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The Rights to Die as a Part of the Self Determination in Health

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Abstract:

At first all the countries in the world have made the euthanasia as a criminal offense. The Penal Code various countries in the world still make euthanasia as a crime, a person is not allowed to end his life with the help of a doctor. But in its development has been a change in outlook. Gradually, the change was initiated by dropping a light punishment for the perpetrators of euthanasia because it is still forbidden in its Penal Code. Now, many countries that allow or are no longer punish the perpetrators of euthanasia. Patients suffering from a disease that medical science is no longer possible to cure has been given the possibility to end his life at his own request (euthanasia).

Indonesian's Penal Code still makes euthanasia as a crime, both the Penal Code that is applicable now as well as the Draft of Penal Code bill which is now being discussed in Parliament. The articles of the Indonesian's Penal Code that may be used to punish the euthanasia are:

- 1. If the doctor be stopped the treatment and/or use of medical devices for patients who really need it to be able to live so that the patient finally dies, then against the offender (the doctor) maybe be punished with the Article 338 of the Penal Code (murder), which is identical in content to the Article 580 of the Draft of Indonesian's Penal Code, or even Article 340 of the Penal Code (murder), which is similar to Article 581 of the Draft of the Indonesian's Criminal Code.*
- 2. If the doctor be stopped the treatment and/or use of medical devices at the request of the earnest of the patient (or family if the patient is no longer able to express his will), maybe be punished to Article 344 of the Penal Code (active euthanasia), which is identical in content to Article 583 of the Draft of Penal Code.*
- 3. If the doctor does not do anything treatment and/or use of medical devices for patients who really need it to be able to live, maybe be punished to Article 304 of the Penal Code, which was identical in content to Article 532 of the Draft of Indonesian's Penal Code.*

Health Legal developments indicate that the right to die through euthanasia can be seen as a part of the right to self-determination over the body (including the soul attached to the body), as well as part of their human rights. But even so, the implementation of the right to die through euthanasia by doctors should remain strictly limited so that the exercise of the right to die through euthanasia is obliged to obtain consideration of several specialist doctors in the field of disease being suffered by patients who no longer possible to be cured medically.

Keywords: *euthanasia, rights to die, self-determination, criminal code.*

1. Background Issues

Most of the Indonesian people consider that the death is a destiny, that inevitably had to be accepted. The deaths are occurring naturally, such as aging, illness, accidents due to their own actions, and so very welcome as a destiny without debate it. In fact, in certain circumstances, the deaths that occur due to the actions of others are often accepted as destiny, such as traffic accidents, even killed though. Often at events burial, friends, family and friends to provide words of comfort to the bereaved family, the death is the will of God the Almighty, the death is the best for the concerned, that behind the death in question there must be God's best plan for him, and so forth. Thus Indonesian usually most people accept death as a destiny.

The issue of destiny will change and can be shifted into the realm of the law when the deaths occurred as a result of the actions of others. When the deaths occur naturally, people will accept fully as fate, but if the death had occurred due to the actions of others then in addition to the reception as fate would be followed by another issue, namely the question of law. Legal issues that arise can be a problem in the field of civil law, criminal law, state administration law. Discuss legal means talking about rights and obligations.

The Deaths who occur due to the actions of others can be categorized into two types of action, namely the death because its initiative come from concerned (victim) and the deaths due initiative coming from the parties (actors). If initiative coming from the perpetrator, generally not questioned again and was accepted as an act prohibited and may be liable, depending on the error rate actors, intentionally or due to negligence. This criminal's matters can be accompanied by the issue of civil and public administration.

On the other hand, the deaths that occurred because the initiative comes from the person of the offender may be suicidal or ask to be killed (euthanasia). Suicide is not regulated in the Indonesian Penal Code. Crimes against life (murder) in Indonesian only regulate and prohibit acts that eliminate the life of another person. Eliminating the soul itself is not regulated, because there are not legal

benefits. This is related to the general provisions set out in Article 77 the Penal Code of Indonesian, the right to demand of the public prosecutor to remove if the defendant has died. The defendant is the perpetrator, and the perpetrator is dead because there is no sense to process, only a futile job. By contrast, if the act of suicide was unsuccessful (attempted suicide), it is still possible to be prosecuted given the trial of crimes threatened with punishment (Article 53 the Penal Code of Indonesian). But the act of a suicide attempt is not regulated in the Penal Code, and therefore is based on the principle of legality remains should not be convicted.

At first, the Dutch's Penal Code regulates the ban failed suicide. Dutch first consider attempted suicide as a criminal offense and can be punished, as adopted in the United Kingdom now. Based on the above background problems, raised the problems as follows:

- i. Is the right of a person who chooses to die can be seen as element of the human rights so that those who helped to commit suicide exempt from punishment.
- ii. How does the prospect of setting the right to die in codifying the concept of the Indonesian Penal Code.

3. Discussions

3.1. Understanding of the Dead

Prior to the discoveries in the health sciences and advanced technology, patients are due to malfunction of the lungs and the heart, the brain itself is also not functioning. If the brain is not functioning, then the heart and lungs are also not functioning. With the development of medical technology today, a patient who suffered serious brain disorder, it is still possible heart and lung function as a result of the aid of a respirator.

According to Soekanto (1990), the rapid technological developments in medical world lead experts to differentiate between:

- i. The Vegetative dead, and
- ii. The Clinical dead.

Vegetative dead is dead as it is known since ancient times, namely the cessation of function of the heart and lungs. Someone said to die when the heart and lungs are not working anymore. Clinically die is dead brain stem (Brain Death). According to Leenen, widely accept now that in the medical world as a new criterion for death of a person. Criteria for brain stem death arose as a result the development of science and technology in the field of medicine, which enables the operation of the heart and lungs after the death (old concept). Consequently, the criteria of non-functioning of the heart and lungs as a basis for determining the death of a person can not be used anymore.

Functions such as thinking and feeling human being can only be activated when the brain is still working. If the brain is no longer functioning, the lives of intellectually and psychologically is ended although breathing and heart rate still exist. In law, the technical term of life and death, but there is no further judicial clarification.

Brain stem death in the process of dying is a sign that the person has died. In the Government Regulation Number 18 of 1981 on the bodies of Clinical Surgery and Surgical and Transplant Corpse Anatomical Tools and or Network (the Government Regulation Number 18 of 1981) has set criteria for death. In Article 1 of the Government Regulation Number 18 of 1981 specify that dies is a human being which is believed by authorized medical experts that the function of the brain, respiratory and or cardiac someone has stopped. Furthermore, in the explanation of Article 12 of the Government Regulation Number 18 of 1981 specify that the determination of when a person dies in a hospital that has a modern no longer be done the old way, namely that a person is considered dead when the breathing and blood circulation had stopped, but by using the tool called electro-encefalograf (recording device brain activity). Accordingly, Indonesian has embraced Brain Stem criteria for determining a person dies. Now, scientist of modern medical believes that a person has been dead medically if the central nervous tissue does not function anymore.

In the Netherlands, the Council of Health (1974) proposes two criteria for Dead Brain Stem, namely:

- i. The brain is absolutely not work anymore.
- ii. Brain Function, absolutely can not be recovered.

3.2. Euthanasia Settings in Regulation in Indonesia

Moving on from the definition of euthanasia and euthanasia division on active euthanasia and passive euthanasia, euthanasia settings by law in Indonesia can be divided into two parts, there are expressly prohibited euthanasia and euthanasia are not explicitly prohibited (doubtful). Strict prohibition is intended for active euthanasia, while passive euthanasia is not clear prohibition. Active euthanasia under Article 344 of the Indonesian's Penal Code: Whoever eliminates the life of another person at the request of the person himself, which he mentions with a real and earnest, was sentenced to prison for ever 12 years.

The formulation is relatively similar to Article 344 of the Indonesian's Penal Code are still found in the Draft of the National Penal Code of Indonesian of 2012, as stipulated in Article 583 and Article 584 as follows:

- a. Article 583 Draft of the National Penal Code of Indonesian of 2012 specify: Anyone who robs life of another person at the request of its the other person with sincerity or at the request of his family in the event that other people are not aware of, shall be punished with imprisonment of a minimum 2 (two) years and most 9 (nine) years. Furthermore, in the explanation mentioned that the provisions in this article criminalize known as 'active euthanasia'. Although the 'active euthanasia' is done at the request of the person concerned who declared with sincerity, but such actions are still threatened with punishment. The punishment to against of active euthanasia is based on the consideration that the action is considered contrary to the moral values and religion. In addition, it is also to prevent the possibility of an undesired situation, where a criminal offense maker a created such situation that arise from a person's request to end his life. Criminal threat here is not directed against a person's life, but rather directed towards respect for human life in general, despite the condition of the person suffering, both physical and spiritual. Thus, the motive is

irrelevant makers to consider in a criminal act. Definition of 'unconscious' in the provisions of this Article shall be interpreted in accordance with developments in medicine.

- b. Article 584 Draft of the National Penal Code of Indonesian of 2012 specify: Doctors who commits an offense referred to in Article 583 shall be punished with imprisonment of a minimum of 3 (three) years and a maximum of twelve (12) years. This provision is a weighting of Article 583 (explanation).

The settings do not hesitate for passive euthanasia, it is not clear the settings in the Penal Code and the Draft of National Penal Code. Form of passive euthanasia is not provided for in Article 583 of the Draft of National Penal Code as well as the world medical community does not consider such acts as criminal offenses. In the practice of criminal justice in Indonesia has accepted that passive euthanasia not be punished.

3.3. *Setting Euthanasia in Netherlands*

It has long been a debate about whether or not someone can be end of life with the help of others, in the sense that initiative to end of life comes from the victims themselves. According to Wila Chandrawila Supriya (2001), the Netherlands, has been allowed to assist the termination of human life. The ended of life is can be done with the following requirements:

- a. People who seek help that will end his life should be people who are sick.
- b. The disease that would end his life should be an incurable disease, such as cancer.
- c. People who would end his life in a state of terminal, meaning that the possibility of his life just to stay a while longer (just waiting for death).
- d. People who would end his life (patients) have to suffer great pain so that his suffering can only be reduced with the help of giving morphine.
- e. Patients unlikely and unable to endure the pain unaided by the administration of morphine.
- f. The end of life can only be done by the family doctor who has been treating patients concerned.
- g. The end of life of patients by family physicians should receive consideration or assessment (approval) of two specialists, who gave recommendation live does termination.

If the ended of life by doctors meet the requirements mentioned above, then by itself the doctor released from criminal liability.

Setting euthanasia in the Netherlands Penal Code should be mentioned because the Indonesian Penal Code comes from the Netherlands Penal Code. The Draft of National Penal Code bill being discussed in the Parliament is still relatively following the formulation of the Indonesian Penal Code which came from the Netherlands Penal Code.

3.4. *The Right to Self-Determination as a Basic Human Rights in the Field of Health*

According to Koeswadji (1984) that Health Law rests on two things, namely (1) the right to health care and (2) the right to self-determination. The right to health care means that maintenance/health services are the same for everyone. The right to health care is seen as a social right (social human rights). The right to self-determination is the right to self-determination, so it is an individual right. The right to self-determination includes the spiritual aspect and the physical aspect.

In accordance with the National Health System of Indonesia that health involves all aspects of life that the scope and the range so vast and complex. This view of health has changed, no longer limited to just the effort of healing (curative), but also include efforts to increase (promotion), prevention (preventive) and recovery efforts (rehabilitative). Therefore, health care includes four things (Nasution, 2005).

Efforts to increase (promotion), prevention (preventive) and recovery efforts (rehabilitative) is a government program, through the Ministry of Health, while the curative rather to individuals, although it can not be separated from government policy. Efforts to improve public health carried out by the various programs, such as conservation/environmental hygiene, counseling (advertising), the eradication of infectious diseases, and so forth. Prevention efforts can be done through advertising, examination of foreigners suspected of carrying infectious germs to Indonesia (such as SARS, swine flu H1N1), cleaning ditches/drains, provision of Water Closet (WC) common in public places/crowds (such as the bus's terminals), and so forth. Rehabilitative efforts are assistance to people/communities to heal of the afraid that is being or has been faced, so they avoid prolonged fear, for instance for cases of infectious diseases such as SARS or avian flu.

Curative treatment is the most important things of all existing efforts, particularly in relation to the law. In the curative measures that often arise legal problems in connection with the legal relationship (regarding the rights and obligations) between doctor and patient. Medical science as part of health care is primarily a social function that must be implemented for the benefit of society. In providing services, a doctor needs to adapt as well as observing the norms desired by the community regarding their behavior. That norms have been regulated in the Act, such as in the Health Code.

According to Leenen (1978), specialized in the medical field, there are limits to health care, namely:

1. Ability in Medical. Non-medical problems should not put into medical problems.
2. The situation in the community, that there is an option or priority service delivery. It is associated with the use of health services provided.
3. The purpose of health care. The goal of health care can be a healing, prevention, relieve pain, mentoring, and others.

The boundaries of health care can be changed in accordance with the development of science and technology. Health services should be able to avoid the provision of services such that the patient did not have a chance to finish his problem alone.

The Individual basic rights (self-determination) or the Right to Self-determination is the basis of the right to privacy (personal freedom) and rights of the body itself. The essence of the right to privacy is to be let alone, do not disturb, including the right to an undisclosed illness.

The Privacy rights are not absolute, sometimes ruled by the public interest. In terms of treatment, there are times when ordinary people have a right to privacy which is higher than community leaders or the president/leader of a country. When the President Reagan undergo surgery, the doctor makes a statement about the disease and its operations, doctors are not criminalized for reasons of leaking confidential health of others. Recording data in the patient's status or medical record, is usually only done for matters relating to the diagnosis and therapy.

The right to the body different from the property of an object. In many cases, people have the right over her own body, such as:

1. The right to approve or reject the medical action.
2. The right to become an organ of his bodies donor, such as kidneys.
3. The right to become a blood donor.
4. The right to bequeath organs after death.
5. Leaving her entire body to the lab.
6. The right to be cremation.

Rights over their own bodies is not absolute, there are restrictions such as the people themselves and ethical values. Someone can not bequeath his body to be food Tigers in Zoo. Some legal issues that can arise for the right to self-determination on the body are:

1. Trans-sexuality, alteration or improvement of the genitals. In the case of Vivian (Indonesian), if the court does not authorize the change of status/gender, then the question will be miserable for the rest of his life. The law is made not to make miserable. The court accepted the change of status and name, and finally Minister of Health appoint 6 Hospital to make changes or improvements sex.
2. Euthanasia. This problem concerns the Ethics (Medicine and Public). Still there is pluralism of opinions/setting on euthanasia. In the States of America, more than 18 States which regulate the right to die. Indonesian allowed passive euthanasia.
3. Abortion. In many countries, has been validated with gestational age up to 3 (three) months. At Netherlands state may be up to 24 weeks.
4. (Trial) Suicide. If suicide is not successful, need to be treated. Attempted suicide in the UK is regarded as misconduct and threatened with criminal, in Indonesia and the Netherlands are not regulated.

Restriction of the right to self-determination of the body can come from:

1. The Government, for example, those with infectious diseases, must be isolated.
2. Parents, is the parental rights over the child.
3. Faith/Religion, that Jehowa Witness sect, did not allow his people blood transfusions.
4. Heir. Heir forbids doctors to take organs that have been passed down as family life.
5. Mental Hospital. If the mentally ill person who can no longer communicate, can be forced into Mental Hospital.

In the above conditions a person can no longer self-determination over their bodies.

3.5. *The Right to Die and Its Relationship with Euthanasia*

The term euthanasia comes from the Greek, meaning good death or the death of fun. Hence the term euthanasia then developed into 'mercy killing' (murder of mercy), which can be done either actively or passively.

According to Ameln (1991), there are 6 issues faced by physicians/health workers in the field of medicine when associated with ethical aspects, medical and juridical, namely:

- i. Organ Transplantation.
- ii. Artificial Insemination.
- iii. Sterilization (Family Planning).
- iv. In Vitro Fertilization (IVF).
- v. Abortion.
- vi. Euthanasia.

Ethical, medical, and juridical aspects on organ transplant associated is regard with organ transplants between the people of different beliefs, such as a blood transfusion from a Christian to a Moslems, but there are certain foods that should be eaten by people who are Christian but should not be (*haram*) for people who are Moslems. Another problem, whether transfused blood sterile from the disease or not. If not sterile, causing other people pain or die and it will be a criminal act, such persecution or murder.

The ethical, medical and juridical aspects in Artificial Insemination and IVF is regard to nature human. By nature, humans proliferate in matrimony by the husband-wife relationship. Fertilization occurs naturally by the husband's sperm cells to the ovum in the uterus of the wife of the wife. In the Artificial Insemination and IVF, fruit of the womb that conceived by the wife could come from the sperm

and ovum cell of others, or the husband's sperm and ovum in others, or sperm cells from another person and ovum from a woman who was pregnant, giving rise to a legal issue of who the biological father and mother as well as father and mother juridical. By nature, the father/mother and biological father/mother juridical is the same person. In addition, the problem of Artificial Insemination and IVF can be caused the other problems if the sperm or ovum that carries germs or not sterile, can be affect the health of the wife or fruit abortion.

The ethical, medical, and juridical aspects for the sterilization in Family Planning is regard a violation of the nature of human nature. There is a view to the religion that God created humans to breed naturally. If a woman or a man be sterilization, then they can no longer breed. In addition, sterilization can affect one's health. Legally, sterilization is not part of the treatment, which if carried out taking part of reproductive someone it can be regarded as persecution or make others become disabled because people are not perfect anymore in nature, there is a missing body parts.

The ethical, medical and juridical aspects of abortion criminals is regard with the view whether fruit of the womb of a mother is a part of the body of the mother or not. Generally, shares that the view the fruit of the womb (zygote) is part of the body of the mother, but it not same as the other of the body parts, such as fingers. Fruit of the womb is seen as part of the mother's body because the fruit of the womb is fused with the body of his mother. The difference between the fruit of the womb with maternal body part is that the fruit of the womb can develop and after 9 (nine) months would be a human (infant), while the other mother's body, such as fingers will remain a finger up at any time. This is used as an excuse to oppose abortion criminals. In Indonesian, abortion criminals declared a criminal offense and can be imprisoned for up to 5 (five) years and 6 (six) months if it is done with the permission of his mother, and 12 years in prison if done without the permission of his mother.

From the sixth issue of the issue of Transplant Organs, Artificial Insemination, sterilization (Family Planning), IVF, abortion criminals, and euthanasia, most problems are aspects of ethical dilemma, medical and juridical euthanasia. Below are given some examples of cases:

1. A mother living with her son who was married. His mother was already 11 years old suffer from bleeding in the brain, which can not be cured. It has been 2 years of not being able to speak and there is no sign that he will be able to hear. His Mother is no longer in contact (communication) with his family.
2. A young man, 22 years old, at age 18 years in a car accident, and consequently there is damage in the brain that can not be cured. It has been four years he was in a coma, as if dead. The whole ability to think or feeling is not there anymore.
3. A woman, 70 years old, has been hospitalized due to cancer in both legs. Continuously, the bones in her legs has been fragmented and divided. He was not helped again. He wanted to die (the faster the better).
4. A man who is already in the final phase of his life, experiencing shortness of breath pneumonia very extraordinary that life can only be extended by a trachotomi, namely an operation to make a hole in the respiratory tract and install artificial respiration (artificial). Two doctors and two pastors are negotiating for it, and decided to stop artificial respiration.
5. A man riding a motorcycle crashed into a truck that was stopped, so that his forehead hit. Having examined the bone fragments turns (forehead) has entered into the brain, resulting in invalidity psychological very serious and both eyes has been so damaged that can no longer function. Finally, medical treatment is stopped, and 9 hours later he died.

In the United States of America (State of California) never been a case, that a child (Benjamin), 4 years old got severe traffic accident (head smashed rear), was taken to hospital and her fitted respirators, but it turns out Benjamin had died The brain stem because the back of the head were destroyed. Her parents were briefed about the state of her son, then her parents filed a court order could be revoked respirators that Benjamin vegetative life can end (death). The court granted the petition (because according to American law, a person can beg for dead), and four hours later Benjamin was dead. The court has heard the testimony of the doctor, who found Benjamin has brain stem death and that the vegetative life is just artificial, because the respirators were fitted to Benjamin.

The dilemma cases in above may be posed the pros and cons, whether to their lives (the patient) is ending or not. In Indonesian, the cases were related to several articles of the Penal Code (criminal acts). The case could be wild and can lead to doctors/health professionals and/or family accused of committing a crime. Articles of the Penal Code that may be used to euthanasia as follows:

1. If the physician intentionally stopped treatment and/or use of medical devices for patients who really need it to be able to live so that the patient finally dies, if the termination of life (discontinuation of treatment) is performed without the patient's request then against the perpetrator (doctors) can subject:
 - a. Article 338 of the Penal Code (murder): Whoever willfully depriving another person's life, is threatened because of the murder with a maximum imprisonment of fifteen years. The same provision is still maintained in Article 580 paragraph (1) of the Draft the National Penal Code: Anyone who robs the lives of other, was convicted of murder with imprisonment a minimum of 3 (three) years and a maximum of 15 (fifteen) years.
 - b. Article 340 of the Penal Code (murder): Whoever willfully and with premeditation depriving another person's life, threatened for premeditated murder, the death penalty or life imprisonment or imprisonment for a certain period of time a maximum of twenty years. The same provision is still maintained in Article 581 of the Draft the National Penal Code: Any person who plans in advance depriving another person's life, threatened for premeditated murder shall be punished with death or imprisonment for life or a term of imprisonment minimum of five (5) years and a maximum of 20 (twenty) years.
2. If the physician intentionally stopped treatment and/or use of medical devices at the request of the earnest of the patient (or family if the patient is no longer able to express his will), it opens the possibility of the application of Article 344 of the Penal Code (active euthanasia): Whoever depriving the lives of others on request earnestly from the man himself, shall be punished by

imprisonment of twelve years. The same provision is still maintained in Article 583 of the Draft the National Penal Code: Anyone who robs life of another person at the request of the other person are clearly stated with sincerity or at the request of his family in the event that other people are not aware of, shall be punished with imprisonment 2 (two) years and a maximum of 9 (nine) years.

3. If the doctor does not do anything treatment and/or use of medical devices for patients who really need it to be able to live, it opens the possibility of the application of Article 304 of the Penal Code: Whoever willfully causing or allowing a person in a state of misery, while according to the applicable law for him or for her approval shall give life, care or maintenance of that person, shall be punished by imprisonment of two years and eight months or a maximum fine of four thousand five hundred dollars. The same formulation was passed down in Article 532 of the Draft the National Penal Code, such as:
 - (1) Any person who caused or allowed people in limbo, while according to the law applicable to him, or because the holding agreement shall provide for, maintain, or maintain a person in the displaced state, shall be punished with imprisonment of 3 (three) years or a maximum fine of Category IV.
 - (2) If the act referred to in paragraph (1) carried out by an official who has a duty to care for or maintain a displaced person shall be punished with imprisonment of a minimum of 1 (one) year and a maximum of 6 (six) years or a fine of Category III.
 - (3) Record of crime referred to in paragraph (1) shall be subject to:
 - a. imprisonment of a minimum of 2 (two) years and a maximum of 9 (nine) years, if such actions result in serious injury to the person who abandoned; or
 - b. minimum imprisonment of 3 (three) years and a maximum of twelve (12) years, if the act results in the death of neglected people.

In the criminal law has accepted that sense can be done actively doing (*een doen*) or do not (*een nalaten*).

In general, now known two kinds of euthanasia, namely:

1. Active Euthanasia, is a doctor or health workers by deliberately doing something action to shorten or end the patient's life.
2. Passive Euthanasia, is a doctor or health worker deliberately not to do something (*een nalaten*) medical help to prolong the life of patients.
3. Auto Euthanasia, is a form of euthanasia where the patient knowingly refuses flatly to receive medical treatment, and he knew that it (rejection) will shorten or end his life. The rejection was done by making a codicil, it means an affidavit with handwriting.
4. Directly Active Euthanasia, where doctors or health workers by deliberately perform a medical procedure to end the suffering of patients, for example, by injection of an overdose of morphine, so that patients become dead. The main goal is the death of a patient doctor.
5. Indirectly Active Euthanasia, where a doctor or health worker without intent to shorten/end a patient's life medical action to alleviate the suffering of patients with the risk that his actions could result in death or end a patient's life, such as by injecting morphine with a reasonable dose of each times the patient has (feel) very sick. The ultimate goal is to relieve suffering, but the consequences could shorten or end a patient's life.
6. Pseudo Euthanasia (Euthanasia Shadow), is an action that is similar to euthanasia but not euthanasia, such as:
 - a. The ending of treatment because symptoms of patients 'brain stem death'. In the case of Benjamin above reproach, whether the case including euthanasia or something similar to euthanasia.
 - b. The ending of a person's life as a result of an emergency. This could happen if there are two or more patients who desperately need respirators, but the only one available and has been installed on a single patient. This can be attributed to Article 48 of the Penal Code: Anyone who acts under the influence of forced power, not convicted. The same provision is still maintained in Article 43 of the Draft the National Criminal Code: Do not convicted, a person who committed the crime because:
 1. forced by the power that can not be detained, or
 2. forced by the threat, pressure or force that can not be avoided.
 - b. Dismiss a medical treatment (already) is not useful anymore (*zinloos*). At each medical action should always be the goal of such action, there is proportionality between the actions with reasonable goals. According to Leenen (1978), doctors or health workers who perform a medical procedure that is not useful, even legally be regarded as persecution.
 - c. Therefore, a doctor should not perform or continue a therapy if it is medically can no longer expected an outcome, even though it will result in the death of the patient. The doctor's goals not to shorten the patient's life, but preferably before stopping medical measures first consult with a physician/team of the other doctors.
 - d. Refused medical treatment. Doctors are working on the basis of informed consent. Without the consent of the patient, the doctor can not act. If the doctor imposes medical treatment when the patient refuses, then the doctor is liable to criminal acts of persecution (Article 351 of the Penal Code). In jurisprudence in the Netherlands (1974) argued that in general a doctor does not have the right to perform a medical procedure on a patient if medical action was not desired (approved) by the patient.

Some jurisprudence on euthanasia in the Netherlands:

1. Case doctor van Bruinisse (1952): A court in Utrecht imposes a conditional sentence of 1 (one) year imprisonment with probationary period of 1 (one) year to doctors van Bruinisse for action: the request by way of injection of ending the life of his brother who suffered because the disease can not be cured.
2. Leeuwarder Euthanasia Case Process (1973): Mrs. Postma van Boven was ended the life of his mother by the injection of morphine at the request of her mother because her mother suffered from a disease that is not curable. Mrs. Postma and her

husband (who is also a doctor) has repeatedly explained to the mother that her request could not be granted. As a result, his mother struggle, no longer wants to talk to his son. Her mother also had been banging his head on the tile bed to end his life. The court eventually dropped the conditional sentence of 1 (one) week with a trial period of 1 (one) year. In this case, a court has heard expert testimony from an Inspector of the People, which essentially says:

- a. The issue here concerns people suffering from incurable diseases.
 - b. His suffering so intense, so unbearable pain.
 - c. Patients themselves have repeatedly filed requests with very to end his life.
 - d. The patient has entered the final period of life (end of life period).
 - e. The culprit is the treating physician.
3. The Court of The Hague (1985): The case of termination of the life of a patient suffering from multiple sclerosis by a doctor anesthesiologist. Judge frees anesthesiologist with consideration (motivation of the perpetrator) is suffering intolerable and physician medical professional act, so that the court considers there are no errors in the self anesthesiologist.

In the case of doctor's van Bruinisse (1952) and the case of Leeuwarder Euthanasia Process (1973) it appears that the judge still sentenced the offender simply because the provisions of the criminal law is written. It is apparent from the sentence imposed judge, which is very light for the act eliminates the souls of others. In the case of the Court of The Hague (1985), the judge had dared to take the decision to release the offender.

4. Conclusion

At first all the countries in the world have made euthanasia a criminal offense. Penal Code various countries in the world still make euthanasia as a crime, a person is not allowed to end his life with the help of a doctor. But in its development has been a change in outlook. Gradually, the change was initiated by dropping a light punishment for the perpetrators of euthanasia because it is still forbidden in its Penal Code, but now many countries that allow or are no longer punish the perpetrators of euthanasia. Patients suffering from a disease that medical science is no longer possible to cure has been given the possibility to end his life at his own request (euthanasia).

The developments of Health Law indicate that the right to die through euthanasia can be seen as part of the right to self-determination over the body (including the soul attached of the body), as well as part of their human rights. But even so, the implementation of the right to die through euthanasia by doctors should remain strictly limited so that the exercise of the right to die through euthanasia is obliged to obtain consideration of several specialist doctors in the field of disease being suffered by patients who no longer possible to be cured medically.

5. References

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