

CHAPTER I

INTRODUCTION

A. Context of Study

Every living thing, including in it, human beings will experience and go through a life cycle process. The life cycle starts from the process of fertilization, the birth process, and then continues to the process of life in the world, and the cycle of human life ends with death. All these cycles will be experienced by humans and cannot be avoided. Death is a process of human life cycle that contains a mystery or a big question mark. Death is a topic that is very feared by the public, this does not happen in the world of medicine and health.¹ The true origin of rights is moral awareness, rights that are solely on the basis of orders of moral consciousness, which are called “natural rights²” or “fundamental”. But according to Jeremy Bentham³ in his book “Theory of Legislation”, which was quoted by Abussalam, in addition to natural rights, there are also “non-natural” or “conventional” rights, namely rights which are not represented by moral awareness, but are born of free awareness between rights owners natural.⁴ In

¹ Denissa Ningtyas, “Euthanasia,” <http://www.slideshare.net/densyaa/euthanasia> Accessed March 20 2019.

² Natural rights are rights that believe it is important for all living beings to have out of natural law. These rights are often viewed as inalienable, meaning they can almost never be taken away. The concept of what are natural rights has varied throughout history. The idea first came up in ancient times but was discussed most famously by English philosopher John Locke. Locke said that the most important natural rights are “Life, Liberty, and Property”.

³ Jeremy Bentham is a British philosopher, jurist and social reformer who are considered the founder of modern utilitarianism. Bentham is defined as the “fundamental axiom” of his philosophy of the principle that it is the greatest happiness of the greatest number which is a measure of right and wrong and the author of the book Theory of Legislation.

⁴ Abdussalam, “*Hak Asasi Manusia Dalam Proses Peradilan*,” Jakarta, PTIK Press, 2010. p 7.

international human rights law it is very clear to explain a person's right to life and will be controversial if the human rights law also regulates the existence of the right to die as well and it will be pro and contra if an instrument in human rights regulates the choice of death when and where. In essence, in terms of determining one's death in a medical science, a diagnosis that is really needed and a diagnosis must be scientifically accountable. Death can be legalized into something definite and it can be ascertained the date of its occurrence, euthanasia allows this to happen.⁵

Euthanasia is a problem that makes it difficult for doctors and other health workers who are often faced with such cases when a patient is experiencing or suffering from a disease that caused severe suffering and is often difficult to cure. Problems like this sometimes make patients and families of patients finally take the decision to do euthanasia in the form of injecting a substance called active euthanasia or also by stopping the medical action where the termination of medical action can also be said to be euthanasia in the passive form⁶. The progress of science in science and technology like this has an impact on moral/ethical, religious, legal, social and cultural values. Doctors facing this case are confronting dilemma, in terms of whether the doctor has the legal right to end a person's life (patient) on the basis of the request of the patient himself or the patient's family. Euthanasia in the international world has also received its own attention. Countries in Europe such as the Netherlands have legalized the practice of euthanasia and then followed by Belgium, the United States and Australia which

⁵ Denissa Ningtyas, *Op.Cit.*

⁶ Chapter 6 - Crafting Public Policy on Assisted Suicide and Euthanasia, Department of Health. New York State. p 117.

have also acknowledged the existence of euthanasia. However, each country has its own procedure and requirements.⁷ In the United States, for example, euthanasia has begun to be applied based on a court ruling that frees the perpetrators from legal consequences. Even in the Netherlands, laws have been passed which legalize euthanasia under certain conditions. Besides the Netherlands, North Australia for two years (1995-1997) once passed a law allowing euthanasia, with the consideration of the rights of patients at the terminal stage. But later, due to protests raised by the community, the law was revoked. In Indonesia, the legalization of the application of euthanasia is still a discourse that develops by debating the values adopted by the community.

The presence of euthanasia as a human right in the form of the right to die is considered a logical consequence of the right to life. Because everyone has the right to live, everyone also has the right to choose death which is considered pleasing to him/her. This is what later led to the term euthanasia.⁸ Talking about euthanasia cannot be separated from what is called the right of fate determination to patients. This right is one of the main elements of human rights. Progress in the way of thinking of society has led to new awareness of these rights. Likewise with various developments in science and technology (especially in the field of medicine), it has resulted in very dramatic and meaningful changes to the understanding of euthanasia. But the unique thing is that the progress and

⁷ Pingkan K. Paulus, "*Kajian Euthanasia Menurut HAM (Studi Banding Hukum Nasional Belanda)*," <https://media.neliti.com/media/publications/879-ID-kajian-euthanasia-menurut-ham-studi-banding-hukum-nasional-belanda.pdf>. Accessed March 20 2019.

⁸ Irna Tilamuhu, "*Euthanasia Ditinjau Dari Aspek Hukum dan Hak Asasi Manusia*" <http://irnatilamuhu.blogspot.com/2012/03/euthanasia-ditinjau-dari-aspek hukum.html>, Accessed March 20 2019.

development that was very rapid seems to have never been followed by developments in the field of law and ethics.⁹ Although it is not explicitly regulated, euthanasia is also considered to have violated the Criminal Code, namely in Article 344 of the Criminal Code which reads:

“Who seizes the lives of others at the request of the person who is clearly stated with sincerity, is threatened with imprisonment twelve years.”¹⁰

Euthanasia when viewed in the perspective of human rights according to the people who are contra is considered a violation because it involves the right of life of patients who must be protected. Euthanasia is considered to violate human rights because it contradicts the right to human life it is thought to deliberately shorten the life of a person.¹¹ However, in reality what happens in practice euthanasia becomes a way out of a problem that concerns human life in this case the patient. Along with human freedom to do something about him, a demand began to emerge to recognize euthanasia as part of human rights. In this case, euthanasia is considered as the right to die, as reported by the Euthanasia Legal Issues Assessment Team, which states that the most interesting development of human rights issues is related to euthanasia, where the right to die is considered part of human rights. The presence of euthanasia as a human right in the form of the right to die is considered as a logical consequence of the right to life.¹² Because everyone has the right to live, everyone has the right to choose a death

⁹ Haryadi, “Masalah Euthanasia dalam Hubungannya dengan Hak Asasi Manusia,” <http://online-journal.unja.ac.id/index.php/jimih/article/view/540> Accessed March 20 2019.

¹⁰ Article 344, Indonesian Criminal Law.

¹¹ Tjandra Sridjaja Pradjonggo, “Suntik Mati (Euthanasia) Ditinjau dari Aspek Hukum Pidana dan Hak Asasi Manusia di Indonesia” *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*. Vol. 1, No 1, Juni 2016. p 56.

¹² Haryati, Nur, “Euthanasia dalam Perspektif Hak Asasi Manusia dan kaitan-nya dengan Hukum Pidana” *Lex Jurnalica*, Vol. 1 No. 2, April 2004. p 93.

that is considered pleasing to him. It is this fun death that later gave rise to the term euthanasia. Philosophically, if studied more deeply, humans actually do not have the right to live because humans do not have life itself. Human presence is fully the will of God Almighty. This is seen in the birth of man, where he does not have the authority to determine when to be born, in the condition of how to be born, or from the womb that he will be born. If the right to life is owned by humans, then he will be able to determine when he will live, under what conditions he/her will live, or from the womb who he will start his life. But apparently, humans do not have these rights.¹³ This is seen in the birth of human, where he does not have the authority to determine when to be born, in the condition of how to be born, or from the womb that he will be born. If the right to life is owned by humans, then he will be able to determine when he will live, under what conditions he will live, or from the womb who he will start his life.¹⁴ But apparently, humans do not have these rights. Man only knows that he has been born and has been blessed with life. The United Nations on human rights, which is clearly recognized, is only the right to life. While regarding the right to die, it develops based on the existence of a national and international recognition that each individual has “a right to life, free from torture, and cruel and inhuman treatment”¹⁵, in addition, the right to life in its development also creates the right to health of someone.¹⁶

¹³ *Ibid.* p 94.

¹⁴ *Ibid.*

¹⁵ United Nations, Department of Economic and Social Affairs Disability, Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment.

¹⁶ *Ibid.*

B. Problem Formulation

The problems formulated from the topic are as follows:

1. How does euthanasia under International Human Rights Law?
2. What is the position of euthanasia under Indonesian Law in the perspective of International Human Rights Law?

C. Research objective

The objectives of this research are:

1. To find out how euthanasia control under international human rights law.
2. To figure out the position of euthanasia under Indonesian Law in the perspective of International Human Rights Law.

D. Definition of term

The terms which specifically became a nation of this research are:

1. **Euthanasia:** The term of Euthanasia, comes from the Greek words *eu* and *thanatos* which means “dead good” or “die in a state of calm or pleasure”.

In the Netherlands it is stated that Euthanasia is intentionally not doing an effort (*nalaten*) to prolong the life of a patient or intentionally not doing something to shorten or end a patient’s life, and all this is done specifically for the patient’s own interests.¹⁷ Euthanasia in the Oxford English

Dictionary was formulated as:

“Soft and comfortable death, carried out mainly in cases of suffering and incurable illnesses”.

¹⁷ Cecep Tribowo, “*Etika & Hukum Kesehatan*”, Nuha Medika, Yogyakarta, 2014. p 200.

Based on medical explanations, euthanasia according to Dr. Kartono Muhammad is helping to speed up the death of someone to be free from suffering. According to Dr. Med Ahmad Ramli and K. St. Pamuncak euthanasia is a doctor's effort to alleviate the suffering of death. According to Anton M. Moeliono and friends, the definition of euthanasia is an act of intentionally ending the life of a person (person or animal) who is seriously ill or seriously injured with a calm and easy death on the basis of humanity.¹⁸

2. International Human Rights law: International human rights law is a branch of international public law, namely law that has been developed to regulate relations between entities that have international personalities, such as the state, international organizations, and individuals. To understand the workings of various institutions tasked with overseeing human rights, we need to have basic knowledge of the prominent aspects of the international legal system. In the context of human rights, international law has a dual quality because it creates a barrier to the protection of effective human rights while also providing a means to overcome such obstacles.¹⁹ Because human rights law is a branch of international law, the way of its creation is the same as the way in which international law is generally created. Thus to enter the origins of human rights law, we need to examine commonly used sources of international

¹⁸ Anton, M. Moeliono, "*Kamus Besar Bahasa Indonesia*", Balai Pustaka, Jakarta, 1989. p 237.

¹⁹ Scott Davidson, "*Hak Asasi Manusia Sejarah, Teori, dan Praktek dalam Pergaulan Internasional*", penerjemah: A. Hadyana Pudjaatmaka, Temprint, Jakarta, 1994. p 66.

law. In this case, Article 38²⁰ about of Association of the International Court is generally accepted as statements that best represent the sources of such international law. The Court, which has the function of deciding a dispute submitted to him in accordance with international law, must apply:

- a. International, general and special conventions, by enforcing provisions which are expressly recognized by warring countries.
- b. International customs that are evidence of commonly accepted practices as law.
- c. The general principles of law that are recognized by nations adhere to.
- d. Judicial decisions and the teachings of the most powerful international jurists of various nationalities, as an additional way to establish legal provisions, provided that they do not conflict with article 59²¹ which stipulates that previous ICJ²² decisions have no binding force except in cases that has decided.²³

²⁰ 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. 2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree there to.

²¹ Article 59 Of International Court Of Justice: The Decision Of The Court Has No Binding Force Except Between The Parties And In Respect Of That Particular Case.

²² The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). The ICJ's primary functions are to settle international legal disputes submitted by states (contentious cases) and give advisory opinions on legal issues referred to it by the UN (advisory proceedings). Through its opinions and rulings, it serves as a source of international law.

²³ Scott Davidson, *Op.Cit.* p 74.

E. Originality

No	Title and Author	Differentiation	
		Author	Researcher
1.	<i>Euthanasia Dihubungkan Dengan Hukum Pidana Dan Undang – Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia.</i> (Septian Nugraha)	<p>Focused on the Understanding and study euthanasia in conjunction with Law Number 39 of 1999 About Human Rights, and to know Criminal liability in the case of euthanasia.</p>	<p>This research is focused on the perspective of Law Number 39 of 1999 in relation to euthanasia and criminal liability in the case of euthanasia.</p>
2.	<i>Euthanasia Dalam Pandangan Hak Asasi Manusia Dan Hukum Islam.</i> (Ahmad Zaelani)	<p>The main notion of the research is about the knowing the euthanasia based on the Islamic law system.</p>	<p>This research focus on the equality and legal differences between the doctrinal views of human rights and Islamic law about euthanasia.</p>

3.	<i>Praktik Euthanasia Pasif di Indonesia Menurut pandangan Hukum Islam.</i> (Yaddika Muhammad)	The main notion of this thesis knows about the euthanasia passive based on Islamic law perspective.	In this research, author specifically explains about the euthanasia passive in Indonesia, and the perspective of euthanasia based on Islamic knowledge.
4.	<i>Euthanasia Ditinjau Dari Segi Medis Dan Hukum Pidana di Indonesia.</i> (Andika Priyanto)	This thesis is specifically focusing on the Euthanasia in terms of medical aspects is regulated in the Indonesian Medical Ethics Code, especially in Article 9. Thus, developing knowledge to avoid the danger of death is the duty of the doctor.	The author of this research is only focusing on euthanasia is reviewed in medical terms and criminal law regulation about euthanasia.

Table 1.1 Originality of this Thesis to Several Sources.

The difference in research on euthanasia that researcher work with some of the above sources is related to the review of human rights and criminal law in Indonesia, medical law, and Islamic-law. This research explain more about the Euthanasia in the International Human Right law and the Urgency legalizing Euthanasia practice in Indonesia in the perspective of International Human Right Law, and along with several cases that have occurred.

F. Theoretical Framework

1. Definition and types of Euthanasia

In International Human Rights Law (IHRL), euthanasia does not have a place in its regulation and the legal rules regarding this issue vary from country to country and often change with changes in cultural norms and the availability of medical treatments or actions. Therefore in this paper the author will include several legal sources in the IHRL, such as International Treaty Law which is an agreement made by members of the international community consisting of countries, aiming to form a law so that it has legal consequences. The form can be in the form of covenants, conventions, agreements and others. And also International Customary Law²⁴ between countries in the world is a common habit that is accepted as 'law'. At that point the common legitimate sources contained and pertinent within the national laws of the nations of the world. This guideline underlies the positive legal system and legitimate educate within the world since in a few nations, willful extermination is considered legitimate, whereas in other nations it is considered unlawful. Since of the affectability of this issue, strict limitations and methods are continuously connected notwithstanding of legitimate status. Since the 19th century, killing has started wrangle about and development within the North American region and in Europe. In 1828 the anti-euthanasia law²⁵ came into drive within the state of Modern York, which was too actualized

²⁴ International Customary Law is an aspect of international law involving the principle of custom. Along with general principles of law and treaties, custom is considered by the International Court of Justice, jurists, the United Nations, and its member states to be among the primary sources of international law.

²⁵ In 1828, the first anti-euthanasia law in the U.S. was passed in New York State. In time, other states followed suit.

by a few states many a long time afterward. In 1939, German Nazi²⁶ powers carried out a disputable act in a “killing” program against children beneath the age of 3 who endured from mental impediment, incapacity or other clutters that made their lives futile. This program is known as *Aktion T4*²⁷, which is able to be connected to children over the age of 3 and elderly. On April 10, 2001 Netherlands has issued a law allowing euthanasia. This law was declared effective from April 1, 2002, which made the Netherlands the first country in the world to legalize the practice of euthanasia. Patients who experience chronic and incurable pain are given the right to end their suffering, in Merriam Webster’s dictionary explained that euthanasia is “*The act or practice of killing or death of hopeless sickness*”²⁸, so euthanasia is an act of attempting murder or allowing death due to diseases that have no hope or hurt people or animals with the smallest possible pain for a particular reason or generosity. In medical practice, there are two types of euthanasia, namely active euthanasia and passive euthanasia. Active euthanasia is the act of the doctor to speed up the patient’s death by giving an injection into the patient’s body. Injections are given when the patient’s illness is very severe or

²⁶ Nazi Germany is the common English name for Germany between 1933 and 1945, when Adolf Hitler and his Nazi Party (NSDAP) controlled the country through a dictatorship. Under Hitler’s rule, Germany was transformed into a totalitarian state where nearly all aspects of life were controlled by the government. The official name of the state was *Deutsches Reich* (German Reich) until 1943 and *Großdeutsches Reich* (Greater German Reich) from 1943 to 1945.

²⁷ *Aktion T4* was a postwar name for mass murder through involuntary euthanasia in Nazi Germany. The name T4 is an abbreviation of *Tiergartenstraße 4*, a street address of the Chancellery department set up in the spring of 1940, in the Berlin borough of Tiergarten, which recruited and paid personnel associated with T4. Certain German physicians were authorized to select patients “deemed incurably sick, after most critical medical examinations” and then administered to them a “mercy death” (*Gnadentod*). In October 1939, Adolf Hitler signed a “euthanasia note”, backdated to September 1, 1939, which authorized his physician Karl Brandt and *Reichsleiter* Philipp Bouhler to implement the program.

²⁸ Merriam Webster, “What Is Euthanasia?” <https://euthanasia.procon.org/view.answers.php?questionID=000142>. April 2018. Accessed October 07 2019.

has reached the final stage, which according to medical calculations is no longer possible to heal or last a long time.²⁹ The reason usually presented by doctors is that the treatment given will only prolong the suffering of the patient and will not reduce the pain that is already severe.

a. Types of Euthanasia

a. Active Euthanasia: is an event where a doctor or other health worker intentionally takes an action to shorten or end a patient's life. A doctor sees his/her patient in a state of extreme suffering, because his/her illness is difficult to cure, and in his/her opinion and estimation, the disease will result in death and because of pity for the sufferer he injects to speed up his/her death, and then the action is called active Euthanasia. In this case the role and action of the doctor is very decisive in accelerating the death of the patient, and he/she is the perpetrator of Euthanasia.³⁰

b. Passive Euthanasia: is a condition where a doctor or other medical personnel intentionally does not provide medical assistance to a patient who can prolong his/her life. In this case it does not mean that the treatment action is stopped altogether, but it is still given with the intention to help the patient in his/her last phase of life. In passive euthanasia, doctors do not provide active assistance to speed up the patient's death process. If a patient suffers from a terminal stadium

²⁹ Yvette Brazier, "What are euthanasia and assisted suicide?" <https://www.medicalnewstoday.com/articles/182951.php>. December 2018. Accessed October 08 2019.

³⁰ H.Ahmad Wardi M, "Euthanasia Menurut Pandangan Hukum Positif dan Hukum Islam", Raja Grafindo, Jakarta, 2014, p 19.

disease, which in the opinion of the doctor is no longer possible to be cured, then sometimes the family, because it does not have the heart to see one member of his/her family suffer for long in the hospital, then they ask the doctor to stop treatment. The act of stopping treatment includes passive euthanasia.³¹

- c. Volunteer and in-volunteer: Voluntary euthanasia is a cessation of treatment or accelerating death at the request of the patient, while In-volunteer euthanasia is an action taken on a patient where the patient is not conscious, in such a situation the patient is not able to convey his/her wishes, in this case the patient's family responsible for terminating medical assistance. This act is difficult to distinguish from criminal murder.

2. Euthanasia based on the perspective of Islamic law³²

According to Imam Shafi'i³³ that treatment is the law of the sunnah³⁴. While the Abu Hanifah³⁵ school of thought stated that treatment was the approaching obligatory sunnah muakkadah³⁶. While the school of Malik³⁷ said that treatment

³¹ H.Sutarno, *Hukum Kesehatan, Euthanasia, Keadilan dan hukum positif di Indonesia*, Setara Press, Malang, 2014, p 91.

³² Islamic law or Sharia law is a religious law forming part of the Islamic tradition. It is derived from the religious precepts of Islam, particularly the Quran and the Hadith.

³³ Abu Abdullah Muhammad bin Idris ash-Shafi'i al-Muththalibi al-Qurasyi, was a great Sunni Islamic mufti and also the founder of the Shafi'i school.

³⁴ Sunnah in Islam refers to the attitudes, actions, words and ways of the Prophet to live his life or the lines of struggle (tradition) carried out by the Prophet. Sunnah is the second source of law in Islam, after the Qur'an. The narration or information conveyed by the Companions about the attitude, actions, speech and manner of the Prophet is called a hadith. The sunnah ordered by Allah is called sunnatullah.

³⁵ Nu'man bin Thabit ibn Zuta ibn Mahan at-Taymi (abu hanifah) was the founder of the Hanafi Islamic Jurisprudence School.

³⁶ Sunnah Muakkadah is a sunnah that is highly recommended to do so.

³⁷ The Mālikī school is one of the four major schools of Islamic jurisprudence within Sunni Islam. It was founded by Malik ibn Anas in the 8th century. The Maliki school of

was equivalent between doing and leaving it. Because Malik said: “No, why not take care and why not leave it”. Syaikh Al - Islam (Ibn Taimiyah³⁸) said: “(Medication) is not compulsory according to the opinion of the majority of scholars, which obliges only a small group of followers of the schools of Ash-Shafi’i and Ahmad”.

3. Euthanasia in the medical code of ethics

In the Medical Ethics Code based on the principles of Ethics that regulate the relationship between humans in general, and has its roots in the philosophy of society that is accepted and developed continuously in society.³⁹ Based on the International Code of Medical Ethics, the National Code of Ethics (Indonesia) is prepared, in accordance with the aspirations and culture of the nation itself. In Indonesia, the Medical Code of Ethics was then compiled and discussed by the *Panitia Redaksi Musyawarah Kerja Susila Kedokteran Nasional*, which was subsequently used as a basis for every Doctor in Indonesia, and was declared valid based on the Decree of the Minister of Health of Indonesia concerning the Declaration of the Indonesian Medical Ethics Code dated October 23, 1969 The Medical Ethics Code was then refined in the 13th National Working Meeting of the Indonesian Doctors Association (IDI), in 1983. The Indonesian Medical Ethics Code consists of four chapters.⁴⁰

jurisprudence relies on the Quran and hadiths as primary sources. Unlike other Islamic fiqhs, Maliki fiqh also considers the consensus of the people of Medina to be a valid source of Islamic law.

³⁸ Abul Abbas Taqiyuddin Ahmad bin Abdus Salam bin Abdullah bin Taimiyah al Harrani or commonly referred to by the name Ibnu Taimiyah, is a Muslim thinker and scholar from Harran, Turkey.

³⁹ Soekidjo Notoatmodjo, “*Etika & Hukum Kesehatan*”, Rineka Cipta, Jakarta, 2010. p 38.

⁴⁰ H. Ahmad Wardi M, *Op.Cit.* p 25.

4. The implementation of the medical profession in terms of Indonesia criminal code.

If the doctor's actions in carrying out his profession cause consequences that are not desired either by the doctor or the patient's family. For example because of an error/negligence resulting in a patient's death, disability or other unpleasant consequences, the doctor can be held responsible for the consequences as contained in the Chapter XXI Criminal Code (KUHP) about causing death or injury due to wrongdoing.⁴¹ These provisions can be seen in the following articles: Article 359 of the Criminal Code:

“Whosoever, because of his wrongdoing, causes the death of a person sentenced to prison for five years or confinement for a maximum of one year”.

Article 360 of the Criminal Code:

(1) *“Whosoever caused his wrongdoing caused serious injury to be punished by a sentence of imprisonment for a maximum of five years or a sentence of imprisonment for a maximum of one year”.* (2) *“Whosoever, because of his mistake, causes the injury to be such that the person becomes temporarily ill or does not carry out his position or temporary job, is punished with a nine-month prison sentence or a maximum sentence of six months, or a maximum fine of Rp. 4500, -”.*

Article 361 of the Criminal Code:

*“If the crime described in this Chapter is carried out in carrying out a position or occupation, then the penalty can be added to one third and the accused can be fired from his job, in the time the crime is committed and the judge can order that decision be announced”.*⁴²

⁴¹ Noor Asma, “Pembuktian Kesalahan Dalam Pelaksanaan Profesi Dokter Ditinjau Dari Hukum Pidana”, *Jurnal Al-Himayah*, Volume 1 Nomor 1 Maret 2017. p 65.

⁴² Article 361, Indonesian Criminal Law.

G. Research Methods

1. Types of Research

This is normative legal research which is defined as scientific research based on normative aspects of logical legal reasoning⁴³. One form of research is to find out how and where an action is governed by analyzing the facts of relevant laws, and this research will focus on that⁴⁴.

2. Research Approach

In this research, the author uses a conceptual approach, which means will use the concept of the euthanasia and juridical approach.

3. Sources of Data

The source of data is divided into three; primary legal materials, secondary legal materials and tertiary legal materials. The primary legal materials that were used to complete this research are laws and regulations, nationals and internationals as well as other jurisprudences, they are:

- a. Indonesia Criminal Code (KUHP).
- b. The Universal Declaration of Human Rights.
- c. International Covenant on Civil and Political Rights.
- d. International Covenant on Economic, Social and Cultural Rights.
- e. International and National Medical Code Ethics.

The secondary legal materials comprises books, journals, articles, documents, and news that cover various aspects within this topic and written by

⁴³ Sanne Taekema, *“Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice”*, <https://www.bjutijdschriften.nl/tijdschrift/lawandmethod/2018/02/lawandmethod-D-17-00010>. Accessed October 09 2019.

⁴⁴ *Ibid.*

relatively highly qualified writers. As for the tertiary legal materials are law dictionary and Information and Technology (I.T.) dictionary.

4. Data Collection Method

The process of collecting data from librarianship research was carried out as many possible knowledge and information from the study of librarianship is done by studying the various legal regulations, literature, journals, news, and papers related to the themes that will be discussed. Historical approach that explain about the history about the development of euthanasia, comparative approach will use comparisons between the countries regulations about euthanasia and legal regulations in UDHR, Indonesian criminal code, medical code ethics, and Islamic law.

5. Method of Data Analysis

In the process of analyzing data during the process of this research, it applied the qualitative method of analysis done by describing the already gained data, knowledge and information through description or explanation which is assessed by the opinions of the experts, by laws, and also by the researcher's own arguments.