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# Analysis of Islamic Law in the Context of Lethal Injection for Terminated Patients in Indonesia

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### Abstract:

*This study delves into the examination of Islamic law within the framework of lethal injection for terminally ill patients in Indonesia. The research focuses on the ethical and legal dimensions surrounding the use of lethal injection as a method of administering end-of-life care for individuals facing terminal illnesses. Employing a comprehensive analysis of Islamic legal literature and scrutiny of Indonesia's legal provisions pertaining to the termination of patients, the study seeks to ascertain the compatibility of lethal injection with Islamic principles. The research adopts a comparative legal analysis approach, comparing the tenets of Islamic law with Indonesia's existing legal framework concerning end-of-life decisions. By exploring the perspectives of prominent Islamic scholars and jurists, the study aims to provide insights into the multifaceted nature of the debate surrounding lethal injection within the context of Islamic law. The findings of this analysis will contribute to the ongoing discourse on ethical considerations and religious perspectives regarding end-of-life care, with implications for Indonesia's healthcare policies and legal regulations in the realm of terminal patient care.*

**Keywords:** *terminated patients, lethal injection, Islamic law*

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## 1. Introduction

Lethal injection is a contentious ethical issue that has sparked much debate. The provision of lethal injection requires a comprehensive healthcare team, with nurses frequently playing secondary roles. Nurses, on the other hand, play critical roles in all major healthcare processes. As an increasing number of nations regulate or propose including lethal injection as a healthcare service, it is critical to clarify nurses' duties and participation in this process (Avci, 2018).

The difference between lethal injection and assisted suicide is that the patient takes the ultimate action in the latter; yet, both methods can be included under the umbrella phrase aided death. Several countries, notably Holland, Luxembourg, and Canada, currently permit assisted suicide. Belgium and Colombia have laws that decriminalize solely lethal injection; Switzerland and five states in the United States, specifically Oregon, Vermont, Washington, California, and Montana, have similar laws. Spain has joined the list of countries that have legislated legalized lethal injection with the March 2021 organic law, which governs lethal injection in both public and private institutions (Munir, 2023). The fact that more and more countries were enacting lethal injection legislation brought to light the opinions of thinkers, politicians, philosophers, and physicians. Several countries have started conversations about it in their governmental structures. Latin America is attempting to make significant strides in this medical-philosophical field. The "Muerte digna y cuidados paliativos" law, which proposes to regulate lethal injection and assisted suicide in Chile, is now being debated in Congress (Bachmann, 2018).

Until today, there has been no clarity or certainty in Islamic law on the existence of lethal injection. There is certainty about the existence of lethal injection, whether or not it is included in jarimah. Whether in jarimah or not. This differs from the Indonesian Criminal Law as established in Article 344 KUHP, which states that conducting lethal injection is an act of jarimah. The Criminal Code, which states that lethal injection is a criminal offence (Butler-Struben et al., 2018). It is a crime. Although there are technical similarities, there is a fundamental difference between purposeful homicide and active lethal injection. Although there are technological similarities, there is a fundamental difference. In purposeful killing, there is an intention or purpose that tends to be a criminal act. In contrast to passive lethal injection, active lethal

injection is the intentional and premeditated termination of the patient's life. However, this killing is carried out at the desire and request of the patient or victim to the treating doctor, and the objective or purpose conveyed within tends to be beneficial. The objective or purpose mentioned therein is generally helpful in this case (Calati et al., 2021).

Previous research that discusses lethal injection. The research drawn from the provided data shows that magnesium chloride and ethanol exhibit properties conducive to serving as general anaesthetic agents. The findings suggest that lidocaine and magnesium chloride can effectively function as local anaesthetic agents specifically for cephalopod molluscs. This implies potential applications for these substances in inducing anaesthesia, both on a broader scale and in targeted, localized scenarios within the context of cephalopod mollusc anaesthesia. Further research and exploration may be warranted to refine and expand upon these observations for practical applications in anaesthesia for these particular organisms (Calati et al., 2021).

The focal point of attention of this research revolves around a recently debated case involving the lethal injection of a Dutch woman diagnosed with Alzheimer's disease, which was carried out under the Advance Lethal Injection Directive (AED). A Dutch lethal injection review committee scrutinized the incident and concluded that the doctor responsible for the lethal injection failed to comply with the established treatment requirements for lethal injection and assisted suicide. The results of this investigation could potentially shape the future legal and ethical framework governing lethal injection in the Netherlands and could set a precedent for similar cases around the world. The use of sodium pentobarbital, administered by intraperitoneal injection, is recognized as an acceptable technique for rodent lethal injection in accordance with guidelines provided by the American Veterinary Medical Association (AVMA) and the Canadian Council on Animal Care (CCAC). This widely used practice is in line with established standards, which reflect consensus within the scientific and veterinary communities on a humane and effective way to end the lives of animals in research settings (Dahlan et al., 2023).

In the global discourse on assisted dying, a prevailing argument asserts that lethal injection is inherently incompatible with palliative care. However, in Belgium, where lethal injection has been legalized since 2002, the Federation for Palliative Care Flanders takes a distinctive stance by

endorsing the perspective that lethal injection can be integrated into palliative care. This viewpoint challenges the conventional narrative and suggests that, in specific contexts, end-of-life choices, including lethal injection, may coexist with the principles and practices of palliative care (Dierickx et al., 2018). Nurses' perspectives on death and associated concepts play a crucial role in shaping the delivery of end-of-life care. It is essential to explore and understand nurses' opinions and attitudes towards these concepts and identify the influencing factors. This exploration is vital for guaranteeing the provision of high-quality end-of-life care.

Based on the above description, a lethal injection is a deliberate act performed by another individual (usually a medical professional) with the intention of ending the suffering and life of a person who has a severe, incurable, and possibly very painful disease or condition (Fox et al., 2018). This action aims to shorten the suffering of the individual by ending his or her life, generally through the administration of drugs or other medical measures. Lethal injection is often a complex ethical and legal debate, as it involves considerations regarding an individual's right to life, human values, patient autonomy, and social and cultural implications (Mak & Lam, 2013). There are various viewpoints on lethal injection, including perspectives that support its legalization as a choice for suffering patients and perspectives that oppose it on the grounds of continuity of life and certain ethical principles. This research aims to analyze the concept of Islamic law in the context of lethal injection and examine the implications and ethical aspects related to it. The problems to be answered through this research include: first, How is the concept of Islamic Law defined and interpreted in the context of Islamic law and ethics? Second, How can the concept of Islamic Law be applied in the context of the debate on lethal injection?

## 2. Result and discussion

### 2.1. Lethal injection controversy

When contemplating E/PAS (Euthanasia/Physician Assisted Suicide) for those with only psychiatric problems or diverse types of cognitive impairment, several contentious issues emerge. The connection between mental illness and suicidal ideation, as well as the free and well-considered will to utilize E/PAS. Psychiatric illnesses are one of the major risk factors for suicide; nonetheless, the psychiatrist's medical, social, and human responsibility is to treat psychopathology, including

suicidal ideation, and to prevent suicide. The fundamental elements of many psychiatric diseases and the criterion of intolerability of mental pain also overlap. In short, excruciating suffering, rather than being the expression of free and independent decision, could be included in the diagnostic or severity criteria of psychiatric diseases. Recurrent thoughts of death and suicidal ideation, as well as a suicide attempt or plot to commit suicide, are considered diagnostic elements of major depressive disorder, according to the DSM-5. In contrast, "recurrent suicidal behaviour, gestures, or threats, or self-mutilating behaviour" contribute to the diagnosis of borderline personality disorder (BPD) (criterion 5); aspects of emotional and behavioural dysregulation related to an increase in suicidal risk are also included as criteria. BPD patients account for a significant proportion of all suicides, with a substantially higher risk than the overall population, particularly throughout adolescence and early adulthood. Suicide and self-harming behaviours are also common in other PDs, particularly cluster B. In narcissistic personality disorder, for example, there is a tremendous urge to defend one's own image of perfection by gaining continuous external self-affirmation; failure can result in a profound sensation of shame and humiliation, from which, in some cases, death is regarded as the only way out. Suicidal ideation is common in antisocial personality disorder and other diseases characterized by high levels of hostility (Fox et al., 2018).

Regarding the criterion of "no prospect of improvement" of the sickness, as required by Dutch legislation, it is extremely difficult to establish all viable therapies that must be examined for mental diseases. For PDs, for example, a sequence of psychotherapy and rehabilitative interventions can lower suicidal thoughts and the probability of self-injurious conduct (Krisnalita, 2022). People suffering from these disorders, however, commonly decline or interrupt treatment proposals; this also applies to various disorders in which awareness of the disease (insight) may be lacking, such as psychotic disorders or those affecting neurodevelopment and cognition. In this sense, the act examines only the therapies accepted by the patients in determining whether or not the illnesses are treatable, giving priority to the subjective point of view. However, some judgment-distorting elements generated by the same diseases, such as hopelessness in depression, are not valued in this consideration or impulsivity and cognitive errors in BPD, which are linked to the suicidality dimension (Jakhar et al., 2021). Furthermore, regardless of

depression severity, people who attempt suicide have significant cognitive distortions (e.g., greater rigidity, dichotomous thinking, excessive generalization, selective abstraction, irrational thoughts, hopelessness, over-general memory, perfectionism, and deficit in problem-solving), implying that these alterations may represent specific therapeutic goals in addition to the treatment of any associated psychiatric disorders (Madadin et al., 2020).

Given the principle of the patient's centrality, with their subjectivity and right to self-determination, it must be recognized that cognitive distortions, hopelessness, and helplessness can represent symptoms of a psychiatric disorder while also influencing patient choices and generating mistrust in the efficacy of the proposed treatment(s) (Hawton et al., 2016). Simultaneously, similar factors may have an impact on patients' social surroundings, including family members and health professionals, particularly in the most complex and unpleasant situations. This could lead to a vicious spiral in which the patients' doubt is compounded by the discouragement of the surrounding support system, supporting their perception that E/PAS is the only feasible option.

Another troubling element is that E/PAS could be a deadly means for people with psychiatric disorders and suicidal inclinations, particularly women. This danger is underscored by the significant incidence of women in cases of E/PAS requests and admissions, as well as suicide attempts. Men, on the other hand, are more likely to use effective suicide methods and are less likely to seek professional help for mental illness (Kouwenhoven et al., 2019). Data from North America suggest that women, particularly those of European heritage, account for over half of all cases of medically assisted suicide, although accounting for only a minority of suicides. Some arguments and proposals linked to the prospect of allowing elderly people who feel "tired of living" to receive E/PAS, even in the absence of physical or mental disorders that can explain the request, enhance the risk of offering a more fatal means.

## 2.2. *Moral ethics in lethal injection*

Lethal injection has recently received a lot of attention, particularly in terms of the impact of medical science and technology progress and advancement. On the one hand, it has a negative value because it means 'killing without suffering' patients who have no hope of life, but it can also be considered an act of honouring human life because

it means 'ending and not prolonging the suffering of patients' who are medically incurable. Medically, there is no cure. The lethal injection ethical debate focuses on voluntary active lethal injection and physician-assisted suicide. People may have various moral ideals that clash (Florijn, 2018). In "Lethal Injection, Ethics, and Public Policy: An Introduction, "Argument Against Legalization," John Keown classifies the ethical concerns. The value of human life, the value of human life, the value of human life, and the value of human life personal autonomy, legal hypocrisy and the slippery slope argument (Laferriere & Pang, 2020).

Lethal injection is still a dilemma in the field of medicine. On the one hand, lethal injection needs to be performed as a medical therapy at the end of medical treatment, but on the other hand, some people reject the opinion that lethal injection is necessary. This is in accordance with the principle of Hippocrates that a doctor would not administer lethal drugs to anyone even if asked to do so. to do so. Lethal injection will not make the doctor a healer, but therefore, lethal injection is not a medical act (Canetto, 2019).

In principle, lethal injection is also illegal in the medical profession. This is because, according to Article 9 of the Indonesian Medical Code of Ethics and the "Hippocrates" oath of doctors, "a doctor must always remember the obligation to protect the life of human beings." This item was altered in PB IDI Decree No. 221/PB/A.4/2002 on the Implementation of the Indonesian Code of Medical Ethics, dated 19 April 2002 (Malek et al., 2021). The notion of lethal injection is definitely not accepted by doctors in Indonesia because it not only breaches their oath but also contradicts Indonesian legal conventions. In the sense that, regardless of how severe and suffering a patient is, a doctor is not permitted to perform acts that result in the patient's life being terminated or accelerated.

Morals are a collection of principles in life that control a person's or group's behaviour. This behaviour symbolizes morality, which has become a habit in society that has been accepted or agreed upon without any kind of process. Whereas morality governs the relationship between doctors and patients, four basic moral rules govern it: the doctor is required to respect the patient's rights and dignity as a human being (autonomous principle), doctors must prioritize actions that are intended for the good of the patient or cure him (beneficence principle), doctors do not take actions that worsen the patient's condition, and doctors provide the least risky treatment (Malek et al., 2021).

Until now, the principles of no legislation, be it religion, morals, or decency, have dictated that aiding another person to end his or her life, even at the desire of the individual concerned, is an act that is not good. Its implementation can be carried out under certain conditions, including that the person who wants to end his or her life is seriously ill and cannot be treated, that the patient is in a terminal state, that the patient's chances of survival are slim, and that the patient's suffering can only be alleviated by the administration of morphine, and that the person who may administer assist the patient's end of life (Malek et al., 2021). Regarding -lethal injection, passive lethal injection is a grey area because it is ambiguous, i.e. on the one hand, it can be considered an immoral act, but on the other hand, it can be considered a noble act because it is not intended to prolong suffering or the natural course of events. In terms of ethics or morality, the act of lethal injection contradicts the ideal of human life respect. Lethal injection, regardless of the circumstances of his life, is not justified since it is murder. Only after all of these conditions are met may lethal injection be adopted. As a state founded on Pancasila, its basic premise is "The Almighty God" (Yufriadi et al., 2023). Indonesia prohibits lethal injection permits for the acceptance of lethal activities.

### 2.3. *Islamic law analysis in the context of lethal injection*

One of Islam's goals is to maintain the human spirit. Humans are instructed to make attempts to sustain their life in order to preserve this soul. Man is ordered to eat, drink, clothe, and live in order to do this. If he becomes ill, he is required to seek medical attention. Humans are required to take proper care of their bodies on a regular basis. Suicide is not permitted in Islam since humans are not creators and are not ultimate owners. In Islam, the subject of human mortality is Allah SWT's prerogative. As a result, activities that result in death, whether to oneself or to others, including lethal injection, are prohibited (Abbas, 2016; Mallia, 2018).

The topic of lethal injection, which has just recently appeared in the modern world and has no precedent in classical fiqh studies, is a fresh chapter in deciding the law. Intellectual figures have been asked to provide their thoughts on this new case with no law. Lethal injection, often known as compassionate killing, cannot be carried out in this manner. A procedure must be followed, namely that all efforts to seek recovery have been maximized, and numerous kinds of treatment have been tried

and have not generated results. Active lethal injection is lethal injection performed with the use of tools; for example, the patient is given an excessive dose of medicine, resulting in an overdose and death to the patient. Alternatively, the patient is given a fatal injection and dies (Miller et al., 2019). Passive lethal injection occurs when a patient is left alone with his condition without assistance or treatment, despite the doctor's knowledge that if the patient is not given medicine or medical action to help him, the patient will die sooner than if medical assistance is provided.

A common scenario is when a patient requests that treatment be discontinued because the pain is unbearable while undergoing treatment. Meanwhile, if the treatment is continued, it will not cure the patient but will simply delay and slow his death. This act of lethal injection is understood, and it is classified as a passive lethal injection because it terminates therapy when the patient's condition cannot be anticipated to improve. It is different if the doctor believes that the disease can still be treated if therapy is prolonged; if a lethal injection is performed, the lethal injection is an active lethal injection.

Lethal injection, when related to *maslahah*, it means that it benefits everyone who encounters it, not only as an area of knowledge but also as a guide so that there is no confusion in taking legal action that looks at the basis of the argument or the outcomes of *ijtihad* in order to avoid injury (Abbas, 2021; Monawer et al., 2023). *Maslahah* is a benefit that lacks an argument and a basis as a justification to justify it. As a result, if there is a case/event in which there is no legal provision and no *'illat* (Bellon et al., 2022). That can be removed from *sharia* that determines the legal certainty of the case, and if something is discovered that is in accordance with *sharia* law, in the sense of a legal provision based on the maintenance of harm or stating that something is beneficial, then such a case is known as *maslahah*.

All *maslahah* cannot be utilized to amend Islamic law. In Islam, only authentically *maslahah* can be utilized (Abbas, 2010; Picón-Jaimes et al., 2022). As a result, the *maslahah* in question must meet the following requirements: The *maslahah* in question can be proven or strongly suspected of bringing peace, quiet, justice, and happiness to the world now and in the future. This *maslahah* must be the outcome of open and honest debate, not coercion by individual will or authority. The *maslahah* referred to by human reason must not contradict the text (*nusus as-syar'iyah*). Thus, what humans think

to be helpful yet contradicts the Qur'an and al-Hadith texts cannot be employed in Islam.

The goal of sharia in constructing the law, which is directly or indirectly related to the five essential principles for human life, demonstrates the strength of *maslahah*. *Maslahah* can be separated into multiple components in this situation, namely:

- a) *Al-maslahah al-mu'tabarah* is a benefit that has sharia support, both in type and form, which means that there is a specific argument that serves as the foundation for the form and kind of benefit (Scopetti et al., 2023). To put it another way, all the laws established by Allah SWT through the wording of the Qur'an and the Prophet Muhammad SAW (Afifi, 2021). One purpose, namely benefit, is achieved through *hadith shahih*.
- b) *Al-maslahah al-mulghah* is a benefit to which human reason refers, but which fundamentally contradicts the *sharih* wording of the Qur'an and al-Hadith. All benefits that contradict *Qath'i* scriptures are insignificant (*mulaghah*).
- c) *Al-maslahah al-mursalah* is a benefit located between *al-maslahah al-mu'tabarah* and *al-maslahah al-mulghah*. In other words, there are no Quranic or Sunnah writings that both clearly legitimize and do not cancel or deny its existence. *Maslahah mursalah* refers to all *maslahahs* that are referred to by human reason but are not mandated or rejected by the Quran.

In this scenario, the author regards *al-Maslahah al-Mursalah* as the *maslahah* argument that is closest to the lethal injection example selected because it is driven by the rise of different new difficulties faced in society, although these concerns are not stated directly and implicitly in the Qur'an. When another approach is deemed insufficient in responding to current problems, *al-maslahah*, which has a foundation in the *nash al-Qur'an* and *al-hadith*, is launched as a way of *ijtihad*, which can later be utilized as a method of *istibnath fiqh law* (Rahmawati & Zafi, 2020).

*Al-maslahah al-mursalah* is a benefit backed by a set of textual meanings (*al-Quran* and *hadith*) rather than a full text. A benefit that is not supported by *Shara'* and is not terminated (rejected) by *Shara'* based on thorough proof. In other words, there are no Quranic or Sunnah writings that both clearly legitimize and do not cancel or deny its existence. Human reason refers to all *maslahah*, but the Quran neither commands nor rejects them. While the following aspects are contained in *al-maslahah al-mursalah*:

- *The event that seeks to learn the law through al-maslahah is one in which there is no language that clearly demonstrates the law, such as guarantees or compensation for workers who harm the things being worked on.*
- *The presence of a nash indicating sharia law on an occurrence whose meaning can be determined by the mujtahid.*
- *The event for which no clear text exists has the same significance as the event for which text exists.*

Under some conditions, sharia allows for passive lethal injection. Passive lethal injection is defined as lethal injection carried out by ceasing or ceasing further care for the patient or ceasing all treatment for the patient so that the patient dies. However, this is also after a doctor or medical expert has determined that the patient's sickness is no longer curable. Evidently, the field of *maslahah* is founded on sharia law in general, traditions, and human interactions. This is the first option for gaining an advantage. As a result, the aspect of worship is excluded from this field. The feature of worship is defined as everything that does not allow the mind to look for *maslahah juznya* in every ruling in it. *Maslahah* is defined as something that motivates people to do good. Meanwhile, there are multiple definitions in sharia terminology. Mustafa Shalbi summed it up in two words (Scopetti et al., 2023). First and foremost, *maslahah* is a benefit in the *majaz* sense. Second, in essence, *maslahah* is the result of an action that is in the form of goodness or benefit.

*Maslahah*, according to Imam al-Ghazali, is something that can offer advantages and overcome harm. It can also be explained by accepting benefits and refusing damage in order to retain sharia objectives. According to Al-Thufi, *maslahah* is classified into two types: *maslahah* in the view of 'urf and *maslahah* in the view of the sharia. "Maslahah in the view of 'urf (community tradition) is a means that leads to peace and benefits such as trade as a means of obtaining profit, and in the view of the sharia is a means (cause) that leads to the sharia's goal, whether the means is worship or community tradition," he said. *Maslahah* is separated into two types: *maslahah* intended for the sharia's own sake, such as worship, and *maslahah* intended to help the inhabitants of the earth and control their lives." Al-Thufi does not elaborate on whatever type of benefit can be used as a source of law. However, it is obvious from the benefit notion that he proposes that the two categories he refers to

can be employed as a valid source of law even in two different types of sharia, worldly sharia and ukhrowiah sharia (Suryadi & Kulsum, 2018).

Based on the foregoing, it is clear that the primary goal of sharia is to help mankind in their daily lives, which includes five key elements: keeping religion, maintaining the soul, maintaining the mind, maintaining offspring, and maintaining property. Al-masahah al-khamsah is a prominent phrase among ushul fiqh scholars (Abbas, 2021). These five fundamental things must be preserved, guarded, and realized in order to find happiness in this world and the next. Eliminating harm, in whatever form it may take, is a sharia goal that must be met (Van Den Berg et al., 2021). The notion of al-maslahah al-mursalah includes rejecting the harm as an argument in determining a law on the condition that the nature of the benefit is identified in the nash or ijma, and the benefit's nature is the same as the nature supported by the nash or ijma. The idea of al-maslahah al-mursalah as an argument in determining a law if the nature of the benefit is found in the nash or ijma and the type of nature of the benefit is the same as the type of nature supported by the nash or ijma.

### 3. Conclusions

In conclusion, the analysis of Islamic law in the context of lethal injections for end-of-life patients in

Indonesia reveals the complexity of views and ethical considerations involved. This research highlights the debate over the compatibility of lethal injection methods with the principles of Islamic law.

In this study, it was found that perspectives tend to be diverse, encompassing both support and serious ethical and humanitarian questions. This research shows that the understanding of the death penalty in the context of Islamic law involves ethical and humanitarian considerations as central points (Afifi, 2021; Fitri et al., 2022). Some views support the use of lethal injection methods, while others raise serious questions of appropriateness and justice. The conclusions confirm the need for deeper interdisciplinary dialogue to reach a holistic and comprehensive understanding of the death penalty in Indonesia in accordance with the values and principles of Islamic law (Arifin & Abbas, 2007; Yufriadi et al., 2023).

Given the divergent views and complexities in understanding the death penalty in the context of Islamic law, this research contributes to the legal literature, opens a space for discussion, and provides valuable insights into a sensitive issue in the Indonesian criminal justice system (Afifi & Abbas, 2023; Gafnel et al., 2024). Thus, this research can serve as a foundation for a deeper understanding of the death penalty in Indonesia, in line with the values and principles of Islamic law.

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