

July 16 2014

Parliament of Australia, Canberra

# Organ Harvesting: Law, Medical Ethics, Social Responsibility

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# Statistics

The most up-to-date Global Observatory on Donation and Transplantation report estimates **114 690 solid organ** transplants were performed in 2012 .

- The USA, followed by China, performs the most transplants
- The World Health Organization conservatively estimates illegal organ trades comprise approximately **10%** of this global transplant activity,
- Illegal trade speculated by the non government organization Global Financial Integrity to generate income ranging between **US\$600 million** to **US\$1.2 billion** annually

# Organ Harvesting - overview

- There are 3 main types of organ harvesting globally:

- 1. Commercial :

- donor generally survives and money is exchanged (documented in countries as diverse as India, Pakistan, South America, Kosovo and the Philippines)
    - Illegal brokers and transplant teams
    - transplant tourism industry

- 2. Executed prisoners:

- donor is executed shortly after death sentence  
e.g. mostly China (also Iran, Taiwan, Singapore)

- 3. Prisoners of Conscience:

- 4. donor is killed for organs without consent, fair trial or sentencing
    - Only China



# Follow the money trail

## Organized Trade

The trade in kidneys from live donors generally flows from poor, underdeveloped countries to rich, developed ones.

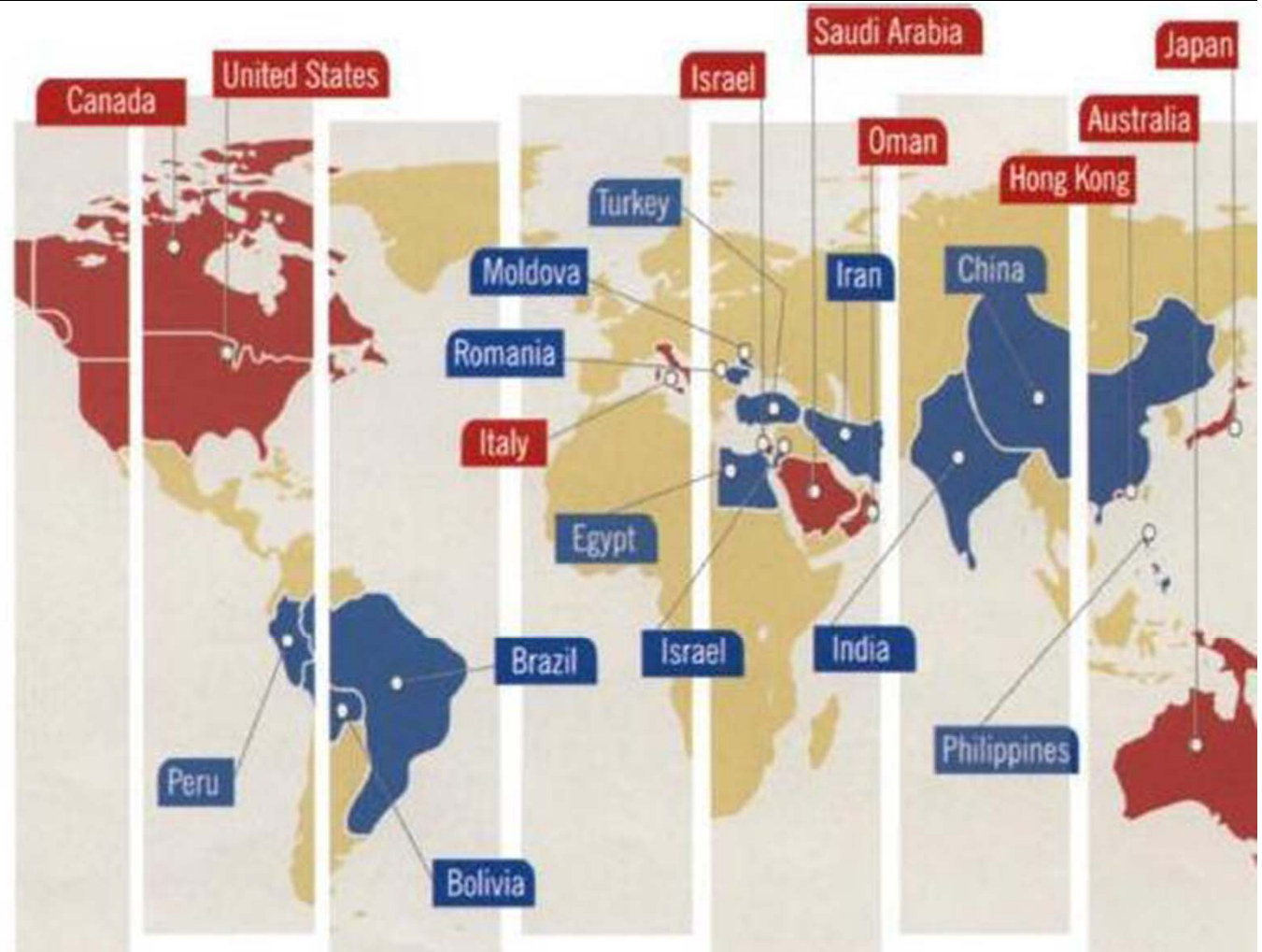


Common countries of origin for those selling kidneys



Common countries of origin for those buying kidneys

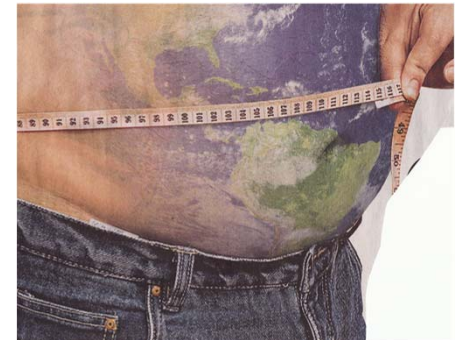
Source: Organs Watch



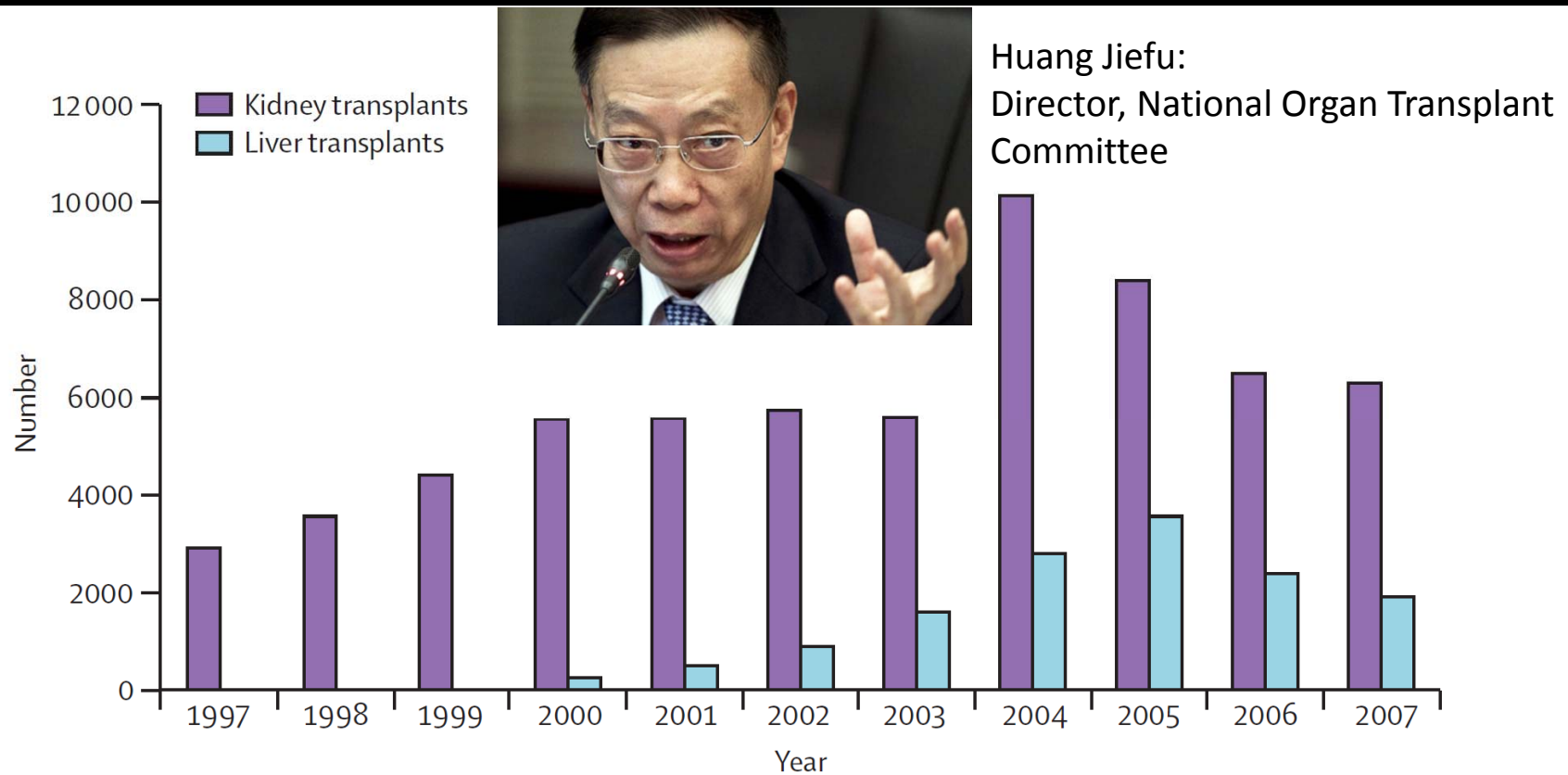


# Low Donation Rates Globally

- Spain (opt-out system) is the world leader in organ donation rates: 35 out of every 1 million citizens = 0.0035% Donation Rate
- USA: 21/million
- Australia: 16/million
- Greece: 6/million
- India: 0.16/million
- China: virtually nil



# Kidney and Liver Transplants in China

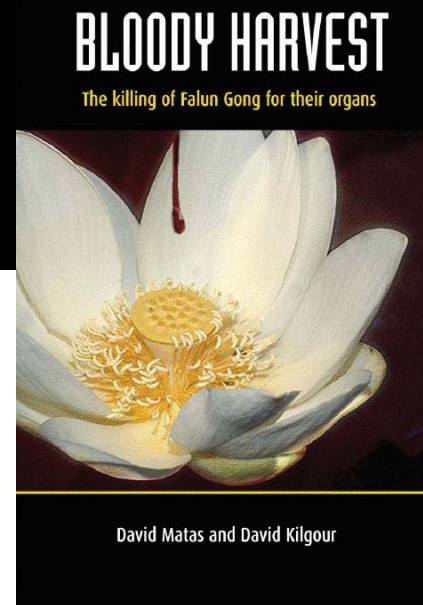


**Figure: China-Kidney and liver transplants for past decade**  
Data from Chinese Ministry of Health.

# Research

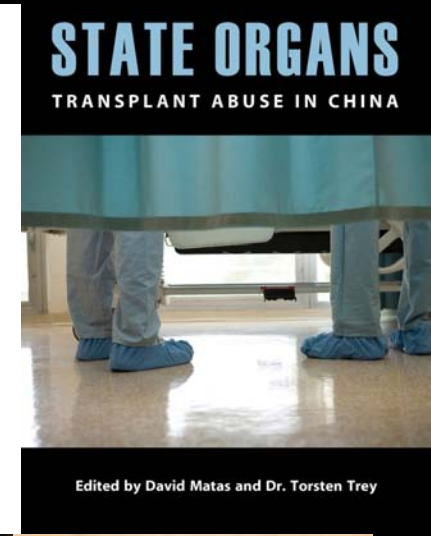
David Kilgour and David Matas

- Canadian independent investigators (*Bloody Harvest*) estimate there were 41,500 unexplained organ transplants in China between 2000-2004.



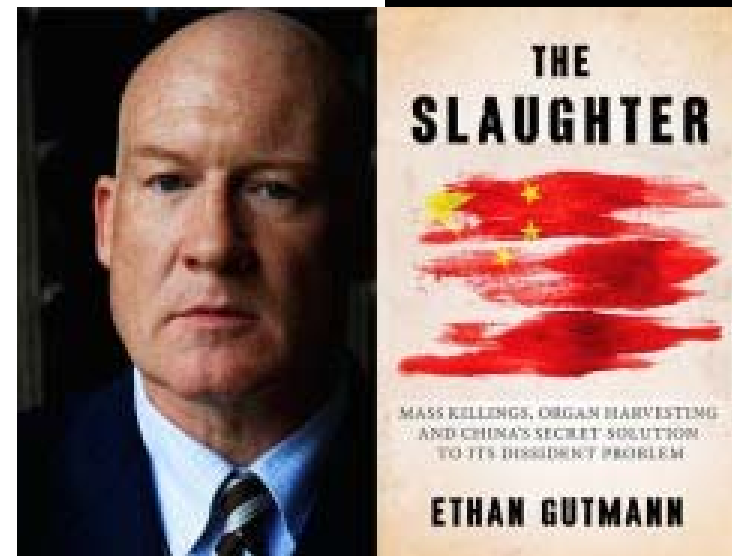
David Matas and Torsten Trey, editors

- *State Organs* explains the medical, legal, political, economic and ethical underpinnings of state-sanctioned organ harvesting from prisoners in China



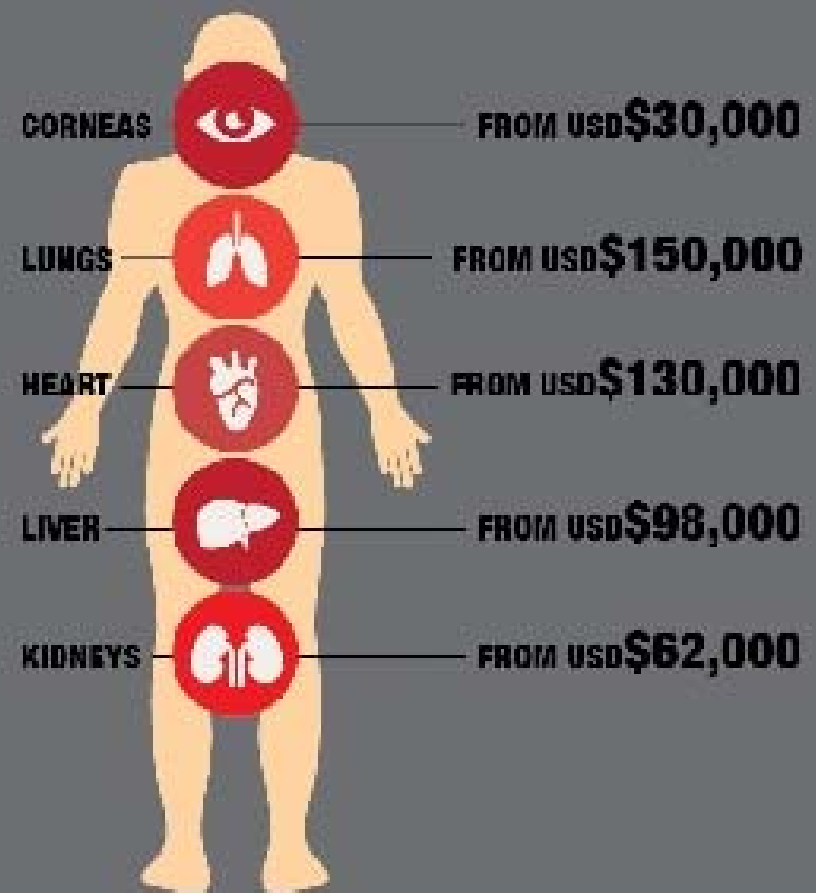
Ethan Gutmann-The Slaughter (Aug 2014)

- Over 100 interviews of eye witnesses
- Extensive research
- Offers a detailed look at China's organ trade market
- **CONCLUSION:** At least 65,000 Falun Gong practitioners have been murdered for organs between 2000 and 2008



# Organ Harvesting - China

- The largest source of organs for transplant come from executed prisoners or prisoners of conscience
- Accounted for up to 95% of organs until very recently by Ministry of Health admission



Source : Kilgour & Matas Report 2007

# Organ procurement from executed prisoners in China

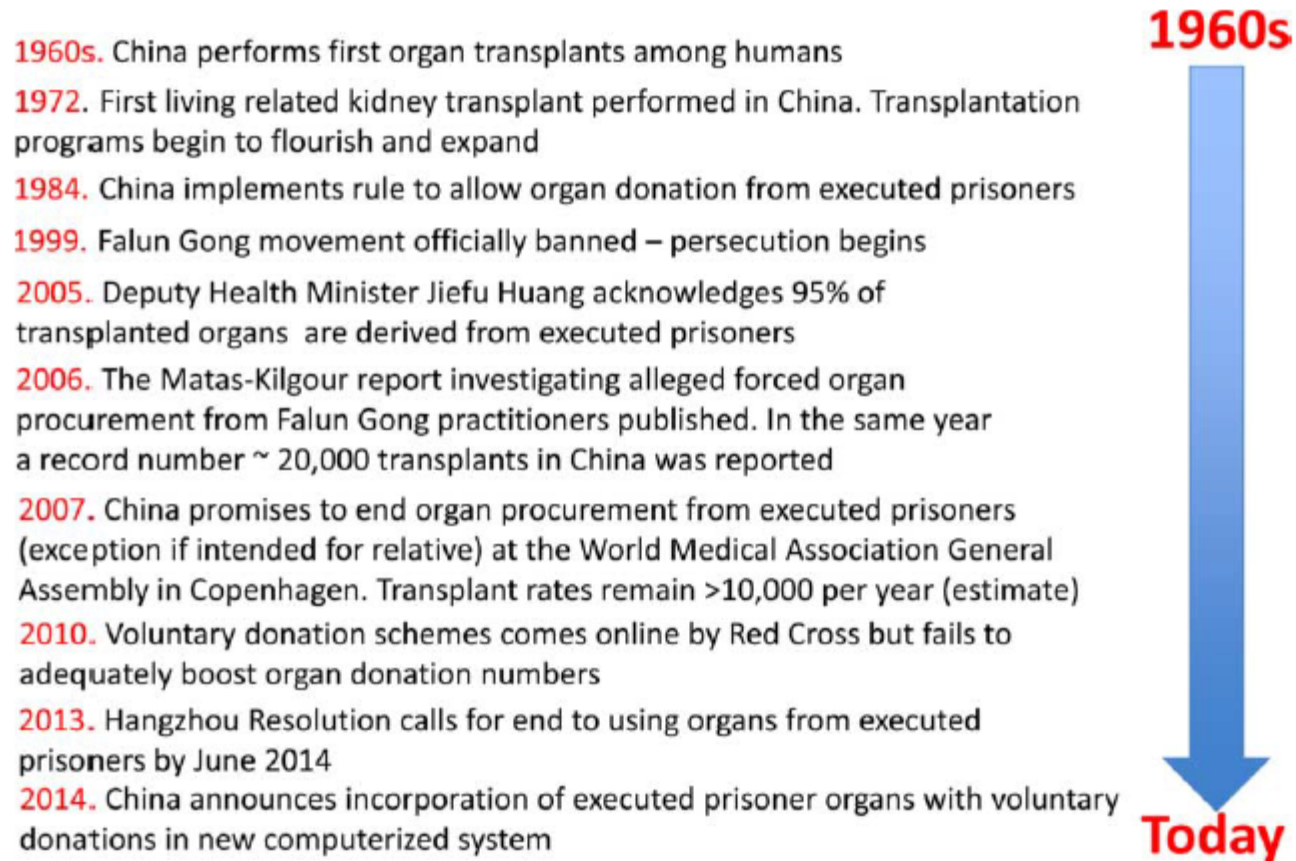


Figure 1: Flow chart outlining major milestones in the development of organ donation and transplantation services in China over the last 50 years.

Am J Transplantation July 26, 2014  
Sharif, Fiatarone Singh, Trey, Lavee



# Case study: Mrs Fengying Zhang

- **Age:** 62
- **1996** –began practicing Falun Dafa
- **July 1999 to Feb 2001** –During this period she was arrested and detained 3 times, tortured.
- **Reason:** distribution of information about the persecution of Falun Gong in China.
- Spent many years away from family home, afraid to be arrested again, endanger family
- **2012-2013: 8 months in labour camp-** sentenced to Beijing Women's Forced Labor Camp without any legal procedures. During the nearly 8 months' of incarceration (released on July 25, 2013), she was forced to have blood taken 3 times. Mobile medical vans came to the Labor Camp from outside and did x-rays and other physical checks without giving any reasons.
- **Current situation:** After the latest 8-month illegal detention in 2012, released and reunited with her daughter in Australia, a graduate student at USYD



# Medical Community Response

# Global Medical Initiatives

- The Transplantation Society
- The Declaration of Istanbul Custodian Group
- United Nations
- World Health Organization
- World Medical Association
- The Transplantation Society of Australia and New Zealand

**Universal condemnation of organ harvesting  
from prisoners or vulnerable individuals**

# Collaboration Cooperation Collegiality





# USYD Honours , Support



## 3.1 Statement from the University of Sydney Medical School

The University of Sydney Medical School condemns the retrieval of executed prisoners' organs for transplantation in China and endorses the Declaration of Istanbul on Organ Trafficking and Transplant Tourism that was signed in 2008.

It is our outright opposition to the retrieval of executed prisoners' organs for transplantation that has cemented our support for our Honorary Professor Huang Jiefu, who separate to his credentials as a transplantation surgeon has more importantly been a leading agent for change in China to its organ transplant system.

Huang Jiefu is recognised internationally for having made significant changes to the regulation of China's organ transplantation processes in an effort to curb the practice of organ retrieval from executed prisoners.

Huang was appointed an honorary professor in 2008 in recognition of his significant achievements in improving the Chinese health system and his ongoing involvement with the University of Sydney. His appointment was renewed in 2011 and he remains a valued contributor to the research and educational collaborations between the Medical School and our colleagues in China.

He has been an outspoken critic of organ retrieval from executed prisoners since 2005.

<http://sydney.edu.au/news/84.html?newscategoryid=11&newsstoryid=11447>



## Australian-trained doctor Huang Jiefu hits back at critics over ties to China organ harvesting

7.30 By China correspondent Stephen McDonnell

Updated Tue 21 May 2013, 8:43am AEST



I have no objections to using  
the executed prisoners organ  
donation if he or she has  
freely demonstrated that this  
is his last will.

Huang Jiefu

# Huang Jiefu's Defense of Organ Harvesting



"We call it human value," Dr Huang said. "Everybody has a weak point and a strong point. So in the human values you can say 'he's a bad man, he's not on the good side'.

"So then before he died he found his conscience and found he needed to do something to repay society. So why do you object?"

While Dr Huang, a transplant doctor who studied at the University of Sydney, says his own practice has not taken any organs from the prisons for two years, he continues to defend the policy.

"I feel that at first I respect the donor. I think that probably he committed some very severe crime," he said.

"It's not my part, it's the judicial part to deserve the death penalty. However I respect his last will. I respect the life he donated for another three people."

# China's Promised Reforms



## China organ transplant and transplant update: the Hangzhou Declaration

Jie-Fu Huang, Shu... Yong-... Wang, Jeremy Ch...

Philip O'Connell, ...llis, John F... Delmonico

Beijing, China ...obiliary Pancreatic ... 3, No 2 ... 2014

The Hangzhou Declaration excludes ... of  
transplant ... the use of organ ... ted  
prisoners. It calls ... centers to  
ensure that the ... ance with  
international ... ards.

# Reversal of 9 years of promises : March 6, 2014

**Huang Jiefu, Director of National Organ Transplant Committee :**

- China is set to further strengthen the regulation of organ donations from executed prisoners and integrate it into the existing public voluntary organ donation and allocation system
- **“We will regulate the issue by including voluntary organ donations by executed prisoners in the nation's public organ donation system to help ensure an open and fair practice”.**
- To ensure that donations are voluntary, written consent from the inmate and the family is required, he said.
- "Any organ donations, including those by executed prisoners, have to go through the system and the computerized allocation process," he added.



**Govt seeks fairness in organ donor  
system for inmates**



# Honorary Degree Hong Kong Univ

## March 18 2014



March 7 2014: Huang Jiefu announces that executions will not stop, but will simply be rolled into the national distribution system along with all other donors



# Industry Complicity?



- The Western pharmaceutical industry shares responsibility for scientific research in China.
- 2008: 78% of all subjects participating in trials to support drug applications submitted to the Food and Drug Administration (FDA) were enrolled at foreign sites
- 2012: Nine clinical studies in China with about 1,200 transplant patients, in which Wyeth and Pfizer from the USA, Novartis and Roche from Switzerland, and Astellas from Japan, among others, have all tested their transplant drugs.
- These corporations have cooperated with 20 hospitals in China for these studies.
- Prior to 2011, *virtually all* Chinese transplant trials would be in violation of the Declaration of Helsinki, which excludes prisoners as having the capacity to provide informed consent due to potential for coercion



# Engagement Disengagement

The Transplantation Society Regional Perspectives 

*Transplantation* • Volume 97, Number 8, April 27, 2014

## Open Letter to Xi Jinping, President of the People's Republic of China: China's Fight Against Corruption in Organ Transplantation

*Francis Delmonico, Jeremy Chapman, John Fung, Gabriel Danovitch, Adeera Levin, Alexander Capron, Ronald Busuttil, and Philip O'Connell*

Some Chinese officials contend that prisoners give "consent" before their execution. It is obvious, however, that prison inmates condemned to death are not truly free to make an autonomous and informed consent for organ donation and that no legal due process exists to assure consent.

**Legislative action**

# Israel



## ISRAEL TRANSPLANT LAW - ORGAN TRANSPLANT ACT, 2008

- No coverage of medical costs for transplants performed overseas if the process was against *local laws* (Israeli Organ Transplant Law)
- Criminal penalties for Israeli traffickers/brokers- extraterritorial
- Penalties for performance of illicit transplant- only in Israel
- No penalty for recipients
- No prohibition on paying privately for organs
- Transplant tourism stopped completely
- Introduction of incentives for local donations to boost local availability of organs (priority for future transplant)

# Spain: 2009 Law Criminalizes Traffickers, Perpetrators and Recipients in Illicit Organ Trade Globally

MAN IN NEED OF A LIVER OFFERED UP TO €40,000 (\$55,000) TO WHOEVER WAS WILLING TO UNDERGO AN ILLEGAL ORGAN TRANSPLANT.

**The Local**  
SPAIN'S NEWS IN ENGLISH

March 13, 2014



Spain has been the world leader in organ transplants for the past 22 years, with 35 out of every million people donating their organs. Photo: Jafaar Ashtiyeh/AFP

## Poor immigrants targeted in illegal organ sale

Read full article: <http://www.thelocal.es/20140312/police-thwart-first-illegal-organ-sale-in-spain>

Police have arrested five people in Spain after a wealthy Lebanese man in need of a liver offered up to €40,000 (\$55,000) to whoever was willing to undergo an illegal organ transplant.

According to the police report, the suspects were caught while they were trying their luck with impoverished immigrants in Spain's eastern region of Valencia.

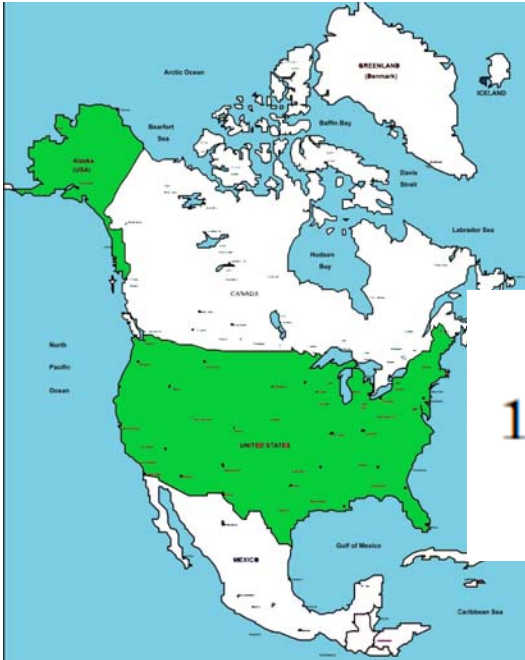
An NGO worker working with migrants in the region was the one who took the matter to local police.

The Lebanese man and his four associates had already covered the cost of several candidates' medical check-ups to determine their organ compatibility.

According to several Spanish media sources, this was the first



# USA



Since June 2011, the online U.S. non-immigration visa application (Form DS-160) asks applicants if they have been involved in transplant abuse.

113TH CONGRESS  
1ST SESSION

## H. RES. 281

In July 2014 House Resolution 281 will be considered by the Committee on Foreign Affairs. 180 Congressmen have already co-sponsored it.

It calls upon China immediately to stop the practice of organ trafficking from its prisoners, including Falun Gong, to prohibit US entry of those ever involved in trafficking, and prosecute those who have participated in trafficking if they do enter the US

# EU: Council of Europe Convention against Trafficking in Human Organs



**Signed July 9 2014:**

- The Council of Europe drew up a Convention to punish trafficking in human organs, to protect the rights of victims and to facilitate co-operation at both national and international levels.
- Convention has a worldwide scope and, is therefore open to Council of Europe member states and nonmember states in 2015
- In parallel, the Council of Europe is running organ donation awareness-raising campaigns with the aim of increasing the number of organs for transplants, so that there is no longer a need for trafficking.

# EU: Council of Europe Convention against Trafficking in Human Organs



## **What acts are punishable under the Convention?**

Governments will be required to take the necessary measures, including the passing of legislation, to establish as a criminal offence the illegal removal of human organs from living or deceased donors:

- where the removal is performed without the free, informed and specific consent of the living or deceased donor, or, in the case of the deceased donor, without the removal being authorised under its domestic law;
- where, in exchange for the removal of organs, the living donor, or a third party, receives a financial gain or comparable advantage;
- where in exchange for the removal of organs from a deceased donor, a third party receives a financial gain or comparable advantage.

## **What are the penalties provided for in the Convention?**

Those found guilty of trafficking in organs will be given effective, proportional and deterrent criminal sanctions laid down by the States Parties to the Convention.

# Australia - State

- Prohibition of training transplant surgeons unless they:
  - Agree not to perform unethical transplants when they return home (Queensland, 2006)
  - Do not agree to abide by TSANZ/TTS/WMA principles (NSW)



1984—1987 **Visiting Scholar**, The University of Sydney Australia, Sydney  
Admits to performing 500 liver transplants prior to existence of non-prisoner donors

# Australia- Federal

## Australian Senate Motion - March 2013

- On 21 March 2013 the Australian Senate unanimously passed a motion calling for the government to support the actions of the Council of Europe and the United Nations in addressing the practice of organ trafficking.
- The Senate motion also calls for the government to follow the example of the United States in implementing new visa requirements specifying if they have been involved in the “coercive transplantation of human organs or body tissue”.

<http://www.theepochtimes.com/n3/4763-australian-senate-unanimously-passes-motion-on-organ-harvesting/>



# Australia- Federal

## Criminal Code Act 1995 amendment – March 2013

- The Criminal Code Act 1995 amendment of 7 March 2013 which includes offences of forced labour, forced marriage, organ trafficking and harbouring a victim is a positive development.
- Failed to address some issues :
  - Australians who travel overseas to receive an organ that they either know or were reckless in not knowing, was trafficked;
  - Does not identify recipients of trafficked organs as guilty of an offence – unless they arranged for the victim to be brought to, or to be taken from Australia;
  - Does not encompass a situation where the victim (the organ source) neither enters nor leaves Australia and was never in Australia.

# Australia- NSW

## Human Tissue Amendment (Trafficking in Human Organs) Draft Bill 2013

- On 19 February 2013, member of the New South Wales Parliament **David Shoebridge MLC** initiated the Human Tissue Amendment Bill 2013, which **aims to criminalise the practice of transplant tourism, with extra-territorial enforcement for brokers, surgeons and recipients from NSW**
- Sets up system to report extra-territorial transplantations for NSW residents

<http://davidshoebridge.org.au/2013/01/22/organ-trafficking-ban-consultation-paper/>



Bill will be  
introduced 2014

# Global Legislation: Comparisons

Country	Year	Name	Type	Act	Penalty	Penalty Applied to
Qatar	1997	Human Organs Transplant Law No 21 1997	Law		2-14 years	<ul style="list-style-type: none"> <li>•Broker</li> <li>•Doctor</li> </ul>
France	2002	France anti-organ trafficking law	Penal Code		5 years imprisonment and 75,000EURO fine	<ul style="list-style-type: none"> <li>•Organ recipient</li> <li>•Broker</li> </ul>
Spain	2010	Criminal Code Article 156 Amendment	Penal Code	Criminal Code	Up to 12 years imprisonment	<ul style="list-style-type: none"> <li>•Broker</li> <li>•Organ recipient</li> <li>•Extraterritorial</li> </ul>
Canada	2012	Criminal Code Amendment 2012	Act	Criminal Code	variable	<ul style="list-style-type: none"> <li>•Broker</li> <li>•Extraterritorial</li> </ul>

# Global Legislation: Comparisons

Country	Year	Name	Type	Act	Penalty	Penalty Applied to
Israel	2008	Organ Transplant Act 2008	Act	Organ Transplant Act 2008	No medical reimbursement to recipient  Up to 3 years imprisonment	Broker-extraterritorial Anyone found guilty of removing an organ for reward in Israel
Australia	2013	Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2013	Bill	Criminal Code Act 1995	12 years imprisonment, Up to 25 for aggravated offence (causing death of donor)	Broker Doctor in Australia only

# Parliamentarians Against Forced Organ Harvesting (PAFOH)

- The purpose of the group is to raise awareness among Parliamentarians of the issue of forced organ harvesting and transplant tourism across the world.
- Senator John Madigan  
Mr Craig Kelly MP  
Co-Convenors



# Consider this....

- If it is unethical and therefore illegal to engage in organ harvesting in Australia (which it is as of 2013), then it should be illegal for Australian citizens to engage in it elsewhere.
- At the moment, an Australian citizen is free without fear of prosecution to:
  - contact a broker who buys and sells organs overseas,
  - arrange for an organ transplant in China,
  - travel there freely for this purpose,
  - wait in a hotel while the “donor” is matched and executed
  - undergo the operation
  - pay for the organ and surrounding services
  - have Australian physicians provide medical examinations pre and post transplant and medical care post transplant paid for by Medicare/Private Health Insurance in Australia
  - Claim out-of-pocket expenses for the harvested organ transplant on tax return

**What are the next steps?**

# Choose to Think *and* Act Globally

Professionals around the world can respond to the apparent failure to curtail illegal practices:

- 1) Stand clearly, publicly and unwaveringly against using executed prisoners' organs, irrespective of race, sex, creed or crime, for transplantation, whether in China, Taiwan or Singapore, which have all used organs from executed prisoners within the past 10 years;
- 2) Make those opinions known to the transplant medical community in the countries engaged in this practice;
- 3) Support and implement the Declaration of Istanbul, as have some journals and many transplant societies including the Transplantation Society of Australia and New Zealand, and the Australian Health Ethics Committee;
- 4) Lobby governments to support the WMA resolution and argue against these activities;
- 5) Assist China to develop alternative sources of organs to meet local demand for transplantation.



Prof Jeremy Chapman, Med J Aust; Dec 2-13

# Exert Pressure on China to Conform to Global Norms

- The international community – medical, human rights and diplomatic alike – should apply pressure on **China to abolish the 1984 law which currently permits the use of organs from executed prisoners** and ban such use under any condition
- to fully implement such ban without any delay in all hospitals, including military hospitals
- to facilitate international monitoring to verify these changes.



# The human cost of organ harvesting



- Contributes to exploitation of vulnerable populations for financial, political or personal gain
- Results in poor medical outcomes for recipients
- Increases health care expenditures due to poor surgical outcomes
- Facilitates unethical behaviour among the health care community and industry partners
- Violates standards of human dignity which should be global in their application



# Nadine Gordimer

1923-2014

Writer, Nobel laureate, anti-apartheid activist

"The truth isn't always beauty, but the hunger for it is".

