

**The Impact of the Use of Organs
from Executed Prisoners in China on the New Organ
Transplantation Law in Israel**

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In 2005, I was approached one day by a patient of mine with an unusual message. This patient had been continuously hospitalized in my department for more than one year with severe heart failure and had been a top priority candidate on the Israeli waiting list for heart transplantation. He reported to me he was fed up with the endless wait for a suitable heart donor and was told by his medical insurance company to go to China in two weeks' time as he was scheduled to undergo heart transplantation on a specific date. When asked how such an operation could be scheduled ahead of time, the patient responded he did not bother to inquire. The patient, indeed, went to China and underwent the operation on the exact date as promised ahead of time.

This was the first time I had been made aware of the possibility of undergoing heart transplantation in China as no Israeli patient had ever gone there for this operation before. For years, I have heard stories from my kidney transplant colleagues about Israeli patients going to China to get kidney transplants and, never bothering really to inquire, it was my assumption that the source of these kidneys was poor people selling one of their kidneys in order to improve their economic status. The fact that you can also get a heart transplant in China and, moreover, get it on a specific pre-scheduled date was a total surprise to me and got me researching.

It did not take me long to find out the gruesome details of the abhorrent Chinese practice used since the 1980s, whereby the source

of most of the transplanted organs are prisoners sentenced to death or prisoners of conscience, whose consent is either non-existent or ethically invalid and whose demise might be timed for the convenience of the waiting recipient who could afford the cost of buying an organ. When I started my research in 2005, this practice was still officially denied by the Chinese authorities. Therefore the sources of information were mainly the testimony of Dr. Wang Guoqi, a former doctor in the Police Tianjin General Brigade Hospital, who fled to the U.S. and spoke in a hearing before the subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, in June 2001.¹ As I was about to publish my research findings, Dr. Jiefu Huang, Vice Minister of Health of the People's Republic of China (PRC), publicly admitted for the first time in December 2005 that apart from a small portion of traffic victims, most of the cadaveric organs in China came from executed prisoners, albeit claiming that the only prisoners who were subject to capital punishment in the PRC are convicted criminals and that prisoners or their family provided informed consent for donation of organs after execution.

The results of my research were first published in October 2006 in the *Journal of the Israeli Medical Association*,² and I have added a call for the cessation of the Israeli participation in the process as I have found out that, of all transplant tourists gathering to China from all over the world to get organs, Israeli patients were probably the only ones fully reimbursed by their insurance companies. I have referred to this reimbursement as providing de facto recognition of the Chinese transplant activities as being legal and ethical and have called upon Israeli authorities to immediately ban it all together and denounce any Israeli participation in the atrocious process.

On July 2006, when my paper had already been sent for publication, Matas and Kilgour published their first version of the *Bloody Harvest* report, and I had therefore published an extended version of my original plea in another Israeli medical journal,³ this time adding the chilling information regarding the use of executed Falun Gong practitioners as a major source of organs in China. Following the publication of these papers, the Israeli lay press picked up my call, and an extensive investigative story of the trade in executed prisoners' organs in China was published in Israel's most widespread newspaper.

An Op-ed on the same topic which I had published in the most popular local news portal YNet and a follow-up TV report all contributed to the public awareness of the issue.

Together with my friend and associate to the public campaign, the transplant surgeon Prof. Eytan Mor, we convened in June 2007 a special conference on ethical dilemmas in solving the organ shortage in Israel under the auspices of Israel's National Transplant Center and the Israel Society of Transplantation. Among the invited speakers were Prof. Francis Delmonico, then a special advisor on transplantation to the World Health Organization; Amnon Vidan, director of the Israeli branch of Amnesty International; Dr. Yoram Blashar, then chairman of Israel Medical Association; Prof. Gabriel Danovitch, renowned director of the kidney transplant program at UCLA Medical Center, and David Matas who gave the large audience a summary of the *Bloody Harvest* report. A day before the planned conference, we found ourselves in the midst of a diplomatic incident when we were asked by our Ministry of Health to consider cancelling Matas' presentation in response to a request forwarded by the Chinese embassy to our Ministry of Foreign Affairs. We rejected this request and were henceforth kindly asked to at least balance his presentation with a presentation by a representative of the Chinese embassy in Israel in order to avoid diplomatic discomfort. This presentation was indeed delivered in which the source of organs in China was not mentioned at all and the *Bloody Harvest* report was portrayed as just an attempt to slander China. The Chinese speaker was literally booed by the audience.

An interesting and unexpected public support to my call, at that time, came from one of the most respected rabbis in Israel, Rabbi Shalom Elyashiv, who has traditionally headed the minority of orthodox rabbis who ruled against accepting brain death as a legitimate form of death and hence, object to organ donation following brain death. While usually permissive of accepting organ donation from gentile donors who have been proclaimed brain dead, Rabbi Elyashiv surprised many when he openly declared that the use of organs from executed prisoners in China and the selling of those organs to anybody who could afford it was considered by Judaism as a form of God's desecration and should be avoided by all means, even if its avoidance would result in the death of the potential candidate for transplantation.

Following the intensive public discussion, a special meeting of the Health Committee of the Israeli Parliament convened to which representatives of all stakeholders were invited including candidates for organ transplantation, transplant physicians, directors of insurance companies and HMOs, Israeli Falun Gong practitioners and the Ministry of Health. After hearing all sides, the committee unanimously expressed its revulsion of the abhorrent practice in China and issued a call to stop sending Israeli patients for organ transplantation to China.

The committee went further, and together with the Ministry of Health, made sure that the new Organ Transplant Law, which was formulated during the same time, included a unique chapter⁴ which bans any reimbursement of organ transplantation performed abroad if it involved illegal organ procurement or organ trade. The new law was passed into legislation by the Parliament in March 2008 and, shortly afterwards, rules were issued ordering all Israeli insurance companies to stop reimbursing any organ transplants performed in countries in which illegal organ procurement or organ trade are known to take place. These rules were immediately implemented by the insurance companies which brought transplant tourism from Israel to China to a complete and abrupt halt. These rules have also helped minimize the total number of transplant tourists from Israel to other venues in the world, cutting this number from 155 in 2006 to only 26 patients in 2011.

The Israeli Organ Transplant Law does not only close the gates for transplant tourism from Israel. In parallel, it includes several unique clauses which pave new ways to increase national organ donation, both from deceased and from living related donors, and thereby promotes national self-sufficiency in organ donation as highlighted by the Declaration of Istanbul.⁵ Based on my recommendation to the steering committee of the Israeli National Transplant Center, the law has adopted a unique new policy granting priority in organ allocation to candidates who have been previously registered donors.⁶ This unprecedented organ allocation policy was aimed towards abolishing the “free riders” phenomenon of candidates for organ transplantation who, for various reasons, object to organ donation and is based on the ethics principal of reciprocal altruism.

Other aspects of the law provide modest reimbursements for living donors which serve to remove disincentives to living donation.

These include the following non-fungible benefits reimbursements to any live donor who has been authorized by the Ethics Committee, all made by the government: earning loss reimbursement of 40 days, based on the donor's average income during the last 3 months prior to donation (an unemployed donor will be reimbursed according to the minimum salary in the market at the time of donation); a fixed sum transportation refund to cover all commuting to and from the hospital for the donor and his relatives for the entire hospitalization and follow-up period; a 7 day recovery reimbursement within 3 months after donation; five years reimbursement of medical, work capability loss and life insurance, all to be refunded upon submission of appropriate insurance policies and payment receipts, and reimbursement of five psychological consultations and treatments upon submission of appropriate receipts. All these measures have already borne fruits as organ donation, during 2011, has significantly increased by 68% compared to 2010.

Influencing any country to change its unethical and immoral conduct in organ retrieval and transplantation is a daunting task, especially in an enormous and secluded country like China. No single measure can be expected to make this shift and it is only through concerted variety of global efforts aimed at different levels of the atrocious chain which provides organs from executed prisoners and Falun Gong practitioners to wealthy candidates for organ transplantation from all over the world or even to local citizens, before this chain can hopefully be disassembled. The Israeli legal approach has successfully managed to disengage Israeli candidates for organ transplantation from getting their organs in China. If similar measures are enforced by other countries whose patients flock to China to receive their organs, there is a good chance that dwindling this major financial source will ultimately contribute to the dismantling of this widely condemned chain.

1 "Organs for Sale: China's growing trade and ultimate violation of prisoners' rights," Hearing before the subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, June 27, 2001. Viewed at: http://commdocs.house.gov/committees/intlrel/hfa73452.000/hfa73452_of.htm

- 2 Lavee J. "Organ transplantation using organs taken from executed prisoners in China – a call for the cessation of Israeli participation in the process," [Hebrew] Harefuah. 2006;145:749-52
- 3 Lavee J. "Shooting and cutting," [Hebrew]. *Medicine Cardiology*. 2:12-15, 2007. Viewed at: <http://www.themedical.co.il/Upload/Magazines/Documents/23/medicine%20heart2.pdf>
- 4 Israel Transplant Law - Organ Transplant Act, 2008. Viewed at: http://www.declarationofistanbul.org/index.php?option=com_content&view=article&id=267:israel-transplant-law-organ-transplant-act-2008&catid=83:legislation&Itemid=130
- 5 The Declaration of Istanbul. Viewed at: <http://www.declarationofistanbul.org/>
- 6 Lavee J, Ashkenazi T, Gurman G, Steinberg D. "A new law for allocation of donor organs in Israel," *Lancet* (2010): 375(9720):1131-3