

**ORGANS FOR SALE:  
CHINA'S GROWING TRADE AND ULTIMATE  
VIOLATION OF PRISONERS' RIGHTS**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
INTERNATIONAL OPERATIONS AND HUMAN RIGHTS  
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**最高人民法院**  
**最高人民检察院**  
**公安部 司法部**  
**卫生部 民政部**  
**关于利用死刑罪犯尸体**  
**或尸体器官的暂行**  
**规定**

(1984年10月9日)

各省、自治区、直辖市高级人民法院、人民检察院、公安厅(局)、司法厅(局)、卫生厅(局)、民政部(局)：

随着我国医学事业的发展，一些医疗、医学教育、医学科研单位为进行科学研究或做器官移植手术，提出了利用死刑罪犯尸体或尸体器官的要求。为了支持医学事业的发展，有利于移风易俗，在严格执行法律规定、注意政治影响的前提下，对利用死刑罪犯的尸体或尸体器官问题，特作规定如下：

(一) 对判处死刑立即执行的罪犯，必须按照刑法有关规定，“用枪决的方法执行”。执行完毕，经临场监督的检察员确认死亡后，尸体方可做其他处理。

(二) 死刑罪犯执行后的尸体或火化后的骨灰，可以允许其家属认领。

(三) 以下几种死刑罪犯尸体或尸体器官可供利用：

1. 无人收殓或家属拒绝收殓的；
2. 死刑罪犯自愿将尸体交医疗卫生单位利用的；
3. 经家属同意利用的。

(四) 利用死刑罪犯尸体或尸体器官，应按下列规定办理：

1. 利用单位必须具备医学科学研究或移植手术的技术水平和设备条件，经所在省、市、自治区卫生厅(局)审查批准发给《特许证》，并到本市或地区卫生局备案。

2. 尸体利用统一由市或地区卫生局负责安排，根据需要的轻重缓急和综合利用原则，分别同执行死刑的人民法院和利用单位进行联系。

3. 死刑执行命令下达后，遇有可以直接利用的尸体，人民法院应提前通知市或地区卫生局，由卫生局转告利用单位，并发给利用单位利用尸体的证明，将副本抄送负责执行死刑的人民法院和负责临场监督的人民检察院。利用单位应主动同人民法院联系，不得延误人民法院执行死刑的法定时限。

对需征得家属同意方可利用的尸体，由人民法院通知卫生部门同家属协商，并就尸体利用范围、利用后的处理方法和处理费用以及经济补偿等问题达成书面协议。市或地区卫生局根据协议发给利用单位利用尸体的证明，并抄送有关单位。

死刑罪犯自愿将尸体交医疗单位利用的，应有由死刑罪犯签名的正式书面证明或记载存人民法院备查。

4. 利用死刑罪犯尸体或尸体器官要严格保密，注意影响，一般在利用单位内部进行。确有必要时，经执行死刑的人民法院同意，可以允许卫生部门的手术车开到刑场摘取器官，但不得使用有卫生部门标志的车辆，不准穿白大衣。摘取手术未完成时，不得解除刑场警戒。

5. 尸体被利用后，由火化场协助利用单位及时火化，如需埋葬或做其他处理的，由利用单位负责；如有家属要求领取骨灰的，由人民法院通知家属前往火化场所领取。

(五) 在汉族地区原则上不利用少数民族死刑罪犯的尸体或尸体器官。

在少数民族聚居地区，执行本规定时，要尊重少数民族的丧葬习惯。

*Re-typed for clarity*

**Provisional Regulations of  
The Supreme People's Court, The Supreme People's Procuratorate, Ministry of  
Public Security, Ministry of Justice, Ministry of Public Health and Ministry of Civil  
Affairs**

**On the Use of Dead bodies or Organs from Condemned Criminals**

October 9, 1984

To: The Supreme Peoples Court; The Peoples Procuratorate; Department (Bureau) of Public Security; Department (Bureau) of Justice; Department (Bureau) of Public Health; Department (Bureau) of Civil Affairs at the Provincial and Autonomous Region levels and of centrally-controlled Municipalities:

With the development of the medical science in our country, some hospitals, medical institutions and units involved in medical education and scientific research have put forward proposals concerning the use of the dead bodies or organs from condemned criminals in scientific research or organ transplantations. In order to support the development of the medical science and to change social customs and traditional habits, with the strict implementation of the legal provisions and being aware of the political impact as prerequisite, the following measures are formulated in relation to the use of the dead bodies or organs from condemned criminals:

- I. Those criminals who are sentenced to death and executed immediately must "be executed by means of shooting" in light of the relevant provision in the Criminal Law. When the execution is over, the dead bodies could be otherwise dealt with only after death is confirmed by the supervising procurator on the spot.
- II. The dead bodies or organs from the condemned criminals after execution or the remains can be collected by their family members.
- III. The dead bodies or organs of the following categories of the condemned criminals can be made use of:
  - 1) The uncollected dead bodies or the ones that the family members refuse to collect;
  - 2) Those condemned criminals who volunteer to give their dead bodies or organs to medical institutions;
  - 3) Upon approval of the family members
- IV. The following provisions must be observed regarding the use of dead bodies or organs from condemned criminals:

- 1) The units making use of the dead bodies or organs must maintain the technical level and be provided with equipment necessary for the medical scientific research or transplantation, they must be examined, approved and granted "special permits" by the Department (Bureau) of Public Health of the provinces or autonomous regions within whose jurisdiction these units are located, and they must go to the Bureau of Public Health of the Municipality or District for record.
- 2) The use of dead bodies shall be arranged in an unified way by the Bureau of Public Health of the Municipality or Prefecture, which shall contact the People's Court and the units using the dead bodies respectively in accordance with the order of importance and urgency and the principle of comprehensive use.
- 3) After the execution order of death penalty is issued, and there are dead bodies that can be directly used, the People's Court should inform in advance Bureau of Public Health of the Municipality or Prefecture, which shall pass on the information to the units using the dead bodies and grant them permits to use the dead bodies, copies should be sent to the People's Court responsible for the execution of death penalty and the People's Procuratorate in charge of on-the-spot supervision. The units using the dead bodies should contact the People's Court on their own initiative, within the prescribed time limits of the execution of death penalty by the People's Court.

As to the dead bodies that could be used only upon the approval of the family members, the People's Court is to inform the department in Charge of public health which will consult the family members, and consequently reach written agreement in relation to the scope of use, disposal after use, disposal expenses and economic compensation and etc. Bureau of Public Health of the Municipality or Prefecture shall, according to the agreement, grant the units the certificates to use the dead bodies, copies should be sent to the units concerned.

When the condemned criminals volunteer to give their dead bodies to the medical institutions, there should be formal written certificates or records duly signed by the same, which should be kept in the People's Court for future reference.

- 4) Use of the dead bodies or organs from condemned criminals must be kept strictly confidential, attention must be paid to the effect, they should in general be used within the units. Only in real need, upon the approval of the People's Court executing the death penalty, can the operation vehicles from medical institutions be allowed entry into the execution grounds to remove organs, but vehicles with the logo of medical institutions are not to be used, and white clinic garments are not to be worn. The execution ground should be guarded against before the operation is completed.
- 5) After the dead bodies are used, the crematory shall assist the units in timely cremation; in case there is need to bury or to deal with otherwise, the units using the dead bodies shall bear the responsibility; if the family

members wish to collect the remains, the People's Court is to inform them to collect at the crematory.

V. In areas densely inhabited by the Han nationality, in principle, the dead bodies or organs from the condemned criminals of minority nationalities are not to be used.

In areas inhabited by minority nationalities, respect should be shown to the mourning and funeral customs in the implementation of the regulations.

(Retyped for Clarity)