

## Personal Viewpoint

# Organ Procurement From Executed Prisoners in China

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**Organ procurement from executed prisoners in China is internationally condemned, yet this practice continues unabated in 2014. This is despite repeated announcements from Chinese authorities that constructive measures have been undertaken to conform to accepted ethical standards. While there is unanimous agreement on the unethical nature of using organs from executed prisoners, due to its limitations on voluntary and informed consent, there is insufficient coverage of forced organ procurement from prisoners of conscience without consent. Strategies to influence positive change in China over the last few decades have failed to bring this practice to an end. While organ donation and transplantation services in China have undergone considerable structural changes in the last few years, fundamental attempts to shift practice to ethically sourced organs have floundered. In this article, we discuss the organ trade in China, reflect upon organ procurement from executed prisoners (including both capital prisoners and prisoners of conscience) and provide an overview of contradictory Chinese efforts to halt forced organ procurement from executed prisoners. Finally, we highlight current actions being taken to address this issue and offer comprehensive recommendations to bring this ethically indefensible practice to an immediate end.**

**Abbreviations:** CMA, Chinese Medical Association; COTRS, China Organ Transplant Response System; DAFOH, Doctors Against Forced Organ Harvesting; NHFPC, National Health and Family Planning Commission; PRC, People's Republic of China; WMA, World Medical Association

**Received 11 April 2014, revised 17 June 2014 and accepted for publication 18 June 2014**

## Introduction

The success of transplantation is dependent upon the gift of life bestowed by willing organ donors and/or their families, in the context of informed and voluntary consent. Scientific advances have propelled organ transplantation to the treatment of choice for the majority of end-stage organ failure, but a shortage of willing organ donors remains the major challenge limiting organ transplantation benefits to many sick and vulnerable patients.

Fueled by the growing disparity between supply and demand for organs, scarcity has provoked attempts to bridge this divide that violate acceptable ethical standards. The most up-to-date Global Observatory on Donation and Transplantation report estimates 114 690 solid organ transplants were globally performed in 2012 (1). The World Health Organization conservatively estimates illegal organ trades comprise approximately 10% of this global transplant activity (2), speculated by the nongovernmental organization Global Financial Integrity to generate income ranging between US\$600 million to US\$1.2 billion annually (3). Illegal transplant activity has been documented in countries as diverse as India, Pakistan, Kosovo and the Philippines, but by far the largest and most controversial is the exploitation of incarcerated death row prisoners in China (4). Despite longstanding international condemnation, and repeated assurances from China concerning planned cessation, organ procurement from executed prisoners continues today in China and attracts global transplant tourists (5).

In this article, we discuss the organ trade in China, review the Chinese practice of organ procurement from executed prisoners, elaborate on prisoners of conscience as an unrecognized and underappreciated organ source, reflect upon on-going challenges in relation to engaging with China and offer recommendations to bring this ethically indefensible practice to an immediate end.

## Organ Procurement From Executed Prisoners

Illegal organ trafficking can occur in a number of ways, with organ procurement from executed prisoners representing one of the most controversial sources. Obtaining organs for transplantation from executed prisoners has been unequivocally denounced by international declarations including the Nuremberg Code (6), the Helsinki Declaration (7), the

Belmont report (8), Amnesty International (9), the World Health Organization (10), the World Medical Association (WMA) (11) and more recently by the Declaration of Istanbul (12). Organs and tissues should always be given with free, voluntary and informed consent, without coercion, and the choice to donate must not be influenced by the prospect of execution. Accepting organs from executed prisoners has been debated in established transplantation programs in the context of informed and voluntary consent, but incarcerated inmates condemned to death are not in the position to make an autonomous and informed consent for organ donation (13,14).

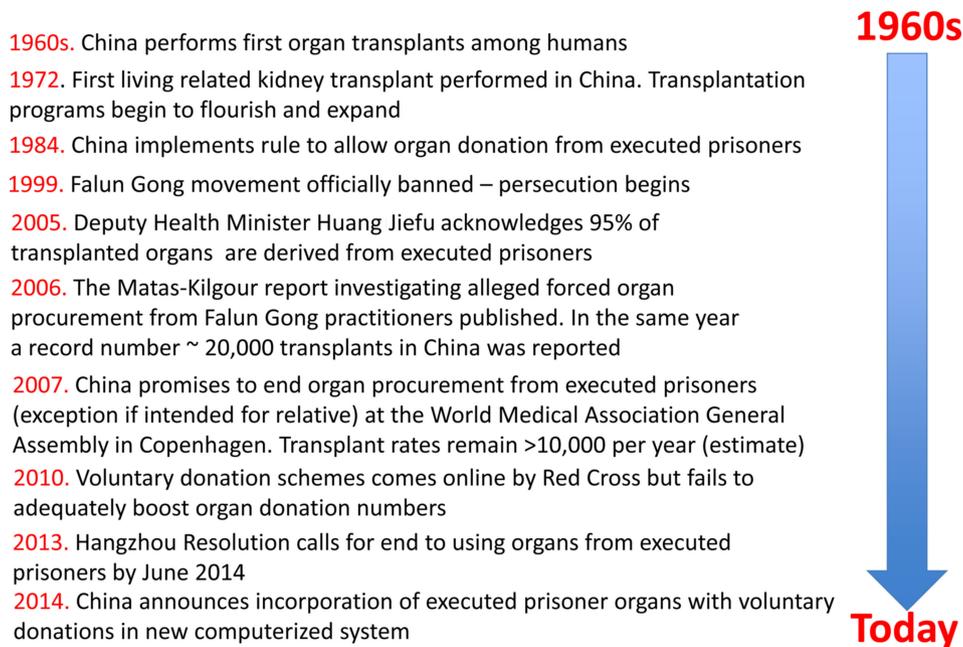
Currently, there are 55 offenses in China reported to be punishable by death, with 31 of them being nonviolent offenses (15). Executions are performed within a short time frame after death sentence and appeals against death sentences are scarce (16). These circumstances harbor a greater risk for abuse of the death sentence, including nonconvicted prisoners of conscience. While “capital” punishments for physical acts in some countries reflect inexcusably defined crimes (e.g. homosexuality), we believe punishment on the basis of belief harbors significantly greater risk for abuse. Thus far, there has been a consistent failure to highlight organs procured from executed prisoners of conscience. Such prisoners are defined as, “any person who is physically restrained (by imprisonment or otherwise) from expressing any opinion which he honestly holds and which does not advocate or condone personal violence” (17). Imprisonment and/or execution on the basis of belief leads to greater potential for

abuse, due to subjective condemnation from the executing powers. Failure to acknowledge the plight of prisoners of conscience in any discussion relating to forced organ procurement from executed in prisoners in China has been a significant oversight.

### Focus on Transplantation in China

China is widely acknowledged as performing the second highest number of organ transplants in the world after the United States. According to numbers presented by Chinese officials at the 2010 Madrid Conference on Organ Donation and Transplantation, approximately 10 000 transplants are performed annually in China (18). Delivery of transplantation services has undergone significant evolution in China over the last few decades (see Figure 1), especially since 1984 when China enacted its “Temporary Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Criminals” as national policy and stipulated that organs of executed prisoners can be used for medical purposes (19).

Chinese authorities have in the past consistently denied the use of organs from executed prisoners for transplants. Not until 2001, when a former doctor in the Police Tianjin General Brigade Hospital (Dr. Wang Guoqi) testified before the Subcommittee on International Operations and Human Rights of the US House of Representatives, were these issues brought to public attention for the first time (20). In his testimony, Dr. Guoqi discussed the procurement of



**Figure 1: Flow chart outlining major milestones in the development of organ donation and transplantation services in China over the last 50 years.**

organs from prisoners executed by gunshots to their heads, sometimes even before their death, but also the illegal organ trade which operates alongside abuses of the Chinese judicial system. This practice serves the organ donor system domestically, but also supports profitable trade in organs to international transplant tourists (21).

Subsequently in 2005, Dr. Huang Jiefu, then Vice Minister of Health of the People's Republic of China (PRC) and a liver transplant surgeon trained by the University of Sydney, not only publicly admitted for the first time that, apart from a few traffic victims, deceased donor organs in China came from executed prisoners, but that in fact more than 90% of these organs came from executed prisoners (22). Chinese authorities have repeatedly maintained that in the socio-cultural context of Confucian beliefs, consent for organ donation by prisoners awaiting execution may be considered a repentant act that is morally praiseworthy (23). Recently, the Chinese Transplant Congress in Hangzhou (November 1–2, 2013) reported that 1161 deceased organ donors (who were not executed prisoners) supplied organs for 3175 transplants in 2013 (24). Combined with living-donor kidney transplants these constituted 49.4% of all organ transplantation in China during 2013. Conversely, this means that there is currently continued reliance upon organs from executed prisoners in 50.6% of all organ transplants performed according to "official" Chinese statistics (24).

However, investigation of Chinese transplant activity data uncovers a number of discrepancies. First, the "consent" process among death row prisoners awaiting execution would have to be exceptionally successful in comparison with the consent rate in the general Chinese population with virtually negligible refusal rate. We believe that this is highly improbable, as in the Chinese populace voluntary organ donation is traditionally absent (between 2003 and 2009 there were only 130 freely donated organs in China among the vast population of over 1.3 billion (25)). If applied to the prisoner cohort, the average consent rate of the Chinese populace would require millions of executions each year to ensure a sufficient amount of donor organs for the 10,000 transplants performed annually (18). Data relating to numbers of executions performed in China remains elusive but estimates range from 3,000 to 5,000 annually (26). While this represents more executions than the rest of the world combined, recent trends suggest declining numbers. Therefore if "official" executed prisoners represent a dwindling pool of donors, where is the remaining number of organs being sourced from to achieve the high volume of transplants performed annually?

Second, it also appears implausible that every prisoner deemed healthy enough to donate viable organs is coincidentally scheduled for execution on the exact day a matching recipient is available. This second paradox is of greatest concern, as it raises the question as to whether the organ procurement follows the execution or if the death sentence

follows the demand for organs procured from a pool of prescreened prisoners. The source of this pool of "donors" has been a matter of intense scrutiny over the past decade, but recent allegations suggest specific minority groups in China are being persecuted to facilitate transplantation. The most comprehensive investigations into alleged forced organ procurement from minority groups have focused on Falun Gong practitioners, concluding that a large number of Falun Gong prisoners of conscience have been put to death on the basis of unverifiable offenses (27,28). While Falun Gong practitioners remain the largest persecuted group, there is evidence of similar fates for other minority groups in China such as Uighur Muslims, Tibetans and Christians (29). The Laogai System (prison labor camps) offers a readily accessible supply of organs to meet demand, with greater potential for exploitation in military versus civilian hospitals due to greater military control over the Laogai System. Military hospitals in China are under the command of the People's Liberation Army, which has a unique political standing and autonomous status in China (30). The almost total lack of transparency in this setting makes it difficult to verify source of procured organs. Therefore, a clear distinction must be made between military versus civilian hospitals in China, as both have differing regulation and financial reimbursements (30), and there is no certainty that re-organization of one system will lead to concurrent changes in the other.

Exploitation of the Laogai System would be consistent with the third paradox of organ transplantation in China of widely advertised organ waiting times of only a few weeks on Chinese organ transplantation center websites. For example, verifiable cases of unusual, prescheduled heart transplants for transplant tourists 2 weeks ahead of time have been published (31). State Chinese authorities have so far constantly denied this additional source of organs, without providing verifiable information about the officially proclaimed organ sources.

### Contradictory Claims of Transplantation Reform in China

Despite numerous statements over the past years announcing plans to phase out reliance on organs procured from executed prisoners (32,33), no such cessation has occurred. Latest announcements from Chinese authorities once again outline planned reforms of their fledgling organ donor system, with reciprocal "phasing out" of reliance upon executed prisoner organs. The proposed system, to be coordinated by local Organ Procurement Organizations and planned for full implementation across China by June 2014, will commit transplant programs to conform to "accepted ethical standards" (24). Huang et al, in a China-based medical journal, stated that "much-anticipated change in the practice of organ donation and transplantation is now underway and affirmed by an important Hangzhou Resolution promulgated at the 2013 China Transplant Congress" (34, p. 122).

Supportive publications from outside China have also expressed cautious optimism with regard to positive engagement with Chinese transplant professionals and/or organizations. A recent report in *The Lancet* highlighted the “small but credible indications” from China that its “health ministry is sincere in their aspirations for change” (35). However, the hope for change seems premature as, less than 6 months later, journalist reports state China has regressed back from this announcement and now proposes to “further strengthen the regulation of organ donations from executed prisoners and integrate it into the existing public voluntary organ donation and allocation system” (36). This followed the Transplantation Society publishing an open letter to Xi Jinping (General Secretary of the Communist Party of China) repeating its call to immediately halt organ procurement from executed prisoners (37). Recent developments have destroyed any hope for positive change, with an interview with Huang Jiefu suggesting organs procured from executed prisoners will continue to be justifiably used by being classed as “voluntary” donations as any other citizen (38). Huang qualifies his views in this interview with the following statement (translated from Chinese): “Executed prisoners can voluntarily donate organs. Given the willingness of death row prisoners to donate organs, once entered into our unified allocation system they are counted as voluntary citizens – the so called death row organ donation doesn’t exist any longer” (38). In this interview, Huang also inadvertently confirms, to our knowledge the first occasion, that organs were (or still are) procured from executed prisoners without their explicit consent by emphasizing that, “in the future death row organ donors themselves and their families will also need to agree (to) donate organs in the same way as citizens” (38). Wang Haibo, Director of the China Organ Transplant Response System Research Center at the Ministry of Health, also recently confirmed the lack of any schedule to wean off dependence from executed prisoner organs in a journalist interview (39).

These recent reports from China (36,38,39) are in *direct* contradiction to the pronouncement of the Hangzhou Resolution, where directors of transplant centers signed a pledge to refrain from using organs from executed prisoners at all (24,34). Thus, newly announced initiatives from China (e.g. computerized organ allocation systems) are not positive steps forward to allow a more organized and equitable distribution system, but mechanisms to further entrench, sanction and enable more efficient allocation of unethically procured organs. As proposed, the new system simply becomes a vast, sophisticated form of “organ laundering,” using prisoners’ organs to supply an ever-increasing local and international demand.

Moreover, other recent reports from China indicate that the Red Cross Society of China has been officially recruited as the organization that, alongside the China Organ Transplant Response System (COTRS), will be in charge of organ

donation and allocation (24). However, it has been reported that the majority of “voluntary” donations in the first 2 years of the pilot organ donation system were obtained by the Red Cross Society of China by paying families of a deceased individual large sums of money (equivalent to up to twice their annual income), to “donate” their loved one’s organs (40) thus indicating resorting to a different, but still unacceptable and denounced, form of promoting organ donation.

## Proposed Recommendations for Stopping Forced Organ Procurement

The international community needs firm and immediate action from China to abolish the law from 1984 which currently permits use of organs from executed prisoners, and ban their use under any condition; to fully implement such a ban without any delay in all hospitals, including military hospitals, regardless of the burden it will impose on the waiting lists for organ transplantation; to stop promoting transplant tourism, and to facilitate international monitoring to verify these changes. In order to achieve these goals, several concerted and collaborative efforts, highlighted in Table 1, should be employed.

A key component underlining these recommendations is sustained pressure from international bodies. Lobbying with the European Parliament has led to a joint motion for a resolution, issued in December 2013, calling for an immediate end to forced organ procurement (41). The Italian Senate recently approved a resolution against forced organ procurement in China (42). The currently proposed House Resolution 281 in the US Congress calls for an end to the practice of organ procurement from prisoners (especially prisoners of conscience) in the context of China and prosecution for those found to engage in such practices on US soil (43). The Congressional Subcommittee forwarded the amended bill, first introduced in July 2013, to the Full Committee by unanimous consent in December 2013. Finally the nongovernmental organization Doctors Against Forced Organ Harvesting (DAFOH) personally handed the United Nations Human Rights Commissioners’ office in Geneva a petition signed by 1.5 million signatories (gathered in over 50 countries and regions within 5 months) in December 2013 that calls for an *immediate* end of forced organ procurement from Falun Gong practitioners in China (44). At the time of writing, no official response has been received back yet from the Commissioners’ office.

Research utilizing data from forcibly harvested organs also breaches the ethical code of conduct stipulated by the Declaration of Helsinki and has very recently been denied publication rights by several major scientific journals. Transplantation science from China has therefore been deprived of the opportunity to showcase its research on the global academia stage (5,45).

**Table 1:** Recommendations to end forced organ procurement in China

Component	Suggestive action and current progress	Examples
1. Legislation	Draft legislation to prohibit citizens receiving illegal organs in any country	Australia, Israel, Spain
	Prohibit reimbursement of transplant performed anywhere around the globe under illegal circumstances and involving organ trade	Israel
	Denial of entry visas to individuals who have engaged in illegal organ procurement in any country, in any capacity	United States
	Prosecute businesses and individuals engaging in transplant tourism	Israel
2. Professional	International and national professional medical societies and journals should not accept abstracts, publications or presentations from Chinese transplant centers unless the authors clearly indicate that executed prisoners were not the source of any of the organs or data used for research	<i>American Journal of Transplantation, Transplantation, Transplant International</i>
	Continue critical debate and contact with the Chinese leadership, in order to remind them of internationally accepted ethical standards	Professional organizations, political bodies
	Membership of international professional societies by Chinese transplant professionals must be conditioned by acceptance of ethics policies that specifically express the unacceptability of executed prisoners as a source of organs	Transplantation Society
3. Industry	Pharmaceutical companies must ensure that no executed prisoners are the source of organs used in their studies that the principles of the Declaration of Helsinki governing informed consent and research participation are adhered to completely	
	Tourism businesses must ensure that Chinese government regulations regarding transplant tourism are adhered to rigorously	
4. Training	Training of Chinese transplant professionals by the international community must be conditioned on commitments that trainees will not engage, directly or indirectly, in the use of organs from executed prisoners	Australia
5. Monitoring	On-site inspections of Chinese transplant centers by internationally respected organ transplant professionals is essential	

Some of the recently announced Chinese five-point plan for organ donation and transplantation (the Hangzhou Resolution (24)), under the auspices of the National Health and Family Planning Commission (NHFPC), should be supported, such as encouraging the pilot program of organ donation after cardiac death (46) or the living-donor number expansion (47). However, to demonstrate robust action from Chinese transplantation services that they are conforming to acceptable ethical standards, immediate cessation of unethical organ procurement is essential. Abolishing the 1984 law, rather than simply adding signatories to the Hangzhou Resolution, will immediately end this practice without shifting responsibility to the transplant centers. Recent events underline how the Hangzhou Resolution is already under threat without fundamental change to Chinese attitudes and legislation.

In addition, the current proposal to mix two pools of organs in the computerized organ allocation system, one from prisoners and another from voluntary organ donations, represents a bureaucratic mechanism to obscure unethical practice and further blur the lines between forced procurement and voluntary donation in China. A system that provides traceable documentation of organ procurements from both civilian and military hospitals is essential.

### Conclusions

Forced organ procurement represents criminal activity that is contradictory to ethical principles universally accepted in the discipline of organ transplantation outside of China. In

the context of organ procurement from executed prisoners that occurs in China, it represents a disturbing example of state-sanctioned illegal transplant activity. It is to be fervently hoped that progressive, ethical, Chinese transplant professionals and government officials will emerge. By embracing acceptable ethical standards and recognizing and correcting errors of the past, China will be able to take its rightful place among the international transplantation community as a respected member to be welcomed, unequivocally, with open arms. Until then the international medical community, which can never condone an ethically indefensible *gradual* phasing out of criminal slaughter or other crimes against humanity, should adopt a consistent approach toward the abhorrent practice of forced organ procurement and demand a *complete* and *immediate* cessation. In the words of the late Reverend Martin Luther King Jr., "This is no time to take the tranquilizing drug of gradualism."

## Disclosure

The authors of this manuscript have conflicts of interest to disclose as described by the *American Journal of Transplantation*. DAFOH is a charitable organization founded by medical doctors and is independent from Falun Gong. AS, MFS and JL are members of the Advisory Board and TT is the Executive Director of DAFOH. There are no links, associations or affiliations between DAFOH and Falun Gong.

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