

Implementation of China's new policies on organ procurement: an important but challenging step forward

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Submitted Mar 14, 2015. Accepted for publication Mar 17, 2015.

doi: 10.3978/j.issn.2304-3881.2015.04.01

View this article at: <http://dx.doi.org/10.3978/j.issn.2304-3881.2015.04.01>

In the last decade, health authorities in China have made a series of policy announcements concerning organ procurement programs and changes in practice have been intermittently reported (1). The international community of transplant professionals has followed these reports closely, preoccupied with one fundamental issue: the procurement of organs from executed prisoners, a practice that for many years has provided the majority of organs transplanted in China. Sharif *et al.* describe this practice as “ethically indefensible” (2), an evaluation that reflects the position embraced by the international community for more than two decades (3-5). Sharif *et al.* express concern that whilst some transplant programs in China have ceased using organs from executed prisoners, others continue to do so, and that all organs procured from the deceased may be allocated through a collective pool as part of the new China Organ Transplant Response System, effectively “laundering” organs obtained from prisoners. They also note that one of the new strategies to encourage deceased donation of organs among the Chinese public has involved financial incentives for donor families, another practice that has been strongly critiqued by the international professional community and global health authorities (6,7).

In China and in the United States, proponents of organ procurement from executed prisoners have argued that prisoners should not be denied the option to donate organs after their death if they so choose, as this may provide them or their families solace and an opportunity for moral, spiritual or social redemption (8,9). However, the predominant argument in favour of the practice appears to be essentially pragmatic: prisoners condemned to death represent an additional pool of potential “donors” with

organs that will otherwise “go to waste” (10). In contrast, international professional societies and the World Health Organization among others have argued that the practice not only violates the core principles of medical ethics but also thereby undermines efforts to establish a sufficient supply of deceased donor organs. In this commentary, we reaffirm the ethics policy of The Transplantation Society (TTS) concerning organ procurement from executed prisoners (4), and briefly discuss the implications of this policy for international professional engagement with China at this time of significant evolution of Chinese organ procurement programs.

Procurement of organs from executed prisoners is ethically unacceptable and detrimental to the development of donation programs

The involvement of physicians in capital punishment is highly controversial, and physician participation in organ procurement following execution entails a degree of complicity in the preceding act (11). Irrespective of one's position on capital punishment, if prisoners are condemned to death or executed for the purpose of obtaining their organs for transplantation, this represents a quintessential violation of their dignity as human beings. Regardless of whether the prisoner provides consent for organ procurement, an execution scheduled for that purpose objectifies and instrumentalizes these individuals, denying their inherent equal moral value as human beings. Further, the voluntariness of prisoner consent to donation cannot be assured, due to the well-established vulnerability of prisoners and detainees across the world, and those under

sentence of death in particular, despite the possibility that some prisoners may genuinely hold an autonomous desire to donate their organs after death (12).

International studies investigating societal attitudes towards deceased donation of organs have consistently found a common theme of concern among some members of the public: distrust in the determination of death and the process of organ procurement (13). The life saving value of deceased donation creates a potential conflict of interest for health professionals managing critically ill patients who could become donors, raising the concern that medical decision-making might be unduly influenced by the desire to obtain more organs for transplantation. This is exacerbated where commercialisation of transplant activities makes organ procurement directly profitable for health professionals. The independence and integrity of the process of death determination and the separation of organ donation decision-making from decisions to cease or withdraw life-prolonging medical interventions are thus essential to foster and maintain trust in donation programs.

In the case of organ procurement from executed prisoners, the conflicts of interest are faced by policy makers and the judiciary, as well as by health professionals involved in organ procurement and transplantation. The organs potentially procurable from executed prisoners may provide an extraneous motivation to apply the death penalty and to carry out executions, due to the perceived benefits of additional transplants performed and also to the potential profits that may be derived from such transplants (7). Such conflicts of interest may not only undermine societal trust in the integrity of the criminal justice system, but also in organ procurement programs that rely on public donations. This is the case because where transplant professionals are involved in the procurement or transplantation of organs from executed prisoners, their commitment to both the integrity of the consent process and also to that of the determination of death is likely to be questioned.

In addition to undermining societal trust in deceased donation programs, organ procurement from prisoners may undermine efforts to encourage and promote donation by the general public. For example, if procurement from prisoners is justified on the grounds that it enables prisoners to atone for their crimes, members of the general public may believe that only those guilty of significant sins should or will donate organs. Stigmatizing donation in this way limits the potential pool of donors, and inhibits the development of a public ethos of donation consistent with cultural and societal values and norms (14).

TTS policy on interactions with China

In the hope of discouraging organ procurement from executed prisoners, and seeking to encourage and support the development of ethical donation programs, TTS in 2008 released a policy statement advising on interactions with China and on professional activities relating to the use of organs from executed prisoners anywhere in the world (4). The policy states that members of TTS must not be involved in the procurement or transplantation of organs from executed prisoners, and that studies “involving patient data or samples from recipients of organs or tissues from executed prisoners” should not be accepted for presentation at TTS meetings, nor should TTS members collaborate in any such studies (4). However, TTS members are permitted to share their expertise with colleagues whose work involves the procurement or use of prisoner organs, and to accept trainees from programs involving executed prisoners, if care is taken to provide education and to encourage ethical practice. Similarly, professionals involved in executed prisoner programs are accepted as registrants at TTS members so as to promote dialogue and education. Finally, the policy states that international registries should accept data from patients transplanted with organs or tissue from executed prisoners, so long as this data is separately analysed and clearly identified as ultimately derived from material procured from an executed prisoner, so as to promote transparency of international practice.

This policy continues to govern TTS interactions with professional colleagues and health authorities in China. TTS leadership remains committed to supporting the establishment of ethical procurement programs in China, but recognizes the need for continued vigilance to ensure that such programs are not merely developed in addition to, rather than in replacement of the executed prisoner programs (5).

Fostering trust and promoting solidarity depends on transparency and integrity of practice

The recent, widely reported announcement that use of executed prisoner organs in China will cease as of January 1, 2015, has been cautiously welcomed by the international community (15). It is hoped that in the coming months, China’s commitment to this position will be substantiated by independent review and transparent dissemination of information concerning the implementation of new policies and practices. In particular, new organ procurement and allocation programs must be clearly demarcated—figuratively and materially—from those

which formerly involved executed prisoners. Relationships that are established or developing between professionals in China and their international peers are based on mutual trust in a shared commitment to ethical change; if isolated programs of procurement from prisoners persist, these should be transparently acknowledged. Any organs still obtained from executed prisoners must not join a collective pool for distribution—a plan that has also been widely reported (16)—nor should professionals working in such programs be involved in new public donation programs. Transplant professionals working in China cannot fully unite with the international community if uncertainty regarding their involvement in procurement from executed prisoners persists.

China must rise to the challenge of rapidly expanding and establishing new organ donation programs; to minimise the risk of a period of increased organ shortages, and so that a new culture of donation grounded in altruism and solidarity may emerge from the shadow of past practices. The ongoing support of the international community will be an important part of this process, but it is the energy and determination of the Chinese transplant community, the resources and commitment of the Chinese government, and the compassion, courage and generosity of the people of China (17) that will provide the foundations for a new era in Chinese transplantation.

Acknowledgements

DE Martin is currently co-chair of TTS Ethics Committee and a member of the Council of the Declaration of Istanbul Custodian Group. A Tibell is a former chair of TTS Ethics Committee and a member of the Declaration of Istanbul Custodian Group. The opinions expressed in this commentary are the authors' own.

Disclosure: The authors declare no conflict of interest.

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Cite this article as: Martin DE, Tibell A. Implementation of China's new policies on organ procurement: an important but challenging step forward. *HepatoBiliary Surg Nutr* 2015;4(2):142-144. doi: 10.3978/j.issn.2304-3881.2015.04.01