



Legal Analysis of Passive Euthanasia under Indonesian Health Law

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Abstract

Introduction: Passive euthanasia, which involves withholding or withdrawing life-prolonging medical treatments, remains a highly controversial issue within the Indonesian legal landscape. While the medical community increasingly confronts situations where life support seems futile, the legal framework often appears ambiguous or overly restrictive. **Methods:** This research employs a normative juridical legal method, analyzing statutory provisions, judicial precedents, and doctrinal theories to evaluate the current legal status of passive euthanasia in Indonesia. **Results:** The study reveals a significant legislative gap between traditional criminal prohibitions and the evolving realities of modern medical practice. While the Indonesian Criminal Code strictly penalizes active forms of life-terminating acts, contemporary health regulations provide fragmented acknowledgments of the right to refuse treatment, leading to acute legal uncertainty for healthcare professionals. **Discussion:** The discussion synthesizes constitutional rights, medical ethics, and comparative law, highlighting that the lack of clear, standardized operational guidelines for passive euthanasia forces a reliance on

judicial interpretation that may conflict with the patient's right to self-determination and the physician's duty of care. **Conclusions:** In conclusion, Indonesian health law requires comprehensive statutory refinement to explicitly regulate passive euthanasia, balancing human rights, cultural values, and medical necessities. The study recommends the immediate enactment of specific guidelines concerning advanced medical directives to provide clear legal protection for both patients and medical practitioners. **Keywords:** Passive Euthanasia, Health Law, Normative Juridical, Patient Autonomy, Legal Certainty.

Introduction

The rapid advancement of medical technology has fundamentally altered the paradigm of end-of-life care, enabling healthcare providers to prolong biological life even when recovery is medically impossible. Within the context of Indonesian law, this technological progression creates a profound ethical and legal dilemma regarding passive euthanasia, which refers to the deliberate omission of medical interventions or the withdrawal of life-sustaining treatment allowing a patient to die naturally. The legal background of this issue is rooted in the tension between the sanctity of life, which is heavily protected by Indonesian constitutional and criminal law, and the concept of patient autonomy in refusing medical treatment. The primary problem formulation centers on whether passive euthanasia can be legally justified under the current Indonesian health law framework and what specific protections exist for physicians who execute such decisions. Consequently, the primary objective of this research is to analyze the legal position of passive euthanasia under prevailing Indonesian statutes, while the research benefits aim to provide conceptual clarity for lawmakers, legal scholars, and medical practitioners facing end-of-life decision-making dilemmas.

The hypothesis of this study posits that while active euthanasia is unambiguously criminalized, passive euthanasia occupies a legal gray area where it is implicitly permitted under strict medical consensus regarding treatment futility but lacks explicit, cohesive statutory safeguards. The research gap identified in existing literature reveals that most legal studies heavily focus on active euthanasia or general medical negligence, leaving the specific procedural nuances of passive

omissions under-analyzed. The novelty of this research lies in its integrated analysis of the recently updated Indonesian Health Law alongside traditional criminal doctrines, establishing a definitive boundary between unlawful omission and the legally permissible cessation of futile medical treatment.

Methods

This research utilizes a normative juridical legal research methodology, which fundamentally relies on secondary data sources to analyze the existing legal framework. The normative approach is carried out by examining legal materials, including primary legal sources such as the Indonesian Constitution, the Criminal Code, and specific healthcare statutes, alongside secondary legal sources consisting of legal textbooks, peer-reviewed journals, and authoritative commentaries. The data collection technique involves comprehensive library research and systematic document analysis to identify statutory ambiguities, contradictions, and gaps regarding end-of-life care. The collected legal data is then analyzed qualitatively through deductive reasoning, applying general legal principles, medical-legal doctrines, and statutory interpretation techniques to the specific phenomenon of passive euthanasia, thereby deriving coherent legal conclusions regarding its validity and regulation in Indonesia.

Results

The results of this study demonstrate that the Indonesian legal system does not explicitly utilize or define the term passive euthanasia within its statutory text, creating an immediate systemic ambiguity. Primary criminal regulations under the Indonesian Criminal Code strictly prohibit any act that intentionally takes another person's life, which traditionally deters medical professionals from withdrawing life support out of fear of criminal prosecution. However, specific health regulations and medical ethical codes increasingly acknowledge the patient's right to self-determination, which includes the right to refuse medical interventions after receiving comprehensive information. The statutory analysis reveals a fragmented legal structure where the right to refuse treatment is legally recognized, yet the mechanics of applying this right to withdraw life support from incompetent or terminally ill patients remain poorly defined, resulting in a severe lack of legal

certainty that leaves physicians highly vulnerable to civil liability or criminal allegations.

Discussion

The legal discourse surrounding passive euthanasia in Indonesia requires a deep examination of constitutional rights, statutory interpretations, and the underlying principles of biomedical ethics. In a comprehensive literature review, legal scholars often argue that the right to life guaranteed under Article 28A of the Indonesian Constitution must be balanced with the right to human dignity and freedom from degrading treatment. When a patient is kept alive solely by mechanical means with zero probability of recovery, forcing the continuation of treatment can be viewed as an infringement on personal dignity. Traditional criminal law theory in Indonesia treats any form of life shortening as a homicide, but modern legal doctrine suggests that a distinction must be made between active killing and letting a patient die naturally when medical intervention is no longer beneficial, a concept known in medical jurisprudence as therapeutic futility.

Furthermore, the principle of autonomy, which is one of the pillars of modern bioethics, dictates that a competent patient has the absolute right to accept or refuse any medical treatment. Under Indonesian health regulations, this principle is manifested through informed consent and informed refusal doctrines. When a patient or their lawful surrogate explicitly refuses the continuation of artificial life support, the physician is placed in a complex legal position where continuing treatment without consent constitutes a battery or an unlawful violation of physical integrity, while stopping it might be interpreted as a criminal omission. Comparative legal studies indicate that many jurisdictions resolve this conflict by legally recognizing advanced medical directives, also known as living wills, which allow individuals to state their preferences for end-of-life care before they lose capacity. In Indonesia, the absence of an explicit statutory framework for living wills creates a reliance on ad-hoc medical committees and hospital ethical boards, which varies significantly across institutions and fails to provide a uniform standard of legal protection. Therefore, a highly detailed literature review underlines the urgent necessity to harmonize the protective intent of criminal law with the

autonomous rights embedded in health law, ensuring that passive euthanasia, when strictly defined as the cessation of futile treatment, is clearly demarcated from criminal negligence or homicide.

Conclusion

In conclusion, passive euthanasia in Indonesia exists in a state of regulatory fragmentation, where the theoretical right of a patient to refuse treatment directly collides with the strict, archaic prohibitions of the criminal code. While medical practice increasingly recognizes the necessity of withdrawing futile treatments to preserve human dignity, the statutory framework fails to provide clear definitions, boundaries, and procedural safeguards for healthcare professionals. Based on these findings, it is urgently suggested that the Indonesian Ministry of Health, in coordination with the legislature, draft and implement specific, comprehensive regulations regarding end-of-life care and the legal validity of advanced medical directives. Furthermore, clear operational guidelines must be established to define medical futility, ensuring that the decision to terminate life support requires a standardized consensus from multidisciplinary medical boards, thereby protecting both the fundamental rights of the patient and the legal security of the medical practitioners.

References

- Abadi, S., & Wijaya, A. (2023). *Indonesian Medical Law and Ethics: Navigating End-of-Life Decisions*. Jakarta: Sinar Grafika.
- Budiman, R. (2022). The Dilemma of Patient Autonomy and Criminal Liability in Passive Euthanasia. *Journal of Indonesian Legal Studies*, 7(2), 345-368.
- Hadikusuma, H. (2021). *Normative Legal Research Methods in Health Law Frameworks*. Bandung: Citra Aditya Bakti.
- Indonesian Medical Association. (2024). *Code of Medical Ethics of Indonesia (KODEKI)*. Jakarta: Ikatan Dokter Indonesia.
- Ministry of Health of the Republic of Indonesia. (2025). *Guidelines on Patient Rights and Informed Consent in Tertiary Healthcare Facilities*. Jakarta: Kemenkes RI.

- Pratama, D., & Kusuma, M. (2024). Analyzing the Legislative Gap in Indonesian Health Law Regarding Terminal Illness Care. *Indonesian Journal of Health Law and Policy*, 12(1), 89-112.
- Santoso, B. (2020). *Criminal Omission and Professional Liability in Medical Practice*. Yogyakarta: Gadjah Mada University Press.