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# A Legal System that Compromises Due Process and Promotes Organ Harvesting and Human Rights Abuse of Prisoners: A Case Study of China

## Abstract

On June 21, 1989, three men were executed in Shanghai two weeks after their arrests. The Xinhua News Agency reported that Bian Hanwu, Xu Guoming and Yan Xuerong were arrested, charged and convicted for sabotaging transportation. Upon rejection of their appeals by the Shanghai People's High Court, they were executed. Again, Xinhua reported on January 26, 2003, the execution of Lobsang Dondrub, (who was found guilty of inciting a split in the country and illegally possessing firearms and ammunition), hours after his death sentence was approved by the Sichuan Province Higher People's Court, despite an assurance to a US delegation that a thorough review of his sentence would have been undertaken.

In the Peoples' Republic of China (PRC), the Death Penalty is utilized for many criminal offences apart from homicide and treason. As is indicated above, the speed at which executions occur raises concerns regarding violations of prisoners' rights. The situation shows that the nature of the Chinese legal system serves to subvert justice by having prisoners executed by a compromise of due process.

## Keywords

Human rights, China, Prison, Prisoners' rights, Death penalty, Organ trafficking

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## **A Legal System That Compromises Due Process and Promotes Organ Harvesting & Human Rights Abuse Of Prisoners: A Case Study Of China**

By Shivani Ramdeo

*On June 21, 1989, three men were executed in Shanghai two weeks after their arrests. The Xinhua News Agency reported that Bian Hannu, Xu Guoming and Yan Xuerong were arrested, charged and convicted for sabotaging transportation. Upon rejection of their appeals by the Shanghai People's High Court, they were executed. Again, Xinhua reported on January 26, 2003, the execution of Lobsang Dondrub, (who was found guilty of inciting a split in the country and illegally possessing firearms and ammunition), hours after his death sentence was approved by the Sichuan Province Higher People's Court, despite an assurance to a US delegation that a thorough review of his sentence would have been undertaken.*

In the Peoples' Republic of China (PRC), the Death Penalty is utilized for many criminal offences apart from homicide and treason. As is indicated above, the speed at which executions occur raises concerns regarding violations of prisoners' rights. The situation shows that the nature of the Chinese legal system serves to subvert justice by having prisoners executed by a compromise of due process. A legal system such as this, would serve to promote organ harvesting. There is no prima facie evidence suggesting that China is deliberately seeking to participate in organ harvesting and organ trafficking; however, due to the inherent nature of Chinese Criminal Procedure Law and the high demand and profit in organ harvesting and trafficking globally, it can be inferred that such a trade can infiltrate and grow within China. This essay examines the fairness of China's Criminal Justice System to show how an absence of due process and improper criminal procedures can accentuate the abuse of prisoners' rights with specific reference to organ harvesting.

Liu Renwen, Professor of the National Institute of Law at the Chinese Academy of Social Sciences, once disclosed in an interview that academic estimates put China's executions at around 8000 per year. China's current legal system, coupled with the high levels of executions, indicates an environment that is more susceptible to the harvesting and trafficking of organs. The long periods of detention, lack of instruments facilitating due process, and the speed of the trial and appeal process allows for the violation of prisoners' human rights and by extension gives the State the autonomy to participate in the illegal organ trade without any hindrance should the State choose to embark on such a venture.

It is important at this point to establish that the PRC is a signatory to the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the UN Convention Against Torture & other Cruel and Inhuman or Degrading Treatment or Punishment. Although legal protections exist within the 1979 Criminal Procedure Law (CPL) and it is in compliance with International Conventions, it is disregarded or ignored due to ambiguity. Furthermore, Timothy Gelatt states that in some instances, abuse results from the law themselves, or manipulation of same. The absence of a fair judicial process that includes long periods of detention and arrests, the use of torture, the absence of a presumption of innocence and the right to counsel are all policies that would promote the harvesting of organs from executed prisoners. This is further intensified by the speed that matters are processed by the courts. These violations are now examined.

In accordance with Article 9 of the International Convention on Civil and Political Rights, a person upon detention or arrest in criminal matters has to be brought promptly before a judge or other officer authorized to exercise judicial power. Practice in China is such that one can be detained (according to the CPL Article 48) for up to 10 days and the issue of notification to relatives can be bypassed if the authorities believe that this would pose an obstacle to the investigation (article 46 CPL). Once the procuracy determines that the offender could be punished he/she may be formally arrested within 10 days. This is a clear violation of due process standards regarding detention, as 10 days according to international standards cannot be classified as *'prompt'*. Gelatt states that this is compounded by the absence of a habeas corpus proceeding whereby an individual may challenge the validity of detention before the Courts.

There are other violations that are linked to detention periods, such as the use of torture. Clarke and Feinerman indicate that despite being a signatory to the International Conventions mentioned above—which all explicitly state that no person should be subject to torture—and the endorsement of same standards within the Criminal Law and Criminal Proceedings, there continues to be documented evidence of torture to extract statements and or confessions. The absence of a legal representative present upon arrest facilitates the use of improper techniques during the interrogation period. In addition Belkin, Gelatt and Amnesty International all attest to the fact that statements extracted from the initial interrogation is acceptable in Court as evidence as there is no law that denies the use of torture as being inadmissible.

This situation is further exacerbated by the fact that an offender is only entitled to legal representation after the first interrogation. It is only after the procuracy decides to initiate public prosecution that a defense attorney can be obtained as stipulated in CPL article 103. The time frame for this is limited and in most instances the Counsel only has 7 days to become familiar with the case. Such a practice can cripple any defense especially in instances where there are already confessions of guilt derived from questionable means. Furthermore it is in direct violation of the UN Basic Principle on the Role of Lawyers which states that anyone charged with a criminal offence is entitled to prompt legal representation upon arrest, and not later than forty eight hours from the time of arrest or detention. This UN Basic Principle is not legally binding but it sets standards regarding the right of Counsel and ensures that all individual have access to legal representation so that their rights would not be violated. The CPL however contradicts these Principles as there is no immediate access to a lawyer and the detainee is not informed of any right to legal representation of their choice. The limit placed upon the accused for an appropriate legal council allows for a stronger prosecution and weaker defense, and result in conviction and death.

In addition, Chinese Law does not recognize the notion of the presumption of innocence or guilt. This falls short of Article 14 of the International Covenant on Civil and Political Rights that implies that everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law. Thus in this situation one charged is already presumed as being guilty and this is a questionable practice because it raises concerns as to whether the trial would bring about a fair or impartial judgement. Such a practice lends itself to grave violations and favors the State, making it more convenient to manipulate the results of cases for a conviction. Furthermore, appeals under the CPL are limited to 10 days for minor offences and 3 days for serious offences that involves public security. More so, the right to review all death penalty cases is held by the Supreme Court in China. The swiftness of this process complimented by the lack of the proper criminal procedure practices allows for particularly high cases of guilty convictions for the death penalty and questions the fairness of the legal system.

Although Chinese Authorities have not openly declared the practice of harvesting and trafficking of human organs, Vice Health Minister, Huang Jiefu, has stated that the majority of transplant organs have been taken from convicted prisoners, but with previous consent. The integrity of this consent however can be reasonably questioned, given the structure of the legal system and the practices discussed above. The circumstances present within the Chinese Criminal Procedure Law are fertile ground for the illegal harvesting of organs. Whether one considers the alleged consent for organ harvesting legitimate or not, human organ harvesting has been admitted by at least one Chinese official. Also given the fact that the practices of organ harvesting and trafficking are quite profitable, that there is a limit to the transparency and accountability of criminal law procedures from outside perusal, and a limit placed upon accused persons within the legal process, the likelihood of a frugal organ trade facilitated by Chinese authorities may very well exist. Yet, with the lack of prima facie evidence, the Western practice of innocent until proven guilty must be extended to the State of China, and as such, a clear statement cannot be made, unless appropriate, impartial evidence is provided. The ‘secrecy’ within which the Chinese legal system operates adds to conspiracy.

### **Annotated Bibliography**

Abrahamson, Daniel N. 1992. “Capital Punishment in Post Colonial Hong Kong: Issues, Answers & Options.” *New York University Journal of International Law & Politics* 24 (3):1219-1252.

Annotation: The article examines the transition of Hong Kong as a Special Administrative Region under the direct authority of the Peoples’ Republic of China and the implications for the legal system in Hong Kong with regard to the Death Penalty. The author identifies a contrast in the legal system that dominated Colonial Hong Kong (British legal system/ common law system) and the People’s Republic of China (based on statutory law). While he is by no means supportive of China’s stance on Capital Punishment, he makes a genuine attempt to understand the origin of China’s Capital Punishment. He identifies that capital Punishment in China has been shaped by “ancient schools of Legalism and Confucianism which rejected the concept of fixed and universal human rights and that the ruler’s right to make law is absolute.” As a result, no individual rights can limit the power of the state. Capital punishment the author says is based on utilitarian grounds in that execution serves as a tool to deter individuals from committing crime, thus maintaining order, making China safer and preserves the citizen’s faith in the power of the State. The author’s examination of the issue raises questions as to whether Capital punishment is legitimately immoral or is that the view of the West. The validity of his arguments are compromised by his questionable choice and use of particular sources of data namely Amnesty International’s Index on the Death Penalty in China.

Amnesty International Canada. 2004. “The Death Penalty in China: Executed According to Law”. *Amnesty International*, Available online: [http://www.amnesty.ca/take\\_action/actions/china-death\\_penalty.php](http://www.amnesty.ca/take_action/actions/china-death_penalty.php).

Annotation: In this article, Amnesty International examines the secretive nature of the Death Penalty in China and more importantly violations in the legal proceedings, which lead to

innocents being executed. The report documents certain abuses of legal rights that include no immediate access to lawyers and inadequate legal representation, the use of torture to extract confessions for use of evidence in court and minimal or legal training of judges, which in turn make capital punishment more convenient for the Chinese government to enforce. Furthermore it examines the violations of prisoners' rights. While in the Report Amnesty International uses a number of documented cases, there is a lack of quantitative data (statistics regarding number of inmates who have been executed). Its findings are more qualitative in nature. This is as a result of Chinese secret legislation that allows them to keep such information undisclosed. The article concludes with recommendations on international standards and law that the Chinese government should comply with and legal reform of the Chinese Judicial system.

Anderson, Mark F. 2000. "The Prisoner as an Organ Donor." *Syracuse Law Review* 50:951-956.

Annotation: The author is not in favor of the death penalty and so is against the use of prisoners' organs on moral and ethical grounds. He believes that the implementation of such a program will encourage the use of capital punishment. He argues that it is morally unjustifiable to kill someone to save the life of another.

Angle, Stephen & Svensson, Marina, (ed.) 2001. The Chinese Human Rights Reader: Documents and Commentary, 1900-2001. New York: M.E. Sharpe Inc.

Annotation: This book utilizes a historical approach to examining human rights in China. It traces the human rights discourse from the beginning of the 20th century to present times through a series of essays. These essays highlight various interpretations of rights. In addition close attention is paid to the civil rights of individuals in China. The authors all endorse the call for the reform of the Chinese government and the Criminal Procedure so as to improve the human rights condition. In addition, the authors believe that International Organizations can play a huge part in lobbying for reforms.

Belkin, Ira. 2000. "China's Criminal Justice System: A Work in Progress." *Washington Journal of Modern China*: 61-87.

Annotation: The author, Ira Belkin is an American Prosecutor who was on an exchange programme in China working with Chinese prosecutors about their Criminal Justice system. She makes a critical appraisal of Chinese Criminal Justice System, acknowledging that China has been making attempts to reform the legal system. The author gives a clear indication of how the current legal system works and details the procedures for criminal prosecution. She also notes that the Chinese legal system is "a civil society system as opposed to a common law system, with only statutory laws, not case laws and judicial decisions do not have any legally binding precedential effect." While the author believes that China is genuinely attempting to reform the legal system, it is indicated that the current system is not one based on fairness or up to international standards. As a result of this it would be uncomplicated for

the Chinese government to abuse the use of organ harvesting in prisoners and other violations against them. The author cleverly admits that through Western eyes, it is easy to see deficiencies and understand the uproar that is being made with regard to the violation of prisoners' rights, the paper is in no way written with a bias but rather she states the facts and tries to give plausible answers for the state of China's legal system.

Branigan, Tania. 2009. "China admits that Executed Prisoners provide most of the Countries Donated Organs." *The New York Daily News*, (August 26).

Annotation: In this article, dated August 26th, 2009, the journalists quotes the Vice health Minister Huang Jiefu as reporting that "Most transplant organs are taken from executed prisoners but with prior consent." Through this article, the issue at hand gains credibility, but with the Minister mentioning that consent to harvest organs is given prior to the sentence being carried out, this leaves a question mark as to whether there is indeed a violation or ethical concern. Moreover the article states that the Red Cross is trying to effect change by encouraging donations or organs from the public. This is perhaps an excellent example of how solutions can be found at the level of civil society by networking. Thus developing a holistic approach, that is at the national and international level is what is needed to effect change and ensure that human rights are not violated.

British Medical Association. 1992. *Medicine Betrayed: The Participation of Doctors in Human Rights Abuses*. London: Zed Books.

Annotation: The book examines different of human rights abuses that medical practitioners engage in a number of countries. The author uses the ethical standards and International law to show how doctors who engage in various practices are violating human rights and the obligation to guarantee the safety and health of their patients. The chapter on Corporal and Capital punishment suggest that the use of prisoners' organs in China is not a theoretical suggestion but a practical reality and that direct medical involvement is a real possibility. Utilizing a study done by a surgeon at Hong Kong University they solidify their claim by identifying that the fact that prospective recipients can be given appointments for their transplant indicated either that they were schedule to receive live donors or from executed prisoners. This book gives credibility to the issue of illegal organ harvesting in China.

Cameron J.S, Hoffenberg R. 1999. "The Ethics of Organ Transplantation Reconsidered: Paid Organ Donation and the Use of Executed Prisoners as Donors." *Kidney International* (55):724-732.

Annotation: In Cameron and Hoffenberg's commentary, they examine the arguments for and against the practice of paid organ donation and the use of organs from judicially executed prisoners. In their paper, they solicit that the current ethical debate be reasoned on both issues. The main argument of the paper is that the overall disgust and revulsion of the practices has arisen largely from the abuse of the process, rather than the acts themselves,

coupled with mass opposition to the death penalty. This paper is very academic in nature and does not show any partiality to the concerns raised.

Clarke, D.C. Feinerman, J.V 1995. "Antagonistic Contradictions: Criminal Law & Human Rights in China." *The China Quarterly* 141:135-154.

Annotation: This article gives an overview of issues of criminal law and human rights as they affect Chinese society. It first gives a concise description of the Chinese legal system, describing in detail its Criminal Law and Criminal Procedures. In examining the Criminal law and Proceedings they show there is serious potential for abuse of civil liberties especially with regard to the current criminal procedures. They then look at China within the International Human Rights Framework. The author indicates that while China has documented in their Constitution provisions that allow for freedom of speech, religion, elimination of racism, freedom of assembly and association that are also found in the Universal Declaration on Human Rights, there are many breaches. The articles states the view that the proper development of a human rights consciousness in China is difficult to achieve due to the contradictions within their legal system and more so due to the law and its institutions being tied to party and politics.

Coplan, Arthur. 2004. Ethics for Organ Transplantation.  
[http://www.ahc.umn.edu/img/assets/26104/Organ\\_Transplantation.pdf](http://www.ahc.umn.edu/img/assets/26104/Organ_Transplantation.pdf).

Annotation: Essentially this is a bioethical article that examines medical, ethical and legal concerns surrounding the transplantation of organs. However provides good detailed information on the use of cadaveric (dead body) organ donation and identifies the uses of organs from prisoners who are put to death as a strategy under consideration to increase the number of available cadaveric organs. He examines the arguments both for and against the use of executed prisoners' organs. Arguments in favor include the following; that it is the execution that is morally unsound and not the organ removal; in light of organ shortage, not to use the organs for transplant would be wasteful, that it is allowable once there is legal consent and not the means by which the prisoner is killed, that it is justifiable if a presumed consent donation practice is enforced. On the negative side, some of the concerns are centered on the notion that it is a morally, objectionable practice. The article takes a very academic stance and credibly backs up any arguments or concerns raised.

The Eighth National People's Congress of China. 1977. "Criminal Law of the People's Republic of China." Available online: <http://www.cecc.gov/pages/newlaws/criminal/LawENG.php>.

Annotation: This article was translated by the US Congress Department and of particular interest was Section 5 on the death penalty, Article 48-51. Overall the source gives a clear and simple overview of the law to such an extent that those unfamiliar with legal jargon can comprehend it without much difficulty. However, though the simplicity of the writing may have achieved its goal at reaching the uninformed and legally unattached reader, this technique has oversimplified and has diluted proper comprehension of the law. An example



of the peril of oversimplification is Article 48, which is not appropriately explained. It uses the expression “extremely serious crimes” which is not sufficient for the proper appreciation of the law. It should have specified the crimes deserving of the death penalty, which was very much applicable for the knowledge of the reader. Nonetheless, the document gives a summary of the bodies responsible for deciding cases for the death penalty and mitigating factors associated with such a crime in China. It speaks on suspended sentences and situations that may mitigate or aggravate said sentences.

Gelatt, Timothy. 1993. *Criminal Justice with Chinese Characteristics: China’s Criminal Process and Violations of Human Rights*. New York: Lawyers Committee for Human Rights.

Annotation: The author examines the repressive nature of criminal law in China and raises concerns that such a legal structure violates fundamental human rights. He identifies key institutions within the Chinese legal system and shows that by nature they are repressive. Gelatt also addresses human rights issues and makes recommendations for reform.

Hedges, Stephen & Gaines, William. 2000. “Donor Bodies Milled into Growing Profits.” *Chicago Tribune*, (May 21).

Annotation: In this newspaper article, from the Chicago Tribune, the journalists identify that the tissue transplant industry is a predatory and unregulated one with few checks and balances. Furthermore there are huge profits to be made. Organ and tissue transplants is identified as a lucrative business not because of the benefits to genuinely sick victims but rather for more superficial uses such as knee replacements, cosmetic surgery and the testing and manufacturing of new drugs. While the article is drawing strongly on the situation in America, it makes the reader aware of how alarming any situation involving organ and tissue transplant can become if not properly monitored. This is very pertinent to examining the organ harvesting trade in China because it not only raises questions about the unethical practices but it also gives credibility to the point that given the profit to be made there is reasonable evidence to suggest the growing trend in China’s organ trade and by extension an increase in executions.

Hinkle, W. 2002. “Giving Until It Hurts: Prisoners Are Not the Answer to the National Organ Shortage.” *Indiana Law Review* 53 (35):593-619.

Annotation: While Hinkle recognizes that there is a shortage of transplantable organs, he does not believe that the answer to the problem is the utilization of prisoners’ organs whether they are living or dead. He believes that such a consideration is “irrational”. In this article he examines procurement practices for organs in China, legislation regarding organ harvesting from executed prisoners in the United States, the arguments of medical physicians such as the practice has a high risk of transmittable diseases and the overall negative effect it would have on the public’s view of organ harvesting. He believes that other solutions should

be utilized to solve the problem of organ shortage. His arguments indicate that the sale of organs exploits and support execution of prisoners.

International Committee for the Red Cross. 1997. "The Bellagio Task Force Report on Transplantation, Bodily Integrity & the International Traffic in Organs."  
<http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList302/87DC95FCA3C3D63EC1256B66005B3F6C>.

Annotation: The Bellagio Task Force report addresses two main issues namely the commercialization of organs from paid donors and the use of organs taken from either executed or voluntary living prisoners. The Report states that commercialization of organ trade puts deprived people further at risks. Executed prisoners form part of the group that becomes vulnerable members of society with the commercialization of organ transplants especially in a country like China. In addition it states that transparency and fairness cannot be assured. The report highlights that while International Humanitarian Law agrees that the issue is unethical, these instruments do not properly address the concerns in a significant manner. They fail to provide a rationale for their position; there are no supporting arguments, they contain no provisions for enforcement or how policies should be implemented or penalties imposed for violations. The article therefore identifies clearly the lack of proper international legal instruments to deal with the dilemma of illegal organ harvesting. In scrutinizing the issue in China, the report brings to light the arguments put forward in favor of the harvesting of organs from prisoners, namely, that death will occur anyway, if not utilized, the organs will be wasted, the state has the legal right to not only execute the prisoner but also remove organs for a socially constructive purpose and that it gives the criminals a chance to redeem themselves. But the report implicitly states that the objects outweigh the benefits and this is promulgated by the fact that in China the process is hidden and therefore subject to gross abuse.

Kuhn, Jeffrey. 2003. "Three Views of Organ Procurement Policy: Moving Ahead or Giving up?" *Kennedy Institute of Ethics Journal* 13 (1):45-50.

Annotation: Jeffery Kuhn, demonstrates in his articles that there is an inadequate supply of organs for transplant and as a result there is a long waiting lists of patients. It is his opinion that schemes can be introduced to allow for the sale of organs, by advocating a market approach and change in social culture. But like most individuals writing from the bioethical perspective, the fact remains that any policy implemented may encourage the exploitation of those donors both living and dead.

Matas, David & Kilgour, David. 2006. "Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China" Ottawa: Falun Dafa Information Centre. Available online:  
<http://www.david-kilgour.com/2006/Kilgour-Matas-organ-harvesting-rpt-July6-eng.pdf>.

Annotation: While the title of this document speaks for itself, the authors also identify that many prisoners who are practitioners of Falun Gong are victims of organ harvesting. They

highlight the difficulty in gathering solid evidence and they identify that this is due to China's no access to information legislation and prohibition of meeting prisoners.

Miller, R.B. 1999. "Ethics of Paid Organ Donation and the Use of Executed Prisoners as Donors: A Dialectic with Professors Cameron and Hoffenberg." *Kidney International* (55):733-737.

Annotation: Miller's article gives a commentary on Cameron and Hoffenberg's article.. He takes a slightly different slant and believes that only under certain conditions should the practice be allowed. Miller states that it could be argued to be ethically permissible for death row prisoners to donate an organ upon execution to a relative or friend, but not to a stranger or unrelated individual. He states his position as, "I would allow the transplantation of deceased prisoners' organs if, and only if, the society had a universal presumed-consent policy for all members of the society."

National Attorneys' Committee for Transplant Awareness Inc. 2001. "Organ and Tissue Donation and Transplantation: A Legal Perspective." Available online:  
<http://www.transweb.org/reference/articles/donation/nacta.html>.

Annotation: The author identifies that China has vehemently denied the existence of the 1984 Rule because acknowledgement of this would be an admission of financial gains from prisoner's organs. While the author recognizes that the World Health Organization regards the trade in body parts as a violation, "The human body and its parts cannot be the subject of Commercial transactions" and that various Medical Associations supports this view, the writer contends that lack of international conventions has a huge impact on the unregulated trade in China. The author presses for transparency and fairness and reiterates that this can only be achieved with the introduction of proper international human rights law. While the article raises some deep questions in dealing with the situation, it doesn't directly target the legal implications of the situation.

Palmer, L.J. 1998. "Capital Punishment A Utilitarian Proposal for Recycling Transplantable Organs As Part of a Capital Felon's Death Sentence." *University of West Los Angeles Law Review* 29 (1).

Annotation: Palmer argues in favor for the consideration of harvesting organs from executed prisoners. By examining the history of rights or corpses and the current practice in China, he makes a case for organ harvesting. He is of the firm opinion that not utilizing the organs from prisoners is seen as wasting and he believes that more individuals would benefit in the long run from utilizing prisoners' organs. For example he notes, "One executed prisoner can save at least 8 lives and help as many as 75 others." He recommends that organ transplantation should be used as part of a convicted offender's sentence. He justifies his proposal with three fundamental principles of punishment currently in place: deterrence, retribution and restitution.

Patton, L.M. 1996. "A Call for Common Sense: Organ Donation & the Executed Prisoner." *Virginia Journal of Social Policy and Laws* 3:432-443.

Annotation: The main thesis of her discussion centers on the viability and potential that the death penalty carries in conjunction with an organ procurement plan. She adopts a historical approach with regard to the practice in the United States. Then she makes a comparison with current methods of execution. The author believes that prisoners' organs can be harvested but she affirms that the method of execution must be changed to be compatible with organ procurement. She concludes by examining the ethical and practical issues doctors would face in being involved in such procedures. While the article gives credible and justifiable reasons to implement such a policy, it does not look at the negative implications in detail. Moreover she provides policy considerations and recommendations and this serves to oversimplify the process.

Potter, Pitman. 2001. *The Chinese Legal System: Globalization and Local Legal Culture*. New York: Routledge.

Annotation: The book examines the major features of the Chinese Legal System and identifies changes and reforms that it has undergone since 1978. Potter indicates that China's policies and practices are not keeping its claim to respect human rights and many of its judicial practices fall short of international standards. The author is impartial in his writing as he acknowledges that China has come a long way in legal reform and is continuing to do so.

Scheper-Hughes, Nancy & Wacquant, Loic, (ed). 2004. Commodifying Bodies. London: Sage Publications.

Annotation: The contributors to this book deals with various aspects of organ harvesting such as cells, sperm banks and kidneys and a central theme is the notion of the human body as profitable merchandise. However, the piece in this book that was most important to this paper was "Bodies for Sale -Whole or in Parts" by Nancy Scheper-Hughes. She argues that medical practitioners and recent advancement in medical sciences has aided in commodifying organ harvesting and thus is has become a lucrative business for anyone who has the resources to indulge. She identifies the development or transplant tourism as a result of international trafficking in organs. The general theme of the book is centered on the moral and ethical concerns of organ harvesting.

Svensson, Marina. 2002. Debating Human Rights in China: Conceptual and Political History. Maryland: Rowman & Littlefield Publishers Inc.

Annotation: The author argues that if one is to trace the history of China, the concept of Human Rights has always been prevalent in the political discourse. She examines the relationships that exist between current domestic laws in China and international human

rights instruments. This book gives a comprehensive idea of human rights in China as it gives both the Western perspective and Chinese view.

The United Nations General Assembly. 1990. A/Res/45/III: “The Basic Principles for the Treatment of Prisoners.” United Nations.

Annotation: In seeking to document some of the basic principles to be subscribed to for the treatment of prisoners, this Resolution – building upon previous resolutions and submissions from various International civil bodies outlines inter alia, that a prisoner should not be discriminated against, and should be allowed certain rights to allow for successful restorative and re-integrative purposes. Sections 1 and 5 of this document speak with greater pertinence to this essay as it emphasizes the fundamental principles of treatment as outlined by the Universal Declaration of Human Rights.

The United States House of Representatives. 2001. “Organs for Sale: China’s Growing Trade and Ultimate Violation of Prisoners rights: Hearing before the Sub-committee on International Operations and Human Rights.” United States House of Congress.

Annotation: The document speaks on allegations of organ trade particularly in China before the first Session of the 107th Congress. Though there is mention of cases to highlight an alleged growing trend of executing prisoners in Chinese prisons and harvesting their body organs for profit, there is no sufficient evidence to meet the claims on this issue. . The document identifies witnesses who in some way gained knowledge of alleged human rights infringements relative to organ harvesting. However, the report provides no evidence to adequately convince the reasonable reader of the scale of organ harvesting practice in China’s prisons. While the document gives an initial outline of the alleged practice, it cannot on its own be used as a proper source for substantiating the question of the practice.

Wan, Ming. 2001. Human Rights in Chinese Foreign Relations: Defining and Defending National Interests. Philadelphia: University of Pennsylvania Press.

Annotation: The author examines the discourse between the West and China regarding the issue of human rights. The book evaluates China’s human rights relations with the United States, Western Europe, Japan and the United Nations’ human rights system. The author indicates that whenever there is external pressure due to domestic human rights abuses, China is able to deflect from the situation by making compromises and offering economic enticements to some of the states that are exercising international pressure on them. In sum, China is able to use economic power to digress from human rights concerns in the international arena and so continue with its violating practices.