

CHAPTER I

INTRODUCTION

A. Background

According with the increasing awareness of the right to self determination, many countries respect for a person's right to determine their life such as end up their life, because many people assume that they have full right of themselves. There are Swiss, The Netherlands, The United State of America, and Indonesia which have specific legislation which consent to the performance of actions related with human right which may cause the death of person, such as death penalty, abortion, and euthanasia.

To protect the right of life to the state members of United Nation there is The Universal Declaration of Human Right. The Universal Declaration of Human Rights as a standard for all nations related with enforcement of human right, become guidelines for every individual and every organ of society, and tried to run the respect for rights and freedoms, the national and international, ensure recognition and respect, universal and effectively.¹

At the time of drafting the Universal Declaration, States basically agreed on the need to transform its general principles into legally binding instruments, this was be done both at the universal level and at the regional level, furthermore, human right treaties would be worked out in specific areas.²

¹ Thomas Buergenthal, 2004, *International Human Right in a Nutshell*, West Publishing: United States of America, P. 36.

² Abdul Ghafur Hamid, 2011, *Public International Law A Practical Approach*, Thomson Reuters Malaysia Sdn Bhd, p. 304

The original plan of the United Nation Commission on Human Rights was to draft a single convention covering all the fundamental human rights. However, in a view of the Cold War rivalry between the West and the socialist countries and the emergence of the newly independent countries, it was proved to be impossible to incorporate all the rights into the one instrument.

The right to life is the most fundamental right of all human beings. The Universal Declaration of Human Rights mentioned that, everyone has the right to life, to freedom and security. But, there is no absolute definition, based on Kamus Besar Bahasa Indonesia; human rights are international protected rights, like the right to life, right to liberty, right to possess, and the right to issue an opinion.³

In several articles on the 1945 Constitution also contained of human rights, such as right of every citizen with equal before the law and government, the right to work and proper living, the right of association and assembly, the right of expression, right to life physical and spiritual prosperity, the right to life, freedom from torture, freedom of thought and conscience.⁴

Regarding on the issue of human rights, it will occur that the right to life is included of human right, so, the question would be, how the existence of the right to life when associated with the issue of euthanasia. Euthanasia has a motive and a wider sense, but the goal was the same. The goal of euthanasia is

³ Departemen Pendidikan Nasional, 2008, *Kamus Besar Bahasa Indonesia*, Ed. IV, PT Gramedia Pustaka Utama : Jakarta, p. 474.

⁴ 1945 Constitution of Republic of Indonesia regulated human right issues, namely; Section 28 A: *Everyone has the right to live and defend the living. Section 28.B:(2) Everyone has the right to survive, grow, and develop as well as the right to protection from violence and discrimination. Section 28 D: (1) everyone has the right to recognition, security, protection, and legal certainty and equality before the law.*

to accelerate the arrival time of death in order to avoid prolonged suffering for patient, so the definition of euthanasia used to help and not to be interpreted as the destruction of useless life.

The example of euthanasia is a cancer patient at high stadium and very suffering, whether physical, mental and material. Based on these conditions, the family and the doctors choose to speed up their death by giving the medication with excessive doses, lethal injection and other medication, what so called euthanasia. Until now, euthanasia still becomes debatable issue. The Netherlands became the first country to decriminalize voluntary euthanasia on 2001. Under new legislation a doctor will not be prosecuted for terminating a person's life providing he or she is convinced that the patient's request is voluntary and well considered and that the patient is facing unremitting and unbearable suffering.

Euthanasia still debatable until now, moreover when considered with Universal Declaration of Human Right that uphold the human right principle especially in the involuntary euthanasia which done without the request of the patient to end up of patient's life. Several countries stated that euthanasia is an act of illegal killings and other states considers euthanasia is an option. The debates then make a right to life which can be used as an argument for or against euthanasia.

B. Research Question

How is Indonesia and The Netherlands Legal System response euthanasia practice based on the Universal Declaration of Human Right?

C. Research Objective

The research has a goal in order to understanding what the meaning of Euthanasia and all about the factors and the types of Euthanasia which still debatable in the world and knowing how Universal Declaration of Human Right response the issue of euthanasia related with the human right principle of patient as the object of euthanasia and knowing how the response of the Netherlands and Indonesia in facing euthanasia's practices.

D. The Advantages of Research:

The advantages of this research are:

1. Theoretical Advantages

To knowing for the society what is Euthanasia deeply and describing what the response of Universal Declaration of Human Right related with euthanasia practice.

2. Practical Advantages

This research will develop the understanding on how Universal Declaration of Human Right responding the issue of euthanasia and this research also improve and will share the knowledge regarding euthanasia's issue as follows as the types of euthanasia, the factors of euthanasia and how Universal Declaration of Human Right regulated euthanasia's action especially in Indonesia and the Netherlands.

E. Outline of Writing

This research consists of five chapters, namely: Chapter I Introduction, Chapter II Literature Review, Chapter III Research Methods, Chapter IV Result and Discussion, Chapter V Conclusion and Suggestion. The aims of this research are to learn deeply on how Indonesia and The Netherlands facing euthanasia based on The Universal Declaration of Human Right Principles.

1. In the chapter I, the author will explain the background of the undergraduate thesis. This chapter will describe the human right definition based on several sources. In line with that, the relation of euthanasia regarding on human right perspective also discussed in this paper.
2. In chapter II, the author will discussed the definition of euthanasia includes the classification, the methods, euthanasia viewed by the request or not, euthanasia's factor, and also several principles regarding on euthanasia. In line with that, in this chapter the author also explain euthanasia related with human right perspective based on Universal Declaration of Human Right. The aimed of this chapter is to show to the reader that in euthanasia practice, there is the violation of human right, especially in the involuntary euthanasia cases in the Netherlands as the first country that legalized of euthanasia's practices and Indonesia as the country that assumed euthanasia is one of illegal action based on several acts.

3. In chapter III, the author will explain the research method that used in completing this research. This chapter will consist of several sub topics, namely; research type, research location, legal materials, and research data collection method, also the systematic of the paper.
4. In the chapter IV, the author will discuss the result of the research. The euthanasia practice in The Netherlands and Indonesia related to the euthanasia practice based on Universal Declaration of Human Right principles.
5. In the last chapter, it would be conclusion. The author will make a summary of the research, and also review the analysis of the research that answers the problem research, which delivered in the first chapter of the research.