The Right to Refuse Life-Sustaining Medical Treatment in South Korea: The Case of Ms. Kim*

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1. Introduction

The following passage, which comes from an editorial published in the New England Journal of Medicine 15 years ago, describes the legal and ethical consensus that has emerged in the past 30 years over a patient’s right to refuse life-sustaining medical treatment:

Beginning with the case of Karen Anne Quinlan in 1975, family members began to assert a right to discontinue life support for patients in a permanent vegetative state. These efforts have slowly led to an ethical and legal consensus that families or other proxies may authorize the discontinuation of life-sustaining treatment, including artificial feeding, for such patients. We owe Joseph and Julia Quinlan, Karen’s parents, our gratitude for turning their personal calamity into a public benefit by launching the right-to-die movement. Without this movement we would not have our present right to prepare advance directives or living wills that permit us to name a proxy decision maker to authorize discontinuation of treatment under specified circumstances.1

While the above passage is perfectly correct, it must be understood in its proper cultural context. In speaking of “our present right” to prepare advance directives or living wills that permit “us” to name a proxy decision maker to authorize the discontinuation of life-sustaining treatment the author of the passage is clearly speaking to an American audience. While the ethical and legal consensus that is described in the above

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passage may be true of the US and many
other countries, it is not true universally. One
country that lacks such a consensus is South
Korea.

Though there are no specific laws in
Korea governing passive euthanasia it is
often said, and widely believed, that physi-
cians are bound by law to exhaust all means
necessary to prolong a patient’s life and can
be prosecuted for discontinuing life-
sustaining treatment even if a patient has
signed a do-not-resuscitate form or given
tacit consent.2) This belief stems in part from
certain misconceptions about a well-known
case at Boramae Hospital in Seoul in which
a physician and a resident received jail terms
in 2004 for disconnecting a patient from a
respirator and discharging him at the request
of his wife. However, the incident at
Boramae Hospital was more of an example
of negligence than of passive euthanasia,
since the patient who died after being
discharged in that case was not terminally ill.
Nevertheless, as there are no specific laws
governing passive euthanasia or advanced
directives in South Korea, it is true that
physicians in Korea work in a context of
legal ambiguity and under fear of prosecu-
tion if they do what is considered routine
practice in many other countries around the
world. In an attempt to clarify matters and
standardize treatment for terminally-ill
patients, the Korean Medical Association
(KMA) in 2001 issued a set of ethics
guidelines that included a proposal that
physicians should be allowed to discontinue
life-sustaining treatment on terminally ill
patients in certain circumstances. However,
when the guidelines were first circulated, the
Korean Ministry of Health and Welfare
responded to the KMA’s proposal on passive
euthanasia by claiming that “it violated the
nation’s criminal law.”3) Since then the
legality of passive euthanasia in Korea has
remained unclear.

However, the situation appears to be
changing. Two recent court decisions in
Korea concerning an elderly woman in a
persistent vegetative state have both affirmed
the patient’s right to have life-sustaining
medical treatment discontinued and to “die
with dignity.”4) The legal battle over the fate
of this patient, whom we may call Ms. Kim,5) has many parallels to the landmark
cases in the right-to-die movement in the US,
such as those concerning Karen Ann
Quinlan and Nancy Cruzan And just as these
last two cases were pivotal in the process of

2) The Chosun Ilbo. Appellate Court Rules for Passive Euthanasia [on the Internet]. February 11, 2009,
4) International Herald Tribune. South Korean high court upholds right to die ruling [on the Internet]. February 10, 2009,
5) Out of respect for the patient’s privacy, I will in what follows refer to the patient using only her family name, although her full
name has already been disclosed by the Korean media,