THE URGENCY OF REGULATORY FORMULATION
In Indonesian Positive Law

M. Rizky Alief Ramadhan Muis[1], Amiruddin Hanafi[2], Awaliah[3],
Universitas Tadulako, Palu, Indonesia[1,2,3]
Email: *aliefmuis@gmail.com[1], amiruddin.hnf77@gmail.com[2], awaliah@gmail.com[3]*

Abstrak

Euthanasia lies at the intersection of criminal law, health law, and the right to life, yet Indonesia lacks a unified legal framework integrating these three areas. Doctors, patients, and families face uncertainty when making end-of-life decisions. This study examines the regulation of euthanasia within Indonesian positive law across four legal branches: criminal law, health law, civil law, and medical administrative law. The article aims to analyze existing regulations and the resulting uncertainties, as well as to explain the urgent need for a comprehensive regulatory framework. This normative legal research employs statutory, analytical, and conceptual approaches, utilizing the Stufenbau theory, Radbruch's three fundamental legal values, and the right to self-determination as analytical lenses. Primary legal materials consist of six instruments: the 1945 Constitution, the National Criminal Code, the Health Law, Government Regulation Number 28 of 2024, Minister of Health Regulation Number 37 of 2014, and the Civil Code. Scholarly literature serves as secondary material. The findings indicate that these four legal branches operate without a connecting norm. Article 461 of the National Criminal Code fails to distinguish between active and passive euthanasia; authority regarding the cessation of treatment rests with the family; and informed consent is not recognized as a justification. Formulating a regulation is urgent to ensure legal certainty, justice, and utility, without implying the legalization of euthanasia in Indonesia.

Keywords: *Euthanasia, Legal Certainty, Normative Gap, Health Law, Legal Harmonization*

Introduction

Euthanasia is generally distinguished into active and passive euthanasia. Active euthanasia refers to a direct act by a medical professional or a third party to end a patient's life at the patient's request, whereas passive euthanasia refers to the withdrawal of life-sustaining treatment. This distinction entails different ethical and legal consequences for physicians, patients, and their families. Advances in medical technology further complicate the issue, as requests from family members are often motivated by economic factors, such

as the high costs of medical equipment and medication.[1] Euthanasia lies at the intersection of criminal law, health law, and the right to life, while Indonesia has yet to establish a regulatory framework that harmonizes these three areas.[2]

The issue first and foremost concerns legal certainty. When a genuine social need has not been addressed by legislation, the situation is referred to as a normative gap. Terminally ill patients require guidelines for end-of-life decision-making, whereas existing laws do not clearly delineate the boundaries between prohibited conduct and lawful medical practice.[3] From a constitutional perspective, Article 28A of the 1945 Constitution of the Republic of Indonesia guarantees the right to life, while Article 28I paragraph (1) classifies it as a right that cannot be derogated from under any circumstances. Many readers interpret these provisions as a basis for rejecting euthanasia. However, Aulia and Rosandi (2025) propose a progressive interpretation under which the right to life encompasses the right to self-determination in medical conditions that eliminate quality of life. Ohoiwutun et al. (2024) argue that this issue requires the harmonization of legal perspectives, human rights principles, and medical ethics, taking Indonesia's sociocultural context into account.

Countries that permit euthanasia provide for it through explicit legal norms, requirements, and oversight mechanisms. The Netherlands regulates euthanasia through specific legislation accompanied by strict oversight, whereas Switzerland, Canada, and the US states of Oregon and Washington have adopted their own respective models. This comparison demonstrates that any policy choice requires clear legal provisions, without necessarily requiring the adoption of a foreign model.

In Indonesia, the relevant provisions are dispersed across several recent legal instruments. In criminal law, the National Criminal Code (*Kitab Undang-Undang Hukum*

[1] Utang Rosidin Aeni, Wina Nur, Elan Jaelani, "Tinjauan Hukum Mengenai Tindakan Euthanasia (Suntik Mati) Dalam Perspektif Hukum Pidana," *Public Sphare: Jurnal Sosial Politik, Pemerintahan Dan Hukum* 3, no. 1 (2024): 17–22, https://doi.org/https://jurnal.penerbitwidina.com/index.php/JPS/article/download/643/502.

[2] M Rizky Alief, Ramadhan Muis, Amiruddin Hanafi and Awaliah "Urgensi Pengaturan Euthanasia Di Indonesia (Studi Komparasi Dengan Belanda)," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 4, no. 3 (2026): 149–61, https://doi.org/https://doi.org/10.5281/zenodo.23078599.

[3] Vita Mahardhika Putri, Eka Amelia, "Living Will Sebagai Instrumen Hukum Perlindungan Hak Otonomi Pasien Dalam Praktik Eutanasia Pasif Di Indonesia," *Mizan: Jurnal Ilmu Hukum* 15, no. 1 (2026): 238–47, https://doi.org/https://doi.org/10.32503/mizan.v15i1.8968.

Pidana or KUHP), enacted under Law No. 1 of 2023, has been in force since January 2, 2026. Article 461 prescribes a maximum sentence of nine years' imprisonment for taking another person's life at that person's own request, expressed with genuine and earnest intent. Its explanatory provisions affirm that active euthanasia remains punishable, while the revised Criminal Code does not explicitly regulate euthanasia as a distinct legal issue. In health law, Law No. 17 of 2023 recognizes patients' rights to accept or refuse medical treatment, but these rights are not intended to authorize the active termination of life. Government Regulation No. 28 of 2024, which implements the Health Law, regulates palliative care for terminal illnesses to enable patients to experience the end of life with dignity.[4] Minister of Health Regulation No. 37 of 2014 governs the withdrawal or withholding of life-sustaining treatment, and its provisions may potentially conflict with the prohibitions established under the National Criminal Code.

The other two branches of law reveal similar limitations. Civil law regulates the physician–patient relationship through a therapeutic agreement founded on mutual consent. However, in Indonesia, *informed consent* is not recognized as a legal justification for euthanasia. The right to refuse medical treatment is exercised in a specific and situational context and applies only when patients are conscious and capable of expressing their wishes. Medical administrative law operates through the Professional Disciplinary Council (*Majelis Disiplin Profesi*), established under Law No. 17 of 2023. This council may impose sanctions, including recommending the revocation of a physician's license to practice. Nevertheless, disciplinary rules continue to overlap with other legal norms.

These four branches of law converge in a single end-of-life decision, which may simultaneously be assessed as a criminal offense, a civil dispute, and a disciplinary violation. The euthanasia petition filed by Berlin Silalahi before the Banda Aceh District Court in 2017 illustrates the consequences of this situation. The judge rejected the petition on the basis of homicide provisions and the medical code of ethics, as no specific legal

[4] Republik Indonesia, "Peraturan Pemerintah Nomor 28 Tahun 2024 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," 2024.

provisions governing euthanasia were available.[5] The court decided the case before the National Criminal Code came into force. However, Article 461 restates the relevant prohibition, making the lessons from this case remain pertinent.

Previous studies provide a foundation for this discussion but tend to focus on a single perspective. Ezenduka and Halder (2025) argue that the Criminal Code criminalizes active euthanasia while remaining silent on passive euthanasia, whereas Ohoiwutun et al. (2024) support the legalization of passive euthanasia subject to strict conditions. Putri and Mahardhika (2026) warn that Article 461 was drafted without distinguishing between active and passive euthanasia, potentially extending its scope to the withdrawal of treatment. These differing interpretations of a single provision indicate that the existing formulation has yet to provide legal certainty. Umaiyah and Ronaboyd (2026) highlight the disharmony between criminal law and health law, while Muis et al. (2026) identify gaps, ambiguities, and potential conflicts within Indonesia's legal framework. To the best of the author's knowledge, few studies have integrated criminal law, health law, civil law, and medical administrative law to explain the urgency of formulating euthanasia regulations. Regulatory formulation in this context is not synonymous with legalization, as it may encompass both the clarification of the prohibition on active euthanasia and the establishment of clear boundaries for withdrawing futile treatment.

Based on the foregoing discussion, Indonesia's positive law does not yet provide clear and harmonized provisions concerning euthanasia. The four branches of law operate according to their respective rationales, without a unified framework establishing the boundaries, procedures, and oversight mechanisms governing end-of-life decisions. Accordingly, this study examines the regulation of euthanasia through the combined perspectives of these four branches of law and explores why the formulation of euthanasia regulations has become an urgent necessity within Indonesia's positive legal system.

[5] Adinda Nadia Kusuma et al., "Euthanasia Dalam Tinjauan Hukum Pidana Perspektif KUHP Lama Dan KUHP Baru (Undang - Undang Nomor 1 Tahun 2023)," *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 453–62, https://doi.org/https://www.ojs.daarulhuda.or.id/index.php/MHI/article/download/913/959.

Method

This study constitutes normative legal research with a prescriptive orientation. It examines whether the legal norms governing end-of-life decisions reinforce one another or negate one another.[6] The conduct of physicians and family members in clinical settings falls outside its scope. Three approaches are employed, each with a clearly defined analytical function, since an approach without an assigned purpose would serve merely as a label. The statutory approach maps the validity, hierarchy, and consistency of the National Criminal Code (Law No. 1 of 2023), Law No. 17 of 2023 concerning Health, Government Regulation No. 28 of 2024, the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata or KUHPerdata), and Minister of Health Regulation No. 37 of 2014. It examines both vertical and horizontal consistency by considering the principles of lex superior, lex specialis, and lex posterior.[7]

The analytical approach examines the meaning and consistency of provisions across different legal sectors to identify antinomies or legal gaps. The conceptual approach develops working definitions of informed consent, medical civil-law ethics, and health administrative law to ensure that terminology retains a consistent meaning throughout the study. As this research is based on a literature review, it does not involve a population, sample, or fieldwork location in the empirical sense. Instead, a corpus of legal materials, limited to the Indonesian jurisdiction, serves as the basis of analysis. Primary legal materials consist of Articles 28A, 28H, and 28I of the 1945 Constitution, together with the aforementioned legislation in force at the time of the study. Repealed legislation, such as the former Criminal Code, is not analyzed as a source of currently applicable legal norms. Secondary materials comprise books and journal articles published within the preceding five years addressing euthanasia, patient rights, and professional discipline, while tertiary materials consist of legal dictionaries. The selection of materials follows three criteria: relevance to end-of-life decision-making, current legal validity, and source accessibility.

[6] Marzuki P.M, *Penelitian Hukum* (Jakarta: Kencana, 2021).

[7] Hery Chariansyah Kristianto, Wiliam, "Pendekatan Perundang-Undangan, Konseptual, Dan Kasus Dalam Penelitian Hukum Normatif," *Pendas: Jurnal Ilmiah Pendidikan Dasar* 11, no. 3 (2026): 1–14, https://doi.org/https://journal.unpas.ac.id/index.php/pendas/article/download/63626/35465.

The author collects materials through documentary research and records them in a legal-norm matrix, which serves as the study's primary analytical instrument. The matrix breaks down each provision into the elements of subject, conduct, conditions, authority, procedure, prohibition, and legal consequences, ensuring that statutory language is not merely reproduced in the discussion section. This study does not measure variables numerically. Instead, two analytical focuses replace variables and indicators: the regulation of euthanasia across the four branches of law and their points of conflict, and the reasons why formulating euthanasia regulations has become urgent.

The nature of each conflict determines the analytical framework employed. Kelsen's Stufenbau theory examines whether lower-level norms, such as ministerial regulations governing the withdrawal of life-sustaining treatment, conflict with higher-level norms.[8] This theory alone is insufficient to assess the relationship between the National Criminal Code and the Health Law, because both are statutes of equal hierarchical standing. Radbruch's three basic legal values are used to evaluate conflicts between norms of equal rank, with justice taking precedence when it conflicts with legal certainty. The right to self-determination serves as a third benchmark for assessing the extent to which positive law treats patients as legal subjects entitled to exercise rights over their own bodies. The analysis proceeds in three stages: norm mapping, conceptual construction, and prescriptive synthesis, employing grammatical, systematic, historical, and teleological interpretation. The author safeguards the validity of the analysis by distinguishing between the content of positive law, the researcher's interpretation, and recommendations, while also seeking out sources that challenge the study's thesis.

[8] Prandy AL Fanggi, "Analisis Konseptual Stufenbau Theory Terhadap Tata Peraturan Perundang-Undangan Di Indonesia. Jurnal Rekomendasi Hukum," *Jurnal Rekomendasi Hukum* 1, no. 2 (2025): 308–16, https://doi.org/https://journal.unram.ac.id/index.php/rekomendasihukum/article/view/7322.

Discussion

The Regulation of Euthanasia Across Four Branches of Law and the Uncertainty It Creates

In criminal law, the closest provision is Article 461 of the National Criminal Code (KUHP Nasional), which has been in force since 2026. This article punishes the taking of a life at the person's request, expressed with sincerity, with imprisonment of up to 9 years.[9] Its elucidation affirms that active euthanasia remains punishable even if the person concerned is suffering greatly. The article does not distinguish between active and passive euthanasia.

Health law points in a different direction. Law Number 17 of 2023 guarantees patients' right to refuse or consent to medical treatment (Article 276 letter d). A hospital bears no legal liability if a patient or family refuses or discontinues treatment, resulting in death, after receiving a comprehensive medical explanation. Government Regulation Number 28 of 2024, the most recent implementing regulation, governs palliative care for terminal illness (Article 69), as well as the diagnosis of death and life-support therapy for organ donors (Article 349). In the parts I reviewed, that regulation does not address the discontinuation of therapy for terminal patients. Minister of Health Regulation (Permenkes) 37/2014 still holds that specific regulation. It allows a medical team to discontinue or postpone life-support therapy after consulting the medical or ethics committee, with the consent of the family or the patient's representative. Two gaps appear here. The form and force of living wills are not yet regulated, and under the Permenkes consent rests with the family, not the patient.

Civil law and medical administrative law complete the picture. The doctor-patient relationship is a therapeutic agreement founded on consent (Article 1320 paragraph (1) of the Civil Code), yet informed consent is not recognized as a justification for euthanasia. The right to refuse medical treatment is actual and situational, and applies only while the patient is conscious. On the administrative side, the Professional Disciplinary Council may

[9] R. C Auli, "Bunyi Pasal 344 KUHP Tentang Eutanasia," hukumonline.com, 2024, https://www.hukumonline.com/berita/a/euthanasia-dan-ancaman-pasal-344-kuh-pidana-lt5dd69042ee7e8/.

impose disciplinary sanctions up to a recommendation to revoke the Practice License (Surat Izin Praktik), while disciplinary norms still overlap with legal norms.

Each branch has its own logic, and no norm connects them. Stufenbau theory reveals the first clash: Permenkes 37/2014 permits discontinuing therapy, whereas the statute above it prohibits taking a life. A lower norm may not conflict with a higher one. However, the two norms regulate different acts. Article 461 targets the taking of a life, while the Permenkes governs the discontinuation of futile therapy in terminal patients, with different purposes, procedures, and intent. This conflict is classified as apparent, and systematic interpretation can harmonize all of the conflicts. That interpretation has not been written down anywhere, however, and Article 461 does not distinguish between active and passive euthanasia.[10] The Government issued the Permenkes to implement the former health law, whereas health regulation now rests on Law Number 17 of 2023 and GR 28/2024. The Permenkes is still recorded as valid, but its parent reference has changed. A conflict that is apparent on paper therefore becomes real for doctors. Muis et al. (2026) describe the existing norms as vacant, vague, and potentially contradictory.

Kelsen's theory cannot resolve the clash between the National Criminal Code and the Health Law, because both are statutes of equal rank. Article 192 paragraph (1) protects hospitals when treatment is discontinued, but no wording states that this protection carves out an exception to Article 461. The lex specialis principle does not apply automatically, since researchers must prove an identical scope and the lawmakers' intent. In my view, Article 192 can be read as an exception for passive discontinuation of treatment, but that reading remains an interpretation and not yet a norm. In terms of the right to self-determination,[11] the law recognizes the right to refuse medical treatment, but that right is effective only when the patient is able to express their will. When a patient loses consciousness, the Permenkes hands consent to the family. The law recognizes autonomy as a principle, then transfers it at the moment the patient needs it most.

[10] Irfa Ronaboyd. Umaiyah, Rinda Dwi Maslikhatul, "EUTHANASIA DALAM PERSPEKTIF HUKUM KESEHATAN: STUDI KOMPARATIF DI INDONESIA DAN BELGIA," *Indonesian Journal of Contemporary Law* 3, no. 6 (2021): 1–26, https://doi.org/https://journal.unesa.ac.id/index.php/ijcl/article/view/56565.

[11] Republik Indonesia., "Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," n.d.

A single end-of-life decision can be tested criminally, civilly, and disciplinarily at once. Informed consent offers no protection when its object is the ending of a life, and disciplinary sanctions can result in the loss of the right to practice.[12] The Berlin Silalahi case shows the impact. The Banda Aceh District Court rejected that euthanasia petition in 2017, with the judge relying on the provisions on murder and the medical code of ethics, without any specific euthanasia norm.

Reasons Why the Formulation of Euthanasia Regulations Is Urgent

Radbruch's three fundamental values of law legal certainty, justice, and utility provide the criteria for assessing the urgency of regulatory formulation. These values do not necessarily point in the same direction; therefore, I examine each of them separately.

From the perspective of legal certainty, the findings in the first subsection reveal that the legal norms governing euthanasia are characterized by regulatory gaps and ambiguity. Article 461 itself provides the clearest example. Putri and Mahardhika (2026) interpret it as a provision that does not distinguish between active and passive euthanasia, potentially bringing the withdrawal of treatment within its scope. Umaiyah and Ronaboyd (2026), by contrast, distinguish the withdrawal of treatment from euthanasia on the basis of their respective objectives, procedures, and intentions. Two different interpretations of a single provision indicate that legal certainty has not yet been achieved, because the law does not inform physicians which interpretation law enforcement authorities will adopt. Physicians are caught between accusations of allowing patients to die and accusations of disregarding patient autonomy. Courts are also left without adequate guidance. In the Berlin Silalahi case, the judges relied on the provisions concerning homicide and the medical code of ethics because no specific legal norm could be applied. In my view, the problem lies in the absence of a clear boundary separating prohibited acts from legitimate medical interventions.

[12] Rospita Adelina Siregar Alif Muhammad Sudarmanto, Eko Nurmardiansyah, Hari Pudjo Nugroho, "Hubungan Penegakan Disiplin Profesi Dengan Hukum Berdasarkan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," *Jurnal Negara Hukum* 16, no. 1 (2025): 91–109, https://doi.org/https://jurnal.dpr.go.id/index.php/hukum/article/download/4833/pdf.

From the perspective of justice, Radbruch understands justice as the equal treatment of equivalent cases. This standard has not yet been met. Two terminally ill patients in similar medical conditions may experience different outcomes depending on their state of consciousness.[13] A conscious patient may refuse medical treatment, whereas an unconscious patient depends on family consent. The recognition of the right to refuse treatment remains current and situational, while living wills have not been regulated. Factors beyond the patient's suffering also come into play. Economic considerations generally underlie family requests for euthanasia, and the analysis of the Berlin Silalahi case indicates that social, economic, and welfare-related factors exert a greater influence on such requests than questions of legality. Without clear guidelines, end-of-life decisions may shift away from medical considerations and patients' wishes toward their ability to pay. Article 28D(1) of the 1945 Constitution of the Republic of Indonesia guarantees fair legal certainty, and legal certainty that overlooks these inequalities is inconsistent with the Constitution's underlying intent.

The value of utility points in the opposite direction. The elucidation of Article 461 states that the prohibition respects human life and prevents undesirable circumstances, such as a perpetrator creating a situation in which a victim is induced to request that their life be taken. This concern is reasonable, particularly because Indonesia has neither a dedicated reporting system nor independent oversight for euthanasia-related practices. A comparison with the Netherlands provides useful context, but not a model that Indonesia should simply imitate. The Netherlands integrates prohibitions, exceptions, requirements, assessments, and reporting mechanisms into a single regulatory framework. Notifications increased from 8,720 in 2022 to 10,341 in 2025, with violations of due-care criteria accounting for approximately 0.06 percent.[14] These figures do not prove that the Dutch model is suitable for Indonesia. Rather, they demonstrate that documented practices can be evaluated, whereas Indonesia does not yet have the data necessary for such an evaluation. The two

[13] Kementerian Kesehatan Republik Indonesia, "Peraturan Menteri Kesehatan Nomor 37 Tahun 2014 Tentang Penentuan Kematian Dan Pemanfaatan Organ Donor," 2014.

[14] Alief, Muis, and Hanafi, "Urgensi Pengaturan Euthanasia Di Indonesia (Studi Komparasi Dengan Belanda)."

countries also have different philosophical foundations: Indonesia's is collectivist and religious, while that of the Netherlands is individualist and secular.[15] The transformation of Indonesian law must therefore be partial and selective, adapting substantive requirements, advance directives, and independent oversight mechanisms to ensure consistency with the Constitution and Pancasila.

Radbruch places justice above legal certainty when the two conflict, while recognizing that the relationship among the three fundamental values is relative. Applying this principle in the present context requires caution. Justice does not justify active euthanasia. The relevant measure of justice is whether the law treats terminally ill patients who refuse futile treatment in the same way as perpetrators who take another person's life. Utility constrains the opposite direction, because the social benefits of maintaining the prohibition of active euthanasia deserve to be preserved. The three values do not negate one another; rather, each requires a different component of the regulatory framework. Legal certainty requires clear boundaries. Justice requires recognition of patients' wishes and protection for the withdrawal of futile treatment. Utility requires maintaining the prohibition of active euthanasia together with appropriate oversight. Accordingly, formulating regulations is not equivalent to legalization. Its urgency lies in establishing legal certainty, promoting justice, and creating the capacity to evaluate actual practices.

The proposed regulatory framework should be developed at three levels. Prescriptions in normative legal research are structured hierarchically, and each proposal must identify the problem, legal basis, responsible actors, proposed action, and implications for other legal provisions. Based on the findings, I divide the recommendations as follows. At the interpretative level, law enforcement authorities and judges should interpret Article 192(1) of Law No. 17 of 2023 and Article 461 of the National Criminal Code systematically and in conjunction with one another, thereby establishing a common point of

[15] Nia Ramadani, "Studi Komparatif Terhadap Pengaturan Eutanasia Di Indonesia Dan Belanda," *Yustisi* 13, no. 2 (2026): 197–210, https://doi.org/https://ejournal.uika-bogor.ac.id/index.php/YUSTISI/article/view/23956.

reference.[16] At the institutional level, the Ministry of Health, the Medical Council, the Professional Disciplinary Council, hospitals, and their ethics committees should develop guidelines for the withdrawal of treatment and disciplinary standards that do not conflict with criminal law. Minister of Health Regulation No. 37 of 2014 already regulates the role of ethics committees in decisions concerning the withdrawal of treatment; therefore, these guidelines could build on the existing mechanisms. The government should also strengthen palliative care services, as regulated under Government Regulation No. 28 of 2024, alongside social security protections, because safeguarding the right to life also depends on services that reduce the reasons underlying euthanasia requests.[17] At the legislative level, the House of Representatives and the government should harmonize the National Criminal Code, Law No. 17 of 2023, and Minister of Health Regulation No. 37 of 2014, while strengthening the framework for patients' rights and clarifying the scope of informed consent. These three levels are interdependent. Institutional guidelines without a statutory basis remain vulnerable, while statutory amendments without implementing guidelines fail to reach the bedside.

This study has limitations. Its normative nature means that it does not measure how frequently end-of-life dilemmas occur or the extent to which actual practices comply with the law. The conclusion regarding the urgency of regulatory reform is based on the design of existing legal norms and available judicial decisions, without empirical behavioral data.

Theoretically, these findings demonstrate that the regulatory gap concerning euthanasia arises from the absence of connecting provisions across different branches of law; consequently, amending a single criminal provision is insufficient. Practically, legislators should consider a regulatory framework comprising three elements: a strengthened prohibition of active euthanasia, procedural safeguards protecting the

[16] Agus Lanini, Kindangen Alvando Andrew, Sutarman Yodo, "KEPASTIAN HUKUM DARI SUATU PUTUSAN ARBITRASE INTERNASIONAL DI INDONESIA," *Tadulako Master Law Journal* 9, no. 2 (2025): 145–55.

[17] Teddy Dio Pradyanto, "Studi Komparatif Legalitas Assisted Suicide Sebagai Bagian Dari Euthanasia Dalam Hukum Pidana Indonesia Dan Swiss," *Dinamika* 32, no. 2 (2026): 1344–62, https://doi.org/https://jim.unisma.ac.id/index.php/jdh/article/view/31633.

withdrawal of futile treatment, and recognition of patients' wishes accompanied by appropriate oversight.

Conclusion

This study analyzes the regulation of euthanasia under criminal law, health law, civil law, and medical administrative law using normative legal research methods through statutory, analytical, and conceptual approaches. The findings addressing the first research question indicate that euthanasia-related regulations in Indonesia are dispersed across four branches of law that have not yet been harmoniously integrated. Under criminal law, Article 461 of the National Criminal Code prohibits taking another person's life at that person's request without distinguishing between active and passive euthanasia. Meanwhile, health law grants patients the right to refuse medical treatment and provides protection for hospitals under certain circumstances involving the discontinuation of treatment. The withdrawal of life-sustaining therapy is specifically regulated under Minister of Health Regulation No. 37 of 2014, which requires the involvement of family consent. Under civil law, informed consent cannot serve as a legal justification for ending life, whereas medical administrative law permits disciplinary sanctions, including recommendations to revoke a Medical Practice License.

The conflict between Article 461 of the National Criminal Code and Minister of Health Regulation No. 37 of 2014 may, from a normative perspective, be regarded as an apparent rather than a genuine conflict. Nevertheless, it continues to create uncertainty for physicians in the absence of a legal norm providing a harmonized interpretation. The hierarchy of legislation does not fully resolve this problem because the National Criminal Code and the Health Law occupy the same hierarchical level. As a result, an end-of-life decision may potentially give rise to criminal, civil, and disciplinary consequences simultaneously. Furthermore, when patients lose consciousness, decision-making concerning medical treatment is transferred to their families in accordance with the applicable regulations.

The formulation of euthanasia regulations is necessary in light of the three fundamental values of law: legal certainty, justice, and utility. From the perspective of legal certainty, regulatory gaps and ambiguities may give rise to differing interpretations of the applicable provisions. From the perspective of justice, terminally ill patients may be treated differently depending on their state of consciousness, while economic considerations may influence family decisions. From the perspective of utility, the prohibition of active euthanasia should remain in place, but existing practices involving the withdrawal of treatment should be accompanied by reporting mechanisms and independent oversight. Accordingly, regulatory formulation should reinforce the prohibition of active euthanasia, provide legal protection for the withdrawal of treatment that no longer offers therapeutic benefit through clearly defined procedures, and recognize patients' wishes through adequate oversight mechanisms. Such a framework is not intended to legalize euthanasia, but rather to establish legal certainty and protection for both patients and medical professionals.

In conclusion, the regulatory gap concerning euthanasia in Indonesia primarily stems from the lack of integration among the legal norms governing the practice across different branches of law. Theoretically, these findings underscore the importance of an interdisciplinary approach across branches of law in examining euthanasia. Practically, the findings may serve as a consideration for legislators, the Ministry of Health, and hospitals in harmonizing criminal law provisions, health law provisions, and their implementing guidelines, thereby establishing legal certainty, justice, and adequate protection for all parties.

Bibliography

Aeni, Wina Nur, Elan Jaelani, Utang Rosidin. "Tinjauan Hukum Mengenai Tindakan Euthanasia (Suntik Mati) Dalam Perspektif Hukum Pidana." *Public Sphare: Jurnal Sosial Politik, Pemerintahan Dan Hukum* 3, no. 1 (2024): 17–22. https://doi.org/https://jurnal.penerbitwidina.com/index.php/JPS/article/download/643/502.

Alif Muhammad Sudarmanto, Eko Nurmardiansyah, Hari Pudjo Nugroho, Rospita Adelina Siregar. "Hubungan Penegakan Disiplin Profesi Dengan Hukum Berdasarkan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan." *Jurnal Negara Hukum* 16, no. 1 (2025): 91–109. https://doi.org/https://jurnal.dpr.go.id/index.php/hukum/article/download/4833/pdf.

Auli, R. C. "Bunyi Pasal 344 KUHP Tentang Eutanasia." hukumonline.com, 2024. https://www.hukumonline.com/berita/a/euthanasia-dan-ancaman-pasal-344-kuh-pidana-lt5dd69042ee7e8/.

Fanggi, Prandy AL. "Analisis Konseptual Stufenbau Theory Terhadap Tata Peraturan Perundang-Undangan Di Indonesia. Jurnal Rekomendasi Hukum." *Jurnal Rekomendasi Hukum* 1, no. 2 (2025): 308–16. https://doi.org/https://journal.unram.ac.id/index.php/rekomendasihukum/article/view/7322.

Jailani, Abdul Kadir, Hendra Darmawan, and Erdy Nopriady. "Reaktualisasi Konsep Recht Idee Gustav Radbruch Sebagai Fondasi Hukum Progresif Indonesia." *SENTRI: Jurnal Riset Ilmiah* 5, no. 1 (2026): 180–88. https://doi.org/https://ejournal.nusantaraglobal.ac.id/index.php/sentri/article/download/5137/4163.

Karimuddin, Abdul, Saharuddin Djohas, Dewi Kemala Sari, Adiguna Kharismawan. "LEGAL PROTECTION FOR CONSUMERS DUE TO THE FREE MARKETING OF DRUGS IN PALU CITY." *Tadulako Law Review* 9, no. 4 (2024): 442–54. https://doi.org/https://orcid.org/0009-0009-6827-9718.

Kindangen, Alvando Andrew, Sutarman Yodo, Agus Lanini. "KEPASTIAN HUKUM DARI SUATU PUTUSAN ARBITRASE INTERNASIONAL DI INDONESIA." *Tadulako Master Law Journal* 9, no. 2 (2025): 145–55.

Kristianto, Wiliam, Hery Chariansyah. "Pendekatan Perundang-Undangan, Konseptual, Dan Kasus Dalam Penelitian Hukum Normatif." *Pendas: Jurnal Ilmiah Pendidikan Dasar* 11, no. 3 (2026): 1–14. https://doi.org/https://journal.unpas.ac.id/index.php/pendas/article/download/63626/35465.

Kusuma, Adinda Nadia, Wulan Abidatul Khoiroh, Fakultas Syariah, Hukum Pidana Islam, U I N Sunan, and Ampel Surabaya. "Euthanasia Dalam Tinjauan Hukum Pidana

Perspektif KUHP Lama Dan KUHP Baru (Undang - Undang Nomor 1 Tahun 2023).” *Media Hukum Indonesia (MHI)* 2, no. 4 (2024): 453–62. https://doi.org/https://www.ojs.daarulhuda.or.id/index.php/MHI/article/download/913/959.

M. Rizky Alief Ramadhan Muis, Amiruddin Hanafi and Awaliah. “Urgensi Pengaturan Euthanasia Di Indonesia (Studi Komparasi Dengan Belanda).” *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 4, no. 3 (2026): 149–61. https://doi.org/https://doi.org/10.5281/zenodo.23078599.

P.M, Marzuki. *Penelitian Hukum*. Jakarta: Kencana, 2021.

Pradyanto, Teddy Dio. “Studi Komparatif Legalitas Assisted Suicide Sebagai Bagian Dari Euthanasia Dalam Hukum Pidana Indonesia Dan Swiss.” *Dinamika* 32, no. 2 (2026): 1344–62. https://doi.org/https://jim.unisma.ac.id/index.php/jdh/article/view/31633.

Putri, Eka Amelia, Vita Mahardhika. “Living Will Sebagai Instrumen Hukum Perlindungan Hak Otonomi Pasien Dalam Praktik Eutanasia Pasif Di Indonesia.” *Mizan: Jurnal Ilmu Hukum* 15, no. 1 (2026): 238–47. https://doi.org/https://doi.org/10.32503/mizan.v15i1.8968.

Ramadani, Nia. “Studi Komparatif Terhadap Pengaturan Eutanasia Di Indonesia Dan Belanda.” *Yustisi* 13, no. 2 (2026): 197–210. https://doi.org/https://ejournal.uika-bogor.ac.id/index.php/YUSTISI/article/view/23956.

Republik Indonesia. “Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan,” n.d.

Republik Indonesia. Kementerian Kesehatan Republik. “Peraturan Menteri Kesehatan Nomor 37 Tahun 2014 Tentang Penentuan Kematian Dan Pemanfaatan Organ Donor,” 2014.

Republik Indonesia. “Peraturan Pemerintah Nomor 28 Tahun 2024 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan,” 2024

Swasti, Indira, Gama Bhakti, Albertus Sentot Sudarwanto, and Isharyanto Isharyanto. *The Legal Significance of Informed Consent in Euthanasia : A Comparative Jurisdictional Analysis of Indonesia and Switzerland*. *In 3rd International Conference on Law, Economics & Good Governance (ICLAW 2025) (Pp. 645-657). Atlantis Press.*, 2025. https://doi.org/10.2991/978-2-38476-519-5.

Umaiyah, Rinda Dwi Maslikhatul, Irfa Ronaboyd. “EUTHANASIA DALAM PERSPEKTIF HUKUM KESEHATAN: STUDI KOMPARATIF DI INDONESIA DAN BELGIA.” *Indonesian Journal of Contemporary Law* 3, no. 6 (2021): 1–26. https://doi.org/https://journal.unesa.ac.id/index.php/ijcl/article/view/56565.