

# Smoke and mirrors: unanswered questions and misleading statements obscure the truth about organ sources in China

Wendy A Rogers,<sup>1</sup> Torsten Trey,<sup>2</sup> Maria Fiatarone Singh,<sup>3</sup> Madeleine Bridgett,<sup>4</sup> Katrina A Bramstedt,<sup>5</sup> Jacob Lavee<sup>6</sup>

## ABSTRACT

This response refutes the claim made in a recent article that organs for transplantation in China will no longer be sourced from executed prisoners. We identify ongoing ethical problems due to the lack of transparent data on current numbers of transplants in China; implausible and conflicting claims about voluntary donations; and obfuscation about who counts as a voluntary donor. The big unanswered question in Chinese transplant ethics is the source of organs, and until there is an open and independently audited system in China, legitimate concerns remain about organ harvesting from prisoners of conscience.

In their recent article, psychiatrists Xiang *et al* claim that a 'new law'—later corrected to 'new guideline'—bans the use of organs from executed prisoners and marks 'an important step in the right direction in medical ethics in China' (ref. 1, p. 10). Upon request for the original legal reference, the authors referred to a Chinese government website, where, rather than an official document, there is only a quotation from a *China Daily* newspaper article.<sup>2</sup> The authors' claim of an official guideline remains unverified. Repetition of this and similar claims<sup>3</sup> distract attention from the urgent ethical question: *Where do Chinese transplant organs originate?* To date, the most plausible explanation of this missing source is the unacknowledged harvesting of organs from prisoners of conscience.<sup>4 5</sup> When Chinese officials announced that organ

harvesting from executed prisoners would end by January 2015, they did not include prisoners of conscience, leaving legal and regulatory loopholes regarding this vulnerable population. Claims about new guidelines to create an ethical source of transplant organs in China distract attention from this question, while keeping silent on the fact that the 1984 provisions permitting the use of organs from prisoners remain in force.

Accurate data are crucial in order to understand the scale of current organ procurement in China. In the absence of credible published data or a transparent audit system, estimates vary as to how many transplants occur each year. Xiang *et al*,<sup>6</sup> using a 2008 reference, cite a peak rate of 11 000 organ transplantations in China in 2006. A 2015 publication by Huang *et al*<sup>3</sup> states that a total of 6416 organs were transplanted from 2326 voluntary citizen donors between April 2011 and August 2014, while the Red Cross Society of China organ donation registry reports 7667 transplants in 2015.<sup>1</sup> This figure is thrown into doubt by a meticulous investigation of Tianjin First Central transplant centre that triangulates data from multiple sources to estimate that 5000 liver transplants took place in that institution alone in 2015, with twice that number of kidney transplants.<sup>7</sup> If this estimate is anywhere near accurate, then the total number of transplants per year in the whole of China is far in excess of the number of organs that could be procured from the officially stated number of national voluntary donations, thereby begging the question as to where the organs come from.

In 2005, after long-standing denials, it was officially acknowledged that executed prisoners were harvested for their organs. This acknowledgement has been accompanied by pledges to the World Medical Association in 2007, and thereafter, that it

will soon stop<sup>3</sup>—an event lauded by Xiang *et al*. The organ shortfall is allegedly to be filled by voluntary donations. To this end, Huang *et al*<sup>3</sup> describe an exponential increase in donors between 2010 and 2013, something no other country in the world has been able to achieve over many decades of public donation programmes, and despite Chinese cultural beliefs opposed to brain death and post-mortem removal of organs. Due to China's lack of transparency, these figures cannot be verified, while other evidence points to the unreliability of published figures about voluntary donors.<sup>ii</sup>

Importantly, Huang *et al*'s figure of 2326 voluntary citizen donors between April 2011 and August 2014 excludes organs transplanted from executed prisoners. However, the status of this claim is unclear as Huang has elsewhere admitted that organs from executed prisoners can still be used if death row prisoners wish to donate and give voluntary consent.<sup>8</sup> These are then counted as 'voluntary donations from citizens', an interpretation not shared by the medical or international human rights community. This exposes a further source of unreliability in Chinese reporting: any data published on post-mortem donations include an undisclosed number of executed prisoners hidden in the population-level data. Xiang *et al* do not note this fact. As well as being a culpable omission, this move ignores well-known arguments against using prisoners' organs due to concerns about coercion and the considerable barriers to informed consent faced by prisoners.<sup>9</sup>

Data on the number of executed prisoners in China are hard to come by. As Huang notes, the execution rate is a state secret.<sup>6</sup> Amnesty International no longer publishes estimates of judicial executions in China, commenting only that 'available information indicates that thousands of people are executed and sentenced to death in China each year' (ref. 10, p. 2). Dui Hua estimates that 2400 prisoners were executed in 2014.<sup>11</sup> By contrast, in the same year, 35 prisoners were executed in the USA.<sup>10</sup> Even if we accept Amnesty International's ballpark 'thousands', this number would not meet the demand for organs from Tianjin First Hospital alone,

<sup>ii</sup>For example, the donor registry of the Red Cross Society of China reported an extremely implausible increase of registered donors by exactly 25 000 people in one 24-h period from 30 December to 31 December 2015 (see <http://www.dafoh.org/unusual-course-of-organ-donation-registry-numbers/>).

<sup>1</sup>Department of Philosophy and Department of Clinical Medicine, Macquarie University, Sydney, New South Wales, Australia; <sup>2</sup>Doctors Against Forced Organ Harvesting, Washington DC, USA; <sup>3</sup>Faculty of Health Sciences and School of Medicine, University of Sydney, Sydney, Australia; <sup>4</sup>Sydney, Australia; <sup>5</sup>School of Medicine, Bond University, Gold Coast, Queensland, Australia; <sup>6</sup>Sackler Faculty of Medicine, Tel Aviv University, Ramat Aviv, Israel

**Correspondence to** Professor Wendy A Rogers, Department of Philosophy and Medicine, Macquarie University, Sydney, NSW 2109, Australia; [wendy.rogers@mq.edu.au](mailto:wendy.rogers@mq.edu.au)

<sup>i</sup>See <http://www.dafoh.org/unusual-course-of-organ-donation-registry-numbers/>.

let alone China's other 164 licensed transplant centres.

How might the shortfall in donated organs be made up? To date, the most plausible explanation is that given by independent international investigators: organs are sourced from prisoners of conscience, who are neither sentenced for any crime nor given a fair trial.<sup>4 5</sup> Matas and Kilgour threw down the gauntlet 10 years ago: *if prisoners of conscience are not the source, despite the hefty weight of evidence that they and others have amassed, then where do the organs come from?*<sup>5</sup> This claim is the elephant in the room in discussions of Chinese organ transplantation. Until this claim is investigated, we should dismiss any notion that Chinese organ transplantation is somehow becoming ethical. When people's lives are at stake, a false 'all clear signal' has potentially fatal consequences.

What is ethically disturbing is the almost complete silence on this issue. Clearly, if China indeed murders innocent citizens for their organs, it would seek to conceal the crime. But why does the international community, including transplant doctors, medical ethicists and journal editors, remain complicit in this silence? This may in part be due to obfuscation about the term 'executed prisoners', which is taken by many to mean prisoners executed after a judicial process. In reality, in China, 'executed prisoner' means the killing of a person under detention by the state, irrespective of his/her criminal status.

Contra Xiang *et al*, when people are being killed for their organs, a mere 'step in the right direction' is insufficient and unacceptable in medical ethics. A real step in the right

direction would be providing uncensored and transparent access to China's transplant and organ donation numbers and permitting independent international inspections. In the absence of this information, we should continue to agitate on behalf of innocent people treated as living organ banks. Furthermore, academic publications should beware the 'smoke and mirrors' of Chinese communications on this topic.

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