

# Ethical Issues Relating to Living Organ Donation in China

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## ABSTRACT

Although great developments have been made in living organ donation, the ethical issues relating to living organ donation still face dilemmas in China. In this report, we discuss several ethical issues concerning living organ donation in China. It is argued that living organ donation in China could make further progress if the ethical issues proposed in this report are carefully considered.

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ORGAN transplantation in China can be traced back to the 1970s. The first living kidney transplant was performed in 1972, and the first liver and cardiac transplantations from deceased donors were successfully performed in 1978. Two patients with end-stage tuberculosis were given lung transplantation in 1979, which pioneered lung transplantation in China. Almost at the same time, the first institute for organ transplantation was jointly founded by the Ministry of Health and Tongji Medical University in 1979. Since then, China has consecutively carried out a variety of organ transplantations, including pancreas, intestinal, bone, spleen, thymus, heart, and testis transplant. The first recorded clinical liver transplant from a living donor in China took place in 1995, which is 7 years later than the world's first case performed in Sao Paulo, Brazil [1].

Regarding the source of organ transplantation, most donor organs were procured from executed prisoners before 2007 [2]. However, it is important to note that the prisoners or their families received informed consent regarding organ donation before or after death [3]. In 1984, the promulgation of "The Tentative Provisions Regarding Utilizing the Corpses or Organs from the Corpses of the Capital Prisoners," signed by the Chinese Supreme Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of Justice, the Ministry of Public Health, and the Ministry of Welfare, marked the beginning of legal supervision on organ donation [4]. It stipulates that donation of corpse or organs by capitol prisoners to medical institutions or individuals in need should be of their own free will before their execution. Regulations on Human Organ Transplant were enacted in 2007, which indicate that procuring organs from

executed prisoners will not be the main source of transplantable organs [5]. In 2013, with the support and supervision of the Red Cross Society of China, the organ donation online system and Chinese organ allocation and sharing system were launched, boosting the donation rates and monitoring the equitable distribution of donated organs. To better manage organ donations and transplantations, the committee of organ donation and transplantation was jointly founded by the Red Cross Society of China (RCSC) and the National Health and Family Planning Commission (NHFPC) on March 7, 2014. On January 1, 2015, the Chinese government announced ceasing all use of organs procured from executed prisoners and that citizens' voluntary donation would be the only source of organ transplantation.

However, although much progress has been made in all aspects of organ transplant, ethical issues on organ transplantation in China still lag behind the rapid technical advances. As in the rest of the world, organ transplantation in China "exploded" in under-regulated environments that produce unique outcomes and challenges [6]. In what follows, we will discuss several ethical issues that should be carefully considered in living organ donation in the Chinese socio-cultural context.

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### Living Organ Donation

The number of patients who have organ failure and wait for organ transplant go far beyond the number of transplantable organs; even worse, the gap between the demand for available organs and their supply becomes wider annually. As a consequence, most of the patients on the waiting list die before procuring transplantable organs. It has been shown that because of the sharp shortage of transplantable organs, more than 90% of potential organ recipients die each year [7]. Currently, because there are no potential risks associated with the living organ donor, Regulations on Human Organ Transplant stipulate that the living donor should only be limited to the recipients' spouses, lineal relatives, and collateral relatives by blood up to the third degree of kinship or people who have proof of having kinship to the donor due to assistance or other reasons [3]. Consequently, organs donated by living donors constitute a very small portion of organ donation in China. Kidney transplantation has been a major part of living organ transplantation in China. Less common transplants involve the transplant of a portion of a liver, lung, small intestine, and so forth. Moreover, clinical risks to living organ donation are higher than deceased organ donation because the former involves 2 lives. Accordingly, the ethical issues involved are more sensitive and complex than those in cadaveric donation. The previous studies on the ethical issues regarding living organ donation in China, however, are not comprehensive or deep enough. On the basis of analysis of previous related studies, we proposed 4 more systematic and comprehensive ethical principles to protect the interest of the living donor, which should be strictly followed in the process of living donor transplantation.

### Ensuring Informed Consent

The living donation should be based on the full consideration and self-evaluation made by the donor, which is the essence of voluntary donation. The donors should have a good understanding and knowledge of what is at stake in living organ transplantation. The recipient should be entitled to informed consent for the benefits and risks involved, including the enhanced quality of life, possible complications, and their preventive measures. It should be stressed that the identity of the donor and recipient must be mutually recognized. As a result of the uniqueness of Chinese culture and customs, it happens that the family members negotiate together secretly with transplant physicians to good-naturedly trick the recipient [8–10], that is, the family member's donation does not get the recipient's approval, which infringes on the recipient's right to informed consent to the identity of the donor. Confucianism holds that "blood is thick than water" and that the love among family members is selfless. In many cases, individuals tend to sacrifice their own interests for the interests of their families or family members [11]. In addition, under the influence of the Confucian family values, the family members tend to act as surrogate decision-makers for their relatives who have

severe illness. Although the "good-natured trick" conforms to traditional Confucian ethics mentioned above, it does not meet the requirements of the modern medical ethics, that is, this practice results in the violation of the recipient's right to informed consent; specifically, the recipient does not understand the identity of the potential donor [12]. In addition, apart from the donor and recipient, family members should also be involved in informed consent to the organ donation and transplantation performed between their relatives. On the basis of the principle of equal consultation and treatment, all the family members should express their opinions equally in matters of who will become the potential donor. When there is more than 1 voluntary donor, the selection of the donor should be based on the principle of the minimum loss of family interest. The risk that the donor undertakes must be weighed against the potential family benefit. It should also be pointed out that vulnerable family members such as children and disabled persons and patients with dementia or mental episodes, who do not have full civil acting capacity and could not have the right to fully informed consent, should not be considered as a potential living organ donor.

### Strengthening Ethical Review Capacity of the Ethics Committee

Living organ transplantation should be approved by ethics committee, consisting of clinical physicians, organ transplant experts, lawyers, and ethicists. When more than two-thirds of the committee members agree on the performance of the transplant surgery, the transplantation can be conducted. In the course of ethical review, the donor's written informed consent is one of the most important documents to convince the ethics committee that his or her desire for organ donation is justifiable. "Maximum benefit" is another important factor affecting the performance of the transplant surgery. Medical experts in the ethics committee should use their professional knowledge to assess the benefits of the transplant against the risks involved. The surgery can be performed only when the benefits gained by both the donor and recipient largely outperform the risk involved. As the third party, the ethics committee takes the responsibility for making ethical evaluation of living organ transplantation and ensures the interests of the transplant professional, donor, and recipient. It occurs in China that patients and/or their families still require transplant surgery to be done, even when the surgery will have no any positive health outcome for patients [13]. If the ethics committee could review these cases and prohibit the occurrence of this unethical practice in time, medical costs can be saved and the waste of scarce resources can be avoided. In accordance with the Standards of Ethical Conduct, the ethics committee contributes to the whole process of supervision on living organ transplantation. Once an unethical or illegal procedure is found, the ethics committee has the right to cease the transplant surgery. The ethics committee gives full play to the key role in supervision of all aspects of organ



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