

共產黨的慈善事業

關於中國摘取死囚器官的調查報告

Communist Charity

A Comprehensive Report on the Harvesting of Organs

From the Executed Prisoners of the
People's Republic of China



勞改基金會

華盛頓

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*A Comprehensive Report on the
Harvesting of Organs from the
Executed Prisoners of the
People's Republic of China*

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Cover: *Provisional Regulations on the Use of Dead Bodies or Organs from Condemned
Criminals*

Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice, Ministry of Public Health, Ministry of Civil Affairs, October 9, 1984

Photograph: Public execution in Chengdu, Sichuan province, 1989

A c k n o w l e d g e m e n t s

Several individuals have dedicated much time and effort in production of this report. The primary research and initiative began with Mr. Harry Wu who has spent countless hours gathering information and conducting interviews. Mr. Wu serves as a source of inspiration to every individual who has contributed to this report.

Further research was conducted by the staff of the Laogai Research Foundation including Yael Fuchs and Faith Lynn. Van Ly and Nicole Hess served as research assistants. The report was written by Faith Lynn. David Welker, Yael Fuchs and Tienchi Martin-Liao served as editors of the report. Tienchi Martin-Liao and Faith Lynn also contributed much time in gathering and translating articles from the *Chinese Journal of Organ Transplantation*.

The Foundation must also thank several individuals for their guidance and support including Jeff Fiedler, Mark Anderson, Maranda Yen, Representatives Frank Wolf, Nancy Pelosi, Dan Burton and Chris Smith, Senator Paul Wellstone and Senator Jesse Helms. We also thank Amnesty International for providing the Foundation and the world with accurate and meticulous reporting on the death penalty in China.

It is also important to recognize the many individuals and organizations who have contributed information without which this report would not be possible. The Laogai Research Foundation thanks the following media organization for their willingness to publish articles and spread awareness on this issue: The South China Morning Post, ABC, Agence France Presse, BBC, International Herald Tribune and the Eastern Express. The Foundation also thanks the following individuals for their courage and willingness to cooperate with both the United States Congress and the Laogai Research Foundation in offering their testimonies for public record including: Tsuyoshi Awaya, Dr. Phaibul Jitpraphai, Somporn Lorgeranon, Dr. David Rothman, Jiaporn Yoonuch and Dr. David Guttman.

The Foundation also extends its deepest gratitude to all those who offered their testimonies and information for publication in this report who due to fear of persecution must remain anonymous. This report is dedicated to all of these, and to the cause of ending all such egregious abuses of human rights in China.

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A Preface from Harry Wu

In November 1985, a few months before I came to America, a friend gave me a copy of a classified Communist Party document entitled *Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals* (see Attachment 1.1). This document was so sensitive that it was not even circulated more widely within the Chinese government until 1991. Reading the document, I was filled with both relief and fear. A sense of relief came from thinking about what would have happened if I had been caught trying to escape from the Laogai -China's Gulag, where I had spent nineteen years (1960-1979), and knowing I was now out and about to leave the country. Fear came from thinking about what would happen if I were to be arrested again and charged with a new "counterrevolutionary crime." They could charge me with "vilifying Chairman Mao, the Great Leader" and sentence me to death.

In the Laogai, the space between life and death is often paper thin. I knew that if I had died my family might never be told of my fate. Besides, the communists had forced them to completely disown me so even if they knew I had died in the camps they would never claim my body or even inquire about whether I was buried or cremated. Such was the cruel reality for prisoners of my era.

Now reading this secret document I knew that if I had been executed my organs would have been harvested for transplantation into the body of someone else, and then the rest of me tossed into a furnace as waste to be disposed of quickly. Only later did I learn that the most likely recipients would be high-level communist cadres or overseas Chinese who could pay tens of thousands of dollars. No one would remember me as an "organ donor" - a term that connotes a caring person in the West, not a faceless, nameless prisoner as in China.

An unknown number of lives have been converted to ashes in this macabre fashion in China. And, who remembers them?

Before I go further, it should be understood that I am a voluntary organ donor as evidenced by the red heart on my driver's license. I wish to donate my organs to those who need them. I want others to enjoy a full life. This is my right, my dignity, the way I identify myself with my civilized community. My decision, like thousands of others in America, is voluntary.

To the Chinese Communist Party human life is but a material phenomenon - something that is there one moment and gone in another. In the Laogai, whenever an inmate killed himself out of despair, the jailers would say, "No big thing - just a piece of land turned foul." During my nineteen in the camps I heard this refrain over and over and over again.

It is in this context that the Chinese communist party developed its policy about the use of executed prisoners' organs.

When I read this secret document in 1985, I understood immediately that the government would make unbridled use of executed prisoners' organs. Indeed, not only is it happening today it is continually expanding. If a wealthy, or well-connected patient needs a kidney, no problem. His doctor will tell him, "Just wait for the next execution."

The increase in transplant surgery using organs extracted from executed prisoners parallels two phenomena: medical advances and a rise in the number of executions. Another important factor is that most Chinese want their bodies buried intact. Thus, voluntary organ donation is virtually non-existent.

The harvesting of executed prisoners is an open secret in China. In fact, the overwhelming majority of the Chinese people accept this reality. Such is the sad legacy of communist rule in China.

The most shocking reality is that the entire effort in China is a government enterprise, a business. The foundation of the business is China's criminal code - laws established to consolidate the Party's domination and ensure social order. Prisoners are sentenced and then executed under these laws - laws and procedures that ignore all norms of due process. Then doctors extract the executed prisoner's organs according to a formal policy of the government. The hospitals where the transplants are performed are owned and operated by the government, many with special wings for overseas transplant patients. All of the physicians are government employees. Many are party members. What has not been siphoned off through payoffs, goes into government coffers. In no other country in the world have we seen even a remotely similar system.

It was this business, this money making machine I wanted to see firsthand. So, in April 1994 my wife and I, posing as the relatives of a patient in need of a new kidney, traveled to China. We visited the hospital attached to Tongji Medical University in Wuhan and sought help for our "relative" in America. We met with Dr. Xia Suisheng, a pioneer transplant surgeon on the staff of the hospital and the University. He welcomed us and guaranteed us that the surgery would be "perfect." Dr. Xia assured us that the staff had extensive experience and a supply of "first class" kidneys. He claimed to be restricted by government regulations concerning revealing the source of the kidney, and urged us not to worry about it.

Touring the transplant ward we talked with five recovering patients. They had just received new kidneys. They told us explicitly their kidneys had come from executed prisoners. We videotaped these interviews. When our last interview was ending, Dr. Xia burst into the ward and yelled, "How dare you let them in!" We were ordered out. To us, it was clear, he was worried about what we would learn.

We also witnessed how grateful the patients were to the doctors for the successful surgery. This made me think - the physicians efforts on behalf of the patients cannot be denied. After all, these people now have a chance for a better life. I also questioned myself. When I expose the atrocity of the Chinese system of harvesting prisoners' organs, am I to denounce these doctors as well?

Two transplant surgeons at Zhongshan Medical University in Guangzhou have said: "We are physicians. We are not interested in how the prisoners are executed and how their organs are extracted. Wouldn't it be a waste to cremate their organs? A man dies and becomes a thing. We use the waste to restore a patient's health!"

I could not help but recall my visit to Auschwitz. I thought then: 'What if I had been a physician in 1943 or 1944 who loathed the Nazi policy of exterminating the Jews and other "inferior races." But I was a medical researcher specializing in the rescue of sailors from icy water. I have used animals in my research, but here are thousands upon thousands of people being herded into the gas chambers every day. I think, why not use them for experiments, they are going to die anyway. With the consent of camp officials I solicit volunteers for my experiments by saying: "You won't necessarily escape death, but at least you won't be gassed right away, and there is the possibility you will survive." I am certain I would find "volunteers."

When the Nazi regime was defeated, all twenty-three physicians put on trial at Nuremberg defended themselves with the argument that all prisoners joined their experiments voluntarily, and they were conducting experiments to benefit human beings.

These arguments fell on deaf ears and the physicians were convicted. The judges stated clearly that

prisoners, deprived of their freedom and threatened by fear and violence cannot make a “voluntary” decision.

The use of executed prisoners’ organ is obviously not the same as Nazi experiments on live human beings, but the inclination of physicians to rationalize the good that comes from an evil they cannot affect is similar. Many of the physicians I have spoken with quickly seize on the fact that the condemned prisoner has “voluntarily consented” to donate their organs. Even if it were true, it is a sham. In my view, the physicians are violating basic medical ethics. They are directly involved in violating a person’s basic human rights. They are witting participants in a unique atrocity. They must be denounced.

The Chinese communist regime executes more prisoners every year than any other country. This produces a huge number of organs to harvest. It is unprecedented that a government has profited from this harvesting on the scale that it has for as long as it has.

When you finish reading this report I urge you to ask yourself - Can I remain silent any longer about such atrocities that reject human dignity and morality and tarnish civilization?

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Harry Wu was born in Shanghai in 1937, into a well-educated and prominent family. When the Communists swept through China to destroy or neutralize all of their opponents, Harry Wu was arrested and sentenced to be "reeducated" to banish his "counterrevolutionary" thoughts. He was sent to a series of slave labor camps. It was in these camps that he endured back-breaking work and was literally starved to the point that he gnawed on anything he could find in a field -- including snakes and grass. He watched as scores of his friends and colleagues died from starvation, disease or constant brutality.

It was not until 1979 -- nineteen horrible years after he was imprisoned -- that he was finally set free. But once his freedom was restored, Harry Wu fought back.

He came to the United States and established the Laogai Research Foundation to bring to light the tragedies that befall innocent Chinese citizens every day in Chinese prisons. It is his mission to tell the story of the countless thousands of Chinese who have suffered in these camps.

In 1991, Harry and his wife returned to China to gather evidence to prove to the world that the events in the Laogai were indeed taking place. While there, he acquired documentation of the horrible conditions in the labor camps. He took motion picture films and still photos and conducted countless interviews. Upon his return to the United States, Harry testified before the Senate Foreign Relations Committee, and documented, step-by-step, these abuses.

The issue of organ harvesting among the executed prisoners of China is one that for years has remained shrouded in secrecy. When human rights organizations and governments have attempted to confront China on this issue, the practice is flatly denied and someone is accused of interfering in China's internal affairs. However with the release of this fully researched and well-documented report on the topic of organ harvesting, it is no longer reasonable to accept such denials from the Chinese government. This report reveals not only how this practice has been perpetrated in China, but also how the communist government has aided, abetted and indeed profited in every step of the way. As citizens of the free world in Taiwan, Thailand and elsewhere purchase these organs for transplantation, the Chinese government gains greater incentive to continue this atrocity and even to expand it in order to further increase their profits.

In light of this newly revealed information, the time has come to proclaim strongly that it is no longer enough for US policy on human rights in China to involve only an agenda of economic engagement. Further action by the United States Congress and the Administration is not only warranted, but necessary.

Because of Harry Wu's courage, the appalling conditions of the Chinese slave labor camps received national and international attention.

Among the most gruesome of practices that Harry uncovered was the sale of body organs of executed Chinese political prisoners.

A person in need of an organ transplant needs only to travel to China, present \$30,000 in U.S. cash, and receive an organ for transplant within hours. Harry risked his life in telling this story to Congress and to the world. The Chinese Communists have arrested him, charged him with committing crimes against the State, and kept him detained for months.

Harry's life story has caused countless Americans to think about the blessing of freedom.

Harry Wu is a remarkable man whom I greatly respect, and in this important new update on the Communist Chinese government's odious practice of organ harvesting, Harry has once again tweaked the conscience of a world that has, alas, been all too willing to turn a blind eye to these atrocities.

A handwritten signature in black ink that reads "Jesse Helms". The signature is fluid and cursive, with the first name "Jesse" and last name "Helms" clearly distinguishable.

Jesse Helms (R-NC) is Chairman of the Senate Foreign Relations Committee. He was the first United States Senator to document and expose the harvesting of organs from executed prisoners in China.

PAUL D. WELLSTONE
MINNESOTA

MINNESOTA TOLL FREE NUMBER:
1-800-642-6041

United States Senate
WASHINGTON, DC 20510-2303

COMMITTEES:
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The Laogai Research Foundation Report documents one of the most egregious human rights violations on record today: the harvesting of organs from executed prisoners. The use of organs extracted from death row prisoners violates international principles of human rights and medical ethics as well as the humanity of prisoners. It appears, regrettably, to be a source of profit for some in the Chinese government.

This report would not have been possible without countless hours of interviews of former transplant doctors by Harry Wu and his extraordinary dedication to the dignity of men and women from all levels and stations of life. Full of testimonials, first-hand accounts, and statistics that add to its credibility, the report condemns both organ harvesting and its link to capital punishment.

The Chinese government can no longer credibly deny reports of organ harvesting in the face of this report. Nor can we ignore the practice. China appears to have legalized organ harvesting from executed prisoners in a secret 1984 law. The government is clearly aware of the grossly offensive nature of this practice and has sought to cover it up. The Laogai Research Foundation has provided courageous leadership in uncovering this issue. Its report is a strong call to action to bring this barbarism to a rapid end.



Senator Paul Wellstone
Washington, DC

☐ HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2303
(202) 224-5641

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Communist Charity

共產黨的慈善事業

*A Comprehensive Report on the
Harvesting of Organs from the
Executed Prisoners of the
People's Republic of China*

In the 1980s, the Chinese Communist Party conceived for its hospitals, the military and its prison system a new revenue-generating scheme to partially relieve the burden of government spending in the face of China's ever failing state-sector economy. The Party intentionally and painstakingly coordinated the efforts of these several government-controlled entities, facilitating the for-profit harvesting of organs from executed prisoners for transplant surgeries.

As Deng Xiaoping took power in 1979 promoting the reforms of the "open door" policy, Chinese authorities established new provisions whereby certain state-sector institutions, including hospitals, were to become increasingly responsible for devising means to gain non-governmental sources of revenue. Hospital staff and medical personal were pressed to provide funds for staff bonuses, travel, research supplies, and new technology.

Soon thereafter in 1985 the drug cyclosporine-A was first introduced in China, offering higher success rates among transplant patients. This drug moderates the body's immune response while not suppressing the immune system's reaction to truly infectious agents, thereby decreasing the chances of rejection of newly transplanted organs.¹ Advancements in Chinese medical expertise in transplant procedures coupled with this introduction of new drugs gave rise to the opportunity of regular, successful transplant operations in the country.

At the same time, the policies of China's Strike Hard Campaign (*yanda*), led to a massive increase in the application of the death penalty (details of the Strike Hard Campaign will be discussed later in this report). Such "anti-crime campaigns" quickly became a permanent policy of the public security apparatus, replacing the social control previously maintained through mass-movement political campaigns of the Mao Zedong era.

Inside the medical community and the prison administration, authorities recognized that increased availability for successful organ transplantation would stimulate demand for organs and that healthy organs from executed prisoners could serve as a resource to meet this demand. As a result of such medical advancements and economic belt-tightening, the confluence of "supply and demand" made it possible for those with adequate economic or political resources to broker a deal to purchase organs from death row prisoners in China.

In the early 1990s when shocking reports began to surface in the Western media about organ harvesting among executed prisoners, such allegations were regarded as comparable to the medical experiments of Hitler's Nazi Germany and Imperial Japan. In 1994, the British Broadcasting Corporation released a report probing deeper to uncover the details of a procedure by which the Chinese government, as a matter of national policy, harvests the organs of executed prisoners for use in transplant surgeries for privileged Chinese and foreign citizens. As quickly as such reports became public, Chinese authorities denied all allegations of the practice, refusing to answer the questions of activists and international leaders. As human rights organizations and the media continued to report on this egregious practice, the rumors of organ harvesting developed into an open secret in the background of human rights abuses in China.

Despite China's efforts to cover up and deny reports of organ harvesting, during the 1990s, nearly every major human rights organization that publishes reports on China has included some fragmented mention of the practice. Each report exposes one more piece of the puzzle and brings the world one step

closer to revealing the truth regarding organ harvesting in China. In this report, the Laogai Research Foundation intends to bring together all the fragmented details of the past into one comprehensive report. The following presentation encompasses years of research involving case studies, personal interviews, government documents and open source press materials that explain the details of the process of organ harvesting and how this practice continues in China today. It will also bring new evidence to light, confirming the persistence and the development of the practice in China today.

This report will first examine the history of China's organ trade, showing how the practice developed. Next, it will discuss institutions of capital punishment in China and the unjust judiciary that perpetuate the practice. This will be followed by a detailed explanation tracking the procedure of organ harvesting from the death row chambers of China's prisons, to the site of execution, to the operating room. It will then go on to discuss the ethical ramifications of the system of organ harvesting. Finally, international aspects will be introduced, including China's promotion of the organ trade to patients in the international arena, as well as international responses to the practice. In conclusion, recommendations will be stated in light of the issues to be revealed in this report. Each section will include newly revealed cases of organ harvesting, exposing a system of blatant violations of both ethical principles and international standards of human rights.

¹ Charlotte Ikels, "Kidney Failure and Transplantation in China," *Social Science Medicine*, 44:9 (London: Elsevier Science Ltd., 1997), 1273.

Historical Overview of Transplantation in the People's Republic of China

A Historical Overview of Organ Transplantation in the PRC

China's first experiments with organ transplantation began in the late 1960s through programs with foreign medical advisors involving kidney transplant procedures. It was not until after the death of Chairman Mao Zedong (September 9, 1976) and the end of the turbulent Cultural Revolution that China began its own independent program in the late 1970s. Due to high rates of rejection of transplanted organs, Chinese doctors saw little success in these earlier operations. It was not until the early 1980s when some hospitals began to see organ transplant as an alternative means for profit making and the introduction of Cyclosporine A offered doctors higher success rates that organ transplantation in China truly began to advance.¹

In order to alleviate the scarcity of corpses available for dissection and experimental transplants in medical research, China's Public Health Ministry asserted the legality of the use of organs and cadavers of executed prisoners through promulgation of the "Rules Concerning the Dissection of Corpses" in 1979. This stance was reiterated in 1981 in a reply to an inquiry from the Shaanxi Province High People's Court on the use of corpses from executed prisoners. The Ministry of Justice issued the "Reply Concerning the Question of the Utilization of the Corpses of Criminals Sentenced to Death," in which the practice is described as "very necessary from the standpoint of medical treatment and scientific research." (This document is available in Attachment 1:1 of this report.)²

These earlier rulings of the Chinese government were soon followed by China's first national law on executed prisoners and organs for transplant. In 1984, the Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice, Ministry of Public Health, and the Ministry of Civil Affairs jointly issued the "Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals." This document stipulates the conditions under which health personnel may harvest organs from executed prisoners, how these health personnel are to coordinate with prison and public security officials, and the confidentiality of the process. As an indication of the sensitivity of this government directive, the document was not made public until 1990. Its contents are the legal basis for the Party coordination of disparate government departments in the harvest of prisoners' organs for use in transplantation.³

As China's medical research and competency in organ transplants progressed, the medical and research community founded the nation's first medical journal focusing on organ transplantation in October 1980. The *Chinese Journal of Organ Transplantation* (*Zhonghua qiguan yizhi zazhi* hereafter referred to as *CJOT*) is affiliated with the Chinese Medical Association, which is a member of the World Medical Association. Beginning in 1998, some articles came with English abstracts, but outside of that, the entire circulation is directed at the Chinese speaking medical community. Articles from the Journal provide a vast source of information regarding statistics and procedures for organ transplants in China from the perspective of doctors and researchers practicing in the country today.

Close examination of certain *CJOT* articles also reveals statements implying executed prisoners as the source for the majority of organs available for transplant. Most strikingly, there exists a notable absence of articles offering details on China's supply of organs. In other such journals worldwide, many articles will focus on issues of organ procurement and ethics and also problems with international organ shortages. In the *Chinese Journal of Organ Transplantation*, examination of articles from 1985 to 2000

included only three articles directly addressing the problems regarding organ supply and increasing organ donation among the Chinese population. In some articles focusing on various surgeries and other topics, supply and procurement was sometimes mentioned, but very briefly in the background of a larger unrelated article.

References to demographics of donors also reveal an overwhelming majority of young healthy males for donors of cadaveric kidneys. One article listing statistics for a study of cadaveric kidney transplants performed at the Long March Hospital (*Changzheng yiyuan*) in Shanghai between 1986 to 1990 recorded 135 male donors among 138 cases with an average donor age of twenty-five.⁴ Another article stated an average donor age of 27.6.⁵ In contrast, another article listed statistics for transplants involving live donations from relatives at Tongji Hospital in Wuhan. At this hospital where more than 1,000 kidney transplants were completed by 1998, studies concluded that from 1990 to 1999, only twenty-nine cases (or less than 3%) involved living donors. Ironically, the article also states that live donor transplants offer patients higher success rates.⁶

Although few articles in the *CJOT* list any explanations involving cause of death, certain examples are relevant in regards to procurement of organs from prisoners. One article included a case study at Anhui Medical University of a twenty-one year old donor who died from "external wounds to the brain."⁷ This supports research into executions in China which repeatedly report that prisoners whose organs are used for transplant procedures are typically executed with a gunshot to the back of the head.

For years, Chinese officials have sought to rid themselves of the accusations and censure that this practice has brought them in the international community. Anecdotal and documentary evidence clearly shows that the qualified statements of Chinese officials belie a systematic use of organs from executed prisoners, in which state health officials closely coordinate their efforts with state judicial and police officials. In China, the execution process and the organ procurement process, both shrouded in secrecy, are inextricably linked.

In the course of research, close examination of statistics for executions and kidney transplants in China reveal alarming similarities. Statistics for kidney transplants are found in articles of the *Chinese Journal of Organ Transplantation* and as official statistics, are assumed to be fully accurate. It must be noted however, that these include numbers for kidney transplants only. They do not include the bounty of options in organs and body parts that can be taken from executed prisoners.

In contrast, reporting for executions in China holds no standard of official accuracy. The statistics included below are provided by Amnesty International's yearly reports on the death penalty. Amnesty calculates these estimates from open source reporting of executions throughout China and strongly emphasizes that due to the fact that the Chinese government makes no official reports on the number of yearly executions, true numbers of executions are estimated to be much higher. In their reports Amnesty actually lists such yearly statistics on China as the "minimum" number of executions.

Numbers of executions versus transplants per year will never correlate with perfect consistency because only a portion of those on death row (young and healthy prisoners) will ever become candidates for organ harvesting. Additionally, statistics offered by Amnesty invariably fall short of true totals of executions in China, as detailed above. Amnesty first made statistics available for a minimum count of

executions in China in 1993, quoting a statistic of 2,564 while the *Chinese Journal of Organ Transplantation* stated a figure of 1,552 kidney transplants. In 1994, when Amnesty International recorded 2,050 confirmed executions in China, there were 1,679 kidney transplants. The next year, as the number of reported executions rose to 2,190, the *Chinese Journal of Organ Transplantation* reported an even larger rise in the number of kidney transplants, to 2,382. In 1996, when executions in China soared to new heights with the initiation of the Strike Hard Campaign, Amnesty recorded 4,367 executions. A more modest rise to 2,679 is reported in kidney transplantation. By 1997, figures from Amnesty dropped dramatically to 1,644 executions. Statistics for kidney transplants imply a larger number of executions, as 3,000 transplants were reported in 1997. Finally, in 1998, both statistics again rose, as 1,769 executions were reported and 3,167 kidney transplants.⁸

Although these statistics do not directly correlate between exact numbers of reported executions and exact statistics on kidney transplants, when viewed in the light of other information, the evidence strongly indicates a link between those executed and those receiving transplants. As mentioned above, demographics of donors in articles from China's most reputable journal on transplantation reveal a striking resemblance to the demographics of the population of death row. The 1984 Regulations on the Use of Dead Bodies also testifies to the legality of the process, as well as the secrecy surrounding the procedure. Evidence from outside of China also points to organs that are retrieved from the bodies of executed prisoners. According to Confucian tradition and other tenants of Asian culture, there often exists a high degree of rejection towards the idea of donation in Confucian society at large. Rates of donation in other Asian nations bear testament to this issue as in Singapore where as of 1999, less than one percent of the population was registered to donate their organs.⁹ In Taiwan, drastic organ shortages in the early 1990s also led authorities to resort to prisoners as a source of organs for transplant. The Taiwanese government abandoned the practice very quickly however, after sharp criticism on both the domestic and international fronts.¹⁰

Each year as Amnesty International calculates reports on yearly executions in China, the group maintains that its figures represent only a fraction of true number throughout the nation. As yearly statistics for transplants in China remain on the rise, the above factors present serious questions involving sources of donor organs for such procedures and offer further evidence that statistics of executions in China remain significantly underreported.

Estimates from relevant sources on the number of kidney transplants, as well as other organs, performed with organs extracted from prisoners range as high as 90 percent.¹¹ Throughout this report, such evidence will continue to mount as the research further explores the process of organ harvesting, offering testimonies, more information from Chinese medical journals, news reports and other investigation that clearly points to executed prisoners as a primary source of organs for the purposes of both research and transplantation in China.

¹ Human Rights Watch Asia, *Organ Procurement and Judicial Executions in China*. (New York: Human Rights Watch, 1994), 4–6.

² High Peoples Court, Shaanxi Province, PRC, *Reply Concerning the Question of the Utilization of the Corpses of Criminals Sentenced to Death* (*Guanyu panchu sixing fanren de shiti liyong wenti de fuhan*). Document 136, June

13, 1981.

³ People's Republic of China, Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of Justice, Ministry of Public Health, and Ministry of Civil Affairs, *Provisional Regulations On the Use of Dead Bodies or Organs From Condemned Criminals (Guanyu liyong sixing zuifan shiti huo shiti qiguan de zanxing guiding)*, (October 9, 1984).

For entire document see attachments.

⁴ *Chinese Journal of Organ Transplantation*. Improvements in Surgery Methods for Extraction of Cadaveric Kidneys, 11:3 (April, 1990).

⁵ Meng Yongli, Bai Xiwen, Huang Zuhan, "Report on the Use of Cyclosporine A in 24 Cases of Renal Transplantation," *Chinese Journal of Organ Transplantation*, 8:4 1987.

⁶ Zeng Fanjun. *Chinese Journal of Organ Transplantation (Zhonghua qiguan yizhi zazhi)*, "Report on Twenty-nine Cases of Live-donor Organ Transplants From Close Family Relatives," 21:1 (January, 2000).

⁷ Geng Xiaoping, Meng Xiangling, Xiong Qiru et al. "Orthotropic Liver Transplantation with Extracorporeal Venovenous Bypass: One Case Report," *Chinese Journal of Organ Transplantation (Zhonghua qiguan yizhi zazhi)* 20:2 April, 1999.

⁸ US House of Representatives, International Relations Committee and Governmental Reform and Oversight Committee, *The Sale of Body Parts in the People's Republic of China*, Testimony of Harry Wu, (Washington, DC: GPO, June 4, 1998).

Statistics for death penalty from Amnesty death penalty reports, 1994 – 1999. Statistics on transplantation from *Chinese Journal of Organ Transplantation*.

⁹ National Kidney Foundation of Singapore, "Organ Donation," <Available: Online> www.nkfs.org/advo_mainframe.html. February 16, 2000.

¹⁰ Charlotte Ikels, "Ethical Issues in Organ Procurement in Chinese Societies," *China Journal*. 1997.

¹¹ Amnesty International, *No One is Safe*, 95.

The Chinese System of Execution and the Organ Removal Process

“All judicial and procuratorial departments should conscientiously implement the principle of ‘meting out swift and heavy punishment,’ and leading organs should set good examples.”

- Article by Ren Jianxin in promotion of the “Strike Hard” campaign

The Chinese System of Execution and the Organ Removal Process

Over the years, Beijing has touted several excuses to dismiss or negate its involvement in practices of organ harvesting. One of these many claims states that harvesting of organs only occurs in isolated instances where a few highly corrupt officials in certain prisons are solely to blame. First and foremost, the “Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals” clearly lays out the directive for how varied departments in the medical and judicial structure are to coordinate through the procedures of execution and removal of organs. Additionally, examination of the scope and scale of this practice reveals a highly developed and detailed system that could not function through the efforts of only a few corrupt officials. The organization of officials at all governmental levels from the police to prison guards to doctors requires a coordinated effort for this premeditated crime against human dignity. This section will explain how the Chinese system of capital punishment contributes to and indeed facilitates a system of organ harvesting that undeniably requires the compliance and cooperation of all levels of the Chinese government. This discussion will then be followed by a presentation of one detailed and well-documented case of organ harvesting, revealing how this cooperation still operates in China today.

Strike Hard Campaigns: Execution as a Tool for Political Power

As the Chinese Communist Party strives to retain power and legitimacy, the economic reforms social unrest that accompanied the “open-door” policy has resulted in a series of crackdowns on crime. In these crackdowns, known as “Strike Hard” campaigns (or *yanda*), the Chinese government has increasingly relied on stiff penalties, public trials, and mass executions. China’s record of due process is dismal according to any standard. This record only worsens when viewed in the light of the procedures enforced under a Strike Hard Campaign.

These procedures for carrying out a large-scale Strike Hard Campaign were first outlined in the 1983 “Decision of the National People’s Congress Standing Committee Regarding the Procedure for Rapid Adjudication of Cases Involving Criminal Elements Who Seriously Endanger Public Security.” This document administrates a trial and sentencing process that is to be implemented rapidly and promptly while those accused of a crime are considered guilty before the trial takes place. The legislation also offers courts the right to bring defendants to trial with no issue of prior summons, meaning they will face trial without a lawyer and often without even knowing with what crimes they are charged. Essentially, every step of the Chinese judicial procedure is shortened, allowing even less room for accurate administration of justice.

Furthermore, it is common during Strike Hard Campaigns for local cadres to receive quotas from the Public Security Bureau regulating how many people are to be arrested and sentenced under a Campaign. This often results in pressure upon local cadres and may lead to such abuses as inflicting torture to extort confessions.

Stipulations of the 1983 law also expand the number of crimes that are punishable by death, making it possible for convicted criminals to receive the death penalty for nonviolent crimes including low-level robbery, tax evasion, prostitution, and counterrevolutionary crimes. Labor activists report that the Strike Hard Campaigns have especially targeted the hundreds of millions of migrants who flood Chinese cities every year in search of work and income. The stipulations of Deng Xiaoping’s “open door” policy

allowed for a loosening of the registration system that had previously confined the peasants to the countryside. Under the current policy, although peasants are permitted to leave the countryside and search for work elsewhere, it remains highly difficult for them to acquire urban registration. Without the protection offered by official papers, these members of the so-called “floating population” become easy targets for the authorities.

In times of political tension, Strike Hard campaigns offer the government a tool to manipulate the public and increase governmental control, cracking down on counterrevolutionaries. This system has passed down the thousands of death sentences received in China every year.¹

In this political and economic environment, officials at all levels of the Communist Party structure are acutely aware of the potential for personal gain when presented with the “supply and demand” imbalance regarding transplants in China. Each time a Chinese court passes down a death sentence, officials are aware of the benefits that become available to them. Not only will their superiors be pleased with a high conviction rate, they also know that the more executions are carried out, the more organs will be accessible for harvest, and the more money will be generated in the process.

Throughout the 1990s and into the 21st century, China executed more of its citizens every year than the rest of the world combined. On April 28, 1996, the PRC government implemented a new phase of the Strike Hard campaign, contributing to the death toll of the Chinese system of capital punishment. Through several extensions of its scope and time period, the crackdown continued throughout the next year. According to statistics compiled by Amnesty International, in 1995, Chinese courts handed down 3,110 death sentences and conducted 2,190 executions before the Strike Hard Campaign commenced. By 1996, after implementation of Strike Hard, the number of death sentences nearly doubled to 6,100 and executions to 4,367. Since these numbers are derived from open-source methods of reporting, actual figures are certainly much higher. Nationwide statistics on the death penalty are never published in China and the true number is regarded as a state secret.²

Since its inception, the Chinese Communist Party has used public sentencing rallies and public executions to instill fear in the hearts of all its citizens, linking executions and violence as a tool to increase political power. One unique aspect of this rule-by-fear policy involves an increased number of executions in the days surrounding national holidays. As people come together from all regions of the country to celebrate, the government wields its power, stirring up nationalism and reminding the people of its willingness to use violence to defend the wavering Communist regime. For example, in 1998 an Amnesty International Death Penalty Log records the sentencing and execution of sixteen in Henan Province, and fifteen in the city of Xian both directly after the celebration of Chinese Labor Day on May 1. Other mass executions were held on October 1, Chinese National Day.³

Several recent reports regarding patients from Hong Kong who received liver transplants in China included quotes from doctors testifying to the plentiful supply of organs closer to the time of national holidays. “Our experience tells us that there are many organs before the Lunar New Year and other big holidays. I cannot make it too clear,” reported one doctor, “if you miss this chance, you may have to wait until Labor Day.”⁴

This practice was also confirmed by Wang Chengyong, a former prosecutor from Hainan Prov-

ince who attempted to broker organ transplant packages to patients in the United States.⁵ In investigative interviews with Laogai Research Foundation Executive Director Harry Wu, Wang stated:

...executing criminals during the holidays can frighten criminals and maintain social safety and liberation...Back in China there will definitely be executions before May 1, there is no question about that...There is New Year's Day, it would always be before the holidays. On Spring festival it is also before the holidays, and May Day and National Day...⁶

Wang's statements reveal the manipulative nature of the Chinese system of criminal justice.

The Laogai Research Foundation and Amnesty International have reported on the continuing occurrence of public execution in China, especially during implementation of the Strike Hard Campaigns. It is a practice used for the express purpose of instilling fear within the population through violent displays of power. Chinese authorities label this tactic "Killing the chicken to scare the monkey." It involves the public execution of groups of criminals who are often paraded through the streets and humiliated prior to their death. At the execution ground (often a stadium or other public arena) signboards are hung from the necks of convicted criminals, displaying their names and crimes. Police and executioners often pull the signs tight around the criminals' necks, further torturing them right up until the moment they are executed by a single bullet to the back of the neck.

Evidence indicates that regardless of China's efforts to quell international criticism on use of the death penalty, public executions continue even in cases involving dissent and counterrevolutionaries, linking the process of execution and perpetuation of totalitarian rule in China. The most recent documented reports on public executions in China were released by Amnesty International in 1998 and ironically involved the public execution of eleven political prisoners in the Western province of Xinjiang. All eleven criminals, members of China's Uighur minority, were arrested in connection with riots and violence that had broken out in the Province involving the struggle of the rights of the Uighurs under Chinese rule.⁷ This single event clearly exemplifies China's use of the death penalty as a political tool, using violence to install fear in the hearts of anyone who may dare to consider opposition to Communist rule.

A Case Study in the Chinese System of Organ Harvesting

In May of 1999, four men convicted of murder were executed in Xinyang City, Henan Province. The sequence of events surrounding this case led the families of three of these men to believe that their sons had become victims of China's system of organ harvesting. They hired a local private investigator who researched the details, providing further insight into the schemes of the organs trade that perpetuate the practice in China today.

Early on the morning of May 31, 1999 Rao Enhuai prepared her grandson to go visit his father in prison. She did not know that her son (the boy's father) was already on his way to be executed. It was about 7:00 am when Ms. Rao received a phone call from her son's friend, who told her that while on his way to work, he saw her son and the other criminals involved in his case on board a Public Security Bureau vehicle on their way for their public sentencing rally and execution. Knowing that she had not received notification of any upcoming execution, Ms. Rao left at once heading to the location her son's friend had mentioned. By the time she arrived, the public sentencing rally was over. A guard confirmed that her son

had just been executed and directed that she go to the local crematorium and wait for the arrival of the body.

At the crematorium, the woman waited for over an hour wondering why her son's body had not yet been delivered and why she had not received notification of his execution. She also saw the family of another man who had been executed with her son that morning. They had received notification and their son's body had already arrived. Finally, after over an hour's wait, Ms. Rao returned home, distraught that she was unable to perform the final rites for her son. She contacted Liang Zhizhen, the mother of a third man involved in the case only to hear that her family also had not been notified and had not been able to properly cremate their son's body. It was this sequence of events that lead the women to believe that their sons' organs had been harvested and prompted them to contact a private investigator.

The meticulous research of the investigator revealed details exposing the inner workings of this case and of the process of organ harvesting. Interviews with a witness revealed that after the four men were executed, one body was placed on an open-bed truck and sent directly to the crematorium. The other three bodies were loaded into white vehicles with tinted windows and covered license plates. These vehicles took an indirect route through the town, driving slowly and stopping at several points. The witness, a friend of the executed men, followed the trucks at a distance on his motorcycle. He noticed that at one point certain articles were thrown out of the back of the vehicles. The witness testified that as the vans reached the crematorium, a surgeon emerged from the ambulance:

We saw a surgeon, in the ambulance. Stripped bare to the waist, his face perspiring profusely, he was taking off surgical gloves. Another man handed him a towel to wipe his face. I was watching closely what the surgeon was doing. Then, the people in the car threw out a bunch of things, which fell on the east side of the highway.

The witness collected the items that had been discarded from the vehicle and was shocked to discover they included surgical gloves, gauze, blood transfusion bags (often used to aid in maintenance of heart function during surgery), and bags of saline solution (often used to preserve harvested kidneys).

The investigator also conducted interviews with the doctors who had placed the kidneys into recipient patients and with the patients themselves. Everyone was aware and admitted on audio recordings that the organs had come from executed prisoners. There were also doctors that had worked on the case prior to the execution. These doctors had taken blood samples from the three men to test their compatibility with prospective transplant recipients. They had also given them anti-coagulant injections directly before the shooting to ease the process of organ removal. The men were then taken to the execution sight, shot in the head and rushed into the waiting ambulance. Inside the ambulance, on the way to the crematorium, the doctors harvested six kidneys and placed them into saline solution so they could be preserved while en route to two different near-by State run hospitals. The prison had informed the hospitals ahead of time so six patients were ready and waiting for surgery. The patients and their families had already made arrangements with the hospitals and the Public Security Bureau concerning the costs of the procedure. The officials at the prison had intentionally failed to notify the families of the condemned criminals. The guards at the sentencing rally intentionally misdirected family members concerning the location of the crematorium for collection of the bodies. It was only by chance that the witness managed to follow the vehicles from the execution site and then inform the families of what had happened to their

sons, exposing that their sons' organs had been harvested with no thought to consent or to basic human rights and human dignity. When the families brought their case to the authorities all they were offered was a backdated execution notice and a container of ashes from a crematorium in another county.⁸

The details of this case reveal how various governmental personnel including the prison officials, members of the Public Security Bureau, and doctors at the state run hospitals coordinated the steps of this process. Each one was intimately involved and then received payment for their cooperation. Each one played an integral part in a system of organ harvesting that is perpetuated all over China to the profit of governmental officials, adding one more gruesome example to the list of human rights violations that occur in the Chinese Laogai.

¹ Amnesty International, *No One is Safe: Political Repression and Abuse of Power in the 1990s*. New York: Amnesty International, 1996, 91.

² Amnesty International, *People's Republic of China: Breaking Records, Breaking Rules* (London: Amnesty International) August, 1997.

³ Amnesty International, *People's Republic of China: The Death Penalty Log in 1998*. <Available: Online> www.amnesty.org/ailib/aipub/1999/SUM/31705699.htm. February 2, 2000.

⁴ Ella Lee, "Bumper Organ Supply Before Lunar Festival," *South China Morning Post*. January 9, 2000. <Available Online> <http://business.scmp.com>. January 17, 2000.

⁵ In 1998, Harry Wu was introduced to Wang by an acquaintance who informed Wu that Wang wished to broker organs from Chinese prisoners to US patients. Harry Wu, posing as a doctor, proceeded to conduct undercover interviews with Wang that eventually led to an FBI investigation. These interviews revealed a unique perspective of the organ harvesting practice from a man who operated within the system.

⁶ Transcripts, *The United States of America vs. Chengyong Wang*, United States District Court, (Southern District of New York, February 13 – 18, 1998) Government exhibit 1T.

⁷ Amnesty International, *People's Republic of China: The Death Penalty in 1998*. (London: Amnesty International, 1999).

⁸ Cheng Weimin, Investigation of the case of Wan Qichao, Zhao Wei, and Zhang Jianyong. Xinyang, Henan Province, May, 1999. For case materials gathered by Mr. Cheng, see Attachment 2:3.

From Prison Cell to Operating Room:

The Procedures of Organ Harvesting Revealed

*"When the time comes, the hospital's vehicle will follow the execution vehicle...
once the gun shot is heard, within a few minutes, the medical vehicle will come in,"*

-Chinese prosecutor Wang Chengyong on discussing retrieval of organs from executed prisoners

From Prison Cell to Operating Room: The Procedures of Organ Harvesting Revealed

In the process of harvesting organs from executed prisoners, a government prescribed method directs judicial and health officials to provide maximum efficiency levels of efficiency and secrecy. This section will trace that method as it is practiced, tracking the exact procedure that occurs from the initiation of the process inside Chinese prisons to its conclusions in state-run hospitals. According to these procedures, condemned criminals first undergo physical examinations and tests prior to their execution. Directly following the execution, extraction and transportation of organs are carried out. Research shows that involved medical and security personnel regularly receive bribes and payments. From the time it is determined that a prisoner may be a possible match for transplantation to the time they are shot at the execution grounds, they serve as nothing more than a walking incubator maintaining functionality of the organs inside their bodies until it is time for the removal process.

State Mandated Secrecy in Organ Retrieval

In order to avoid public objection to a practice of organ harvesting that is obviously offensive both to traditional beliefs and to ethical standards, Chinese officials classified the procedures for extraction of organs from executed prisoners. This process for the harvest of organs and concealment of the evidence requires intensive coordination between state, medical and judicial bodies. It is also mandated under the force of the law. The 1984 Provisional Regulations on the Use of Dead Bodies or Organs From Condemned Criminals lays out the official guidelines regarding secrecy in the harvesting of organs from executed prisoners:

The use of the corpses or organs of executed criminals must be kept strictly secret, and attention must be paid to avoiding negative repercussions... Only in real need can ... a surgical vehicle from the health department be permitted to drive onto the execution grounds to remove organs, but it is not permitted to use a vehicle bearing a health department insignia or to wear white medical clothing. Guards must remain posted around the execution grounds while the operation for organ removal is going on... After the corpse has been used, the crematorium shall assist the utilizing unit in carrying out a timely cremation...¹

Wang Chengyong, the former prosecutor from Hainan province, depicted the process of transportation of organs in his conversations with Harry Wu:

Regarding the coordination by the hospital, ... we must tell them about the situation ahead of time. When the time comes, the hospital's vehicle will follow the execution vehicle from behind. However, the hospital vehicle can't enter within the warning security line, they can only park outside the line. But once the gun shot is heard... the medical vehicle will come in, arriving on the site. And if there's anything that can be done on the scene, do that or just bring it back to the hospital.²

State authorities aptly take advantage of the rules involving transfer and medical vehicles to conceal their crimes against the sanctity of the human body. The case of the three murderers whose organs were removed after execution in Henan Province without the consent of their families is demonstrative of this deceit.³ In order to facilitate the secret harvesting of organs from these individuals, prison officials

made sure their families were not notified of the execution date so no one would be available on the scene to claim the body or to reject to the harvesting of organs. It is also likely that the families were misdirected to the wrong crematorium, so that the bodies could be cremated in another county to conceal the crimes committed by the state. A witness in this case also testified to the processes of concealment of the processes of organ harvesting. The witnesses stated in a letter, “two of the corpses were loaded onto a white car and one onto an ambulance... The white car and the ambulance’s license plates were covered, the windows tinted and the doors sealed.” In light of this case, it is evident that the medical and judicial officials created a deceitful environment through which they could harvest the organs of prisoners without consent and dispose of the evidence.⁴

Further evidence of State mandated secrecy facilitating executions can be found in the testimony of a former inmate in a detention center who monitored death row prisoners. Mr. Pan Shan, convicted of political crimes was assigned this duty because he was not a violent criminal. In his testimony as recorded by Harry Wu in 1998, Mr. Pan states the following regarding the secrecy of executions and the facilitation of organ transplants:

They [Death row prisoners] were denied the privilege to write letters, and could not hire an appeals lawyer until stringent investigations were completed. Under no circumstances could they see their family, and given the fact that many prisoners were incarcerated far from their home villages, family members would not know of the sentence unless the prisoner managed to hire an appeals lawyer.⁵

Despite formal denials of organ harvesting on the part of the Chinese government, there is some evidence that the domestic research community is troubled with the practice. In his article entitled “Organ Transplants Must be Open, Voluntary, and Transparent,” Zhang Zanning of the Jiangxi Province Academy of Social Sciences offers a direct and poignant critique of provisions in Chinese law that allow for secrecy in organ procurement. Zhang states that such provisions are inappropriate for the following reasons:

1. Because the 1984 law already specifies that written consent from criminals or written agreement from their families must be gained prior to their execution, a law of secrecy is contradictory.
2. Organ donation is a respectable act so it is unnecessary to mandate secrecy.
3. Openness is required to allow for supervision of organ extraction procedures and certification of brain death prior to extraction. Otherwise such procedures will breed distrust and suspicion and could ultimately be tantamount to murder.
4. Regulations of secrecy offer protection for those who wish to ignore requirements of consent and family agreement. Without provisions for oversight and enforcement of requirements for consent, it is inevitable that officials will extract organs without obtaining proper consent.
5. Because medical science proves that organs are best extracted from a brain-dead corpse prior to ceasing of heart function, additional protection and oversight is necessary in an execution setting. If the practice is not open it may occur that organs will be harvested prior to death to preserve organ quality.⁶

These remarks clearly point out the problems that arise when any procedure as sensitive as organ procurement is permitted to occur in secret. Not only does it become more likely that abuses will occur,

but those who commit these abuses are protected from public scrutiny and lawful punishment. Such mandated secrecy is one of several relevant factors in the present discussion that precipitates the cooperation of prison officials and doctors who arrive at the scene of executions to facilitate concealment throughout the process of harvesting of organs. Only in this way is it possible for doctors to arrive in adequately disguised ambulances with assurance that no family members or other disapproving spectators will be present to hinder their business.

The provision of secrecy represents one of many fundamental flaws in the Chinese system of organ procurement. As Zhang states “without provisions for oversight and enforcement of requirements for consent, it is inevitable that officials will extract organs without obtaining proper consent.” As long as organ harvesting in China continues on such a secretive basis, large-scale abuse will continue to occur.

Pre-execution Check-up

The first step in the organ retrieval process is the pre-execution examination that occurs inside the prison. These examinations involve taking blood and cell samples from prisoners in order to determine a proper match for organ donation. As doctors come into death row facilities to carry out such examinations, this step of the process also links doctors, prison officials and their supervisors at the Public Security Bureau in a chain of cooperation.

Former prisoner Pan Shan’s testimony offers insight regarding these examinations of death row prisoners. According to his testimony, approximately one week after the courts condemned a prisoner to die, the prisoner was escorted out of his cell for a physical exam. The practice was called “checking up on one’s physical condition,” but all the inmates on death row knew that these “check-ups” marked the beginning of the procedures for execution and organ extraction. He emphasized that only the young and strong prisoners on death row were subject to such tests. Prisoners became highly distraught after these examinations, and often required closer monitoring since some would try to take their own lives knowing of the cruel and undignified death that awaited them.⁷

In another interview conducted by Harry Wu, Dr. Yang Jun, a participant in organ harvesting procedures for Mudanjiang Cardiovascular Center in Heilongjiang Province, mentioned pre-execution checkups in his description of involvement in transplant surgeries using organs harvested from executed prisoners. The doctor testified to the following:

I personally took part in a series of donor medical tests on death row prisoners. Due to high-level involvement including city, provincial, and central leadership, judicial organs willingly supported our hospital’s endeavors and offered coordination of their own accord... First in July of 1992 and again from April to September, 1993, a dozen times, after the court notified our hospital, I went to the court for the prisoners’ basic data including sex, age, general physical condition, blood type and record of disease. Our hospital director and related specialists would screen the prisoners together... After preliminary screening we singled out a twenty year old male prisoner, a rural migrant who had no relatives...⁸

Dr. Yang then goes on to describe how the prisoner received more tests and after final verification of the match was taken to an execution ground inside the hospital walls where he was shot. The prisoner’s

heart and lungs were immediately removed and sent to the operating room for transplantation.

Dr. Qian Xiaobing confirmed the pre-execution check-ups when he testified before the United States House of Representatives Subcommittee on International Operations and Human Rights in June 1996. As a resident surgeon at the Anhui Provincial Hospital in Hefei, Anhui Province, he traveled to Huainan city to perform blood tests on a death-row prisoner:

We were to take blood samples in a small prison office. It was the first time I ever saw a death row prisoner in handcuffs and leg-irons. He was about 19 years old, with a lean face... The [prison] cadre said something to him, then pointed to us and said we were sent by the provincial security bureau to check his health.⁹

The specifics of these pre-execution arrangements certainly differ from region to region, and from hospital to hospital. Nevertheless, the intricately interwoven nature of the cooperation between medical and judicial officials points to an undeniable system of coordination. As prison officials arrange for doctors to come inside the chambers of death row prisoners and then go through further procedure to ensure the secrecy of the process of organ harvesting (as mandated by Chinese law), a system involving cooperation and facilitation of a process that is fully tolerated and indeed sanctioned by the Chinese government.

At the Execution Grounds

The next step in the execution and transplantation process is determining a prisoner's manner of death. This considers the best way to kill the prisoner and still keep his internal organs intact. Out of all organs that can be transplanted, the kidney is in highest demand. Because of medical advancements in the area of kidney transplants, such as the introduction of Cyclosporine-A, the kidney transplantation procedure has enjoyed a higher success rate and has therefore become a viable surgical procedure. By shooting the prisoner in the back of the head, death will be induced through damage to the brain. Other organs such as the liver, heart, pancreas, and lungs will remain intact and undamaged through this manner of killing.

The coordination of the judicial and medical officials in the actual execution is evident in the testimony of the medical official Yang Jun from Heilongjiang Province. What is particularly repulsive about his testimony was that the execution occurred within the hospital grounds, not within the prison, reaffirming the connection between judicial and medical officials in the execution process. The doctor testified that he witnessed a prisoner being led to the hospital morgue for execution:

While in the hospital morgue the court and procuratorate personnel performed such legal procedure as verifying the prisoners' identity... Surrounded by a dozen people he was taken to the door of the morgue, where he was made to lie face down. One of the bailiffs fired a point blank shot at the back of his head.

After the execution, the doctors immediately injected the prisoner for the purpose of maintenance of heart function. He was moved to the operating room, and as court and medical officials watched on a closed circuit television, his heart was harvested and transplanted into a patient. This procedure was repeated five days later when another death-row prisoner's life was ended for a heart transplant.¹⁰

Pan Shan, the former prisoner who witnessed executions while monitoring death row inmates, testified that the execution process for death-row prisoners began as early as six in the morning. Death row prisoners were bound and loaded onto trucks, driven to a public sentencing rally and individually denounced, injected with a tranquilizer, and then driven to a public execution site. Mr. Pan said that after the execution was carried out, he witnessed the barely dead prisoners being loaded onto vans, to be transported to hospitals where their organs will be removed.¹¹

Another method of execution that facilitates organ harvesting is a gun shot at close range to the heart. However, this method has proven to be complicated. If shot in the heart, prisoners may have to be shot several times before they die whereas with a shot to the head, death comes more immediately. Nevertheless, a bullet through the heart allows for the corneas and the teeth to be harvested more easily. Corneas, like kidneys are also in high demand for transplantation. Teeth, as the medical official from Heilongjiang Province testified, are used not only for the medical needs of certain patients but also for the training of dental students.¹²

China's Criminal Procedure Law was last amended in 1996. Along with changing the language for certain capital offences, the Law also affected procedures for execution in China. The amended version of the Criminal Procedure Law stipulated that criminals could choose the method of their executions whether by firing squad or lethal injection. China's first execution using lethal injection took place on March 28, 1997 in the city of Kunming in the southwestern province of Yunnan.¹³

According to a debate on the use of lethal injection in Thailand reported in the *Bangkok Post*, appeals court judge Charan Pakdithanakul stated that lethal injection was a more humane method of execution than shooting, but expressed concern that corrupt officials could manipulate the procedure. He stressed that if lethal injection were to be allowed in Thailand as a method of execution, there would have to be very strict procedures and checks to ensure that the prisoner was not abused. One of the examples of possible scenarios of abuse the Thai judge mentioned involved the harvest of prisoners' organs. Instead of receiving a dosage adequate to induce immediate death, a prisoner could instead be injected with a very strong tranquilizer. The prisoner, then appearing to be dead, could actually be transported to a place where his organs could be harvested prior to his execution.¹⁴

These aspects of the debate could easily be applied to the practice of organ harvesting in China. As shown through the medical advances of the drug Cyclosporine A and the use of brain death criteria, medical officials at Chinese military hospitals have manipulated developments of medicine in the past. Because no national standard exists for brain death in China, standards will vary according to the needs of various facilities, doctors, prisons, and courts. When Cyclosporine A was first introduced in China, it was immediately used in transplant operations utilizing organs extracted from executed prisoners. There are also reports of doctors manipulating patients through withholding Cyclosporine A if they are unable to pay for transplant operations.¹⁵

Intentionally Botched Executions?

A prisoner is usually shot before the extraction of organs, but there are scattered reports of harvesting of the kidneys hours before a prisoner is executed. Such inhumane practices provide higher quality organs at the expense of the condemned.

There are at least three recorded instances when kidneys were surgically removed from living anesthetized prisoners before their executions or when executions were intentionally botched to ensure that organs could be removed prior to ceasing of heart function. In 1992, a doctor by the name of Chen Miao formerly of West China Medical University informed Harry Wu of his role in removal of both kidneys from a live prisoner prior to his execution. After the extraction procedure the prisoner's wounds were stitched and he was executed the following morning. The kidneys were used in transplant operations for high ranking Communist cadres.¹⁶ Additionally, an analysis by author Jin Shikai includes a chilling account of a young girl, Li Lian, who was executed in 1970 for counterrevolutionary crimes whose kidneys were extracted before her execution. Jin's article is included in China's genre of "scar literature," in which authors revealed the horrors and excesses of China's Great Proletariat Cultural Revolution.¹⁷ Finally, as recorded in a testimony from an anonymous executioner, in 1978, Zhong Haiyuan, also a young female political prisoner, was purposefully shot in the face instead of the back of the head so that her kidneys could be harvested before her heart had stopped beating.¹⁸

Reports of such gruesome practices are few and far between. Due to the secrecy surrounding the entire process of execution and organ removal, it is at this time impossible to estimate the frequency of organ removal prior to execution or intentionally botched executions. Whether or not it is a commonly accepted procedure among those who oversee executions in China, likewise remains unknown.

Transplantation of Organs from Executed Prisoners

Quick extraction of organs at the scene of execution and efficient transportation from the execution grounds to nearby hospitals are integral steps in successful transplant procedures. Medical personnel receive prior notification from prison and judicial officials and will inform their patients in advance of the scheduled execution, allowing patients to prepare, knowing the exact day they will receive their new kidney or other organ.

Because criminals in China are generally executed in groups, it is common for a hospital to perform multiple surgeries in one day. According to witnesses involved in the investigation of the case of organ harvesting in Henan province, the bodies of the three men were placed in vans after their execution and medical personnel carried out extraction of the organs while en-route to local hospitals. Once the vans arrived at two different local hospitals, six patients received transplants.¹⁹ In January of 2000, the *South China Morning Post* covered the story of five cases of patients from Hong Kong who traveled to a hospital in Guangzhou to receive liver transplants. Statements of the doctors at this hospital also testified to the availability of organs from groups of prisoners killed at the same time. "Some prisoners have been sentenced earlier," said one doctor, "we will have some organs...no need to worry, there will be lots."²⁰

Many patients who receive the organs harvested from China's executed prisoners must pay large sums of money to hospital personnel to have the procedure. Often, hospitals will advertise their advancements in transplant expertise, hoping to garner a reputation that will attract foreign and domestic enterprises who are eager to pay. "Brokers" act on behalf of patients, generally charging large fees for their services, and serve to open the relations between hospitals and patients.

Faced with renewed publicity on the issue of organ harvesting, in 1996 Chinese authorities repeated past denials that "trade" in human organs is prohibited by Chinese law. This claim is based on a

1996 Circular Notice issued by the Ministry of Health, Ministry of External Trade and Economic Cooperation, and the General Customs Administration. The Circular Notice states that: "Sales of human tissues and organs are not allowed. The donation or exchange of human tissue and organs with organizations or individuals outside national borders is not allowed."²¹ To circumvent these restrictions, Chinese officials, realizing that there is more involved in a transplant operation than procurement of organs, still charge patients large sums of money for a "transplant package." Hospitals and organ brokers then claim that payment is made for medical care and prescribed medications, and not for procurement of the organ. The price will accumulate to even higher sums through "gifts" of hundreds or even thousands of dollars that as a standard practice are offered to brokers, surgeons, and other officials. International observers report that money received from patients will be used to pay off the individuals who coordinate in making the effort possible.²²

Besides those who use economic resources to gain access to the supply of organs from executed criminals, there are two other groups of people who sometimes receive organ transplants through other means. First of all, for well-connected officials, it is possible to obtain an organ through political resources. Communist Party cadres and their close relatives are in some cases able to undergo transplant surgery without paying large sums of money. Just as they are often able to act above the law in corruption and scandals, they also use their political leverage to gain access to the system of execution and to those who organize transplants using the organs of executed prisoners.

In interviews with LRF Executive Director Harry Wu, Dr. Chen Miao of the West China University of Medical Sciences reported that the kidneys he extracted for transplantation were used in operations for a high-ranking cadre. In some particularly exploitative cases, certain individuals have even used their political status to gain special advantage within the system of organ harvesting. In this case when organs were harvested for the operation, the extraction surgery actually occurred several hours before the prisoner was executed. Chen explained in his interview how he, along with a team of other doctors, was sent to the prison to surgically extract two kidneys from an anesthized prisoner and then stitch the prisoner back up minus his kidneys. When the doctors asked how the prisoner would continue to live without kidneys, they were told that the prisoner was to be executed the following morning. Directly after the surgery, the preserved organs were transferred via helicopter to the hospital at West China Medical University for the transplant surgery.²³

Additionally, there are also reports of peasants and other disadvantaged members of society receiving transplant operations through participation in experimental studies. Doctors often target peasants when certain methods and procedures are still in the experimental stages, meaning survival rates after surgery are drastically lowered. These peasants know they have no means of paying for a transplant through conventional procedure. Additionally, they are often viewed as more disposable according to society at large. In an interview with Mr. Wu, Dr. Yang Jun, who participated in China's early experimentation with heart and heart lung transplants in 1992 - 1993, reported that all transplant recipients involved in the operations he witnessed were poor peasants. In the two experimental heart lung transplants, both also died within less than seventy-two hours after their operations.²⁴ Instances such as this one only add to the list of victims of the unrelenting pursuit to advance and modernize the corrupt system of organ transplantation that exists in China. It also demonstrates the willingness of the Communist government to allow practices to occur that horribly exploit the peasantry.

"Promotion" of China's Organ Harvesting Program

The Chinese medical community has used its exploitation of prisoners and patients to advance a media sensation in promotion of China's success in the field of organ transplantation. One obvious example of such exploitation involves the above-mentioned experimental heart and heart-lung transplants performed in the early 1990s. In research for this report, the Laogai Research Foundation found that two years after the heart transplants were completed in 1992, an article in the January, 1994 edition of the *Chinese Journal of Organ Transplantation* reported on the success of these operations at Mudanjiang Cardiovascular Hospital, revealing that these were the same operations revealed to Harry Wu in interviews with the doctor from Heilongjiang Province.²⁵

In other articles of the *CJOT* one can discern similar instances through matching dates and places of recorded transplant breakthroughs with reported executions. Amnesty's first death penalty log was released in 1996 recording the details for all executions included in Amnesty death penalty figures. In certain articles of the *CJOT*, if a certain surgery involves a major breakthrough, doctors may include the exact date on which the surgery was performed, providing the information to check the Amnesty logs to see if an execution occurred on the same day and at the same location.²⁶ In one article which recorded the months in which four transplants occurred, donors were described as brain dead males aged twenty-six, twenty-four, twenty-seven and twenty-one. All operations occurred at Shanghai's Second Military Medical University. In May of 1996 when the first transplant occurred, twenty-three executions occurred in Shanghai. The next occurred in August 1996 when thirty-six were executed. Subsequently, two more operations were performed. One in January, 1997 when Amnesty recorded twelve executions and one in February of 1998 when five were executed.²⁷ There are also examples where executions match up with exact dates as opposed to simply months of various surgeries. In January, 2001 the Malaysia General News ran a brief story on a Malaysian man who received a double-lung transplant at Beijing Anzhen Hospital on January 20, 1998.²⁸ Amnesty's death penalty log for 1998 revealed articles in the Chinese Legal Dailies (*Beijing Fazhi Bao*) and in the Shenghuo Times (*Shenghuo Shibao*) that detailed the execution of eighty-nine criminals all on the exact same day of January 20 in Beijing. These criminals were executed at four different mass execution sites throughout the city in order to "rid Beijing of crime in preparation for the Lunar New Year Celebration. Finally, on May 22, 1996 when Shanghai's Changzheng Hospital performed a liver transplant using a donor organ from a twenty-two year old brain dead male, eighteen were executed in the city on the same day.²⁹

The Laogai Research Foundation at present has no direct evidence to prove that these executions truly supplied the organs for the transplants that occurred in nearby hospitals on the same day. Nor do Amnesty's records match completely with every transplant date revealed in the *CJOT*. These reports simply add to the consistent concurrence of facts that point to executed prisoners as the likely source for transplanted organs in China.

The Money Trail

From the very outset of the organ retrieval process, one can trace the money trail that flows from the patient to various officials in the prison system, the courts, and in the hospitals. Wang Chengyong, the former prosecutor who attempted to broker organs in the United States, detailed this process. He stated that there are many bribes and payments for the coordination of organ retrieval. He described how first the

penal officers of the detention center are paid so that the doctors can be permitted to test prisoners to find suitable matches for patients. Then, the individual doctors receive payment for any services they may offer whether that entails their involvement in the organ extraction or in the transplantation process. If a prisoner is selected as an ideal candidate for organ removal, the executioners – members of the procuratorate and the Public Security Bureau — are informed and accordingly bribed. Wang notes all of these parties along with a calculated sum to inform potential customers of what is expected from them financially. He emphasizes the ease to which an organ transplant can be obtained. Wang quickly and easily estimated that there will be at least 200 executions in Hainan Province every year and that he personally could gain access to at least fifty of these 200. According to his account, nearly all of China's hospitals have access to such resources. He told Mr. Wu that "Chinese hospitals do not lack for cadavers... in China there are too many executions by shooting." Later, he again emphasizes this point; "China has no lack of this... China lacks other things. China has lots of people, lots of death row prisoners." Furthermore, his statements point to a knowledge of this violation of human rights among officials in many levels of government and medical institutions.³⁰

Even in cases of experimental surgery where poor peasants receive transplants, money is still a factor. In these cases, hospitals are willing to use their own funds in order to promote media attention to their accomplishments in groundbreaking procedures. According to Dr. Yang Jun from Heilongjiang Province, during the time surrounding the heart and heart-lung transplants (mentioned earlier in this report), the hospital kept in close contact with the courts. Medical personnel hosted banquets for court members before and after the operations. The hospital personnel also made payments to compensate the courts for the executions. Dr. Yang testified that one day he unknowingly drove a coworker to the courts so that she could make a RMB 30,000 payment to compensate for a heart-lung transplant using the organs harvested from prisoners.³¹

This process further demonstrates the corruption of Chinese officials in the coordination process of organ transplantation. Organ brokers work together with officials at prisons, state-run hospitals and at the judiciary to ensure each step of the process. First doctors work with the prison officials to conduct examination of death row inmates, then both doctors and prison officials coordinate with the judiciary to ensure executions of that the right prisoners are executed when the hospital is ready to perform a transplant. Meanwhile, the organ brokers keep in contact with patients, informing them of how much money is to be paid to which agency at the proper time.

¹ *Provisional Regulations on the Use of Dead Bodies or Organs from the Corpses from Condemned Criminals*, October 9, 1984.

² Transcripts, *The United States of America vs. Chengyong Wang*.

³ See a Case Study in the Chinese System of Organ Harvesting, page 12 of this report.

⁴ Cheng Weimin. Investigations on the Case of Wan Qichao, Zhao Wei, and Zhang Jianyong.

⁵ Harry Wu, Executive Director of the Laogai Research Foundation and Pan Shan, former prisoner. *Laogai Research Foundation Archives of Personal Interviews*. San Francisco: June 9, 1998.

⁶ Zhang Zanning, "Organ Transplants Must be Open, Voluntary and Transparent," *Journal of Medicine and Philosophy* (*Yixue yu zhexue*), 17:3, 1996.

- ⁷ Harry Wu, Executive Director, Laogai Research Foundation and Pan Shan, former prisoner. *Laogai Research Foundation Archives of Personal Interviews*. San Francisco: June 9, 1998.
- ⁸ Harry Wu, Executive Director, Laogai Research Foundation Dr. Yang Jun. *Laogai Research Foundation Archive of Personal Interviews*. San Francisco: 1998.
- ⁹ US House of Representatives, Subcommittee on International Operations and Human Rights of the Committee on International Relations, *China MFN: Human Rights Consequences*, Testimony of Dr. Qian Xiaobing, (US GPO: June 18, 1996).
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- ¹⁵ Thomas Fuller, "An Execution for a Kidney: China Supplies Convicts' Organs to Malaysians," *International Herald Tribune*, (June 15, 2000).
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- ¹⁹ Cheng Weimin, May 1999.
- ²⁰ Ella Lee, "Bumper Organ Supply Before Lunar New Festival," *South China Morning Post*, January 9, 2000.
- ²¹ PRC Ministry of Health, Ministry of External Trade and Economic Cooperation, General Customs Administration, *Circular Notice on Questions Related to Further Strengthening of Human Blood, Tissue, and Organ Management*" (April, 1996).
- ²² US House of Representatives, International Relations Committee and Governmental Reform and Oversight Committee, *The Sale of Body Parts in the People's Republic of China*, Testimony of Dr. Tsuyoshi Awaya, (Washington, DC: GPO, June 4, 1998).
- ²³ Laogai Research Foundation. *Communist Charity: The Use of Executed Prisoners' Organs in China*. (San Francisco: Laogai Research Foundation, January, 1995).
- ²⁴ Personal Interview, H. Wu and Doctor Yang Jun, 1998.
- ²⁵ Qiu Fazu, "Summarizing the Past and Looking Ahead: Pushing Forward in China's Work in the Field of Organ Transplantation," *Chinese Journal of Organ Transplantation* 15:1 (January, 1994).
- ²⁶ For all articles below involving corresponding dates and executions, execution data is provided by Death Penalty Logs from Amnesty International, London, UK (1996, 1997 and 1998).
- ²⁷ Wu Mengchao, Chen Han, Yang Jiamei, et. al. "Four Cases of Piggyback Orthotopic Liver Transplantation," *Chinese Journal of Organ Transplantation* 20:2 (April, 1999).
- ²⁸ *Malaysia General News*. "Man Survives Three Years With Two New Lungs," January 22, 2001.
- ²⁹ Fu Zhiren, Xu Guannan, Ding Guoshan, et. Al. "Orthotopic Liver Transplantation Treating Wilson's Disease: One Case Report," *Chinese Journal of Organ Transplantation*, 18:3 (July, 1997).
- ³⁰ Transcripts, *The Government of the United States vs. Chengyong Wang*, February, 1998.
- ³¹ Personal Interviews, H. Wu and Dr. Yang Jun, 1998.

Ethical Contraventions in China's Practices of Organ Procurement

"Since capital punishment is a violation of autonomy, how can voluntary and informed consent [for donation of organs] ever be obtained?"

- Transplantation Society statement on extraction of organs from executed criminals

Ethical Contraventions in China's Practices of Organ Procurement

In analyses of an issue such as organ harvesting, not only must one consider the standards of governments and international bodies, but also the standards of medical ethics. This section will discuss the most serious contraventions of medical ethics in China's system of organ procurement.

First and foremost, there exists a complete disregard for the principle of voluntary and informed consent. Secondly, a system of organ harvesting that brings doctors into intimate involvement with procedures that in no way involve the improvement of a prisoner's health or well-being is completely intolerable from an ethical perspective. Third, China has no legally established definition of brain death, meaning that no set of rules exists to govern the pronouncement of death as doctors begin to remove organs from a prisoner's body. Finally, as China's organ transplants are motivated not by a true sense of compassion for ailing patients, but by profit, serious problems develop in respect to organ allotment. This section will present the details involved in all these ethical principles, discussing their meaning and how they are unquestionably violated in every instance of procurement of organs from China's death row inmates.

The Principle of Consent

Before Chinese laws on organ harvesting were made public in 1990, officials flatly denied the practice of organ harvesting.¹ After this, some officials continued to dismiss allegations of organ harvesting while others, such as the Chinese Ambassador to the United Nations in 1993, offered a grudging admission of the practice as follows:

Removal of organs without the permission of either of the person or his family was not standard practice. There were, however, cases in which permission has been given to remove organs from the bodies of persons executed.²

Regardless, never has any official at any level of the Chinese government produced any type of consent form or furnished statistics on the numbers of organs harvested from executed prisoners.

Within the perspective of Chinese culture, donor consent in organ procurement involves several unique considerations that may be unfamiliar to a Western audience. Cadaveric donation from any Chinese person is hindered by traditional beliefs involving wholeness of the body. According to ancestral traditions, a body must be returned to the ancestors in the same state in which it was received. Such teachings are dictated according to the writings of China's most revered philosophers, including Confucius and Zeng Zi. According to the Scripture on Filial Piety by Zeng Zi:

Our bodies, bones, skin and hair are received by us from our parents. We must not dare to injure or wound them in any way. This is the beginning of filial piety.³

Viewed in the context of such remarks, organ donation remains a highly taboo subject, especially among elderly Chinese and others who espouse more traditional views.

Voluntary donation of kidneys is also inhibited through traditional beliefs involving the significance and function of the kidney. Traditional Chinese medicine regards the kidneys as the storage location for the

genuine *yin* and *yang*, or vital essence and vital function. So great is the objection to live donation that in some years, not a single live donor is reported. In addition, many Chinese traditionally believe that the soul does not leave the body at the immediate point of death, but instead hovers close to the body for days or even months later. Because of this, many believe that if the body is disturbed during this time, the soul or the ghost, will become angry and will take out its revenge on living family members.⁴

Records of organ transplant in other Confucian-based societies reaffirm the influence of such beliefs and traditions. In Singapore, where the majority of the population is ethnically Han Chinese, despite mobilized campaigns of the National Kidney Foundation of Singapore, less than 1% of the population is registered to donate their organs.⁵ In Japan, where Confucianism was also highly influential during certain periods, taboos remained so strong that until very recently, cadaveric donation was actually illegal. In October of 1997, the Japanese Parliament signed the Organ Transplant Law, providing a legal definition of brain death and establishing a federal program for organ donation. In 1999, Japanese doctors performed the first legal heart transplant from a brain dead donor in the nation. Currently, 7% of Japanese citizens carry a “donor card.” This figure is deceiving however, since a donor card can indicate one of three options including donation of all organs, certain organs, or no organs at all. It is therefore uncertain as to how many people who carry donor cards actually indicate that they wish to donate their organs.⁶ It was also reported that one reason for spread of public interest in cadaveric donation in Japan arose from a growing number of Japanese citizens who traveled to other nations, including China, to receive life-saving transplant operations.⁷

These are statistics from nations that have nationally established and organized systems for organ donation. The governments in these nations have combined their forces with numerous nonprofit organizations to boost awareness and ease the taboos surrounding the idea of organ donation. Still, the results are not encouraging. It is difficult for anyone to believe that in China, where the government has no such organized programs, that these taboos would be adequately addressed producing an environment conducive to donor consent, especially among the population of death row inmates.

Regardless of cultural or national standards, both international law and common sense render the possibility of informed consent meaningless for prisoners on China’s death row. In the wake of the experiments Nazi doctors carried out on Jewish and other victims during World War II, the Nuremberg War Crimes Tribunal ruled on prisoner consent, stating that “in the tyranny that was Nazi Germany, no one could give such consent to the medical agents of the State; everyone lied in fear and acted under duress.” In China today, prisoners waiting on death row may be tortured or forced into giving confessions for their crimes and consent for organ donation. Also recognizing the meaninglessness of consent given by prisoners under duress, the June 1977 Protocol One to the Geneva Conventions of 1974 – 1977 bans the use of organs from prisoners of war. Specifically, the Protocol declares: “It is, in particular, prohibited to carry out on such persons, even with their consent...removal of tissue or organs for transplantation.”⁸

International bodies of ethicists and doctors have also condemned this practice and its lack of meaningful consent. The World Medical Association, an internationally recognized group headquartered in France, has issued statements regarding the importance of voluntary consent in any procedure of organ transplantation. In October 1987, the WMA’s Declaration on Human Organ Transplantation proclaimed the following:

1. ...No physician may therefore assume responsibility in organ transplantation unless the rights of both the donor and the recipient are protected...
2. The fullest possible discussion of the proposed procedure with the donor and the recipient or their respective responsible relatives or legal representative is mandatory...Free informed consent must always be obtained...
3. ...The purchase and sale of human organs for transplantation is condemned.⁹

In 1996, the Transplantation Society, a Montreal based organization of over 3,000 doctors and ethicists from all over the world, stated that reports involving the use of organs from executed criminals “evoked horror and disbelief between laymen and professionals.” Members also resolved the following:

1. Medical involvement in executions to allow organ donation will dignify the process of legalized killing, execution technology will be modified to benefit transplantation, and organ donation could then be used as an argument by a government to further justify the death penalty.
2. The negative imagery of execution and positive imagery of transplantation should not be co-symbolized
3. Since capital punishment is a violation of autonomy, how can voluntary informed consent be ever obtained?¹⁰

Chinese Law on Organ Harvesting and Consent

The 1984 Provisional Rules on the Use of Dead Bodies or Organs from Condemned Criminals permit the removal of prisoners’ organs under three conditions:

1. If the prisoner’s body is not claimed
2. With the consent of the prisoner
3. With the prior consent of the prisoner’s family¹¹

In China, governmental officials at all levels have concocted numerous methods to manipulate and circumvent these three conditions. Case studies from the Laogai Research Foundation demonstrate such manipulation through tactics involving China’s floating population of migrants, bribery of families, coerced consent, and overruled refusal of organ donation.

Wang Chengyong, the former Chinese prosecutor from Hainan Province attests to the first two of these tactics – the floating population and family bribery. According to Wang, officials generally seek consent from the family of a condemned criminal. He also mentions, however, that usually part of the money received from patients seeking transplants will go to the prisoner’s family as a bribe for their permission to take their loved one’s organs. The amount required for this bribe may rise or fall depending on the strength of family objections to donating, further implying a process of manipulation and coercion.

Wang also mentioned a class of prisoners that he refers to as “wandering criminals.” These are members of China’s ever-growing floating population of migrants. These people, discouraged by the lack of economic opportunity in the Chinese countryside, have left their homes and roam from city to city in search of work. There are hundreds of millions of migrants in all of China’s large and prosperous coastal cities. Members of the floating population who manage to find jobs in the city will work in extremely

arduous conditions, earning an average salary of about twenty or thirty cents an hour and working up to eighteen hours a day. Many will find no work at all and remain stranded in cities with vast unemployment problems. There are many members of the floating population who come to the city in search of work only after exhausting all other resources in the country side. They are virtually their family's last resort to escape complete poverty. They are under immense pressure to do whatever is necessary to procure an income to send home to their families. In frustration from dealing with such a system where they cannot find a source of living income, members of the floating population often turn to a life of crime that lands some of them on death row.¹²

Wang, a former prosecutor from one of China's booming "special economic zones" in Hainan Province, estimated that in Hainan, approximately 25% of death row prisoners were, as he states, "wandering criminals," or members of the floating population. Since these criminals have migrated from many other places, they generally have no family in Hainan Province. It is possible that their family will receive notification when the prisoner will be executed, but it is highly unlikely that they will be able to send someone to claim the body. Wang states directly that no consent is required from such individuals:

If there is no family, that would be the easiest to handle... If there is not family, once the prisoner is executed, we will just take the corpses away directly. It is not necessary to tell them specifically about taking their organs.

In all such cases, a prisoner will automatically fall into the category of unclaimed cadavers and becomes subject to organ donation despite whatever objections he or his absent family might have.¹³

In other situations, a family may be approached for their consent, but if they refuse their decision will be overruled, demonstrating the meaninglessness of any such process. Police will not heed the family's refusal and will harvest organs as they please. One such case occurred in the previously cited case of organ harvesting involving three murderers in Henan Province in 1999. In this case, of the three executed men, one of the families lived in another province, making it impossible to claim the son's body. Of the other two women, neither one was notified of the execution in a timely enough manner to make a decision regarding organ donation. In fact, in the weeks before the unannounced execution, one of the two women had been approached asking for her son's organs and she refused. Despite the wishes of the mother, Chinese authorities still harvested the organs, denying the family the right to maintain their traditional beliefs, to say nothing of their rights according to Chinese law.¹⁴

A final method of manipulating the lawful conditions of consent involves coerced consent as detailed in the testimony of Dr. Yang Jun who participated in several transplant surgeries utilizing organs harvested from executed prisoners. This man presented the case of a prisoner, deemed a potential candidate for donation of his heart and lungs, who was provided with better food for his last week alive in exchange for his consent:

In early December 1993, I, followed by other medical members, went to the death row facility in Hailin Prison and made preliminary physical tests of the prisoner. We saw him lying naked on the cement floor of a solitary confinement cell with his face up, his limbs stretched out and his wrists, ankles, and neck locked by iron rings fixed on the floor... Prisoners appointed by the prison police fed him one meal a day. The preliminary sample test matched. Guarded by two dozen bailiffs, he

was secretly escorted to our hospital for secondary physical tests. Again, the sample match passed...Nourishment was improved to enhance his physical condition and to ensure top performance of his organs...After the prisoner told the administration that he was willing to donate his organs and signed his consent, the "ground shackle" was unlocked, and he gained relative freedom, with only handcuffs and leg irons on.¹⁵

Other testimony from the former prisoner Pan Shan also attested to the manipulation of prisoners' consent in the extraction of organs from executed prisoners. Pan's testimony describes how prisoners and their families are generally not notified of an exact time for an execution until hours before the sentence is carried out. This makes it impossible to involve the prisoners or their families in a process for obtaining consent. Pan stated this in the following way:

The Chinese communist authorities state that death-sentence prisoners voluntarily donated their organs. But by my experience that is an outrageous lie. First of all, none of them wanted to die. Of the thirty-seven executions that I witnessed, every one of them appealed for a new hearing of their initial sentencing. Since they did not want to die, how could they voluntarily donate their organs. Secondly, none of the condemned prisoners knew when they were to be executed, and it was only hours from the final official ruling was pronounced that execution took place. Being tied up and given tranquilizing shots, how could they have the time and courage to make their will known to donate organs? So this is indeed a downright lie.¹⁶

Dr. Tsuyoshi Awaya from Japan summarized the methods used to circumvent Chinese law in the following manner:

In reality have prisoners' consent been given to doctors before organs are removed from their dead bodies? There are four types. First: No procedure to get prisoners' or their families' consent takes place. Second: The procedure is gone through perfunctorily and their refusal is ignored. Third: The procedure is gone through, and if they refuse to donate their organs, compensation is paid to the family in order to change their mind. Fourth: The procedure is gone through and if the prisoners refuse to donate their organs, money for prisoners' expenses (food, lodging, etc.) is demanded in order to make them change their mind.

Dr. Awaya's testimony also included analyses of the ethical ramifications of such a system:

How about the ethical view? Here it is a problem as to whether the prisoner's consent is voluntary or not. There are two ways of thinking:

1. The prisoner's will to donate organs or not should be respected even if he or she is a prisoner, if his or her consent is given voluntarily.
2. The use of prisoners' organs for transplant purposes is unacceptable, whether prisoners give their consent or not, whether their consent is voluntary or not, on the grounds of:
 - a) ...it is impossible for the condemned criminals to give free consent because they are in a fundamentally coercive situation
 - b) ...a kind of safety device is needed in order to prevent all the cases in which

prisoners do not give genuinely free consent, even if, in reality, there are cases of prisoners giving genuinely free consent.¹⁷

Chinese medical journals also contain examples of individuals from within the Chinese medical community who find problems with Chinese law regarding donor consent. In an article entitled "Reflecting on Expansion of the Sources for the Organ Supply," in the *Journal of Medicine and Philosophy*, author Huang Yan includes "voluntary donation" in a list of principles that are relevant to methods of organ procurement:

The principle of voluntary donation:

The important aspects of this principle include: anyone over the age of eighteen can choose to donate their body in full or in part to the purposes of research and medical education. If a person has made no representation for the donation of their organs prior to their death than a close relative can make this representation for them. . . If a person has already made a representation to donate his organs prior to his death, than no relative can alter his decision. There should be laws and regulations to govern this procedure.¹⁸

In the same journal, author Zhang Zanning raises specific questions that are not addressed in the 1984 Provisional Regulations, stating that it is necessary to address these issues in order to properly administrate programs of transplantation and medical research:

Strictly control the terms and scope of transplantation. There must be terms and conditions for the Chinese hospitals that are permitted to carry out organ transplant operations, if a facility does not meet these terms and conditions it should be forbidden for transplantation to occur.

The author also states that supervision is necessary in order to ensure that procedures for gaining consent are carried out according to the law and that punishments should be stipulated for any found in violation of the law. Additionally, he emphasizes that new laws must be formulated specifying these procedures to ensure that anyone who violates the principle of consent will come under the full prosecution of the law.¹⁹

Even though these articles do not include a human rights related condemnation of current practices, any statement of opposition is highly meaningful. Due to the taboos surrounding the notion of any critique of national policy in China, even a few individuals who are willing to express such sentiments represent a significant amount of determination to speak out on issues that are important to society at large.

Involvement of Doctors - The Principle of Nonmaleficence

The principle of nonmaleficence requires that doctors inflict no injury or harm upon others. *Primum non nocere*, "first do no harm" is a concept espoused in medicine from ancient times. Throughout history, in any issue of medical malpractice or other procedures in which doctors are involved for any purpose that does not directly involve the improvement of a patient's health or well-being, this principle is immediately called into question.²⁰

Expert medical ethicist and head of the Bellagio Task Force on Transplantation Dr. David Rothman has testified before Congress regarding the ethically alarming situation in which physicians are placed if

they participate in the process of harvesting of organs from prisoners:

Physicians have become intimate participants in the execution process, functioning not to preserve life but to manipulate death in the service of transplantation. In using organs from executed prisoners, there is no avoiding this compromise of medical ethics and violation of ancient axioms to do no harm. However acute the need for organs, physicians should not be turned into executioners, and hospitals, into execution chambers.²¹

The participation of doctors in pre-execution medical examination and post-execution organ retrieval is therefore deeply troubling from the perspective of medical ethicists. In 1982, the General Assembly of the United Nations affirmed such concerns through the adoption of resolutions involving medical ethics and the treatment of prisoners. This document included the following principles relevant to the role of doctors in any procedures involving execution:

Principle 2:

It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman, or degrading treatment or punishment.

Principle 3:

It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

Principle 4.b:

It is a contravention of medical ethics for health personnel, particularly physicians, to certify, or to participate in the certification of the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment of punishment which is not in accordance with the relevant international instruments.²²

These principles clearly point out the flagrant violations of medical ethics that occur when Chinese doctors participate in the process of organ harvesting. As physicians first perform medical tests on death row inmates matching them with potential recipients, remove their organs without receiving the proper consent, and then proceed to perform transplant operations with these organs, each step in the process constitutes infringement upon these principles and the international standards referred to therein.

In a statement issued in September 1994, the World Medical Association confronted physicians who involve themselves in questionable situations of organ transplantation in its Resolution on Physician's Conduct Concerning Human Organ Transplantation. The Resolution applies to transplants involving executed prisoners, handicapped donors who were euthanized, individuals who sell their own organs for profit, and children who are kidnapped for the sale of their organs. It addresses situations involving prisoners with the following condemnation:

There is significant concern at the increasing number of reports of physicians participating in the transplantation of human organs or tissue from...the bodies of prisoners executed in application of a death sentence without previously obtaining their consent or giving them an opportunity to refuse...In such cases the participation of physicians is in direct contravention of the guidelines enunciated by the WMA...the WMA solemnly reaffirms those guidelines and calls upon all national medical associations to uphold them, and in case of infraction of these guidelines to severely discipline the physicians involved.²³

There have also been instances of doctors who individually indicate their reservations regarding transplant operations in China on the basis of medical ethics. In 1998, Dr. Jitraphai from Thailand, who had researched many cases of patients who travel to China in search of an organ transplant, testified before members of the US House of Representatives offering the following suggestions:

1. The donation of organs has to be voluntary and the family has to be informed of this donation and they have to be consenting. The Chinese consider that when you are a prisoner, you no longer have rights. This is an affront to human rights.
2. China has to put an end to the organ traffic taking place within its territory. The government has to control and arrest the brokers who make the real profit on the transaction.
3. Organ allocation has to be ethically controlled. The organs should be allocated to patients who have been waiting for years and not only to those patients who have money to spare.²⁴

As demonstrated in the above statements from various sectors of the medical community, the principle of nonmaleficence is strongly ingrained within the international medical community. The above principles also demonstrate that China violates these principles through its practice of organ harvesting according to standards laid out by the United Nations and the World Medical Association – organizations where China holds membership.

The Standard of Brain Death

In 1994, Executive Director of the Laogai Research Foundation Harry Wu made investigative visits to three hospitals in China making inquiries regarding organ sources. At the West China University of Medical Sciences (*Huaxi yike daxue*) in Chengdu City, Sichuan Province, Mr. Wu met with Professor Yang, Director of Urology, who informed him that “Kidneys come from brain dead people.” He also commented that “there are too many legal procedures involved in kidney removal in the US...Besides, our legal procedures are much simpler.”²⁵

Several details of Professor Yang’s statements raise important questions from ethical, legal, and human rights perspectives. Most importantly, China has no national legal standard for brain death. This standard, recognized virtually worldwide, involves the ceasing of all measurable brain activity in order to determine death. This standard allows doctors in most nations (including the US) to first measure brain waves and then pronounce registered donors brain dead according to legal standards before removal of organs while maintaining the vital functions of respiration and heart beat through life-support equipment. The exact methods of monitoring brain function and exact standards regarding the measurement required

for pronouncement of death vary slightly from nation to nation, but these standards are all regarded as a vital element to the organ donation programs of their respective nations. In China, since no national policy has been adopted, the standard varies from province to province and from hospital to hospital.²⁶

Such accounts demonstrate further impingement on the standards of medical ethics as PRC doctors ignore both internationally recognized standards for pronouncement of death (heart death and brain death) in their procedures of organ harvesting. Ethical standards require that all involved parties wait for legal confirmation of brain death before commencing the process of organ removal.²⁷ These standards are articulated in the Declaration on Human Organ Transplantation from the World Medical Association. The Declaration states that:

“When an organ is to be transplanted from a donor after the donor’s death, the death of the donor shall have been determined independently by two or more physicians who are not involved in the transplantation procedure... In making this determination, each physician will use currently accepted scientific tests, and criteria that are consistent with the ethical requirements and professional standards established by the National Medical Association and other appropriate medical organizations in the community.”²⁸

Articles in medical journals have reflected the notion that definition of a standard for brain death is necessary for proper administration of the organ retrieval process. Zhang Zanning states that without such standards, extraction of organs can become tantamount to murder since there has been no confirmation of the death of the donor.²⁹ As Chinese authorities first induce coma through a shot to the head and then have little to no standardized procedure involving the confirmation of brain death, ethical mandates and international human rights laws are simultaneously violated.

According to several testimonies regarding the process of organ removal, standards regarding brain death or heart death (death according to stoppage of heart beat) are often ignored. Former Chinese prosecutor Wang Chengyong claimed that often all that was required before commencing the process of organ removal was for a warden to confirm that an executed prisoner’s pupils had become dilated.³⁰ In testimony before members of the US House of Representatives, a Thai doctor stated that sometimes “important clients get operation tents right on the field.” This indicates that organ removal is performed at the sight of execution directly after the shot has been fired, when obviously there is no time or even possibility to utilize equipment for the measurement of true brain death by any standard.³¹ In a previous hearing, Chinese doctors testified to similar circumstances. “To preserve the prisoner’s organs,” one said, “members of the People’s Armed Police firing squad are ordered not to shoot to kill, but rather only to cause a coma.” Another stated more specifically that

In China, it is not necessary to make electroencephalograms to determine if a prisoner is brain dead before extracting his or her organs... Dr. Shao Ming of Guangming Hospital in Shanghai described to me the scenes of this practice... According to what he said, when the prisoner was placed in the ambulance, he could feel tremblings and pulses in his limbs. Everything from that prisoner, kidneys, spleen, heart, and corneas was extracted.

When the witness told this story to other Chinese doctors, he reported that one responded saying “That’s not rare. Sometimes we give the donors anti-coagulating shots before they are executed. Sometimes, an

executée's heart is still beating while his kidneys are being removed. They are shot a second time after the removal is completed."³²

It is also relevant to point out that Chinese authorities today do not respect the heart death standard, which is the currently recognized legal standard for confirmation of death in China. It is therefore highly unlikely that establishment of legally recognized standards of brain death would improve the practices of organ procurement in China. In fact, it is more likely that regardless of any 'legal' standards, medical personnel would continue premature pronouncement of death in their rush to harvest organs for patients who pay high prices for a successful transplant.³³

Organ Allocation - The Principle of Justice

The big push to develop organ transplant techniques in Chinese hospitals occurred in the early eighties. Many reasons for this push were mentioned previously, including the introduction of Cyclosporine-A and the need for hospitals to generate independent revenue sources. Other factors were influential, such as a desire to improve living standards among patients and to gain further prestige in the medical community.

Upon examination of Chinese practices, it becomes clear that primary reasons involve few charitable intentions towards ailing patients. As all officials realized the revenue source available from desperate and dying individuals and the abundance of organs to be harvested from death row prisoners, greed became an obvious priority. It is generally not the elderly Chinese peasant on dialysis that receives a kidney from an executed criminal, rather, it is usually rich foreigners and politically or economically privileged Chinese.

In 1994, a report was prepared by an official for the United States Department of Commerce on hospitals in Guangdong Province. This report, entitled "China – Medical Equipment in Guangdong," described the implicit order of preference for transplant patients:

...the unstated priority list for kidney transplant is: first, overseas Chinese; second, high ranking government officials; third, members of the military; and last, the common citizen. Likewise at Zhongshan Medical School Hospital, there is a separate ward for foreigners, charging twice the normal price, but reportedly staffed by the hospital's best doctors and section chiefs.³⁴

In nations worldwide, bodies of medical ethicists often debate questions of allocation involving the time a patient has spent on a waiting list versus the seriousness of their conditions. Most nations have developed a system that combines these two factors to determine a priority list for those who will receive an organ. All such international bodies of ethicists agree with the general principle that social worth should not figure in decisions to allot organs.³⁵ The United Network of Organ Sharing (UNOS), an internationally recognized body of ethicists, doctors, and lawyers refers to the issue of organ allotment as the "principle of justice." In debates regarding this principle, UNOS recognizes many factors that should influence any set of criterion for organ allocation. These factors involve a patient's medical condition, their prospects for a successful transplant, and their time spent waiting for an organ. There is no consideration whatsoever involving a patient's social or political status and certainly no question involving their ability to serve as a source of income for those who coordinate and perform their surgery.³⁶

Dr. Phaibul Jitpraphai from Thailand who had observed the business of organ brokering in his country made the following comments regarding China's profit-motivated system of organ allocation:

This organized market is really what poses the main problem. It is because of this that abuses occur. It is because of these brokers that certain executions are postponed because a patient has not yet arrived. It is because of these brokers that important clients get operation tents right on the field. It is because of these brokers that the 100,000 Chinese people who are also waiting for kidney transplants will never get them.³⁷

This statement and the others in this section represent the views of inter-governmental bodies, organizations of medical ethicists, and individual doctors. Each expresses views that the process of organ harvesting as it occurs in China presents an affront to basic principles of medical ethics. Their arguments demonstrate the undeniable dilemmas that pervade the Chinese system of organ harvesting from executed prisoners on an ethical as well as a moral level.

¹ "China Experts Work on Organ Donation Laws," *South China Morning Post*, (May 11, 1991).

² United Nations, General Assembly, *United Nations Report of the Committee Against Torture*, statements of Jin Yongjian, Chinese Ambassador to the UN, 48th Session, A/48/44, (1993).

³ Zeng Zi. *The Classic of Filial Piety (Xiao Jing)*. Available <Online> www.chinapage.com/confucius/xiaojing-be.html. January 26, 2001.

⁴ Charlotte Ikels, "Kidney Failure and Transplantation in China," (1997).

⁵ National Kidney Foundation of Singapore, "Organ Donation," <Available online> www.nkfs.org/advo_mainframe.html. February 16, 2000.

⁶ *Japan Echo Inc*, "Organ Transplants: Operations More Common as Donor Cards Become Popular." August 16, 1999. <Available online> www.jin-japan.org/trends/honbon/tj990813.html. February 16, 2000.

⁷ Michael A. Lev, "First Heart Transplant in 31 Years Performed in Japan." *Seattle Times*, March 1, 1999. <Available Online> www.seattle-times.com/news/nation-world/html98/tran_19990301.html. February 16, 2000.

⁸ International Committee of the Red Cross, *Protocols Additional to the Geneva Conventions of August 12, 1949*, (Geneva, 1977).

⁹ The World Medical Association, Inc., 39th World Medical Assembly, *World Medical Association Declaration on Human Organ Transplantation*, (Madrid, Spain: October, 1987). <Available Online> www.wma.net/policy/17-q_e.html. May 15, 2000. See ATTACHMENTS.

¹⁰ Sir Roy Calne, *Organ and Tissue Donation for Transplant*, "Ethics in Organ Donation and Transplantation: the Position of the Transplantation Society," ed. Jeremy R. Chapman, Mark Deierhoi, Celia Wright (London: Arnold Publishers, 1997), 63.

¹¹ *Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals*, (October 9, 1984).

¹² Anita Chan, "Boot Camp at the Shoe Factory," *Washington Post*. November 3, 1996. <Available Online> www.washingtonpost.co...6-11/03/07L-110396-indx.htm. June 8, 1997.

¹³ Transcripts, *The United States of America vs. Chengyong Wang*.

¹⁴ Cheng Weimin, January, 1999.

¹⁵ Personal Interview, H. Wu and Dr. Yang Jun, 1998.

¹⁶ Personal Interview, H. Wu, and Pan Shan, 1997

¹⁷ US House of Representatives, International Relations Committee and the Committee on Government Reform and

Oversight, Statement of Dr. Tsuyoshi Awaya, (June 16, 1998).

¹⁸ Huang Yan, "Reflecting on Expansion of the Sources for the Organ Supply," *The Journal of Medicine and Philosophy*(*Yixue Yu Zhexue*), 19:6, (June, 1998).

¹⁹ Zhang Zanning, 1996. For full text see ATTACHMENTS..

²⁰ Jeremiah Turcotte, M.D., "Transplantation: A Frontier for Bioethics and Bioscience," *Organ Procurement, Preservation and Distribution in Transplantation*. ed. Michael G Phillips. (Birmingham: United Network of Organ Sharing [UNOS], 1997), 16.

²¹ US House of Representatives, International Relations Committee and the Government Reform and Oversight Committee. *The Sale of Body Parts by the People's Republic of China*, Testimony of David Rothman (Washington, DC: GPO, June 16, 1998).

²² United Nations General Assembly, *The Principles of Medical Ethics Relevant to the Protection of Prisoners Against Torture*. 37th Session, agenda item 18. (Geneva: Council for International Organizations of Medical Sciences, March 9, 1983).

²³ World Medical Association, Inc., 46th WMA General Assembly, *Resolution on Physicians' Conduct Concerning Human Organ Transplantation*. (Stolckholm, Sweden: September, 1994). <Available Online> www.wma.net/e/policy/20-2-94_e.htm. May 15, 2000.

²⁴ US House of Representatives, Committee on International Relations and Committee on Government Reform and Oversight, Statement of Phaibul Jitpraphai, (June 16, 1998).

²⁵ Personal Interviews. Mr. Harry Wu, Executive Director, Laogai Research Foundation and Professor Yang, Director of Urology, West China University of Medical Sciences, Chengdu, Sichuan Province, PRC, 1994.

²⁶ Human Rights Watch, 1994.

²⁷ Eileen P Flynn, *Issues in Medical Ethics*, (Kansas City: Sheed and Ward, 1997), 211.

²⁸ World Medical Association, October, 1987. www.wma.net/e/policy/17-q_e.html.

²⁹ Zhang Zanning, 1996.

³⁰ Government's Motion for Reconsideration, *The United States of America vs. Chengyong Wang*. United States District Court, Southern District of New York, (March 15, 1998), S1 98 Cr. 199 (DAB).

³¹ US House of Representatives, Committee on International Relations and Committee on Government Reform and Oversight, Testimony of Phaibul Jitpraphai, (June 16, 1998).

³² US House of Representatives, Subcommittee on International Operations and Human Rights, Testimonies of Dr. Zhou Weizheng and Dr. Qian Xiaojang, (June 18, 1996).

³³ Human Rights Watch, 1994.

³⁴ Peretz, 10.

³⁵ Flynn, 219.

³⁶ G. Melville Williams, M.D, "History of Transplantation," *Organ Procurement, Preservation, and Distribution in Transplantation*, ed. Michael G Phillips, (Birmingham: United Network for Organ Sharing, 1996), 17.

³⁷ US House of Representatives, Committee on International Relations and the Committee on Government Reform and Oversight, Statement of Phaibul Jitpraphai (June 16, 1998).

China and the International Organs Trade

"The doctor, who is head of the urology department at the hospital, told me after I had recovered that the kidney I had received came from an executed prisoner."

- Somporn Lorgeronon, Thai citizen who received a kidney transplant in China in 1993

"Thai patients have been going to China to get transplants for the past seven years. To my knowledge, there are at least forty patients every year that get kidney transplants. All of them are told that the organs come from executed prisoners."

- Dr. Phaibul Jitprapai, President of the Thai Transplantation Society

China and the International Organs Trade

For those involved in the business procedures of marketing, selling and facilitating organ transplants using involving China's prisons, the organ brokerage business is lucrative, especially since patients are often wealthy overseas Chinese from neighboring Pacific Rim nations. In many instances, the abuses of power that medical and judicial officials perpetrate against prisoners transcend the limits of Chinese national boundaries as international organs brokers recruit patients from overseas.

As organ brokering is illegal in most countries, the organs trade is difficult to track. Still, Southeast Asian newspapers as well as Western media sources have carried stories tracking accounts of people from Hong Kong, Taiwan, Singapore, Malaysia, Japan, and other nations who travel to China to tap into the available supply of organs from executed prisoners.

As early as 1988, there were reports of Hong Kong citizens traveling to China for kidney transplants using organs from executed prisoners. An article in the *South China Morning Post* reported, "two hospitals in Guangzhou are using the kidneys of executed criminals for transplants because of the difficulty in finding donors [in Hong Kong]." The *Post* reported that Nanfang Hospital, one of the major sites for these transplants, in the mid 1980s was performing about 50 transplants a year, mainly on overseas Chinese. An official at the renal unit of Nanfang Hospital admitted that most of the kidneys used in transplants come from newly executed criminals. When asked about the ethics of such an operation, Ms. Ho Meisim, the manager of the Wei Kiu Agency, Hong Kong representative of the Nanfang Hospital, argued that "the transplants are not unethical as the criminals are making use of their last virtue." In 1988, the price for a kidney was HK\$70,000.¹

A 1994 article from the *South China Morning Post* reported on the actions of Dr. George M.K. Chan, one of the area's top renal specialists, who often referred patients in need of a transplant to hospitals in China where they could receive the kidneys of an executed prisoner.² Dr. Chan, the former renal chief of Queen Mary Hospital, explained that he was routinely informed of execution dates by a network of his former students who work on the Mainland. When questioned about his actions, Dr. Chan insisted that the kidneys were "voluntarily donated" by prisoners before they died.³

In 1995, the Hong Kong newspaper *Eastern Express* (*Dongfang Kuaibao*) reported that the Hong Kong government was attempting to crack down on Chinese organ brokers. The *Express* reported that the Morning Lights Organs Transplant Services, based the city of Shenzhen, placed illegal ads in Hong Kong regarding the availability of fresh organs and transplants in mainland hospitals. The Morning Lights Organ Transplant Services Centre's advertisements were found on street lamps as well as posted outside two hospitals in Kowloon City. The price for their services ranged from HK\$350,000 to HK\$600,000. According to the article a spokesman for the agency boasted, "it had an extensive network supplying organs for more than fifteen 'national' hospitals in China." In May of that year, Hong Kong officials attempted to prosecute the Morning Lights Organ Transplant Services Centre for breaching the Undesirable Medical Advertisement Ordinance. However the law had just been passed and was not effective retroactively, rendering it inapplicable to the case. This unfortunately hindered the extent of legal actions that could be pursued against the Morning Lights Organ Transplant Services Centre.⁴

In early 1997, *The Straits Times* of Singapore reported that at least forty-seven Thais have gone

to China for organ transplants. However, according to the Thai Transplantation society, more than two thirds of these patients have been forced to undergo further surgeries for removal of a rejected kidney upon return to Thailand. Doctors at the transplantation society said such situations arose due to unsanitary conditions and improper operation and treatment methods.⁵

In April of 1998 an Associate Press report revealed a story of a Taiwanese woman who traveled to China for a transplant. After seeing the number of transplants performed at the hospital in one day and speaking with doctors, the woman said it was certain the organs came from executed prisoners. In the same article, reporters interviewed a doctor who offered information regarding additional transplants performed on Taiwanese patients in China in 1995. At the same time, patients from Indonesia and the Philippines also received transplants. According to this report, by 1997 at least 360 Taiwanese patients had received transplants in China.⁶

In September 1998, reports again surfaced regarding a Chinese hospital that offered kidney transplants to Taiwanese patients using the kidneys of executed prisoners. Agence France Presse reported that patients paid as much as NT\$900,000 (USD \$26,085) for the transplants in a hospital in the Chinese city of Fuzhou. Furthermore, an organ broker identified by the name of Lu in the *United Daily News (Lianhe Bao)* offered organs of criminals that had been executed up to 12 hours prior to the transplant. Lu also guaranteed that if the body rejected the kidney, the patient could receive another from the hospital.⁷

The *South China Morning Post* reported in January 2000 that people from Hong Kong continued to travel to Southern China for organ transplants. The report also highlighted the expansion of the organs trade, in interviews with patients from Hong Kong who received liver transplants in China, as opposed to the more commonly seen kidney transplant. A doctor at the Sun Yatsen University of Medical Sciences First Affiliated Hospital (also known as Zhongshan Hospital) openly admitted to an undercover reporter from the *Post* that livers of good quality could be acquired for transplant around the time of the Lunar New Year. The doctor assured the reporter that Chinese authorities would be executing prisoners before the holiday and that consent was not an issue. According to medical sources cited in the article, organs are sold for up to \$300,000 (\$38,460) each to patients from Hong Kong.⁸

The *South China Morning Post* further reported that between 1998 and 2000, according to doctors in the Special Administrative Region (SAR) of Hong Kong, at least five patients from Hong Kong traveled to a hospital in Guangzhou for a liver transplant.⁹ Of the five, two died from complications. Dr. Ko Wingman, a Hong Kong Hospital Authority Director stated in a follow-up *Post* article that medical authorities in Hong Kong have tried to deter people from seeking transplants in China by withholding follow-up treatment. However, because of concern over their patients, they have decided to create a mechanism in which they can track patients who have undergone a mainland transplant. Doctors in the SAR have also refused invitations for joint transplantation operations in China using executed prisoner organs.¹⁰ Since these revealing articles in the *Post*, officially sanctioned Chinese newspapers reported that the Chinese government as well as the doctors at the Zhongshan Hospital in Guangzhou have denied all accounts on the use of executed prisoners for liver transplants.¹¹

Reports have also surfaced regarding patients from Malaysia traveling from China to receive organ transplants. On June 15, 2000, the *International Herald Tribune* reported that Malaysian citizens were paying a minimum \$12,000 for kidney transplants in China. According to an estimate by Dr. S. Y. Tan, one

of Malaysia's leading kidney specialists, more than 1,000 Malaysians have made the trip to China in search of a kidney. Patients interviewed in the article told reporters that doctors had readily admitted that the transplanted organs had come from executed prisoners. One patient, Karen Soh, highlighted the priority that is placed upon profit in such transplant procedures. Ms. Soh told reporters that one Malaysian woman who ran out of cash was taken off Cyclosporine and other necessary immuno-suppressants for a day and apparently died from infection after her return to Malaysia. All patients must give "gifts" to doctors and officials involved in the procedure in addition to the original fees of the operation.¹²

Recent reports identified patients in Singapore were making their way to China in search of transplants. On December 13, 2000 the *Straits Times* ran reports of patients heading to a military-run Medical University in Chongqing. The article stated that each patient paid approximately \$20,000 for their operation. An official at this hospital said that the majority of the recipients for more than 100 transplants performed at the hospital annually were from Southeast Asian nations.¹³

Testimony offered in the US Congress has revealed additional information regarding foreigners who have taken advantage of the ready supply of organs from Chinese prisoners. Researchers in certain countries have meticulously monitored activities of the Chinese organs trade in their nations. These individuals, from the medical and ethics communities, have provided a rich source of information on individuals who travel to China from other nations seeking organ transplants.

Tsuyoshi Awaya, a Japanese lawyer specializing in transplant ethics, testified before the United States Congress in June 1998 regarding his knowledge of the trade in Japan. Awaya testified on his research on the brokering system in Japan and the actions of the Japanese government in efforts to stem the flow of patients travelling to China for transplants. As early as 1985, Japanese patients had been traveling to China for kidney transplants. In 1997, Japan issued the "Law Concerning Human Organ Transplants," stipulating that it is illegal to pay "valuable consideration" for an organ. If the patient pays only for the actual hospital fees, it is legal, but anything more than that (including organ brokerage fees) would break the law. Dr. Awaya stated that he knew of at least twenty-six cases of Japanese patients going to China for transplants from executed criminals before this law was passed. Brokers advertised their services through web sites, newspaper ads, and fliers on telephone poles or subway stops. Since the law took effect, making transplant operations more accessible in Japan, Dr. Awaya testified that no other cases of organ brokerage in Japan had been reported.¹⁴

Dr. Phaibul Jitraphai President of the Thai Transplantation Society, has conducted research with ailing Thai patients who return from China. Dr. Jitraphai testified before the same Congressional hearing in June of 1998 that organ brokers have an enormous influence on the transplant and the execution process. Organ brokers, also euphemistically referred to as "travel agents," arrange not only for an organ to be available, but also for hotel accommodations, hospital accommodations, and the operation itself:

The main problem is the organized market that has sprung around this desperate need for organs. People that we call "brokers" or "travel agents" make a profit on the illness of these individuals and the death of prisoners... They ask for \$30,000 to \$40,000... These are the people who make the major profit.¹⁵

For those with the means, it is more than possible to bypass the broker middlemen and deal with

the hospitals more directly. Somphorn Lorgeranon, a Thai citizen who experienced renal failure in 1993, traveled to China on a tourist visa, and two days following his arrival, walked into Zhongshan Hospital in Guangzhou in search of a kidney transplant. He was admitted immediately. Hospital officials instructed him to pay HK\$80,000 before the operation for dialysis and hospital accommodations. After two weeks of dialysis treatment, he was informed that in ten days, the transplant would be completed. On June 22, 1993, Mr. Lorgeranon received his kidney, as did five other foreign patients at the hospital. After his recovery, he was shown a newspaper clipping about an execution that had taken place the day of his operation. The head of the urology department confirmed that the newly transplanted kidney had come from this executed prisoner.¹⁶

The trade in organs from Chinese prisoners has entered the American market as well. In June 1997, ABC News and the Laogai Research Foundation responded to an advertisement in the World Journal (*Shijie Ribao*), a Chinese-language American newspaper that said simply, “Kidney Transplants in China. Don’t Miss the Opportunity. For More, Call.” Dr. Dai Yong, a Connecticut licensed doctor working out of Bridgeport, talked openly of the opportunity for Americans to purchase prisoners’ organs in China. In advance of the Chinese national holiday on August 1 (the anniversary of the PLA), Dr. Dai offered to make arrangements for a wealthy Chinese-American to travel to Guangdong Province in late July for the procedure. Dr. Dai and his wife mentioned often that the source of the organ would be a prisoner and that there were many prisoners to choose from so the matching of the patient and the donor would be easy. Dr. Dai’s wife went on to ensure that the patient would be healthy. “Regarding the prisoners’ health, they are all given physical check-ups and blood tests... There are so many criminals, they have a lot to choose from.” The negotiated price was US\$30,000 for the organ and surgery, including a \$5,000 down payment to be paid to Dr. Dai, in cash, to reserve a bed and a kidney. When confronted on-camera by an ABC reporter, Dr. Dai insisted that the \$5,000 was payment for his “introductory service.”¹⁷

Months later, in February 1998, two Chinese nationals were arrested in New York City on charges of conspiring to sell organs. Wang Chengyong, mentioned throughout this report, and Fu Xingqi,¹⁸ Wang’s co-conspirator, had previously approached hematologists and urologists in New York offering to broker organs to their patients and to arrange for transplant operations in China. Concerned doctors contacted Harry Wu regarding Wang’s ventures and a federal investigation ensued. Mr. Wu, posing as a board member for a US dialysis center, arranged a meeting in a hotel room to discuss the proposal. During this two and a half hour meeting, Wang boasted that, as a prosecutor involved in executions, he could sell Wu organs from fifty prisoners on death row in the next year. Wang and Fu boasted that they could provide kidneys, corneas, livers, skin, pancreases, and lungs for any patients who were willing to travel to China for the operations.¹⁹ After their arrest in early 1998, the two men were put on trial for conspiring to sell human organs. After the trial dragged on for more than a year, the case was dismissed because a key American witness from the prosecution refused to testify. Wang Chengyong has since returned to China.

Prominent Hospitals in the International Organs Trade

As foreigners who seek organ transplants in China generally pay in foreign currency and therefore receive preferential treatment, it follows that these foreigners will usually be hosted by the most professional and state-of-the-art facilities in the country. This is evidenced by the consistency of hospital names that appear repeatedly within reports of foreigners receiving transplant operations in the PRC. These same

hospitals are also noted in Chinese medical journals in lists of facilities performing the most transplants annually with the highest success rates. In correlation to reports and other information on foreigners and the organs trade, certain hospitals appear over and over again, including: Nanfang Hospital (Southern Hospital) in Guangzhou, Zhongshan Hospital (Sun Yatsen Hospital) in Guangzhou, Beijing Youyi Hospital (The Beijing Friendship Hospital), Tongji Hospital in Wuhan and Changzheng Hospital (Long March Hospital) in Shanghai. In 1998, the Chinese Journal of Organ Transplantation confirmed that these hospitals are also the top five facilities in number of transplants performed in the nation. That year, each of these hospitals broke records by being among the first in China to perform more than 1,000 total transplant operations.²⁰ These medical institutions have built their reputations in the international community through active participation in a regular and coordinated process of harvesting organs from executed prisoners.

Nanfang Hospital is subordinate to the Chinese People's Liberation Army First Medical University.²¹ This hospital is staffed by military medical personnel and teaching doctors. In bilingual marketing material for Nanfang Hospital, the facility promotes its "state-of-the-art" equipment and its "large number of nationally famous contemporary doctors." The brochure continues:

The Wai Kiu Buildings of the Nanfang Hospital are the largest hotel-like modern patient wards in the nation. They specialize in providing health check-ups and medical treatment for foreigners, overseas Chinese and compatriots from Hong Kong, Macao and Taiwan... For over the past ten years, the Wai Kiu Buildings have received more than 30,000 patients from 65 countries and other areas.

Further research identifies this hemodialysis operation as a joint-venture operating under the name Guangzhou Nanfang NMC Hemodialysis Center. This facility was established by National Medical Care Inc., a subsidiary of American corporation W.R. Grace. W.R. Grace operated this center until National Medical Care was sold to Fresenius AG, a German company, in September 1996. Nanfang Hospital promotes itself as a modern transplant facility and used this joint-venture to attract foreign patients to travel to China for surgical procedures.²²

The US Department of Commerce report on medical equipment in Guangdong includes a detailed description of Nanfang. The report describes the hospital as follows:

One of the largest hospitals in Guangzhou, the Nanfang Hospital run by the People's Liberation Army (PLA), claims that 400 of its 1200 beds are specially reserved for Overseas Chinese and offers higher than average living conditions. Out of 1300 beds in 25 specialty areas, 400 beds are set aside for Overseas Chinese. The Overseas Chinese wing of the hospital is estimated to generate USD\$ 1.5 - 2 million in hard currency each year. In 1993 the hospital imported medical equipment of \$1 million. It operates a 40-station hemodialysis center as joint-venture with W.R. Grace. The hospital operates its own pager center to communicate with all doctors and professors on the hospital campus at all times.

PLANS: Out of 2,000 doctors on staff sends 40 professors overseas to study each year (1/3 to the US.). Would like to engage in further joint-ventures with US companies.²³

In March 1998, in the wake of an ABC documentary on organ harvesting from executed prisoners, the German company Fresenius pulled out of its joint venture because there was no way to ensure that

the dialysis center was not used to handle patients with kidney transplants from executed prisoners. Finding itself in the international spotlight, the company took the unusual step of placing ethical considerations above financial gain. As a Fresenius spokesperson said, "China is a small part of our business. It could have grown into a big business. However, we cannot care about losses when there are ethical considerations."²⁴

Despite an official statement from the company plainly stating that its divestiture resulted from the possibility of its unwitting complicity in the organ trade, Chinese authorities still insisted on denying that Fresenius's decision had to do with the use of organs from executed prisoners. According to reports from the *Hong Kong China News Dispatch*, run by the official news agency of the PRC, "both sides (Chinese and German) concluded that economic effects had not reached expected results."²⁵

As reported in a Korean newspaper, a Thai national, Ms. Jiraporn Yoonuch, told of how she was contacted on January 3, 1993 and told by her doctor inside China that a series of executions were to be held shortly. She quickly went to Nanfang Hospital in Guangzhou city. On January 9, 1993, she received her kidney at Nanfang Hospital. The Chinese newspaper *Southern Daily (Nanfang Ribao)* and the Guangdong People's Radio Network reported that throughout Guangdong that same day "district-level people's courts simultaneously held public trials to pronounce court judgments on severe criminals... A total of 299 criminals were sentenced to life imprisonment, given the death penalty with a possibility for reprieve, or given the death penalty."²⁶

One article in the April 1997 edition of the *Chinese Journal of Organ Transplantation* also sighted Nanfang as one of three hospitals in China to perform more than 1,000 total kidney transplants.²⁷ Three months later, the same publication featured an article stating that doctors at Nanfang completed more than 100 kidney transplants during 1996. The same article reported that Nanfang also performs multiple organ transplant procedures.²⁸

The Beijing Friendship Hospital (also known as Beijing Youyi) is one of the oldest and most reputable hospitals in the Chinese capitol. In its foreigners wing, visitors from across the globe receive treatment from doctors who were educated in top medical schools in the West. In July of 1997, the Beijing People's Daily reported that Beijing Youyi Hospital had just set a new record by becoming the first hospital in China to complete 2,000 kidney transplants. The article also states that this hospital was the first one in China to utilize the immuno-suppressive agent Cyclosporine in fighting rejection of transplanted kidneys. The Beijing Organic Transplant Matching Center was established at Youyi in 1997, facilitating improved techniques in matching patients with prospective donators.²⁹ According to reports from Human Rights Watch, in early 1990 a leading surgeon at Beijing Friendship Hospital informed a former PRC judge that all the kidneys used by the hospital for transplant came from executed prisoners.³⁰ In March of 2000 an independent investigator who had conducted research involving organ harvesting in China testified that organs from executed prisoners remain the sole source for organ transplants conducted at Beijing Youyi.³¹

On its website, Tongji Medical University advertises the success of its "national key discipline" of organ transplantation. The center is renowned for its experimental and clinical research, and is one of the oldest of the kind in the country.³² In April of 1994, Laogai Research Foundation Executive Director Harry Wu visited the Organ Transplantation Research Center at Tongji Academy of Medical Sciences in Wuhan. Mr. Wu posed as a US businessman seeking a kidney transplant for an ailing relative in America.

Several doctors sat down with Mr. Wu and spoke with him at length regarding the state-of-the-art facilities available at the hospital and the ease to which they could procure an organ for the right price. Mr. Wu asked Dr. Xia Suisheng, one of China's most renowned researchers on the subject of organ transplantation, regarding the sources of organs available for transplantation. Dr. Xia replied that in their hospital such information must remain confidential.

While at the hospital, Mr. Wu was also able to speak with patients who had recently received similar operations. One man by the name of Li told Mr. Wu, "...Five of us had our kidney transplants done on the same day. There were six kidneys available that day. One was sent to another hospital...All were from young prisoners, all under twenty-five and very healthy...They were executed at Dongxihu District, less than an hour from the hospital...They were executed at eleven in the morning and we had our operations at two in the afternoon." Doctors also informed Mr. Wu that a wealthy Thai businessman had received a transplant operation at the hospital in February 1994.³³ A BBC documentary on Mr. Wu's visit to Tongji attracted much international media on the subject and also caused a temporary strain on Chinese – British relations.

Tongji was among the very first facilities to begin performing transplants in China, completing twelve between 1977 and 1979.³⁴ In 1996 it was included in a list of hospitals completing more than 100 transplants in the year. There was also a study published in the *CJOT* in January 2000 reporting that even though Tongji had completed more than 1000 transplants by 1998, from 1990 to 1999 their procedures included only twenty-nine cases involving live donors.³⁵ Tongji has recently become renowned for successful spleen transplants as well.³⁶

The Guangdong Provincial Organ Transplantation Center is located at Zhongshan Hospital in Guangzhou. This hospital is also known as the Sun Yatsen University First Affiliated Medical School (SUMS). According to an advertisement on the SUMS website, the largest center for dialysis in China is also located in this hospital. The site also boasts of treatment of fine care for foreigners available at the hospital:

In 1992, the hospital opened a private medical center, which provides a stream line service system of examination, treatment, pharmacy and cashier. The center offers high quality and efficient medical services to patients from foreign countries, and Hong Kong, Macao, and Taiwan, as well as to local citizens.³⁷

According to the *Chinese Journal of Organ Transplantation*, Zhongshan Hospital is the best facility for liver transplants in the country.³⁸ This is the same facility where the *South China Morning Post* reported that patients from Hong Kong were receiving liver transplants through organs that doctors said were harvested from executed prisoners in January of 2000. Doctors at the facility said that the hospital gains access to organs harvested from the bodies of executed prisoners through a "well established network."³⁹

Additionally, in testimony before the United States Congress, Somporn Lorgeranon, stated that in 1993 he received a kidney transplant at Zhongshan Hospital. Doctors informed him that his kidney had been extracted from an executed prisoner.⁴⁰ In another Congressional hearing, Dr. Zhou Weizheng testified that professors from Zhongshan Hospital assisted in transplant operations in other Shanghai hospitals

using organs from executed criminals during the early 1990s.⁴¹

The United States Congress has also heard testimony regarding Shanghai's Changzheng Hospital. In 1996, Dr. Qian Xiaojian, a former physician from China testified before the Subcommittee on International Operations and Human Rights, stating that most organs used in transplant operations at Changzheng come from executed prisoners. According to Dr. Qian, in the mid 1980s, Changzheng Hospital only performed five to ten transplant operations annually. As stated above, by the mid 1990s, the hospital was performing over 100 each year. This hospital is associated with the Shanghai Military Medical University.⁴² Earlier in this report, statistics from the *Chinese Journal of Organ Transplantation* were also mentioned from Changzheng Hospital, confirming that in a study at this hospital involving 138 cases of cadaveric kidney transplants from 1986 to 1990, 135 donors were healthy males with an average age of twenty-five.⁴³

For the hospitals involved in the grisly trade of organs from Chinese prisoners, saving lives through organ transplantation is also seen as a means for generating profit. It has caused China's most renowned hospitals to become linked to its most infamous human rights abuses. In their practices involving organ transplantation, not only are these facilities known for accommodation of foreigners and quality of care, they are also known for their willingness to ask high sums of money as payment for procurement of an organ from a prisoner on China's death-row.

¹ Chris Yeung and Naomi Lee, *South China Morning Post*, (December 12, 1988).

² Queenie Wang, "HK Medic Helps Patients Buy Prison Kidneys," *South China Morning Post*, (October 30, 1994).

³ Queenie Wang, "Medic blasts refusal to quiz controversial transplant doctor," *South China Morning Post*, (November 27, 1994).

⁴ Ella Lee, "Shenzhen Firm Advertises Organs for Sale," *Eastern Express*, (May 30, 1995).

⁵ *Straits Times* "Thais Going to China for Secret Organ-transplant Operations," (January 7, 1997)

⁶ Annie Huang, "China's Secret Organ Donor Trail," *Associated Press*, (April 18, 1998).

⁷ *Agence France Presse* "Taiwan: PRC Hospital Said to Sell Executed Criminals' Kidneys," (September 10, 1998).

⁸ Ella Lee, "Dead Prisoners' Organs for Sale," *South China Morning Post*, (January 9, 2000).

⁹ *Ibid.*

¹⁰ Ella Lee, "Transplant patients warned over risk," *South China Morning Post*, (January 10, 2000).

¹¹ *New China News Agency (Xinhua)*, "PRC Doctor Refutes Using Convicts' Organs for Transplants," (January 12, 2000).

¹² Thomas Fuller, "An Execution for a Kidney: China Supplies Convicts' Organs to Malaysians," *International Herald Tribune* (June 15, 2000).

¹³ Mary Kwang, "Singaporeans Pay for China Death Row Kidneys," *Straits Times*. December 13, 2000.

¹⁴ United States Senate, Committee on International Relations & Committee on Government Reform and Oversight, Testimony of Tsuyoshi Awaya, (June 4, 1998).

¹⁵ US House of Representatives, Committee on International Relations, Committee on Government Reform and Oversight, Testimony of Dr. Phaibul Jitpraphai, (June 4, 1998).

¹⁶ US House of Representatives, International Relations Committee and the Government Reform and Oversight Committee, *The Sale of Body Parts in the People's Republic of China*, Testimony of Somporn Lorgeranon, (Washington, DC: GPO, June 4, 1998).

¹⁷ Brian Ross, *ABC News PrimeTime Live* "Blood Money," (October 15, 1997).

- ¹⁸ Also known as Frank Fu in other news reports.
- ¹⁹ Transcripts, *The United States of America vs. Chengyong Wang*.
- ²⁰ Xia Shuisheng, "The Present Situation of Organ Transplantation in China," *Chinese Journal of Organ Transplantation*, 19:1 (January, 1998).
- ²¹ Information on Nanfang is also contained in the following report:
Laogai Research Foundation. *Killing by Quota, Killing for Profit: Execution and Transplants in China*. (San Francisco: The Laogai Research Foundation, October 16, 1997).
- ²² Informational brochure. *Nanfang Hospital: Whole Heartedly Serves Your Health*. (1995).
- ²³ Neil M. Peretz, *Medical Equipment in Guangdong*, International Trade Administration. (USDOC: May 18, 1995).
- ²⁴ Yojana Sharma, "Kidneys From Prisoners Scandal Sees off Germans," *South China Morning Post*, (March 6 1998).
- ²⁵ *Hong Kong China News Dispatch*, "Report on Illegal Organ Transplant Pure Fabrication," (March 19, 1998).
- ²⁶ *Korea Times*, "Thai Kidney Patients Seek Lifeline on China's Death Row," (January 23, 1997).
- ²⁷ Xia Shuisheng, "A New Landmark in the Progress of Organ Transplantation in China: Remembering the Chinese Medical Association 1996 National Organ Transplantation Research Annual Meeting," *Chinese Journal of Organ Transplantation (Zhongguo Qiguanyizhi Zazhi)*, 18:2. (April, 1997).
- ²⁸ Qiu Fazu, "Statistics for 1996 National Kidney Transplantation," *Chinese Journal of Organ Transplantation*, 18:3. (July, 1997).
- ²⁹ *People's Daily Online*. "Beijing Friendship Hospital Succeeds in 2000 Cases of Kidney Transplant," July 7, 1997. <Available online> http://english.peopledaily.com.cn/199707/07/enc_19990707001042_TopNews.html.
- ³⁰ Human Rights Watch Asia, *Organ Procurement and Judicial Execution in China*.
- ³¹ Personal Interviews, Harry Wu, Laogai Research Foundation and Cheng Weimin, Private investigator. Bangkok, Thailand, March 29, 2000.
- ³² Tongji Medical University. "A Brief Introduction." <Available Online> <http://ultr.tjmu.edu.cn/newhp/tsyl/ct1.html>. February 23, 2001.
- ³³ The Laogai Research Foundation, *Communist Charity: The Use of Executed Prisoners' Organs in China*, (San Francisco: The Laogai Research Foundation, January, 1995).
- ³⁴ Ding Mo, "More Progress in Kidney Transplant Technique," *China News*. 48 (August, 1998) <Available Online> www.chinanews.org/ChinaToday/ct99/99-08/ct99-8e-15.html.
- ³⁵ Zeng, January, 2000.
- ³⁶ Xia, April, 1997.
- ³⁷ Sun Yatsen Medical University, "Brief Introduction of the First Affiliated Hospital of SUMS," <Available Online> <http://202.116.121.1/jianti/yyxx/yygk/yygk1e.htm>. February 22, 2001.
- ³⁸ Qiu, July, 1997.
- ³⁹ Lee, *South China Morning Post*. January 10, 2000.
- ⁴⁰ US House of Representatives, Committee on Government Reform and Oversight and Committee on International Relations. Testimony of Somporn Lorgeranon, June 4, 1998.
- ⁴¹ US House of Representatives, Subcommittee on International Operations and Human Rights of the Committee on International Relations, Testimony Zhou Weizheng, (June 18, 1996).
- ⁴² US House of Representatives, Subcommittee on International Operations and Human Rights of the Committee on International Relations, Testimony of Qian Xiaobing (June 18, 1996).
- ⁴³ *Chinese Journal of Organ Transplantation*, April, 1990.

Media Reports of International Trade in Organs from China's Executed Prisoners

Hong Kong	1988	South China Morning Post: Hong Kong Citizens traveling to Guangzhou, China for transplants using organs from executed prisoners.
	1994	South China Morning Post: Hong Kong specialist Dr. George Chan refers patients to China for transplants. Network of former students inform doctor of execution dates.
	1995	Eastern Express: Hong Kong government attempts to crack down on organ brokers
	2000	South China Morning Post: between 1998 - 2000 five Hong Kong citizens receive liver transplants at Zhongshan Hospital using organs from executed prisoners Doctors at Zhongshan hospital state that Hong Kong citizens come to hospital to receive organ transplants during holidays when executions are common.
Taiwan	1998	Associated Press: By 1997 at least 360 Taiwanese citizens had traveled to China for transplants
		Agence France Press: Chinese hospitals offer transplants to Taiwanese citizens using organs from executed prisoners. Brokers "Lu" offers organs of criminals up to twelve hours after their executions.
Malaysia	2000	International Herald Tribune: Malaysian citizens paying at least \$12,000 for kidney transplants at a hospital in Chongqing, China. Leading specialist Dr. S. Y. Tan estimates more than 1,000 Malaysians have received kidney transplants in China.
Singapore	2000	Straits Times: Singapore patients receive kidney transplants at a military hospital in Chongqing, China. Hospital officials state that the hospital performs more than 100 transplants annually and that most patients are from South East Asian nations.
Thailand	1997	Straits Times: By 1997, at least forty-seven Thai citizens had received transplants in China
	1998	Korea Times: Jiaporn Eunuch tells of receiving a transplant of an organ extracted from an executed prisoner at Nanfang Hospital in 1993. Somporn Lorgeranon testifies before the United States Congress of receiving a transplant of an organ extracted from an executed prisoner at Zhongshan Hospital.
Japan	1998	Lawyer and Ethicist Tsuyoshi Aiwaya testifies before the United States Congress that he knew of twenty-six Japanese citizens who received transplants in China before 1997.
United States	1997	ABC News and LRF respond to an ad in a Chinese-American newspaper offering kidney transplants and expose the first case of brokers in the United States in the case of Dr. Dai Yong.
	1998	Chinese nationals Wang Cheng Yong and Frank Fu are arrested and put on trial in New York city for conspiring to sell organs from executed prisoners in China.

Leading Hospitals in China's Organs Trade

Nanfang Hospital	<ul style="list-style-type: none"> >Subordinate to Chinese PLA First Medical University. Specializes in providing treatment for foreigners and overseas Chinese. >One third of beds reserved for overseas Chinese. The foreign section generates \$1.5-2 million a year >Jiaporn Eunuch received transplant here in 1993 using an organ from an executed prisoner. >1997 - completed 1,000 total kidney transplants , at least 100 in 1996. >German company Fresenius pulled out of a joint venture with the hospital due to allegations of organ harvesting.
Beijing Friendship Hospital (Beijing Youyi)	<ul style="list-style-type: none"> >Beijing People's Daily: first hospital in China to complete 2000 transplants. First to use Cyclosporine A. Established Organic Transplant Matching Center in 1997. >1990 - leading surgeon informs a PRC judge that all organs for transplant at the hospital come from executed prisoners. >2000 - Private investigator informs LRF that executed prisoners remain the main source of organs for transplants.
Sun Yatsen Univ. First Affiliated Hospital, Zhongshan	<ul style="list-style-type: none"> >Largest center for dialysis in China and best facility for liver transplants >South China Morning Post - patients from Hong Kong have received liver transplants at this hospital using organs from executed prisoners. >1993 - Somporn Lorgeranon received a kidney transplant at this hospital in 1993 using an organ extracted from a prisoner >Website brags of treatment facilities available to foreigners. >Hospital completed at least 100 kidney transplants in 1996.
Tongji Medical University	<ul style="list-style-type: none"> >Boasts the "national key discipline" in organ transplantation >Among the first to begin performing transplants in China in late 1970s. Renowned for successful spleen transplants. >1994 - Patients informed Harry Wu that they had received transplants using organs from executed prisoners. >Completed at least 100 kidney transplants in 1996 >A study of live donor transplants revealed only 29 cases at the hospital between 1990 to 1999.
Chang-zheng Hospital	<ul style="list-style-type: none"> >Hospital affiliated with Shanghai Military Medical University >1996 - Dr. Qian Xiaojiao testifies before United States Congress that most organs used in transplants at the hospital come from executed prisoners. >In a study of 138 cases of kidney transplantation at the hospital from 1986 to 1990, 135 of 138 donors were males with an average age of 25. >Performed 1,000 total transplants by 1997 and at least 100 in 1996.

International Response to Practices of Organ Harvesting in China

"The execution of prisoners and the sale of their organs is a clear violation of the international standards established following the disclosure of experiments conducted by so-called doctors of the Third Reich in the name of science."

- Letter signed by sixty-six members of the United States Congress.

International Response

Because of the highly secretive nature of China's organs trade, evidence on the practice has often seemed disjointed. Although recent research suggests that the practice began in the early eighties, the first comprehensive reports did not emerge until 1994. In the last decade, further interest and initiative has led to more widespread reporting, forming a larger body of credible information that the international community cannot ignore.

As the body of evidence mounts to confirm the practice, responses have come as human rights organizations and the US Department of State release reports on the human rights situation in China. Doctors and other medical practitioners from around the world have voiced their concerns and established international guidelines and plans of action to deter the organ trade in other nations. Additionally, reactions have also come through formal channels such as legislation, policy, or letters of official correspondence to the Chinese leadership from members of United States Congress, the United States State Department, and the European Union.

Human Rights Advocates

Human Rights Watch Asia (formerly Asia Watch) has followed the practice of organ harvesting in China since 1993. The organization's 42-page report in 1994 was the earliest comprehensive reports on the coordination between medical, judicial, and correctional officials in the process of extracting organs from Chinese prisoners.¹ The Washington Director of Human Rights Watch Asia Mike Jendreyczyk presented this report to the Senate Committee on Foreign Relations hearing on "China: Illegal Trade in Human Body Parts" on May 4, 1995.² Through this report, Human Rights Watch was among the first to bring this issue to policy makers.

Amnesty International has likewise reported on the practice of harvesting organs from executed prisoners and called for a halt to the practice. Amnesty first reported on the practice in 1993 as part of its reports on the death penalty. Amnesty International's Executive Director Bill Schulz also testified and presented a report on the practice at the May 1995 Senate hearing.³ In another 1996 report on the political repression in the 1990s, Amnesty International highlighted the practice of organ harvesting in a chapter on the death penalty.⁴ As mentioned previously, Amnesty annually compiles a list of those who have been executed along with their crimes in their Death Penalty Country Reports. Their research comes from a collection of public execution notices and news stories from the Chinese press. The numbers themselves show the extreme application of capital punishment for a variety of crimes.⁵

The Laogai Research Foundation (LRF) has committed itself to researching this issue and calling for a halt to the practice. LRF continues to collect information from sources from both inside and outside of China to research the treatment of Chinese prisoners. In 1994, Laogai Research Foundation Executive Director Harry Wu conducted research inside China in three cities (Chengdu, Wuhan, and Guangzhou) documenting the practices of organ harvesting in various hospitals. Mr. Wu has also conducted several interviews gathering relevant information that has been valuable in this report, including those of Dr. Chen Miao of West China University of Medical Sciences, former prisoner Pan Shan, Dr. Yang Jun from the Mudanjiang Cardiovascular Center in Heilongjiang Province, and private investigator Cheng Weimin. Mr. Wu has testified at every Congressional hearing concerned with organ harvesting in China and will continue

to bring issues of human rights violations in China to policy makers and the human rights community. As more information becomes available through witness testimonies, interviews, and public and internal documents from the Chinese government, LRF will continue to publish reports and articles to shed light on the subject.

The International Medical Community

The participation of doctors in the pre-execution medical examination and post-execution organ retrieval process deeply troubles medical ethicists, and violates United Nations ethical guidelines on the relationship between health personnel and prisoners. Chinese doctors undeniably violate these principles as the process places them in direct involvement in the execution of prisoners as well as the extraction of organs from their bodies.

Due to the sense of concern expressed by physicians around the world, Dr. David Rothman, an expert on the issues of organ transplantation, established the Bellagio Task Force on Transplantation, Bodily Integrity and the International Traffic of Organs in 1995. The task force is made up of an international group of transplant surgeons, organ procurement specialists, human rights activists, and social scientists. It is their mission to define new international standards for organ transplantation. In its 1997 "Report on Transplantation, Bodily Integrity and the International Traffic in Organs," the Bellagio Task Force recommends the establishment of a permanent monitoring body on organ donation practices. Additionally, it calls upon nations to withhold training fellowships to doctors from countries that tolerate exploitative organ procurement practices; upon medical associations to refuse to hold international meetings in those countries, and upon Novartis, the makers of Cyclosporine, to only sell its products to doctors and hospitals that meet strict standards.⁶

Other national medical associations founded to define standards for organ transplantation, such as the Thai Transplantation Society founded by Dr. Phaibul Jitpraphai, who testified in the June 1998 Congressional hearing about the illegal organs trade in Thailand.⁷ In Japan, the Japan Organ Transplant Network was established to assist the government in establishment of nationally organized and regulated organ donation programs.⁸ A similar system exists in Singapore with the National Kidney Foundation of Singapore.⁹

Besides associations within the medical community, individual doctors protested against China's practice of organ harvesting. In Canada, Dr. Ronald Guttman, director of the Center for Clinical Immunobiology and Transplantation at McGill University, took action in 1995 through the launching of a letter writing campaign, recommending that members of the medical community exert pressure on China. Dr. Guttman's campaign urged doctors and pharmaceutical companies not to support Chinese transplantation specialists in travels abroad for fellowships and not to visit China for educational exchanges involving organ transplantation.¹⁰

Likewise, according to a January 2000 article in the *South China Morning Post*, a team of Hong Kong liver transplant experts have denied invitations from mainland doctors to participate in joint transplants because of the frequency in use of prisoners' organs for transplants in China. The article explained the doctors' rationale in a quote from one of the Hong Kong liver transplant experts, Dr. Lo Chung-mau: "We cannot control what patients do, but it is against medical ethics if we aid a transplant without knowing

where the organs come from.”¹¹

Government – Official Platitudes on the Practice

As evidence mounts regarding the harvesting of organs among executed prisoners in China, certain nations have also recognized the human rights abuses implicated through this system. This has in some instances resulted in action at the official level to censure the Chinese government for this abuse of human rights. While these actions are encouraging, they remain few and far between, reflecting a reluctance on the part of the international community to acknowledge the truth.

The United States State Department Human Rights Reports include the first evidence of Executive Branch recognition of the practice in America in 1994 in the following statements from the report:

During 1994 new reports revived previous allegations that organs from executed Chinese prisoners are removed and transplanted to patients without the consent of the prisoner or his or her family. These reports have not been verified.¹²

These statements were included in the report in response to the comprehensive report on organ harvesting by Human Rights Watch Asia. One of the first of its kind, this report was productive in drawing attention to the problems of organ harvesting in China.

By 1997, the language of the State Department shifted slightly as a more thorough body of evidence became available on the practice. Such evidence had emerged as a result of the first hearing in the US Senate focusing on the topic of organ harvesting. In the following statement, the report mentions organ harvesting only in the context of allegations and credible reports, expressing a large degree of reservation:

In recent years, credible reports have alleged that organs from some executed prisoners are removed and transplanted. Officials have confirmed that executed prisoners are among the sources of organs for transplant. There is no national legislation governing organ donations, but officials assert that consent is required from prisoners or their relatives before organs are removed.¹³

In 1998, the only addition to the State Department report involves acknowledgement of the 1996 Circular forbidding the buying and selling of human organs.¹⁴ In 1999, the report mentions international involvement in China’s organs trade, citing the case of Wang Chengyong in the United States and the cases involving patients from Taiwan who had received transplants on the mainland.

The 2000 report adds only that further cases have emerged of “credible reports” of patients from abroad traveling to China for transplant operations.¹⁵ According to officials currently within the State Department’s Bureau of Democracy, Human Rights, and Labor, as evidence confirming the vastness of the practice becomes available, the reports may adjust accordingly.

The United States Congress has made an effort to censure China on the issue of organs from executed prisoners. On October 29, 1997, Congresswoman Linda Smith from (R-WA) introduced a House Concurrent Resolution calling upon the government of the People’s Republic of China (PRC) to halt such practices. This resolution, H. Con. Res. 180, condemned the extraction of organs from executed

prisoners in China and asked the President to “bar from entry into the United States” any official known to be directly involved in organ harvesting. Although the bill was not passed by Congress, it was an effort by members of Congress to take action against the PRC for its abuses of prisoners.

Later that year, Congresswoman Ileana Ros-Lehtinen (R-FL), introduced a bill called the Political Freedom in China Act of 1997 (HR 2358). Attached to this Bill was an amendment that consisted of the same resolution that Congresswoman Smith had tried to pass as H. Con Res. 180. This bill passed through the House of Representatives in May 1998 but failed in the Senate.

Beginning in 2000, the United States Senate initiated action in the form of larger bills mentioning organ harvesting from Chinese prisoners along with other abhorrent human rights violations. Senator Jesse Helms, Chairman of the Senate Foreign Relations Committee, sponsored language in the Foreign Relations Authorization Act for the Fiscal Years of 2000 and 2001 that also mentioned organ harvesting. The bill expressed the sense of the Congress that: the government of China should stop the harvesting and transplanting of organs for profit from prisoners that it executes, and the President should bar from entry into the United States any Chinese government official known to be directly involved in such activities.¹⁶ This bill passed in both houses. Although these phrases lay shadowed amongst reams of paper in the general act, this remains the only official statement from the United States Congress expressing condemnation of organ harvesting in Chinese prisons.

While the majority of bills that mention organ harvesting in China may have failed to achieve full passage in both Houses, several members of Congress have voiced their protest to the practice by holding hearings to investigate reports and eyewitness accounts. In May 1995, the Senate Committee on Foreign Relations sponsored a hearing on “China: Illegal Trade in Human Body Parts.” In that hearing, Dr. David Rothman, explained the different aspects of medical ethics broken by the practice of organ harvesting from executed prisoners. In addition, the Washington Director of Human Rights Watch Asia and the Executive Director of Amnesty International testified to the reports their organizations had collected regarding the practice. It was the first hearing specifically dedicated to the organ trade in China, and would serve as a catalyst for future hearings.¹⁷

Three years later in June 1998, the House Committee on Government Reform and Oversight and the House Committee on International Relations held a joint committee hearing entitled “The Sale of Body Parts By the People’s Republic of China,” offering witnesses a forum to shed light on the matter. Many of the witnesses who testified in this hearing have been featured in this report, including Somporn Lorgeranon (the patient from Thailand who had a transplant operation in China); Phaibul Jitpraphai (the doctor who was familiar with the procedures of the illegal organ trade in Thailand); and Tsuyoshi Awaya (the Japanese doctor and researcher of the organ trade in Japan). Former political prisoners Wei Jingsheng and LRF Executive Director Harry Wu also testified at this hearing.¹⁸

The subject of organ harvesting has also been mentioned at every Congressional hearing to renew China’s Most Favored Nation status since 1996. In the June MFN hearing before the House of Representatives Subcommittee on International Operations and Human Rights in 1996, two Chinese doctors who participated in the organ retrieval process including Dr. Qian Xiaobing and Dr. Zhou Weizheng testified of their experiences to the Subcommittee on International Operations and Human Rights. John Shattuck, Assistant Secretary of State for Democracy, Human Rights and Labor also offered a statement from the

administration at this hearing. Mr. Shattuck stated that the US administration “considers this a very serious issue and does not consider the matter closed.” The secretary also gave recommendations for US policy involving continued dialogue and engagement with China.¹⁹

Certain members of the Senate have also taken personal initiative, raising the issue with the US Administration and inquiring regarding US policy regarding continuing reports of organ harvesting from executed prisoners in China. Senator Jesse Helms, Chairman of the Senate Committee on Foreign Relations was first to raise his voice in letters to Assistant Secretary Stanley Roth asking questions regarding State Department investigation of allegations of organ harvesting. Roth responded that the Department is pursuing such investigations in dialogue with Chinese leaders and has reported their results in the yearly Country Reports on Human Rights Practices and will continue to investigate further allegations.

On December 2, 1997, a letter was sent by sixty-six members of Congress to the Chinese ambassador Li Daoyu expressing concern about the practice of organ harvesting. It came as a response to the ABC News Program *Prime Time Live* broadcast in October of 1997 showing evidence of organ harvesting occurring in military medical hospitals in China. The members of Congress made references to international standards of prisoners rights that arose from the trials at Nuremburg and urged China to make a commitment to end the practice, threatening:

We are reluctant to engage in dialogue with any nation that would commit such horrible atrocities against its own people... Failure to adhere to accepted world standards could represent a formidable barrier to the establishment of normalized relations between China and the United States.²⁰

The Chinese government later replied that the media expose was “based on falsehood,” and denied the validity of the reports.²¹

Senator Connie Mack (R-FL) also sent letters in October, 1997 regarding the *Prime Time Live* broadcast to President Bill Clinton. The President responded that members of his administration have raised the issue in official dialogue with the Chinese who deny that they condone or tolerate the practice (see attachment 4:3 for copies of these letters). According to the President:

Secretary of State Albright specifically addressed the disturbing reports of human organ selling during her meeting with Vice Premier Qian Qichen. Vice Premier Qian denied such actions are tolerated in China... If such a practice were tolerated by the Chinese or any other government it would be cause for deep concern and we would press for corrective action.

The European Union has taken a stronger stance against this practice. On May 14, 1998, the European Parliament passed a resolution that condemned the trafficking of organs of executed prisoners in China. It not only called upon the Chinese authorities to halt the practice of organ harvesting, but also asked the European Commission and the Council of European Union Members of Parliament (MP) to urge the United Nations to establish an international inquiry committee to expose the practice and its violations of human rights. The resolution’s language demonstrated the EU’s strong stance against these actions and its efforts to bring a halt to such practices. The bill emphasized that “the EU has a duty to respond in the strongest terms to the abuses which have been exposed and whereas it must do everything in its power to put a stop to these inhuman practices forthwith.”²²

There has also been a positive response from legislators in Hong Kong and Japan to weed out the organ brokers that have recruited patients to go to China for organ transplants. As Dr. Tsuyoshi Awaya testified in the 1998 Congressional hearing, the government of Japan passed the Law Concerning Human Organ Transplants of 1997 prohibiting organ sales and the “mediation” of organ transplants without the permission of the Japanese government.²³ In other words, the law makes the active recruitment of patients inside Japan for organ transplants in China illegal.

In August 1995, the Human Organ Transplant Ordinance that restricted the organ brokerage transactions within Hong Kong was put into effect. It made it illegal for a person to sell or buy an organ or to initiate the trade.²⁴ Even though such efforts in foreign countries cannot affect Chinese policy directly, such legislation plays a part in limiting the influx of foreign customers who are willing to pay high sums of money for kidneys from China.

While it is clear that some prominent members of the international community have voiced their objections to China’s unwillingness to end the practice of extracting organs from prisoners, there is still much to be done. There are many questions that still need answers and there are actions that need to be taken.

¹ Human Rights Watch Asia, *Organ Procurement and Judicial Execution in China*, (New York: Human Rights Watch, August 29, 1994). Volume 6, No. 9. For information on other Human Rights Watch reports on human rights violations in China such as organ harvesting, see the HRW website at: <http://www.hrw.org>.

² United States Senate, Committee on Foreign Relations, *China: Illegal Trade in Human Body Parts*, 104th Congress, testimony of Mike Jendreczyk, (Washington, DC: GPO, May 4, 1995).

³ Ibid.

⁴ Amnesty International, *No One is Safe* March 1996.

⁵ See Amnesty International’s web site for more information on their death penalty reports: <http://www.amnesty.org>.

⁶ The Bellagio Task Force, “The Bellagio Task Force Report on Transplantation, Bodily Integrity, and the International Traffic in Organs,” *Transplantation Proceedings*, 9 (New York: Elsevier Science Inc., 1997). For an informative article on the Task Forces’ findings on organ procurement in India, Brazil, and South America, see Nancy Scheper-Hughes, “Truth and Rumor on the Organ Trail,” *Natural History*, (October 1998), 48-57.

⁷ US House of Representatives, Committee on Governmental Reform, Committee on International Relations. Testimonies of Phaibul Jitraphai, (June 4, 1998).

⁸ Japan Organ Transplant Network, “Organ Transplantation – The Gift of Life,” <Available: Online> www.jotnw.or.jp/English/ENGLISH/html. June 26, 2000.

⁹ National Kidney Foundation of Singapore, “Organ Donation,” <Available: Online> www.nkfs.org/advo_mainframe.html. February 16, 2000.

¹⁰ Diane Bordreau, “International Medical Community Condemns Death Row Donations in China,” *Nephrology News and Times*, (August, 1995).

¹¹ Ella Lee, “Doubts Over Donors Deter HK Doctors,” *South China Morning Post*. (January 9, 2000).

¹² US Department of State, Bureau of Democracy, Human Rights, and Labor, *1994 Country Reports on Human Rights Practices – China*. (Washington, DC: USDOC, February, 1995).

¹³ US Department of State, Bureau of Democracy, Human Rights, and Labor, *1996 Country Reports on Human Rights Practices – China*. (Washington, DC: USDOC, February 1997).

¹⁴ US Department of State, Bureau of Democracy, Human Rights, and Labor, *1997 Country Reports on Human Rights*

Practices – China. (Washington, DC: USDOC, February 1998).

For further explanation of the 1997 Circular see p. 22 of this report.

¹⁵ US Department of State, Bureau of Democracy, Human Rights, and Labor, *1998 Country Reports on Human Rights Practices – China*, and *1999 Country Reports on Human Rights Practices – China*, (Washington, DC: USDOC, February 1999 and February 2000).

¹⁶ United States Senate, *Foreign Relations Authorization Act for Fiscal Years 2000 and 2001*, S. R. 886, (Washington, DC: US GPO, April 27, 1999).

¹⁷ United States Senate, Committee on Foreign Relations, *China: Illegal Trade in Human Body Parts*, 104th Congress (Washington, DC: US GPO, May 4, 1995).

¹⁸ United States House of Representatives, Committee on Government Reform and Oversight and the Committee on International Relations, *The Sale of Body Parts by the People's Republic of China*, 105th Congress (Washington DC: US GPO, June 4 and 16, 1998).

¹⁹ United States House of Representatives, Subcommittee on International Operations and Human Rights of the Committee on International Relations, *China MFN: Human Rights Consequences* (Washington, DC: US GPO, June 18, 1996).

²⁰ 66 Members of the House of Representatives, Letter to the Chinese Ambassador to the United States. December 2, 1997.

²¹ Zhou Wenzhong, Charge d' Affaires ad interim, Embassy of People's Republic of China, Letter to Rep. John D. Fox, December 15, 1997.

²² European Union, *Official Journal of the European Communities*, (June 1, 1998). See ATTACHMENTS.

²³ United States House of Representatives, Committee on Government Reform and Oversight and the Committee on International Relations, Testimony of Tsuyoshi Awaya, (June 4, 1998).

²⁴ Ella Lee, "Shenzhen Body Parts Agency Under Investigation," *Eastern Express (Dongfang Kuaibao)*, (May 1995).

Recommendations

Recommendations

In light of the facts revealed in this report and the standards of international human rights law and medical ethics that this situation evokes, it is clear that the Chinese government must be held accountable for the gruesome practice of organ harvesting. As China continues to seek to open up to the rest of the world and to join into the international community, its government must recognize that members within this community must uphold basic standards of international law. This presentation will therefore conclude with a discussion of recommendations relevant to organ harvesting that are applicable to the Chinese government, the governments of other Asian nations, the international community at large, bodies of international ethicists, and finally other international human rights organizations.

The Chinese Government

- Ban the harvesting of organs from executed prisoners

Even though regulations exist requiring that prisoners give written consent before their organs are harvested, the facts reveal that in reality inmates on China's death row exist in a fundamentally coercive situation which precludes any notion of informed and voluntary consent. In many cases, regulations regarding prisoner consent are ignored, magnifying the dehumanization and victimization that prisoners endure. Because these regulations are ineffective for the purpose of gaining free and informed consent for the removal of organs from the bodies of condemned criminals and because they are ignored on a routine basis, the Chinese government should take immediate steps to draft new legislation banning all further use of prisoners' organs and bodies.

- Legal reform and protection of rights to due process

Because the Chinese system of criminal justice and capital punishment work together to facilitate organ harvesting as it exists in China today, judiciary reform will also be necessary in order to address and resolve the crimes of organ harvesting. Such reforms should include a repeal or a permanent suspension of the "Strike Hard" campaign. As the tenets of the campaign allow for summary trials, assumption of guilt prior to trial, and an overall disservice to the concept of right to due process, the Strike Hard system has contributed to China's record breaking levels of capital punishment. Implementation of Strike Hard campaigns allows China to continue executing thousands of people every year for crimes ranging from murder to money laundering to drug trafficking. An end to the Strike Hard Campaign would be the first step to begin the process of necessary reforms, leading eventually abolition of the death penalty in China. The Strike Hard Campaign also contributes to the overall atmosphere of dehumanization and brutality that exists inside Chinese prisons. This atmosphere sets the stage for abuses of human rights including torture, wrongful execution, and harvesting of human organs.

- Establishment of legal systems of organ donation among the Chinese population

The lack of legislation on the topic of organ procurement in China has also contributed to the continuation of organ harvesting from the bodies of executed prisoners. Currently, the *Provisional Regulations on the Use of Dead Bodies and Organs from Condemned Criminals* remains the only article of Chinese law that governs, administrates and promulgates all sources, supply and use of human organs.

This legislation applies only to prisoners as a source for organ procurement, excluding all other possible sources. Chinese law has therefore established a system that includes legal codification for organ procurement only among the population of death row inmates. For other sources of procurement including relatives or brain-dead donors, doctors must rely on guess-work with little help from the law or from previous experience. To remedy this, relevant Chinese authorities should formulate laws providing medically recognized standards for declaration of brain death. Such laws must also include provisions regarding punishment for those who violate any established standards. It is also the job of the government to administrate and carry out programs involving dissemination of information on the benefits of becoming an organ donor. It is necessary for China to establish a central registry for organ donors and for allocation of organs to those on a waiting list that corresponds to the mandate of the principle of justice and other standards of medical ethics.¹

In formulation of laws to establish a comprehensive national program for organ donation, China should follow the example of other Asian nations that within recent years have worked hard to overcome traditional taboos and other obstacles. Although many such programs remain in their infancy, their example demonstrates that programs for legal and ethical organ procurement can be successfully introduced in any nation.

- Compensation for past abuses

It is also necessary to recognize that the practices of organ harvesting in China have affected countless individuals in a variety of ways. Families are not notified regarding the execution of relatives, they are forbidden the opportunity to provide for last rites of these relatives. Also, because the system of organ harvesting among China's prisoners is motivated by profit as opposed to medical urgency, there are an unknown number of individuals who have died while waiting for an organ transplant while others with more plentiful economic and political resources were able to procure an organ from a Chinese prisoner. In order to fully correct the wrongs committed against these individuals, it is necessary for the Chinese government to take steps towards establishment of a system for their compensation. Such a system should allow those negatively affected by the organ harvesting system to sue the government, receive a fair trial assessing damages, and receive financial compensation for the suffering they have endured.

Governments of Other Asian Nations

As reports of individuals who travel to China from other nations in Asia continue to surface, questions arise regarding the role these nations play in international organ trafficking in China. It is necessary for these nations to recognize the problem that exists with their citizens who receive organs from Chinese prisoners. Development of domestic legal systems on organ donation is the most important step for nations in Asia involving the organs trade in China. If Asian nations outside of China will formulate laws to prevent their citizens from traveling to China to receive organ transplants, this will limit the supply of readily available recipients who currently go to China ready and willing to pay large sums of money for transplants. Formulation of effective laws requires two separate areas of consideration: first, the banning organ brokerage and buying and selling of organs among all a nation's citizens within or outside national borders and second, establishment of comprehensive national programs of organ donation to help alleviate organ shortages that have prompted citizens to seek transplants from outside the country.

In recent years many nations have taken steps to address this problem through filling the gaps existing within their own legal systems. In Singapore, the 1987 Human Organ Transplant Act outlaws trading in organs and blood. Any person who enters into a contract involving human organs is liable to a fine of up to \$10,000 or up to one year in jail or both. The law also applies to suppliers, brokers or advertisers or for-profit organs.² In Japan it is illegal for anyone to receive payment in the process of transplantation of human organs.³ It remains true that as long as the demand for organs is higher than the supply, there will be some people who will become desperate and may seek to buy an organ transplant package in China regardless of the law within their own country. These laws remain important, however, to demonstrate that a nation does not agree with its citizens participating in China's abuses of human rights and breaches of standards of medical ethics. It is also recommended that such provisions become enforceable retroactively so that brokers who have facilitated these activities and received payment in the past may also be tried for their crimes.

It is also important for countries in Asia to do all they can to address the need for organs domestically. Organ shortages are chronic in countries all over the world and it is impossible to expect that the organ shortage will be truly alleviated in Asia, where organ donation is surrounded by traditional taboos. Despite these challenges, nations that have passed comprehensive law establishing systems for registration of donors have seen notable progress. Government sponsored programs have allowed for a spread in public awareness and a slow but steady rise in organ transplants from brain dead donors.⁴

Because both Singapore and Japan face circumstances that are similar to China in regards to traditional taboos on the topic of organ transplantation, it is possible for these nations to serve as an example to China for their efforts in promulgating law on organ donation programs among the population at large. In Japan and Singapore, lawmakers have taken on the challenge to create law on a subject that may not be popular among certain segments of the population in order to maintain standards of medical ethics and save lives through lawful organ transplants. Therefore, these nations could take an even more active role through working with those in China's medical and legal communities who also see a need for development of new legislation. In his article published recently in the Chinese publication, *the Journal of Medicine and Philosophy*, Huang Yan calls upon relevant bodies within the Chinese government to cooperate with other countries in Asia that have made advances in establishment of organ donation programs among their populations thus confronting the problem of organ shortages:

In order to explore the methods and expand the organ supply, China should look to the examples from other nations and their experiments with this issue... It should be up to the government and the Department of Sanitation to distribute propaganda to the masses regarding organ transplants and knowledge of medical science...

In the same article, Huang also comments on the dangers of buying and selling of human organs:

Because problems exist with the buying and selling of organs, outside of voluntary donation, any other method will bring harm to the value of humanity. Peoples' bodies and their organs will become a commodity or a good and this will involve many hidden and dark secrets. This will happen because when organs are bought and sold it is no longer the health of the recipient that holds the highest priority and money becomes the larger factor.⁵

The International Community at Large

As nations become growingly connected across international boundaries, factors such as environmental standards, human rights and sustainable development are becoming increasingly relevant in foreign policy. In a world where international investment in the Chinese economy often caters to the economic interests of many nations while simultaneously undermining human rights, factors of both economics and universal inalienable human rights must be considered in any formulation of a country's policy towards China.

In consideration of this standard, several natural questions arise. Should the United States continue to favor economic investment in China if the profits from this investment are being used to build up China's nuclear arsenal? Should the United Kingdom continue to favor investment in China if Chinese standards of human rights remain so low that scores of Chinese immigrants pour on to British shores every month? Should Japan continue to favor investment in China if Chinese leaders continue to favor the regime in North Korea?

Such questions also become relevant involving the issue of organ harvesting. When nations review China's human rights record for the purpose of formulation of national policy, it is important that human rights abuses involving the harvesting of organs from executed prisoners receive due consideration. Other nations should follow the example of the European Union in official condemnation of organ harvesting as a violation of human rights. In a May 14, 1998 resolution, the European Parliament called upon the Chinese government to halt all practices involving the trafficking of human organs and additionally called for an end to executions in China. It also instructed EU delegations in China to raise the issue of organ harvesting in dialogues with Chinese leaders.⁶ Such legislation demonstrates that the international community does not approve of China's practices of organ harvesting and will not ignore documented evidence of the practice.

UN standards and procedures are also relevant in China's practices involving organ harvesting. The UN Special Rapporteur on Torture should engage the Chinese government, requesting to undertake a systematic review of practices of execution in China. This review could then be used to bring Chinese procedures and practices into compliance with applicable UN treaties including The Principles of Medical Ethics Relevant to the Protection of Prisoners Against Torture, The Universal Declaration of Human Rights, and the Convention Against Torture. All these documents refer specifically to degrading treatment of prisoners. The Principles of Medical Ethics Relevant to the Protection of Prisoners Against Torture directly confronts the role of doctors involved with prisoners in any capacity outside of promotion of a prisoners' health. As doctors cooperate with prison officials and other security officials in the process of organ harvesting, these standards are particularly applicable to practices of organ harvesting among Chinese prisoners.⁷

Several times in the past decade, the United States and other various nations have attempted to bring resolutions before the United Nations Human Rights Convention in Geneva. Due to China's success in manipulation of other member nations and of the rules of the Convention itself, nearly every year China has succeeded in passing a "no action motion." The no action motion is a procedural measure that blocks a resolution from debate on the Convention floor. The UN Human Rights Convention was created to serve as a forum for discussion of human rights abuses worldwide. If this standard cannot apply to China, where more prisoners are executed annually than in the rest of the world combined, where the organs of these executed prisoners are then harvested and sold off to the highest bidder, than serious problems exist with the mission of the UNHRC as a forum to discuss human rights abuses worldwide. In coming years, if current procedures are insufficient to guarantee adequate discussion of any topic of serious violation of human rights in any country in the world, including the topic of organ harvesting among executed prisoners in China, than new procedures must be developed to ensure that the Convention may better serve its true purpose in the

future.⁸

Organizations of Medical Ethicists

As discussed earlier in this report, several bodies of medical ethicists have issued statements of disapproval of the use of organs from executed prisoners in transplant operations. Their statements cite reasons involving lack of consent, the coercive situation of death row inmates, and objections to physicians participating so intimately in procedures aimed at taking life. According to these statements and the positions they codify for ethical organizations, it is appropriate and necessary for these organizations to remain active in efforts to bring such practices in China to an end.

Organizations of medical ethicists should remain informed and aware regarding policy and practice in China on the topic of organ procurement. Organizations that are based in nations with problems involving citizens who travel to China to receive transplants using organs from the bodies of prisoners should closely monitor such activities. Monitoring of individuals who travel to China for transplant surgery is necessary for several reasons.

First and foremost, monitoring will provide for statistics on China's involvement in international trafficking of human organs. It is also beneficial in regards to patients who receive these transplants in order to ensure that they receive proper follow-up care after returning to their native countries. According to doctors in Thailand, nearly forty percent of patients who receive kidney transplants in China contract hepatitis B, HIV, or some other infection after their return due to faulty conditions surrounding their transplants. Such statistics are not surprising considering the high rate of hepatitis B among Chinese prisoners.⁹ Additionally, the involvement of the medical community in China's practices of organ harvesting could provide an a-political source of censure, demonstrating to China that the agenda for criticism of harvesting of organs from executed prisoners does not necessarily involve purely political motivations but holds a solidly moral and ethical basis.

Through the ranks of the medical community, bodies of medical ethicists can perhaps be effective in ways governments cannot through procedures based not on political maneuvering but on industry standards. Ethical organizations should use this advantage to take action on the issue of organ harvesting in China. All organizations that have issued standards and statements judging the use of organs harvested from prisoners or other resolutions relevant to the practices that occur in China should also issue statements of censure to hospitals in China and to the Chinese medical community. As long as China continues to engage in the practice of harvesting of prisoners' organs without consent, Chinese doctors should feel the pressure of the medical community. Such pressure can be applied through refusal to allow for academic exchanges involving organ transplantation and denial of research and technology transfer involving organ transplants.

Such standards are also relevant to the pharmaceutical community, where it should become a priority to cut off China's supply of the drug Cyclosporine A and other immuno-suppressant agents that are used in the process of organ transplantation.

As organizations of medical ethics stand together with governments and human rights groups that oppose China's harvest of organs from executed prisoners, they will play a very important role in efforts to

end the practice. The consensus of ethical, governmental, and humanitarian organizations cooperating in efforts to effectively expose China's practices of organ harvesting will place more pressure for change on the Chinese government.

Human Rights Organizations

The important role of human rights organizations from every part of the world to monitor and report human rights abuses remains crucial in the effort to expose and to eventually eradicate organ harvesting and all other gross violations of human rights standards that remain rampant in China today. It is the duty of human rights organizations to ensure that governments, the medical community, and the public at large are properly informed regarding the human rights abuses of the Chinese system of organ harvesting among executed prisoners. This goal can be accomplished through constant monitoring and reporting and through proper dissemination tactics including media involvement, governmental lobbying, and grass roots efforts. Human rights groups must spread public awareness regarding their investigations of practices such as organ harvesting, raising the issue to a higher level of visibility and therefore exerting pressure upon the Chinese government.

In efforts to investigate, expose and bring an end to organ harvesting among Chinese prisoners, it is also important for human rights groups to work together, cooperating with each other, with governmental agencies, and with organizations of medical ethics. Through facilitating communication between such organizations, efforts to work for any cause can become much more effective. When human rights groups provide information to governments, policy makers will be further informed in their evaluation of international relations with China. When human rights groups spread awareness on decisions of the medical community that oppose organ harvesting and condemn China's actions, they are able to appeal to a wider audience through combining evidence gathered from a medical perspective with evidence that is gathered from an advocate's perspective.

Human rights groups should also, in whatever capacity possible, reach out to China and to Chinese people. Just as it is important that other governments in Asia serve as an example to China for more successful programs of organ procurement among the general public, human rights organizations should offer recommendations to China's government and methods to achieve such recommendations.

In their efforts to expose the truth regarding the sale of organs from executed prisoners in China, human rights organizations should not be intimidated by negative pressures from any government or other entity. As long as they are reporting the truth, it is important that these groups continue to spread public awareness, regardless of who opposes what they are saying.

For decades, various entities within the international community have devoted their efforts to stopping brutal violations of human rights in China. Still, the system of organ harvesting in Chinese prisons remains one of the lesser known issues among human rights activists, policy makers and the general public. It is the goal of this presentation to expose this system fully, allowing the international community to know of the human rights abuses it perpetuates. The evidence compiled in this report should be used by governments, human rights organizations, medical ethicists, and multilateral organizations in a combined and continuing effort to end the human rights abuses of organ harvesting in Chinese prisons. Through the facts and recommendations stated in this report, it is possible to confront the Chinese government on this issue. As

the Chinese government receives more pressure from the international community to cease all practices of organ harvesting and other policies that are damaging to the human rights of the Chinese people, meaningful change and progress will become possible.

¹ For an informative article on the need for organs procurement legislation in China see ATTACHMENTS: Zhang, Zanning. "Organ Transplants Must be Open Voluntary and Transparent," *Journal of Medicine and Philosophy* (*Yixue Yu Zhixue*), 17:3 (1996).

For further explanation of the principle of allocation see section on medical ethics, p.

² National Kidney Foundation of Singapore, "Multi-Organ Donation Drive: Human Organ Transplantation Act of 1987," June 10, 1987 <Available: Online> www.thegift.org.sg/help_HOTA.html. June 26, 2000.

³ Japan Organ Transplant Network, "Organ Transplantation – the Gift of Life," <Available: Online> www.jotnw.or.jp/English/ENGLISH.html. June 26, 2000.

⁴ For more information on established organ donation programs in Singapore and Japan see:

The National Kidney Foundation Singapore – www.nkfs.org

Japan Organ Transplant Network – www.jotnw.or.jp

⁵ Huang, *Journal of Medicine and Philosophy*, June, 1998.

⁶ European Union, European Parliament, May 14, 1998.

⁷ United Nations General Assembly, *The Principles of Medical Ethics Relevant to the Protection of Prisoners Against Torture*. March 9, 1983. (See earlier discussions on these *Principles* in the Ethics section of this report).

⁸ *Agence France Presse*, "Rights Groups' Fury At China's Victory At UN Human Rights Body," (April 19, 2000).

⁹ *Bangkok Post*, "Doctors Warned in Kidney Sale Case," July 17, 1998. <Available Online> www.bkkpost.samart.co.th/new...chive/BP19980717/170798_News02.html.

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List of Attachments

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2. Organ Transplants Must be Open, Voluntary, and Transparent
Zhang Zanning, *Journal of Medicine and Philosophy*, Vol. 17, No. 3 (1996)
3. A Maiden's Death

Jin Shikai, *Price of History – Death Files of the Cultural Revolution*. (Beijing Dadi Press, January, 1993)

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China*, June 14, 1998.
2. Declaration on Human Organ Transplantation, World Medical Association, 39th World Medical
Assembly, Madrid, Spain, 1987

Appendix One: Chinese laws on organ harvesting

Re-typed for clarity; Translated by the Laogai Research Foundation

A reply of the Ministry of Justice:

On the Issue of Using Dead Bodies of Condemned Criminals

13 June 1981
(81) Document no. 163

The Supreme People's Court of Shaanxi Province:

The No.4 report submitted by your Court to the Supreme People's Court has been passed on to the Ministry. With regards to the use of dead bodies of Condemned criminals, it is of great necessity from perspectives of medical treatment and scientific research. However, from the point of view of our legal system, social customs and traditional habits, not only the family members of criminals take an aversion to it, this also produces bad effect among the masses. Therefore, we hold that the Joint Directives of Ministry of Public Security, Ministry of Justice and Ministry of Public Health issued in 1952 and the Rules for Autopsy formulated in 1957 and reissued in 1979 by the Ministry of Public Health are still to be relied upon to deal with the issue before any new provisions are formulated, namely, except for the uncollected dead bodies of condemned criminals, others should be dealt with upon the approval of from the family members.

Re-typed for clarity; Translated by The Laogai Research Foundation

Provisional Regulations of

**The Supreme People's Court, The Supreme People's Procuratorate, Ministry of Public Security,
Ministry of Justice, Ministry of Public Health and Ministry of Civil Affairs**

On the Use of Dead bodies or Organs from Condemned Criminals

October 9, 1984

To: The Supreme Peoples Court; The Peoples Procuratorate; Department (Bureau) of Public Security; Department (Bureau) of Justice; Department (Bureau) of Public Health; Department (Bureau) of Civil Affairs at the Provincial and Autonomous Region levels and of centrally-controlled Municipalities:

With the development of the medical science in our country, some hospitals, medical institutions and units involved in medical education and scientific research have put forward proposals concerning the use of the dead bodies or organs from condemned criminals in scientific research or organ transplantations. In order to support the development of the medical science and to change social customs and traditional habits, with the strict implementation of the legal provisions and being aware of the political impact as prerequisite, the following measures are formulated in relation to the use of the dead bodies or organs from condemned criminals:

- I. Those criminals who are sentenced to death and executed immediately must "be executed by means of shooting" in light of the relevant provision in the Criminal Law. When the execution is over, the dead bodies could be otherwise dealt with only after death is confirmed by the supervising procurator on the spot.
- II. The dead bodies or organs from the condemned criminals after execution or the remains can be collected by their family members.
- III. The dead bodies or organs of the following categories of the condemned criminals can be made use of:
 - 1) The uncollected dead bodies or the ones that the family members refuse to collect;
 - 2) Those condemned criminals who volunteer to give their dead bodies or organs to medical institutions;
 - 3) Upon approval of the family members
- IV. The following provisions must be observed regarding the use of dead bodies or organs from condemned criminals:
 - 1) The units making use of the dead bodies or organs must maintain the technical level and be provided with equipment necessary for the medical scientific research or transplantation, they must be examined, approved and granted "special permits" by the Department (Bureau) of Public Health of the provinces or autonomous regions within whose jurisdiction these units are located, and they must go to the Bureau of Public Health of the Municipality or District for record.
 - 2) The use of dead bodies shall be arranged in a unified way by the Bureau of Public Health

of the Municipality or Prefecture, which shall contact the People's Court and the units using the dead bodies respectively in accordance with the order of importance and urgency and the principle of comprehensive use.

- 3) After the execution order of death penalty is issued, and there are dead bodies that can be directly used, the People's Court should inform in advance Bureau of Public Health of the Municipality or Prefecture, which shall pass on the information to the units using the dead bodies and grant them permits to use the dead bodies, copies should be sent to the People's Court responsible for the execution of death penalty and the People's Procuratorate in charge of on-the-spot supervision. The units using the dead bodies should contact the People's Court on their own initiative, within the prescribed time limits of the execution of death penalty by the People's Court.

As to the dead bodies that could be used only upon the approval of the family members, the People's Court is to inform the department in Charge of public health which will consult the family members, and consequently reach written agreement in relation to the scope of use, disposal after use, disposal expenses and economic compensation and etc. Bureau of Public Health of the Municipality or Prefecture shall, according to the agreement, grant the units the certificates to use the dead bodies, copies should be sent to the units concerned.

When the condemned criminals volunteer to give their dead bodies to the medical institutions, there should be formal written certificates or records duly signed by the same, which should be kept in the People's Court for future reference.

- 4) Use of the dead bodies or organs from condemned criminals must be kept strictly confidential, attention must be paid to the effect, they should in general be used within the units. Only in real need, upon the approval of the People's Court executing the death penalty, can the operation vehicles from medical institutions be allowed entry into the execution grounds to remove organs, but vehicles with the logo of medical institutions are not to be used, and white clinic garments are not to be worn. The execution ground should be guarded against before the operation is completed.
- 5) After the dead bodies are used, the crematory shall assist the units in timely cremation; in case there is need to bury or to deal with otherwise, the units using the dead bodies shall bear the responsibility; if the family members wish to collect the remains, the People's Court is to inform them to collect at the crematory.

V. In areas densely inhabited by the Han nationality, in principle, the dead bodies or organs from the condemned criminals of minority nationalities are not to be used.

In areas inhabited by minority nationalities, respect should be shown to the mourning and funeral customs in the implementation of the regulations.

Re-typed for Clarity; Translated by the Laogai Research Foundation

**Peoples Liberation Army of China
General Logistics Command Department of Health (circular notice)**

**Re-Transmitting circular notice of related state institutions
“Circular notice on questions related to further strengthening of Human Blood, Tissue and Organ Management”**

This is to re-transmit to you the 1996 no.27 document “circular notice of related state institutions on questions related to further strengthening of Human Blood, Tissue and Organ Management” jointly issued by the Ministry of Health, Ministry of External Trade and Economic Cooperation and General Customs Administration. We demand that you will strictly abide by the notice.

**Ministry Of Health
Ministry of External Trade And Economic Cooperation General
Customs Administration Document**

Wei-yao-fa (1996) no.27

Circular notice on questions related to further strengthening of Human Blood, Tissue and Organ management

Collection, supply, processing, and marketing of human blood, tissues and organs are not only a medical and health issue, but a highly sensitive social issue involving ethics, moral, and human rights and other aspects followed with concern by all walks of society and international community. For this reason, our government pays close attention to this issue, and the Ministry of Health has formulated regulations on issues related to it. Following is a circular notice on management of collection, supply, processing, and marketing of human blood and organs:

- 1) Collection, supply, processing, importation and exportation of human blood (including whole blood, plasma, etc.) are to be subject to unified management by the Ministry of Health. Without documents of approval or certificates issued by the Ministry of Health on unit shall be involved in importation and exportation of blood and blood products, no port drug inspection office shall inspect them, no customs office shall give them clearance.
- 2) Processing and production of preparations with human tissues and organs (fetuses included) are strictly prohibited; sales of human tissues and organs is not allowed; donation to, and exchange of human tissues and organs with, domestic and external organizations and individuals are not allowed.
- 3) Other matters related to management of human blood, tissues and organs shall be executed pursuant to related regulations.

Department and unites of all levels and individuals shall strictly implement the above regulations. Violators shall be subject to serious investigation and handling, criminal responsibilities included.

Ministry of Health
Ministry of External Trade and Economic Cooperation
General Customs Administration

April X, 1996

Appendix Two: Materials from Case Studies

List of Important Individuals Cited in the Report:

Professor Xia Suisheng

Prof. Xia is the director of the Tongji Medical School of Wuhan University. He is one of China's most well known doctors and works primarily in the field of organ transplantation. He is a strong advocate for promotion of the "brain death" concept in China and the authority on the subject of kidney transplants.

Pan Shan

Mr. Pan was formerly incarcerated at the Nanhai Detention Center in Guangdong Province. In interviews with Harry Wu in 1998, he told of his experiences with organ harvesting among death row prisoners in China while serving as a monitor to prisoners who were on the Detention Center's Death Row. He testified that all death row candidates who were healthy and young would receive medical checkups prior to their execution, marking the beginning of the process for extraction of organs. He also witnessed the corpses of prisoners being loaded onto ambulances after the executions for transport to local hospitals.

Dr. Yang Jun from Heilongjiang Province

This doctor participated in two major sets of transplant surgeries using the organs of executed prisoners during the early 1990s. Both sets, the first of heart transplants and the second of heart-lung transplants were completed at Mudanjiang Medical Center in Heilongjiang Province. In each of these procedures prisoners were brought to Mudanjiang Medical Center where they were first executed in the hospital to facilitate a smoother extraction of the organs. The organs were then immediately transplanted into waiting patients. The doctor also accompanied other doctors to the prison for examination of potential donors who were offered better treatment in exchange for their agreement to the procedure. In both heart-lung transplants the doctor participated in, the patients died in less than seventy-two hours. The heart transplants were more successful and were therefore noted in issues of the Chinese Journal of Organ Transplantation in the mid nineties. Harry Wu interviewed this doctor in San Francisco in 1998.

Dai Yong

A medical doctor who attempted to market kidneys from executed Chinese prisoners to patients in the US in 1997. At the time Dr. Dai was licensed in the state of Connecticut and based in Bridgeport. His operations were exposed in the ABC News report *Blood Money*. According to the report Dr. Dai would receive \$5,000 commission in the US before the patient left for China. In China the patient would pay the remaining \$25,000 for a transplant.

Wang Chengyong

Wang Chengyong was a former prosecutor from Hainan Province who came to the United States in 1997. He attempted to broker organs from executed Chinese prisoners in New York's Chinatown, working with a co-conspirator by the name of Fu Xingqi. In February 1998 Harry Wu posed as the director for a renal institute and recorded Mr. Wang on tape offering to sell kidneys, corneas, livers, skin, pancreases, and lungs, stating clearly that all came from executed prisoners and that recipients would pay high sums of money to hospitals, governmental officials and prison officials.

When Wang's ventures were exposed, he was arrested and put on trial in the state of New York.

After a year in jail Wang's case was dismissed due to lack of evidence after a primary witness, Mr. Paul Risenhoover, who initially introduced Wu and Wang, left the United States and refused to testify. Wang was allowed to return to China in 1999.

Dr. Chen Miao

Dr. Chen worked at the West China University of Medical Sciences (Huaxi yike daxue) in Chengdu, Sichuan Province during the 1980s. Mr. Wu interviewed Chen in 1992 in Hamburg, Germany regarding his experience with harvesting the organs of prisoners in China. Chen told of an instance in 1986 when he and two other surgeons were driven to a prison in Sichuan's Xindu County on orders from the University Party Branch. At the prison they surgically extracted both kidneys from a living anesthetized prisoner who was scheduled for execution the following morning. The kidneys were transported to a local hospital via army helicopter for immediate transplantation into the body of a high-ranking military official.

In April 1994, BBC reporter Sue Lloyd Roberts accompanied Harry Wu to Chengdu and visited the former colleagues of Dr. Chen Miao in Huaxi University. They took pictures and talked to the patients there to gather further evidence on Chen's story.

Cheng Weimin

Mr. Cheng became involved in the Chinese democracy movement during the Tiananmen demonstrations of 1989. He was imprisoned for his involvement during the early 1990s. After his release he continued work to expose the corruption of the Chinese government in various localities. While living in Henan Province he was sought out by two women who believed their sons' (both executed for murder) had been victims of the organs harvesting policy. Mr. Cheng interviewed witnesses who had followed a van carrying the bodies of the two men after their execution and also interviewed doctors who participated in the transplant procedures at nearby hospitals. After gathering this information Mr. Cheng fled China to Thailand and contacted Harry Wu. Mr. Wu and his associates met and interviewed Cheng twice during the year 2000.

Zhou Weizheng

Mr. Zhou was a physician at the Zhanjiang Medical Institute in Guangdong China during the late 1980s and the early nineties. In 1996 he testified before the US Senate Subcommittee on International Operations and Human Rights regarding the use of organs from executed prisoners for transplants at Nongken Hospital. These surgeries cost \$20,000 Chinese RMB and were performed by doctors from Zhongshan Hospital.

David Rothman

David Rothman is an ethicist at the Columbia College of Physicians and Surgeons. He also founded the Bellagio Task Force, an organization dedicated to researching and reporting on worldwide traffic in human organs. According to Rothman's investigations it is certain that the majority of organs used in transplant surgeries in China are harvested from executed prisoners. Mr. Rothman testified regarding his research before the US House of Representatives Committee on International Relations and Government Reform in June, 1998.

Tsuyoshi Awaya

Dr. Awaya is a lawyer and researcher at Tokuyama University in Japan where he has extensively researched the brokering of organs from executed prisoners in China to transplant patients from Japan. He has also worked to make transplants more available in Japan to reduce the flow of Japanese patients into China. Dr. Awaya testified on his research and experiences before the US House of Representatives Committee on International Relations and the Committee on Government Reform in June, 1998.

Phaibul Jitpraphai

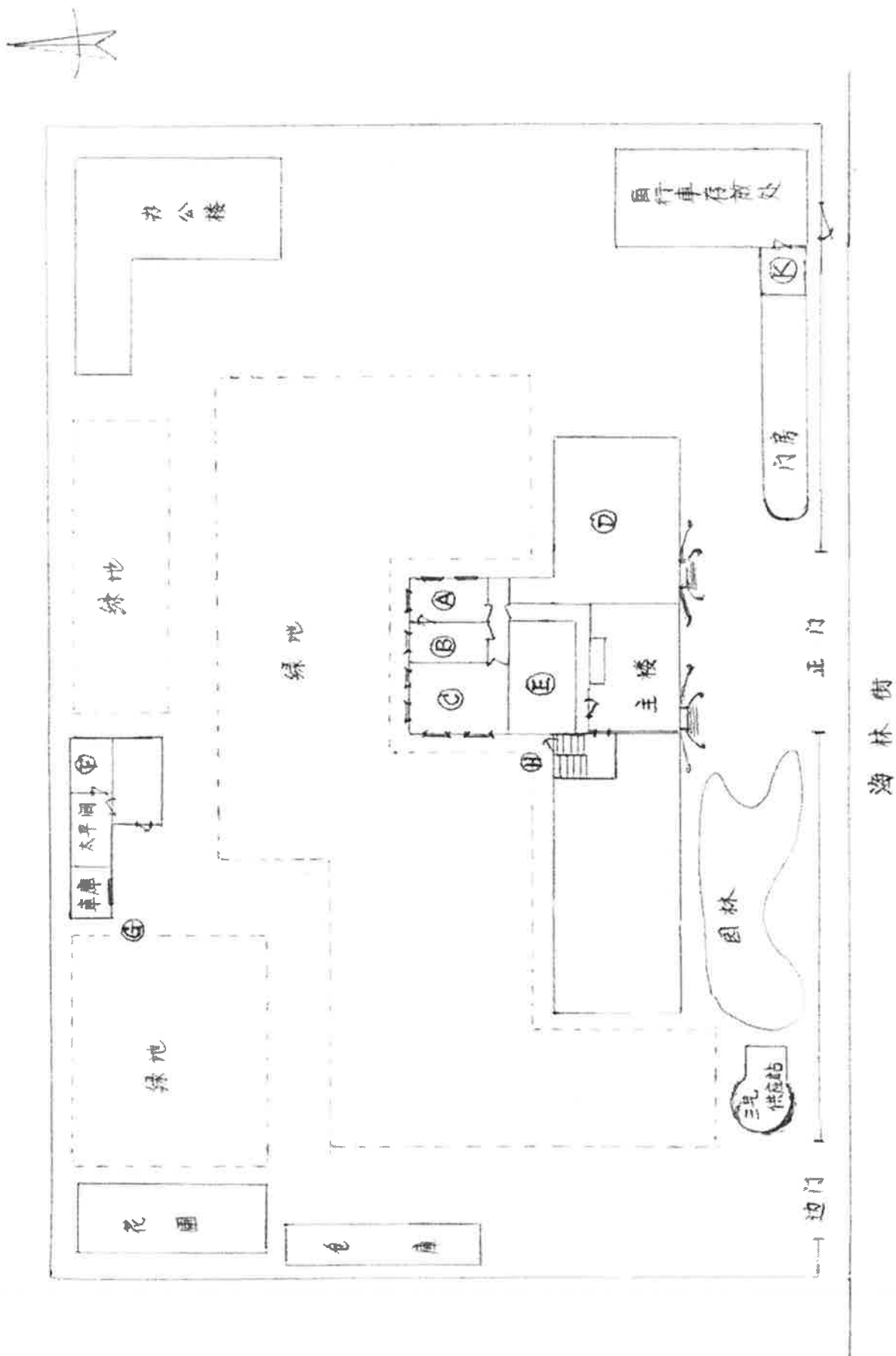
Dr. Jitpraphai is the head of the Thai Transplantation society and is the authority in Thailand regarding the Chinese organs trade with Thai patients. He has researched the brokering of organs between China and Thailand and worked for greater legislative efforts in Thailand to prevent such brokering from occurring. In June of 1998 he testified before the US House of Representatives Committee on Government Reform and Committee on International Operations regarding the use of organs from executed prisoners in transplant surgeries for patients from Thailand.

Jiraporn Yoonuch

Ms. Yoonuch came to China from Thailand for a kidney transplant at Nanfang Hospital in Guangzhou, Guangdong Province. A broker contacted her before the operation and informed her that a suitable donor had been found and would be executed upon her arrival in China. Harry Wu interviewed her in Bangkok in 1997. The interview was broadcast on ABC *Prime Time Live* on October 15, 1997.

Map of Mudanjiang Cardiovascular Institute

Obtained during interviews with Dr. Yang Jun.



Yang Jun: A Doctor's View of China's Organ's Trade

"I was involved, or took a personal part, in using executed prisoners' corpses for medical purposes." Thus begins the testimony of Mr. Yang Jun, a doctor from the People's Republic of China. As a medical student and as Chief of the Director's Office at Mudanjiang Cardiovascular Hospital in China, Mr. Yang assisted the actual execution of prisoners and the subsequent transplant of organs from these executed prisoners into waiting patients. Both the executions and the transplants that Mr. Yang witnessed took place within the walls of the Mudanjiang Hospital.

Use of Body Parts from Executed Prisoners in Medical Study

Mr. Yang had his first experience with body parts from an executed prisoner as a medical school student. In late September 1981, an assistant from the college brought Mr. Yang with another student to a public sentencing rally and then to the execution grounds. Following the execution, judicial personnel confirmed the death of the inmates and then turned them over to Yang and his two companions. The three men began to examine the quality of the oral cavity of each prisoner. They picked two prisoners with health full sets of teeth and carefully extracted them one by one. Back at college, the teeth were preserved and used to create lifelike dental models for use as educational tools. On this occasion, the assistant from the college informed his companions that the school often sent personnel to extract organs and other various body parts from prisoners.

Heart Transplants

In June 1992, Mr. Yang Jun was appointed Chief of the Directors Office at Mudanjiang Cardiovascular Hospital. Shortly thereafter, once on June 5 and again on June 11, 1992, Dr. Yang assisted heart transplant surgeries. The hearts were extracted from two men who were convicted of robbery and murder and subsequently sentenced to death.

Both transplants occurred in a similar manner. An entourage of court personnel from Mudanjiang City Intermediate People's Court and Mudanjiang City People's Procuratorate escorted a prisoner, bound with handcuffs and leg irons, into the hospital. The Judicial personnel were served tea while the hospital prepared two teams—one to ready the patient for surgery and one to extract the heart from the condemned criminal. First, surgeons removed the heart from the waiting recipient and established external circulation through a bypass machine, then the execution process began. The prisoner, who had been injected with tranquilizers making him unable to walk, was dragged to the hospital morgue. Officials read his sentence and forced him to lay face down on the morgue floor. An executioner then shot him point blank in the back of the head.

The dying prisoner received injections of medications that temporarily restored heart function and respiration. The hospital director removed the prisoner's heart and then scrubbed in preparation for the transplant surgery, which was to take place in the next room. Court and procuratorate enjoyed dinner while watching the transplant operation on closed circuit television.

Three days later, Dr. Yang dined with all involved judicial personnel. Under the direction of the hospital, all the court officials received sealed envelopes containing from 300 to 1,000 RMB.

Close Contact Between Courts and Hospitals

During the months that these operations occurred, the hospital kept close contact with court

officials. Dr. Yang and other members of the medical staff hosted banquets for these officials. At one point the chief of the hospital's finance section, a woman by the name of Han, asked Dr. Yang to rent a car for them to visit court officials. On the way, the testifying doctor asked Han why they were going to meet the court officials. She replied, "To give them money." He asked "What money?" The woman answered, "they are receiving it because of the heart-lung transplant, and it is \$30,000." She also confirmed that the court was paid for the previous transplant as well.

Preparation for the First Combined Heart-Lung Transplant Operation

Having successfully completed two heart transplants, the Mudanjiang Cardiovascular Hospital prepared to perform two identical combined heart-lung transplant surgeries. MR. Yang testified that he assisted with the screening process for these surgeries. Due to the complexity of the procedure, the screening was much more extensive than had been the case for the previous heart transplants. Finding donor organs, however, was not a problem due to the ample supply of young death-row inmates in suitable physical condition.

The hospital attempted the two surgeries, one in September and one following on December of 1993. Similar to the previously mentioned heart transplants, the prisoner was brought to the hospital for execution. For the first operation, the condemned prisoners, about twenty years of age, had been convicted of robbery and murder. Apparently the prisoner was unaware that the guards had brought him to the hospital to be put to death. Upon realizing this information, he became very distraught and requested to see his sister, his only living relative, for one last time. The Vice President of the executive court mocked him, saying, "Why do you want to see your relatives? I am your relative, the Communist party is your relative." The prisoner was summarily executed. However, when his chest was opened, it was revealed that he suffered from tuberculosis pleurisy, making the entire procedure highly difficult. The transplant was not a success.

While the corpse of the executed prisoner was being prepared for post-mortem photographs, the official noticed that the executioner had fired to high. The bailiff then fired another shot at the correct positions on the prisoner's head. The body was then sent to a crematorium.

A Second Attempt Brings a Glimpse of Treatment on Death Row

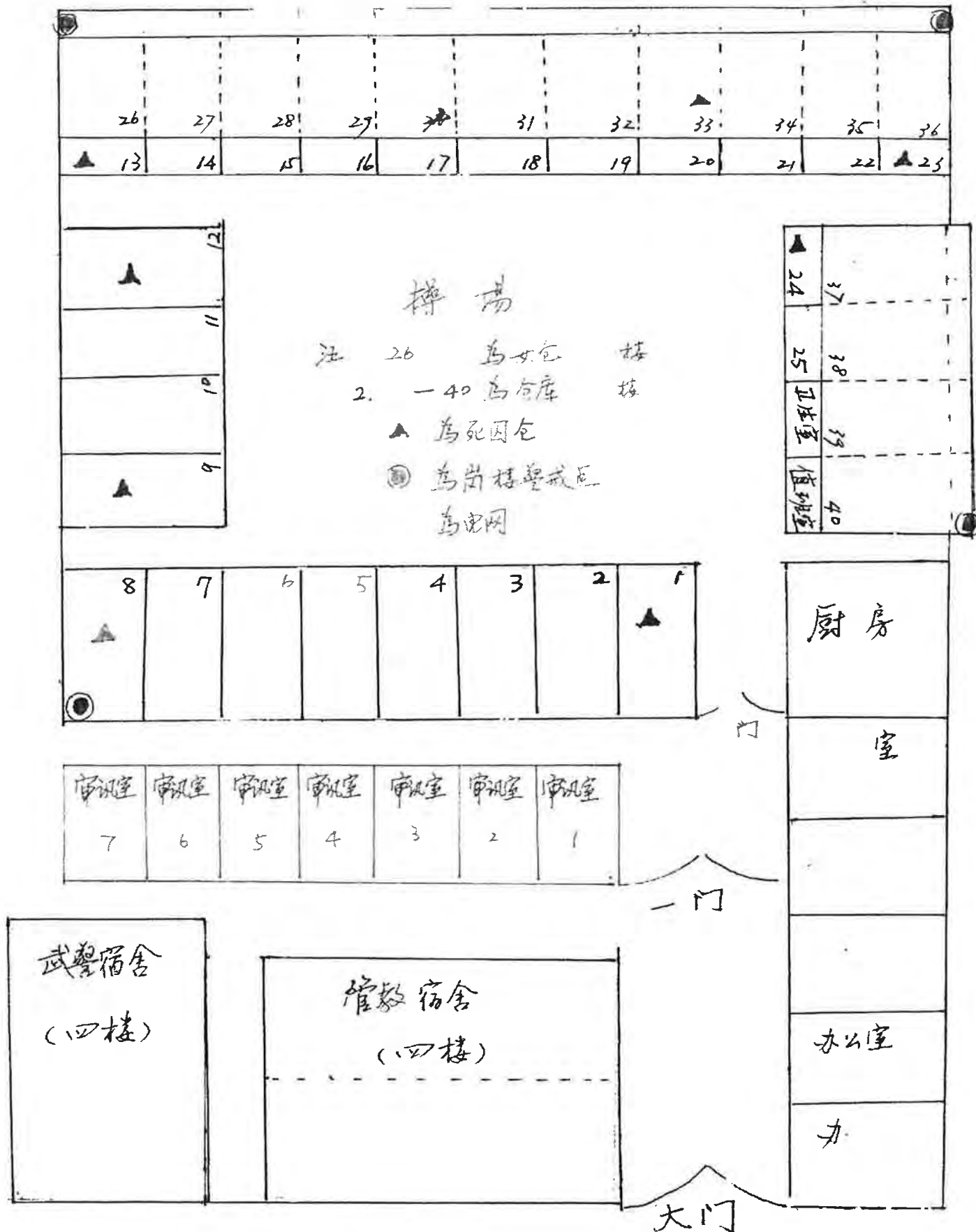
A twenty-eight year old prisoner was selected as a potential donor for the second heart-lung transplant attempt. When Dr. Yang and his medical team arrived at the prison to perform preliminary tests, they found the prisoner lying naked on the cell floor, his wrists, ankles, and neck constrained by iron rings that were part of a ground shackle said to prevent "accidents" from occurring before the execution. The prisoner had been bound in this manner for two weeks, receiving only one meal a day.

After two rounds of medical examinations determined that the prisoner was a suitable match for the transplant procedure, the lead doctor instructed that he receive three meals a day from an eatery near the prison. Once the prisoner agreed to "voluntarily" donate his organs, prison officials removed the ground shackle, offering the condemned criminal relative freedom with only handcuffs and leg irons.

On December 25, 1993 the prisoner was brought to the hospital for his execution. He was very cooperative and was even granted permission to join other judicial members in a feast prior to his execution. The same people he feasted with took his life thirty minutes later. Both the removal of the organ and the subsequent transplant into a recipient patient went smoothly and this surgery was declared to be China's first successful combined heart-lung transplant surgery. However, seventy-two hours later, the recipient died from sudden rejection of the donor organ.

Map of Nanhai Detention Center

南海市看守所平面图



Pan Shan: Organ Harvesting Inside China's Prisons

Pan Shan was incarcerated in October of 1991 for giving financial aid to the students' pro-democracy movement in June 1989. For this crime he was sentenced to 3 years and 4 months of detention at the Nanhai Detention center, where he was held until his release in January of 1995. Mr. Pan prior to his sentencing, had been a government cadre for the Chinese communist party, and because he was considered "politically reliable," he was given the job of monitoring death-row prisoners while he himself was incarcerated, known as death-sentence prisoners' management.

Monitoring Death-Row Prisoners

According to Mr. Pan, death row prisoners occupied nine out of the forty cells in the Nanhai Detention Center. General cells would typically hold between fifty and seventy prisoners while death-sentence cells would contain a mere thirty prisoners. Three to five of these thirty inmates were sentenced to death or to long-term confinement. The remainders were prisoners who, because they were convicted of lighter crimes and were considered politically reliable had been selected to serve as watch-guards over the death-row inmates.

Conditions for the Condemned

Once prisoners had been sentenced to death, they were immediately transferred into death-sentence cells. Bound by handcuffs and leg irons, these prisoners were confined to the center of the cell. The prisoners typically remained in that location for one to three months before their execution, though depending on the circumstances, prisoners might remain on death row for a matter of weeks or for several years. The prisoners could not walk, eat, undress, or perform bodily functions without the aid of the other prisoners in the cell. They were denied the privilege to write letters, and could not hire an appeals lawyer until stringent investigations were completed. Under no circumstances could they see their family, and given the fact that many prisoners were incarcerated far from their home villages, family members would not know the sentence unless the prisoner managed to hire an appeals lawyer.

Death-Row Medical "Check-ups"

According to the witness, approximately one week after a prisoner was sentenced to death, he was escorted out of the death-sentence cell and blood samples were drawn for examination. The practice is labeled "checking their physical conditions," but Mr. Pan said that "everyone" knows that the exams were conducted as preliminary procedures for the extraction of the prisoner's organs after the execution. Older prisoners or seriously ill prisoners never had their blood checked. Only strong and healthy prisoners were subject to these tests. After prisoners underwent this medical check-up, many became highly distraught and depressed. Some went on hunger strikes and even tried to take their own life. Such attempts were unsuccessful because the condemned were under the constant supervision of dozens of prisoners and guards.

The Execution Process

The execution process began at 6:00 a.m. on the prisoners' final day. At this point the prisoners were pulled from their cells, bound and loaded onto vehicles, which then convoyed to the public sentencing rally. Before their reading of the sentences, prisoners were given a tranquilizing shot that, according to the

police, was designed to make the prisoners lose the ability to speak. One by one, the prisoners were identified and condemned, and then paraded through the streets on the way to the execution site.

According to the reports of the prisoners who were taken to the execution site with the condemned but not executed, after the prisoners were shot, their barely dead bodies were loaded into vans at the site. Informed sources said that the bodies were taken to the hospital where the organs were extracted, after which the bodies were cremated. Mr. Pan, after his release, witnessed a public execution and confirmed that the corpses were immediately loaded into vans after the execution.

The Myth of Consent

Mr. Pan rebutted the Chinese official claim that death-row prisoners voluntarily donated their organs, calling this statement “an outrageous lie”. During his imprisonment, he stood guard over 37 condemned men, and not a single one of them had calmly accepted their sentence. They had all appealed for a new hearing on their sentence. Furthermore, they did not know when they would be executed until just hours before the deed was carried out. During those few hours, the prisoners suffered mental anguish as well as physical disorientation associated with the tranquilizing shot. Mr. Pan asserted that it is highly unlikely that prisoners would willingly sign over their organs to the government during their last hours before the execution.

Mr. Pan also addressed the flaws of the governmental policy that gives family members four hours after the execution to claim the corpse. The time of execution is confidential, unknown even to the condemned. As prisoners were often from distant provinces, family members often would not know about the execution until weeks after it had occurred. If they chose to claim the remains, they would be handed cremated ashes, making it impossible to know how the prisoners had been treated.

Nanhai Detention Center



Two Prisoners Whose Organs Were Harvested Henan Province



Zhao Wei
Executed in May, 1999
Victim of organ harvesting policy



Wan Qichao
Executed in May, 1999
Victim of organ harvesting policy



1



2



3

4

5



Pictures from an organ harvesting case in Henan Province¹

1. Xinyang City Central Hospital, Henan Province
2. Number Seven People's Hospital in Zhengzhou, Henan Province
3. A witness finds a shoe at the road side execution site
4. Bags thrown out from medical vehicles carrying the bodies of Wan Qichao and Zhang Jianyong after execution. The bags were gathered by witnesses.
5. Other materials gathered by witnesses after they were tossed out of medical vehicles:
 - surgical gloves
 - gauze pads
 - transfusion bags
 - saline bags (for preservation of transplanted organs)

¹ Source: Case materials from private investigator Cheng Weimin.

Appeal

Appellants: Liang Zhi-Zhen (Mother of Wan Qichao); female age 71
Deaf-mute; Address: 90 Lane 3, Baoshi street, Xinyang City

Rao Enhuai (Mother of Zhao Wei); female 69
Address: People's Cinema, Xinyang City

Zang Zhenxiang (Father of Zhang Jianyong); male
Address: Zhang village, Zhudian Township, Xiangdian, Xixian county

Wan Qichao was executed on May 31st 1999, at 8:00 am by the Shihe District Public Security Sub-Bureau, Xinyang City, for premeditated murder. While claiming Wan Qichao's remains, the relatives discovered the following:

I. Xinyang City Intermediate People's Court illegally misappropriated the executes' bodies and stole their organs. This finding is based on the following facts:

- 1) On May 31st, 1999, when it was past 9:00 am, at Huangwan Crematory of Xinyang city by Highway 107, Wan Qichao's friend XX found that a few things were thrown out from a white car that carried the bodies and fell on the east side of the highway. XX picked up the plastic bag that happened to be by the roadside. There were two cars parked there. As they were anxious to see Wan Qichao's body, they failed to find out what the thrown out things was. More than an hour passed. They found out that only Bu Yuzheng's body was cremated at the Huangwan Crematory, while the other three bodies were cremated somewhere else. Hurriedly, they left the crematory, came to Highway 107. The two cars that carried the bodies had left for somewhere unknown. The thrown out things were scattered around, and they picked up part of the things. After they got home, they determined that the things were used for kidney extraction.
- 2) There were three cars that carried the corpses. Two white cars' license plates were covered, their doors and windows sealed. But the license plates and doors of the car that loaded Bu's corpse were not covered or sealed. The two white cars drove slowly, at times stopping on the way. Somebody saw a hug and swarthy surgeon on one of the white cars. Stripped bare to waist, his face perspiring profusely, he was taking off surgical gloves. Another man handed him a towel for him to wipe his face. This proves that kidney extraction surgery had been performed on that car.
- 3) The cars that carried three of the four corpses took the longer route instead of taking the short cut, which was to avoid exposing the act of extracting the kidneys. Xinyang City Intermediate People's Court illegally postponed notifying Wan Qichao's family members to claim his body. Actually, according to Article 212, section 7 of the Penal Code, family members must be notified after execution takes place. This notwithstanding, it was only after the executes family members repeatedly requested to claim his body that Xinyang City Intermediate People's Court notified them at 5:40 p.m. of May 31st, 1999 to claim his body at Runan, which made it impossible for us to identify and claim the body.
- 4) On May 20th, 1999, yang, presiding judge, criminal court, Xinyang City Intermediate People's Court, notified Wan Qichao's family members to talk things over the issue of kidney donation. No agreement was reached, and Wan Qichao's family members put off the issue of donation. But, Xinyang City Intermediate People's Court stole his kidneys.

II. Legal responsibilities must be affixed for stealing Wan Qichao's Kidneys. His family members' mental and financial injuries must be compensated.

- 1)The act of stealing Wan Qichao's major organs constitutes an infringement on the deceased's civil rights.
- 2)The act of stealing Wan Qichao's major organs causes his family members mental injuries.
- 3)the act of stealing Wan Qichao's major organs in favor of others must be compensated by the organs economical value.

III.

Failure on the part of Xinyang City Intermediate People's Court to notify WAN Qi-Chao's family members to claim his body made it impossible for them to claim his ashes. The responsibility should be borne jointly by Xinyang City Intermediate People's Court and by those responsible for the failure.

- I. Xinyang City Intermediate People's Court failed to treat four bodies on an equal basis. BU Yu-Zheng's family members were allowed to beautify the body, to dress it in grave-clothes, and to fire firecrackers, and the body of Bu Yuzheng, who committed premeditated murder was cremated in a normal way. But Wan Qichao and others' bodies were treated and cremated in a totally different way. The government can deprive criminals of their political rights and part of their civil rights, and can sentence them to death. But, WAN Qi-Chao and others who committed the same crimes as BU Yu-Zheng, were deprived of their legal personal rights and civil rights. Should they not be treated equally before the law?

II. The following circumstances should be considered:

- 1) In late May 1999, i.e. a few days before the death penalty was to be executed, the court sent people to the prison to test Wan Qichao, Zhao Wei, and Zhang Jian-Yong's blood. In the morning of May 31st, 1999, before the execution, someone made Zhou, a physician of a reeducation-through-labor facility, to give Wan Qichao a shot, the purpose being to prevent his blood from coagulating. This proves that the court was actively preparing to steal Wan Qichao, Zhao Wei and Zhang Jianyong's kidneys.
- 2) It is said that a surgeon from Xinyang City's XX hospital participated in extracting the kidneys, which were transported to Zhengzhou.

III. Enclosures (part of the evidences):

- 1)Two photos: Kidney preservation fluid; package for surgical gloves; Sterilized medical gauze
- 2)Copy of Xinyang Intermediate People's Court's claim-body notification to LIANG Zhi-Zhen, WAN Qi-Chao's mother.

Appellant:	Liang Zhizhen
Appellant's representative:	Hu Youzhen
Appellant:	Rao Enhuai
Appellant:	Zhang Zhenxing

TESTIMONY

December 24th, 1999

Witness: XX

On May 31st, 1999 when it was past 9:00 a.m., I, XX and XX were heading for the execution site on a motorcycle with a side-car, Number YU-502331. At the Wuxinglu crossroads we were stopped by red light traffic, so we failed to get to the site when the execution was taking place. Then, at the corner of Xinyang teachers college, we saw how Wan Qichao, Zhao Wei, Zhang Jianyong's corpses were being loaded. Two of the corpses were loaded onto a white car, one onto an ambulance, one onto a pickup(for transporting tools). The white car and the Ambulance's liscense plates were covered, the windows and doors tight-sealed. The license plates and doors of the car that loaded Bu's Corpse were not covered or sealed.

Wan Qichao, Zhao Wei, Zhang Jianyong's corpses being loaded, we followed the two cars, which drove slowly and stopped a few times on the way. I, XX and XX followed the two cars closely, driving at the same speed as they did, until we came to a crematory. Then, we saw a surgeon on the white car. Stripped bare to waist, his face perspiring profusely, he was taking off surgical gloves. Another man handed him a towel for him to wipe his face. I was watching closely what the surgeon was doing. Then, the people on the car threw out a bunch of things, which fell on the east side of the highway. I picked up a plastic bag that happened to lie by the roadside and wrapped it in toilet paper. On the way back I picked up a Hongtashan brand cigarette case, inserted the thing into the case and put the case in the side car. We drove into the crematory to see Wan Qichao's body. It was past 11:00 a.m., but Wan Qichao, Zhao Wei, Zhang Jianyong were not cremated there. So, we got off the motorcycle. The two cars that carried the corpses and the police car were gone. At this time it occurred to me to examine the thing we picked up. I showed it to Wan Qichao's aunt Hu Youzhen. She said it was a kidney preservative fluid. I learned that they had extracted the kidneys and then transported the organs to Runan.

Above was what I witnessed.

XX

Translated and re-typed by the Laogai Research Foundation



Dr. Chen Miao

West China Medical University

Testimony from Chen, Miao. Interviewed in Hamburg by Harry Wu, 1994.

C: We all went to different prisons. We went to one while the others went to other ones.

W: You and two doctors and another person?

C: Yes the other was my friend

W: So, Four of you went to one prison?

C: And we took the kidney out.

W: And you took them out.

C: And then we came back.

W: So the other went to other places? But you don't know where?

C: I don't know

W: In one day you took out 8?

C: Yes it must have been 8.

W: So there were four teams?

Child interrupts sound

W: Did you take care in checking?

C: Of course it was checked

W: They checked whether (the organs) matched?

C: Yes

Irrelevant medical detail

W: When did you go?

C: In March 1986-I don't know exactly, but early March.

W: The team consisted of two doctors, two students, and the living patient.

C: We couldn't actually see the patient. We were not allowed to look at him. He was anaesthetized.

W: How did you know he was going to be executed?

C: We were told. We asked how was this guy going to live if he had no kidneys and we were told that he was going to be executed the next day.

W: How were you told?

C: We were told by the doctors. After all, it was a 2 hour drive there and we had nothing else to talk about.

W: How did you hear about (the organ being transported by) military helicopter?

C: Because the hospital itself didn't have one and it must have been thought faster to transport it that way.

Wang Chengyong

Arrested in 1998 for attempting to broker organs from executed prisoners in the United States.



Appendix Three: Hospitals and China's Organs Trade

Zhongshan Hospital, Guangzhou China (Sun Yatsen University First Affiliated Medical School)



Picture of Nanfang Hospital



List of Hospitals in China performing transplants

1. Beijing Friendship Hospital 北京友谊医院
2. Beijing Friendship Hospital, Capital Medical College Branch
首都医学院附属北京友谊医院
3. Main Hospital of The Chinese People's Liberation Army, Beijing
中国人民解放军总医院 (北京)
4. Main Air Force Hospital of The Chinese People's Liberation Army, Beijing
中国人民解放军空军总医院 (北京)
5. Main Hospital of the Beijing Armed Forces of The Chinese
People's Liberation Army 中国人民解放军北京部队总医院
6. Beijing Anzhen Hospital 北京安贞医院
7. Beijing Medical University 北京医科大学
8. Affiliated Hospital of the Academy of Military Medicine of The Chinese
People's Liberation Army, Beijing 解放军军事医学科学院附属医院 (北京)
9. Beijing Xiehe Hospital 北京协和医院
10. Changzheng Hospital, Second Military Medical University, Shanghai
第二军医大学附属长征医院 (上海)
11. Shanghai First People's Hospital 上海市第一人民医院
12. Zhongshan Hospital, Shanghai Medical University
上海医科大学附属中山医院
13. Number 85 Hospital of The Chinese People's Liberation Army

in Shanghai 上海解放军第 85 医院

14. Ruijin Hospital, Second Medical University in Shanghai

上海第二医科大学附属瑞金医院

15. Shanghai First Hospital of the Air Force 空军上海第一医院

16. Changhai Hospital, Second Military Medical University, Shanghai

第二军医大学附属长海医院 (上海)

17. Nanfang Hospital, First Military Medical University, Guangzhou

第一军医大学附属南方医院 (广州)

18. Zhujiang Hospital, First Military Medical University, Guangzhou

第一军医大学附属珠江医院 (广州)

19. First Affiliated Hospital of Sun Yatsen Medical University, Guangzhou

中山医科大学第一附属医院 (广州)

20. Second Affiliated Hospital of Guangzhou Medical College

广州医学院第二附属医院

21. First Affiliated Hospital of Xian Medical University

西安医科大学第一附属医院

22. Second Affiliated Hospital of Xian Medical University

西安医科大学第二附属医院

23. Fourth Military Medical University, Xian 第四军医大学 (西安)

24. First Affiliated Hospital of the Fourth Military Medical University, Xian

第四军医大学第一附属医院 (西安)

25. Tongji Medical University, Wuhan 同济医科大学 (武汉)

26. Xiehe Hospital of Tongji Medical University, Wuhan
同济医科大学附属协和医院 (武汉)
27. Tongji Hospital of Tongji Medical University, Wuhan
同济医科大学附属同济医院 (武汉)
28. First Hospital of Chongqing Medical University
重庆医科大学附属第一医院
29. Xinqiao Hospital, Third Military Medical University, Chongqing
第三军医大学附属新桥医院 (重庆)
30. Daping Hospital, Third Military Medical University, Chongqing
第三军医大学大坪医院 (重庆)
31. First Hospital, Harbin Medical University
哈尔滨医科大学附属第一医院
32. Second Hospital, Harbin Medical University
哈尔滨医科大学附属第二医院
33. First Hospital of Harbin 哈尔滨市第一医院
34. First Affiliated Hospital of the West China Medical University, Chengdu
华西医科大学第一附属医院 (成都)
35. Third People's Hospital of Chengdu City
成都市第三人民医院
36. First Central Hospital of Tianjin City 天津市第一中心医院
37. Main Hospital of the Tianjin Medical University
天津医科大学总医院

26. Xiehe Hospital of Tongji Medical University, Wuhan
同济医科大学附属协和医院 (武汉)
27. Tongji Hospital of Tongji Medical University, Wuhan
同济医科大学附属同济医院 (武汉)
28. First Hospital of Chongqing Medical University
重庆医科大学附属第一医院
29. Xinqiao Hospital, Third Military Medical University, Chongqing
第三军医大学附属新桥医院 (重庆)
30. Daping Hospital, Third Military Medical University, Chongqing
第三军医大学大坪医院 (重庆)
31. First Hospital, Harbin Medical University
哈尔滨医科大学附属第一医院
32. Second Hospital, Harbin Medical University
哈尔滨医科大学附属第二医院
33. First Hospital of Harbin 哈尔滨市第一医院
34. First Affiliated Hospital of the West China Medical University, Chengdu
华西医科大学第一附属医院 (成都)
35. Third People's Hospital of Chengdu City
成都市第三人民医院
36. First Central Hospital of Tianjin City 天津市第一中心医院
37. Main Hospital of the Tianjin Medical University
天津医科大学总医院

河南医科大学第一附属医院

51. Affiliated Hospital of Shandong Medical University

山东医科大学附属医院

52. Fourth Hospital, Shandong College of Traditional Chinese Medicine

山东中医学院附属第四医院

53. First affiliated Hospital of the Xinjiang Medical College

新疆医学院第一附属医院

54. Affiliated Tumor Hospital of Xinjiang Medical College

新疆医学院附属肿瘤医院

55. Xinan Hospital, Third Military Medical University

第三军医大学附属西南医院

56. Second Affiliated Hospital, Third Military Medical University

第三军医大学第二附属医院

57. Hospital of the Main Unit of the Armed Police Force in Fujian

Province 福建省武装警察总队医院

58 Main Hospital of Kunming City, Chengdu Military Zone

成都军区昆明总医院

59. Main Hospital of Shenyang Military Zone of The Chinese People's

Liberation Army 中国人民解放军沈阳军区总医院

60. Nanjing Main Hospital, Nanjing Military Zone of The Chinese

People's Liberation Army, Nanjing City

中国人民解放军南京军区南京总医院

61. Fuzhou Main Hospital, Nanjing Military Zone of the Chinese
People's Liberation Army, Fuzhou City
中国人民解放军南京军区福州总医院
62. Chengdu Main Hospital, Chengdu Military Zone of The Chinese People's
Liberation Army, Chengdu City
中国人民解放军成都军区总医院
63. Wulumuqi Hospital of Lanzhou Military Zone of The Chinese People's
Liberation Army, Lanzhou
解放军兰州军区乌鲁木齐医院 (兰州)
64. Main Hospital of Jinan Military Zone of The Chinese People's Liberation
Army 中国人民解放军济南军区总医院
65. Number 98 Hospital of The Chinese People's Liberation Army
中国人民解放军第 98 医院
66. Number 181 Hospital of The Chinese People's Liberation Army
中国人民解放军第 181 医院
67. Number 148 Hospital of The Chinese People's Liberation Army
中国人民解放军第 148 医院
68. Number 309 Hospital of the Chinese People's Liberation Army, Beijing
中国人民解放军 309 医院 (北京)
69. Number 105 Hospital of The Chinese People's Liberation Army,
Hefei City 解放军第 105 医院 (合肥)
70. Number 301 Hospital of The Chinese People's Liberation Army

解放军第 301 医院

71 . Hospital of the Main Unit of the Armed Police Force in Tianjin

天津武装警察总队医院

* Source: *Chinese Journal of Organ Transplantation (Zhonghua qiguan yizhi zazhi)*. Other articles report the existence of over 100 hospitals performing transplant operations throughout China. This compilation includes only seventy-one of these hospitals, almost half of which are military or security facilities.

Appendix Four: A Chinese Writer's Perspective on Organ Harvesting

Translated and re-typed by the Laogai Research Foundation

A Personal Experience of a Doctor Who Extracts Kidneys from Mainland Execution Site

Zhang Zhu

Biographic Literature (magazine) December 1995, #403

The original text appeared in the bi-monthly periodical "Luchao (Tourism)," #4, 1993, Guangzhou

Good Kidneys in Short Supply

A system by which motor vehicle drivers do not sign pledges to donate their organs in case they die in traffic accidents does not exist and the number of Chinese families that would be willing to ignore the tradition and donate their loved one's organs can probably be counted on you fingers. Consequently, almost 100% of transplant surgeries utilize the organs of the executed prisoners.

Ever since Zhongshan Medical University's #1 Clinical Hospital performed China's first kidney transplant in 1973, dozens of hospitals in the country have successfully started their own kidney transplant operations. Consequently, competition for kidney sources has become quite fierce. Big, reputable hospitals, with their modern equipment and technology, control kidney sources in big cities as well as in towns and villages in a surrounding radius up to dozens of kilometers, while second and third rate hospitals stretch their tentacles toward remote areas where kidney harvesting has not yet started or is just beginning. Once they have a kidney, hospitals will use vehicles ranging from ambulances to military aircraft to deliver them to their destination.

To maintain social order, Chinese authorities often execute a number of prisoners on the eve of state-stipulated holidays. Exceptions to this policy include those tried in railroad transportation courts, where those to be executed are quickly sentenced and shot. But no matter who executes them or when, it is the moment just after prisoners are shot that kidney transplant personnel are the busiest.

Shots having Rung out at the Execution site

It was an April day on the central plains. A sunlit and enchanting scene of spring. The best time of the year. At seven that morning, I arrived at the surgical building. There I saw the head nurse of the kidney surgery department, who had arrived ahead of me. That was the day we were to remove kidneys. All of us were "virgins to be married off"-first times. License plates on two of the hospital's ambulances were covered with adhesive tape. Except for the windshields in front of the drivers, all other windows on the vehicles were tightly sealed with old newspapers. There was not the least sign visible to betray to which units the vehicles belonged.

With all the necessary medicines and equipment loaded in the ambulance already, we climbed on board and were driven to the municipal intermediate court, where we met other surgeons and related personnel. When we got out of our ambulance, we saw two others similarly prepared, but we could tell from the personnel's faces which hospitals they were from. Those who knew each other said, "Hello!" Not

far away , a bailiff spoke constantly on his walkie-talkie. While we surgeons and nurses chatted, he was in constant contact with the site where the death verdicts were being declared.

At 10:30 , our motorcade started up. We made our way to a remote suburban place far away from the city. A dirt track followed the freeway. Ten minutes later we stopped by a dune. We could see traffic police officers in snow white gloves and paramilitary police officers carrying carbines. Half an hour later, we turned left, and after another five minutes of driving, came to the real execution site. It had been a sand quarry. Dozens of meters away, at intervals of ten meters, armed paramilitary police officers were standing guard. Farther away, a cluster of curious peasants stood by. All the sand in the quarry had been removed. What was left was a yellowish square dirt area about the size of half a soccer field. The ground was flat and hard. To the south of the area, pits about thirty centimeters deep had been dug at intervals of five meters. In front of each pit a small wood signboard bearing a black number had been erected. The pits numbered 1 to 20. The ambulances were parked at the southern end of the north side of the area, with their doors facing south, each closest to the pit that would soon catch the body of its designated condemned man. Medical personnel, dressed in disposable surgical uniforms, stood waiting in combat formation.

By this time, the sound of police sirens, which had been swelling in the distance could be heard clearly. Behind the court's jeep came a police truck with two squads of automatic-weapon-toting paramilitary police officers on top of the drivers cab. Upon disembarking the truck, they quickly deployed around the execution site at intervals of three meters, forming the inner-most security line, their faces stern, their hands clutching carbines. They drove us kidney extractors outside the inner most security line to an area about ten meters from the pits. At this time each of the condemned men was escorted by three paramilitary police officers to his designated pit. Most of the executes were in new clothes and new shoes. Some of them, upon getting off the trucks, nodded to each other, but they could not conceal the inner fear and despair which left their eyes dull and inexpressive. Their complexions were either a dull yellow or pale as if no blood was circulating inside them. Their legs moved ahead in disconcert. Then they were made to kneel in front of the pits. Two firing squad members grabbed each condemned man by his hands and shoulders, while the third aimed his carbine at the back of his head. One executee would not kneel down, but a member of the squad kicked his leg and forced him down. Another was shouting himself hoarse, just to boost his courage. With everything ready, the order "Fire!" was issued. Almost simultaneously, all carbines banged like muffled thunder.

Removing the Kidneys Quickly

We dashed towards the corpses, white brain matter and crimson blood still flowed. Nearby. A corpse was having a compulsive cramp. We were about to pick up our corpse when a bailiff stopped us. We would have to wait until the forensic experts present checked and photographed each corpse. These experts were moving from west to east and our corpse was at the east. So we waited, without bravado, but without fear either. The only word we had on our minds was "quick". After about one minute passed, the forensic experts came to our corpse, checked it and photographed it. One of them nimbly wrapped the dead man's head in worn out cloth, while another stuck it inside a plastic bag. To prevent blood from flowing and soiling the ambulance interior, I took a piece of rope, turned it tightly around the neck twice and made a dead knot. Then I quickly lifted the corpse's left leg. It was still warm. Our team of four, carrying the corpse's by two shoulders, the other two by the legs jogged toward the ambulance and put the corpse inside. All this was done methodically as we had previously divided the job into individual tasks.

A kidney can be used for transplant surgery only if extracted from the corpse within 15 minutes after the host's death and then is flushed with a solution. Otherwise blood will clog in the blood vessels and the kidney will be useless. As soon as the corpse was inside the ambulance, one of us immediately unbut-

toned his clothes, exposing his abdomen, while another poured iodine on the abdomen, rubbed the skin with absorbent cotton and then with an alcohol swab. After this simple sterilization, a cross shaped incision about 30 centimeters long and wide was cut in the lower abdomen. The surgeon-in-charge quickly started extracting the kidneys from the abdomen. Meanwhile, our ambulance, sandwiched between the judicial personnel's car and the paramilitary police truck, had started in motion. Despite all efforts of the driver, Lao Chen, to drive as smoothly as possible, the ambulance was still shaking side to side on the bumpy road. The atmosphere inside the ambulance was heavy. Nobody spoke. Scalpels and scissors were moving in perfect order, clattering only occasionally when touching each other. Everyone was doing their job, their faces covered with perspiration. Eight minutes later, both kidneys were out of the body, flushed with tissue preservation fluid and placed in a jar specially designed for preserving kidneys. Only then did all of us heave a sigh of relief. Such a sense of relaxation and pleasure is beyond the imagination of those who have never experienced such a thing.

No blood was visible in the whole kidney extraction process, only yellowish subcutaneous fat that looked like chicken fat. The intestines had shrunk. There were no food remains, no excrement. The kidneys were pale, only two thirds of their normal size. You could imagine how intense and fearful those thugs were in the last days of their lives unable to eat anything, their blood vessels contracting violently, their kidneys shrinking. After the kidneys were out, one surgeon had to extract the eyeballs for an ophthalmologic hospital. Unfortunately, one of the eyeballs was pierced by the bullet, so, only one cornea could be used. The surgeons extracted the heart and lungs to be used by the hospital as a specimen. Finally, bones were extracted from the thigh and shank on one side, just like that of a cow or lamb, to be used in an orthopedic hospital for thighbone and shinbone transplant experiments. The leg, devoid of its bones, was dangling around in concert with the ambulances movements. Its exposed, dark red muscles looked no different from beef or mutton sold on the market. You cannot draw an equality sign between the corpse devoid of most of its organs and the man who was still walking ten minutes before. Once your thought links the two, you will shudder all over from cold. All necessary body parts taken out, the corpse was stuck into a big bag woven out of cellulose fibers and trussed up tight to be given to the security section chief for cremation when the ambulance reached the hospital.

Head Nurse Scared to Tears!

Upon emerging from the ambulance, the head nurse squatted and began crying bitterly. Baffled, another surgeon and I stood beside her, not knowing what to do. Minutes later, she stood up and said, "I feel much better now. I'd certainly feel sick if I didn't cry. I felt very upset in the ambulance. At first I was not scared at all, just like when I used to pass surgical instruments in the operating room. But then, when bones were taken out of one leg, and the whole mass of soft flesh was dangling around, while the other leg sustained by bones was stiff, the strongest contrast linked my thought with the scene when the heart and lungs were taken out. Like electricity, fear flowed through my entire body. The more I thought about it, the more powerful the electricity turned, but I could not force myself not to think about it. Such a vicious circle was beyond the limit of my psychological endurance. So I had to cry to lessen my psychological burden. Why am I a woman?" A woman could express her fear through crying. But what about us men? We were also first timers, but had to pretend it was nothing while our psychological frontiers fell apart. While in the ambulance, each man could not see the other's fearful expression, but we had a tacit understanding. We dared not expose the others' fear, disguised as it was by outward manliness. Why are we men? A woman has her way of expression, while a man has his own style of expression. In the mornings that followed, upon seeing me, the head nurse would say, "Last night I cried again in my nightmare." I would say "You coward." But in truth, did I not see a bloody scene that was much more scary in my own nightmare?

Patients' Fate In The Hands Of Heavens After Kidney Surgeries

At 2p.m., we entered the operating room. The patient was laying on the operating table, the surgical area exposed. The surgeon-in-charge meticulously grafted the arteries and veins of the transplanted kidney with those in the patient's pelvis. In less than one minute, the kidney, which had been pale in color, turned scarlet and grew. Such surgical treatment of terminal kidney failure is unmatched by internal medicine.

Transplanting a kidney into a patient's body does not guarantee success. For the patient to survive, it is important that their body resist rejecting the kidney. After the first kidney transplant operation, this particular patient's body experienced an expulsive reaction, which ruined the kidney. One week after a second transplant surgery, the patient died of another expulsion reaction. This case demonstrated how difficult it can be to treat patients suffering from hereditary kidney diseases.

A Maiden's Death

A Case of Kidney Extraction from a Living Person- From Official Sources

OPEN MAGAZINE AUGUST 1995 HONG KONG

.....
Li Lian was a girl with delicate features. She was only sixteen when the Cultural revolution started.

.....
Driven by her ideas and aspirations, Li, with her young verve, became a commander of the Red Guards at her high school. In 1970, she began to think about Lin Biao in a different light...In letter after letter to her boyfriend, who was serving in the army, she wrote why she was suspicious of Lin. Little did she think that her boyfriend would betray her and submit her letters to his superiors, who in turn hurriedly submitted the letters to civilian authorities. Li was arrested on charges of "vicious attacks and active counterrevolutionary crimes".....In 1970, she was sentenced to death.

.....
.....
It was raining hard, with leaden clouds hanging low. To prevent any possible attempts of rescue, she was secretly escorted to an execution site in another city. As the prison vehicle was approaching that city, an ambulance followed closely. Soon both vehicles stopped. Two white uniformed men jumped out of the ambulance and got in the prison vehicle. At once, four burly policemen turned Li round, pressed her face and body on a panel, exposed her back and waist....Without even anaesthesia, a ghastly, razor-sharp scalpel made a palm-size incision on her right waist, and a young kidney dropped on the spotless white surgical plate.

In a near-by hospital, surgeons were waiting for the kidney. It was to be transplanted into a high-ranking official's body. As a matter of fact to ensure quality of kidney and success of the surgery, the hospital had days earlier requested concerned authorities that the kidney be extracted before the prisoner was executed.

.....Randomly, they stuck cotton and gauze into the wound....The surgical crew did not even bother to suture the incision.

Li lost consciousness at once.....

The Prison vehicle was driving towards the execution site, it's siren blaring.....

(Quote from "Price of History—Death Files of the Cultural revolution." Beijing: Dadi Press, January 1993)

Organ Transplants Must be Open, Voluntary and Transparent

Jiangxi Province School of Social Medicine

Zhang Zanning

At the present time medical crisis is a common occurrence throughout the world. The most prominent manifestation of this crisis is in the problem with necessities and supplies. Medical services are constantly unable to satisfy the necessities that increase on a daily basis. It is like this for developing countries as well as for developed countries. This problem of supplies and necessities is especially prominent in the area of organ transplant operations.

The societal investigations of the present writer reveal that the most important reason for the problem with supplies and necessities is because at the present time China still has not formulated a law that is relevant and operable. For this reason there are many natural sources of organs that there is no way to access and so people continue to get sick and to die and that really is a pity. In the city of Nanchang, the provincial capital, every year the supply of organs for performing kidney transplants must rely almost completely on the implementation of the death penalty for death row criminals in which the family does not claim the corpse. For this reason that there is an appeal that doctors should quickly draw up standards to regulate "brain death" and "donation of organs," and other relevant laws.

In order to resolve the matter of great urgency with organs for transplant and medical research, on October 9, 1984, the Supreme Peoples Court, Supreme Peoples Procuratorate, the Security Bureau, Justice Department, Health Department and the Department of Civil Administration jointly enacted the < Provisional Regulations on the use of corpses and organs from executed criminals >. Through today this is the only document in China that regulates and administrates the use of organs. There are three situations according to this law where organs and corpses of executed criminals can be used for medical purposes: 1) There is no one to claim the corpse or the family refuses to claim the corpse; 2) The death row criminal gives voluntary consent for the clinical and health departments to use the organs; 3) With the agreement of the family. It is impossible to deny that parts of this law have been useful for progress in medical science in China. In the conditions of the times it was necessary to have such a law. But more than ten years have passed now, today organ transplantation has developed in China, but it is still necessary to rely on the corpses of executed criminals for the main source for organ transplants, it is even the soul source. It is impossible for this not to cause one to feel regretful.

II. Existing Problems

The second section and fourth clause of this document regulates that "Regarding the necessity for the agreement of family members in order for use of the corpse, it is up to the people's court to notify the Department of Health and to consult with the family members, and simultaneously to see to the scope for usage of the corpse, means for disposing of the remains after usage, and for cost efficient disposal, as well as economic compensation questions, etc and to reach a written agreement." "For death-row criminals who give voluntary consent for medical work units to use their organs, the criminal should sign a formal written license or a written record for future reference." "The use of organs and corpses from executed prisoners must remain strictly secret, and it is important to pay attention to any negative influence." But according to the law, who will carry out and operate the specific details? Who will be in charge of supervision? What sort of punishment should there be for anyone who violates this law? Those who encroach upon rights and violate laws should be reported to which department, how will such reports be

handled equally when there is no law. Thus it is clear that the flaws of this law should be very obvious. Especially regarding the clause stating that extraction of organs is to be “strictly secret,” truly is inappropriate. This is because:

1. This sort of law is contradictory. Since the document already orders that use of organs must be voluntary, and additionally must gain the agreement of family members and compile a written agreement regarding questions of compensation and only after that can the process move forward, it will cause any sort of secret to become impossible, and it is also unnecessary.
2. Organ transplantation brings great benefits to humanity, organ donation is regarded as a highly glorious and great act, it should receive societal respect and endorsement. It is absolutely unnecessary for it to be carried out in secret.
3. Extraction of organs is a highly serious matter. The process must uphold the principle of voluntary consent and at the time of organ extraction it must be possible to certify that the criminal has truly died (including brain death) before the procedure can go forward. Otherwise, it will be truly inhumane and is even an action to commit murder. Therefore, there must be an open and strict procedure for supervision before organ transplantation can be carried out. Otherwise, it will inevitably lead to feelings of suspicion, distrust, insecurity and fear. Ultimately, this will inevitably bring injury and harm to transplant recipients and to the medical industry itself.
4. Because there is no need for executioners to conduct their actions according to the law in order to avoid punishment, it will therefore be unavoidable that instances will develop in which some may not seek out consultations and family agreement if there is fear that gaining consent or conducting consultations for agreement with the family could meet with refusal or proposal of high requirements. They will simply illegally extract the organs. Some people are indifferent towards the concept of law, and believe that death-row criminals have in their lifetimes committed the most extreme evils, in death they are still guilty; after their death, shouldn't they make some contribution to the health of the people and the medical industry? Therefore they believe that one can deal with this sort of corpse as one pleases. A regulation of secrecy offers protection and benefit to these sorts of illegal practices.
5. The facts prove that if organ extraction can be carried out in “strict secrecy,” that it will be a very dangerous situation. This means that an executioner or a surgeon can carry out procedures with no supervision whatsoever. It is common knowledge that medical practice requires the earlier the better for organ extraction and transplantation, it is best if before the heart has stopped beating, organs are extracted from the corpse of a person who is brain dead. It is also then difficult to prevent this from happening – in order to increase the life-span of transplant recipients, some will not wait for death, and will extract organs as a matter of robbery. In the Cultural Revolution, the political criminal Zhong Haiyuan (later rehabilitated) who had her kidneys extracted prior to her execution serves as a painful memory, it should always be remembered.

III. Countermeasures

In a country as large as China, a country where more than 20,000 people die every day how can a problem develop where the organ supply cannot be maintained? Are the ideas of the Chinese people overly conservative, are they truly unwilling to voluntarily donate their organs?

Many scholars have often proposed one simple reason for the shortage in the organs supply: China is a country with two thousand years history of feudalism, due to the traditional feudal Confucian

teaching of “wanting to die with a complete body,” “one’s body and skin are received from one’s mother and father, one does not dare destroy or harm it” and other traditional teachings. Elderly people see their bodies after death as very important, and are unwilling to donate their organs or bodily remains. Actually, this sort of understanding does not line up with reality. People who say these sorts of things actually have not conducted any realistic inspection or investigation, and instead this is only an inference that was thought to be likely. They overlook the fact that in the past forty years since the revolution, China has received education to be unselfish and non-materialistic, and this teaching and manners had a high rate of influence. In the past, according to these same ideas people also once believed that abortion and the family planning was unthinkable, but what is the result now? Is the policy not now voluntarily accepted by the vast majority of all the Chinese people? Likewise, the issue of euthanasia was for a long time a forbidden area of study, yet once a breakthrough came in this area, the discussion has been highly dynamic. Investigation of the will of the people in all places throughout the country makes it clear that the ratio of Chinese people who agree with euthanasia is about 80 – 90%, this by far surpasses the agreement ratio for Western countries.

Five years ago, Central People’s All China Radio conducted a half hour opinion poll regarding the issue of organ donation in China. The data received from 2300 respondents showed that: answering “believing that organ donation is a good thing” was 94.8%; believing against organ donation was 5.1%; the other 0.1% answered “no opinion.” Expressing that “after death am willing to donate my own organs,” was 91.9%; expressing “not willing to donate” was only 8.1%. Commonly it is believed that elderly people have received a more traditional education and have more conservative ideas, but their responses were unexpectedly high, according to the data those in agreement with the idea of organ donation were 98.8%, 4.4% higher than the body of listeners of other ages; answering that they were willing to donate their own organs was 97.5%, 6.1% higher than respondents of other ages. And why is this? According to the statement of Li Ziyu, a retired woman from a town in Liaoning, “in donating one’s body to the medical industry, one can benefit others in their death, it is a contribution to society.” One elderly person in the suburbs of Beijing who had already written up his will instructing his children and grandchildren, “after I die, my body must be donated to the medical industry.” There are very very many of these elderly people who have made the donation of their bodies and their organs a final contribution to society and to humanity. The problem lies with some of China’s bureaucrats and government officials, regarding the enthusiasm of the masses towards the choice to donate, they still do not have sufficient understanding. So until theory and propaganda are created to conform with current ideas, legislation will continue to seriously lag behind. For this reason, the present writer believes that there should be a large scale increase of education on organ donation after death, as quickly as possible China should formulate laws on the standards on brain death in relation to organ transplantation. In the formulation of propaganda and relevant standards and regulations, it is necessary to pay attention to the following few issues:

1. Organ donation must uphold the principle of voluntary consent. China should use propaganda and education to encourage citizens to donate their organs after their death for use in medical study, research, and transplantation. At the present, there are two types of established systems for consent: one is volunteering before death and cannot rely on the consent of family members for organ extraction, the second is presumed consent, which regulates that all citizens who have not made a written representation prior to their death that they are unwilling to donate their organs, family members or doctors can use their judgement to infer consent for organ usage and can extract organs and use the corpse as they see fit.
2. It should be stipulated in specific terms that all personnel enjoying free access to medical care, especially the officials and medical personnel must give their remains towards medical

- research and dissection, or donate their organs to relevant medical units. Those who are unwilling to donate can lose their qualification for free medical access.
3. Organ transplantation should be open and transparent, it should be forbidden for anyone to violate the principle of voluntary consent or to use methods of strictly secret extraction of organs.
 4. Strictly control the terms and scope of transplantation. There must be terms and conditions for the Chinese hospitals that are permitted to carry out organ transplant operations, if a facility does not meet these terms and conditions it should be forbidden for transplants to occur.
 5. For the purposes of organ transplantation, the standards of heart death and brain death can be employed. Other than for purposes of blood transfusion and kidney transplants involving live donors, it is strictly forbidden for anyone to extract organs from the body of a person who is still alive.
 6. Without exception, all transplant recipients should accept the principle of self responsibility that the surgery is performed at their own expense, it should be forbidden for anyone to receive an organ transplant using public funds or funding from public access medical care.
 7. Organ transplant operations should uphold and pay attention to quality of life, it should be forbidden for those who are feeble, aged, or ailing to receive organ transplants since there is high likelihood that such individual's bodies may reject organ transplants and it will not prolong their life span.
 8. Step by step phase out or forbid the extraction of organs from the bodies of executed criminals.

Draft received on November 21, 1995
(Editor: Zhang Wu)

Translated and re-typed by the Laogai Research Foundation

Appendix Five: Legislative Action Relating to Organ Harvesting

Retyped for clarity

Thursday 14 May 1998

(f) B4-0496,0500,0510 and 0519/98

Resolution on the sale of organs of persons sentenced to death in China

The European Parliament,

—having regard to it's previous resolutions on China,

having regard to the Annex to United Nations Economic and Social Council Resolution 1984/50 of 25 May 1994.

- A. totally appalled by the report by the China Watch organization and the Fresenius company that the Chinese People's Liberation Army is carrying on a flourishing trade in the organs of persons sentenced to death,
- B. whereas these practices constitute a crime and manifestly infringe international conventions on respect for and protection of the dignity of condemned prisoners and the inviolability of their person,
- C. whereas various European companies could be implicated in this trafficking,
- D. whereas the EU has a duty to respond in the strongest terms to the abuses which have been exposed and whereas it must do everything in its power to put a stop to these inhuman practices forthwith,
- E. reiterating its total opposition to capital punishment and its determination to secure abolition of the death penalty in all parts of the world,
 - 1. Calls on the Chinese authorities to do their utmost forthwith to stop these inhuman practices;
 - 2. Instructs its Delegation for relations with the People's Republic of China to raise this issue on the occasion of the next delegation visit in June 1998;
 - 3. Calls on the Council and Commission to take all the steps required to ensure that the United Nations immediately sets up an international committee of inquiry with a view to shedding full light on the networks being used in China and the rest of the world to traffic in and sell organs removed from persons sentenced to death;
 - 4. Asks the Commission and the Council to take the necessary initiatives at the international level to ban all illegal and inhumane trade in human organs;
 - 5. Reiterates its total opposition to the death penalty and its determination to persuade the United Nations to declare a world-wide moratorium on executions;
 - 6. Renews its demand that the authorities of the People's Republic of China abolish the death penalty as soon as possible and calls on them, pending complete and final abolition of the death penalty, to publish full details of the executions carried out;
 - 7. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the authorities of the People's Republic of China, and the Secretary-General of the United Nations.

(from the Official Journal of European Communities, 1 June 1998, retyped for clarity)

Congress of the United States
House of Representatives
Washington, DC 20515-3813

December 2, 1997

His Excellency Li Daoyu
Ambassador to the United States
The People's Republic of China
2300 Connecticut Avenue, NW
Washington, D.C. 20008

Dear Ambassador Daoyu:

It has recently come to our attention that The People's Republic of China has been engaging in the practice of harvesting human organs from executed prisoners for sale to wealthy foreigners. These allegations were lent the weight of visual evidence when the ABC News program PrimeTime Live broadcast a segment on this reprehensible practice.

While we, the undersigned Members of the United States Congress, are anxious to continue exploring those issues which are of common interest and concern to both our nations, we are reluctant to engage in dialogue with any nation which would commit such horrible atrocities against its own people.

It is important to each of us that you address the allegations made during the PrimeTime Live expose which clearly shows the execution of prisoners and includes negotiations between a representative of your nation and an undercover reporter posing as a potential organ recipient. We are enclosing for your review a copy of the transcript from the ABC broadcast and ask that you offer some evidence that this practice no longer takes place in your nation or a commitment that it will stop forthwith.

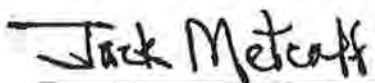
It is in the best interest of both our nations and the people we represent that the People's Republic of China and the United States of America establish and maintain a relationship based on trust and which conforms to accepted world standards of human rights. The execution of prisoners and the sale of their organs is a clear violation of the international standards established following the disclosure of experiments conducted by so-called doctors of the Third Reich in the name of science. The Nazi atrocities were exposed and set before judicial review during the War Crimes trials in Nuremberg, Germany.

Failure to adhere to accepted world standards could represent a formidable barrier to the establishment of normalized relations between China and the United States. It is our hope that you will be able to adequately address the charges outlined in the PrimeTime Live segment and we can continue to move our two great nations toward an era of mutual cooperation and understanding.

Sincerely,




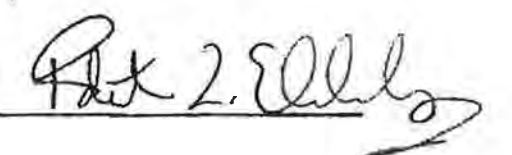
Stephen Horn



Jack Metcalf







Pat 2. Ellery

Frankly

More Castle

Michael Gilman

Marill Cook

Dick Arney

Bob Livingston

Pete Sessions

Jeffrey Dunn

Bob Cunningham

Don Rabbitt

R. B. I.

Ken Calvert

Vito F. La

Vince Snowdon

Charles B. McDoug

Tom Lantz

Lee Myer

Chip Rely

Robert E. An

His Excellency Li Daoyu
2 December 1997
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Ron Packard

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Cliff Smith

Paul Stange

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Barry

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John

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John

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Michael Pagger

Cheryl Boelke

John Fitter

Tom Colm

Tom Davis

John Gribb
Van Lint

Jim Hla

Greg Well

Ann Helling

John Gibbons

Anna K. Keltner

Sam Kelly

Lynd P. Hs

Helen Chomowich

Tim Rhy

Mark Linder

CONNIE MACK
FLORIDA

United States Senate

WASHINGTON, DC 20510-0904

October 17, 1997

The President
The White House
Washington, DC 20500

Dear Mr. President:

I am deeply disturbed by what I saw on the ABC television news program, *Primetime Live*, Wednesday, October 15th, regarding the harvesting and sale of prisoners' organs occurring in the People's Republic of China. In view of your upcoming summit with President Jiang Zemin, I hope you will take this opportunity to exercise appropriate action regarding this most disturbing practice.

I am not aware that you have ever acknowledged the existence of the Laogai slave labor system in China. This system not only exists, but, as shown by the *Primetime Live* segment, appears to be viewed by the PRC government as a living storage system for human organs.

The practice of using prisoners' organs violates every conceivable standard of human rights, and more importantly, offends our most sacred conception of human decency. I appeal to you in the strongest possible terms to investigate the accusations uncovered by *Primetime Live* prior to the summit, and address this issue with President Jiang.

Furthermore, the segment showed a Chinese doctor caught on videotape in New York accepting money in exchange for a promise of a human organ. Federal law makes it illegal to buy or sell human organs and I hope you will find it appropriate to ensure that there will be a federal investigation into this incident.

This issue is among several which must be addressed during the summit, and one which requires concrete actions on the part of the PRC. The deep sense of honor that Americans feel for liberty and democracy compels us to do all in our power to prevent human rights violations in any country, including the harvesting and sale of Chinese prisoners' organs. I stand ready to support you in this matter, but call upon you to use the occasion of the summit to demonstrate the necessary leadership.

Sincerely,



Connie Mack
United States Senator

THE WHITE HOUSE

WASHINGTON

December 3, 1997

Dear Senator Mack:

Thank you for your letter regarding the reported sale of organs in the United States from executed prisoners in China. I share your concern on this issue.

During President Jiang Zemin's visit to the United States, I vigorously raised human rights concerns on a number of occasions. In addition, Secretary Albright specifically addressed the disturbing reports of human organ selling during her meeting with Vice Premier Qian Qichen. Vice Premier Qian denied such actions are tolerated in China. The Chinese Government has also informed us it does not permit the transfer of organs of deceased Chinese outside the jurisdiction of China.

We take these reports seriously. If such a practice were tolerated by the Chinese or any other government, it would be cause for deep concern and we would press for corrective action.

Additionally, I am aware of China's use of compulsory labor as manifested in its reform-through-labor and reeducation-through-labor systems. In fact, in 1995 I pressed very hard for the release from detention of Harry Wu, who has done much to publicize the inherent abuses of these systems. I am pleased to say this effort succeeded. My Administration will continue to keep human rights concerns prominently on the agenda as we engage China on issues of common concern.

Again, thank you for your letter on this important matter.

Sincerely,



The Honorable Connie Mack
United States Senate
Washington, D.C. 20510-0904

Appendix Six: Materials from Ethicists

Excerpts from:

Testimony of David J. Rothman, PH.D

Bernard Schoenberg Professor of Social Medicine

Columbia College of Physicians and Surgeons

To the Committee on International Relations and

the Committee on Government Reform and Oversight

June 16, 1998

For the past ten years, and with the support of several foundations, including the J. Roderick MacArthur Foundation, the Edna McConnel Clark Foundation, the Rockefeller Foundation, the Open Society Institute, I, in association with other colleagues, have been investigating and analyzing organ donation practices, with particular emphasis on the issues of the sale of organs and the use of organs from executed prisoners. Among the publications that present the consensus that I and my colleagues have reached on these issues are: "The Bellagio Task Force on Transplantation, Bodily Integrity, and the International Traffic in Organs," D.J. Rothman, Eric Rose, et al., authors, *Transplantation Proceedings*, 29 (1997), pages 2739 – 2745; David Rothman, *the International Organ Traffic*, *New York Review of Books*, March 26, 1998, pages 14 – 17; and David Rothman, *Body Shop*, *The Sciences*, November/December 1997, pages 17 – 21. The conclusions presented below are fully documented in these publications.

...Although Chinese officials continue to deny that executed prisoners are the major source for their organ transplantation practices, there is no question but that Chinese transplantation facilities rely upon these very organs...How can we be certain about the practices in China? First in 1984, immediately after the demonstrated efficacy and availability of cyclosporine, China enacted the "Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Prisoners."...The 1984 law makes eminently clear that the use of executed prisoners' organs is national policy. Chinese practices are also confirmed by former Chinese prisoners, from Chinese transplant surgeons who have left the country as well as former Chinese police and prison officials.

...It should also be noted that conditions on death row, particularly in China, subvert any claim that meaningful consent is obtained. The covert character of the activities belies the first defense of the procedure, that the voluntary consent of the prisoner is obtained. The notion that someone on death row can give meaningful consent to a procedure – particularly when death row is a miserable hovel in a local jail and the prisoner is kept shackled – it is very difficult to accept; add to that the exceptional secrecy that envelopes the process. Were consent meaningful, there would be no need to set forth elaborate procedures in the 1984 Chinese law for concealment or to exempt minorities from the law.

Declaration on Human Organ Transplantation

The World Medical Association recommends the following guidelines for the guidance of physicians engaged in the transplantation of human organs.

- 1) The primary concern of physicians must at all times be the health of their patients. The concern and allegiance must be preserved in all medical procedures, including those which involve the transplantation of an organ from one person to another. Both donor and recipient are patients and care must, therefore, be taken to protect the rights of both. No physician may therefore assume a responsibility in organ transplantation unless the rights of both donor and recipient are protected
- 2) A potential organ transplant offers no justification for a relaxation of the usual standard of medical care. The same standard of care should apply whether the patient is a potential donor or not.
- 3) When an organ is to be transplanted from a donor after the donor's death, the death of the donor shall have been determined independently by two or more physicians who are not involved in the transplantation procedure. Death shall be determined by the judgement of each physician. In making this determination, each physician will use currently accepted scientific tests, and criteria that are consistent with the ethical requirements and professional standards established by the National Medical Association and other appropriate medical organizations in the community
- 4) Whenever an experimental procedure such as the transplantation of animal organs or artificial organs is being considered, the physician should comply with the recommendations contained in the World Medical Association's Declaration of Helsinki, providing guidance for physicians in biomedical research involving human subjects.
- 5) The fullest possible discussion of the proposed procedure with the donor and the recipient or their respective responsible relatives or legal representatives is mandatory. The physician should be objective in discussing the procedure, in disclosing known risks and possible hazards, and in advising of the alternative procedures available. The physician should not encourage expectations beyond those which the circumstances justify. The physician's interest in advancing scientific knowledge must always be secondary to his primary concern for the patient. Free informed consent must always be obtained.
- 6) Transplant procedures of body organs should be undertaken:
 - a) only by physicians who possess special medical knowledge and technical competence developed through special training, study and practice, and
 - b) in medical institutions with adequate facilities for organ transplantation.
- 7) Transplantation of body organs should be undertaken only after careful evaluation of the availability and effectiveness of other possible therapy.
- 8) The purchase and sale of human organs for transplantation is condemned.

(Retyped for clarity)

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The Laogai Research Foundation
888 16th Street, NW, Suite 5310
Washington, DC 20006-4103

共產黨的慈善事業

Laogai Research Foundation

Laogai Research Foundation

1420 K Street, NW, Suite 400 3. Floor

Washington, DC 20005

Phone: (202) 833-8770 Fax: (202) 833-6187

email laogai@laogai.org

www.laogai.org