ORGANS FOR SALE: CHINA'S GROWING TRADE AND ULTIMATE VIOLATION OF PRISONERS' RIGHTS

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INTERNATIONAL OPERATIONS AND HUMAN RIGHTS

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WEDNESDAY, JUNE 27, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL
OPERATIONS AND HUMAN RIGHTS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 2 p.m. in Room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen [Chairwoman of the Subcommittee] presiding.

Ms. ROS-LEHTINEN. The Subcommittee will please come to order.

When one first hears of China's gruesome practice of executing prisoners for the purpose of harvesting their organs and selling them to the highest bidder, the reaction is one of shock and disbelief. How can human beings do that to other human beings? How can there be such disdain for human life? How can avarice and greed reach such extremes? This cannot be true.

Unfortunately, the evidence gathered throughout the last two decades clearly shows that China's Communist regime is not just looking at traditional sectors of the economy to generate income for its military expansionist policies. It has found a lucrative industry in the field of organ transplantation which not only yields great financial rewards, but provides the regime with a powerful tool to coerce and intimidate the population into submission.

Governmental sanctioning of organ harvesting from prisoners reportedly began in 1979 with the issuance of a document from China's Public Health Ministry entitled Rules Concerning the Dissection of Corpses. This document asserted the legality of the practice and laid the foundation for future generations, such as the ones issued in 1984, the regulations entitled Provisions for Regulations on the Use of Dead Bodies or Organs from Condemned Criminals.

In this 1984 document, the Chinese regime provided detailed instructions on the conditions and the procedures for harvesting organs from executed prisoners, including the coordination between health personnel and prison and public security officials and the need for confidentiality in the entire process.

This document states that those who are sentenced to death are to be executed immediately by means of shooting. We will hear testimony today about how this translates into a shot to the heart if corneas are needed and a shot to the back of the head for other or-

gans. Family members of the executed prisoners are forced to pay for the bullets used.

This calculated method of execution helps ensure that there is no contamination of the organs, but the evil nature of this practice does not stop there. Although the official regulations issued in 1984 state that death must be confirmed before the extraction of organs, there are credible reports that the executions are sometimes deliberately botched to postpone brain stem death and help the retrieval of organs while the blood is still circulating.

Other reports refer to organ removal as the means of execution in and of itself. These methods are increasingly being used because living donor organs are in greater demand and, therefore, generate a higher price.

The official regulations also refer to consent from prisoners and/or family members and to the use of only bodies which have not been claimed by the family members. In the same text, however, it underscores that the use of the dead bodies or organs from condemned criminals must be kept strictly confidential, and once the bodies are used the crematory shall assist in the timely cremation.

In practice, this is what happens. I would like to summarize the events surrounding the execution of Mr. Qui in June of 2000, but which was reported in the U.S. and international publications in March of this year.

Mr. Qiu was sentenced to death for tax evasion, was executed, and his body was sent to the crematory all within a little more than 1 hour. When his brother arrived to attempt to claim the body, he found blood all over Qiu's shirt. He pulled the shirt open and found that Mr. Qiu's stomach was cut open with his intestines spilling out. There was a foot long gash, and several organs had been extracted.

He drove back to the court to demand an explanation for the desecration of his brother's body. He argued that no family member had been asked whether his brother's organs could be removed. Court officials responded that the organ removal had been done according to regulations.

The prison authorities then said that Mr. Qiu had consented to donate his organs just prior to his execution. Mr. Qiu's brother asked for evidence, but the Chinese officials would not give him any. After complaining to the central government authorities, Mr. Qiu's brother was warned to keep silent or face retaliation against him and his family.

This case is possibly one of thousands taking place yearly in China. Amnesty International counted over 18,000 executions reported in China's official press during the 1990s. The number can be much higher since many executions remain a secret. Some observers estimate that the figures could approach 1,000 executions a year in individual cities.

Some will attempt to justify China's practice of harvesting organs by accepting the Chinese arguments that consent is given by the prisoners. Whether condemned prisoners donate their organs willingly is questionable, which is why the World Medical Association and the Transplantation Society both ban the use of organs from convicted criminals.

In the case of Chinese prisoners, the issue of consent becomes even more contentious as Buddhist and Confucian beliefs dictate that the bodies are to be kept whole after death, meaning that voluntary donations are rare, if they occur at all.

Others seek to justify China's gruesome practice and to legitimize the trafficking of organs by emphasizing the number of lives being saved by these transplants. Presently, recipients of harvested organs from Chinese executed prisoners include increasing numbers of American residents and citizens. However, is one life more valuable than another? Do the ends justify the means?

It has been said that the only thing necessary for the triumph of evil is for good men and women to do nothing. This is why we are meeting here today to ensure that the U.S. Congress does not allow this horrific situation to go unchallenged; to ensure that the U.S. does not become an accomplice to the PRC in promoting this deplorable practice.

This is why I introduced H.R. 2030 on May 25 of this year. This bill responds to credible reports of Chinese doctors using medical training and exchange programs with the U.S. to perfect their organ transplantation techniques and to gain access to information on organ recipients.

H.R. 2030 seeks to prevent that U.S. government funding for these programs are assisting China's terrible practices. The bill prohibits the issuance of a visa or admission to the U.S. to any Chinese doctor who seeks to enter the U.S. for the purpose of training in organ or bodily tissue transplantation.

We hope to move this legislation quickly through the Committee on International Relations and the House in order to send a strong message to Chinese health officials, officials such as the ones currently in the U.S. this very week for a conference at Harvard University, that the U.S. Congress will not sit idly by while their regime commits the most horrific human rights violations against its people.

We thank the witnesses for being here today and commend them for their courage to denounce publicly this gruesome practice.

I am proud to yield to the Ranking Member of this Subcommittee, my friend, Congresswoman McKinney of Georgia.

[The prepared statement of Ms. Ros-Lehtinen follows:]

PREPARED STATEMENT OF THE HONORABLE ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA, AND CHAIRWOMAN, SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN RIGHTS

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Ms. MCKINNEY. Thank you, Madam Chair, for calling a hearing on such an eerie subject. Who would have thought that Frankenstein could come true? The stories we are about to hear today suggest that we have entered into a world of Frankenstein medicine where body parts are snatched to fill empty body spaces.

Would it were that the logic could be from each according to his ability to each according to her need, but that is not the case here. No. What we are discovering is that the traffic flows according to Adam Smith's invisible hand from those who have a spare body part to sell to those who have money and are in need.

The western version of this trade in human body parts operates no differently than the trade say in justice where innocent men who just happen to be poor over and over and over again find themselves on death row, in prison cells, forever on life's short stick.

But Old Testament justice is an eye for an eye and a tooth for a tooth. Could it be that Old Testament justice now is the modern practice of medicine? Our topic today is the Frankenstein world come true. Of course, state sponsored and sanctioned human organ harvesting of prisoners in China is repugnant, but is it not just as offensive when the invisible hand does it, transferring organs and human tissue from the rich to the poor, the commodification of our skin and kidneys?

This hearing could just as easily be entitled The Global Economy and the Commodification of the Body. The market for human body parts has become as sophisticated and pervasive as the spare parts business for cars. We have all been aware for quite some time that tissue banks and some organ banks here in the United States are increasingly soliciting tissue donations from the families of people who have just died. Frequently the families of tissue donors who may have been influenced by dramatic appeals that portray a dire need for their loved ones' bodies are not told of the profitable market for human body parts.

The Chicago Tribune reported last year that local tissue banks had paid money directly to medical examiners for each body they made available for tissue harvesting.

In the May 29, 2001, edition of Canada's National Post appears an article entitled Canadians Urged to Back Organ Sales; U.S. Business Recruit; Experts Divided on Whether Offshore Scheme is Repugnant or Solution to Crisis.

It reports that Philip Slatin, an American businessman who wants to capitalize on the emerging underground market in human body parts, has been trying to persuade Canadians to sign onto his

plan to open an offshore transplant clinic in the Caribbean that will offer patients kidneys purchased from eastern Europeans.

Mr. Slatin is quoted. "This may sound crash and boorish, but there is a terrible shortage, and in North America there are plenty of people willing to pay for a new organ. I know 20 people right now who are willing to pay for organs."

Mr. Slatin's business proposal is just one of a variety of schemes in the international organ trafficking market as patients from wealthy countries such as Israel, Canada and the United States travel to the Philippines, Iraq, Turkey and Moldova and pay for kidneys from those willing to sell them.

In a recent case in Thailand, relatives of a comatose patient alleged that the doctors removed the kidneys before the patient was even dead. In Brazil, allegations of child kidnapping, kidney theft and commerce of organs and body parts continue despite the passage of a 1997 universal donation law intended to prevent the growth of an illegal market in human organs.

Could these organs be winding up in the United States for sale? Could it be that even under the best of prevention within our justice system that the race and class based inequities that permeate our society also permeate who gets organs? Government studies confirm that blacks are less likely to get transplants than whites.

I remember the 1970's movie *Coma* in which young, healthy patients admitted for minor surgery at a Boston Hospital end up on life support. In the movie, Dr. Susan Wheeler uncovers a horrifying deception. The conspiracy she discovers is that a select group of senior doctors at Memorial Hospital are taking patients into minor surgery who are then administered too much anesthesia. The patients are not dead. They are in a comatose state. Susan discovers they are harvesting the patients' body parts for a black market of wealthy recipients.

When it comes to organ transfers and tissue harvest, the exchanges tend to be from poor to rich, and too many countries fail to protect organ donors from exploitation. Is this what the globalization of medicine has come to?

I look forward to hearing the witnesses' testimony today. Thank you, Madam Chair.

Ms. ROS-LEHTINEN. Thank you so much, Ms. McKinney.

Mr. Smith?

Mr. SMITH. Madam Chair, I would ask that my full statement be made part of the record and just welcome——

Ms. ROS-LEHTINEN. Without objection.

Mr. SMITH [continuing]. Assistant Secretary Parmly and all of our witnesses.

It is always good to see Harry Wu, who has been fighting on behalf of human rights in China. In previous times he has brought forward both himself and many witnesses who have given witness to the horrors of the Laogai. We had the first hearing, as you recall, in this Subcommittee on survivors of the Laogai and heard from six different survivors who spoke of the cruelty that they suffered.

Harry was also the one who brought forward a witness who spoke about forced abortion in China, a woman, Mrs. Gao, who ran a clinic in the Fuji Province and talked about how incarceration

was commonplace for those women often in their ninth month of pregnancy because they would not give in to an abortion until they were coerced into having that abortion.

I will never forget her statement, and Harry was the one who made it possible for that witness to appear here. She said, "By day I was a monster. At night I was a wife and mother." Monster was the way she self-described.

Of course, it was a couple of years ago—I think 3 years ago—that Harry again brought forth to this Subcommittee riveting and absolutely dismaying evidence of this use of execution to procure organs for transplantation to enrich members of the People's Liberation Army and others.

You know, more than 50 years ago horror, outrage and disgust met the news of Japan's gruesome experimentation on thousands of American, Chinese and Russian POWs during World War II. Amazingly, the spirit and the detestable legacy of Japanese Unit 731 lives on and thrives in the People's Republic of China.

The Chinese leadership had made at times very strong statements against the Japan Unit 731. Today, their own army is doing that kind of outrage on their own people when they execute prisoners and often remove body parts without anesthesia, obviously without permission. These are crimes against humanity. They cry out for a cessation, for an ending and holding accountable those people who are part of that kind of regime. These are war crimes. These are crimes against humanity and again reminiscent of Japanese Unit 731.

This hearing and the information Dr. Wang brings to us just brings afresh just how terrible the situation is in China and that we need to reign in, and the world community needs to speak with one voice. These human rights abuses, gruesome as they are, must not be allowed to continue.

Thank you, Madam Chairman.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Smith.

I will recognize Mr. Rohrabacher for his opening statement.

If I could ask Mr. Smith to briefly Chair the Subcommittee while we greet the new President of Peru? I will return quickly.

Mr. Rohrabacher?

Mr. ROHRABACHER. Thank you very much. Before you run off, let me applaud you, Ileana, for your leadership in this issue and other human rights issues.

Today we send a message. We send a message to the clique that rules China and tyrannizes the Chinese people. What they are doing, their dirty deeds, are not going unnoticed. We will see that what they are doing to the Chinese people is known by the good people of the world, and those committing these crimes against the Chinese people will be held accountable.

I also salute Harry Wu, as my colleague has just done, for the tremendous service that he has provided to the good and decent people of this world in providing us the information we need to understand regarding what is going on in mainland China. We will in the end prevail. The good and decent people will prevail over tyrants and gangsters, and it will have a lot to do with the fact that Harry Wu provided us the information we needed to see the light.

One of the most ghoulish aspects of the Communist dictatorship in China is the harvesting of human organs from executed prisoners. This travesty that is going on in China today is a crime against humanity. Many of those people who are being executed would not be executed in any western country. Many of those executed are not even criminals by anyone's definition. Some of them have committed crimes that they would not be executed for in the USA. Some of them would not be even criminals at all. They are just people who are against the system.

Who will be held accountable? Who is at fault? Well, first of all, the people who run that system, the gangsters that run the government in Beijing and the hoodlums that take their orders and keep them in power.

In this case, those who are responsible also include the medical doctors in China who are participating in this crime against humanity and this horrible deed against their own people. These doctors must know that we see what they are doing. We know that they are taking part in something that is a criminal act, which is a horrific and indefensible act against their own people. They will be held accountable.

I applaud Ms. Ros-Lehtinen's legislation that suggests that access to the United States will be denied to any Chinese doctor who is involved in the harvesting of organs of executed prisoners. This puts the responsibility right square in the lap of those doctors who are participating. They cannot simply say, as the Germans said during World War II when they were involved in crimes against humanity, "I was simply following orders." That is not good enough.

I am very pleased to be here today. Although I am not a Member of this Subcommittee, I am very pleased to be here to lend my voice and my concern to this very important issue. As we proclaim to the world, yes even to those Chinese who are being executed in the far reaches of China, many of whom are nameless, we are concerned about them because they are part of humanity.

Thank you very much.

Mr. SMITH [presiding]. Mr. Rohrabacher, thank you very much.

The Chair recognizes the distinguished gentleman, Mr. Brown.

Mr. BROWN. I am also not a Member of this Subcommittee. I am in the middle of another hearing, but wanted to stop in and thank Mr. Wu for the great courage and the great work that he has done on human rights.

I read his book some time ago and have met with him about this incredible issue. I hope that Congress will pursue this issue of organ harvesting, will pursue other issues of human rights in China.

I am amazed, as I know the other people sitting in this Committee, Mr. Chairman, Mr. Rohrabacher and Ms. McKinney, of the hypocracy sometimes in this Congress when we deal with issues on China where corporate interests always override human rights, and dollar signs and profits always override the treatment of workers in China and human rights overall in China.

I hope that this Congress will pursue this issue on organ donation to a point that those people that have participated in that

come to some justice in terms of here in our country and in other ways.

I yield back my time and thank the Chairman for allowing me to say a few words.

Mr. SMITH. Thank you, Mr. Brown. Thank you for your ongoing concern about human rights in China and for being here today.

I would like to now introduce to the Committee a very familiar face, Mr. Michael Parmly, the Principal Deputy Secretary of State for the Bureau of Democracy, Human Rights and Labor, since April 3 of this year, of 2000. Mr. Parmly served as the Acting Secretary of State for the Bureau up until late May.

A career member of the Senior Foreign Service, he has served as the Minister/Consular for Political Affairs in the American Embassy in Paris, as well as Deputy Chief of Mission Affairs at the American Embassy in Sarajevo, Bosnia and Herzegovina. He has also worked as the political counselor at the U.N. Mission of the European Communities in Brussels and American Embassies in Luxembourg, Bucharest, Robat and Madrid.

He is accompanied by Mr. Jim Keith, who is Director of the Office of Chinese and Mongolian Affairs, who will also be available to the Members for any questions they might have.

Mr. Secretary, please proceed.

STATEMENT OF MICHAEL E. PARMLY, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU FOR DEMOCRACY, HUMAN RIGHTS AND LABOR, DEPARTMENT OF STATE

Secretary PARMLY. Thank you, Mr. Chairman. I want to thank the Committee and especially the Chairwoman for organizing this Committee. All of your words have been very inspirational, and I thank you for them.

This is an important hearing because of the subject matter. The removal of organs from executed prisoners without proper permission from family members, along with the trafficking of these organs, is a serious, deeply disturbing subject raising a number of profoundly important human rights issues. The State Department welcomes the opportunity to update the Committee on our assessment of the problem and to brief you on what the Department is doing to encourage China to put an end to this abhorrent practice.

As you know, reports of Chinese authorities removing organs from executed prisoners in China without the consent of the prisoners or their families are not new. Our concern about such practices is also not new. We have repeatedly raised this issue with high level Chinese officials throughout the 1990s, pressing for changes in Chinese policy and practice and urging changes in China's legal and medical systems to ensure the protection of individual rights and the guarantee of due process.

We have covered the issue of organ harvest in our annual human rights report on China to put the spotlight of international attention on this issue. We consider organ harvesting from executed prisoners without permission from family members to be an egregious human rights abuse that violates not only international human rights law, but also international medical ethical standards.

Unfortunately, despite our efforts, as well as those of human rights activists like Harry Wu, who is here with us today, human

rights organizations and concerned medical professionals such as Dr. Diflo, who has written so eloquently about this subject, the practice of harvesting organs from executed prisoners continues in China.

The lack of transparency in the Chinese criminal justice system and the secrecy that surrounds prison executions and the removal of organs makes actual documentation of the practice impossible. However, the anecdotal and circumstantial evidence regarding the practice of removing organs from executed prisoners for sale to foreigners and wealthy Chinese is substantial, credible and growing. It cannot be ignored.

Credible sources include public statements by patients who have had transplants in China, doctors who have provided post transplant care to those patients in the United States and elsewhere, and testimony by Chinese doctors and former officials who claim to have witnessed or taken part in such practices or to have seen incriminating evidence.

In the past, according to available evidence, the majority of patients receiving transplants in China came from other parts of Asia, including Malaysia, Singapore, Taiwan and Thailand. A leading kidney specialist in Malaysia has estimated that over 1,000 Malaysians alone have had kidney transplants in China.

More recently, deeply troubling reports of Americans receiving transplants in China have been made public. American doctors, including Dr. Diflo, who will also be testifying to this panel, have reported seeing transplant patients from China in need of follow up care. I will leave it to Dr. Diflo and others to elaborate on their views.

The Department of State is also aware of reports, which it cannot independently confirm, of other even more egregious practices, such as removing organs from still living prisoners and scheduling executions to accommodate the need for a particular organ. I have to tell you that that is the thing that is absolutely the most revolting act as I prepared for this hearing.

There are compelling firsthand reports that doctors, in violation of medical ethics codes, have performed medical procedures to prepare condemned prisoners for execution and organ removal. Our concern about the abhorrent practice of removing organs from executed prisoners without consent is compounded by our concerns about the lack of due process.

According to Amnesty International, there were 1,263 confirmed executions in 1999. According to another report, 800 prisoners were executed in May, 2001, alone as the government conducted another Strike Hard campaign against crime.

A high court nominally reviews all death sentences, but, as our Country Report on Human Rights Practices points out and as a recent *New York Times* article graphically described, the time between arrest and execution is often days and even hours, as was highlighted by some of the Members. Some prisoners, again as was stated, are taken directly from the courtroom directly to the execution grounds. Appeals of sentences consistently result in confirmation of sentence.

Many have expressed the view that condemned prisoners and their families cannot make free and fully voluntary decisions on

organ donations because of the very nature of incarceration. Recent reports indicate that the phenomenon of organ trafficking has expanded beyond trafficking in the organs of executed prisoners.

Our posts have reported increased numbers of Chinese media reports of organ harvesting from hospital cadavers by corrupt medical and hospital personnel and the sale of organs by poor people for cash. This trade in human organs takes place openly, including on the internet. Chinese Web bulletin boards have reports of organs for sale and discussion of corruption in the "organ business," and I put that in quotes.

We are monitoring this trade closely and are raising our concerns with the Chinese Government. I want to get to that. The lack of due process and consent, coupled with credible evidence of harvesting organs from executed prisoners and from hospital cadavers, raises serious human rights concerns.

We, like Congress, are committed to press the Chinese authorities to take strong action to address human rights abuses wherever they occur. Despite the lack of transparency in China's legal system, we are making every effort to determine the magnitude of the problem and how effectively Chinese authorities have implemented Article 3 of China's Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs, a 1984 piece of legislation that the Chairwoman referred to, and other pertinent regulations governing the practice of organ donations, sale and transplants. I will talk about that in a second.

In the weeks and months ahead, we will step up our efforts to work with countries in the region, with allies and with other like minded countries to put an end to organ trafficking. Finally, we are committed to investigating and prosecuting to the fullest extent of our own law any criminal acts over which the United States has jurisdiction.

While we continue to press the Chinese on this issue, we recognize the enormous challenge we face. The complex social issues in China involving severe rural poverty, along with corruption among poorly paid prison and hospital administrators who harvest organs from prisoners and patients without their consent, play a large role in this issue. We will not be deterred by any of those factors. We will press ahead.

Let me come back to what we are doing now. During the course of the 1990s and in response to repeated inquiries and demarches by the State Department, by our Ambassadors to China and by other Embassy and State Department officials, the Chinese have provided information on their official policy, including two documents on regulations promulgated on April 6, 1996, governing organ donation. However, the Chinese have not responded to our inquiries about the extent and scope of harvesting and trafficking human organs and, most importantly in my eyes, about Chinese authorities' efforts to implement their own regulations.

We most recently discussed the issue of organ harvesting in Washington with the Ministry of Foreign Affairs International Organization Director and with senior Chinese Embassy officials on June 26, just yesterday. I participated in the meeting yesterday and specifically told my interlocutors that I would be testifying before this Committee today and would have to say that the United

States was appalled by the highly credible reports coming out of China about the removal of organs from executed prisoners and about trafficking in those organs.

I noted to my interlocutors that enforcement of Chinese regulations governing organ donations appeared to be woefully inadequate. Our interlocutors responded that such practices are illegal in China and that those who are found to engage in such practices are brought to justice. I responded by asking that Chinese authorities provide us with evidence of such prosecutions, which I have not seen yet.

We also raised the issue on June 14 in Beijing with the MFA with the Foreign Ministry Human Rights Division Director and here in Washington with the Chinese Embassy. We informed Chinese Embassy officials of the increasing level of attention being focused on this issue in the United States and urged China to work intensively to ensure that its organ transplant policies are consistent with international standards.

We also urged China to take steps to combat the actions of those who engage in such unconscionable acts, pointing out that they are a perversion of medical ethics and state power, as well as an egregious human rights violation.

Assistant Foreign Minister Zhou Wenzhong was in Washington last week, and we comminuted to him the strong bipartisan support, and I am pleased to see such bipartisan presence on this Committee, that the issue of human rights has in the United States.

In the months ahead, we will continue to make clear our strong opposition to the repugnant practice of coercive organ harvesting, and we will press the government of China to ensure its organ transplant policies and practices are in compliance with international human rights norms, as well as international medical practices. We will urge them to enforce all regulations governing organ transplants, to prosecute those who violate existing regulations and to pass and implement new legislation.

We also will share the testimonies delivered here today with our Embassy in China and instruct our Embassy to raise the allegations made in them with the appropriate officials in China. My colleagues will be asking Chinese authorities for evidence that those who engage in the practices discussed here today are brought to justice.

In the United States, we will investigate and prosecute all violators over whom the United States has jurisdiction to the fullest extent of the law.

Thank you.

[The prepared statement of Secretary Parmly follows:]

PREPARED STATEMENT OF MICHAEL E. PARMLY, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU FOR DEMOCRACY, HUMAN RIGHTS AND LABOR, DEPARTMENT OF STATE

Chairwoman Ros-Lehtinen and Members of the Committee, thank you for the opportunity to appear at this important hearing to address the issue of the sale of human organs in China. The removal of organs from executed prisoners without proper permission from family members along with the trafficking in these organs is a serious, deeply disturbing subject that raises a number of profoundly important human rights issues. The State Department welcomes the opportunity to update the

committee on our assessment of the problem and what the Department is doing to encourage China to put an end to this abhorrent practice.

As you know, reports of Chinese authorities removing organs from executed prisoners in China, without the consent of the prisoners or their families, are not new. The Hong Kong and London press carried the numerous reports as early as the mid-1980s, when the introduction of the drug Cyclosoporine-A made transplants a newly viable option for patients.

Our concern about such practices is also not new. We repeatedly raised this issue with high-level Chinese officials throughout the 1990s, pressing for changes in Chinese policy and practice, and urging changes in China's legal and medical systems to ensure the protection of individual rights and the guarantee of due process. We have also covered the issue of organ harvesting in our annual human rights report on China to put the spotlight of international attention on this issue. We consider organ harvesting from executed prisoners, without permission from family members, to be an egregious human rights abuse that violates not only international human rights law, but also international medical ethical standards.

Unfortunately, despite our efforts, as well as those of human rights activists like Harry Wu, human rights organizations, and concerned medical professionals, the practice of harvesting organs from executed prisoners continues in China. The lack of transparency in the Chinese criminal justice system and the secrecy that surrounds prison executions and the removal of organs makes actual documentation of the practice impossible. However, the anecdotal and circumstantial evidence regarding the practice of removing organs from executed prisoners for sale to foreigners and wealthy Chinese is substantial, credible, and growing. It cannot be ignored. Credible sources include public statements by patients who have had transplants in China, doctors who have provided post-transplant care to these patients in the United States and elsewhere, and testimony by Chinese doctors and former officials who claim to have witnessed or taken part in such practices or to have seen incriminating evidence.

In the past, according to available evidence, the majority of patients receiving transplants in China came from other parts of Asia, including Malaysia, Singapore, Taiwan, and Thailand. A leading kidney specialist in Malaysia has estimated that over 1000 Malaysians alone have had kidney transplants in China. More recently, deeply troubling reports of Americans receiving transplants in China have been made public. American doctors, including Dr. Thomas Diflo, who will be testifying in a later panel, have reported seeing transplant patients from China in need of follow-up care. These patients have stated that they were informed by hospital personnel in China that the organs that they received came from executed prisoners.

The Department of State is also aware of reports that it cannot independently confirm, of other, even more egregious practices, such as removing organs from still-living prisoners, and scheduling executions to accommodate the need for particular organs. In addition, there are compelling first-hand reports that doctors, in violation of medical ethics codes, have performed medical procedures to prepare condemned prisoners for execution and organ removal. As former Assistant Secretary John Shattuck testified before this committee in 1998, our concern about the abhorrent practice of removing organs from executed prisoners without consent is compounded by our concerns about the lack of due process. According to Amnesty International there were 1,263 confirmed executions in 1999; according to another report 800 prisoners were executed in May 2001 alone as the government conducted another "strike hard" campaign against crime. A high court nominally reviews all death sentences, but as our *Country Report on Human Rights Practices* points out, and as a recent *New York Times* article graphically described, the time between arrest and execution is often days or even hours. Some prisoners are taken directly from the courtroom to the execution grounds. Appeals of sentences consistently result in confirmation of sentence.

The lack of meaningful consent further compounds our concerns about this practice. According to Article 3 of China's Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs (1984), a corpse may be used for medical purposes if: nobody claims the body or the family refuses to bury it; the prisoner voluntarily donates the body for use by medical facilities; or the inmate's family consents to its use after death. The first category opens the door to abuse because families are often not notified of impending executions or are too far away or unable financially to make the trip to claim a relative's body. Also, bodies are routinely cremated immediately after a sentence is carried out, making it impossible even for those families who are able to claim a family member's remains to determine whether or not the body has been used for medical purposes.

Many have expressed the view that condemned prisoners and their families cannot make free and fully-voluntary decisions on organ donations because of the very

nature of incarceration. In the United States, Federal Bureau of Prisons regulations do not allow organ donation by federal prisoners, unless the donation is to an immediate family member. Other countries have similarly strict laws and regulations regarding organ donations by prisoners.

Recent reports indicate that the phenomenon of organ trafficking has expanded beyond trafficking in the organs of executed prisoners. Our posts have reported increased numbers of Chinese media reports of organ harvesting from hospital cadavers by corrupt medical and hospital personnel, and the sale of organs by poor people for cash. This trade in human organs takes place openly, including on the Internet. Chinese web bulletin boards have reports of organs for sale and discussion of corruption in the "organ business." We are monitoring this trade closely and are raising our concerns with the Chinese government.

The lack of due process and consent, coupled with credible evidence of harvesting organs from executed prisoners and from hospital cadavers, raises serious human rights concerns. We, like Congress, are committed to press the Chinese authorities to take strong action to address human rights abuses wherever they occur. Despite the lack of transparency in China's legal system, we are making every effort to determine the magnitude of the problem and how effectively Chinese authorities have implemented Article 3 of China's Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs (1984) and other pertinent regulations governing the practice of organ donations, sale and transplants. We are also pressing the Chinese to enact and implement legislation or regulations that prohibit removing organs from executed prisoners. In the weeks and months ahead, we will step up our efforts to work with countries in the region, with allies, and other like-minded countries to put an end to organ trafficking. And, finally, we are committed to investigating and prosecuting to the fullest extent of our own law any criminal acts over which the United States has jurisdiction. While we will continue to press the Chinese on this issue, we recognize the enormous challenge we face. The complex social issues in China involving severe rural poverty, along with corruption among poorly paid prison and hospital administrators who harvest organs from prisoners and patients without their consent, play a large role in this issue.

During the course of the 1990s, in response to repeated inquiries and demarches by the State Department, our ambassadors to China and other Embassy and State Department officials, the Chinese have provided information on their official policy, including two documents on regulations promulgated on April 6, 1996, governing organ donation. The regulations provide that "the buying or selling of human tissues and organs is not allowed. The donation or exchange of human tissue and organs with organizations or individuals outside national borders is not allowed." However, the Chinese have not responded to our inquiries about the extent and scope of harvesting and trafficking in human organs and about Chinese authorities' efforts to implement their own regulations.

We most recently discussed the issue of organ harvesting in Washington with the Ministry of Foreign Affairs (MFA) International Organization Director and senior Chinese Embassy officials on June 26. I participated in the meeting and specifically mentioned that I would be testifying before this committee today and would have to say that the United States was appalled by the number of highly credible reports coming out of China about the removal of organs from executed prisoners and about trafficking in those organs. I noted that enforcement of Chinese regulations governing organ donations appeared to be woefully inadequate. Our interlocutors responded that such practices are illegal in China and that those who are found to engage in such practices are brought to justice. I responded by asking that Chinese authorities provide us with evidence of such prosecutions. We also raised the issue on June 14 in Beijing with the MFA Human Rights Division Director and here in Washington with the Chinese Embassy. We informed Chinese Embassy officials of the increased level of attention being focused on this issue in the United States and urged China to work intensively to ensure that its organ transplant policies are consistent with international standards. We also urged China to take steps to combat the actions of those who engage in such unconscionable acts, pointing out that they are a perversion of medical ethics and state power as well as an egregious human rights violation.

Assistant Foreign Minister Zhou Wenzhong was in Washington last week and we communicated to him the strong bipartisan support that the issue of human rights has in the United States. In the months ahead, we will continue to make clear our strong opposition to the repugnant practice of coercive organ harvesting and will press the Government of China to ensure its organ transplant policies and practices are in compliance with international human rights norms as well as international medical practices. We will urge them to enforce all regulations governing organ transplants, to prosecute those who violate existing regulations, and to pass and im-

plement new legislation. We also will share the testimonies delivered here today with our Embassy in China and instruct our Embassy to raise the allegations made in them with the appropriate officials in China. They will be asking Chinese authorities for evidence that those who engage in the practices discussed here today are brought to justice. In the United States we will investigate and prosecute all violators over whom the United States has jurisdiction to the fullest extent of the law.

Thank you.

Mr. SMITH. Mr. Secretary, thank you very much for your very strong statement and for the good work that you are doing.

For the purposes of an opening statement, Chairman Gilman would like to offer some remarks.

Mr. GILMAN. Thank you very much, Mr. Chairman. I want to thank you and Chairwoman Ileana Ros-Lehtinen for conducting this very important hearing on the Chinese government's harvesting, trading and transplanting of prisoners' organs for money, and I want to also thank Harry Wu for his courage and tenacity in bringing this issue to light once again. We welcome him before the Committee. I want to thank Michael Parmly for his testimony.

News documentaries and testimony before this Committee have disclosed that the majority of the resources generated by organ extraction and transplants in China goes into the coffers of the People's Liberation Army. The PLA runs the majority of the hospitals, which are undertaking the sale of organs and which is doing the operations.

The close relationship that the PLA has with the prisons and the justice system ensures that a great number of the victims will be individuals who are condemned for their political and religious beliefs, but convicted under other pretenses.

The enormous amount of money that changes hands in that corrupt society with every operation ensures that many people are going to be killed and their organs harvested for all the money that it generates. What is going on in China today is the ultimate human rights abuse. It is a well oiled machine that sentences, condemns and executes humans so that their organs can be extracted, sold and transplanted by government officials for personal gain and to continue a repressive totalitarian system.

Today, once more as a result of this Committee's work, the American public and the world will be able to learn the details of these gruesome facts. The question now remains what will we do about this ultimate affront to human rights and the sanctity of life.

The doctors from the People's Republic of China who come to the United States for training in organ transplants should be prohibited from undergoing any training here, and it is for that reason I am pleased to support this measure. We should also prevent them from being granted visas in the days ahead.

I thank you, Mr. Chairman. I regret I have to go on to another meeting, and I hope I can have time to return before the hearing is completed. Thank you.

Mr. SMITH. Thank you very much, Chairman Gilman.

We are also joined by the distinguished gentleman, Mr. Wu.

I would like to ask a few opening questions. I have been summoned to the White House, along with a few others, for a meeting, but I will come back as soon as that meeting is over to join the remainder of the hearing. I do have a couple of questions.

Mr. Secretary, in your statement you talk about we consider organ harvesting from executed prisoners without permission from family members to be an egregious human rights abuse. I was wondering if I could, and I would like to just throw out a few questions and then get your response.

Without permission from the family members. It would seem to me that if they give permission there is a very high likelihood that there is some kind of coercion, some kind of threat that would be put upon them. My hope would be that regardless of how those organs are stolen or extracted, permission or not, that family members are really not in a position, it would seem to me, to provide that permission.

Secondly, given that the evidence indicates that 90 percent of all transplants performed in China use organs taken from executed prisoners, does the Department of State have in place a mechanism to evaluate and scrutinize visa requests from the Chinese officials or Chinese physicians to safeguard against trafficking visas for those engaged in harvesting, transplantation or trafficking of organs of executed prisoners? Is there such a thing in place?

Secondly, how many visas are granted yearly to Chinese physicians or medical students for the purpose of participating in programs or conferences providing training and medical information about organ transplantation?

Mr. Secretary?

Secretary PARMLY. Thank you, Mr. Chairman. Let me start with your last question first of how many. I will have to take that question and get back to you with the answer.

We do have regulations for reviewing visa requests. I will have to talk to our colleagues in the Consular Division to make sure that those procedures apply all the scrutiny that is necessary to make a proper determination regarding visa requests.

Mr. SMITH. On the question of whether or not family members are suffering coercion in order to give permission, I do not want to say we have the right answer for everything, but it seems to me the Federal Bureau of Prisons have very strict regulations regarding these matters.

I would like to see at least the philosophy, if not the specific aspect of those regulations, applied in the case of China. They seem to me to be the most civilized and the most humane in terms of only accepting the donation of organs from condemned prisoners for immediate family members.

I am not an expert in all the ins and outs of the Federal Bureau of Prisons' regulations, but in preparing for this testimony I and my colleagues did look into what we do, and I know that similar regulations are in place in a number of countries. I would like to see those applied.

Mr. ROHRABACHER [presiding]. Let me get this straight. If we pass some legislation that requires that doctors who are engaged in this type of human rights abuse or crime against humanity be sanctioned, will the State Department be able to identify those doctors who have been engaged? Will we have the answer to that?

Secretary PARMLY. We will make every effort to provide to the fullest extent whatever legislation is passed.

Mr. ROHRABACHER. Well, let us then put on notice and let us make sure that every doctor in China that is listening to these words understands that the Executive Branch is now agreeing with the Legislative Branch that we are going to work together to make sure that any doctor in China who is engaged in the harvesting of organs from executed prisoners will face dire consequences because of his or her actions.

Any doctor who has been engaged in this type of criminal behavior in China who tries to come to the United States, and we consider this criminal behavior, will be denied access to the United States. They will pay a price. That word has to get out and has to be understood. That is the purpose of this hearing, and that is the purpose of Ms. Ros-Lehtinen's legislation.

We are talking about a crime against humanity that we consider to be of the scale of any other crime that Mr. Milosevic committed or that were committed in the Second World War or crimes that were committed by the Japanese against the Chinese people.

Those Chinese medical professionals engaged in this behavior will find that there will be a price to pay, and that they should opt out of this official activity. Whether they are ordered or not to be involved in it is irrelevant.

We will work together with you and the Administration to make sure that this is enforced. I take it by your answer that the Administration is willing to work with us on that account.

Secretary PARMLY. Mr. Chairman, the Administration is looking forward to working with this Committee and with the Congress on this piece of legislation.

We do not have a position on the piece of legislation itself. We certainly share all the concerns that inspire this piece of legislation, and that is why we want to work with this Committee.

Mr. ROHRABACHER. I would hope that the President, when meeting with his counterparts in China, brings this issue up, as well as several other important humanitarian and human rights issues.

Ms. McKinney, you may proceed.

Ms. MCKINNEY. Thank you, Mr. Chairman.

I have just a few questions, Mr. Parmly. The first question pertains to page one of your testimony where you say the lack of transparency in the Chinese criminal justice system and the secrecy that surrounds prison executions and the removal of organs makes actual documentation of the practice impossible.

Could it be that we are having a hearing here today, and we are having a whole lot of discussion about something that does not even exist?

Secretary PARMLY. I do not believe so. I believe the evidence is overwhelming and growing. I believe the sources that have reported this are credible. They are numerous. No, I do not believe so.

Ms. MCKINNEY. Do you know what kind of evidence you have?

Secretary PARMLY. I do. In some cases, as I stated in my testimony, it is statements by people who have been involved. In some cases it is recipients of transplants.

In some case it is statements by doctors themselves who have had changes of conscience, changes of heart. I believe you will be hearing from one of those later in the hearing today.

Ms. MCKINNEY. Further, you state that reports of Americans receiving transplants in China have been made public. We have a proposal for legislation that penalizes the Chinese and not the American transplant tourist. What do you think about the fairness of that?

Secretary PARMLY. Excellent question, Madam McKinney. We want to see the practice stopped. We want to stop the source and stop the practice there. We are open to a number of ideas as to how we can stop this practice so long as they are in conformity with the law.

I think it was sensitive to the human drama of people who are seeking transplants for loved ones or even for themselves, and we can be compassionate with them, but it is where you are getting the organ that concerns us the most.

Ms. MCKINNEY. So how is it that you are going to be compassionate with those folks if they are getting the organ from an illegal source?

Secretary PARMLY. I am not an expert on organ transplanting. I have had relatives who have had organ transplants themselves. There is a legal way to do this.

What I am concerned about here and what this hearing is all about is mainly the trafficking in organs from executed prisoners who do not have free exercise of their free will.

Ms. MCKINNEY. But this hearing is also about the legislation that the congresswoman has introduced, and it just seems to me it already has a number on it, so it has been introduced. I am just interested in knowing how you or the Administration feel about the unfairness of the legislation that tackles only half of the problem. This is a trade.

Secretary PARMLY. We want to work with the Committee and with the Chairwoman and those responsible for this legislation on the legislation.

Ms. MCKINNEY. Thank you. I have just a couple more questions based on your testimony.

You say that you spoke with the Ministry of Foreign Affairs, and they responded that they prosecute the offenders. I traveled to China several years ago, and my issue was forced abortions. They kind of told me the same thing. They also said that they could provide evidence of prosecutions.

Have they provided evidence of prosecutions since your conversation with them I guess as late as yesterday?

Secretary PARMLY. That was yesterday. No, they have not gotten back to me since then.

Ms. MCKINNEY. Do you expect that they will?

Secretary PARMLY. I intend to pursue it with them.

Ms. MCKINNEY. Good show. I guess my final——

Secretary PARMLY. I should say I and my colleagues, the Embassy in Beijing, the Consulate. We all intend to. That is why I said we were talking this morning about getting the instruction cable out to make sure that they pursued the conversations that we had yesterday in Washington.

Ms. MCKINNEY. Great. My final question would be do the Chinese acknowledge that this is a problem?

Secretary PARMLY. Yes, they do. They recognize it is a problem. They point to the legislation and the regulation as evidence of the fact that they, too, are concerned about this problem.

What I want to see is results. What I want is prosecutions. What I want to see—what I think we all want to see—is a halt to this practice, so in my conversations with them yesterday that is what I said I was looking for. Now we will see. It is tough to verify.

Ms. MCKINNEY. Yes. Even though Reagan said it, I do it, too, in my life.

Thank you, Mr. Chairman.

Mr. ROHRABACHER. Thank you. Ms. McKinney and I work together very often on human rights issues, even though we are on opposite ends of the spectrum.

Ms. MCKINNEY. Honey, we are on way opposite ends of the spectrum.

Secretary PARMLY. I will not comment on that one.

Mr. ROHRABACHER. I might add that it is already illegal for U.S. citizens to purchase organs like this if any part of the transaction happens in the United States. Of course, we cannot criminally make that illegal if it is done in some other country, but it is illegal.

Also, I think that we can be proud that in the United States we have bent over backwards to make sure that American prisoners do not get undue pressure put on them because it is illegal for a prisoner about to be executed to donate organs except for family members, his or her own family members.

I think it is important for us to maintain that safeguard so that the United States would not slip into this same sort of pattern where somebody needs an organ, and you are maybe overlooking some appeal on the part of somebody on death row simply because you want their kidney or something like that. It would be horrible.

Ms. MCKINNEY. Mr. Chairman, if I may?

Mr. ROHRABACHER. Absolutely.

Ms. MCKINNEY. I would just like to say, though, that the fact is that in the Assistant Secretary's testimony he states that Americans are traveling to China for the purpose of receiving these transplants. Then there is a problem with whatever the law is. The reach of this bill does not extend to those folks.

This is just like in the so-called criminal justice system that we have in this country where we lock up the guy that is standing on the street corner selling the drugs and fill the prisons with them, and the guys, the rich guys who are laundering the money in the banks and on Wall Street get away scott free.

Here we have the same situation where we are going to let some folks who are engaging in criminal activity get away scott free. I just do not want to see that happen.

Thank you, Mr. Chairman.

Mr. ROHRABACHER. I think you make some good points. I see that the Chairman is back,

Secretary PARMLY. Mr. Chairman, if I could just comment on the——

Ms. ROS-LEHTINEN [presiding]. Yes, Mr. Parmly?

Secretary PARMLY. Thank you, Madam Chairwoman.

Mr. Rohrabacher was making some observations about the safeguards of the American prison system regarding the use of organs from prisoners. My colleagues and I did some checking. It has been a rather ghoulish few days in DRL, but we did some checking just to see what the practices were at least at the Federal level.

I was assured by our contacts with the Federal Bureau of Prisons that from a non-expert eye that we have been very attentive to the kind of phenomenon at play here to ensure that if there is the transplant of an organ it is under the strictest of safeguards.

Ms. ROS-LEHTINEN. Thank you.

Now I would like to recognize Mr. Wu for his questions. We are honored to have you with us.

Mr. WU OF OREGON. Thank you, Madam Chairwoman. I only have one inquiry of Mr. Parmly. I would like to associate myself with the previous Chairman's remarks about putting physicians on notice who participate in the harvesting of human organs for commercial sale after execution.

I would like to expand on that perhaps in the spirit that Ms. McKinney mentioned in that I would like to inquire of you, sir, what the Administration's position would be to prosecute before an appropriate international tribunal the personnel involved in this process and all governmental officials who know or should have known about these processes and having these people prosecuted for crimes against humanity in an appropriate international tribunal.

Secretary PARMLY. Mr. Wu, that is an excellent question. My goal, as stated in response to some of the other questions, is to bring about a halt to this sort of practice.

The first authority that is responsible for bringing that about is the Chinese Government and officials of the Chinese Government. That is where we are going to focus our attention. It is where we have focused our attention in past months and even years.

I regret to say that we have not produced the kind of results we would like to see. We still intend to pursue that effort. It cannot be in the interest of China to allow this to continue.

One will get all sorts of explanations back to the extent of the local level, the national authorities, that it is hard to get a handle on, that the poor people are willing to sell body parts in order to keep their families alive. The practice has to stop.

Mr. WU OF OREGON. If I can interrupt at this point?

Secretary PARMLY. Sure.

Mr. WU OF OREGON. I find your efforts to stop this commendable, but there are two parts of this going beyond associated with stopping this.

One is that there is nothing quite so effective in stopping things as either criminal prosecution or the prospect of criminal prosecution, and the other thing that we have to keep in mind is that if you have a series of crimes occur and your effort is to stop those crimes from occurring even after you successfully stop those crimes from occurring do you not think there is a social obligation to prosecute the crimes that have been uncovered?

Secretary PARMLY. Absolutely. I think there is an obligation to prosecute the crimes that have been uncovered. That is what we

are pressing the Chinese authorities to do when those activities are uncovered.

Mr. WU OF OREGON. And if they fail will the Executive Branch recommend action by an international tribunal?

Secretary PARMLY. I will have to save that question.

Mr. WU OF OREGON. I look forward to a written answer.

Secretary PARMLY. All right.

Mr. WU OF OREGON. I would venture a personal response. Having served in Bosnia and seen the extraordinary effort that goes into the ITTY—I visited the Hague and have spoken with prosecutors there. It is an extraordinarily huge and, I would add, an extremely expensive undertaking to launch an international tribunal. Frankly, I do not want to have to wait for the creation of an international tribunal to try this sort of a crime.

I am not asking you to wait. I am asking you to get back to me with an answer about whether this government will pursue that course or not. If it was worth pursuing in Bosnia and if we are talking about 1,000, 2,000 or 3,000 organs then it is certainly worth pursuing in this instance in my view.

If the government, if the Executive Branch, does not share that view, I would like to hear about it.

Secretary PARMLY. Okay. I take your point, and I will get back to you. We will get back to you with a written answer.

Mr. WU OF OREGON. Thank you.

Ms. ROS-LEHTINEN. Thank you, Mr. Wu.

Following up on that, could you tell us how many U.S. citizens or residents travel to China each year? How many do you suspect would be doing so for the purpose of organ transplantation or are involved in brokering sales of organs from executed Chinese prisoners?

Secretary PARMLY. I do not know if we have it broken out in subcategories how many go to China to participate or to benefit from an organ transplant. I will have to get back to you, unless my colleague, Mr. Keith, has the information on how many Americans visit China every year. Mr. Keith

Mr. KEITH. We do not have that. We do not have that information, but we can certainly provide it very quickly to you.

Ms. ROS-LEHTINEN. Thank you. Do you believe that there is sufficient evidence to support an active and vigorous investigation by the State Department?

Would the Department press for access to Chinese prisoners, to interview the guards and death row inmates, to call on the Chinese Government to provide access to human rights organizations to do the same?

Secretary PARMLY. We can try all of those ideas, and they are very good suggestions, Madam Chairwoman. One of the difficulties we have had over the years in pursuing this issue is precisely that the prison system is so opaque.

It is so difficult to get a handle on and often decentralized, so even if you get an answer from Beijing it may not be the right answer. It might be the right answer for that official in Beijing, but it may not necessarily be the accurate one on a prison in some far-flung province. We will certainly pursue it.

Ms. ROS-LEHTINEN. Has the Department previously conducted any investigations similar to that or have been asked and been denied? What has been the response of the Chinese authorities of any previous attempts from our Department.

Secretary PARMLY. We have, but I would ask Mr. Keith, who has worked on China for a number of years, to address that question.

Mr. KEITH. We have throughout the country as our officers travel outside of the capitol or outside of the provincial capitols raised questions about this issue. We have talked to hospital administrators. We have talked to local officials. We have talked to central government officials.

In general, the response is as described in Secretary Parmly's testimony. That is, we are assured that this action is illegal. We were not provided with a record of prosecutions or of specific cases that the Chinese Government has uncovered, but we will continue to press for that.

Ms. ROS-LEHTINEN. Okay. How closely does the Department work with the U.N. Working Group on Arbitrary Detention and with the U.N. Commissioner for Human Rights on these issues? What efforts does the U.S. already undertake and will undertake through international channels to help put a halt to the continuing efforts of the Chinese to see harvested organs?

How well do we work with the U.N. Working Group on Arbitrary Detention, and what will we be undertaking?

Secretary PARMLY. Thank you, Madam Chairwoman. Actually a good question because the multilateral route is one of the points of pressure that we most want to pursue.

We have the met with the various U.N. bodies, also with another one which is even perhaps more critical in all of this, the ICRC, and we have pursued our concerns with them.

It is when China hears the refrain coming not just from the United States and not just from government officials, but from other governments, from international organizations such as the High Commissioner for Human Rights and the ICRC, that perhaps they will begin to wake up and get the message that this practice has to stop and that they need to do something about it.

Ms. ROS-LEHTINEN. Thank you. I would like to ask you a question about one of our next panelists, Dr. Wang. Is the Department aware of the persecution that Dr. Wang's family was being subjected to because of Dr. Wang's work to help bring attention to this gruesome practice?

Could we get a commitment that the Department will look into this matter and assist Dr. Wang's wife and son in the possible persecution that they are already facing?

Secretary PARMLY. Thank you, Madam Chairwoman. For someone like me who has worked in human rights for much of my career, you have asked the key question. What about the effect on the individuals involved?

The courage of Dr. Wang is extraordinary. I think of all of the attempts that I have read, his has been the one that moved me the most. I can tell you that my boss, Norm Craynor, who was recently confirmed, shared the revulsion when he read Dr. Wang's stories.

We did discuss the issue that we raised among us and are taking action to see what we can do to ensure that Dr. Wang's family receives as much protection as we can possibly provide.

Ms. ROS-LEHTINEN. Thank you so much. We would like to thank the panelists for being here today. We thank the Department for being vigilant on this issue. We will anticipate getting those written questions in response.

Thank you so much. It is always a pleasure to have both of you here; especially you, Michael. Thank you so much.

I would like to introduce the second panel. Testifying before us today is an exceptional panel of experts on the condition of human rights protection in China and firsthand witnesses of the gruesome organ trade bribing in China.

We begin with the testimony of a gentleman whose encouraging story we are all familiar with, Mr. Harry Wu. Imprisoned in 1960 for his critical views of the Soviet and Chinese Communist system, he served 19 years condemned at the most extensive forced labor and reform camp in the world. After his release, he has become a true human rights activist who has worked tirelessly to expose the cruelties of the Chinese regime.

He was imprisoned in China once again in 1995 and released quickly thereafter when the world cried out in support of Harry Wu, and China was forced to release its critical foe.

Mr. Wu continues his work as the executive director of the research foundation and is a research fellow at the Houve Institution of Stanford University. It gives me great pleasure to see you, Mr. Wu, once again testify before this Subcommittee on a topic that is very close to you. We welcome you once again.

Secondly, we will hear the eyewitness account of Dr. Wang Guoqi. He joined the People's Liberation Army in 1981 and soon thereafter began studying medicine. He became a doctor at the burn/surgery department at the hospital and is a specialist in storing and preserving human tissue for operations on burn victims. He assisted in constructing the first low temperature and tissue storehouse in China.

He found that much of the skin and tissue was removed from execution grounds and crematoriums. Dr. Wang estimates that he assisted in removing skin from over 100 executed prisoners. When he sought a different position at the hospital and refused to partake in the occupational outings to execution grounds, the hospital responded by threatening him and forbade him from disclosing information about these practices.

Dr. Wang fled China in April, 2001, under a pseudonym and traveled to the United States where he remains intent on bringing the abuses of organ harvesting to international attention. Thank you for your bravery and sharing your experiences with us here today. We welcome you to our Subcommittee.

Following Dr. Wang, we will hear from Dr. Thomas Diflo. Currently at NYU, he is a principal investigator in several medication studies. One of his specialties is in transplantation surgery.

In 1993, Dr. Diflo became the director of the Renal Transplant Program, and, according to NYU reports, kidney transplants have quadrupled and his department has yielded a 97 percent survival rate amongst kidney graft transplants under his guidance.

Due to his extensive work in this field, Dr. Diflo increasingly became concerned over numerous Chinese-American patients coming to his department for follow up care after receiving organs that had been harvested from executed Chinese prisoners. He contacted the Village Voice and held a shining light on the insidious organ trade thriving in China, and we are welcome to discuss with him this atrocious practice. We welcome you, Dr. Diflo.

Lastly, we are joined by Dr. Nancy Scheper-Hughes. She is a professor of Anthropology at the University of California at Berkeley where she also directs a doctorate program in critical studies of medicine, science and the body.

She has received many awards for her publications, including the Margaret Meade Award. She is currently writing a book entitled Who Is The Killer: Violence and Democracy in the New South Africa. She now serves as the director of Organs Watch, a small, independent medical human rights research and documentation center located at the University of California-Berkeley.

Thanks to all of you for coming and participating in this hearing. We look forward to your testimony.

Dr. Scheper-Hughes must leave at 3:30 for her flight back to California. Because of that, we would like to have her testify first, followed by Mr. Wu and the others. Professor, thank you for your patience. We would like to recognize you first.

Your full statement will be made a part of the record. Please feel free to limit your remarks to 5 minutes. Thank you.

STATEMENT OF NANCY SCHEPER-HUGHES, PROJECT DIRECTOR, ORGANS WATCH

Ms. SCHEPER-HUGHES. Actually, I am on my way to Brazil and Argentina to continue the study of global trafficking in organs, but thank you, Madam Chair and Ranking Member McKinney, for the opportunity to speak before you and the Members of this Committee.

For the last 5 years, I have been involved in active field research on the global traffic in human organs following the movement of bodies, body parts, transplant doctors, patients, brokers, kidney sellers and the practices of organ and tissue harvesting in several countries from South America to the Middle East to Southeast Asia, South Asia, to Africa and to the United States.

As a member of the Bellagio Task Force on International Trafficking of Organs and a co-founder of Organs Watch, which is funded by the Soros Foundation and works with interns in medicine and medical anthropology in various countries of the world and with a reliance on them, as well as on our own field work, in trying to unmask the spread of commerce in organs and tissue.

I think that my role here as Director of Organs Watch is to put the specific Chinese case, as egregious as it is, into a larger global perspective because, as I said, this trafficking of organs transcends national boundaries, and it involves doctors, patients, brokers and impoverished organ sellers from both third and first world contexts.

Despite the many obvious benefits of global capitalism, it has also released a voracious appetite for foreign bodies to do the shadow work of production and also to provide fresh bodies for medical consumption. What we are witnessing today is the confluence in

the flows of immigrant workers and itinerant kidney sellers who fall into the hands of unscrupulous, highly sophisticated transnational organ brokers.

The problem is that markets are inclined to reduce everything, including human beings, their labor, their reproductive capacity, to the status of commodities, things that can be bought, sold, traded and stolen.

We found that the growth of medical tourism for transplant surgery has exacerbated older divisions between north and south, haves and have nots. In general the flow of organs, tissues and body parts follows the modern routes of capital from south to north, from third to first world, poor to rich, from black and brown to white and from female to male bodies.

In the worst instance, the market has resulted in theft and coercion, as in the case of China, to a self-serving belief in the rights of the more affluent to the spare parts of the poor, as in the case of many of the transplant junkets that are arranged to carry patients from Saudi Arabia, Israel, North America and elsewhere to Turkey, India, Romania, the Philippines, where kidney sellers are recruited from prisons, from unemployment offices, in shopping malls and in urban transit towns.

While China supplies the largest supply of organs that are available to transplant tourists today, China does not stand alone in this practice. Illicit and illegal practices of organ harvesting recognize no specific political or ideological boundaries and can be found in capitalist and communist countries, in secular and in religious cultures, in Christian, Muslim and Jewish states alike.

For example, Dr. Chung Jean Lee, chief transplant surgeon at National Taiwan University Medical Center, reported to the Bellagio Task Force that until human rights organizations put pressure on his own country, transplant units in Taiwan also used executed prisoners to supply the organs they needed.

China held out, Chung Jean Lee suggested, because of the desperate need for foreign dollars and because in general there is less concern throughout Asia for issues of informed consent, and in some Asian cultures the use of prisoners' organs is seen as a social good and as an opportunity to redeem a family's honor.

Not only the executed prisoners, but also the profoundly mentally retarded are at risk of illegal organs and tissue harvesting. In January, 2000, I visited the grounds of Montes de Oca state mental asylum a few hours drive from Buenos Aires to verify specific reports of blood, tissue, cornea and kidney harvesting from the bodies of the profoundly mentally retarded, but otherwise physically healthy, inmates of the asylum. This practice began during the war in Argentina.

I visited with the patients and interviewed staff. A night nurse and ward supervisor explained to me off the grounds that the regime of blood letting and cornea removal from inmates, both living and dead, without consent was a pay back for their care at the state's expense. "Is that not the way it is done everywhere?" the nurse asked me.

Meanwhile, transplant doctors in Sao Paulo and Rio de Janeiro told me that during the military period in Brazil during 1964 through 1984 with some spill over into the democratic era, doctors

were given quotas by the military to produce a specific number of organs, which were delivered to military hospitals, organs they said they got by any means possible, including, I was told by one guilt-ridden and high ranking practitioner now retired, by chemically inducing the signs of brain death in some of the very, very sick, but certainly not near brain dead patients in his hospital, a large, prestigious, public hospital in Sao Paulo.

By far the largest practice of elicit organ harvesting concerns the almost now routine and every day trafficking from the bodies of desperately poor living donors. In the Middle East, residents of the Gulf States have for many years traveled to India, the Philippines and now more recently to Eastern Europe to purchase kidneys made scarce locally due to local fundamentalist Islamic teachings that allow organ transplants to save a life, but prohibit organ harvesting from brain dead bodies.

At the same time, hundreds of kidney patients from Israel, which has its own well-developed transplant centers, but low rates of donation due to certain ultra Orthodox reservations about brain death, travel in transplant junkets to Turkey, Moldova, Romania, where desperate kidney sellers can be found, and to Russia where an excess of cadaveric organs are produced due to lax standards for designation brain death, and to South Africa where the amenities in private transplantation clinics can resemble four star hotels. We at Organs Watch have visited all of these sites except Russia.

Dr. Zaki Shapira, head of transplant services at Bellinson Medical Center near Tel Aviv and, ironically, a former member of the Bellagio Task Force with me, has been operating as a transplant outlaw since the early 1990s when he first used intermediaries and Arab brokers to locate kidney sellers amongst strapped Palestinian workers in Gaza and the West Bank.

When Shapira's hand was slapped by an ethics board, the Cotev Commission, and I interviewed the head of the Commission, in the late 1990s, Shapira simply moved his illicit practice overseas to Turkey and to countries in Eastern Europe where the considerable economic chaos of the past decade has created parallel markets in bodies for sex and bodies for kidneys.

Affluent Palestinians from the West Bank also travel in search of transplants with purchased kidneys, and they go to Baghdad, Iraq, where several medical centers cater to transplant tourists from elsewhere in the Arab world. The kidney sellers, in Iraq are mostly young men, foreign workers from Jordan and poor Iraqis who are housed in a special wing of hospitals in dorms that could be called kidney motels. We found these kidney motels also in India where very desperate, hopeless people wait for the blood and cross matching tests that will turn them into the day's winner of the kidney lottery.

These transplant packages cost as low as $12,000 to as high as $180,000. In Israel, I interviewed more than 50 transplant professionals, patients, organ buyers and sellers involved in commercialized transplants. The passivity of the Ministry of Health in refusing to intervene and crack down on this multi-million dollar business, which is making Israel into something of a pariah in the international transplant world, requires some explanation, as does the passivity of the governments of the Philippines, Iraq, Turkey,

Romania, Moldova and Jordan where specialized kidney belts have sprung up.

We in the United States cannot claim any high moral ground, given the number of U.S. transplant centers, public and private, with the idea of donated organs as a national and community resource. Dr. Michael Friedlander, chief nephrologist at Hadassah Hospital in Jerusalem, tired of reports about commercialization of kidneys in Israel, decided, like Dr. Diflo, to speak out, and he says that among his recovering international transplant patients are several Israelis who have recently returned this year and last from the United States with kidneys purchased here from living donors.

The U.S. doctors in charge of the identified kidney units where these transplants have taken place, some of whom I have interviewed by telephone, claim ignorance on their part, saying that they believed that the donors and recipients were biologically or strongly emotionally related.

I have met a great many kidney experts. The understanding is that commerce in kidneys between strangers is everywhere practiced and is protected in the United States by a policy of ask, but please do not tell me anything I do not want to hear.

In March of 2001, I interviewed in Israel two men, one a young student and the other a retired civil servant, who had both returned to Jerusalem from transplant units in Baltimore and New York City, each with a brand new purchased kidney.

The student preferred not to think about his donor and was told by his own doctor to consider the trip to the United States as an extended vacation. The older transplant patient described the payment he made to an acquaintance that he brought with him for her kidney as a bonus—vacation money for her to recuperate while having a good time far away from home.

I think that one of the problems is the participation of medicine and transplant surgeons in perpetuating a kind of a myth that a living kidney donation is necessarily altruistic.

Ms. ROS-LEHTINEN. Professor, if you could wrap it up? I see our red light is on.

Ms. SCHEPER-HUGHES. Okay. I am sorry. If I can, I will answer questions later. Thank you.

[The prepared statement of Ms. Scheper-Hughes follows:]

PREPARED STATEMENT OF NANCY SCHEPER-HUGHES, PROJECT DIRECTOR, ORGANS WATCH

Today's important Congressional Hearing owes in large part to the courage of physicians like Dr. Thomas Diflo, director of the renal transplant program at the New York University Medical Center and to human rights activists, like Harry Wu of the Laogai research Foundation, and it is an honor to be in their presence. Dr. Diflo was moved to report to his hospital's medical center's ethics committee that several of his post transplant patients had returned from China with "freshly" transplanted kidneys that had been obtained from China's death row where prisoners are killed—sometimes for minor offenses like tax evasion—and their organs harvested to supply a lucrative, state sponsored, business. Other transplant specialists in Canada, Europe, and Israel are also beginning to speak, not only about the Chinese practice of organs harvesting but about other aspects of the growing international traffic in human organs to meet the needs of transplant surgery and other advanced medical procedures.

I am here representing Organs Watch, a small, independent, medical human rights, research and documentation center, now located at the University of California, Berkeley, with funding from the Open Society Institute (Soros Foundation), the Center for Human Rights and the Institute for International Studies at Berke-

ley. My role here is to put the specific Chinese case, as egregious as it is, into a larger global and social perspective. For the traffic in human organs, tissues, and body parts today transcends specific national boundaries and involves transplant doctors, nephrologists, their patients, organs brokers, and impoverished organ sellers from both third world and first world contexts (see Scheper-Hughes 1998a and b; 2000).

ORGAN TRANSPLANTS IN THE GLOBAL MARKET

Over the past 30 years, organ transplantation—but especially kidney transplant—has developed from an experimental procedure, performed in a few advanced medical centers, to a fairly common therapeutic one, carried out in hospitals and clinics throughout the world. Today, kidney transplantation is widely practiced in North and South America, Europe, throughout Asia, in the Middle East, and in four countries in Africa. Survival rates for kidney transplant have increased markedly over the past decade, although these still vary by country, region, the quality and type of organ (living or cadaveric), and access to the anti-rejection drug, cyclosporine.

A triumphant global capitalism, despite its many obvious benefits, has also released a voracious appetite for foreign bodies to do the shadow work/dirty work of production and for "fresh" bodies for medical consumption. Global markets, together with advanced medical and bio-technologies, have incited new tastes and desires for the skin, bones, blood, organs, tissues, marrow, and reproductive and generic material of the other. And we are witnessing, today, a confluence in the flows of *immigrant workers and itinerant kidney sellers* who fall into the hands of unscrupulous and highly sophisticated transnational organs brokers

As George Soros (1998) the billionaire financier turned human rights advocate has recently noted, one of the dangers of the spread of global capitalism is the erosion of social values and social cohesion in the face of anti-social market values. Markets are by nature indiscriminate and inclined to reduce everything—including human beings, their labor and their reproductive capacity—to the status of commodities, things that can be bought, sold, traded, and stolen.

Again, nowhere is this more dramatically illustrated than in the current markets for human organs and tissues to supply a medical business driven by "supply and demand". The rapid and recent transfer of organ transplant technologies to countries in the East (China, Taiwan, Philippines), to India, and to the South (especially Argentina, Chile, and Brazil) has created a global scarcity of viable organs that has initiated a movement of *sick bodies* in one direction and of *"healthy" organs* and tissues—some transported by commercial airlines in Styrofoam picnic coolers—in the opposite direction. Some organs travel "inside their package", a phrase some transplant specialists use to describe those kidney sellers who travel in special chartered flights to meet with pre-matched kidney patients and their surgeons in the host country. Sometimes both kidney buyers and sellers, each from different countries, arrive in a third country for an illicit transplant, making this a very difficult business to track. In all these transactions, a new profession of organized "body Mafia" or independent "organs brokers"—like the notorious, but not terribly successful, Jim Cohan who operates by fax, telephone, and e-mail out of a home office in southern California—are the essential actors.

In these new transplant contexts the human body, as we knew it, is radically transformed. Notions of bodily holism and integrity have given way to notions of a divisible body in which individual organs and tissues can be detached, alienated, bartered, and sold. This points to the demise of classical humanism and to the rise of what my Organs watch colleague, Lawrence Cohen, refers to as "an ethics of parts"—divisible bodies from which detached organs emerge as market commodities, and as fetishized objects of desire and of consumption. I refer to this as neo- or postmodern cannibalism.

Amidst the neo-liberal readjustments of the new global economy, there has been a rapid depletion of social values. New relations between capital and work, citizenship and social and medical inclusion or exclusion are emerging. The growth of "medical tourism" for transplant surgery and other advanced procedures has exacerbated older divisions between North and South, between haves and have-nots, spawning a grotesque market for sold organs, tissues, and other body parts.

In general, the flow of organs, tissues, and body parts follows the modern routes of capital: from South to North, from third to first world, from poor to rich, from black and brown to white, and from female to male bodies. In the very worst instance, this market has resulted in theft and coercion ranging from kidney theft, as in the case of China and to a self-serving belief in rights over the—spare parts—of the poor, as in the case of the transplant junkets arranged through Dr. Zaki Shapira and his brokers operating today out of Bellinson Hospital in Tel Aviv.

Illicit and exploitative organs and tissue procurement practices are protected by the invisibility and social exclusion of the world's population of organ suppliers and organ sellers—living and dead—most of them poor and socially marginal, but especially prisoners, mental patients, foreign guest workers, people in debt, soldiers, undocumented immigrants, and displaced rural workers (especially in Russia and the former Soviet countries of Eastern Europe).

China's Killing Machine

In 1994 Human Rights Watch/Asia (1994) and the Laogai Research Foundation (January 1995) published reports documenting through available statistics, Chinese informants, some of them doctors and prison guards, that the Chinese state systematically takes kidneys, cornea, liver tissue and heart valves from its executed prisoners. While some of these organs are given to reward politically well-connected Chinese, others are sold to "transplant tourists" from Japan, Hong Kong, and other Asian countries who were willing to pay as much as $30,000 for an organ. Human Rights Watch reported that with the discovery of this lucrative market, the kinds of crimes punishable by death—even some forms of tax evasion—have increased. In 1996 at least 6,100 death sentences were handed out and at least 4,367 confirmed executions took place.

Public officials in China have denied the allegations, but they refuse to allow independent observers to be present at executions or to review transplant medical records. David Rothman (1998) medical historian of Columbia University reported at an "Organs Watch" Conference in Berkeley on his visits in 1995 to several major hospitals in Beijing and Shanghai where he interviewed transplant surgeons and other medical officers about the technical and the social dimensions of transplant surgery as practiced at their units. While the surgeons and hospital administrators readily answered technical questions, they refused to respond to questions regarding the sources of transplant organs, the costs for organs and surgery, or the numbers of foreign patients who receive transplants at Chinese medical institutions. Rothman returned from China convinced that what lies behind the Chinese anti-crime campaign is a "thriving medical business that relies on prisoners' organs for raw materials."

Tsuyoshi Awaya (1996, 1998) a Japanese medical sociologist and law professor was more aggressive in his investigations. He has made five research trips to China since 1995, the most recent one in 1997, when Awaya accompanied a Japanese organs broker and several of his patients, all of whom returned to Japan with a new kidney within two weeks. All the patients knew that their kidneys were taken without consent from executed prisoners but this did not influence their decision. The organs from executed prisoners were simply part of the "package" of hospital services for a transplant operation.

More recently, there are reports (Jain 2001) of Canadian patients, desperately seeking kidney transplants, traveling to China, as well as to India the Philippines to get organs and transplant operations for which they pay between $50,000 and $145,000 depending on the circumstances. Dr. Jeffrey Zeltzman, a Toronto-based kidney specialist and director of St. Michael Hospital's renal transplant program, likened the new medical tourism to a "black-market underground economy. We've had lots of patients who have gone. Some tell us and some don't tell us—they just come back with the kidneys." Canadian citizens were not deterred by the illegality of buying and selling organs which in Canada is, not a criminal offence, and is subject to a maximum $1,000 (Canadian dollar) fine and six months in jail. No one has ever been prosecuted for this offense. Nor are they dissuaded by the unseemly manner in which the organs are procured.

The complicity of Chinese doctors in these highly medicalized executions whereby the condemned prisoner is carefully examined, intubated, and "prepped" for organs harvesting minutes before he is executed by a bullet to his head, is reminiscent of Nazi Medicine as practiced in the death camps. Since executed prisoners are not asked for their consent the harvesting of their organs can be seen as a form of body theft. The feelings of revulsion toward the practice that some medical human rights activists express are understandable.

But while China provides the largest supply of organs that are available to transplant tourists today, it is important to *note that China does not stand alone in this practice*. Illicit practices of organs harvesting recognize no specific political or ideological boundaries, and can be found in both capitalist and communist countries. Dr. Chun Jean Lee, chief transplant surgeon at the National Taiwan University Medical Center, reported to the international Bellagio Task Force on organs trafficking (of which I was a member, along with the notorious Dr. Zaki Shapira) that until international human rights organizations put pressure on his own country, transplant units in Taiwan also used executed prisoners to supply the organs they needed.

China held out, Lee suggested, because of the desperate need for foreign dollars, and because there is less concern throughout Asia for issues of "informed consent." And, in some Asian societies and cultures the use of prisoner's organs is seen as a social good, a form of public service, and an opportunity to redeem the family's honor.

That there are no fixed political, ideological, or religious boundaries with respect to illicit transplant practices is clear in the case of the Middle East. Residents of the Gulf States (Kuwait, Saudi Arabia, Oman) have for many years traveled to India and to countries in Eastern Europe to purchase kidneys made scarce locally due to local fundamentalist Islamic teachings that allow organ transplantation (to save a life), but prohibit organ harvesting from brain-dead bodies. Meanwhile, hundreds of kidney patients from Israel, which has its own well-developed, but underused transplantation centers (due to lingering orthodox Jewish reservations about brain death) travel in privately brokered "transplant tourist" junkets to Turkey, Moldova, Romania where desperate kidney sellers can be found, to Russia where an excess of lucrative cadaveric organs result from lax standards for designating brain death, and to South Africa where the amenities in transplantation clinics in private hospitals can resemble four star hotels.

The infamous Zaki Shapira, head of kidney transplant services at Bellinson Medical Center, near Tel Aviv (and, ironically, former member of the Bellagio Task Force on global transplant ethics) has been operating as a transplant outlaw since the early 1990s when he used local Arab brokers to locate willing kidney sellers among strapped Palestinian workers in the Gaza and the West Bank. When Shapira's hand was slapped by an ethics review board (the Cotev Commission) in the mid 1990s, Shapira simply moved his illicit practice overseas—to Turkey and to countries in Eastern Europe where the considerable economic chaos of the past decade has created parallel markets in bodies for sex and for kidneys.

But affluent Palestinians from the West Bank *also* travel in search of transplants with purchased kidneys to Baghdad, Iraq, where several medical centers cater to transplant tourists from elsewhere in the Arab world. The kidney sellers, I was told by one Palestinian transplant patient whom I interviewed in March 2001, are mostly young men, foreign workers from Jordan, and poor Iraqis who are housed in a special wing of each hospital in dorms that could be called "kidney motels", while they wait for the blood and cross-matching tests that will turn them into the day's "winner" of the kidney lottery. In Iraq the transplant package, complete with pre- and post-operative care and with fully equipped modern apartments provided in the hospital complex for accompanying relatives, is only $20,000, up, we were told, from only $10,000 several years ago. In fact, it was the appearance of these successful transplanted Palestinians in the after care clinic of Hadassah hospital (See Friedlander 2000) that prompted Jewish patients to pursue alternative transplant options for themselves.

While in Israel for Organs Watch in the summer of 2000 and, again in March 20001, when I accompanied Mike Finical, of *The New York Times* (see Finical 2001), I interviewed more than 50 transplants professionals, transplant patients, and organs buyers and sellers involved in commercialized transplants. Most surgeons, while worried about the risk to their patients and the potential for exploitation of both organs sellers and buyers on the part of unscrupulous doctors and their commercial brokers and intermediaries, none were willing to condemn a practice which they saw as "saving lives".

Since the summer of 2000 an undisclosed number of Israeli kidney patients have traveled to major medical centers in the United States, sometimes accompanied by their Israeli surgeon or nephrologist, for illegal transplants with paid living donors. In some cases the kidney seller travel from abroad with the transplant candidates, in other cases the sellers are located in the United States by local intermediaries and brokers. I interviewed two men, one a young student, the other a retired Israeli civil servant, both of whom had recently returned from the U.S. with a brand new, purchased kidney. Itay, the student, preferred not to think about his donor, and was told by his doctor to think of his trip to the United States as an extended vacation holiday. The older transplant patient also tried to cast his payment to the stranger who gave him her kidney as a bonus—"vacation money" for her to recuperate while she had a good time far away from home.

Founding Organs Watch

Organs Watch developed out of the meetings in 1995–1996 of the Bellagio Task Force on Transplantation and the International Traffic in Organs (*see* Rothman et al 1997) of which I was a member, and in response to the urgent need to consider new ethical standards for organs harvesting and transplant surgery in light of many well-documented abuses world-wide in procuring and allocating organs and tissues for transplant. The Task Force, consisting of a dozen international transplant pro-

fessionals, human rights experts, and medical social scientists, concentrated its efforts on exploring allegations of organs and tissue theft; the extent of the global traffic in kidneys purchased from living "donors"; and the use of executed prisoners in Asia as convenient sources of organs for transplant and of foreign capital.

At its final meeting in Bellagio, Italy in September 1996 the Task Force concluded that organ sales were prevalent and could be found in affluent as well as in poor nations. The Task Force called for basic research and documentation on the traffic in organs recommended the creation of an international "clearinghouse" to explore allegations of ethical and human rights violations in organs procurement and transplant surgery and to make recommendations to the appropriate medical bodies, such as the World Medical association, of strategies that might be used to enforce existing, but ineffectual, international regulations and standards on organs procurement and transplant.

With this in mind my colleague, Prof. Lawrence Cohen and I formally established "Organs Watch" in November 1999 (see *The New York Times*, Nov.5, 1999) and with the assistance of a group of dedicated graduate and medical student interns from various institutions in the United States and local field assistants in several countries where we are now actively conducting our investigations—we are serving as front-line workers responding to reports, complaints and allegations of irregularities in organs procurement and in the allocation and distribution of organs.

Our research is mapping the routes by which organs, doctors, patients, brokers, capital, and organ sellers circulate, and our findings to date (see Cohen 1999; Scheper-Hughes 1998a,b, 2000, 2001) indicate several pressing current issues that need to be addressed, among these:

The collapse of cultural and religious reservations about body dismemberment in the face of tremendous market pressures to sell an organ.

For example, Lawrence Cohen, a medical anthropology from Berkeley who has worked in small town in the south and western regions of India reports that in a very brief period the idea of trading "a kidney for a dowry" has caught on and become a fairly common strategy for poor parents to arrange a comfortable marriage for an otherwise economically disadvantaged or "extra" daughter. Or, in other words, a spare kidney for a spare daughter. Cohen notes that ten years ago when villagers and townspeople first heard through newspaper reports of kidney sales occurring in the big cities of Bombay and Madras they responded with predictable alarm and revulsion. Today, some of these same villagers now speak matter-of-factly about when in the course of a family cycle it might be necessary to sell a "spare" organ. Some village parents say they can no longer complain about the fate of a dowry-less daughter. "Haven't you got a spare kidney?", one or another unsympathetic neighbor is likely to respond. Similarly, in rural Brazil I encountered kidney sellers who insisted that they had donated altruistically, and "from the heart" even if they did receive as compensation a small cash payment, a used car, or help in locating a house or a new job. "Wouldn't *you* feel obligated [I was asked] to give something of which you had two to a person who had none at all?"

Race, Class and Gender Inequalities

We found in many countries—from Brazil and Argentina to India, Russia, Romania, Turkey to South Africa and parts of the United States—a kind of "apartheid medicine" that divides the world into two distinctly different populations of "organs supplies" and "organs receivers". In South Africa, under apartheid, is was customary to take organs from Black and mixed race patients in segregated ICUs and to transplant them into the bodies of mostly white males. But even today the new state has abandoned support for most dialysis and transplant patients so that these medical procedures are reserved for those who can afford care in private hospitals where white, affluent Black, and foreign patients predominate (see Scheper-Hughes 1998).

Even in the United States, under the government mandated system of organ harvesting and allotment through UNOS, race and class based inequities in the selection of the "best candidates" for transplant surgery in the U.S. raise many questions. African-Americans are reluctant organ donors, and the pool of more closely matched Black donors is disproportionately small. But one wonders why Black and mixed race donors in Brazil and South Africa were able to provided most of the organs for white transplant recipients—while the reverse is seen as viable in the U.S. One unanticipated finding, in the wake of paid unrelated kidney transactions, is the generally positive outcomes resulting from an almost "hit and miss" process of HLA and cross-matching. Hence, the disproportionate exclusion of African-American and Latino patients on this basis seems no longer, if it ever was, justified. Trust in medicine and in transplant procedures—especially medical definitions of brain death—is low in African-American "inner city" neighborhoods in the United States and con-

tributes to the low incidence of organ donation. Hence, a vicious cycle is created and maintained. Medical exclusions based on poor tissue matches, previous medical and reproductive histories, exposure to infectious disease, disqualify a great many African-American candidates for transplant surgery. One has to be relatively "healthy," affluent, and (one could add) preferably *white* in the U.S. to be a candidate for a cadaveric organ. Under these exclusionary conditions, resistance to organ donation is predictable. African-Americans are counseled by their doctors to pursue live (kidney) donation, more frequently than white Americans are. Meanwhile, African-Americans express greater resistance (than Euro-Americans) to *making* such demands on their loved ones.

Fierce competition between public- and private-sector hospitals world-wide for organs. Even more fierce, however, is the competition that most truly scarce resource—affluent or well insured transplant patients. This competition contributes to the corruption of national and regional waiting lists in some countries (including Brazil) to the intentional wasting of cadaver organs to prevent competing hospitals from getting access to them (found in Cape Town, South Africa in 1997–1998).

Tissue Banks—an unregulated, international, multi-million dollar business in body parts.

Contemporary mortuary practices and tissues harvesting in many parts of the world resemble a kind of human strip farming. including the United States. Heart valves, pituitary glands, cornea, skin grafts, bone, and other body parts removed are used for research, teaching, product testing, and for sale to biotech companies. There now exists an unregulated, international, multi-million dollar business in tissues and body parts, obtained from naive donors who believe their gifts are being used in heroic rescues to save lives and comfort burn victims. Instead, as in many parts of the U.S., donated bone and skin are sold and processed (sometimes sold and processed abroad) by private bio-tech firms into expensive products for dentistry and plastic surgery. One of these new products is Dermalogen™, recently released by Collagenesis. The company describes this processed human skin product as an injectable human tissue implant for the treatment of facial contour defects. It is designed "to meet the needs of patients who are seeking a safe, long-lasting natural alternative to synthetic implants for soft tissue augmentation." In fact, Dermalogen™ is a skin-based gel sold to plastic surgeons, who use it in operations to enlarge the lips and smooth wrinkles. The targeted market is the aging U.S. "baby boomer generation."

Sometimes donation is a coerced or manipulated gift. And sometimes the donation or the gift is really a commodity that is traded, bartered, and sold on the open market. This kind of "invisible sacrifice" is grounded in the bad faith of medical institutions and eye and tissue banks. Advantage is taken of exemplary people who are asked to perform acts of mercy and altruism at a time of profound grief, like Linda Johnson-Schuringa, from Orange, California who put her late husband's body into the care of the Orange County Eye and Tissue Bank, believing that his tissues and bone would alleviate the suffering of another person, only to discover later that the gift of her husband's bones had been shipped to Germany and "processed" into a dental product and sold internationally.

In many third-world countries human tissue is exchanged with first-world countries for medical technology or expertise. In South Africa the director of an experimental research science unit of a large public medical school showed me official documents approving the transfer of hundreds of human heart valves taken (without consent) primarily from the bodies of poor Black males in the police mortuary and shipped for "handling costs" to medical centers in Germany and Austria. These fees, which were intentionally inflated to the maximum, helped support the unit's research program in the face of austerities and the downsizing of advanced medical research facilities in the new South Africa.

Bio-Piracy as a "Dirty War" and Counter-Insurgency Tactic

A footnote to the story of military terrorism during (and following) the "dirty war" in Argentina and the dictatorship years in Brazil is that doctors provided—in the case of Argentina—not only children for military families but also blood, bones, heart valves, organs, and tissues for transplant taken from the bodies of the politically "disappeared" and from the socially disappeared, including the captive populations like the mentally retarded in state institutions, such as Montes de Oca and Open Door in Lujan, Argentina.

In January 2000 I visited the grounds of Montes de Oca state mental asylum a few hours drive from Buenos Aires to verify persistent reports of continuing blood, tissue, and organs harvesting from the bodies of the profoundly mentally retarded, but otherwise physically healthy, inmates of the asylum (*see* Chaudhary 1992, Ro-

mero 1992; Bonasso 1998). The allegations led to the arrest of the director, Dr. Florcio Sanchez, and his death, under suspicious circumstances, while in detention awaiting trial. Today, Montes de Oca is under receivership by the state. A night "nurse" and ward supervisor, explained the normal regime of blood-lettings from the living inmates and cornea removal from the deceased, without consent, as a justified "pay back", "for their care at the state's expense". "Isn't that the way it is done everywhere?", the head nurse asked me. The only scruples she had about the institution was the discipline used to control agitated or unruly patients. "Was it true", I asked, "that female patients were allowed to become pregnant by other inmates?" "Yes", the nurse replied. "Montes de Oca was a progressive institution and sex was considered 'the right' of the inmates. The offspring, however, were offered for domestic and international adoption through the help of a respected order of Catholic nuns. The nurse's story was verified in a subsequent interview with one of the Sisters from that religious group. Here the markets in bodies, organs, and babies converge.

Similarly, transplant doctors in Sao Paulo and Rio de Janeiro told me that during the military period (1964–1984) they had being given "quotas" of organs to be delivered to military hospitals, organs got by any means possible, including (I was told by one guilt-ridden practitioner) chemically inducing the signs of brain death. The execution of street children in Brazil (seen as enemies of decent people) that reached a peak in the 1990s (well after democratization) involved not only death squad killings but mutilations in the public morgues, a secret dimension of what was essentially a form of class warfare and ethnic cleansing.

And in South Africa toward the end of apartheid when a super-abundance of Black bodies produced in the violence and chaos of the anti-apartheid struggle piled up in police mortuaries, the harvesting (and sometimes the selling) of desired body parts both for muti (magical medicine) and for transplant was a hidden feature of that struggle. In these sad contexts, traditional sangomas and surgeons could both be described as witch doctors. Meanwhile, human rights groups in the West Bank complained to me of tissue and organs stealing of slain Palestinains by Israeli pathologists at the national Israeli legal medical institute in Tel Aviv.

In South Africa I interviewed Mrs. Thandiwe-Sitsheshe Mfundese who took her complaint—the desecration of her son Andrew's body at the Salt River Mortuary in Cape Town, after he was killed in township violence in 1992—to the highest arbiter of human suffering in South Africa today, the Truth and Reconciliation Commission. Ms. Sitshetshe sees organs and tissue harvesting without consent as a continuing residue of the practice of an apartheid medicine in which black bodies were and continue to be disrespected in preference for servicing the needs of mostly white and affluent transplant patients in South Africa.

TRANSPLANT TOURISM

The emergence of a lively transplant tourism, and along with it, a culture of self-defined transplant outlaws—doctors, patients, brokers, and kidney sellers—short-circuit national waiting lists and make a mockery of professional codes of ethics and international regulations and national laws prohibiting the sale of organs from living or dead donors. The key actors in this global scenario are a new class of entrepreneurial organs brokers, who prey on medically incited organs scarcity panics and on the desperation of both the kidney buyers and the organs sellers. The sellers are, of course, recruited from vulnerable populations produced in the wake of transitional economies: displaced rural populations, guest workers, refugees, and young soldiers.

As hinted at above, in Israel today there is an amazing tolerance at official levels toward outlawed "transplant tourism," which is organized through a local business corporation in conjunction with a leading transplant surgeon, operating out of a major medical center not far from Tel Aviv. Mr. D., the head of "the company" (as transplant patients call it), has developed links with transplant surgeons in Turkey, Russia, Moldavia, Estonia, Georgia, Romania, and (most recently) New York City. The cost of the "package" increased from $120, 000 in 1998 to $200,000 in 2001 and, with the pressure from transplant candidates to develop links in more developed countries, the cost is still rising. The transplant "package" covers: the rental of a private plane (to accommodate a group of six patients, each accompanied by a family member, the Israeli doctors, and the business coordinator; the "double operation" (kidney "extraction" and kidney transplant); the kidney and the "donor" fee (the donor is usually paid no more than $5,000); the "fees" paid to bribe airport and customs officials; the rental of private operating and recovery rooms and OR staff; and hotel accommodations for accompanying family members. The covert operation (in both senses of the term) is accomplished in five days. Day 1: on site pre-operative

rests and dialysis; days 2 and 3: the operations (two or three patients per night, depending on the size of the group); days 4 and 5: on site recovery and the flight home.

The specific country, city, and hospital sites of the illicit surgeries are kept secret from transplant patients until the day of travel. Meanwhile, the sites are continually rotated to maintain a low profile. The surgeries are performed between midnight and the early morning hours. In the most common scenario, Israeli patients and doctors (a surgeon and a nephrologist) fly to a small town in Turkey on the Iraqi border, where the kidney sellers are often young Iraqi soldiers or guest workers. In another scenario, the Israeli and Turkish doctors travel to a third site in Eastern Europe, where the organ sellers are unemployed locals or guest workers from elsewhere.

The passivity of the Ministry of Health in refusing to intervene and crack down on this multi-million dollar business, which is making Israel something of a pariah in the international transplant world, requires some explanation. First, in the absence of a strong culture of organ donation and under the pressure of angry transplant candidates, each person transplanted abroad is one less client with which to contend. A more troubling phenomenon is the support and direct involvement of the Israeli Ministry of Defense in the illicit national "program" of transplant tourism. Some patients who traveled with the outlaw Israeli transplant surgeon to other countries noted that in each of the organized transplant groups were members of the Ministry of Defense or those closely related to them.

We in the United States cannot claim any high moral ground given the number of transplant centers that court and cater to paying foreigners, thereby subverting the idea of donated organs as a national and community resource. Dr. Michael Friedlander, chief nephrologist at Hadassah Hospital in Jerusalem, counts among his recovering international transplant patients, several Israelis who have recently returned this year and last (2000–2001) from Europe and the United States with kidneys that were purchased from living donors. The doctors in charge of the identified kidney units where these transplants have taken place claim ignorance, on their part, saying they believed that the donors and recipients were either biologically or emotionally related. Among a great many kidney experts the understanding is that commerce in kidneys between strangers is everywhere protected by a policy of "Ask—but please don't tell me anything I don't want to hear."

Debt Peonage

The pressure to increase the supply of fresh organs has made some transplant doctors less cautious about the real risks of live donation, especially from very poor donors and marginalized organ sellers many of them lacking proper medical surveillance before and after the neprectomy (kidney removal) or living in shantytown communities in unhygienic living conditions, with higher risk of infectious disease, urban violence, traffic accidents, and other threats to the remaining kidney.

Organs Watch has followed the emergence of new forms of "debt peonage″

stimulated by the global economy in which the "commodified kidney" occupies a critical role as collateral. Here the work of my colleague Lawrence Cohen on the emergence of "kidney belts" in southern India is pivotal. Cohen interviewed half a dozen women in a municipal housing-project in a Chennai (Madras) slum in South India, each of whom had sold a kidney for about $1,000 and undergone her "operation" at the clinic of Dr. K. C. Reddy, India's most outspoken advocate of the individual's "right to sell" a kidney. The women Cohen interviewed were primarily low-paid domestic workers with husbands in trouble or in debt. Most said that the kidney sale was preceded by a financial crisis—the family had run out of credit and the money lenders were knocking at the door. Friends had passed on the word that there was quick money to be had by selling a kidney. Cohen asked whether the sale made a difference in their lives, and he was told that it did for a time, but the money was soon swallowed by the interest charged by the money lenders, and the families were in debt once again. Would they do it again? He asked. Yes, the women answered. What other choice did they have with their debts piling up and the children needing food and school supplies? If only there were *three* kidneys, with two to spare, then things might be better for them. When townspeople had first heard through newspaper reports of kidney sales occurring in the cities of Bombay and Madras, they responded with alarm. But now, Cohen says, some of these same people speak *matter of factly* about *when* it may be necessary to sell a "spare" organ. And today the "spare" kidney represents every poor person's last resort and his or her ultimate collateral.

Entrapment to Donate or Sell an Organ

Organs Watch researchers have identified patterns of "compensated and coerced gifting between employers and employees, neighbors, and distant kin in which body parts are exchanged for emotional and/or material support, including secure work and other benefits, or where prisoners offer kidneys in exchange for reduced sentences or to alleviate their disgraced social condition.

In March 2001 I spent the day with Abraham Sibony, a recent immigrant to Israel from Morocco, who had embarked on a career as a petty thief. Sibony was in and out of jail for several years when he was contacted in a prison workshop by a warden attached to a local organs broker. "Do you want to find a quick way out of your troubles, Sibony was asked. Surprised to learn that he could make $30,000 by selling one of his kidneys, and even more surprised to be told by an outlaw transplant doctor that "people were healthier and lived longer with only *one* kidney", Sibony was in and out of surgery in a few days during a brief furlough from prison. Though Sibony has not, unlike many other unlucky kidney sellers, suffered from any significant medical complications, he was ill-prepared for a long period of recovery in prison, and angry that he was paid only $6,000 and had no legal recourse against the lawyer-transplant recipient and his broker who had deceived him, a story that is very common among the world's kidney sellers.

Kidney Theft

Organs Watch has examined several allegations of documentation of kidney theft from poor and otherwise socially marginal hospital patients, (especially women and foreign workers) during routine and minor surgeries for other medical problems. Several cases are mired today in complicated legal proceedings in India Brazil and Argentina. One story, taken from several similar cases I have explored during the course of research in Brazil and Argentina will illustrate this hard to believe phenomenon:

During the summer of 1998, I was sitting at a sidewalk café in downtown São Paulo with Laudiceia Cristina da Silva, a young mother and office receptionist who had just legally requested an investigation of the large public hospital where in June 1997 during a routine operation to remove an ovarian cyst she had "lost" a kidney. That she was missing a kidney was discovered soon after the operation by the young woman's family doctor during a routine follow-up examination. When confronted with the information, the hospital representative told a highly improbable story—that her missing kidney was embedded within her ovarian cyst. But the hospital refused to produce the medical records or any evidence to support their story. The regional Medical Ethics Board refused to review the case. Laudiceia believes that her valuable kidney was taken to serve the needs of another, wealthier, patient in the same hospital. To make matters worse, Laudiceia's brother had been killed in a random act of urban violence several weeks earlier, and the family arrived at the hospital too late to stop organ retrieval. Brazil's new "presumed consent" law allows organs harvesting without prior consent by the individual or by his family members. "Poor people like ourselves are losing our organs to the state, one by one,"Laudicea said angrily.

The Fetishized Kidney

For many bio-ethicists the "slippery slope" in transplant medicine begins with the emergence of a black market in organs and tissue sales; for the medical anthropologist the slippery slope begins the first time one ailing human looked at another living human and realized that inside that other body was something that could prolong his or her life. Obviously, desperation on both sides and a willingness of the transplant doctors and their patients to see only one side of the transplant equation allows the commodified kidney to become an almost fetishized *organ of opportunity* for the buyer and an *organ of last resort* for the seller. Ads like the following one, which appeared in the *Diario de Pernambuco*, of Recife, Brazil, appear every day in newspapers around the world:

> *I, Manuel da Silva, 38, unemployed sugar cane worker, father of three hungry children and a sick wife, announce my willingness to sell any organ of which I have two, and the immediate removal of which will not cause my immediate demise.*

The "demand" for human organs, tissues, and body parts—and the search for wealthy transplant patients to purchase them—is driven by the medical discourse on scarcity. The specter of long transplant "waiting lists"—often we have found only virtual lists with little material basis in reality—has motivated and driven questionable practices of organ harvesting with blatant sales alongside "compensated gifting"; doctors acting as brokers; and fierce competition between public and private

hospitals for patients of means. At its worst the scramble for organs and tissues has lead to human rights abuses and violations in intensive care units and in public morgues.

But the very idea of organ "scarcity" is what Ivan Illich would call an artificially created need, invented by transplant technicians and dangled before the eyes of an ever-expanding sick, aging, and dying population. Bio-ethics creates the semblance of ethical choice (e.g., the right to buy a kidney based on a principle of individual autonomy) in an intrinsically unethical context. Unfortunately, there is no lack of desperate people willing to sell a kidney for a pittance, as little as $1,000. Many wait outside transplant units or in special waiting rooms and wards of surgical units reserved for them, in India, Iraq, and Turkey, begging to be considered and hoping for a good match with a prospective buyer. The sale of human organs and tissues requires that certain disadvantaged individuals, populations, and even nations have been reduced to the role of "suppliers." It is a scenario in which only certain bodies are broken, dismembered, fragmented, transported, processed, and sold in the interests of a more socially advantaged population of organs and tissues receivers. I use the word "fetish" advisedly to conjure up the displaced magical energy that is invested in the purchased living, and thereby strangely animate, kidney.

In parts of the third world where rates from infection from HIV and hepatitis are high, and trust in the public health and medical systems are low, there is a strong preference for a *living* kidney donor whose health status can be documented before the transplant operation. In Brazil, for example, there is considerable resistance to accepting a "public" organ from an "anonymous cadaver" which may not have been properly screened. In Israel there is resistance to taking the organ from a dead person when a strong, healthy, living donor can be found.

In July of 2000, Avraham Ronan, a retired lawyer in Jerusalem, explained why he went through considerable expense and considerable risk to travel to Eastern Europe to purchase a kidney from a displaced rural worker, rather than wait in line for a cadaver organ in Israel:

> *Why should I have to wait years for a kidney from someone who was in a car accident, pinned under the car for many hours, then in miserable condition in the I.C.U. [intensive care unit] for days and only then, after all that trauma, have that same organ put inside me? That organ is not going to be any good! Or, even worse, I could get the organ of an elderly person, or an alcoholic, or a person who died of a stroke. That kidney is all used up! It's far better to get a kidney from a healthy man who can also benefit from the money I can afford to pay. Where I went the people were so poor they did not even have bread to eat. Do you have any idea of what one thousand, let alone five thousand dollars, means to a peasant? The money I paid was a gift equal to the gift that I received.*

The magical transformation of a person into a "life" that must be prolonged, saved, at any cost, has made life into the ultimate fetish as recognized many years ago by Ivan Illich. The idea of "life" itself as an object of manipulation, a relatively new idea in the history of modernity. The fetishization of life—a life preserved, prolonged, enhanced at almost any cost—erases any possibility of a social ethic.

TRANSPLANT AND THE ETHICS OF INVISIBLE SACRIFICE

The idea of heroic sacrifice is as old as humanity and central to many religious and secular traditions and ideologies. Individuals have sacrificed themselves consciously and willingly throughout history, giving their bodies and lives for what they believe is a greater cause. But there is a darker side of human sacrifice. When individuals or certain groups are taken in unwilling sacrifice for others. A late modern form of human sacrifice is the hidden or invisible sacrifice—a sacrifice that is unrecognized because it is buried and hidden from view. This is the kind of sacrifice that occurs in many fields of organs and tissue procurement. Here the sacrifice that is demanded is prettily wrapped up in the language of gift giving and life saving.

Sometimes the gift has been taken without any or at least without any fully informed consent. The sacrifice is hidden when living relations are made to feel that those they love—or at least those to whom they are biologically and genetically related—have a right to their "spare" organs. The silent and often invisible organ donors, living and dead, are often treated not as persons in their own right but as sources of medical material needed for advanced medical technologies. And, unfortunately, it is where tissue and organ harvesting—not only in the so-called third world but also in the U.S.—is moving today. The sacrifice is hidden when living relations are made to feel that they are obligated to donate the organs or tissues of a loved one in order to "save lives."

Dialysis and transplant patients are visible to us; their stories are shown to us in the media. We can see and hear their pain and suffering. But while there is empathy—even a kind of surplus empathy—for one population, the transplant patients, there is a deficit or an absence of empathy for the groups we cannot see, those whose lives and suffering remain largely hidden from view—the population of organ and tissue donors, living and dead.

A transplant surgeon in Recife, Brazil, who relied on live kidney donors, answered my questions about patient follow-up procedures quite defensively: "Follow up!" he boomed. "With transplant patients it's like a marriage—you are never free of them!" "Yes," I replied. "But what about your *other* patients, your kidney donors. Do you follow *them*?" To which the surgeon replied. "Of course not. They are *not* patients. They are healthy people just like a woman who gives birth." When I spoke of the many kidney donors I had met who had encountered medical and psychological difficulties, he replied: "These are neurotic people who want to be heroized for what they have done." But when I countered: "Why *shouldn't* they be?" he had no reply.

What's Wrong With Buying or Selling a Kidney?

If a living donor can do without an organ, why shouldn't the donor profit and medical science benefit? In the third world, poor people cannot really "do without" their "extra" organs. Transplant surgeons have disseminated an untested hypothesis of "risk-free" live donation in the absence of *any* published, longitudinal studies of the effects of nephrectomy (kidney removal) among the urban poor living anywhere in the world. Living donors from shantytowns, inner cities, or prisons face extraordinary threats to their health and personal security through violence, injury, accidents, and infectious disease that can all too readily compromise the kidney of last resort. As the use of live kidney donors has moved from the industrialized West, where it takes place among kin and under highly privileged circumstances, to areas of high risk in the third world, transplant surgeons are complicit in the needless suffering of a hidden population.

During a field trip to Brazil in 1998, I encountered in Salvador, Bahia, a "worst-case scenario," showing just how badly a live kidney donation could turn in a third-world context. "Josefa," the only girl among eight siblings from a poor, rural family in the interior of the state, developed end-stage kidney disease in her twenties. With the help of people from her local Catholic church, Josefa moved to Salvador for dialysis treatments, but there her condition continued to deteriorate. Her only solution, she was told, would be a transplant, but as a "public" patient her chances of getting to the top of local "waiting lists" was next to nil. At her doctor's suggestion, Josefa sought a kidney donor among her siblings. An older brother, "Tomas," the father of three young children, readily offered to help his "baby" sister. But what first seemed like a miraculous transfer of life, rather quickly turned problematic. Soon after the "successful" transplant, Josefa suffered a crisis of rejection and lost her new kidney. Meanwhile, Tomas himself fell ill and was himself diagnosed with kidney disease resulting from a poorly treated childhood infection. What the doctors referred to as a "freak accident" and a stroke of "bad luck" struck Josefa (and her brother) as evidence of a larger social disease: "We were poor and ignorant; the doctors didn't really care whether we were properly matched or whether I could afford the drugs I needed to stay alive after the transplant." Josefa's enormous guilt toward her dying brother brought tears to her eyes throughout our interviews. She was committed to doing everything possible to help out his family to which she felt so miserably indebted. Tomas, a slender, nervous man, looking far older than his years, said ruefully during a separate interview: "I love my sister, and I don't hold her responsible for what has happened. The doctors never asked about my own medical history before the operation. And afterwards it was too late."

Meanwhile, we might ask why so many transplant recipients are so ready and willing to accept the enormous human costs of these procedures. Few organ recipients know anything about the kinds of demands that are made on the bodies of "the other," living or dead. They recognize, of course, that their good fortune comes out of the tragedy of another, and they pass along the transplant folklore of the permissible guilt and glee they experience on rainy nights when traffic accidents rise. Donor anonymity prevents scruples in the organ recipient population, although transplant patients often do try to learn something about their donors, living and dead. But they are never privy to the secret negotiations and sometimes the psychological manipulations of the donor's family members while they are in shock and deep grief. Meanwhile, kidney sellers engage in a kind of double-think, double-speak in which they discount living donation within the family, while recruiting organs from living strangers who are believed to "benefit" enormously from the transaction.

Organs brokers—like any other brokers—try to keep buyers and sellers apart. But even when live donation is transacted within families, recipients can be protected

from knowing the human cost of donation. In Brazil, for example, kidney donors are cautioned by their doctors that it is wrong, after donation, ever to bring the subject up in front of the recipient. Their act, they are told, must be completely "forgotten." This mandate alone is a burden that forces the donors to carry within themselves a deep "family secret." If the medical and psychological risks, pressures, and constraints on organ donors (and their families) *were* more generally known, potential transplant recipients might want to consider "opting out" of procedures that presume and demand so much of the other.

But focusing as we are on the excluded and often forgotten or "invisible" organ donor does not imply a lack of empathy for transplant recipients or for the expanding queues of wait listed patients who have been promised a kind of immortality by transplant professionals. Poised somewhere between life and death, their hopes waxing and waning as they are often stranded at the middle or bottom of official waiting lists, which are subject in a great many places to corruption by those with access to private medicine, private medical insurance, and access to powerful surgeons who know how to circumvent or bend the rules, these all-but-abandoned transplant "candidates" have their own painful stories to contribute to the larger project. Meanwhile, many kidney patients who have been eliminated from organs waiting lists for reasons of age, frailty, or complicated medical conditions are preyed on by brokers and corrupt transplant surgeons who disregard the normal medical criteria for transplant.

For example, Mr. Tati, a municipal public health food inspector from Jerusalem, went to Turkey for an illegal transplant of a kidney purchased from an Iraqi soldier and returned home close to death and very poor indeed. To begin with, Mr. Tati was a very poor candidate for a transplant. He had suffered a coronary event in his early 40s and he was removed from the official kidney transplant waiting list by his doctors at Hadassah Hospital and was told that dialysis was his best solution. Approached by brokers, Mr. Tati took his medical records to another, competing hospital in Tel Aviv where Dr. Zaki Shapira, a renowned medical outlaw, agreed to include him on his list of transplant tourists. Immediately following his risky transplant, and while he was still in the recovery room, Mr. Tati suffered a second and this time, massive heart attack. This was followed by a crisis of kidney rejection. The outlaw surgeons packed the frail man back into the private jet with an RX to his regular doctors at Hadassah Hospital to treat the medical mess they had created. The doctors at Hadassah were furious, but treated Mr. Tati at the government's expense. Seven months later, when I first interviewed him, Mr. Tati was still a hospital patient. "He is a real basket case," his attending physician told me ruefully, "but he did manage to survive the ordeal." The next time I visited Mr. Tati, in March 2001, he was living at home in a modest working class housing project, but he was unemployed and disabled. But even worse, he said, was the huge debt he had accumulated. In getting together the $145,000 in cash ("green," i.e., American dollars) to pay for his transnational transplant, Mr. Tati had borrowed from banks and from family, friends and co-workers. His Israeli medical insurance plan paid $80,000 for the transplant procedure. But he still owed the rest.

And then there is "Pettia," the Bulgarian guest worker who offered her kidney several times over to desperate transplant candidates in Jerusalem, soliciting from each several hundred dollars for pre-tests and cross-matches that always proved disappointing. Meanwhile, Pettia kept the money . . . and her kidney. Similarly, the FBI and several international transplant surgeons who have had dealings with him, consider Jim Cohan, the indefatigable broker from West Hollywood, Los Angeles, a "scammer" and a fraud, a man who widely advertises the ability to broker organs without any real ability or commitment to do so. In fact, there is no evidence that Cohan has ever arranged a transplant. But he has collected substantial "deposits" up to $10,000 from the sick and desperate people he has solicited over the years with his "Dear Prospective Organs Recipient" letter in which he claims to have arranged hundreds of transplants in the Philippines, Africa and Europe for up to $225,000 for a heart, lung or liver and $125,000 for a kidney. Cohan's letter boasts the promise of a quality product. He writes: "While organs are procured in the United States from "older, sick or diseased people," he has access to organs from "young, healthy people," including "vegetarians, people who exercise and hard-working individuals." The desperately sick are easy prey to kidney scams like these.

Amidst the contestations between organ-givers and organ-getters, between doctors and patients, between North and South, between individuals and the state, between the illegal and the "merely" unethical, we need to be clear about whose values and which populations are being represented. Serious proposals to expand programs allowing unrelated living kidney donors (obviously with compensation) are on the table. Bio-ethicists, religious leaders, social scientists, and transplant specialists are now leaning towards the individual's "right to sell." (see Richards, et al. 1998) But

can the language of gifting, of life saving, of altruism, or of scarcity and need be maintained in the face of this kind of economic climate?

Bio-ethical arguments about the right to sell are based on Euro-American notions of contract and individual "choice." But the social and economic contexts that make the "choice" to sell a kidney in an urban slum of Calcutta or in a Brazilian *favela* anything but a "free" and "autonomous" one. Consent is problematic with "the executioner"—whether on death row or at the door of the slum resident—looking over one's shoulder. A market price on body parts—even a fair one—exploits the desperation of the poor, turning their suffering into an opportunity.

Is regulated sales the way to go? Asking the law to negotiate a fair price for a live human kidney goes against everything that contract theory stands for. When concepts like individual agency and autonomy are invoked in defending the "right" to sell an organ, the long established belief that "living" things are not alienable or proper candidates for commodification? And the removal of a non-renewable organs is an act in which medical practitioners, given their ethical commitment to beneficence and non malfeasance, should not be asked to participate.

Finally, the argument for "regulation" is out of touch with the social and medical realities operating in many parts of the world but especially in second and third world nations. The medical institutions created to "monitor" organs harvesting and distribution are often dysfunctional, corrupt, or compromised by the power of organs markets and the impunity of the organs brokers and of outlaw surgeons willing to violate the first premise of classical medical bio-ethics: above all, do no harm.

CONCLUDING OBSERVATIONS

From its origins transplant surgery has presented itself as a problem in gift relations. As many anthropologists Marcel Mauss to Levi-Strauss to Pierre Bourdieu have noted pure gift giving gift is illusionary and every gift demands a counter gift sooner or later. The same logic may obtain in organ gifting, which helps to explain why there is so little cadaveric transplantation surgery in Japan, certainly one of the most elaborately gift-oriented societies. The gift of a human organ would incur a personal or familial debt that could never be adequately or honorably repaid. But one way that a gift of blood or a life-saving organ can be repaid is through symbolic capital—the honor, gratitude, or love that attaches to the altruistic donor.

In his 1970 classic, *The Gift Relationship*, Richard Titmuss anticipates many of the dilemmas now raised by the global human organs market. His assessment of the negative effects of commercialized blood markets in the U.S. applies equally as well to the new markets in human organs and tissues.

> *The commercialism of blood and donor relationships represses the expression of altruism, erodes the sense of community, lowers scientific standards, limits both personal and professional freedoms, sanctions the making of profits in hospitals and clinical laboratories, legalizes hostility between doctor and patient, subjects critical areas of medicine to the laws of the marketplace, places immense social costs on those least able to bear them—the poor, the sick, and the inept—increases the danger of unethical behavior in various sectors of medical science and practice, and results in situations in which proportionately more and more blood [or organs] is supplied by the poor, the unskilled and the unemployed, Blacks and other low income groups.*

Organs Watch asks that organs harvesting practices respect the bodies of donors, living and dead. Transplant surgeons need to pay attention to where organs come from and the manner in which they are harvested so that the "gift of life" never deteriorates into a "theft of life." Organ donation should be voluntary and free of coercion, whether psychological or economic. The bodies of organ donors—living and dead—need to be protected, not exploited, by those doctors charged with their care.

Since every international medical body of medical ethics has condemned the buying and selling of organs, those doctors who are involved in arranging or facilitating transplants with paid donors should face professional sanctions. Doctors posing as ordinary tourists who travel to foreign countries accompanying their patients for commercialized transplants arranged by local or international organs brokers should be prosecuted for visa fraud.

Alternatives to the increasing slide toward related and unrelated living kidney (and liver) donation should be pursued, including the consideration of presumed consent laws and some forms of symbolic compensation and special recognition to families who agree to donation. We have seen that that contributions by the municipal government toward the funeral expenses of public organ donors in Sao Paulo, Brazil, has served to recognize the compassionate and socially conscientious act. Finally, the "risks" and "benefits" of organ transplant surgery need to be more equally

distributed among and within nations, and among ethnic groups, the sexes, and social classes.

While to transplant surgeons an organ is just an object, a heart is just a pump, and a kidney is just a filter, a commodity better used than wasted, to a great many ordinary people around the world an organ is something else—it remains a lively, animate, spiritualized part of the self and more than a spare part to be sold or bartered on the open market to the highest bidder.

Ms. ROS-LEHTINEN. Thank you.

I will start the questioning with Ms. McKinney.

Ms. MCKINNEY. Actually, I do not have any questions. You talked about the transplant market in the United States. Our previous Chairperson mentioned the fact that we have laws in place that protect folks. Would you care to comment on where we are?

Ms. SCHEPER-HUGHES. I think we have a wonderful organization, Government sponsored, called UNOS, the United Network of Organ Sharing, which monitors the procurement and distribution of organs from brain dead bodies.

But there is no Federal or even State regulation of tissues and tissue banks nor of living kidney donation, which is really left up to the individual hospital ethics boards to decide what is to be considered a non-commercialized transaction.

There are laws obviously against the commerce in kidneys, but we do not have set in place any national regulations or procedures for hospitals to be able to differentiate paid or even in some cases paid and extorted kidneys. Some of the kidney sellers that I have met have been entrapped; that is, people who are getting out of prison, for example. The prison story really has a role here in the United States and elsewhere where prisoners are told by brokers that quick money could be had.

There is a population of organ brokers that exist in many parts of the world, and they also exist in the United States, east coast and west coast.

Ms. MCKINNEY. How can we find out who these people are?

Ms. SCHEPER-HUGHES. I will be happy to provide the names of some of them to you.

Ms. MCKINNEY. Great. Through your work at Organs Watch, if there is a need for any kind of legislation or amendments to H.R. 2030 I am sure that you will be willing to help us.

Ms. SCHEPER-HUGHES. I will.

Ms. MCKINNEY. Thank you very much.

Ms. ROS-LEHTINEN. Thank you, Professor. In your opinion, are there any circumstances in which organ harvesting from executed prisoners would comply with international medical standards in the U.S. or in any other nation?

Ms. SCHEPER-HUGHES. No. I think it is an egregious practice, and I agree with the statement that you cannot ask the families to give permission and that it is as difficult for a person on death row to give consent as for a kidney seller in a shantytown of Turkey to give consent because their consent is extorted from them out of very desperate circumstances.

Ms. ROS-LEHTINEN. And speaking of that, there are reports of other countries, such as India, involved in the organ trade whereby poor individuals offer their extra organs, such as a second kidney, for sale to wealthy recipients.

What differentiates China's practice of harvesting organs from what is taking place in India and in other countries?

Ms. SCHEPER-HUGHES. Well, I think that our sense of revulsion at the inflated numbers of executions in China, which may possibly be linked to the fact that this is a lucrative business, is very difficult for us to bear.

I also find it very difficult to bear when my colleague, Lawrence Cohen, speaks to kidney sellers, most of them women, in the south of India who say that they do not regret having sold a kidney because they had no choice. They were so deeply in debt. The money lender has told them that the kidney now serves as collateral, and the only thing they regret is that they do not have a third kidney so that they could have one to keep and two to sell.

I think that is also a gross human rights violation when people come to view the inside of their body as comprised of redundant or excess organs to sell.

Ms. ROS-LEHTINEN. Thank you, Professor.

Mr. Wu?

Ms. ROS-LEHTINEN. Thank you, Professor. Thank you for being with us. We wish you much success with your studies. Thank you for traveling so far for such a short time. I know you have to go even further, but your testimony has been very interesting. I do not know that I could divert my career to studying that. Thank you so much.

Now we are very proud to have with us a very good friend of our Subcommittee, Mr. Harry Wu.

Mr. WU. Thank you.

Ms. ROS-LEHTINEN. Your entire statement, as I said, will be part of the record. Please feel free to summarize in 5 minutes.

STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, THE LAOGAI RESEARCH FOUNDATION

Mr. WU. Madam Chairwoman, Members of the Committee, Congresswoman McKinney, it is my honor to appear before you in this hearing to discuss this important topic.

I would just like to make one comment because the Congresswoman asked Nancy Scheper-Hughes about the difference in organ harvesting in India and China. The organ harvesting in China is government business, but in India it is private business. The poor women want to sell their organs. In China, it is the executed prisoners, and only the government has the power to execute the people. That is the fundamental difference.

When I first heard the practices of organ harvesting in China, it was 1984, and I was preparing to leave China and come to the United States. The revelation of this practice brought a sense of dread to my soul. I had spent 19 years in the labor camps, a place where the space between life and death is often paper thin.

I knew that if I had died in the camps, my parents, my family, would never be told of my fate. 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. No one would remember me as an organ donor. Just like today, many of them we have to remember are organ donors.

Now that I am an American citizen, I also have become a volunteer organ donor, as evidenced by the red heart on my driver's license. This is my right, my dignity, and the way I identify myself with my civilized community. My decision, like thousands of others in America, is voluntary.

To start with, it is important to recognize the situation of organ procurement in China. According to Chinese cultural tradition, Chinese people often reject the idea of organ donation. Second, it is striking that no established system of volunteer organ donation exists in China in the last two decades. There is no national registry for people to sign for donation of their organs after they die.

Nevertheless, Chinese hospitals procure large supplies of organs. According to the report in the Chinese Journal of Organ Transplantation, over 25,000 kidney transplants have been completed in China in the past 20 years.

The entire system of organ harvesting in China would not be possible were it not for the Chinese Government's policy involving capital punishment. Since Amnesty International began publication of records for worldwide executions in 1991, China has held the distinction of conducting more executions every year than the rest of the world combined.

Fourth, it is necessary to manage the rule of the Chinese law or lack of law in organ harvesting. The Chinese government issued its first national directive on executed prisoners and organs for transplants in 1984. Here is the document. This document, the so-called Provisional Regulations on the Use of Dead Bodies or Organs From Condemned Criminals, has been discussed before this Committee and others through the years.

Although it is signed by several ministries, even this document is simply a directive. It is not law. It was never passed through the Chinese Communist People's Congress. It establishes a practice so that the orders are carried out to the benefit of the Chinese Communist Government.

Fifth, an unwritten policy list stating the following organ transplant recipients. No. 1, high ranking government officials and members of the military; No. 2, wealthy overseas Chinese and other foreigners; No. 3, wealthy Chinese; and then, No. 4, the common citizen.

Recent press reports have printed stories describing the journeys of patients who travel from Thailand, Malaysia, Hong Kong and other nations, including the United States, receive a kidney transplant, paying prices that generally total about $30,000.

In China, the practice actually is known that if anyone has a disease and needs an organ then the doctors will simply tell them just wait for the next execution.

Sixth, it must be stressed that Chinese government officials play integral roles in every step of the organ harvesting procedure from the sentencing of prisoners to death to the extraction and the transplantation of their organs.

In the courtroom, the Judge and other court officials provide for a rapid turnover of appeals to the death sentence to ensure that a prisoner will be executed at the best time to harvest an organ for the waiting patient. Court officials inform doctors when they

pass down the death sentences, alerting them to contact the prison to make a match for the transplant patients.

Guards and other officials at detention centers allow doctors into the prison to administer tests to determine donors for their patients. They also set execution dates and ensure that the family will not be notified until after the execution is already carried out.

Most horrifically, doctors are brought into intimate contact with the execution system as they perform organ extraction directly on the execution site within seconds after the victim has been shot. I think later Dr. Wang will tell the story.

Now I will return briefly to documents I mentioned earlier, the 1984 Provisional Regulations. It is important to note the stipulations of this document that provide for and indeed require secrecy throughout the procedures or organ harvesting. The Chinese Government states the following instructions for officials in harvesting the organs of executed prisoners:

> "Use of dead bodies and organs from condemned criminals must be kept strictly confidential. Vehicles with the logo of the medical institutions are not to be used, and white clinic garments should not be worn."

Officials from courts, prisons and hospitals are guaranteed that there will not be oversight of their procedures. The law provides for their security. As for the prisoners and their families, they have no rights and no protection.

We protest that because the document talks about consent of prisoners and their families. That offers some degree of protection. I must state several objections to this argument.

First of all, officials of the Chinese Government have never produced any piece of paper or any evidence that demonstrates the confirmation of consent from a prisoner who is willing to donate his or her organs in the last 20 years. Additionally, according to several reputable organizations of medical ethicists, even if such evidence were produced it would be meaningless.

I think you know the story of what happened in the Auschwitz camp, the plant that exterminated the Jews. You know in the Nuremberg trials what was said.

China's death row, where prisoners are shackled to the ground 24 hours a day while they await execution, hardly produces an environment for the prisoners to offer informed consent for organ donation. The use of that kind of consent is not workable.

So now we stand with the question before us, a question that has been presented at other hearings on this topic in previous years. What can the United States of America do about this terrible violation of human rights in China?

Today, the Honorable Chairwoman proposed a resolution, H.R. 2030, to prohibit admission to the United States of any physician who is a citizen of the People's Republic of China and who seeks to enter for the purpose of training in organ transplanting and transportation.

I think this is a very strong message to the Chinese Government, to the Chinese people and the Chinese doctors because we see these physicians involved in organ transplants are involved in crime, involved in murder.

I hope the resolution will pass through this body and through the United States Senate to become legislation that prevents U.S. institutions from supporting Chinese doctors who practice in this horrible practice, participate in this horrible practice.

Ms. ROS-LEHTINEN. Mr. Wu, if you could summarize? Thank you.

Mr. WU. I want to present this report to this Committee. I just want to mention what the Chinese Communists call charity. The Chinese Government always says well, we are using the waste. These criminals are bad guys. They deserve the punishment of death. There will be waste, so we are using the waste to help other people continue their life. They call this charity.

We know that there are thousands of Chinese who are suffering from organ diseases, from kidney disease or heart disease. There are a lot of people willing to sell organs. Why? To make money. To make hard currency. There is income in the world to make money from the harvesting of prisoners' organs. It did happen, and it does happen today in the People's Republic of China.

As I close my testimony, I urge you to ask yourselves, everyone. Can we remain silent any longer about such atrocities that reject human dignity and morality and tarnish civilization?

Thank you, Honorable Chairwoman and Congresswoman McKinney.

[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, THE LAOGAI RESEARCH FOUNDATION

Madam Chairwoman, members of the committee, it is an honor to appear before you in this hearing to discuss this important topic. I would first like to thank the Chairwoman for calling this hearing, for it has been more than three years now since the House of Representatives has heard testimony on the topic of organ harvesting from the executed prisoners of the People's Republic of China and during this time evidence continues to mount concerning this practice and its brutality. Because this Committee and others in both the House and the Senate have held hearings on this subject in the past, you have all heard of the existence of the practice of organ harvesting in China before. Today, I wish that my testimony and the testimonies of the other witnesses on this panel will not only confirm to you the persistence of this practice, but also reveal the dreadfulness of this practice and ruthlessness of its perpetrators.

When I first heard about organ harvesting in China it was 1985 and I was preparing to depart China for the United States. Revelation of this practice brought a sense of dread to my soul. I had spent nineteen years in the Chinese Laogai camps, a place where the space between life and death is often paper thin. I knew that if I had died in the camps, my family would never be told of my fate. Besides, the communists had forced them to completely disown me so even if they knew of my execution they would never claim my body or even inquire about whether I was buried or cremated. Such was the cruel reality of prisoners of my era. 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. No one would remember me as an "organ donor"—a term that connotes a caring person in the West, not a nameless, faceless prisoner as in China.

Now that I am an American citizen, I also have become a voluntary organ donor as evidenced by the red heart on my driver's license. That is my right, my dignity, the way I identify myself with my civilized community. My decision, like thousands of others in America, is voluntary.

From examination of Chinese government documents, we know that Chinese governmental involvement in the practice of organ harvesting began more than twenty years ago with the promulgation of the "Rules Concerning the Dissection of Corpses" in 1979 from China's Public Health Ministry. (See attachment I). This document asserts the legality of using corpses and organs of executed prisoners in experimental research procedures. In the 1981 "Reply Concerning the Question of the Utilization of Corpses of Criminals Sentenced to Death," the Chinese Ministry of Justice made

clear their approval of the practice. (See attachment II). This document describes organ harvesting as "very necessary from the standpoint of medical treatment and scientific research." These earlier rulings were soon followed by China's first national directive on executed prisoners and organs for transplant. This document, the Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals, was signed in 1984 and has been discussed before this Committee and others in previous years. (See attachment III). This document stipulates the conditions under which health personnel may harvest organs from executed prisoners, the procedures for coordination of prison and public security officials with transplant doctors, and the confidentiality of the process. Although it was promulgated at the national level, it is noteworthy that even this document is simply a directive. It is not law. It was never passed through the Chinese Peoples' Congress. It provides a basis, establishes a practice and so the orders are carried out to the benefit of the Chinese Communist Party. Is this not what we have seen in other examples of Chinese legal process that violate the rights of its citizens?

But this document, as shocking and significant as it may be, is only a piece of paper and the Committee has seen it before. Today I wish to examine the practice that lies behind this piece of paper and to discuss the details of what has developed and what persists in China today as a gross violation of human rights, medical ethics and human dignity.

The entire system of organ harvesting in China would not be possible were it not for the Chinese government's policy involving capital punishment. Since Amnesty International began publication of records for worldwide executions in 1993, China has continuously held the distinction of conducting more executions every year than the rest of the world combined. This figure remains constant despite that fact that Amnesty's recorded executions are limited to those published in China's open source press materials. They represent only a fraction of the true number, which in China is considered a state secret.

One cannot mention China's system of execution without also noting the role of the Strike Hard campaign, another tool of China's Communist government that enforces control throughout the Chinese population. The Strike Hard Campaign is based upon regulations drawn up in 1983 that allow for rapid administration of justice and call for heavy sentences to crackdown on targets of the campaign. During China's last implementation of the Strike Hard Campaign in 1996, the execution rate soared to a record of 4,367. On April 11, 2001, Chairman Jiang Zemin initiated another Strike Hard Campaign and according to reports from Agence France Presse, more than 1,000 were executed within the first six weeks. According to certain reports in both Chinese and Western press, one specific target of this campaign was Uighur nationalists in the Xinjiang Autonomous Region.

In times of political tension, Strike Hard Campaigns offer the government a tool to manipulate the public and increase governmental control. 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. Even outside of the Strike Hard Campaign, China's system of criminal justice stands in infamy for extracting confessions through torture and for blatant disregard of rights to due process.

Through this system, the Chinese government orchestrates large-scale execution and then continues to further dehumanize the victims of this policy through its system of organ harvesting. In China, the harvesting of organs from executed prisoners proceeds as an entirely government owned and controlled operation. It is completely different from black-market organ sales that are conducted between poverty stricken farmers and rich buyers in other developing nations. In China there is no chance that an individual donor may profit from selling his or her organ or even for a donor to offer consent for the use of their body in such procedures. In China such buying and selling between individuals is forbidden according to notices passed through the Ministry of Health in 1996 (See Attachment IV). What is legal is encoded in the 1984 Provisional Regulations on the Use of Organs or Dead Bodies from Condemned Criminals. The Chinese government controls and operates a system to harvest organs from executed prisoners and ensures its secrecy.

It is additionally striking that no other established system of organ donation exists in China. There is no national public registry for people to voluntarily register their consent to donate their organs after their death. Only this year small-scale experiments commenced in Shanghai to open a city-wide registry. That's as far as it goes outside of the source of thousands of executed prisoners.

Government officials play integral roles in every step of the organ harvesting procedure from the sentencing of prisoners to death to the extraction and transplantation of their organs. This begins in the courtroom as judges and other court officials provide for speedy adjudication of cases and rapid turn over of appeals to the

death sentence so as to ensure that a prisoner will be executed at the optimal time to harvest an organ for the waiting patient. Court officials also often inform doctors when they pass down death sentences, alerting them to contact the prison to make a match for transplant patients. The pattern continues as guards and other officials at detention centers allow doctors into the prison to administer tests to determine donors for their patients. They also set execution dates and ensure that the family will not be notified to prevent them from possibly disturbing the harvesting procedure. Finally, doctors at government owned hospitals carry out laboratory tests to match prisoners with patients prior to the execution. They also administer shots of anti-coagulents to prisoners on their way to the execution sites to provide for easier extraction of organs. Most horrifically, doctors are brought into intimate contact with the execution system as they perform organ extraction and transplantation often directly on the site and within seconds after the victim is shot.

As for the patients who receive transplants of organs extracted from the bodies of executed Chinese prisoners, one theme remains common—all recipients are among society's economic or political elite. As documented in several sources, in China an unwritten priority list states the following order for transplant recipients: 1) high ranking government officials or members of the military 2) wealthy overseas Chinese and other foreigners 3) members of the military and 4) the common citizen. Recent press reports from newspapers in the US, Hong Kong and the nations of South East Asia have printed stories describing the journeys of patients who travel from Thailand, Malaysia, Hong Kong and other nations to receive a kidney transplant paying prices that generally total to $30,000. This process generally begins in the patients' home country where brokers work as go-betweens to arrange for transportation and logistics. Once a patient arrives in China they will be immediately hospitalized and started on dialysis while awaiting the next execution. The hospital will receive notification from a prison official and will immediately begin administration of immuno-suppressant drugs to prepare the patient for the transplant operation.

Certain press reports have also included shocking estimates of the numbers of patients in each nation that travel to China every year in desperate search for a kidney. According to an Associated Press article in 1998, through 1997 at least 360 Taiwanese made the journey. During the same period, the Straits Times of Singapore states that at least forty-seven had come from Thailand. Later, another Straits Times article reported that at one military hospital in Chongqing, officials stated that of the 100 transplants performed at the hospital annually, most patients were from South East Asia. Finally, in one report from the International Herald Tribune, a Malaysian doctor estimates that approximately 1,000 Malaysians have received a kidney transplant in China.

Even as doctors perform the life-saving transplant operation, profit remains a primary motive. Former patients state that as they see doctors, they expect to hand out "red envelopes" to every physician they see. Their money also works its way up the chain as doctors pay prison officials for access to prisoners in matching of donors to recipients, and then for access to the execution site where organs are harvested. Court officials also receive payment for their role in delivering prompt verdicts in death penalty cases and for informing the hospital at the proper time.

As the drive for profit holds highest priority, doctors demonstrate clear disregard for medical ethics. According to reports in the International Herald Tribune about Malaysian patients traveling to China in June of 2000, patients stated that one woman ran out of money shortly after she had received her transplant. (See attachment V). She was still in recovery and required large amounts of immuno-suppressant medication to prevent rejection of her new kidney. When doctors found out she could not pay, they cut off her medication and the woman died. Reports in the South China Morning Post reveal stories of patients receiving liver transplants even though they are already into advanced stages of liver cancer. (See attachment VI). Not surprisingly two patients died soon after their transplant operations. Their disease was already too advanced for the procedure to offer a cure. In other nations these organs would go to healthier patients observing medical ethics of the principle of justice. In China, these patients were willing to pay for a transplant and that was all that mattered.

Returning to the document, the Provisional Regulations on the Use of Dead Bodies or Organs from Condemned Criminals, it is also important to note the stipulations of the document providing for and indeed requiring secrecy throughout the procedure of organ harvesting. The Chinese government states the following instructions for officials in harvesting the organs of executed prisoners:

"Use of dead bodies and organs from condemned criminals must be kept strictly confidential, . . . 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. After the dead bodies are used, the crematorium shall assist the units in timely cremation."

Through this provision, the government opens wide the door for abuse and closes the door to oversight. Eye-witness accounts of organ harvesting attest to strict adherence to these regulations. In one case recorded by private investigator Cheng Weimin in May, 1999 in Xinyang City, Henan Province, the witness stated the following:

"Two of the corpses were loaded onto a white car, one onto an ambulance . . . The white car and the ambulance's license plates were covered and the windows tinted and the doors sealed." (See attachment VII and VIII)

Such provisions virtually give those involved in the organ harvesting process license to trample the rights of the prisoner. Officials from courts, prisons and hospitals are guaranteed there will be no independent oversight of their procedures; the law protects them with clauses providing for their secrecy. As for the prisoners and their families, they have no rights and no protections. Neither in this law nor in any other of the Chinese government are provisions included regarding punishment of officials who abuse the rights of prisoners and their families in the process of organ harvesting.

Some may protest that provisions regarding consent of prisoners and their families offer some degree of protection. I must state several objections to this argument. First of all, in the past two decades of history of this practice, never has any official of the Chinese government produced any piece of paper or other evidence to demonstrate confirmation of consent from a prisoner who willingly donated his or her organs. Additionally, according to several reputable organizations of medical ethicists, even if such evidence were produced it would be meaningless. China's death row, where prisoners are shackled to the ground twenty-four hours a day while they await execution hardly produces an environment conducive to informed and voluntary consent for organ donation. On the contrary, the environment produces a situation of duress where prisoners are easily manipulated and their rights ignored. The testimony of one Chinese doctor by the name of Yang Jun demonstrates the manipulation of prisoners in obtaining consent to harvest their organs. (See attachment IX). I quote from Dr. Yang's testimony as he describes the situation in a Chinese prison where a prisoner has been matched with a potential kidney transplant patient:

"In Hailin Prison . . . 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 to the floor . . . Prisoners appointed by the prison police fed him one meal a day . . . After the prisoner told the administration that he was willing to donate his organs and he had signed his consent, the ground shackle was unlocked and he gained relative freedom with only handcuffs and leg irons. Nourishment was improved to enhance his physical condition and to ensure top performance of his organs."

The World Medical Association, an organization where both China and America hold membership, states the following regarding free and voluntary consent relevant to procedures of organ harvesting in China: (See Attachment X):

. . . No physician may therefore assume responsibility in organ transplantation unless the rights of the donor and the recipient are fully protected

The fullest possible discussion of the proposed procedure with the donor and the recipient . . . is mandatory . . . Free and informed consent must always be obtained

. . . The purchase and sale of human organs for transplantation is condemned

So now we stand with a question before us, a question that has been presented at other hearings on this topic in previous years: What can the United States government do about this egregious violation of human rights that occurs in China? Despite the fact that the Chinese government carries out this procedure fully within its own system of governance, I believe there are several options of response that are available and are certainly warranted in the US.

There is a measure that stands before this committee today that I believe is highly relevant to the US stance on the practice of organ harvesting in China. Today at Harvard University there is a Conference underway entitled "Health Care East and West." At least two of the Chinese doctors attending this conference are renowned in Chinese organ transplant journals as experts of organ transplantation. The first of these is Dr. Huang Jiefu, a liver transplant specialist at Sun Yatsen University First Affiliated Hospital in Guangzhou. This same hospital was highlighted in a series of articles in the South China Morning Post in March, 2000 for their sale of liver transplants using organs from executed prisoners for patients from Hong Kong. The other doctor, Dr. Wu Jieping, a leading kidney specialist, is published in several articles of the China's most renowned journal on organ trans-

plantation. So now, the very same doctors that participate in human rights violations in China are participating in medical conferences in the United States to enlighten our doctors on their medical practices and also to benefit from our advances in medical care. When I discussed this with the honorable chairwoman of this Subcommittee, she proposed the resolution H.R. 2030 to prohibit issuance of a visa or admission to the United States of any physician who is a citizen of the People's Republic of China and who seeks to enter for the purpose of training in organ or bodily tissue transplantation. Many of you have already offered your support for this measure. I hope this resolution will pass through this body and through the United States Senate to confirm legislation that prevents US institutions from knowingly or unknowingly supporting Chinese doctors who participate in this egregious practice.

As I recount this horrible practice to you, I cannot help but recall my visit to Auschwitz. Suppose I had been a physician in 1943 or 1944 who loathed the Nazi policy of exterminating the Jews and other "inferior races." However, 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.

Perhaps even more importantly, the US government must recognize the existence of this practice and state its firm opposition to its continuation. Currently, in the State Department's yearly Human Rights Report on China, the following is included regarding the practice of organ harvesting:

"In recent years credible reports have alleged that organs from some executed prisoners were removed, sold and transplanted. Officials have confirmed that executed prisoners were among the sources of organs for transplant but maintain that consent is required from prisoners or their relatives before organs are removed. There is no national law governing organ donations, but a Ministy of Health directive explicitly states that buying and selling human organs and tissues is not allowed. In February 1998, two Chinese nationals were charged in a foreign court with attempting to sell human organs allegedly taken from the bodies of executed prisoner; the charges were dropped in November. At least one Western country has asked repeatedly for information on government investigations of alleged organ trafficking, but to date no information has been released. There have been credible reports in the past that patients from abroad had undergone organ transplant operations on the mainland, using organs removed from criminals."

What would it take for the State Department to simply recognize that the organs are harvested from executed prisoners in China, to say that the practice exists as opposed to saying that credible reports allege it exists? In their report the State Department has mentioned one Western country that has sought information from government investigations. Has the Chinese government ever released any investigation offering information on human rights abuses against its people? Would we ever expect the Chinese government to release information on a practice that according to their own law is explicitly classified as a state secret?

Three years ago I stood before this committee with a bibliography listing ninety-five items mentioning the practice of organ harvesting in some capacity. Today, I stand before you again with a comprehensive report on organ harvesting from the executed prisoners of China. This report includes information from ninety-four sources, less than twenty of which were included in my bibliography of sources presented in 1998. How many more newspapers must print stories on foreigners trav-

eling to China to receive transplants of organs harvested from executed prisoners? How many more Chinese transplant doctors must I interview and bring before you to testify of their experiences? How many more patients from Thailand, Malaysia, Japan or Hong Kong must tell their stories of receiving transplants in China and knowing that they were receiving organs from an executed prisoner?

I present this report to the Committee and to all present at this hearing today and submit it to the public record as one hundred and thirty pages of evidence to confirm the practice of organ harvesting among executed prisoners in China. This report is not scattered allegations, this report along with all others that have come before it represent more than "credible evidence." They represent confirmation that organs are harvested from executed prisoners in the People's Republic of China, that the government does condone and indeed participate in this practice and that it persists as a profit generating internationally marketed enterprise. In 1995, after the first hearing on this topic in the US Senate, Secretary of State Warren Christopher stated that if such allegations of organ harvesting are true, that it would comprise "one of the grossest of human rights violations." These words were repeated before this committee by Assistant Secretary John Shattuck at the hearing in June of 1998. This report represents the truth, and that is what should be said in the human rights report from the US State Department.

Ultimately, the Chinese government has created a system to make it possible for officials to harvest organs from any prisoner that they so desire. The entire process from execution to transplantation is regarded as state secrets. Families are often not notified of the date of the execution until after it is already carried out, making it impossible for them to offer consent for the harvesting of organs. Prisoners are manipulated and victimized to the point that any consent they could offer is rendered meaningless. If there is a paying patient, once a prisoner is found to supply an organ, the organ will be obtained. In the end, once doctors determine that a prisoner's organs are fit for transplant into a waiting patient, the prisoner becomes nothing more than a walking incubator holding a kidney that is destined for someone else, a tool to generate profit for the Chinese prison system, Chinese military and civilian hospitals, and the Chinese Communist government.

The Chinese regime executes more prisoners every year than the rest of the world combined. This produces a huge number of organs to harvest. It is unprecedented that a government has profited from this harvesting on the scale that is evident in China and for as long as this practice has ensued.

Now as I close my testimony, I urge you to ask yourselves, Can we remain silent any longer about such atrocities that reject human dignity and morality and tarnish civilization?

I thank the honorable Chairwoman and the Committee for their time and will be happy to answer any questions.

最高人民法院
最高人民检察院
公安部　司法部
卫生部　民政部
关于利用死刑罪犯尸体或尸体器官的暂行规定

（1984年10月9日）

各省、自治区、直辖市高级人民法院、人民检察院、公安厅（局）、司法厅（局）、卫生厅（局）、民政厅（局）：

随着我国医学事业的发展，一些医疗、医学教育、医学科研单位为进行科学研究或做器官移植手术，提出了利用死刑罪犯尸体或尸体器官的要求。为了支持医学事业的发展，有利于移风易俗，在严格执行法律规定、注意政治影响的前提下，对利用死刑罪犯的尸体或尸体器官问题，特作规定如下：

（一）对判处死刑立即执行的罪犯，必须按照刑法有关规定，“用枪决的方法执行”。执行完毕，经临场监督的检察员确认死亡后，尸体方可做其他处理。

（二）死刑罪犯执行后的尸体或火化后的骨灰，可以允许其家属认领。

（三）以下几种死刑罪犯尸体或尸体器官可供利用：

1.无人收殓或家属拒绝收殓的；

2.死刑罪犯自愿将尸体交医疗卫生单位利用的；

3.经家属同意利用的。

（四）利用死刑罪犯尸体或尸体器官，应按下列规定办理：

1.利用单位必须具备医学科学研究或移植手术的技术水平和设备条件，经所在省、市、自治区卫生厅（局）审查批准发给《特许证》，并到本市或地区卫生局备案。

2.尸体利用统一由市或地区卫生局负责安排，根据需要的轻重缓急和综合利用原则，分别同执行死刑的人民法院和利用单位进行联系。

3.死刑执行命令下达后，遇有可以直接利用的尸体，人民法院应提前通知市或地区卫生局，由卫生局转告利用单位，并发给利用单位利用尸体的证明，将副本抄送负责执行死刑的人民法院和负责临场监督的人民检察院。利用单位应主动同人民法院联系，不得延误人民法院执行死刑的法定时限。

对需征得家属同意方可利用的尸体，由人民法院通知卫生部门同家属协商，并就尸体利用范围、利用后的处理方法和处理费用以及经济补偿等问题达成书面协议。市或地区卫生局根据协议发给利用单位利用尸体的证明，并抄送有关单位。

死刑罪犯自愿将尸体交医疗单位利用的，应有由死刑罪犯签名的正式书面证明或记载存人民法院备查。

4.利用死刑罪犯尸体或尸体器官要严格保密，注意影响，一般应在利用单位内部进行。确有必要时，经执行死刑的人民法院同意，可以允许卫生部门的手术车开到刑场摘取器官，但不得使用有卫生部门标志的车辆，不准穿白大衣。摘取手术未完成时，不得解除刑场警戒。

5.尸体被利用后，由火化场协助利用单位及时火化，如需埋葬或做其他处理的，由利用单位负责；如有家属要求领取骨灰的，由人民法院通知家属前往火化场所领取。

（五）在仅族地区原则上不利用少数民族死刑罪犯的尸体或尸体器官。

在少数民族聚居地区，执行本规定时，要尊重少数民族的丧葬习惯。

Re-typed for clarity

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 an 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.

(Retyped for Clarity)

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, No, 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 Qi-Chao, ZHAO Wei, ZHANG Jian-Yong'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 license plates were covered, the windows were tinted and doors tight-sealed. The license plates and doors of the car that loaded Bu's Corpse were not covered or sealed.

WAN Qi-Chao, ZHAO Wei, ZHANG Jian-Yong'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 Qi-Chao's body. It was past 11:00 a.m., but WAN Qi-Chao, ZHAO Wei, ZHANG Jian-Yong 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 WANG Qi-Chao's aunt HU You-Zhen. 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

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 hear-lung transplant surgery. However, seventy-two hours later, the recipient died from sudden rejection of the donor organ.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Wu, for the powerful testimony.

Mr. Wang?

STATEMENT OF WANG GUOQI, FORMER DOCTOR, CHINESE PEOPLE'S LIBERATION ARMY HOSPITAL

Dr. WANG. Thank you very much that I can make my testimony here today.

My name is Wang Guoqi, and I am a 38-year-old physician from the People's Republic of China. In 1981, after graduating from the high school, I joined the People's Liberation Army. By 1984, I was studying medicine at the Paramilitary Police School. I received advanced degrees in surgery and human tissue studies and consequently became a specialist in the burn victims unit at the Paramilitary Police Tianjin General Brigade Hospital in Tianjin.

My work required me to remove skin and corneas from the corpses of over 100 executed prisoners and on a couple of occasions victims of intentionally botched executions. It is with deep regret and remorse for my actions that I stand here today testifying against the practices of organ and tissue sales from death row prisoners.

Acquiring skin from executed prisoners usually took place around major holidays or during the government's Strike Hard campaign when prisoners would be executed in groups. Section Chief Xing would notify us of upcoming executions. We would put an order in for the number of corpses we would like to dissect, and I would give him $300 RMB, $35 U.S. dollars, per cadaver. The money exchange took place at the Higher People's Court, and no receipts or evidence of the transaction would be exchanged.

Once notified of an execution, our section would prepare all necessary equipment and arrive at the Beicang Crematorium in plain clothes with all official license plates on our vehicles replaced with civilian ones. This was done on orders from the criminal investigation section.

Before removing the skin, we would cut off the ropes that bound the criminals' hands and remove their clothing. Each criminal had identification papers in his or her pocket that detailed the executee's name, age, profession, work unit, address and crime. Nowhere on these papers was there any mention of voluntary organ donation, and clearly the prisoners did not know how their bodies would be used after death.

We had to work quickly in the crematorium, and ten to 20 minutes were generally enough to remove all skin from a corpse. Whatever remained was passed over to the crematorium workers. Between five and eight times a year, the hospital sent a number of teams to execution sites to harvest skin. Each team could process up to four corpses, and they would take as much as was demanded by both our hospital and fraternal hospitals. Because this system allowed us to treat so many burn victims, our department became the most reputable and profitable department in Tianjin.

Huge profits prompted our hospital to urge other departments to design similar programs. The urology department thus began its program of kidney transplant surgeries. The complexity of the surgery called for a price of $120 to $150,000 RMB per kidney.

With such high prices, primarily wealthy or high ranking people were able to buy kidneys. If they had the money, the first step would be to find a donor/recipient match. In the first case of kidney transplantation in August, 1990, I accompanied the urology surgeon to the higher court and prison to collect blood samples from four death row prisoners.

The policeman escorting us told the prisoners that we were there to check their health conditions. Therefore, the prisoners did not know the purpose for their blood samples or that their organs might be up for sale. Out of the four samplings, one basic and subgroup blood match was found for the recipient, and the prisoner's kidneys were deemed fit for transplantation.

Once a donor was confirmed, our hospital held a joint meeting with the urology department, burn surgery department and operating room personnel. We scheduled tentative plans to prepare the recipient for the coming kidney and discussed concrete issues of transportation and personnel.

Two days before execution, we received final confirmation from the Higher Court, and on the day of the execution we arrived at the execution site in plain clothes. In the morning, the donating prisoner had received a heparin shot to prevent blood clotting and ease the organ extraction process. When all military personnel and condemned prisoners would arrive at the site, the organ donating prisoner was brought forth for the first execution.

At the execution site, a colleague, Xing Tongyi, and I were responsible for carrying the stretcher. Once the handcuffed and leg ironed prisoner had been shot, a bailiff removed the leg irons. Xing Tongyi and I had 15 seconds to bring the executee to the waiting ambulance. Inside the ambulance, the best urologist surgeons removed both kidneys and rushed back to the waiting recipient at the hospital.

Meanwhile, our burn surgery department waited for the execution of the following three prisoners and followed their corpses to the crematorium where we removed skin in a small room next to the furnaces. Since our director had business ties with the Tianjin Ophthalmologic Hospital and Beijing's 304th Hospital, he instructed us to extract the executees' corneas as well.

Although I performed this procedure nearly 100 times in the following years, it was an incident in October, 1995, that has tortured my conscience to no end. We were sent to Hebei Province to extract kidneys and skin. We arrived 1 day before the execution of a man sentenced to death for robbery and the murder of a would be witness.

Before execution, I administered a shot of heparin to prevent blood clotting to the prisoner. A nearby policeman told him it was a tranquilizer to prevent unnecessary suffering during the execution. The criminal responded by giving thanks to the government.

At the site the execution commander gave the order, "Go," and the prisoner was shot to the ground. Either because the executioner was nervous, aimed poorly or intentionally misfired to keep the organs intact, the prisoner had not yet died, but instead lay convulsing on the ground. We were ordered to take him to the ambulance anyway where urologists Wang Shifu, Zhao Qingling and Liu Qiyou extracted his kidneys quickly and precisely.

When they finished, the prisoner was still breathing, and his heart continued to beat. The execution commander asked if they might fire a second shot to finish him off, to which the county court staff replied, "Save that shot. With both kidneys out, there is no way he can survive."

The urologists rushed back to the hospital with the kidneys. The county staff and executioner left the scene, and eventually the paramilitary policemen disappeared as well. We burn surgeons remained inside the ambulance to harvest the skin.

We could hear people outside the ambulance, and, fearing it was the victim's family who might force their way inside, we left our job half done. The half dead corpse was thrown into a plastic bag onto the flatbed of the crematorium truck. As we left in the ambulance, we were pelted by stones from behind.

After this incident, I have had horrible, reoccurring nightmares. I have participated in a practice that serves the regime's political and economic goals far more than it benefits the patients.

I have worked at execution sites over a dozen times and have taken the skin from over 100 prisoners in crematoriums. Whatever impact I have made in the lives of burn victims and transplant patients does not excuse the unethical and immoral manner of extracting organs.

Ms. ROS-LEHTINEN. Dr. Wang? I am sorry.

If you could ask in your translation to briefly summarize. We have given a little bit of time considering the translation, but you are still a little over.

Ms. GILL. Yes. This is the last paragraph.

Ms. ROS-LEHTINEN. Great. Thank you.

Dr. WANG. I resolved to no longer participate in the organ business, and my wife supported my decision. I submitted a written report requesting reassignment to another job. This request was flatly denied on the grounds that no other job matches my skills.

I began to refuse to take part in outings to execution sites and crematoriums, to which the hospital responded by blaming and criticizing me for my refusals. I was forced to submit a pledge that I would never expose their practices of procuring organs and the process by which the organs and skin were preserved and sold for huge profits

They threatened me with severe consequences and began to train my replacement. Until the day I left China in the spring of 2000, they were still harvesting organs from execution sites.

I hereby expose all of these terrible things to the light in the hope that this will help to put an end to this evil practice.

Thank you.

[The prepared statement of Dr. Wang follows:]

PREPARED STATEMENT OF WANG GUOQI, FORMER DOCTOR, CHINESE PEOPLE'S LIBERATION ARMY HOSPITAL

My name is Wang Guoqi and I am a 38-year-old physician from the People's Republic of China. In 1981, after standard childhood schooling and graduation, I joined the People's Liberation Army. By 1984, I was studying medicine at the Paramilitary Police Paramedical School. I received advanced degrees in Surgery and Human Tissue Studies, and consequently became a specialist in the burn victims unit at the Paramilitary Police Tianjin General Brigade Hospital in Tianjin. My work required me to remove skin and corneas from the corpses of over one hundred executed prisoners, and, on a couple of occasions, victims of intentionally botched executions. It

is with deep regret and remorse for my actions that I stand here today testifying against the practices of organ and tissue sales from death row prisoners.

My involvement in harvesting the skin from prisoners began while performing research on cadavers at the Beijing People's Liberation Army Surgeons Advanced Studies School, in Beijing's 304th Hospital. This hospital is directly subordinate to the PLA, and so connections between doctors and officers were very close. In order to secure a corpse from the execution grounds, security officers and court units were given "red envelopes" with cash amounting to anywhere between 200–500 RMB per corpse. Then, after execution, the body would be rushed to the autopsy room rather than the crematorium, and we would extract skin, kidneys, livers, bones, and corneas for research and experimental purposes. I learned the process of preserving human skin and tissue for burn victims, and skin was subsequently sold to needy burn victims for 10 RMB per square centimeter.

After completing my studies in Beijing, and returning to Tianjin's Paramilitary Police General Brigade Hospital, I assisted hospital directors Liu Lingfeng and Song Heping in acquiring the necessary equipment to build China's first skin and tissue storehouse. Soon afterward, I established close ties with Section Chief Xing, a criminal investigator of the Tianjin Higher People's Court.

Acquiring skin from executed prisoners usually took place around major holidays or during the government's Strike Hard campaigns, when prisoners would be executed in groups. Section Chief Xing would notify us of upcoming executions. We would put an order in for the number of corpses we'd like to dissect, and I would give him 300 RMB per cadaver. The money exchange took place at the Higher People's Court, and no receipts or evidence of the transaction would be exchanged.

Once notified of an execution, our section would prepare all necessary equipment and arrive at the Beicang Crematorium in plain clothes with all official license plates on our vehicles replaced with civilian ones. This was done on orders of the criminal investigation section. Before removing the skin, we would cut off the ropes that bound the criminals' hands and remove their clothing. Each criminal had identification papers in his or her pocket that detailed the executee's name, age, profession, work unit, address, and crime. Nowhere on these papers was there any mention of voluntary organ donation, and clearly the prisoners did not know how their bodies would be used after death.

We had to work quickly in the crematorium, and 10–20 minutes were generally enough to remove all skin from a corpse. Whatever remained was passed over to the crematorium workers. Between five and eight times a year, the hospital would send a number of teams to execution sites to harvest skin. Each team could process up to four corpes, and they would take as much as was demanded by both our hospital and fraternal hospitals. Because this system allowed us to treat so many burn victims, our department became the most reputable and profitable department in Tianjin.

Huge profits prompted our hospital to urge other departments to design similar programs. The urology department thus began its program of kidney transplant surgeries. The complexity of the surgery called for a price of $120–150,000 RMB per kidney.

With such high prices, primarily wealthy or high-ranking people were able to buy kidneys. If they had the money, the first step would be to find a donor-recipient match. In the first case of kidney transplantation in August, 1990, I accompanied the urology surgeon to the higher court and prison to collect blood samples from four death-row prisoners. The policeman escorting us told the prisoners that we were there to check their health conditions; therefore, the prisoners did not know the purpose for their blood samples or that their organs might be up for sale. Out of the four samplings, one basic and sub-group blood match was found for the recipient, and the prisoner's kidneys were deemed fit for transplantation.

Once a donor was confirmed, our hospital held a joint meeting with the urology department, burn surgery department, and operating room personnel. We scheduled tentative plans to prepare the recipient for the coming kidney and discussed concrete issues of transportation and personnel. Two days before execution, we received final confirmation from the higher court, and on the day of the execution, we arrived at the execution site in plain clothes. In the morning, the donating prisoner had received a heparin shot to prevent blood clotting and ease the organ extraction process. When all military personnel and condemned prisoners would arrive at the site, the organ-donating prisoner was brought forth for the first execution.

At the execution site, a colleague, Xing Tongyi, and I were responsible for carrying the stretcher. Once the hand-cuffed and leg-ironed prisoner had been shot, a bailiff removed the leg irons. Xing Tongyi and I had 15 seconds to bring the executee to the waiting ambulance. Inside the ambulance, the best urologist surgeons removed both kidneys, and rushed back to the waiting recipient at the hospital. Meanwhile,

our burn surgery department waited for the execution of the following three prisoners, and followed their corpses to the crematorium where we removed skin in a small room next to the furnaces. Since our director had business ties with the Tianjin Ophthalmologic Hospital and Beijing's 304th Hospital, he instructed us to extract the executee's corneas as well.

Although I performed this procedure nearly a hundred times in the following years, it was an incident in October 1995 that has tortured my conscience to no end. We were sent to Hebei Province to extract kidneys and skin. We arrived one day before the execution of a man sentenced to death for robbery and the murder of a would-be witness. Before execution, I administered a shot of heparin to prevent blood clotting to the prisoner. A nearby policeman told him it was a tranquilizer to prevent unnecessary suffering during the execution. The criminal responded by giving thanks to the government.

At the site, the execution commander gave the order, "Go!," and the prisoner was shot to the ground. Either because the executioner was nervous, aimed poorly, or intentionally misfired to keep the organs intact, the prisoner had not yet died, but instead lay convulsing on the ground. We were ordered to take him to the ambulance anyway where urologists Wang Zhifu, Zhao Qingling and Liu Qiyou extracted his kidneys quickly and precisely. When they finished, the prisoner was still breathing and his heart continued to beat. The execution commander asked if they might fire a second shot to finish him off, to which the county court staff replied, "Save that shot. With both kidneys out, there is no way he can survive." The urologists rushed back to the hospital with the kidneys, the county staff and executioner left the scene, and eventually the paramilitary policemen disappeared as well. We burn surgeons remained inside the ambulance to harvest the skin. We could hear people outside the ambulance, and fearing it was the victim's family who might force their way inside, we left our job half-done, and the half-dead corpse was thrown in a plastic bag onto the flatbed of the crematorium truck. As we left in the ambulance, we were pelted by stones from behind.

After this incident, I have had horrible, reoccurring nightmares. I have participated in a practice that serves the regime's political and economic goals far more than it benefits the patients. I have worked at execution sites over a dozen times, and have taken the skin from over one hundred prisoners in crematoriums. Whatever impact I have made in the lives of burn victims and transplant patients does not excuse the unethical and immoral manner of extracting organs.

I resolved to no longer participate in the organ business, and my wife supported my decision. I submitted a written report requesting reassignment to another job. This request was flatly denied on the grounds that no other job matched my skills. I began to refuse to take part in outings to execution sites and crematoriums, to which the hospital responded by blaming and criticizing me for my refusals. I was forced to submit a pledge that I would never expose their practices of procuring organs and the process by which the organs and skin were preserved and sold for huge profits. They threatened me with severe consequences, and began to train my replacement. Until the day I left China in the spring of 2000, they were still harvesting organs from execution sites.

I hereby expose all these terrible things to the light in the hope that this will help to put an end to this evil practice.

Ms. ROS-LEHTINEN. Thank you so much. Thank you for your testimony. We will be looking out for your family, and the State Department has committed to do the same.

Dr. Diflo?

STATEMENT OF THOMAS DIFLO, M.D., DIRECTOR, RENAL TRANSPLANT PROGRAM, NEW YORK UNIVERSITY MEDICAL CENTER

Dr. DIFLO. Congresswoman Ros-Lehtinen, ladies and gentlemen, thank you very much for asking me to testify today. My name is Dr. Tom Diflo, and I am the director of kidney transplantation at New York University Medical Center.

In order to obtain a kidney transplant, patients with kidney failure register at transplant centers and are placed on a waiting list. The more fortunate of these patients have relatives, friends or

spouses who are willing to donate a kidney to them so that they may be transplanted more quickly.

In the absence of such a living donor, the waiting time until an appropriate organ becomes available can be quite prolonged, up to 5 to 8 years in some parts of the United States and considerably longer in some other parts of the world. Not surprisingly, this can sometimes lead to desperate acts.

Three years ago, one of the patients whom I had been following on our waiting list returned from a trip to China. To my surprise, she had undergone a transplant while she was there. Her post-operative care had been good, and she had excellent function of the transplanted kidney. When I asked her from whom she had gotten the kidney she was vague, saying that it was from a distant cousin. I thought the whole circumstance a little odd, but did not dwell upon it.

Over the subsequent years, I have seen a number of patients with similar stories. Four or five patients whom I had not seen before came to our office for follow up. They were all young Chinese-Americans who had excellent function of their newly transplanted kidneys, recently returned from China. Several more were vague as to their origin of their kidneys. Some cited distant relatives, and others said they did not know.

Recently, however, several patients have given me the response, "From an executed prisoner." I suppose that I should not have been so surprised to get that answer, but I was surprised nonetheless. As I psychologically recoiled, I thought to myself, "What am I going to do here?" These were patients who needed and deserved our good care, yet they had obtained their organs under what I considered morally and ethically reprehensible circumstances.

Therefore, I brought my concerns to the Ethics Committee at our hospital. As a result of professional and personal contact of other Committee Members, I was eventually put in touch with a reporter from the Village Voice by the name of Eric Barr.

The conclusion that I had come to was this. I could not and would not compromise the care of my patients no matter what I felt about the circumstances surrounding their transplants. I could, however, try to get to the root of the problem by attempting to spread the word.

My conversations with the Voice reporter eventually led to an article in that publication on May 8, 2001, entitled China's Execution, Inc. Since then, I have been contacted by numerous radio talk shows, magazines, newspapers and local news programs for interviews, as well as by Harry Wu. It is ultimately at his behest that I am appearing before this Committee today.

Unfortunately, reports about organ trafficking, the sale and brokering of organs and the transplantation of organs from executed prisoners in China have become more commonplace recently. This is because of an unfortunate application of one of the laws of economics to health care, the law of supply and demand.

In 1984, the National Organ Transplant Act was passed, which strictly prohibits the sale of or trafficking in organs for transplantation. This act also established the United Network for Organ Sharing or UNOS, a private, non-profit organization which was charged with codifying and streamlining transplantation activity in

the United States. UNOS serves as a nationwide organizational force, as well as the major repository for data regarding transplantation.

The establishment of UNOS has, unfortunately, not changed one fundamental problem in transplantation. There are not enough organs to go around. As of last week, there were almost 77,000 people registered with UNOS as awaiting an organ transplant in the United States. Of these, 49,000 were waiting for kidney transplants.

In the 10 years from 1990 to 1999, the total number of people registered with UNOS increased from 22,000 to 72,000, an increase of 230 percent. During the same time period, the number of cadaveric donors increased from 4,500 to 5,800, an increase of only 29 percent.

In the year 2000, only 28 percent of the people on the kidney list were transplanted, while an additional 6 percent died while waiting. In many areas of the world, the organ shortage problem is even more acute. Particularly in countries where cultural or religious rules do not allow recognition of brain death, the number of cadaver donors is vanishingly small. This is the situation in many countries in the Far East.

Partially in response to this, but more so in response to economic factors, China has adopted the policy of use of the organs of executed prisoners for transplantation. The Chinese Government has denied that organs are harvested from executed prisoners, but in 1984 the government issued regulations stipulating the methods of execution and the circumstances under which the dead bodies or organs could be used. These regulations are a disingenuous technique by the government to assure consent from the prisoners no matter what the actual desire of the individual or his family.

Consent is only one of the issues raised by these circumstances. The concept of brain death is not well defined or fully accepted in China. As there is no requirement for certifying brain death prior to organ procurement, this can lead to the potential for procuring organs from prisoners who are not brain dead, as we have heard today.

There are numerous eyewitness accounts of continued movement and heart activity in some of the prisoner/donors, indicating that these people have been subject to the removal of their organs while they are, strictly speaking, still alive.

Finally, there is the issue of the intimate involvement of the transplant physicians and surgeons regarding the executions and procurements. None of this would happen without the agreement and full participation of the doctors involved. This obviously represents a significant breach of medical ethics for these doctors in that the primary tenet of our profession, to do no harm, is violated on a continuous and ongoing basis.

I am neither a politician nor an expert in international relations. I do witness firsthand the suffering of my patients as they wait seemingly endlessly for organs to become available for their transplants.

My hope in appearing before this Committee today is twofold. First, I hope to point out that the rumors and allegations about the use of prisoners' organs in China are unequivocally true. As a

transplant surgeon, I have no power and little influence to dictate international policy toward China, but as the Committee on International Relations of the House of Representatives you do.

I would urge the implementation of any sanctions or actions that can be taken against China to force them to cease and desist in this outrageous violation of human rights.

My second desire is to emphasize once again the importance of organ donation, which is currently the only way that we are able to address the tremendous inequity between the needs of our patients and the organs available.

Thank you very much for your attention.

[The prepared statement of Dr. Diflo follows:]

PREPARED STATEMENT OF THOMAS DIFLO, M.D., DIRECTOR, RENAL TRANSPLANT PROGRAM, NEW YORK UNIVERSITY MEDICAL CENTER

INTRODUCTION

In order to obtain a kidney transplant, patients with kidney failure register at transplant centers and are placed on a waiting list. The more fortunate of these patients have relatives, friends or spouses who are willing to donate a kidney to them, so they may be transplanted more quickly. In the absence of such a living donor, the waiting time until an appropriate organ becomes available can be quite prolonged—up to five to eight years in some parts of the United States and considerably longer in some other parts of the world. Not surprisingly, this can lead to anguish, and desperate acts.

Three years ago, one of the patients whom I had been following on our waiting list returned from a trip to China. To my surprise, she had undergone a transplant while she was there. Her postoperative care had been good, and she had excellent function of the transplanted kidney. When I asked her from whom she had gotten the kidney, she was vague, saying that it was from a distant cousin. I thought the whole circumstance a little odd, but did not dwell upon it.

Over the subsequent years, I have seen a number of patients with similar stories. Four or five patients whom I had not seen before came to our office for follow-up care. They were all young Chinese Americans who had excellent function of their newly-transplanted kidneys, recently returned from China. Several more were vague as to the origin of their kidneys; some sited "distant relatives" and others said they did not know. Recently, however, several patients have given me the response, "From an executed prisoner."

I suppose that I should not have been so surprised to get that answer, but I was surprised nonetheless. As I psychologically recoiled, I thought to myself, "What am I going to do here . . .?"

The doctors and nurses with whom I work on our transplant team are consummate professionals, who take great pride in our equitable and fair treatment of our patients, regardless of status, ethnic background, race, economic factors or past or present activities. Nonetheless, several of us had a visceral reaction to the response that we got. These were patients who needed, and deserved, our good care, yet they had obtained their organs under what we considered morally and ethically reprehensible circumstances.

It was my decision at that point to bring my concerns to the Ethics Committee at our hospital. This committee consists of physicians, nurses, social workers, lawyers, clergy and ethicists who are all associated with the Medical Center, who meet officially every month and unofficially whenever requested. Not surprisingly, the debate produced by this topic was lively and informative. The only specific recommendation to arise from the debate was to continue to provide the best care that we could for these patients, as we had intended to do. However, as a result of professional and personal contacts of other committee members, I was eventually put in touch with a reporter from the *Village Voice*. The conclusion that I had come to was this: I could not and would not compromise the care of my patients, no matter what I felt about the circumstances surrounding their transplants. I could, however, get to the root of the problem by attempting to "spread the word." My conversations with the *Voice* reporter eventually led to an article in that publication on May 8, 2001, entitled, "China's Execution, Inc."

I was surprised at the results. I was contacted by numerous radio talk shows, magazines, newspapers and local news programs for interviews, which I was happy

to grant. I also received a telephone call from Harry Wu, Director of the Laogai Research Foundation, and a world-famous human rights activist, who was very interested to hear of my situation. It is ultimately at his behest that I am appearing before this Committee.

THE PROBLEM

Numerous reports have surfaced recently about several problematic aspects of organ transplantation, such as organ trafficking, the sale and brokering of such organs, and the topic of this report, the transplantation of organs from executed prisoners in China. Unfortunately these have become more commonplace because of an unfortunate application of one of the laws of economics to health care—supply and demand.

Prior to 1984 in the United States, the equitable procurement and distribution of cadaver organs (from brain-dead donors) was haphazard and disorganized. In an attempt to organize and centralize such distribution, the National Organ Transplant Act (NOTA) was passed in 1984, which strictly prohibits the sale of or trafficking in organs for transplantation. In addition, NOTA established the United Network for Organ Sharing (UNOS), a private, nonprofit organization which was charged with codifying and streamlining transplantation activity in the United States. UNOS serves as a nationwide organizational force, as well as the major repository for data regarding transplantation.

The establishment of UNOS has unfortunately not changed one fundamental problem in transplantation: there are not enough organs to go around. As of June 16, 2001, there were 76,932 people registered with UNOS as awaiting an organ transplant. Of these, 49,275 were waiting for kidney transplants. In the ten years from 1990–1999, the total number of people registered with UNOS increased from 21,914 to 72,110, an increase of 230%. During the same time period, the number of cadaveric donors increased from 4,509 to 5,822, an increase of only 29%.

In 2000, there were 13,000 kidney transplants performed (8,000 cadaver and 5,000 living donor) in the 47,000 people on the waiting list, meaning that only 28% of the patients of the list were transplanted that year, and only 17% were transplanted with cadaver organs. During the same year, 2,750 kidney patients died while on the waiting list (6%). Unfortunately, the percentage of patients transplanted continues to decline, and the percentage of patients who die on the list continues to increase.

There have been a number of proposals to stem the tide, and most transplant programs in the United States have been aggressive in pursuing alternatives. We have widened the criteria under which we will consider cadaver donors, in an attempt to increase the potential cadaver pool. We have been more aggressive in pursuing living donation, not only of kidneys but also of other organs as well. Work continues in the field of xenotransplantation, the use of animal organs for human transplants. It is unclear, however, when and even if this will represent a viable alternative to the use of human organs.

In many areas in the rest of the world, the problem is even more acute. Particularly in countries where cultural or religious rules do not allow recognition of brain death, the number of cadaver donors is vanishingly small. This is the situation in many countries in the Far East. Partially in response to this, but more so in response to economic factors, China has adopted the policy of the use of the organs of executed prisoners for transplantation.

THE SCOPE OF THE CHINESE PROBLEM

The debate about the use of executed prisoners' organs for transplantation proceeds on several levels. The first level involves the entire concept of capital punishment. This is, of course, a contentious issue, although not germane to this testimony. A debate as to the appropriateness of capital punishment under any circumstance detracts from the specific issues raised from the use of the prisoners' organs. Suffice it to say that, since capital punishment is considered acceptable by some governments, its appropriateness in and of itself is not for debate here.

That being said, most people and governments who support capital punishment do so for only the most egregious crimes, such as murder or treason. It is also used sparingly, in small numbers. China classifies more than 68 offenses as capital, including under some circumstances car theft, embezzlement and discharging of a firearm. Each year, the number of executions in China exceeds by twofold the total number of executions in the rest of the world combined. In a personal communication to the authors Cameron and Hoffenberg (see references), Dr. Lei Shi Li has stated that, although official government figures put the number of executions at around 5,000 annually, independent groups estimate the actual number to be twice

that. Of these, it is estimated that 1,600 of these prisoners will donate 3,200 organs annually.

The Chinese government has denied this activity, but in 1984, the government issued a policy paper entitled "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." In this policy paper, it was stipulated that the prisoners were to be executed by means of shooting. In addition, ". . . The dead bodies or organs of the following categories of the condemned criminals can be made use of:

1. The uncollected dead bodies of the ones that the family members refuse to collect;
2. Those condemned criminals who volunteer to give their dead bodies or organs to the medical institutions;
3. Upon approval of the family members.

The regulations as stipulated above are a disingenuous technique by the government to assure "consent" from the prisoners, no matter what the actual desire of the individual or his family. Frequently prisoners are abandoned by their families because of shame or fear of repercussions, assuring that a significant number of prisoners fall under category 1 above. It is not inconceivable that some prisoners, from a sense of altruism, would consent of their own accord, but the widespread knowledge of the government's duplicity in this area makes this unlikely.

Consent is only one of the issues raised by these circumstances. The concept of brain death is not well-defined or fully accepted in China. As there is no requirement for certifying brain death prior to organ procurement this can lead to the potential for procuring organs from prisoners who are not brain dead. There are numerous eyewitness accounts of continued movement and heart activity in some of the prisoner-donors, indicating that these people have been subject to the removal of their organs while they are, strictly speaking, still alive.

Finally, there is the issue of the intimate involvement of the transplant physicians and surgeons regarding the executions and procurements. None of this would happen without the agreement and full participation of the doctors involved. This obviously represents a significant breach of medical ethics for these doctors, in that the primary tenet of our profession, to do no harm, is violated on a continuous and ongoing basis.

WHAT CAN BE DONE?

I am neither a politician nor an expert in international relations. I do witness firsthand the suffering of my patients as they wait, seemingly endlessly, for organs to become available for their transplants. My hope in appearing before this Committee today is twofold. First, I hope to point out that the rumors and allegations about the use of prisoners' organs in China are unequivocally true. As a transplant surgeon, I have no power and little influence to dictate international policy toward China, but as the Committee on International Relations of the House of Representatives, you do. I would urge the implementation of any sanctions or actions that can be taken against China to force them to cease and desist in this outrageous violation of human rights. My second desire is to emphasize once again the importance of organ donation, which is currently the only way that we are able to address the tremendous inequity between the needs of our patients and the organs available.

Ms. ROS-LEHTINEN. Thank you so much, Doctor. Thank you.

I have some questions for Mr. Wu and Dr. Wang. Do you believe that the increasing demand from living sellers' or living donors' organs, that organ extraction will be used more and more as a form of execution itself?

Mr. WU. I think so because there is a long waiting list. China does not have a donation system. There are very few voluntary donors. Most of the organs come from executed prisoners. A large number of executions take place in China to become the organ sources.

Ms. ROS-LEHTINEN. I will ask the next question. If you could, if you have any information to confirm or deny the reports that we have received which allege that blood samples are being taken from

prisoners upon their arrival to expedite even further the donor/recipient match?

Mr. WANG. I definitely can give you evidence that this is true. The prisoners, before they go to the execution sites, they will be imprisoned. In the prisons, the surgeons go to their cell and take the blood samples.

Ms. ROS-LEHTINEN. Could you specify, Dr. Wang or Mr. Wu, what types of offenses that the Chinese prisoners who are executed for their organs have been charged with?

We had testimony that someone was charged with tax evasion and sentenced to death. What percentage are democracy activists? Human rights dissidents? What percentage are petty criminals? What determines whether someone will be sentenced to death in such an arbitrary criminal justice system as the one in China?

Perhaps Mr. Wu can start while she translates for Dr. Wang.

Mr. WU. Madam Chairwoman, for example, today we show you these photos. It happened in October 1989. That means they were participants in the Tianamen Square movement, but all of them received trials for robbery and for setting fires, something like that.

Actually, they are a kind of political protesters—the political activists. Today, the government always tries to use a kind of crime to charge the activist. It is very common today. Many people that are sentenced, they actually are never involved in any violent crime or murdering.

We have very poor statistics, but we can ask Amnesty International to provide that information.

Ms. ROS-LEHTINEN. Yes. We will ask them. Thank you.

Dr. Wang?

Mr. WANG. I cannot tell you. I do not have any information about it.

Ms. ROS-LEHTINEN. We will try to find out. Thank you.

Based on the investigation and eyewitness experiences, do prisoners in China consent to organ donations or organ extractions? In order to obtain this supposed consent what is done to the prisoners?

Please elaborate on the methods of collusion and intimidation that prisoners are subjected to to force them to supposedly consent to organ extraction, Mr. Wu and Dr. Wang.

We will start with you, Mr. Wu.

Mr. WU. According to our information, neither the prisoner or the prisoner's family has a chance to offer formal consent. We never see any piece of evidence that is coming from the family or the prisoner himself. We never see that at all.

Let me describe to you just the procedure of the execution in China.

Ms. ROS-LEHTINEN. Yes.

Mr. WU. The intermediate court has the power to sentence the prisoner to death, but they have to wait for the Supreme Court for the final verdict. Actually, during that time period the government has already decided which prisoner will be the organ donor and try to force them to, you know, collect their medical information.

According to our comprehensive report, the doctor from the hospital, Dr. Yung, yes, went to the prison to take blood, and he saw the prisoners shackled and handcuffed on cement blocks for 24

hours. They find out the prisoner's treatment was not good for the heart transplant, so he told the prisoner, I will give you a health exam. Then she said whatever, you are going to die, so if you want to make a donation I can ask the police official to release you from the shackles and offer you good food, because we want you to be healthy. We can get you food from an outside restaurant not from the prison.

Then the prisoner says okay, I will sign to be a donor. So they give good food and later on the policeman escort him to the hospital and he is shot in the backyard of the hospital and they removed his heart for the transplant. This is how they transact the donation.

Ms. ROS-LEHTINEN. Yes. So much for volunteerism.

Mr. WANG. To my knowledge, the death row prisoners do not know which day they will be executed. They do not know that. They never know that after their deaths their organs will be extracted.

Ms. ROS-LEHTINEN. Thank you very much.

Dr. Diflo, a few questions. Approximately how many transplant patients that have received an organ from an executed prisoner have you treated in follow up care?

Dr. DIFLO. I have seen five or six.

Ms. ROS-LEHTINEN. Do you have colleagues in the field who have had encountered similar experiences?

Dr. DIFLO. Yes. Virtually everybody in the New York area that I have spoken to has seen at least one or two of these patients as well.

Ms. ROS-LEHTINEN. What do you believe would be the impact on the patients, on the medical profession and China's organ trade if physicians such as yourself refused follow up care to those with harvested organs?

Dr. DIFLO. Well, I do not think we can do that. We take care of the patients as they come to us. It does not matter who they are. It does not matter what they have done. We will take care of them whether we like it or not. I do not think that the medical community would accept singling out a group of patients to not care for.

Ms. ROS-LEHTINEN. Great. Thanks very much.

Ms. McKinney?

Ms. MCKINNEY. Madam Chair, I do not really have any questions. I had one question to Dr. Wang, but the story of how he arrived here in the United States appears in today's Washington Post, so rather than ask a redundant question I will just thank the members of the panel for appearing here today and providing us with this very shocking information.

Hopefully we will work together on appropriate legislation, and advocacy as well, in order to make sure that this problem is diminished in this country and other countries and, of course, in China.

Thank you, Madam Chair.

Ms. ROS-LEHTINEN. Thank you so much, Ms. McKinney, and I echo my colleague's sentiments.

Dr. Wang, we will make sure that we do everything in our power and with the State Department to follow up with your family to see that they do not suffer any repercussions because of your courageous stand in testifying against that tyrannical regime and hei-

nous practice that has been going on with organ transplantations. We thank you.

Harry, it is always a pleasure to have you with us. Thank you. Thank you, Doctor. We appreciate it. Thank you.

The Subcommittee is now adjourned.

[Whereupon, at 4:10 p.m. the Subcommittee was adjourned.]

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