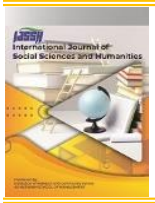

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The Regulation Of The Use Of Euthanasia In Indonesia And New Zealand In The Framework Of International Human Rights

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Abstract

The discussion of euthanasia is an interesting topic to explore due to the complex legal implications of both active and passive forms of euthanasia. This research will evaluate the perspectives of criminal law and human rights on the practice of euthanasia in Indonesia, as well as seek solutions to the complex dilemma between the needs of society by considering the rights of individuals and the legal norms prevailing in society. In this discussion, a comparison will be made to the regulation of euthanasia in New Zealand which regulates certain requirements. So that the problem analyzed is how the Comparison of Legal Regulations on the Use of Euthanasia in Indonesia and New Zealand in the Framework of Human Rights. This type of research uses normative legal methods. In addition, this research uses the statutory approach method, conceptual approach, and legal comparison approach. The results showed that Indonesia does not have specific regulations regarding euthanasia so that any action that ends a person's life can be subject to criminal articles. Another case with New Zealand which provides special regulations that make the regulations on this matter clear. In some ways it can be seen that the regulations in these two countries are very different where Indonesia prohibits actions that end a person's life while New Zealand provides exceptions to these actions as long as they are carried out in accordance with the law.

Contents

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Introduction

The process of death in healthcare is divided into 3 categories, namely: Ortotansia is death caused by scientific or natural factors, such as disease, aging, etc. Dystansia is death caused by unnatural factors, such as murder, suicide, etc. Furthermore, euthanasia is death by medical assistance (Sugiarto, 2023). Until now, medical personnel, especially doctors, have faced the problem that there is no law regulating types of death such as euthanasia, or the third death mentioned above.

Etymologically, euthanasia comes from the Greek language, from the word "eu", which means "beautiful, good, honorable, healthy, or gracefully and with dignity, and "thanatos" which means death. In English, euthanasia is often referred to as mercy killing or good/easy death (Soewondo and others, 2023). Suetonis, a Roman writer, in his book "Vita Ceasarum," once stated that euthanasia can be understood as dying quickly without suffering. So it can be concluded that euthanasia includes the act of ending the life of someone who is suffering for humanitarian reasons, with a focus on a calm death and reducing the suffering of patients who are already in the terminal stage.

Euthanasia is not a new issue, because this practice has been known and implemented in ancient times. Ilyas Efendi in Wardi explains that, during the Roman and Ancient Egyptian periods, a doctor named Olympus performed euthanasia at the request of Queen Cleopatra of Egypt. Although Cleopatra did not actually experience physical illness, she requested euthanasia as an elective measure. Cleopatra, who had great ambitions to conquer and rule the world, was frustrated that her goals were not being achieved. This frustration was fueled by the death of key figures such as Julius Caesar, who was expected to help her through the Senate, but was killed by a group that included her adopted son Brutus. Julius Caesar's successor, Markus Antonius, who also adored Cleopatra, failed in battle and eventually committed suicide after being defeated by his opponent, Octavianus. Feeling desperate and disappointed, Cleopatra finally asked Olympus' doctors to perform euthanasia. Euthanized by using a poisonous snake prepared by Doctor Olympus, Cleopatra breathed her last at the age of 38 (Wardi, 2014).

The history of euthanasia includes the practice dating back to ancient times and gaining support from prominent figures such as Plato, who encouraged individuals to commit to stopping their suffering from agonizing conditions. Aristotle, who defended the act of killing children from birth and unable to develop into strong human beings. Pythagoras and his group proposed the execution of individuals deemed lacking in intelligence and morals. Euthanasia was also applied in the ancient civilizations of India and in Sardinia. In contrast, Adolf Hitler factually ordered the execution of individuals with incurable diseases and babies born with congenital defects (Sutarno, 2014).

Since the 19th century, euthanasia had become a subject of discussion and movement in North America and Europe in the modern era. It began with the state of New York adopting the Anti-euthanasia Act in 1828, and many other states followed suit in the next few years. After the Civil War with America, some activists and doctors performed euthanasia voluntarily. Euthanasia support groups were established in Britain in 1935 and in America in 1938. However, the US and UK failed in their attempts to legalize euthanasia. In 1937, Switzerland allowed euthanasia on the recommendation of a doctor provided that the procedure did not benefit the patient.

At the same time, courts in the United States have denied some doctors' requests for euthanasia, deeming it "mercy killing" of parents of disabled children and very sick patients. Nazi Germany began a contentious program called "Action T4" in 1939, which would result in the use of euthanasia on children under the age of three with physical disabilities, mental retardation, or other illnesses deemed not worth living for. Although initially only applicable to children under the age of three, the initiative was later amended to include older children and adults. Following the Nazis' horrific experience in implementing the euthanasia policy, support for the practice declined, especially for cases of involuntary euthanasia or killing due to genetic defects. Uruguay, which has had a euthanasia law since 1902, grants the right to carry it out, except in Norway where euthanasia has been considered a crime since 1902. Some European countries also no longer consider euthanasia a crime.

New Zealand is one of the latest countries to legalize euthanasia on November 7, 2021 and after a vote showed the majority of the population supported the practice (Halim and Setiawan, 2023). Euthanasia is an option to end the life of a person who is terminally ill and cannot recover. The New Zealand Electoral Commission held a Referendum to legalize euthanasia, and declared the final result in favor of legalizing euthanasia, gaining the support of 65.2% of the New Zealand population. With time to spare, the Electoral Commission declared that euthanasia was officially legal. This makes New Zealand the 7th country in the world

that allows people to perform euthanasia. This practice makes it possible for people with terminal illnesses to end their lives with a lethal injection. The End of Life Choice Act 2019 of New Zealand takes effect in November 2021, and has already been passed.

Euthanasia is considered a human right, which is considered a logical outcome of the right to life (Gracia and others, 2022). For example, some patients who are suffering from chronic or vegetative diseases may not want to be a burden to their families. In this perspective, euthanasia can be considered as a way to respect the right to life and the right to die with dignity. In this context, the right to die is seen as an option that can be given to individuals who experience chronic suffering or are in an incurable state (Fachrezi and Michael, 2024). As such, the concept of euthanasia reflects the complexity of ethical, human rights and moral dilemmas associated with the right to life and the right to die with dignity. This approach highlights the need to strike a balance between respect for individual will and protection of the ethical values underlying human rights.

The discussion of euthanasia is an interesting topic to explore due to the complex legal implications of both active and passive forms of euthanasia. This issue opens up opportunities to investigate various aspects related to human rights. This research will evaluate the criminal law and human rights perspectives on the practice of euthanasia in Indonesia, as well as seek solutions to the complex dilemma between the needs of society by considering the rights of individuals and the legal norms prevailing in society. From an international human rights perspective, the issue of euthanasia is complex as it involves individual rights to health and life, as well as the right to self-determination. The euthanasia policy in New Zealand can be interpreted as an attempt to protect the patient's right to autonomy that allows them to make decisions regarding the end of their own life, in accordance with the principle of the right to self-determination.

Therefore, the author would like to further review the legal comparison between New Zealand and Indonesia regarding euthanasia from a human rights perspective with the title Comparison of legal arrangements for the use of euthanasia in Indonesia and New Zealand from a human rights perspective.

Materials and Methods

In answering the above problems, the author uses normative legal research methods. Peter Mahmud Marzuki explains that this research is a process of finding legal rules, legal doctrines and legal principles that aim to answer legal issues to be faced. In addition, this research uses the statutory approach method, conceptual approach, legal comparison approach. This research uses normative analysis techniques with inductive logic, inductive logic or processing of legal materials in an inductive way, namely explaining a general matter then drawing it into a more specific conclusion (Marzuki, 2021).

Results and Discussions

Legal Regulations on the Use of Euthanasia in Indonesia

In Indonesia, euthanasia is a prohibited act and is debated with various arguments, both from the pro and con camps. The pro side says that everyone has the right to life and the right to die immediately on reasonable grounds, namely on humanitarian grounds. In cases where the patient's condition no longer allows for recovery or survival, the patient can apply to end their life immediately. On the other hand, those who oppose euthanasia say that everyone does not have the right to end life because the issue of life and death is God's absolute power that cannot be denied by humans. A common argument put forward by those against euthanasia is that we should help someone live, not create a form that allows them to die.

Black's Law Dictionary 11th edition describes euthanasia as "The practice or an instance of causing or hastening the death of a person who suffers from an incurable or terminal disease or condition, esp. a painful one, for reasons of mercy. Euthanasia is sometimes regarded by the law as second-degree murder, manslaughter, or criminally negligent homicide".

It can be seen that euthanasia itself is an effort, and a form of action taken by a doctor can deliberately accelerate the death of a patient who is about to die with the intention of alleviating or being able to release him from his misery (Thobroni, 2017). As previously explained, euthanasia consists of two types: active euthanasia (active intervention by a doctor to end a person's life) and passive euthanasia (stopping any form of treatment or medical action needed to maintain a person's life) (Sarwono and Agus, 2020).

Based on the definition of active and passive euthanasia, it can be said that the discontinuation of life-sustaining therapy cannot be defined as active euthanasia; instead, it is passive euthanasia. When people think about whether treatment should be stopped or continued, they sometimes wonder if euthanasia should be performed. This euthanasia can be done by doing nothing (providing life support therapy) to prolong the patient's life or by deliberately shortening or ending the patient's life. This is also known as passive euthanasia. (Septiana and others., 2017).

In the health law, Law No. 17/2023 on Health does not establish clear rules on euthanasia. However, Law No. 1/2023 on the Criminal Code contains rules that are close to the elements of euthanasia. Indonesian Criminal Law prohibits euthanasia, both active euthanasia (Article 461 of the Criminal Code) and passive euthanasia (Article 428 of the Criminal Code). The definition of active euthanasia in the Criminal Code states that "Any person who takes the life of another person at the request of the person himself/herself which is clearly stated with sincerity, shall be punished with a maximum imprisonment of 9 (nine) years." Meanwhile, the definition of passive euthanasia in the Criminal Code states that "Any person who places or leaves a person in a state of neglect, while according to the law applicable to him or by agreement is obliged to provide for, care for, or maintain the person, shall be punished with a maximum imprisonment of 2 (two) years 6 (six) months or a maximum fine of category III."

If you pay close attention to Article 461 of the Criminal Code above, in order for a person to be declared to have fulfilled the article, the public prosecutor must be able to prove the existence of the element "own request which is clearly expressed with sincerity." In his article in the Magazine of the National Law Development Agency, J. E. Sahetapy stated the difference between euthanasia into three categories, namely: (Irianto Korowa, 2019)

1. The act of allowing death can occur because the patient really wants immediate death.

The patient in this situation realizes and understands that although good treatment and care are given, the disease cannot be cured. Therefore, the patient then asks the doctor that he does not need to receive treatment to cure his illness. On the other hand, this sentence also applies in cases where the patient requests that treatment not be given in a hospital, but left in the patient's own home. The doctor in this case commits euthanasia by leaving the patient in his own home. This is a type of euthanasia referred to as passive euthanasia.

2. Failure to make a decision to prevent death.

In this category, death will occur because of the doctor's actions or failure to prevent death. This happens when doctors should do something to prevent death, but they do not because they know that the treatment they provide is futile. The patient is eventually left to his or her own devices. In important respects, this type of euthanasia is the same as the first category, but it leaves the patient to die without treatment. In the first category, this abandonment is done by both the doctor and the patient, but in the second category, only the doctor treating the patient does it.

3. Active actions that cause death: these are positive actions that doctors take to hasten death.

This third action differs from the first and second actions in that it is active. The patient will die quietly as a result of this active act, such as giving an injection of death-inducing drugs or painkillers in very high doses, among others.

Meanwhile, related to passive euthanasia, according to criminal law, this action is included in passive euthanasia which is regulated in Article 428 of the Criminal Code. So, based on this article, if a doctor or medical personnel intentionally neglects someone who is in a miserable condition (in this case can be categorized as a terminal state patient) then according to criminal law in Indonesia, the doctor can be convicted.(Yudaningsih 2015).

Judging from the provisions of Article 461 and Article 428 of the Criminal Code, it clearly explains about euthanasia. However, the problem is whether the provisions in Law No. 1/2023 on the Criminal Code are still relevant to the current situation. Although the Criminal Code was enacted in 2023, it is materially unchanged with the Criminal Code (wetboek van strafrecht) that has existed since the Dutch colonial era, where at that time there was no development of medical science as it is now, and at that time the Criminal Code did not understand that there were other factors that influenced the determination of termination of life support therapy which was included in passive euthanasia. These other factors include, for example, aspects of the patient's right to autonomy, aspects of when the medical action should actually be stopped because it cannot be resolved by medical science. Thus, Law No. 1/2023 on the Criminal Code regulates the practice of euthanasia which is contained in Article 461 and Article 428 of the Criminal Code and is a punishable act. However, with

the reality of the times from time to time, and after considering various aspects, such as aspects of patient autonomy rights, the economy of the patient's family, the definition of death itself, the definition of euthanasia contained in the Criminal Code, has not adjusted to the relevance of the current situation. The incompatibility of the definition of euthanasia in Law No. 1/2023 on the Criminal Code with the present results in a legal vacuum due to the times (Damar and others., 2019).

This euthanasia action is carried out by stopping euthanasia for the patient, or it can be said that passive euthanasia raises an ethical dilemma for doctors and other health workers. So if the doctor faces such a case, a meeting must be held with the Ethics Committee, Medical Committee, and Bioethics Team to determine what actions should be taken by the Doctor in Charge of the Patient (DPJP) in accordance with 4 (four) basic ethical principles, namely autonomy, nonmaleficence, beneficence, and justice (Damar and others., 2019). Passive euthanasia occurs when doctors and/or other medical personnel intentionally do not provide medical assistance to prolong the patient's life, such as stopping something given in the form of infusion, eating food through a sonde, breathing apparatus, and/or delaying surgery (Damar and others., 2019).

Law No. 17/2023 on Health does not explicitly regulate the act of euthanasia for patients, but at least there is an article stating that the patient has the right to accept or reject part or all of the aid that will be given to him. It is good if the patient accepts the help that will be given to him, but the problem arises if the patient refuses the help that will be given to him, because it raises the question of whether the doctor in this case is categorized as committing an act of passive euthanasia or not. In line with this, Law No. 17/2023 on Health also does not explicitly regulate euthanasia in Indonesia. Instead, Article 5 paragraph (1) of Law No. 17/2023 on Health requires:

a. realize, maintain, and improve the highest degree of public health;
b. maintain and improve the health status of others for whom he/she is responsible;
c. respecting the rights of others in an effort to obtain a healthy environment;
d. implement healthy living behaviors and respect the health rights of others;

In this regard, although Law No. 36/2009 has been amended by Law No. 17/2023 on Health, the implementing regulations have not been amended, so we are still using Permenkes No. 37/2014 on Death Determination and Organ Donor Utilization. In this regulation, a patient in a terminal state, represented by guardianship or family, can request to stop life support therapy that can lead to the immediate death of the patient. This regulation provides two definitions of death. The first is in Article 8 which stipulates that the diagnostic criteria for clinical/conventional death is the cessation of the function of the cardiovascular system and respiratory system proven to be permanent. Meanwhile, Article 9 states that death is defined by the death of the patient's brain stem. Article 13 paragraph (1) states that after a person is determined to be brain stem dead, all life support therapy must be stopped immediately. Not only brain stem death, Article 14 regulates that if the patient's condition cannot be cured due to the disease he is suffering from and medical action has been futile, then termination and postponement of life support therapy can be carried out. The decision on the futility of medical treatment is made by the Director or Head of the Hospital.

The decision to discontinue, if it comes from the family, must go through an established process. The family's request to discontinue life support therapy must be accompanied by a doctor's opinion that any medical action to be taken on the patient is futile. If there is this diagnosis, the request will be brought to the Ethics Committee to ultimately determine whether or not termination of life support can be carried out (Hustrini, 2020).

In connection with the above, the patient's right to refuse help that will be given to him can be said to be a form of palliative care. Palliative care here aims to reduce the pain suffered by the patient by giving painkillers, but not to restore the patient to his original state due to the disease he suffered. Thus, refusing help to be given to a patient is the patient's autonomy and is not necessarily an act of passive euthanasia, because euthanasia is intended to cause death. On the other hand, the refusal of help to be given to the patient, which is decided by the patient himself, can be said to be palliative care in order to alleviate the pain he is suffering by giving painkillers even though it will not restore his state of life to its original state. It can be an act of passive euthanasia if no more medical assistance is given to the patient including the administration of drugs.

As the patient is currently incompetent and does not have a will, representative decisions can be made through friends, family members and close relatives of the patient. Representative decision-making is a form of consent for medical treatment with a doctor. So this results in whatever the guardian of the patient decides to do, including the decision to stop euthanasia therapy for terminal state patients or passive euthanasia. The main goal of medical treatment is to cure diseases and prolong life expectancy for patients, but today most people

believe to help end her life may also be considered an important part of healthcare, which is to relieve the patient's suffering caused by the disease (Flora, 2022).

Legal Arrangements on the Use of Euthanasia in New Zealand

The End of Life Choice Act 2019 provides an opportunity for those suffering from incurable health conditions to apply for medical assistance to help end their lives in accordance with the law. This regulation lays out the legal foundation for assisted end-of-life care, and covers regulation, characteristics, and protection guarantees. It should be noted that while the Act establishes the option to request an end to their life, it has strict eligibility criteria, which are necessary, even if they conflict with the very strong principle of autonomy used in support of end-of-life care (Frey and Balmer, 2022).

What is quite surprising in the current euthanasia debate in New Zealand is how many differences in opinion and forms of support exist based on the language used when discussing the issue. Euthanasia and physician-assisted suicide (EPAS) are increasing in medical, legal, and general circles, and the general consensus is that the general view is in favor of EPAS (Emanuel and others, 2016). Although the number of votes in favor varies widely in various polls. Some surveys show support of 80% and above, while others show less than 60%; the exact reasons for this discrepancy are not yet known. The factors leading to this discrepancy have yet to be studied further, and there are several variables that are thought to have contributed, including the time and place of the survey, as well as the explanations and emotional atmosphere of the questions that have been asked. It is possible that the answers given were influenced by low levels of knowledge about definitions and regulations. Based on this context, the relevance of the 'slippery slope' argument becomes very relevant. Terms and language can greatly influence people's views and support, so with the use of words that carry negative connotations such as “killing”, “suicide”, and even “euthanasia”, the use of sensitive words can jeopardize the correct understanding of key issues. This effect can particularly be seen in New Zealand where the impetus shown varies according to the phrase used. Certainly, statements talking about whether a person can legally 'kill themselves' will elicit a different response to rhetoric supporting 'voluntary assisted death' (Munday and Poon, 2020).

The law will come into effect 12 months after an open referendum in the 2020 General Election. Death assistance officially came into effect on November 7, 2021. According to Part 1, Article 3, the purpose of this Act is to:

a. "*To give* persons *who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives*"; and
b. "*to establish a lawful process for* assisting *eligible persons who exercise that option*".

The application of the term *“terminal illness”* is particularly significant in the above article, which sets quite detailed limits in relation to who can exercise the right to die. In contrast to the Netherlands which has periodically diversified its eligibility criteria, in order to exercise the right to die, a patient must be able to prove that he or she will experience death within a period of 6 months (Leget, 2017). While assisted dying has always been reserved for those who are in a state of unbearable suffering, this law sets a fairly high threshold for a patient to be able to die with assistance. There is some certainty that this procedure is more beneficial to society than just the accessibility of this procedure to more people.

Under the current New Zealand statute of limitations, a person must meet certain criteria in order to be granted the right to die. However, there is the potential that the provision of threshold values based on these criteria may change in the next few years and it is possible that New Zealand may adopt the example of the Netherlands. This is not an inherent purpose of the Right to Death, which is to reduce all barriers to the exercise of a self-determined death, but through various social and legal reforms, it can be hoped that a future with a recognized right to die is foreseeable as countries develop the foundations that will allow for the systemic implementation of the right. The law recognizes the risks of the right to die, but maintains the autonomy and self-determination of the individual over his or her own death. Recognizing certain types of suffering does not mean that a system ignores other suffering, but rather that a system has taken a first step towards recognizing the right to die. Given the importance of the right to die, the right to die is not an encouragement to die, but rather an acceptance of its inevitability, along with another element of autonomy, it is possible that end-of-life care in New Zealand could also reach the same level as in the Netherlands.

The law also requires that the person making the application is competent to make an informed decision about assisted suicide/euthanasia, defined which is as the competence to be able to “understand all information directly related to assisted suicide/euthanasia”, to remember or consider that information, and to use or take

account of that information to make a decision and communicate it to others (including non-verbally). If the "attending physician" (the physician who provides the treatment for euthanasia) or the "independent physician", i.e. the physician who provides a second opinion on the appropriateness, is not fully satisfied with the patient's competence, then a psychiatrist should evaluate the patient. Unlike other medical decision-making, there is no presumption of competence for the purposes of this Act (the Act enacts a new clause (5A) into the Health and Disability Services Consumer Rights Regulations (the Code) which confirms that Rights 7(2)-(5) of the Code (which includes a presumption of capacity) are overridden by this Act in Section 6). Patients must have capacity at the time of application and examination for euthanasia and when receiving lethal medical treatment. Patients are not allowed to sign euthanasia orders (Part 4 Section 33), and no guardian is authorized to make a decision or take action under the New Zealand End of Life Choices Act 2019 (Part 4 Section 34).

The New Zealand End of Life Choices Act 2019 (the Act) expressly states that, once declared eligible for euthanasia, the person and service provider must set a date and time for the administration of lethal drugs. The patient may decide to take the drug by ingestion or intravenous drip, or may ask a doctor or nurse to administer the drug by injection or intravenous drip. The patient may decide not to take the drug, or may take another schedule for up to six months after the specified date.

If there are people who question euthanasia, the New End-of-Life Choices Act 2019 sets out procedural measures, particularly those described in Part 2 Article 11, which are intended as safeguards. The treating medical practitioner shall ensure that the patient applying for euthanasia assistance is aware of alternative options for end-of-life care, and shall provide information to the patient regarding his/her health condition and that euthanasia is permanent. The treating medical practitioner should try their best to provide the best possible service to ensure that the patient's wishes for euthanasia are not threatened by other parties by consulting with other health practitioners, by discussing with the patient's family (if authorized by the patient), and by discussing various options with the patient at various times within a timeframe arranged according to the patient's condition, including by telephone or electronic media. For each step in the process, the medical personnel administering the medication or the nurse (who has the authority to prescribe the medication) should ensure that the patient understands that he/she may change his/her mind at any time before the medication is administered. If at any time the medical personnel providing the treatment or medical practitioner suspects that there is pressure on the patient's decision-making, the medical personnel must immediately end the process and notify the Registrar (the supervisor of the New Zealand Ministry of Health) of the euthanasia.

Examination duties under the Act are also given to three other institutions: The End of Life Advisory and Assistance Council, the End of Life Advisory and Assistance Council, and the Board of Trustees: End of Life Review Committee, Support and Consultation Committee for End of Life in New Zealand (SCENZ), and the Committee and Trustees. The members of the Review Committee are a medical ethics expert and two health experts, two of whom are health practitioners, one of whom is practising in the field of end-of-life care. The Review Committee is tasked with reviewing each assisted death case report file to ensure that the death report complies with the requirements of the Act.

The law states that the Head of the Ministry of Health shall establish the SCENZ Committee and appoint a number of members who, in his or her opinion, as a whole, are capable of possessing the necessary expertise and insight to perform the functions provided for in the law. 13 The SCENZ Committee is tasked with creating and maintaining a list of medical personnel (doctors, psychiatrists, pharmacists and nurses) who are responsible for actively participating in the programme. The individuals on this list can act as attending medical practitioners if the medical practitioner who normally treats the patient refuses to participate or deliberately refuses, and can also act as independent health professionals who provide a second opinion. The committee also has a role in developing procedures for care, and advises on medical and legal procedures related to the use of drugs to be used in euthanasia. There are procedures that need to be developed in terms of drug composition and dosage and logistical handling, including prescription, acquisition, processing, storage, and disposal of drugs when they are no longer in use (White and others, 2019).

The Registrar is responsible for maintaining making a record of the euthanasia register, by reviewing the relevant registers that must be completed submitted at each step in the process, reporting annually to the Ministry, and receiving complaints about medical personnel. Administration of medication can only be authorised if the Registrar informs the attending medical practitioner that all the necessary processes have

been completed. The Registrar's review schedule, which ascertains whether all stages of the process in this Act have been fulfilled, will be important for patients who are nearing the end of life (Onwuteaka-Philipsen and others, 2019).

Comparative Analysis of the Law on the Use of Euthanasia in Indonesia and New Zealand in the Framework of Human Rights

New Zealand's decision to legalize euthanasia is quite a debate. The vast majority of the population in Australia and New Zealand believe that voluntary euthanasia is ethical and should be legally permitted. Despite the efforts of small political parties, some individual politicians, and advocacy groups committed to changing the law, they faced considerable resistance. Especially from supporters of the sanctity of life principle, who believe that this principle has high ethical merit. (Mcgee and others [n.d.]). According to the *World Happiness Report*, it is reported that New Zealand will be among the 10 happiest countries in the world by 2023. However, this begs the question of why New Zealand has included euthanasia in its legal framework. While this move reflects social dynamics and individual needs, the view that a happy country should not legalize euthanasia raises critical questions about the relevance of the practice in a context of high societal well-being.

Although New Zealand has legalized euthanasia, the country still applies strict rules and conditions to govern its implementation. The process to apply for euthanasia requires the fulfillment of certain criteria, which are designed to ensure that this decision is taken with care and in accordance with the principles of medical ethics. To qualify for death assistance, strict criteria must be met. However, some people suffering from terminal illnesses are unable to meet these conditions. Any New Zealander over the age of 18 who has a diagnosis of a terminal illness that could end their life within 6 months at the earliest can access assisted dying.

This shows that the right to request euthanasia is granted to adults who have full legal capacity. In addition, some of the other conditions include having an incurable decline in physical ability. This emphasizes that euthanasia is only considered for situations where the disease or health condition cannot be addressed or cured through existing medical methods. That the patient must be experiencing unbearable suffering or pain that cannot be relieved by normal treatment. This emphasizes that euthanasia is considered as the last option to end insurmountable suffering. Lastly, the patient applying for euthanasia must be able to make an independent decision to end their life. This emphasizes the importance of the patient's autonomy and mental capacity in making such an important decision.

In relation to the right to life and the right to die, the issue at hand is closely related to human rights. The foundation of the concept of euthanasia is basically rooted in the belief that every individual born into this world has the right or control over their personal destiny, known as (*The Right to Self-Determination).* (Rompegading and Putra, 2023). This thinking leads us to the idea that every individual has the right to make choices regarding their life, including the right to determine the manner and time of their death.

In Indonesia, euthanasia falls under the relationship between the individual and society, or with the state (public law). Law, in general, is used for the benefit of humans themselves. Law regulates the relationship between individuals and others, and in addition helps individuals in their daily lives to provide certainty. In criminal law issues relating to Article 461 of the Criminal Code. To be able to relate euthanasia to criminal law issues, some criminal law terms have previously been given, namely: 1. Criminal law in the objective sense (*Ius Poenale*). There are several regulations that contain prohibitions or imperatives where violations are punishable. 2. Criminal law in the subjective sense (*Ius Poeniendi*). There are various regulations that regulate the state's right to punish someone who commits a prohibited act.

Doctors have an obligation to provide a medical service in accordance with the patient's needs as stipulated in Article 276 letter c of Law No. 17/2023 on Health and in detail refers to Permenkes No. 37/2014 on Determination of Death and Utilization of Donor Organs. In the above regulation, a doctor is not allowed to terminate treatment for a patient who is about to decide to go home because doing so will hasten the patient's death. If this is done, it is an unlawful act with severe sanctions. On the other hand, a patient has the right to refuse medical treatment, which is regulated and protected by existing laws and regulations. This action should also be appreciated and respected by doctors and other medical personnel.

The differences start from the differences in the societies of the two countries. New Zealand society, which is the *benchmark for the* regulation of *The End of Life Choice Act* 2019, has several elements of clinical ethics, namely medical indications, patient choice, and patient quality of life. In addition, there are other considerations such as family and insurance considerations that bear the burden of patient costs and are also very concerned about the patient's best interests. Indonesia, on the other hand, cannot emulate New Zealand because of the

differences that exist. Differences in society and the inability to explore the inner situation of the local community in making regulations. For example, in Indonesia the value is that Indonesian society is still very thick with kinship while in New Zealand the society is more individualized. Then the euthanasia proposal itself has been around for a long time. So it is unlikely that euthanasia can be in Indonesia because it will cause turmoil in Indonesia.

In addition, Indonesians have historically not believed that dying can be helped by others, including doctors. (Michael, 2020). A person should die naturally or according to the power of Allah SWT. Therefore, euthanasia is considered incompatible with the human values upheld in Indonesia and is the philosophical foundation of the country. In addition, euthanasia violates religious norms, customs, and laws in Indonesia.

When viewed in terms of its own implementation. In these two countries, the implementation of the two regulations that are debated to be an act of euthanasia is different because the implementation in New Zealand is debated to be considered active euthanasia and the implementation in Indonesia is debated to be considered passive euthanasia. In Indonesia, due to the removal of ventilator, it is still debated about its categorization into euthanasia. This is due to the fact that Indonesia is a country that prioritizes human values as its philosophical basis, and acts in accordance with the principles of Pancasila. The state of Indonesian society that upholds religious values also makes the concept of life not belonging to individuals but to God. Thus, any action that ends life is prohibited and only natural death is accepted. The removal of the ventilator is argued to be a form of passive euthanasia as it stops the medical action that causes death, regardless of the patient's condition.

In the existing regulations, both PERMENKES Number 37 of 2014 and *The End of Life Choice Act* 2019, there are differences that can be seen from several aspects. Regarding the scope, PERMENKES No. 37/2014 regulates ventilator withdrawal with family request and doctor's recommendation and Ethics Committee decision. *The End of Life Choice Act* 2019 regulates it for New Zealand citizen patients who request and after a doctor confirms that they have a terminal illness. In short, the PERMENKES regulates patients who do not have the ability to express their wishes while *The End of Life Choice Act* 2019 regulates patients who are able to express their wishes. Regarding who can request, as explained above, there are several requirements that must be met for someone to request to end their life. In PERMENKES Number 37 Year 2014, the request is made by the family to the doctor and the Ethics Committee for patients who are unconscious while *The End of Life Choice Act* 2019 regulates it in the requirements regarding patients who are entitled to request, namely adults, Oregon residents, capable and have a terminal illness with a prognosis of 6 months.

In the conception of international law, there is no right to die. However, international law does not explicitly prohibit euthanasia, especially in international treaties. International human rights instruments only stipulate that states should make every effort to respect and protect the right to life of every person through their national legislation. Therefore, some countries such as New Zealand happen to legalize the practice of euthanasia, which can cause the death of a person without natural or just cause, which can be equated to depriving a person of the life to which they are entitled. As a result, the debate on this matter eventually emerged as it did in New Zealand. Meanwhile, in Indonesia itself, euthanasia in any form is prohibited and the act of euthanasia is categorized as a criminal offense. So based on the description above, it explains that both active and passive euthanasia are not permitted in Indonesia because both are actions that take away a person's life, even if it realizes the request of the patient himself. In addition, passive euthanasia stops all medical actions that are being carried out because it cannot alleviate the suffering of the patient.

It is important to give proper direction and definition to the Right to Die. Most people think of it as an act or action that aims to cause the death of a terminally or incurably ill patient in order to relieve their pain and suffering. However, what kind of pain and suffering does this actually entail? In what cases, how can legal jurisprudence determine exactly when suffering is considered 'sufficiently' unbearable for an individual? It seems unfair that people can only gain the right to make autonomous decisions over their bodies, when they prove that they are at a point of no return. In a sense, this is reminiscent of the use of sexual violence as the sole justification for abortion; After all, everyone should be able to make choices for their own lives regardless of unbearable suffering to the point of loss of dignity.

Based on Article 5 of Law No. 17/2023 on Health, it can be concluded that everyone has the right to health and also the right to life. The right to life itself is a human right that cannot be reduced under any circumstances and by anyone (*Nonderogable right*), but if it is related to the context of euthanasia, a question arises whether a person may not exercise his right to life? If referring to all legal norms in Indonesia regarding suicide is something that is not regulated, which if a legal rule is not regulated in the legislation then the action is

permissible, but not for assisted suicide because it is contrary to other laws. Although a human being is given a right, it does not mean that the right is unlimited, but there are things that make the human rights can be overridden, for example, the death penalty for drug dealers. This clearly violates the human right to life but the death penalty is still carried out in Indonesia.

Conclusion

Based on the comparison conducted, it shows that Indonesia needs to establish strict rules on the permission of lethal injection, which would not simply be accepted in the Netherlands. Doctors can only perform euthanasia if the patient can demonstrate that they cannot endure their suffering and have no hope of living anymore. In addition, from a human rights perspective, the government needs to define euthanasia in the Criminal Code in accordance with the current situation, because the definition of euthanasia contained in the Criminal Code is considered not looking at other aspects, such as humanitarian aspects, economic aspects, and aspects of medical science. This causes legal discrepancies in Indonesia regarding the regulation of euthanasia, resulting in a legal vacuum.

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