debate seems to never end as diverse opinions are issued for different reasons. This issue is related to the legality of euthanasia in Indonesia, which is expressly regulated in the medical code of ethics. This research aims to conduct a juridical review of two important aspects in the realm of criminal law, namely the criminal offense of euthanasia and the death penalty, by focusing on the applicable positive legal framework. This research uses a normative approach method in the juridical realm. Euthanasia, as a controversial criminal act, will be analyzed from the perspective of legal norms governing health practices and medical ethics. In addition, the death penalty as the highest punishment in the legal system will be studied, with an emphasis on the development of regulations and community views. This research seeks to understand how positive law regulates and influences these two aspects and their impact on the legal system and society as a whole. It is hoped that this research can provide a deep insight into criminal law in the context of euthanasia and the death penalty, as well as help identify changes that may be needed in existing legal regulations and practices.

Keywords: euthanasia, death penalty, positive law, criminal law, health practice.

INTRODUCTION

In this era of globalization, with the advancement of highly sophisticated technology, especially in the field of medicine, we see the development of very important medical devices, one of which is a device called a respirator. Respirators are breathing apparatus used by patients in a state of unconsciousness or coma. The life of the patient in this situation is highly dependent on the respirator. However, currently, the issue of euthanasia still does not have a clear regulation, perhaps because there are no complete euthanasia cases that can be used as a basis for regulation in the law. Actually, there is a more fundamental point that needs to be considered, which is the difference in purpose between law and ethics. Laws are usually designed to resolve conflicts in a way that maintains the

order of society. Ethics, on the other hand, has a broader scope, such as how we interact with others and how our personal values and characteristics should be reflected in our daily behavior. These things cannot be regulated by laws.

Death is seen as a God-determined aspect of destiny, which determines when a person will face the end of their life. For most human beings, death is often perceived as an unexpected, even undesirable event, so they try in every way to maintain good health and utilize the latest medical technology to delay this final moment (Sabriseilabi & Williams, 2022). Advances in modern technology, particularly in the field of healthcare, have brought about rapid changes in our social and cultural lives. One of the important advances in technology is in the field of health and medicine. There are three types of death that are generally recognized in the context of science. First, there is what is called orthonasia, which is death that occurs naturally, following the usual process of dying without excessive medical intervention. This type of death reflects respect for the natural process of death, which is an unavoidable part of destiny. Secondly, dysthanasia refers to death that occurs despite reasonable medical care. In this case, medical efforts may be excessive or disregard the patient's wishes, which ultimately only prolongs suffering without providing a good quality of life. However, the most controversial is the third type of death, Euthanasia. Euthanasia involves active medical action to end the life of a person who is suffering from severe and incurable illness. This has become a very complex debate in the health and legal fields, as it involves complicated moral, ethical, and legal aspects (Arwani, 2020). The debate around euthanasia often arises when health professionals are faced with patients who are terminally ill and experiencing unbearable suffering, with ethical questions regarding whether or not helping to end the patient's suffering is an acceptable action in a particular society and law. In such situations, often patients or their families feel trapped in unbearable suffering and ask doctors to end the patient's suffering, either through a direct request or by stopping the patient's treatment. This act is known as euthanasia (Calati et al., 2021).

Euthanasia not only violates the medical code of ethics, but is also subject to criminal sanctions in accordance with the Criminal Code (Yudaningsih, 2015). Therefore, the issue of euthanasia becomes very important because it concerns the life and death of patients who are under the care of doctors. This invites complex ethical and legal questions, including about the extent to which an individual or family can have control over the end of one's life and whether the act of euthanasia can be justified in certain moral and legal contexts. Some countries hold to the principle that decisions about life and death should be left to God or a higher entity, and therefore, they prohibit euthanasia based on religious value considerations. In their view, the right to life and death is a divine right that is inviolable by humans. On the other hand, some countries have legalized euthanasia and regulated it clearly in their laws. They recognize that the right to life and death is not absolute, and in some specific situations, individuals or their families can make the decision to end unbearable suffering. However, the regulations in these countries are often strict, and euthanasia is only permitted in certain situations and subject to a number of

strict conditions. Article 344 of the Criminal Code is the article in the Penal Code that deals with euthanasia. This article states that a person who deprives another person of life at the person's own request which is clearly expressed with sincerity is liable to a maximum imprisonment of twelve years. Although this article is one of the legal bases that can be used to address the issue of euthanasia, it should be noted that the interpretation and use of this article is still a subject of debate in various jurisdictions. Some countries may allow euthanasia under a strict regulatory framework, whereas others may prohibit it completely. The issue of euthanasia is a complex one, involving intricate ethical, moral and legal considerations. The understanding and regulations surrounding euthanasia can vary significantly from country to country, and it is often the subject of intense debate within society and the legal system. There are two main aspects, the first is death due to an illness or medical condition, which involves euthanasia, while the second is death associated with the death penalty which is a punishment imposed by the court for criminal acts committed by a person in accordance with the applicable criminal law regulations. Both aspects have complex ethical, moral and legal implications, and are handled differently in law and ethics. Euthanasia has more to do with health care and an individual's right to end their suffering, while the death penalty is a punishment imposed by the legal system in response to a serious criminal act.

The death penalty is regulated in Indonesian criminal law, and the death penalty is considered to be the harshest punishment that can be imposed on perpetrators of very serious crimes. The death penalty is a punishment given in response to criminal acts that are considered the most severe and detrimental to society. Criminal law in Indonesia, as in many other countries, aims to safeguard the public interest and sanction serious violations of the law. The death penalty, as the most severe punishment, is an issue that is often the subject of debate within society and the law. The understanding and views on the death penalty can vary depending on the values, ethics and culture of each individual and society.

Article 10 of the Criminal Code outlines the different types of criminal penalties used in the legal system. Criminal punishment has an important role in maintaining public order and providing an appropriate response to violations of the law. The types of criminal penalties include the principal punishment, which includes the death penalty as the most severe form, as well as imprisonment, which can be for life or with certain time limitations. In addition, there is confinement, which can range from one day to one year, fines which involve the payment of a sum of money as punishment, and closure which restricts the offender's freedom with certain restrictions. Each type of criminal punishment is used according to the seriousness of the crime committed, and its use is based on legal and policy considerations. Criminal punishment is an important instrument in the legal system to achieve objectives such as restitution, deterrence, and fair law enforcement.

The legal system also recognizes additional penalties that can be imposed for certain criminal offenses. These additional penalties include deprivation of certain rights, forfeiture or confiscation of certain goods related to the criminal offense, and

announcement of the judge's decision. Deprivation of certain rights may include rights such as the right to hold public office, the right to vote in elections, or the right to own firearms, depending on the applicable legal regulations. This aims to have a deterrent effect on the offender and prevent them from engaging in criminal acts in the future. Forfeiture or confiscation of certain items related to criminal offenses means that items used in criminal offenses or obtained through illegal activities may be seized or confiscated by the authorities. This aims to reduce the profits gained from the criminal offense and punish the offender. Announcement of a judicial decision is an additional punitive measure that involves the publication or announcement of a judicial decision related to a criminal offense. This may include the publication of the name of the offender, the type of criminal offense committed, or the sentence imposed. This announcement can serve as a lesson to the community and provide a deterrent effect on the offender. The laws and regulations governing the death penalty, both those in the Criminal Code and those outside the Criminal Code, become the legal basis used by judges in making decisions against a person who commits a criminal offense. The use of criminal punishment, including additional punishment, is based on applicable legal regulations and fair legal principles. This punishment aims to maintain social order, provide justice to victims, and provide a deterrent effect to the perpetrators of criminal acts.

The case of Mrs. Igna is a clear example of how the issue of euthanasia can be a complex debate in medicine and law. In this case, a married couple faced a difficult situation after Mrs. Igna fell into a coma after childbirth surgery. The husband, a civil servant, found it difficult to pay for his wife's expensive medical treatment and applied for euthanasia through her treating doctor. On the other hand, lawyers argued that Ms. Igna's comatose condition may have been caused by medical malpractice, which is a serious medical error. In an attempt to resolve the issue, the hospital sought a solution by moving Mrs. Igna to a VIP treatment room. This case underscores how important a doctor's role is in managing death requests from families and guarding against dubious or illegal acts, such as euthanasia. It is important to remember that euthanasia is a very sensitive and complicated issue in law and ethics. Although a person has the right to end their suffering, the laws in many jurisdictions, including Indonesia, prohibit euthanasia and consider it an illegal act. On the other hand, the death penalty is a punishment given by the courts in response to serious criminal acts. Cases like this illustrate the complexity of determining the boundaries between an individual's right to life and the right to end suffering, as well as the role of doctors in maintaining ethical and legal integrity in patient care. It also reflects how important a deep understanding of the law, ethics, and principles of medicine is in dealing with similar cases.

The articles of the Penal Code regulate various aspects related to crimes against life. This includes provisions on murder of varying severity and other acts that result in the death of another person. Comparison between the criminal offense of euthanasia and death penalty from the perspective of positive law. Article 338 of the Criminal Code regulates murder committed intentionally and threatens the perpetrator with a maximum

imprisonment of fifteen years. Article 340 of the KUHP focuses on premeditated murder, and such acts can result in death, life imprisonment, or imprisonment for a specified period of time, not exceeding twenty years. Article 344 of the Penal Code covers cases where a person takes the life of another person at the person's own clearly expressed request. It also addresses the issue of euthanasia. Article 359 of the Criminal Code governs cases where a person unintentionally causes the death of another person. It threatens the perpetrator with a maximum imprisonment of five years or a maximum light imprisonment of one year.

Euthanasia is a controversial medical act in which a patient suffering from an incurable disease or experiencing unbearable suffering requests assistance to end his or her life. On the other hand, the death penalty is a punishment imposed by a court for a serious criminal offense. It is a complex and relevant topic in the context of health and legal issues. This research aims to conduct a juridical review of both issues, namely euthanasia and the death penalty, with a focus on the positive legal framework applicable in Indonesia. A positive law approach is used to analyze and understand how Indonesian law regulates and treats these two issues.

METHODS

In order to obtain strong and reliable data, this research adopts a normative juridical approach method, which is a type of research that involves literature-based analysis, namely by evaluating the regulations governing euthanasia and the death penalty in Indonesia. The focus of the research is two different situations, the first is when a person wishes for death due to an incurable disease and suffers severely. The second is a situation where a person is sentenced to death despite being in good health and wanting to live. In the context of euthanasia, the law practically supports patients who ask doctors to carry out such requests. From a humanitarian perspective, legal practitioners may conclude that euthanasia should only be allowed for patients who are medically incurable. In addition, the consent of the concerned parties should also be sought. These concerned parties may include relatives or family members of the patient. They should express their consent through a statement signed with the patient. However, it should be noted that the family cannot act as witnesses to the execution of euthanasia. Euthanasia can only be performed if all parties involved have given their consent. If anyone refuses, then euthanasia cannot be carried out. Looking from the point of view of the Criminal Code, some legal practitioners argue that the existing provisions in the Criminal Code are no longer appropriate or adequate. This is because medical science and technology have developed rapidly, and therefore, a separate law is needed that regulates euthanasia with clear provisions and pays attention to medical ethics. This will help overcome problems related to euthanasia, such as the role of doctors in treating patients and not as killers of patients. With systematic regulation, euthanasia can be better accepted in society and provide clear legal certainty.

RESULTS AND DISCUSSION

1. Euthanasia Linked to Death Penalty

Euthanasia and death penalty are similar in terms of ending a person's life. The difference lies in the implementation. According to Cayetano-Penman et al. (2021), euthanasia is performed by a doctor to a patient suffering from an unbearable or incurable disease, with the consent of the patient or his family, to end suffering and allow the patient to die without excessive pain. Death penalty, on the other hand, is a punishment imposed by a judge to someone who is proven to have committed a certain criminal offense, and the execution is carried out by the executioner (Wibowo, 2021). The comparison between euthanasia and death penalty is still a subject of controversy in society. In Indonesia, euthanasia has never been actively implemented by doctors, and due to the lack of socialization on euthanasia, Indonesian people have a limited understanding of this concept. Meanwhile, the issue of the death penalty has been a long-standing debate in Indonesian society.

A. Implementation of Death Penalty

In history, the implementation of death penalty is often carried out in a very cruel manner, including:

- a. They were tied to a pole and burned to death.
- b. They were put in a pit or den of lions, tigers, or wolves.
- c. They were stoned to death with stones.
- d. Their feet and hands were tied to four horses pulled in different directions.
- e. Their necks were cut with a large knife, known as beheading.
- f. They were hanged.
- g. They were executed by electric chair.
- h. They were put into rooms filled with poison gas.

In Indonesia, the execution of the death penalty is officially carried out by an executioner who uses a gallows, as described in the Criminal Code article 11. In its implementation, the death penalty is carried out by tying a noose around the neck of the convicted person and hanging him on the gallows, then dropping the platform where the person is standing. However, as the death penalty by hanging is considered less humane or can cause prolonged suffering for the death row inmate, Indonesia has now adopted a different method of death penalty execution. The death row prisoner is tied to a pole with his eyes closed, or not closed if requested by the death row prisoner, and then the executioner performs a firearm shooting aimed right at the heart of the death row prisoner. The aim of this method is to ensure that the death row prisoner dies quickly and does not experience prolonged suffering. There are several procedures for the execution of the death penalty which include:

- a. Three days before the execution of the death penalty, the superior prosecutor or the prosecutor concerned informs the convicted person about the execution of the death penalty. The convicted person is allowed to express a statement or message, which will be accepted by the prosecutor.
- b. If the convicted person is a pregnant woman, the execution of the death penalty will be carried out after the birth of the baby.
- c. The location of the execution of the death penalty is determined by the Ministry of Justice in the jurisdiction of the court of first instance.
- d. The chief of police of the region concerned is responsible for the execution of the death penalty after receiving advice from the high prosecutor or the prosecutor who has demanded the death penalty. They also determine the date of execution of the death penalty.
- e. The execution of the death penalty is carried out by a police shooting team led by a police officer.
- f. The chief of police of the region concerned (or a designated officer) must be present during the execution of the death penalty, and the defense of the convicted person may be present if they wish.
- g. The execution of the death penalty must not be carried out in public.
- h. The burial of the body of the convicted person is left to the family or friends of the convicted person. Demonstrations during the funeral should be prevented, unless there are reasons of public interest, which will be determined by the high prosecutor or prosecutor concerned.
- i. After the execution of the death penalty is completed, the superior prosecutor or the prosecutor concerned must draw up minutes of the execution of the death penalty. The contents of the minutes shall be copied into the relevant court decision.
- j. Death penalty does not apply to children.

The application of the death penalty against extraordinary crimes, such as terrorism, drug trafficking, and premeditated murder with very cruel methods, is not merely an act of revenge, as asserted by opponents of the death penalty. On the contrary, the death penalty is carried out based on the moral conviction that the crimes committed by the perpetrators have a very high level of moral severity and have caused serious discomfort and threats to society.

B. Laws on Death Penalty

Indonesia has several legal regulations that regulate the death penalty, namely:

- a. Article 104 regulates treason that aims to kill, deprive the independence, or remove the ability of the President and Vice President to govern. This act is punishable by

death penalty, life imprisonment, or temporary imprisonment with a maximum duration of twenty years.

- b. Article 111 regulates acts related to relations with foreign countries, with the intent to induce them to commit acts of hostility or war against Indonesia. If these acts strengthen the enemy's intentions, promise assistance to them, or assist their preparations to commit hostile acts or war, they are punishable by imprisonment for a maximum of fifteen years. If the hostile act is committed or war is waged, it shall be punished by capital punishment, life imprisonment or a maximum temporary imprisonment of twenty years.
- c. Article 124 (3) states that the death penalty, life imprisonment, or imprisonment for a definite period not exceeding twenty years shall be imposed on offenders who inform or pass information to the enemy, destroy or damage reinforced or stocked posts, means of communication, warehouses of war supplies, or war treasury, including the Navy, Army, or their components. They also obstruct, hinder, or frustrate efforts to inundate or other military operations planned or conducted to repel or attack. Causing or inciting riots, mutinies, or desertions among armed forces personnel.
- d. Article 140 deals with treason against the life or independence of the reigning monarch or head of a friendly state. In the first paragraph, it states that the perpetrator of such treason is punishable with a maximum imprisonment of fifteen years. However, in the second and third paragraphs, it is emphasized that if the treason results in death or is committed with premeditation to cause death, then the perpetrator can be sentenced to death, life imprisonment, or a maximum imprisonment of twenty years. This indicates that acts of treason that threaten the life of the head of state or monarch can result in very severe penalties, including the death penalty or life imprisonment, depending on the severity of the treason.
- e. Article 185 of the Criminal Code regulates acts that occur in a sparring match, which results in the killing or injury of the opponent. In this article, there are several conditions that must be considered, namely unregulated rules, presence of witnesses, intentionally harmful actions. Article 185 aims to provide a fair sentencing framework in sparring situations, taking into account various factors, including the terms of the fight and the intent of the perpetrator. This is important to ensure that the punishment imposed fits the circumstances that actually occurred during the sparring and provides justice to all parties involved.
- f. Article 444 on acts of violence on board a vessel resulting in the death or serious injury of a person on board states that the master, commander, or master of a vessel, as well as those involved in such acts of violence, are punishable by death, life imprisonment, or imprisonment for a specified term, not exceeding twenty years.

C. Criminal Liability in Euthanasia

Doctors as professionals have ethical obligations in every medical action taken against patients. They carry out their duties as medical experts in good faith, making serious efforts based on their medical knowledge based on the doctor's oath, medical code of ethics, and professional standards. The main goal is to cure or help patients who are experiencing illness. The legal responsibility of doctors refers to their obligation to comply with legal provisions when practicing medicine. Such legal liability arises if there is evidence of professional misconduct, such as errors in diagnosis or medical treatment. In a legal context, errors or omissions will always relate to unlawful acts, which can only be applied to individuals who have legal capacity and can understand the consequences of their actions.

In the capacity to be responsible, this relates to the assessment of whether or not an individual is guilty of the act committed. This assessment is based on whether the act is unlawful, whether there is a mental connection between the perpetrator and the act (in the form of intent or negligence), and whether there are no mitigating circumstances. In relation to negligence, this includes two aspects: first, doing something that should not have been done, and second, not doing something that should have been done. In the Indonesian criminal law system, the provisions regarding euthanasia are described in Article 344 of the Criminal Code. This article states that if a person intentionally takes the life of another person at the person's own request, which is clearly stated with sincerity, then the perpetrator can be punished with imprisonment for twelve years. The content of this article implies that even if there is a request from the victim himself, the act of ending his life is still prohibited by law. This reflects the attitude of the law which places a person's life above all other interests, even at the request of the victim.

Euthanasia is a prohibited act and is punishable under Article 344 of the Criminal Code. However, there is a group of people who argue that perpetrators of euthanasia should not be punished for their actions. This group is known as euthanasia advocates. They view euthanasia as the patient's right to decide about the good for themselves. Patients have the right to end the suffering caused by their illness and have the right to choose death. In the perspective of this group, euthanasia is an act of help done by the perpetrators to their patients. Therefore, the perpetrators of euthanasia often feel compelled to perform the act because they feel sympathy for the patient's suffering. In the context of the basic principles of criminal abolition, acts committed due to coercion are one of the reasons that can abolish criminal penalties. This provision is explained in Article 48 of the Criminal Code which states that a person who commits an act under duress shall not be punished. In this case, there are several criteria that must be met so that a doctor is not punished in the case of euthanasia:

- a. The patient must experience unbearable physical or psychological suffering.
- b. The suffering or desire to end life must continue unabated.
- c. The patient must fully understand the consequences of his/her decision.
- d. No other rational solution can improve the situation.
- e. The decision to end life should not unreasonably harm or cause suffering to others.
- f. The decision must involve more than one person.

D. Euthanasia and Death Penalty in relation to Human Rights

Along with the principle of human freedom to control themselves, there is a demand to recognize euthanasia as part of human rights (Yudaningsih, 2015). In this context, euthanasia is seen as the right to end life, which is considered an interesting development in the issue of human rights. The existence of euthanasia as part of human rights, which includes the right to end life, is considered a logical outcome of the right to life. As every individual has the right to life, so too do they have the right to choose a death that they deem worthy of themselves. This concept of a "decent death" provides the basis for the use of the term Euthanasia. Those who view that the ability to control the fate of their bodies is part of human rights refer to Law No. 39/1999 on Human Rights, especially Article 4 which affirms rights such as the right to life, the right not to be tortured, the right to personal freedom, the right to thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as an individual, the right to equality before the law, and the right not to be prosecuted under retroactive laws. The term "personal freedom" in the law is used as a foundation to support their right to end their lives.

2. Legal Protection of Euthanasia by the Government against Doctors Performing Euthanasia in accordance with Legal Provisions

Doctors, when performing euthanasia, are based on the consideration of the patient's unbearable or incurable disease condition, where the patient requests that his life be ended. Not everyone, including doctors, have the same view on euthanasia. Therefore, ending a person's life under certain conditions is considered as facing trials from God Almighty, and is also considered a violation of the principles of medical ethics. In medical science, the term euthanasia has three meanings, namely:

- a. Passing on to the afterlife peacefully and painlessly, in accordance with certain religious beliefs.
- b. Ending the life of someone who is about to die, to reduce their suffering by giving sedatives.

- c. Intentionally ending the suffering and life of a sick person, at the request of the patient or their family. Of these three meanings, the one that is in line with euthanasia that is prohibited by our criminal law is the third type, which is regulated in Article 344 of the Criminal Code.

The regulation in Article 344 of the Criminal Code regarding euthanasia has a number of weaknesses, including the requirement of a clear request from the individual concerned which complicates the process of proof and prosecution. The article only regulates active euthanasia, without addressing passive euthanasia. In addition, euthanasia is considered an ordinary offense and not a complaint offense, which requires investigators to be tenacious in uncovering whether euthanasia has been committed. Doctors perform euthanasia for several reasons and factors, including the patient's condition that the doctor thinks is incurable, as well as feelings of frustration or failure in life that cause the patient to not want to continue living (Griffiths et al., 2008). Legal protection for doctors who perform euthanasia is necessary, given that Indonesia is a state of law and not a state based on power alone. It is important to remember that euthanasia is not always an act that should be absolutely punished.

Some developed countries in Europe and America are beginning to support the principle of euthanasia, and they are actively working to enshrine it in their national laws. However, there are also people who oppose the principle of euthanasia with the argument that the act is equivalent to murder (Hati et al., 2019). In Indonesia, as a country based on religion and Pancasila and believing in the absolute power of God Almighty, we believe that everything is created by Him, including the suffering experienced by humans. Doctors are expected to use their knowledge to relieve suffering and preserve life, not to end the lives of fellow humans.

The case of euthanasia came into the spotlight in Indonesia after Hasan Kesuma applied for euthanasia for his wife, Agian Isna Nauli, who had been unconscious for 56 days after giving birth via caesarean section at the Bogor Islamic Hospital (RSI) led by doctor Guanwan Muhammad SpOg. After the cesarean section, Mrs. Agian was admitted to Yuliana Maternity Home and continued to check her progress with doctor Gunawan. However, on July 21, her condition suddenly deteriorated, and her blood pressure increased. Due to limited equipment at RSI, Mrs. Agian was referred to PMI Hospital Bogor and then to PMI Hospital. After more than two weeks of treatment at PMI Hospital, the neurologist, Dr. Yoeswar, suggested a CT scan at Pertamina Central Hospital Jakarta on August 11 to obtain more accurate information about brain nerve damage. The results of the CT scan, which came out on August 12, indicated permanent damage to the nerve centers of the brain, which made it impossible for Mrs. Agian to recover because the brain nerves were disconnected from her organs. Since then, Ny Agian has remained unconscious at PMI Hospital, and LBH Kesehatan intervened due to alleged malpractice. On August 27, Mrs. Agian was transferred to RSCM Jakarta by the action of LBH Kesehatan Director Iskandar Sitorus. Indonesia's medical code of ethics, which came into effect on

October 29, 1969, is the legal basis governing medical actions, including euthanasia. This code of ethics was enacted based on the Decree of the Indonesian Minister of Health dated October 23, 1969, which follows the decision of the Indonesian Minister of Health No. 55/WSKN/1969, issued on August 30, 1969. The code reflects the view of medical ethics that doctors should follow in their medical practice, and in some cases, opposes the practice of euthanasia.

Legal protection for doctors who perform euthanasia is an important need because Indonesia is a country based on law and not based on power alone. Euthanasia, in its nature and essence, is not a criminal act that must always be punished. The formulation of Article 344 of the Criminal Code regarding euthanasia has weaknesses, especially in terms of the element of an earnest request for euthanasia by the patient, which can make proof and prosecution difficult. In addition, Article 344 of the Criminal Code only regulates active euthanasia, while passive euthanasia has not been regulated in the law. Therefore, clear and comprehensive legal protection for doctors who perform euthanasia needs to be considered.

CONCLUSION

In Indonesian criminal law, euthanasia is regulated in Article 344 of the Criminal Code: Whoever takes the life of another person at the request of the person himself, which is clearly expressed with sincerity, shall be punished by a maximum imprisonment of twelve years. The article emphasizes that violating the life of another person at the request of the victim himself is still considered a criminal act. Euthanasia performed by doctors in consideration of illness, with the belief that human life and death are the business of God the creator, raises ethical questions. However, in the context of human rights, the right to life also involves the right to decide the moment of one's death. The right to die is not an absolute right, and in some cases, euthanasia can be an option for suffering individuals. Legal protection for doctors who perform euthanasia is necessary as Indonesia is a country of laws and statutes. The nature of euthanasia does not always have to be strictly punished because there are various points of view. Article 344 of the Criminal Code has a weakness as it requires the request for euthanasia to be stated solemnly, which is difficult to prove. In addition, the article only regulates active euthanasia, while passive euthanasia is not regulated in the law. Therefore, more comprehensive regulations related to euthanasia need to be considered within the framework of the law. In addition to the Criminal Code, the issue of the legality of euthanasia is also regulated in the medical code of ethics, which has been in effect since October 29, 1969, and this code of ethics was made based on the decree of the Indonesian Minister of Health on October 23, 1969. This medical code of ethics is an ethical guide for doctors in carrying out their duties. It is expected that in carrying out euthanasia, medical practitioners must be careful and consider very serious medical considerations before carrying it out, even if passive euthanasia is not explicitly regulated

in Article 344 of the Criminal Code. Therefore, it is rare for a doctor to be brought to court in Indonesia in the context of euthanasia due to the difficulty of proving a genuine request from the patient or their family, especially due to the complex and sensitive nature of euthanasia cases. In addition, although the Indonesian medical code of ethics, regulated in KODEKI (Indonesian Doctors' Code of Ethics), regulates the professional duties of doctors, it is expected that the government, particularly the health department and hospitals, should provide a clear understanding of euthanasia to the public. The aim is that doctors can carry out their duties and functions in accordance with the mandate and responsibility they carry. A proper understanding of euthanasia, along with ethical guidelines, can help doctors and the public in dealing with complicated situations related to the life and death of patients.

REFERENCES

- Arwani, M. (2020). Tinjauan Yuridis Tindak Pidana Euthanasia Berdasarkan Hukum dari Beberapa Negara (Indonesia-Belanda-Amerika Serikat). *Dinamika*, 26(8), 940-950.
- Calati, R., E. Olié, D. Dassa, C. Gramaglia, S. Guillaume, F. Madeddu, & P. Courtet. (2021). Euthanasia and Assisted Suicide in Psychiatric Patients: A Systematic Review of the Literature. *Journal of Psychiatric Research*, 135, 153-173.
- Cayetano-Penman, J., G. Malik, & D. Whittall. (2021). Nurses' Perceptions and Attitudes about Euthanasia: A Scoping Review. *Journal of Holistic Nursing*, 39(1), 66-84.
- Griffiths, J., H. Weyers, & M. Adams. (2008). *Euthanasia and Law in Europe*. Bloomsbury Publishing.
- Hati, A. D. P., N. P. R. Yuliantini, & D. G. S. Mangku. (2019). Tinjauan Yuridis Terkait Permohonan Suntik Mati (Euthanasia) Ditinjau dari Kitab Undang-Undang Hukum Pidana. *Jurnal Komunitas Yustisia*, 2(2), 134-144.
- Levin, K., G. L. Bradley, & A. Duffy. (2020). Attitudes Toward Euthanasia for Patients Who Suffer from Physical or Mental Illness. *OMEGA-Journal of Death and Dying*, 80(4), 592-614.
- Sabriseilabi, S., & J. Williams. (2022). Dimensions of Religion and Attitudes Toward Euthanasia. *Death Studies*, 46(5), 1149-1156.
- Wibowo, S. (2021). Tinjauan Yuridis Terhadap Tindakan Euthanasia dalam Perspektif Interkonektif. *Jurnal Hukum Caraka Justitia*, 1(2), 140-158.
- Yudaningsih, L. P. (2015). Tinjauan Yuridis Euthanasia Dilihat Dari Aspek Hukum Pidana. *Jurnal Ilmu Hukum Jambi*, 6(1), 43316.