

論積極安樂死之 臨床實務問題： 以安樂死合法化國家 為中心之系統性文獻回顧(一)*

Identifying Practical Clinical Problems in Active
Euthanasia: A Systematic Literature Review of the
Findings in Countries Where Euthanasia Is Legal (I)

Madoka Kono** Nana Arai*** Yoshiyuki Takimoto**** 著
胡芮萍 Rwei-Ping Hu 編譯*****

本篇中譯自Oxford University Press 授權繁體中文



摘要

目標：全球目前只有七個國家通過積極安樂死合法化，這些國家在執行上遭遇一些困境，本研究主

*版權聲明：Madoka Kono, Nana Arai, & Yoshiyuki Takimoto, *Identifying Practical Clinical Problems in Active Euthanasia: A Systematic Literature Review of the Findings in Countries Where Euthanasia Is Legal*, 21(4) PALLIATIVE & SUPPORTIVE CARE 705-713(2023). <https://doi.org/10.1017/S1478951522001699>

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關鍵詞：安樂死 (euthanasia)、安樂死法律 (Euthanasia Law)、安樂死標準 (euthanasia criteria)、臨床倫理 (clinical ethics)

DOI : 10.53106/241553062024020088007

要針對文獻中有關臨床實務積極安樂死進行彙總。方法：以系統性文獻回顧之方法，針對140份文件，包含130篇文章（文章來源為PubMed以及EthxWeb）以及10個安樂死法規進行分析。結果：經過文獻分析各國與安樂死有關的具體問題回報後，可以得出五個問題點，分別為：存在許多有待解釋之模糊空間、對於自願性選擇的保證不足、如何回應因精神疾病而請求安樂死之情形、出於道德良心而反對，以及醫療人員不遵從行為。結果之重要性：存在許多有待解釋之模糊情況可能導致「滑坡效應」發生；對於自願性的保證不足違反了尊重自主原則，此原則為安樂死之根本基礎；因內心煎熬而進行安樂死的案例下，很重要的一件事情是需要區分：因單純因精神疾病導致內心痛苦而想選擇死亡，或者是因為身體疾病煎熬產生心理症狀而想選擇死亡；由於執行安樂死的醫生需要承受相當大的壓力，所以出於道德良心而反對執行安樂死仍應作為一個選項供醫生選擇；醫療人員因為對於安樂死規定缺乏認知或者不同意而產生的不遵從行為是與

**東京大學醫學院醫學倫理系（日本東京文京區）（Department of Biomedical Ethics, Faculty of Medicine, The University of Tokyo, Bunkyo-ku, Tokyo, Japan.）

***東京大學醫學院醫學倫理系（日本東京文京區）、東京大學附設醫院醫病關係及臨床倫理中心（日本東京文京區）（Department of Biomedical Ethics, Faculty of Medicine, The University of Tokyo, Bunkyo-ku, Tokyo, Japan and Patient Relations and Clinical Ethics Center, The University of Tokyo Hospital, Bunkyo-ku, Tokyo, Japan.）

****東京大學醫學院醫學倫理系（日本東京文京區）、東京大學附設醫院醫病關係及臨床倫理中心（日本東京文京區）（Department of Biomedical Ethics, Faculty of Medicine, The University of Tokyo, Bunkyo-ku, Tokyo, Japan and Patient Relations and Clinical Ethics Center, The University of Tokyo Hospital, Bunkyo-ku, Tokyo, Japan.）

***** 執業律師（Practicing Lawyer）

程序正義相違背的。

Objectives. Currently, active euthanasia is legalized in only 7 countries worldwide. These countries have encountered problems in its implementation. The study aims to summarize the practical clinical problems in the literature on active euthanasia. Methods. A systematic literature review was conducted using 140 works consisting of 130 articles from PubMed and EthxWeb and data from 10 euthanasia laws. Results. After reviewing the specific problems reported to be associated with euthanasia in each country, 5 problems were extracted: many ambiguous conditions with room for interpretation, insufficient assurance of voluntariness, response to requests for euthanasia due to psychological distress, conscientious objection, and noncompliance by medical professionals. Significance of results. Multiple ambiguous conditions that are open to interpretation can result in a “slippery slope phenomenon.” An insufficient guarantee of voluntariness violates the principle of respect for autonomy, which is the underlying justification for euthanasia. In cases of euthanasia due to mental anguish, a distinction between a desire for death caused by psychological pain alone prompted by mental illness and a desire for death caused by mental symptoms prompted by physical illness is essential. Conscientious objection should remain an option because of the heavy burden placed on doctors who perform euthanasia. Noncompliance by medical professionals due to ignorance and conflicts regarding euthanasia is contrary to procedural justice.

壹、導言

目前，全球僅有少數國家以及地區通過安樂死合法化。約20年前左右，荷蘭成為世界第一個安樂死合法化的國家，經過20年，在安樂死（*euthanasia*）實行上，荷蘭可以說是最有經驗的國家之一，於此期間，越來越多其他國家（尤其是西方）也紛紛效仿。例如，西班牙於2021年通過了安樂死合法化，而此議題在日本以及其他亞洲國家也受到關注討論。然而，對於安樂死合法化的國家，儘管已經制定了安樂死之相關規定標準，實際執行過程中仍出現了各類不同的問題，例如，有報導稱許多荷蘭醫師在承受來自各種不同的壓力下，不得不接受安樂死請求，不僅是在於醫師他們對安樂死執行是否符合標準存在疑慮，同時還承受來自患者親屬的反對壓力¹，而在可能沒有充分時間可以進行討論就需要做出決定的狀況下，醫師對於他們是否符合安樂死的相關標準會存有疑慮，而且，還有觀察指出，當面臨患有阿茲海默症或者其他精神疾病的患者，是否要執行安樂死的決定對醫師來說是複雜且困擾的²。

此外，在一些禁止安樂死、對於安樂死沒有明確規定的國家中，也曾有報導稱存在秘密進行安樂死的案例，例如，日本於2019年11月發生了對患有肌萎縮性脊髓側索硬化症

1 Marike E de Boer, Marja F I A Depla, Marjolein den Breejen, Pauline Slottje, Bregje D. Onwuteaka-Philipsen & Cees M P M Hertogh, *Pressure in Dealing with Requests for Euthanasia or Assisted Suicide. Experiences of General Practitioners*, 45(7) JOURNAL OF MEDICAL ETHICS 425-429 (2019). doi:10.1136/medethics-2018-105120

2 Jaap Schuurmans, Romy Bouwmeester, Lamar Crombach, Tessa van Rijssel, Lizzy Wingens, Kristina Georgieva, Nadine O'Shea, Stephanie Vos, Bram Tilburgs & Yvonne Engels, *Euthanasia Requests in Dementia Cases; What Are Experiences and Needs of Dutch Physicians? A Qualitative Interview Study*, 20(1) BMC MEDICAL ETHICS 66 (2019). doi:10.1186/s12910-019-0401-y