

WMA COUNCIL RESOLUTION ON ORGAN DONATION IN PRISONERS

*Adopted by the 173rd WMA Council Session, Divonne-les-Bains, France, May 2006
and reaffirmed by the 203rd WMA Council Session, Buenos Aires, Argentina, April 2016
and revised by the 226th WMA Council Session, Seoul, Korea, April 2024*

Whereas the WMA Statement on Human Organ and Tissue Donation and Transplantation stresses the importance of free and informed choice in organ donation and

Whereas the statement explicitly states that prisoners and other individuals in custody are not in a position to give consent freely, and therefore, their organs must not be used for transplantation and

Whereas, prior to 2014, there were reports of Chinese prisoners being executed and their organs procured for donation; and

Whereas the WMA reiterates its position that organ donation be achieved through the free and informed consent of the potential donor; and

Whereas the WMA General Assembly in Copenhagen in 2007 was informed that the Chinese Medical Association (ChMA) stated in a letter by Dr. Wu Mingjiang, (then) Vice President and Secretary General of the ChMA that

- 1. the Chinese Medical Association agrees to the WMA Statement on Human Organ Donation and Transplantation, in which it states that organs of prisoners and other individuals in custody must not be used for transplantation, except for members of their immediate family. The Chinese Medical Association will, through its influence, further promote the strengthening of management of human organ transplantation and prevent possible violations made by the Chinese Government.”[1]*

Whereas the Chinese Medical Association (ChMA) gave a statement regarding the proposed WMA Declaration on Organ Donation for Transplantation from Executed Prisoners at the 223rd Council meeting in Nairobi 2023, stating:

- 1. “The Chinese Medical Association (ChMA) fully supports China’s complete prohibition on the use of organs from death penalty prisoners for transplantation, implemented on January 1st, 2015. This policy has significantly contributed to the successful development of voluntary deceased organ donation in China, propelling the nation to rank second globally in annual deceased organ donation and benefiting numerous Chinese patients.*
- 2. ChMA firmly supports and adheres China’s comprehensive legal and regulatory system, as well as the technical capacity developed to facilitate the legal enforcement, ensuring the continued prohibition of using organs from executed prisoners and the ongoing success of the national organ donation program.*
- 3. ChMA encourages all her members (to) actively participates (in) China’s efforts to establish a self-sufficient organ donation system in line with WHO guiding principle, condemns the practice of using organs from executed prisoners for transplantation. ChMA will continue, and also call upon all national medical associations, particularly those with legislation permitting the practice of the use of organs from executed prisoners, to educate physicians on ethical values and conduct in order to prevent such a practice.”*

Whereas the WMA reiterates paragraphs 17,18 and 19 of the undisputed WMA Statement on Organ and Tissue Donation, last revised at the WMA 68th. General Assembly in Chicago, United States, October 2017, which read:

- 1. 17. Prisoners and other people who are effectively detained in institutions should be eligible to donate after death where checks have been made to ensure that donation is in line with the individual’s prior, un-coerced wishes and, where the individual is incapable of giving consent, authorisation has been provided by a family member or other authorized decision-maker. Such authorisation may not override advance withholding or refusal of consent.*
- 2. 18. Their death is from natural causes and this is verifiable.*
- 3. 19. In jurisdictions where the death penalty is practised, executed prisoners must not be considered as organ and/or tissue donors. While there may be individual cases where prisoners are acting voluntarily and free from pressure, it is impossible to put in place adequate safeguards to protect against coercion in all cases.*

Whereas there have been reports of purported inappropriate organ procurement from prisoners within several nations and the WMA should remain firmly on record to condemn inappropriate organ procurement from prisoners and other people who are effectively detained in institutions in all nations.

The WMA will amend the title of the WMA Council Resolution on Organ Donation in China (2006) to the WMA Council Resolution on Organ Donation in Prisoners.

Therefore, the Workgroup on Organ Procurement (November 2023) proposes to amend the WMA Council Resolution on Organ Donation in China (2006), to read as follows:

The WMA reiterates its position that organ donation be achieved through the free and informed consent of the potential donor.

The WMA calls on its Constituent member associations to condemn any practice of using prisoners and other people who are effectively detained in institutions as organ donors in any manner that is not consistent with the [WMA Statement on Organ and Tissue Donation](#) and ensure that physicians are not involved in the removal or transplantation of organs from executed prisoners, and

the WMA demands all national governments to immediately cease the practice of using prisoners and other people who are effectively detained in institutions as organ donors in any manner that is not consistent with the [WMA Statement on Organ and Tissue Donation](#).

[1] WMA News, Chinese Medical Association reaches agreement with WMA against transplantation of prisoner's organs. Copenhagen, 2007 replace by original message.