THE SALE OF BODY PARTS BY THE PEOPLE'S REPUBLIC OF CHINA

JOINT HEARINGS

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

AND THE

COMMITTEE ON INTERNATIONAL RELATIONS

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THE SALE OF BODY PARTS BY THE PEOPLE'S REPUBLIC OF CHINA

THURSDAY, JUNE 4, 1998

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, JOINT WITH COMMITTEE ON INTERNATIONAL RELATIONS,

Washington, DC.

The committees met, pursuant to notice, at 10:05 a.m., in room 2172, Rayburn House Office Building, Hon. Benjamin A. Gilman (chairman of the Committee on International Relations) and Hon. Dan Burton (chairman of the Committee on Government Reform and Oversight) presiding.

Present: Representatives Burton, Gilman, Cox, McHugh, Horn, Pappas, Burr, Waxman, Maloney, Barrett, Norton, Cummings, Kucinich, Davis of Illinois, Tierney, Smith of New Jersey, Rohrabacher, Chabot, Hamilton, Faleomavaega, Martinez, Hastings, Danner, Clement, Luther, and Capps.

Government Reform and Oversight Committee staff present: Kevin Binger, staff director; Daniel R. Moll, deputy staff director; David A. Kass, deputy counsel and parliamentarian; Judith McCoy, chief clerk; Teresa Austin, assistant clerk/calendar clerk; Will Dwyer, director of communications; Ashley Williams, deputy director of communications; Gil Macklin, Mike Delph, and Jason Lovell, professional staff members; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Sarah Despres, Michael Raphael, Michael Yang, and Michael Yaeger, minority counsels; Ellen Rayner, minority chief clerk; and Jean Gosa, Early Green, and Andrew Su, minority staff assistants.

International Relations Committee staff present: Richard J. Garon, chief of staff; Michael H. Van Dusen, Democratic chief of staff; Hillel Weinberg, counsel and senior professional staff member; Paul Berkowitz, professional staff member; Allison Kiernan, staff associate; and Charmaine Houseman, staff associate.

Mr. GILMAN [presiding]. The hearing will come to order. Members please take their seats. This is a joint hearing by our Committee on International Relations and the Committee on Government Reform and Oversight on the sale of body parts by the People's Republic of China.

First, I would note that today is the ninth anniversary of the massacre of Tiananmen Square. Thousands of students who were peacefully demonstrating for democratic rights were gunned down by the Chinese military or overrun by tanks. Even though the act of wanton brutality was witnessed by virtually the entire civilized world, the Chinese Government has yet to acknowledge that any-

thing unusual even occurred. Hundreds of students and other democratic dissidents languish in Chinese jails today while our President prepares to go to Beijing and to be received by the Chinese on the blood-stained killing ground, Tiananmen Square.

Before beginning our hearing, let us remember those who died 9 years ago and those who are still in prison with a moment of silence. Thank you.

In 1996, Amnesty International reported what it described as a close liaison between the Chinese courts, health departments, and hospitals over the distribution of transplant organs. That report stated that

> The secrecy surrounding the process, the fact that organ transplantation represents a source of income for hospitals, and the reported practice of giving gifts to officials involved in the execution of prisoners all suggests that in some cases the imposition and the timing of the death penalty may be influenced by the need for organs for transplantation.

Amnesty International went on to state the Chinese legal system provides no protection against such abuse, while noting that 90 percent of all organs transplanted in China are from executed prisoners. This public awareness of Chinese organ transplantation abuses has grown. Governments around the world have begun to react. Three weeks ago on May 14th, the European Parliament adopted a resolution calling on Beijing to halt its trafficking in organs from executed Chinese prisoners.

On October 15, 1997, ABC News aired an investigative report entitled, Blood Money. A hidden camera showed a Chinese doctor and his wife accepting a down payment of $30,000 for a kidney from a Chinese prisoner who had been executed. On February 20, 1998, the FBI arrested two other Chinese citizens in New York on charges of conspiracy to sell organs, including kidneys, corneas, livers, skin, pancreas and lungs for transplant. Mary Jo White, the U.S. attorney for the southern district of New York stated that when the defendants met with an undercover agent, one of them discussed how Chinese prisoners are executed. The agent was offered two corneas for $5,000. White said that trafficking and profiteering in human organs is "ghoulish criminal conduct that imperils the most vulnerable."

The fundamental rule in the practice of organ donation is that of free and informed consent. In the case of a condemned prisoner in solitary confinement who is shackled by handcuffs and leg irons as occurs in Chinese jails, it is naive to pretend that consent can be fully informed or freely given. However, according to a 1994 report by Human Rights Watch/Asia, a prisoner's prior consent for organ removal often is not even sought. According to the report, the involvement of Chinese doctors and other medical personnel in the process of removing executed prisoners' organs is extensive. Before the executions, medical workers perform blood tests to determine a prisoner's health and suitability as an organ donor. Medical personnel are at the place of execution so that at the moment of death they can immediately remove the organs and rush them to the hospital for transplantation.

The Human Rights Watch/Asia report states the widespread involvement of medical professionals in the execution and transplantation process represents "a grave violation of internationally ac-

cepted standards of medical behavior." Yet the Chinese authorities have not only used the death penalty extensively, they have expanded its scope. The number of offenses in China subject to the death penalty rose from 21 in 1980 to 68 in 1996, according to the Amnesty International report; 68 offenses in which Chinese were subject to the death penalty.

Chinese citizens have been executed for such crimes as arson, hooliganism, fraud, forgery, tax evasion, dealing in cultural relics, and blackmail, all subject for the death penalty. Amnesty International states that in this decade, China has executed more people than all the other nations of the world combined, with over 6,100 death sentences and 4,367 confirmed executions in 1996 alone. These figures are based only on the public reports and are believed to fall far short of the actual number. China classifies statistics on the death penalty as a state secret and has never published them.

Chinese Government reports state from the time organ transplants were first performed in China in the late 1970's to the end of 1995, there were roughly 20,000 kidney transplants. The sale and transplantation of body parts by Chinese authorities reflects something so alien to the civilized world that it's even difficult to believe. The corruption in China along with overwhelming power of the military and the lack of an independent judicial system combines to make this horrific situation possible. Unless the international community steps in, it will only worsen as a market for organs transplanted from executed Chinese prisoners continues to grow.

Before turning to our witnesses, I am asking my co-chairman for this hearing, Chairman Dan Burton of the Government Reform and Oversight Committee, if he has an opening statement. Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman. As Chairman Gilman said, today does mark the ninth anniversary of one of the most brutal acts of repression in history: the 1989 massacre of dissident students at Tiananmen Square, where 7,300 were killed or wounded. Since that tragic day, there has been a lot of talk about human rights in China, but almost no progress. Religion is still suppressed. Workers are still abused. Dissidents are still in prison.

This morning we will hear firsthand testimony about yet another repugnant form of human rights abuse in China: executing prisoners for their organs. Given the history of Communist China, there should be no doubt that many of these prisoners are political prisoners who were sentenced to death solely for their political views, or more ominously, solely for their organs.

We are fortunate to have with us today individuals of rare courage who stood up to the Communist government and paid dearly for their efforts. Harry Wu, who is now a United States citizen, spent many years in Communist Chinese prisons. He will present important information on internal Chinese documents concerned with organ transplantation. Wei Jingsheng, who spent more than 18 years in prison for daring to tell the truth is also with us today.

In addition, we will hear from a panel of physicians who are all too familiar with this despicable practice, and one individual who actually received an organ from an executed prisoner. Unfortunately, the State Department, our State Department has declined to provide a representative as requested by this committee. I don't

know why the State Department is not here. They ought to be here. It really bothers me that our own State Department did not think that this issue was serious enough to send up a representative to testify.

Before we get to our witnesses though, I would like to put Communist China's human rights record in perspective. Take for example the plight of Chinese people of faith. The ruthless suppression of religious activity remains a hallmark of the Beijing Government. Priests and ministers are routinely arrested for such offenses as conducting mass, teaching the catechism or supporting the Pope. Members of the "Home Church" movement are subject to arrest and imprisonment and maybe they are being harvested as well. Foreigners are prohibited from bringing a single extra bible into the country. Buddhist monks are imprisoned just for practicing their faith. Construction of monasteries and temples has been banned in Tibet. Moslem religious education is restricted, with police in Xinjiang Province cracking down on Moslem religious activity and places of worship.

A good example of this repression is the village of Dong Lu. Dong Lu was the site of a national shrine to the Virgin Mary, or at least it was a shrine until some 5,000 of the Communist People's Liberation Army assault troops with armored cars and helicopters descended on it in 1995. After confiscating the statue of the Virgin Mary located there, the soldiers arrested two bishops and the shrine's pastor, along with dozens of other lay people and priests.

And what does Beijing have to say about Dong Lu? According to China's official newspaper, the People's Daily, it never even happened. But it's not just the people of faith who suffer at the hands of the Communist government. Slave labor is common place in this so-called "worker's paradise." The Zhaojie factory in Guangdong Province is typical. It employs some 100 live-in security guards to keep workers who have been compelled to work as many as 114 hours of overtime in a single month from leaving. The most basic health and safety considerations are ignored. A fire at a toy factory killed 87 and injured 51, including a 15 year-old girl. All of the fire exits were locked and the windows barred; 23 workers were killed and 60 injured, again including teenage girls, at a lighter factory. A 14 year-old girl, exhausted from working 18 hours a day in a textile factory, fainted and caught her hair in machinery. She was killed. The list goes on and on.

It has been known for years that China employs slave labor or prison labor to make cheap products for export. Harry Wu, who will testify later today, has put his freedom in jeopardy to try to bring the light of truth to this issue. This is not the topic of our hearing today, but I hope Mr. Wu will have a chance to tell us a little bit about the status of prison labor in China. How can these abuses be permitted in a state that is supposed to be the "worker's paradise?" The answer is simple. In most instances, the government is a partner in these ventures. If workers protest, they run the risk of being called a dissident. In China, dissent is simply not tolerated.

Li Bifeng, who disclosed outbreaks of labor unrest in Sichuan Province, has been forced to live on the run ever since. Chen Longde was imprisoned in 1996, for merely signing a pro-democ-

racy letter. Chen Lantao tried to organize a protest against the killings at Tiananmen Square, and was sentenced to 18 years in prison. But that's not all. In a time of global instability, Communist China has become the principal arms merchant for terrorist states. For example, China has provided Iran with gyroscopes, accelerometers and test equipment for missile guidance as well as advanced radar components, and worst of all, 400 tons of chemicals used to produce nerve agents.

But even this isn't the worst offense. It now appears very likely that the Chinese Government was engaged in an active plot to subvert our electoral process by funneling illegal campaign contributions into our political system. Johnny Chung was a close associate of the President, and has reportedly admitted channeling at least $100,000, and possibly more, from the Communist Chinese Army into the Clinton/Gore campaign. Ted Sioeng is a shadowy figure deeply involved in manufacturing and exporting Red Pagoda Mountain cigarettes. We know that he has close ties to the Communist government. He gave over $400,000 to the DNC and the Clinton/Gore campaign. Did this money come from the sale of Communist Chinese cigarettes around the world? That's one of the things we are trying to find out.

One thing we know the Communist Chinese did get was sensitive rocket technology from LORAL Space and Communications. LORAL is headed by the Democratic party's largest individual contributor, Bernard Schwartz. According to reports in the New York Times, a special report prepared by the Air Force concluded that this technology transfer harmed our national security.

But today we are focusing on a different outrage. We will examine the barbaric practice of selling human organs for profit. On February 20, the FBI arrested Wang Cheng Yong for offering to sell organs to an FBI undercover agent. According to the United States attorney, Wang claimed the organs would be harvested from executed Chinese prisoners. But this was not the first report of China profiteering from the sale of prisoner organs. Last fall, as the chairman said just a moment ago, ABC News aired an investigative report about this practice. Their report included the first ever public statements by an individual who had received prisoner organs, Ms. Apple Yoonuch. It also documented a meeting between an investigative reporter and a Chinese organ broker. The report confirmed many of the worst fears concerning the sale of prisoner organs.

According to the broadcast, she first went to China where doctors took blood and tissue samples, and then was sent home to wait. Some time later she was contacted by Chinese authorities and told, "some prisoners are going to be shot dead." Brian Ross, the Primetime Live correspondent noted, "Six days later, according to the local paper, 45 prisoners were sentenced to death and executed on the same day, including one who apparently, even before he had been sentenced to death, was found to have had the same blood and tissue type as Apple Yoonuch." The price: at least $30,000.

The Chinese, of course, contend that the donors have all signed consent forms prior to their execution or that their families have given consent afterwards. But Dr. Ronald Guttman, an advisor to the International Transplantation Society, says "There's no such

thing as consent when you are talking about incarcerated people." He calls China's practice a mockery of the international principles adopted as a result of the Nazi medical experiments of World War II. What is perhaps most frightening though is the alleged practice of removing organs from live prisoners in some instances. In one case documented by the Laogai Research Foundation, this is documented, which is headed by Mr. Wu, a living prisoner had both kidneys removed and then was executed the following day. The execution however, was a mere formality, as survival of a person with both kidneys removed is generally less than 24 hours.

But how extensive is the practice? Amnesty International says that 90 percent of all organs transplanted come from prisoners. Further, the number of executions conducted in China on an annual basis rose from 2,000 in 1994 to triple that, 6,000 in 1996. At the same time, the number of organ transplants is estimated by one British source to be as high as 2,000 annually. At $30,000 each, that's $60 million in hard currency for the Communist Chinese Army.

Today's distinguished panel of witnesses will bring the benefit of personal experience to our understanding of this reprehensible practice. It is particularly fitting that we are holding this hearing today because in just a few short weeks, the President is scheduled to travel to Communist China with what is reported to be a 1,200 member delegation. A reception is even planned for Tiananmen Square, where pro-democracy students suffered at least 7,300 casualties.

During his 1992 campaign for President, President Clinton called China's leaders the "butchers of Beijing." As he stands there with them in Tiananmen Square, I hope he remembers these words. I also hope he will take the opportunity to raise with them the issues such as the barbaric practice of selling prisoner organs and the suppression of religion, labor, and dissidents.

In my opinion, he should not even go. President Jiang of China told America that China did not contribute to campaigns in the United States. We now know that's a lie. The Chinese Government denies killing prisoners for organs to be transplanted at $30,000 a crack. That's a lie. They deny that about 10 million people, men, women, and children, work in slave labor camps. That's a lie. The United States and the world should hold them accountable. The President should not go to China.

Mr. GILMAN. Thank you, Chairman Burton.

I now recognize the ranking minority member of the Government Reform and Oversight Committee, Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman. I am not going to talk anywhere near at length as my Republican colleagues have because I am looking forward to hearing from the witnesses. We have a very distinguished panel to make a presentation to us today. What they are going to talk about is one of the most abhorrent human rights deprivations that any of us could imagine, the idea that prisoners would be used to be executed to take their organs and then to sell them, is something that has to be repugnant to any sense of decency.

As my colleagues have pointed out, you add this to a long list of human rights abuses that we've seen in China today. It is impor-

tant for us to speak out about these human rights abuses, especially at a time when the President of the United States, President Clinton is proposing to the Congress of the United States, along with the leadership of the Republicans in the Congress, to extend most favored nation status to the People's Republic of China. His doing this, as did his predecessor President Bush, and I have to say that every time this has been proposed to us I have voted against MFN for China because of my objection to their violation of human rights.

The major campaign contributions that get the Congress to support MFN and every other measure that the People's Republic of China desires is not from Chinese Government sources, but from American corporations that hope to make money from trade in China. At the same time, they will look away when they become informed of these human rights abuses. We have seen widespread, well-documented human rights abuses. Even the State Department in their report on human rights practices for 1997, indicated serious problems stem from limited tolerance of public dissent, fear of unrest, and inadequate laws protecting fundamental human rights. They have pointed out abuses such as torture, forced labor, mistreatment of prisoners, forced confessions, arbitrary arrests, and lengthy detention in communicado.

The hearings today are focusing on this government's admitted tolerance and possible promotion of the practice of taking organs and extracting them from executed prisoners for the purposes of transplantation after sale of those organs for that purpose. The Secretary of State and other senior State Department officials have raised concerns over allegations of organ trafficking at the very highest levels of the Chinese Government. The Clinton administration has made it clear that a trade in body parts is repugnant and the charge that prisoners would be executed to facilitate this trade is even more abhorrent.

When President Clinton goes to China, human rights issues will be front and center in his summit with the Chinese President Jiang, a visit by the way that is supported publicly by many prominent Republicans, including President George Bush, President Gerald Ford, Senator Bob Dole, General Colin Powell, and others. It is an important opportunity to stay engaged with the Government of China and press our continuing concern over human rights violations.

We need to stay engaged diplomatically so that we can raise these human rights abuses. When it comes to extending something like most favored nation status to China, in my view, and I know I so far have been in the minority on this question, just as we refused to extend MFN to the Soviet Union because of their human rights abuses, when led to change in the Soviet Union, we should withhold the status from China because of human rights problems.

I look forward to learning more from our witnesses today about the level of involvement by the Chinese Government in organ trafficking, whether the potential organ transplantation plays any role in the sentencing of Chinese prisoners or the timing of their executions, and whether there can be such a thing as voluntary consent to donate organs by a prisoner in custody facing execution.

This is the anniversary of the Tiananmen Square massacre. Many of us will be participating in pro-democracy, pro human rights efforts as this day goes on. We ought to remember that human rights abuses wherever they take place are matters of concern for the representatives of the American people. We should speak out against it. We need to change these practices and if need be, use every diplomatic measure possible to get these changes.

I thank you, Mr. Chairman, for this chance to make an opening statement. I am looking forward to the testimony that we are going to receive.

Mr. GILMAN. Thank you, Mr. Waxman.

I recognize the ranking minority member of our committee, Mr. Hamilton.

Mr. HAMILTON. Thank you very much, Mr. Chairman. I certainly am pleased that you are having the hearing today. All of us I think would agree that the sale of body parts is just absolutely a reprehensible practice. We must not tolerate it. It's, I think, more difficult to imagine a more grievous violation of human rights than to have the sale of body parts.

A number of us of course have followed this issue over a period of time. I have frequently talked with administration officials about it, about the allegations and persistence of these reports. I think the witnesses today can help us a great deal in understanding further the practices that are prevalent in China.

I know the administration has made a lot of inquiries to try to ascertain the truth on this. Their official position I think is that they have been unable to corroborate them. Chinese officials of course have stated that these transplants of organs are not a commodity to be traded. But we have just had too many press reports and individual reports that cause us to be extremely skeptical about the Chinese representation.

I think what we have to do is to work very hard now to get greater transparency of the practices in China, including the position of the Chinese Government. There is no doubt at all of the seriousness of the whole problem of organ harvesting. It is a very, very important human rights issue.

So I appreciate very much the hearing and the willingness of the witnesses to step forward to inform this committee more about the practice, the deplorable practice, of the sale of body parts. I look forward to the hearing. Thank you very much.

Mr. GILMAN. Thank you, Mr. Hamilton.

The distinguished chairman of our Subcommittee on International Operations and Human Rights, Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. I want to thank you and Chairman Burton for calling this hearing on this very disturbing subject. I hope the testimony of our witnesses today is heard both in Beijing as well as at the White House.

I just want to remind my good friend Chairman Burton that I Chair the International Operations and Human Rights Subcommittee. We have had dozens of hearings on human rights. When he lamented earlier in his comments that the administration is a no-show today, that has been the history of our subcommittee. We repeatedly asked the State Department to come and give an account

of what's going on in country after country around the world, most recently about the Rwandan genocide, what do we know, when did we know it. There is clear evidence that we were asleep at the switch. They didn't show at that hearing. We had a hearing on Indonesia just a couple of weeks ago and I was there myself last week. We asked the administration to come. We had some of the dissidents who had suffered unspeakable tortures. The administration again failed to show. They have done that time and time again.

I would have to beg to differ with my friend Mr. Waxman when he talks about the President will put human rights front and center. Amnesty International comes before us over and over again. Every year they stand at that witness table and say that, with this administration, human rights is an island, unconnected, disconnected to other policies. They talk a good game, but there's no connection to policy. It's nothing but a little bit of jawboning. There is no connection, like I said, to anything of substance. So I am upset that they are not here today. They ought to be here to give us the insights that they might have on this extremely disturbing issue.

Mr. Chairman, according to recent estimates, the People's Republic of China executed nearly 6,000 people last year, thousands more than all other countries in the world combined. Many of us were outraged by the frequency and the swiftness with which the Communist government in Beijing resorts to the death penalty. The death penalty is sometimes imposed for trivial offenses. The whole process of arrest, trial, conviction, and execution often takes only a few days. Even worse, it has also become clear that these official killings are part of a profitmaking enterprise.

The Beijing dictatorship sells the internal organs of people whom it has killed. In the past 2 years, my Subcommittee on International Operations and Human Rights has held two separate public hearings on organ harvesting by the PRC, one of the starkest examples of that government's inhumanity toward its own people. At our June 18, 1996 hearing, Harry Wu first brought these grisly practices to the attention of Congress. In addition to viewing jarring videotapes of a mass execution by the Chinese military, the subcommittee received testimony from two Chinese physicians with firsthand knowledge of the Beijing regime's organ extraction practices. The doctors at our hearing explained how the harvesting process begins well before death, with prisoners being tested for organ compatibility and injected with anti-coagulant drugs prior to the execution.

At the execution site, the executioners' rifles are carefully positioned so that the shot does not immediately kill the prisoner, but induces a coma, helping to ensure that the organs will be fresh when they are extracted. Ambulances are waiting but a few yards away with a surgical team inside waiting to harvest organs, sometimes even before the prisoner is dead. In some cases, so many internal organs are taken from a single person that in the words of one physician, the body is "empty."

Using intimidation, deception, and the lack of fair notice, the government effectively precludes prisoners and their families from objecting to the use of the prisoners' bodies. It is estimated that

over 90 percent of transplants performed in China use organs taken from executed prisoners. These are ghoulish assaults on human life that only a Nazi could love. At our October 19, 1997 hearing, our subcommittee received evidence that the Chinese Government sells the human organs it harvests and that such sales have even spread to our shores.

The most recent development is the arrest of two Chinese nationals who had tried to sell organs harvested from Chinese prisoners to undercover FBI agents in New York. Today's hearing is important, not only because of these new developments, but also because of the urgent need for the truth to be told publicly prior to President Clinton's controversial and ill-advised trip to Beijing. Faced with the fact of these atrocities, the Beijing dictatorship does what it has done in the past, it did so with Tiananmen Square, it does routinely on the forced abortion issue, it does so when Harry Wu bears witness to the abuses of the laogai, it simply lies. It lies. It uses the big lie and we unfortunately have many gullible people who accept those lies.

Mr. Chairman, we need to speak out boldly on this issue. We need to put ourselves in the position of that prisoner who is at the mercy of these ghoulish Nazi-like experiments, these extractions and these transplantations. Again, I want to thank Harry Wu, Wei Jingsheng, and all of our witnesses today for bringing this to our attention. We have in the room, Mr. Chairman, as you know, two of the greatest pro-democracy activists in the history of all of China, and maybe even the world, Harry Wu and Wei Jingsheng, who will be testifying today. We need to listen. The White House needs to listen. The world needs to listen to what they have to say.

I yield back the balance of my time.

[The prepared statement of Hon. Christopher H. Smith follows:]

Statement of Representative Chris Smith
Chairman, Subcommittee on International
Operations and Human Rights
June 4, 1998

The Sale of Body Parts by the People's Republic of China

I would like to thank Chairman Gilman and Chairman Burton for calling this hearing on this deeply disturbing subject. I hope the testimony of our witnesses today is heard both in Beijing and at the White House.

According to recent estimates, the People's Republic of China executed nearly 6,000 people last year -- thousands more than all other countries in the world combined. Many of us are outraged by the frequency and swiftness with which the Communist government in Beijing resorts to the death penalty. The death penalty is sometimes imposed for trivial offenses, and the whole process of arrest, trial, conviction, and execution often takes only a few days. Even worse, it has also become clear that these official kilings are part of a profit-making enterprise.

The Beijing regime sells the internal organs of people whom it has killed. In the past two years, my Subcommittee on International Operations and Human Rights has held two separate public hearings on organ harvesting by the PRC, one of the starkest examples of that government's inhumanity toward its own people.

At our June 18, 1996 hearing, Harry Wu first brought these grisly practices to the attention of Congress. In addition to viewing jarring videotapes of a mass execution by the Chinese military, the Subcommittee received testimony from two Chinese physicians with first-hand knowledge of the Beijing regime's organ-harvesting practices.

The doctors explained how the harvesting process begins well before death, with prisoners being tested for organ compatibility and injected with anticoagulant drugs prior to execution. At the execution site, the executioners' rifles are carefully positioned so that the shot does not immediately kill the prisoner, but induces a coma, helping to ensure that the organs will be fresh when they are extracted. Ambulances are waiting a few yards away, with surgical teams inside waiting to harvest organs, sometimes even before a prisoner

is dead. In some cases, so many internal organs are taken from a single person that, in the words of one physician, the body is "empty." Using intimidation, deception, and lack of fair notice, the government effectively precludes prisoners and their families from objecting to this use of prisoners' bodies. It is estimated that over ninety percent of transplants performed in China use organs taken from executed prisoners.

At an October 28, 1997 hearing, our Subcommittee received evidence that the Chinese government sells the human organs it harvests, and that such sales had even spread to American shores.

The most recent development is the arrest of two Chinese nationals who had tried to sell organs harvested from Chinese prisoners to undercover F.B.I. agents in New York. Today's hearing is important not only because of these new developments, but also because of the urgent need for the truth to be told publicly prior to President Clinton's controversial and ill-advised trip to Beijing.

Faced with the fact of these atrocities, the Beijing dictatorship does what it has done in response to the Tiananmen Square massacre and numerous other

incriminating facts: it lies. In December of last year, I co-signed a letter - along with 64 of my colleagues - protesting these atrocities to the Chinese government. In its official response, the Beijing regime simply denied the truth, dismissing the organ sales issue as "a sheer fabrication pieced together with concoctions." But the Chinese government must understand that we will not settle for their lies, and President Clinton must understand the true nature of the tyrants who will be receiving him in Beijing.

I look forward to hearing the testimony from our distinguished witnesses. I hope the light they cast on this issue today will help to deter these atrocities in the future.

Mr. GILMAN. Thank you, Mr. Smith.

Before proceeding, without objection, our colleague from Florida, Ileana Ros-Lehtinen cannot be with us today, is submitting a statement and asks to be made part of the record, and any as well as other statements which may be submitted.

I now call our first witness, Linda Smith. I would like to welcome our colleague from the State of Washington, Congresswoman Linda Smith. Mrs. Smith is the author of a resolution that condemns the practice we are examining today. Representative Smith's web page states that her congressional efforts include "restoring the confidence of Americans in their government." I certainly think that one way to do that is to make certain that Americans know that their Government cares about basic human rights abroad. That's something that all of us want our Government to do.

Welcome to our committee, Mrs. Smith. You may proceed and put your full statement into the record and summarize it, whichever you deem appropriate. Please proceed.

STATEMENT OF HON. LINDA SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mrs. SMITH OF WASHINGTON. Thank you, Chairman Gilman and Chairman Burton. It is my privilege to join you, but also those to follow me that will be testifying. I want to come before you today to ask for a consistent policy toward China.

Mr. GILMAN. Mrs. Smith, would you put the mic a little closer to you?

Mrs. SMITH OF WASHINGTON. Sure. I wanted to come before you today to ask for a consistent policy on China, to ask you to pursue this because just not too long ago, just this last year, we asked the Attorney General right after we had some of the reports, to do an investigation of the organ harvesting. Chairman Wolfe and myself and many of you encouraged the Attorney General in a letter to investigate this practice. We got letters back that were just—we got your letter. It became very clear that the voice of this administration was silent on human rights. Now 10 months have passed. We still have really heard nothing from this administration.

I guess what I wanted to say to this committee and to plead with you is to not allow the American voice to be silent. If the President won't speak, we end up looking like this Nation has a trade policy with no conscience. That we have a policy that depicts what in the 1960's I rallied against, and in the 1970's we marched against. That was that America was greedy and didn't care about people around the world. That is not the America that we should have today. It is not the America, it's not the heart of the Americans that I know.

But the silence is causing action. From what we are getting here in Congress and all the reports that you have mentioned and many not mentioned today, is that because of that, human rights violations are increasing. Now 10 months ago, I felt pretty good when this Congress signed and sent to the President a resolution we voted on nearly unanimously condemning this practice. I had the privilege of authoring that, and it had the total vote of this Congress. The President received that, but again, total silence.

Now we are condoning and facilitating human rights violations in China. Over the history of this country the reason that we have spoken out is not to bully other countries, but to be the reason that others have hope in prisons, that others have hope for freedom. What we are hearing from inside China from the Home Church, actually from some priests, some nuns, some folks in Tibet that have come to us, is that we are losing hope because America has no voice. We are losing hope because America no longer cares. That is unacceptable for every American that I know. We are not the greedy America. We are not the America that cares only about corporate profits. We are the America that has a conscience for this world and for people in other countries.

So I will give you my testimony. I have basically summarized it. But I ask you not to shut up. If the President has no voice for this country, then all we really have left is Congress. But we have to have a voice. We have to have it now. We have to stand up for those people in other countries.

With that, I'll answer any questions. But please, Chairman Gilman, have a committee hearing a day if you have to, because I believe when we speak up, then there are people who aren't hurt in other countries. I believe this committee hearing today will stop organ harvesting that could be happening today in China because they don't want the world to see what they are doing. Thank you.

[The prepared statement of Hon. Linda Smith follows:]

THANK YOU CHAIRMAN GILMAN, CHAIRMAN BURTON AND MY COLLEAGUES ON THE INTERNATIONAL RELATIONS AND GOVERNMENT REFORM AND OVERSIGHT COMMITTEES.

IT IS MY PRIVILEGE TO JOIN THIS DISTINGUISHED PANEL TO TESTIFY ON THE PRACTICE OF HUMAN ORGAN HARVESTING.

I COME BEFORE YOU TODAY TO REQUEST A CONSISTENT U.S. POLICY TOWARDS CHINA ON ALLEGATIONS OF ORGAN HARVESTING AND THE SELLING OF THESE ORGANS IN THE U.S.

I ASK THE COMMITTEES TO PURSUE THE TRUTH BEHIND HUMAN ORGAN HARVESTING. IF THE ALLEGATIONS ARE TRUE THAT CHINESE PRISONERS ARE BEING SELECTIVELY KILLED FOR THEIR VITAL ORGANS, THEN SUCH BARBARITY IS A GRAVE INDICTMENT OF THE CHINESE GOVERNMENT.

THERE IS NO GREATER PICTURE OF SAVAGERY, THEN KILLING A HUMAN LIFE FOR THE ECONOMIC VALUE OF THEIR ORGANS. THERE IS NO GREATER SIGN OF DISREGARD FOR HUMAN RIGHTS THAN THIS PRACTICE.

AND THE CONGRESS AGREES. LAST YEAR, THE HOUSE OVERWHELMINGLY ADOPTED AN AMENDMENT I AUTHORED, THAT CONDEMNED THE CHINESE GOVERNMENT'S INVOLVEMENT IN ORGAN HARVESTING. AT THE TIME, I BELIEVED WE WERE MOVING FORWARD.

THE CLINTON ADMINISTRATION, HOWEVER, HAS FAILED TO PRESS CHINA TO ADHERE TO EVEN THE MOST BASIC STANDARDS OF HUMAN RIGHTS. LAST OCTOBER, REP. FRANK WOLF AND I SENT A LETTER TO ATTORNEY GENERAL JANET RENO REQUESTING A FORMAL INQUIRY INTO THE ORGAN HARVESTING PRACTICE.

MR. CHAIRMEN -- TEN MONTHS HAVE PASSED AND NEITHER MR. WOLF OR I HAVE RECEIVED ANY FORMAL REVIEW OF OUR REQUEST.

AMERICA HAS THE PROFOUND OBLIGATION TO NOT SOFTEN OUR VOICES AMIDST OUR PEACE AND FREEDOM. WE MUST VIGOROUSLY MOVE FORWARD IN PRESSING FOR TRUTH AND JUSTICE. I ASK THE COMMITTEES TO FOCUS THE ATTENTION OF THE CONGRESS TO HELP END THE SENSELESS TRAGEDY OF HUMAN ORGAN HARVESTING.

AMERICA HAS TO STAND FOR THE VALUES THAT MADE US A GREAT NATION. FOREMOST AMONG THESE VALUES IS THE WORTH AND DIGNITY OF LIFE. LET THIS HEARING BE A BENCHMARK TO OUR RESOLVE TO END THIS BARBARIC PRACTICE.

THANK YOU, CHAIRMAN GILMAN AND CHAIRMAN BURTON. I LOOK FORWARD TO WORKING WITH THE COMMITTEES TO END THIS HUMAN RIGHTS ABUSE.

I AM PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

LINDA SMITH
THIRD DISTRICT, WASHINGTON
RESOURCES COMMITTEE
SMALL BUSINESS COMMITTEE
VICE CHAIRMAN
SUBCOMMITTEE ON TAX, FINANCE AND EXPORTS
1317 LONGWORTH HOUSE
OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3536
Internet
E-mail: asksmith@mail.house.gov
World Wide Web: www.house.gov/lindasmith

DISTRICT OFFICES
1220 MAIN STREET
SUITE 360
VANCOUVER, WA 98660
(360) 695-6292
2407 PACIFIC AVENUE SE, SUITE B
P.O. BOX 1219
OLYMPIA, WA 98507
(360) 753-3073

Congress of the United States

House of Representatives

Washington, DC 20515

April 22, 1998

The Honorable Stanley Roth
Assistant Secretary of State
US Department Of State
2201 C St. NW
Washington, D.C. 20520

Dear Secretary Roth:

I request a declaration of U.S. policy towards the Peoples Republic of China on the allegations of organ harvesting and the selling of these organs in the U.S.

As you may know, the Federal Bureau of Investigation arrested two defendants. One of the defendants Cheng Yong Wang, claimed to be a former prosecutor in Hainan Province of China, who had participated in the execution of Chinese prisoners, on charges of conspiracy to sell organs, including kidneys, corneas, livers, skin, pancreases and lungs for transplant. Cheng Wang and his co-defendant Xingqi Fu were arrested in New York, New York on Friday, February 20, 1998. This is not an isolated incident but part of an organized effort to provide organs to intrested parties.

Mr. Roth, the allegations that are Chinese prisoners, ***human beings***, are being selectively killed in order to harvest their vital organs for a matching recipient with enough cash to pay the market price. If true, such barbarity is a grave indictment of the government of China.

I request a formal review of U.S. policy and an assessment of the underlying facts to see if any entity of the U.S. government had preexisting knowledge of the alleged cooperation of U.S. companies and individuals residing in the U.S. with organ harvesting in China and whether, if proved, such knowledge and the failure to act on such knowledge violated U.S. policy.

I look forward to your prompt attention to this urgent matter.

Very truly yours,

Sincerely,

Linda Smith

Linda Smith
Member of Congress

LINDA SMITH
THIRD DISTRICT, WASHINGTON
RESOURCES COMMITTEE
SMALL BUSINESS COMMITTEE
VICE CHAIRMAN
SUBCOMMITTEE ON TAX, FINANCE AND EXPORTS
1317 LONGWORTH HOUSE
OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3536
Internet:
E-mail: [illegible]
World Wide Web: www.house.gov/lindasmith

DISTRICT OFFICES:
1220 MAIN STREET
SUITE 388
VANCOUVER, WA 98660
(360) 695-6292
2407 PACIFIC AVENUE SE, SUITE B
P.O. BOX 1219
OLYMPIA, WA 98507
(360) 753-3073

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

October 17, 1997

The Honorable Janet Reno
Attorney General
The United States of America
Room 4400
950 Pennsylvania Avenue N.W.
Washington D.C. 20530-0001

via facsimile 202-514-4507

Dear Madam Attorney General:

We request a formal inquiry into allegations of organ harvesting from Chinese prisoners. These allegations were documented on the October 15, 1997, ABC news show *PrimeTime Live*. A transcript is attached.

Specifically, we request an inquiry into whether any federal laws making it illegal to buy or sell human organs have been broken.

We also request an investigation of Dr. and Mrs. Dai, the alleged procurers of organs from Chinese prisoners. Our understanding is that Dr. Dai is in the United States ostensibly as a student. We specifically request a determination on whether Dr. and Mrs. Dai have violated any federal laws prohibiting commerce in human organs. We also request a determination on whether Dr. and Mrs. Dai have violated the terms of their visas. Anticipating that Dr. Dai may attempt to flee the country, we have notified the F.B.I. of his last-known whereabouts and his passport number.

We request that the former top W.R. Grace Company executive quoted, but not named in the ABC news report, be deposed as to the involvement of this American company into the alleged organ harvesting. We also request a review of applicable laws to assess the liability of current and former W.R. Grace Company officials in assisting in the alleged organ harvesting operation.

page two – Attorney General Janet Reno, October 17, 1997

Finally, we request a formal review of U.S. law and an assessment of the underlying facts to see if any entity of the U.S. government had preexisting knowledge of the alleged cooperation of U.S. companies and individuals residing in the U.S. with organ harvesting in China and whether, if proved, such knowledge and the failure to act on such knowledge violates any U.S. law.

Madam Attorney General, the allegations are that human beings are being selectively killed in order to harvest their vital organs for a matching recipient with enough cash to pay the market price. If true, such barbarity is a grave indictment of the government of China.

If the laws of the United States have been violated to facilitate this alleged commerce in humanity, the violators must be prosecuted. If the Peoples' Liberation Army and the government of China are intimately involved in this gruesome harvest, then this involvement must be condemned by the highest levels of the U.S. Administration.

It is no secret that we believe this administration is weak in pressing China to adhere to even the most basic standards of human rights. We are concerned that there will be pressure to sweep this travesty under the rug as has happened in the past with other human rights violations. We hope you will vigorously resist efforts to be passive in pressing this matter and will instead bring the full force of your office to bear. We are mindful that at stake are the lives of real men and women who do not enjoy the protections of law and justice that Americans take for granted.

We look forward to your prompt attention to this urgent matter.

Very truly yours,

Linda Smith
U.S. Rep. Linda A. Smith

Frank R. Wolf
U.S. Rep. Frank R. Wolf

cc: The Honorable Henry J. Hyde, Chairman, House Judiciary Committee

encl. ABC News transcript
42 U.S.C. §274e

United States Department of State

Washington, D.C. 20520

Dear Ms. Smith:

Thank you for your April 22 letter to Assistant Secretary Roth sharing your concerns about allegations of the harvesting of human organs from convicted prisoners in China, and about relevant U.S. policy.

We share your concerns about these allegations. The idea of trade in human organs is repugnant, and the possibility that organs of executed prisoners could be involved in such trade is even more disturbing. We have pressed the Chinese government at very senior levels for an explanation of its policy regarding this issue. We raised this matter during the October visit of Chinese President Jiang Zemin, and senior Administration officials have discussed the issue with their Chinese counterparts on numerous occasions since then.

Chinese authorities have provided documents which clearly state that the sale or export of human organs and tissues is prohibited. The Chinese have emphasized that the sale of human organs is not only against Chinese government policy but against the law. We are urging the Chinese government to make sure that this prohibition is enforced.

With respect to the arrests in New York, the Department is working with the U.S. Attorney's office in its investigation, and we await the results of any prosecution. We will watch the development of the case closely to see if there is any evidence to support the allegation that the Chinese government, as a matter of policy, condones the sale of human organs for profit.

The Honorable
Linda Smith,
House of Representatives.

Our approach is to ensure that the Chinese government realizes that this is an important human rights issue for us; to continue to press for more information about the Chinese system and how it operates; to support investigation of allegations of trafficking in human organs in this country; and, looking to longer-term resolution, to press for improvements in the Chinese legal system to better guard individual rights and due process.

We hope this information is helpful in responding to your concerns. If we may be of assistance in any other way, please do not hesitate to contact us.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

December 22, 1997

Honorable Linda A. Smith
House of Representatives
Washington, D.C. 20515

Dear Congresswoman Smith:

Your October 17th correspondence to Attorney General Janet Reno, also signed by Congressman Frank R. Wolf, was referred to the FBI for reply. You referred to a television program that featured a story on the sale of body organs that are allegedly taken from executed criminal prisoners in China, and you inquired whether any federal laws exist making it illegal to buy or sell such organs in the United States.

The FBI's Office of General Counsel has advised that the sale of a human body organ may be a violation of U.S. Code, Title 42, Section 274e, the National Organ Transplant Act, which states "...It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce." Any person who violates this subsection is subject to a $50,000 fine and/or up to 5 years' imprisonment. Since the incidents depicted on the referenced television program could be a violation falling within the FBI's investigative jurisdiction, this matter has been referred to our New York Office, which is working closely with the U.S. Attorney's Office, Southern District of New York. It should be noted that the Office of Inspector General, Department of Health and Human Services, has previously conducted investigations regarding the sale of reusable body organs and may have investigative interest in the activities depicted on television.

Honorable Linda A. Smith

If I can be of further assistance in this or other matters of concern to you and Congressman Wolf, please let me know.

Sincerely yours,

John E. Collingwood
Inspector in Charge
Office of Public and
Congressional Affairs

By: A. Robert Walsh
Acting Unit Chief

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

November 5, 1997

Honorable Linda Smith
House of Representatives
Washington, D.C.

Dear Congresswoman Smith:

I understand that you are very concerned about the allegations of organ harvesting and that your staff has contacted us for an update.

The FBI began investigating this matter the instant it came to our attention. I have instructed that the resources necessary to conduct every appropriate interview and obtain all relevant evidence are immediately deployed. Please be assured the FBI is fully committed to quickly and aggressively resolving this matter.

I have asked my staff to keep you updated. Please understand, however, because of Rule 6(e) limitations, we are restricted in the degree to which we can brief you.

If I can be of any further assistance, please do not hesitate to ask.

Sincerely yours,

Louis J. Freeh
Director

DRUG I AMERICA THE RIGHT CHOICE

Mr. GILMAN. Thank you, Congresswoman Smith.

Did you get any response to your request to both the Justice Department and to the administration for an investigation of this issue?

Mrs. SMITH OF WASHINGTON. The responses we got were the—we got your letter, No. 49. I am just joking a little bit. But they were that. They were very revealing though.

There was a statement in both the U.S. Department of State and the Attorney General's brief letters that said, it was basically a denial. It said, "Chinese authorities have provided documents which clearly state that the sale or export of human organs and tissue is prohibited. The Chinese have emphasized that the sale of human organs is not only against Chinese Government policy, but against the law." Therefore, we got your letter, but China told us they are not doing it. Therefore, they must not be doing it. That was the only answer that we really got. I can make that available for the committee for the record.

Mr. GILMAN. I note too that the Justice Department states that they have referred your correspondence to the Office of the Inspector General of the Department of Health and Human Services. Did you hear from that agency at all?

Mrs. SMITH OF WASHINGTON. No. The only response that we have had is the FBI investigation, which would have in February, they did pick up two more people. That was mentioned earlier.

Mr. GILMAN. Thank you, Congresswoman Smith.

Mr. Burton.

Mr. BURTON. I just want to thank Representative Smith for her very eloquent statement. I don't have any questions for her, but thank you for being here.

Mrs. SMITH OF WASHINGTON. Thank you, Chairman.

Mr. SMITH OF NEW JERSEY. Mr. Chairman.

Mr. GILMAN. Mr. Smith.

Mr. SMITH OF NEW JERSEY. Just briefly to thank Congresswoman Smith for her dogged determination on this issue. It has really helped, especially on this organ harvesting, this organ transplantation issue. You have energized the Congress. We are all very grateful for that work that you have done.

You know, the President speaks softly and he carries no stick on this issue. Wei Jingsheng, when he testified before our subcommittee some time ago, talked about how when America's voice is muted and silenced, and when there are no actions especially connected to that voice, it is so incredibly disheartening to those who are in the laogai and those who are suffering unspeakable crimes against their persons, they begin to lose hope. The bully boys, if you will, and it's counter intuitive to what some of our people think, when we are tough and consistent, and your word is very well chosen, when we are consistent and tough and lay out very clearly that human rights do matter, that people are above profits, the bully boys aren't as bullying to the prisoners. There is a mitigation of their tactics. As soon as the pressure is lifted, it is open season. Regrettably, it is open season right now. I attribute that to some in Congress and to the White House.

Let me also ask, Mr. Chairman, that these two letters, would you and Dan Burton ask to be made a part of the record? These were

requesting the State Department to be here today. They were done in ample time for a responsible representative of our distinguished State Department to be here. Again, they have no-showed.

Mr. GILMAN. Without objection, the letters will be made a part of the record.

[The information referred to follows:]

Congress of the United States

Washington, DC 20515

May 22, 1998

The Honorable Madeleine Albright
Secretary of State
Department of State
Washington, DC 20520

Dear Madam Secretary:

On June 4, 1998, at 10:00 am in room 2172 of the Rayburn House Office Building, the House Committee on International Relations and the House Committee on Government Reform and Oversight will be holding hearings entitled "The Sale of Body Parts by the People's Republic of China." We respectfully request you or your designee, preferably Assistant Secretary Stanley Roth, to testify before our Committees on this topic.

Chinese dissidents Harry Wu and Wei Jinsheng, and Japanese and Thai doctors involved with the transplanting operations have been invited to testify as well.

The Chinese government's sale, and extraction of body parts can be traced back to a policy document issued by the Beijing central government on October 9, 1984. This document, which has remained in force, makes China the only country in the world to harvest the organs of its executed prisoners. Under this document, "[t]hose criminals who are sentenced to death and executed immediately must be executed by means of shooting."

The document goes on to state that "[t]he 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 the medical institutions;

3. Upon the approval of the family members."

We would request that the State Department witness be prepared to respond to the following questions:

1. Are the provisions of this document currently in effect in China?

2. Have the provisions of this document been amended or altered in any way since 1984? If so, how?

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3. Under the provisions of this 1984 document, how many organs have been removed from executed prisoners? What types of organs?

4. The document stipulates three conditions under which organs from executed prisoners can be made use of: if the body is uncollected, if the condemned prisoner consents or if the prisoner's family consents. Under each of these three categories, how many organs have been removed and transplanted? What types of organs?

5. What percentage of executed prisoners' bodies are uncollected?

6. What is the administrative procedure for families of condemned prisoners to donate organs from that prisoner? At what point in time relative to the execution do they go through this procedure? Who must participate in this procedure? Do the family members fill out a form? If such a form exists, is it possible to obtain a copy of one?

7. The Chinese government has repeatedly stated that while it does remove organs from executed prisoners, these organs are not for sale. How does the Chinese government define "sale" (i.e., does the Chinese government make any distinction between an organ purchased while still inside a living prisoner and one that has been removed from a body)?

8. The Chinese government has indicated that anyone it catches selling organs will be punished. Has the Chinese government ever caught anyone doing this? How have these persons been punished? What are the government's guidelines for punishing these people?

Attached are our instructions for witnesses. We look forward to hearing from you.

Sincerely,

BENJAMIN A. GILMAN
Chairman
Committee on International Relations

DAN BURTON
Chairman
Committee on Government
Reform and Oversight

Attachment

Congress of the United States

Washington, DC 20515

June 2, 1998

The Honorable Madeleine Albright
Secretary of State
Department of State
Washington, DC 20520

Dear Madam Secretary:

On May 22, 1998 we requested that you or your designee, preferably Assistant Secretary Stanley Roth, appear before a joint Committee hearing on this Thursday, June 4, entitled "The Sale of Body Parts by the People's Republic of China." Although we have not received a written response from your office, we understand through telephone conversations with the State Department's Office of Congressional Affairs that you will not be providing a witness. We regret this decision and respectfully request reconsideration so that the Congress and the American people can understand the Administration's position on the deplorable practice in China of harvesting organs for profit from executed Chinese prisoners.

This is particularly troubling given the President's stated intention to raise human rights as a top priority in bilateral relations during his planned trip to China later this month. The allegations of harvesting organs from Chinese prisoners, some of whom may be political prisoners, is a very serious one. It is a human rights issue upon which the State Department should not remain silent.

Your preliminary decision not to participate in this important hearing on human rights just a few weeks prior to the President's trip may send the wrong message to the Chinese government about our commitment to speak out on human rights issues. Again, we respectfully request immediate reconsideration of this decision so that we can collectively promote freedom, democracy and human rights in China.

Sincerely,

BENJAMIN A. GILMAN
Chairman
Committee on International Relations

DAN BURTON
Chairman
Committee on Government
Reform and Oversight

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Mr. GILMAN. Mr. Hastings.

Mr. HASTINGS. Thank you very much, Mr. Chairman. Mr. Chairman, first, let me have it clearly understood that I appreciate very much Mrs. Smith, our colleague's comments, as well as those that have been made by our colleagues here. But to continue to impugn the integrity of the administration for alleged silence is beyond the pale of partisanship as far as I am concerned. I would like to have it understood that Mrs. Smith and I have a disagreement.

I have heard Madeline Albright speak very clearly about human rights. I have heard the President of the United States and the Vice President of the United States speak very clearly about human rights violations in China. I was in China with the Speaker of the House of Representatives when the Vice President was there. Both of them, the Speaker and the Vice President spoke out about human rights violations. I have traveled to China with the Chair of the distinguished International Relations Committee. In each instance, in every meeting that we were in, we raised the issue of human rights violations.

The so-called concerns that we have here today seem to be more political posturing than how——

Mr. SMITH OF NEW JERSEY. Would the gentleman yield on that?

Mr. HASTINGS. I will not yield at this time. Go about in an engaged manner to determine just exactly how best we might deal with one of the most critical nations in this world. I am not standing here to say that any organ usage in an improper manner should not be discussed by any of us. But let's don't just think that everybody in Congress is of a mind to believe that because criminal activity that's being investigated in New York allows that some Congressperson writes to the Attorney General, that the Attorney General has the direct responsibility to tell that congressperson what the level of that investigation is. That investigation in New York has not concluded. Until such time as it concludes, then we would be very wise to listen to the extraordinary witnesses who are here today, who have had the experiences that we are here to hear about, and not hear all of this mouthing from our colleagues about what is the administration's policy. I think that that's not good. I just want to be on record as having it clearly understood that I don't believe Mrs. Smith knows that this administration has been silent. If they have been silent, then she and I have been living in two different places in America.

Mr. GILMAN. Mr. Horn.

Mr. HORN. Thank you very much, Mr. Chairman. I commend my colleague from Washington for her excellent statement. I also commend you for your suggestion that we ought to maybe do this every day until we get some answers.

I was shocked when I came in here and saw the witness list and it says State Department has declined to provide a witness for this hearing. I would simply ask my two colleagues, for whom I have high respect, Chairman Gilman and Chairman Burton, why haven't we issued subpoenas to the relevant people in State, in Justice, and Health and Human Services, and any other agency, and get them up here, have them listen to these witnesses, and then tell us what they know. If it needs to be in executive session, I am glad to do that.

I think that one of the more successful adventures in human rights is when President Nixon and Mr. Brezhnev negotiated in terms of Jewish immigration. We didn't go around issuing press releases. He got the job done. That's fine. I don't care how they do it, but they need to do it. I don't think we're posturing. I think we're trying to get at the truth. There is a difference.

Mr. BURTON. Would the gentleman yield quickly?

Mr. HORN. Yes.

Mr. BURTON. I have not talked to Chairman Gilman, but I believe that this issue is of such significance that we should force the State Department to come up here. I have no problem since they did not show today, with sending them a subpoena if they choose not to come. That's something that is extraordinary, but this is an extraordinary situation as the gentleman pointed out. Thank you.

Mr. HORN. Thank you.

Mr. GILMAN. Mr. Clement.

Mr. CLEMENT. Thank you, Mr. Chairman. Mrs. Smith, I sure heard what you had to say. I am very much opposed to the selling of body parts or organ harvesting and all of that. I realize there are many here that are very anti-Clinton for various reasons. Maybe this, just like Congressman Hastings said, this is another way of attacking the President and the administration. But I am more interested in the facts and the information, is it true or not. I want to know what evidence you have that it's government-sponsored when it comes to organ harvesting or selling of body parts or is it an underground movement. Can you prove to us today that it is government sponsored?

Mrs. SMITH OF WASHINGTON. Mr. Chairman, may I answer that question?

Mr. GILMAN. Please.

Mrs. SMITH OF WASHINGTON. I think that this committee has asked for reports that have come about. Some evidence came in the FBI, you might say pickup of the last two people. It appears one of them was a government official or had government official ties, possibly government official. No, we can't prove that. We know it's going on. The State Department knows it's going on. So I guess what we are saying here today is our President's inaction is speaking louder than words. We have stood out over the years against oppression. They know it's happening. It's in, as you saw the tapes, if you haven't seen them, this committee does have them, that it was in Red Army controlled hospitals, run by the Red Army. The organ harvesting of the prisons is done in the hospitals. That is controlled by the Army which is a big part of the government. We have tape that was by 60 Minutes that shows some of the information on the executions done by the government. We have internal documents that show that it's connected to the government. The government owns the prisons, the prisoners and the hospital. It appears that some here are connected to the government. But no, we can't prove it. We know it's happening. There are dead bodies. There are people—you know, I think this whole hearing is about actions speak louder than words. This country has always spoken against it, but we have never permitted it in our own country. So this has been brought into our country. We know that both governments have visa laws. How many people do you know that would

go to China for medical treatment and get a medical visa? Yet, we know there are many people from America being taken to China for medical purposes to get surgeries in China in the Red Army hospitals.

Mr. CLEMENT. Do you believe that a lot of economic reform and political reforms are taking place in the People's Republic of China now?

Mrs. SMITH OF WASHINGTON. I don't know that that makes any difference to the point that we have here before us today. Some believe trade has no conscience, that trade should be totally separate of any human rights, that we should have no sanctions, that we should do nothing but make money and hopefully along the line that will be better. But that's not the issue today. The issue today is we know there are thousands and thousands of people that go to jail for assembling for religious freedom or for political freedom, they violated the law and that they have no process that protects them. They can be DNA checked, bone checked, and that within hours with no trial, they can be a human—they can have their organs——

Mr. CLEMENT. But what you are saying today is it could be an underground movement. It could be mafia related. It could be something other than government sponsored?

Mrs. SMITH OF WASHINGTON. No, sir. I am not saying that. Because if it was underground, it would not be in the Red Army hospitals visible to 60 Minutes.

Mr. SMITH OF NEW JERSEY. Would the gentlelady yield when she gets a chance?

I thank the gentleman for the question. I think it's a very apt question, Mr. Clement. Harry Wu, when he testified in October before our subcommittee, stated "The central role of the military hospitals in the systematic harvesting of prisoners' organs shows further the total involvement of all institutions of the Chinese Government in this disgusting process." The use of executed prisoners' organs is a coordinated government policy sanctioned by the Communist regime. It lines the pockets of officials in the military with blood money. Let me just note for the record as well, there are very few private sector hospitals in the PRC, if any. As Mr. Wu points out in his testimony, they have identified 88 different facilities in China that carry out just kidney transplants. The military runs most of those.

Mr. CLEMENT. Well, I heard Mr. Wu testify last time as well. He is a very credible witness and seems to be a fine man, but I also know China is a very big country with 1.2 billion people, the most populated country on the face of the earth. We just need to have all the facts and all the information before we go down a path that we can't justify.

Mr. GILMAN. The gentleman's time has expired.

Mr. Rohrabacher.

Mr. ROHRABACHER. Well, my distinguished colleague, if I could just say that I don't think that there is much of a doubt in people's mind that this is happening with the support and if not the total organizational support of the Chinese Communist government in Beijing. These people know what's going on. The people doing the shooting are in uniform. These are hospitals run by the govern-

ment. The prisons are run by the government. It's really a stretch to say that you doubt whether the government knows what's going on in this situation.

It seems like, and I understand my colleague, it's pretty hard to be on that side of the aisle when you have an administration like this which of course represents unfortunately the Democratic party's position now, with the President as the head of your party, because he is taking such a callous view toward these clear not just violations of human rights. These are ghoulish things that are going on in China. What we have is the laogai prison systems. We have heard horror stories coming out of this for years. This is like what was coming out of the Nazi concentration camps. Persecution of Christians and Muslims and the Tibetan Buddhists that are now in—they are victims of genocide. Yet this administration, the last witness we have had from this administration talking about China was here to talk about what, they were here to tell us that this administration is proposing a strategic partnership with this very same regime.

Well, if there is any posturing going on, and my friend, Mr. Hastings, and I do consider Mr. Hastings my friend and I am sorry he's not here to hear these words, but if there is any posturing going on, it is not political posturing by those of us who really believe in human rights. I mean Mr. Smith and Mrs. Smith down here, these are people who have strong convictions about the humanitarian concerns that we're talking about here. I don't think anybody on this side is posturing because we honestly believe human rights has to be part and democracy and freedom have to be part of American policy or it's going to come around and hurt our country in the long run.

You do what's wrong, it's going to hurt you in the long run. That is what we found out with the Chinese missile deals. Here we are dealing with a dictatorship, and now our own safety and security are in jeopardy.

Let me point out, here's the newspaper today. "Chinese Ship Arms Parts to Pakistan." This is for Pakistan's nuclear weapons systems. The last administration official we had coming here was talking about a strategic partnership with this, the worst abuser of human rights on this planet? No, if there's posturing going on here, I say to my friends and colleagues on the other side of the aisle, the posturing is going on, it's a posturing on the part of this administration to try to convince the people of the United States that it has any commitment to human rights.

If President Clinton goes to China—that's why I think he should cancel his trip to China—and stands in Tiananmen Square, it will be a travesty. It will make a mockery of those Americans who honestly and sincerely are concerned about human rights because we know whatever he says will be pure posturing. He has already told his friends in Beijing that don't worry about it, it's not going to disrupt your ability to make money off our relationship. It's not going to affect us from having a supportive relationship with your regime.

This is totally inconsistent with American tradition. We don't have to be the saviors of all humankind, but when people are struggling for freedom, we should be on their side. Again, that's not

posturing. I am not saying that for political purposes. We believe that.

Mr. GILMAN. Thank you, Mr. Rohrabacher.

Congresswoman Smith, we thank you for coming before us. We thank you for your legislation. We want to assure you we are going to keep on top of this issue.

Mrs. SMITH OF WASHINGTON. Thank you, Mr. Chairman. Could I draw attention to one statement that Harry Wu gave me? It is a document that shows the procedure and the government procedure in how to handle organ transplants and the killing and execution. It certainly can be made available. It is transcribed.

Mr. GILMAN. What is the date of that?

Mrs. SMITH OF WASHINGTON. This is 1984. So it shows it's been going on quite a while. But there are other documents. It simply does go through. It makes it clear through all of them that it be kept strictly confidential, that it not come to the public's attention.

So I think there's long-term involvement. This happens to be the Supreme People's Court, the Supreme People's Ministry of Public Security, Ministry and Justice. So it's obviously not a process that was——

Mr. GILMAN. Without objection, we'll make that part of the record.

[The information referred to follows:]

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 People's Court; The People's Procuratorate; Department [Bureau] of Public Security; Department [Bureau] of Justice; Department [Bureau] of Public Health; Department [Bureau] of Civil Affairs at 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 medical science and to change social customs and traditional habits, while understanding the need for the strict implementation of legal provisions and awareness of the political impact as a 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 should be otherwise dealt with only after death is confirmed by the supervising procurator on the spot.

II. The dead bodies or organs from 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 the medical institutions;

3. Upon the 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 standards and facilities 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 to register.

2. The use of dead bodies shall be arranged in an unified way by 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 death penalty execution order is issued, and there are dead bodies that can be directly used, the People's Court should inform, in advance, the 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 the on-the-spot supervision. It is the responsibility of the units using the dead bodies to contact the People's, within the prescribed time limits of the execution determined by the People's Court.
   Regarding 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 to consult with the family members, and consequently reach a written agreement in relation to the scope of use, disposal after use, disposal expenses and economic compensation and other matters. The Bureau of Public Health of the municipality or prefecture shall, according to the agreement, grant the units the certificates to use the dead bodies and 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 and special attention must be paid to this objective. In general, all [tasks] should be performed within "he same unit. Only in real need, and 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 ground to remove organs, but vehicles displaying 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 the remains 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 mouming and funeral customs in the implementation of the Regulations.

Mr. GILMAN. Again, we thank you for being with us.

Mr. MARTINEZ. Mr. Chairman.

Mr. GILMAN. Mr. Martinez.

Mr. MARTINEZ. Thank you. Before Mrs. Smith leaves, I want to say a few words about what we heard so far.

I have to associate my remarks with those of Mr. Hastings and Mr. Clement because I didn't come to listen to the bashing of the administration. I came to hear about the organ harvesting of China. There has been some discussion here as to what the purpose of this, political posturing or actually getting the information that we need to make a decision on what we should do. In that conversation, very little of it has really centered on the issue that we are here to hear about. Some reference to Mr. Wu's testimony has been made.

I read Mr. Wu's testimony. I want to tell you that in his testimony, he doesn't conclusively identify other than that the government policy there is responsible because the government policy is three-fold. They use the organs from the bodies if nobody claims the bodies on death row, prisoners of families or the prisoners of families refuse to bury the bodies. The death row prisoners can voluntarily donate their bodies for use in medical facilities. Death row prisoner bodies are used with their families' consent. Now the one criticism he has of that is that it's not all three criteria, but any one. But if you read the criteria, each one has to stand separately on its own.

More than that, you talk about the executions via the government. I liked Mr. Clement's question about do we have absolute proof that the government as a government is sanctioning the illegitimate use of these organs. By Mr. Wu's testimony himself, he says that 40 to 50 percent of the executed prisoners were not used for the following reasons: death row prisoner families wanted the bodies buried, death row prisoners suffered various disease or were too old, executions were located in remote areas, or death row prisoners could not be exported to nearby areas which made it difficult to deliver their organs to medical facilities, death row prisoners were members of the national minorities, use of certain death row prisoner organs could cause political and social impact.

So evidently, there are 40 to 50 that are not used, and the government seems to be following the same policy. The only conclusion is well 50 to 60 percent of them were used. But if they were used under the criteria that the government established, that may be for that government to decide, not us. We have voluntary organ donors here in this country. It is one thing that if a perfectly healthy organ is needed for another person and the person wants to volunteer that, they can do it. It is not as if that was the atrocity. I think we are trying to establish here in this hearing is: What is the atrocity? Is it being done intentionally? Mr. Clement asked do we have absolute proof of it.

Saying that the government executed people, prisoners, it seems like when I am reading this testimony that these people were executed for executions for a lot of reasons. If they were for political reasons, that's bad too. Nobody is going to sanction that. But I think that rather than getting emotional about it and being more concerned about bashing the administration, we ought to be con-

centrating on trying to determine what the real issue here is. Is it government sanctioned? Is the government involved in real atrocities? And if we are going to take a position by our State Department in our policies against China or most favored nation status and anything else, I think we ought to be operating on facts, not fiction. Thank you, Mr. Chairman.

Mr. GILMAN. Thank you, Mr. Martinez.

Again, Congresswoman Smith, we thank you for your time and being present. We'll now proceed with panel No. 2, if the panelists would please take their places. Tsuyoshi Awaya, Phaibul Jitpraphai and Somporn Lorgeranon.

Mr. BURTON. Would you be sure to pull the microphones close to you so we can hear you?

Mr. GILMAN. We are pleased to have this distinguished group of panelists before us. Tsuyoshi Awaya was born in 1950. He is a professor of law and sociology at Tokuyama University. He currently resides in Kume, Japan. He is recognized as an international expert in law concerning organ transplants. Mr. Awaya has studied the issue of transplants in China carefully and extensively. He has documented a number of cases, written a number of articles concerning the ethics of transplanting organs from executed prisoners.

Our next witness, Phaibul Jitpraphai, please bear with me if I am not pronouncing your names appropriately. He was born in 1940. He is a professor of surgery at a medical faculty at Siriraj Hospital, Mado University, Bangkok. He also serves as the director of urology division, and head of the organ transplant unit at Siriraj Hospital.

Mr. Somporn Lorgeranon is an account manager with Computer Union Co. Ltd., and lives with his wife and child in Bangkok, Thailand. He was diagnosed with kidney disease in the early 1990's. He traveled to China in 1993, to receive a kidney transplant and later learned that his kidney came from a prisoner executed for drug trafficking.

Our panelists may proceed and put their full statement in the record and summarize or whatever they deem appropriate. We'll proceed with Mr. Awaya.

STATEMENTS OF TSUYOSHI AWAYA, SOCIOLOGY OF MEDICAL LAW OFFICE, TOKUYAMA UNIVERSITY; PHAIBUL JITPRAPHAI, M.D., FACULTY OF MEDICINE, SIRIRAJ HOSPITAL; AND SOMPORN LORGERANON, RECIPIENT OF ORGAN TRANSPLANT

Mr. AWAYA. Mr. Chairman and members of the committees, thank you for holding this hearing——

Mr. GILMAN. Please put the microphone a little closer to you.

Mr. AWAYA [continuing]. And inviting me to speak today. I am sorry I am handicapped in English, especially American English. So I will speak slowly.

I have been researching about organ trade in Asia for 10 years. First, about Japanese patients. I have been to China five times since 1995, for my research about organ transplantation from executed prisoners. Last time was April 1997, with a Japanese patient and broker. The patient got new kidneys. I spent a long week with them and I got the information.

Japanese patients started to go to China for kidney transplants from around 1985. According to my total, from various sources, at least 26 Japanese patients have gone to China for organ transplants. Since a new law, new Japanese organ transplant law, the law concerning human organ transplants in 1997 took effect, no Japanese patients have been reported going to developing countries for organ transplants.

Second, about organ sales. Can organ transplantation from executed prisoners in China be called organ sales? The answer is no. Why? Executed prisoners in China are never paid for their organs. In some cases, the families pay some compensation, but this doesn't make it an organ sale. Patients pay money for operation fees, drugs, and other expenses. But they do not pay money as valuable consideration for the organ. Logically at least, this means that this is not the sale of organs.

Third, about the consent of prisoners. Organ removal from executed prisoners without their consent is a violation of the Chinese administrative regulations, Temporary Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Criminals. However, this regulation stipulates no punishment. From my legal point of view, in general terms this taking of organs from executed prisoners' bodies without the consent or payment is the stealing of a human body part. Nowadays, human body parts, organs, tissues, cells, genes, et cetera, have become valuable things which are given freely or for money.

When a person is alive, the property of the body belongs to the person. After the death of a person, the dead body is the property of his or her family. To whom does a prisoner's dead body belong? It belongs to the family of the prisoner, not to the Chinese doctors or the Chinese Government. There are no laws in China which stipulate that dead bodies of ordinary Chinese people or executed prisoners belong to the Chinese Government. So Chinese doctors are stealing organs. I think they should be punished according to Chinese criminal law, article 264.

How about organ removal from executed prisoners who have given their consent? It is legal to remove organs from executed prisoners with their consent according to the Chinese administration regulation mentioned above. But it is a big problem from an ethical and human rights point of view.

Fourth, about role of the Chinese Government. In China, organs taken from executed prisoners have been used from the starting point of transplant medicine. There are almost no voluntary donors either now or in the past. Fundamentally, transplant medicine cannot be done unless there are voluntary donors. So fundamentally, transplant medicine cannot be done in China. This is a case of technology making the Nation lose its moral values.

The Chinese Government does admit organ removal from executed prisoners with their consent. It is legal according to the administrative regulation mentioned above. But in reality, the Chinese Government has tacitly admitted organ removal from executed prisoners without their consent, even if, as mentioned above, it means organ stealing. On the whole, the Chinese Government has been pushing ahead with organ transplants from executed prisoners whether they give their consent or not as a national policy.

Fifth, about injection as a method of execution in China. Recently the Chinese Government has been changing the method of execution from shooting to injection. The previous Chinese criminal law stipulated shooting as the only method of execution, article 198. But a new Chinese criminal procedure law of 1997, stipulates both shooting and injection as methods of execution, article 212, clause 2. So the injection as a means of execution is legal. Execution by injection is very reasonable and convenient for the purpose of taking organs. It goes without saying that this will create a very dangerous situation.

Sixth, about brain death theory and contract-out approach in China. Recently some Chinese doctors have begun to assert that brain death equals the death of a person. Some other doctors have begun to assert so-called contract-out approaches. Unless the deceased expressed an opposite intention about removal of his or her organs during lifetime, doctors can remove the organs after his or her death. What will happen when these approaches are accepted in China? Surely as great numbers of organs can be removed from ordinary people, doctors won't need to remove organs from executed prisoners. I imagine, however, that such a solution would generate new more serious problems. Thank you.

[The prepared statement of Mr. Awaya follows:]

STATEMENT OF

TSUYOSHI AWAYA, PROFESSOR OF LAW AND SOCIOLOGY

TOKUYAMA UNIVERSITY

before the

INTERNATIONAL RELATIONS COMMITTEE AND

GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 4, 1998

1. Japanese patients going to foreign countries for organ transplants.

There are two ways that Japanese patients take to go overseas for organ transplants. The first is to go to a developed country recommended by one's attending physician. The second is to go to a developing country through a broker or by oneself. The developing countries where Japanese patients have been going for organs include the Philippines, China, Korea, India, Bangladesh, Thailand, and Taiwan.

All of the latter type case occurred before the enforcement of the new Japanese organ transplant law, "the Law concerning Human Organ Transplants 1997." Since the law took effect, no such cases have been reported.

There are only a few brokers for the Chinese market. Some brokers stopped their business due to the law. Some are still continuing their business, but no patients come to the brokers' offices, because patients are afraid of punishment by the law. Incidentally, the Philippines market has been stopped completely due to the law.

2. The legal distinction in Japan between "an organ sale" and a package of hospital services that include a transplant operation.

The Law concerning Human Organ Transplants 1997 in Japan prohibits sale of an organ in same way as the American "National Organ Transplant Act 1984.

If a patient pays money as "valuable consideration" for an organ, this is counted as an organ sale, and so is illegal. But, if a patient pays money for operation fees, drugs, and various other expenses, it is not seen as an organ sale, so it is not illegal. (The same legislation is observed all over the world.) Therefore, even if a patient receives a package of hospital services that include a transplant operation, it is not illegal, unless the patient pays money for the organ as "valuable consideration". But even in this case, brokers' business for a package of hospital services is illegal for other reasons. Why? The "mediation" of organ transplants without the permission of the Japanese government is prohibited by the above mentioned law.

Incidentally, if someone provides only information services about the procedure of getting organ transplants in China, as it is not actual mediation of organ transplants, it is not illegal. One Japanese broker has started such an information business recently.

3. Proof that organs transplanted in China come from executed prisoners.

In 1993, the Chinese government admitted that organs used in transplants in China come from executed prisoners (in a statement by Chinese United Nations delegate, Jin Yongjian (United Nations, Report of the Committee against Torture, Forty-eighth Session of the General Assembly, Supplement No.44 [A/48/44], 1993)). I have tried to observe an execution and removal of organs myself, but as yet I have not been able to. But one Hong Kong Chinese doctor, who is referring patients to China, told me that this is true. And one Chinese doctor and one nurse who are working for Japanese transplant patients also confirmed this. Incidentally, many articles also make reference to this fact.

4. The time when Japanese patients started to go to China for organ transplants.

Japanese patients started to go to China for kidney transplants from around 1985.

5. Total number of Japanese patients who have gone to China for organ transplants.

My total from various sources: at least 26.

Sources:

Ota, K., et al, "Present status of organ transplantation to Japanese patients in foreign countries," *Transplantation Today* (Japanese), Vol.10 No.4, July 1997, pp.549-553;

Kubota, K., "Data and complications of the patients on whom kidney transplant operations were performed in Asian countries," *Japanese Journal of Transplantation* (Japanese), Vol. 32, 1997, p.268;

Matsuno, R., "Investigative research on the state of Japanese kidney transplant tours in Asia," *Bioethics* (Japanese), Vol. 8 No. 1, 1998 (under proofreading);

Awaya, T.'s research, including interviews with brokers, patients, doctors, etc.

6. Payment of Japanese patients for an organ transplant procedure.

15,000,000 Japanese Yen=$115,000
25,000,000 Japanese Yen =$192,000

One case that a broker mentioned: Total payment is 15,000,000 Yen=$115,000.

(1) Chinese hospital: 9,000,000 Yen=$70,000 Japanese brokers say that Chinese hospitals distribute money for the related police, military, court, etc...
(2) Japanese broker's income: 3,000,000 Yen=$23,000
(3) other expenses (transportation, accommodation, etc.): 3,000,000 Yen=$23,000

7. Japanese organ brokers.

All brokers who are involved in the organ trade in Japan are Japanese. Some of the brokers have an Internet Home Page. Other means of advertisement are posters inside streetcars or on telegraph poles. Word-of-mouth communication between patients is also an important means of advertisement. Incidentally, newspaper articles and TV programs about their business (even when these criticize the brokers) give a big advertisement for brokers to patients.

The system is simple. A patient makes a telephone call to a broker. After that, payment, date of departure, etc. are decided. Usually patients pay half of the total money before departure to China. After coming back to Japan, they pay the rest. All arrangements for the operation is done with the China side (hospital staff). Incidentally, most of the brokers are very busy. For example, when patients are waiting for operation in China, they take patients sightseeing on a no dialysis day! Brokers want to have a good reputation in order to get more patients/customers. So they are very kind to patients. I met so many organ brokers in India, the Philippines, etc. Most of them were as kind as those Japanese brokers.

But some of brokers are very bad. For example, one Japanese broker recently ran away after collecting 50,000,000 Yen=$385,000 from 4 patients. This is fraud! The police are now investigating this case.

8. Chinese organ transplant hospitals.

There are so many hospitals which conduct organ transplants in China. There are no particular hospitals where Japanese patients typically go. Each broker has his own contacts and arrangements.

Brokers and patients won't tell the name of the hospital, because they think that if the name of the hospital is disclosed, the hospital might have trouble.

9. My own experience.

I wrote several articles about organ transplantation from executed prisoners in China. One of them is Awaya,T., "Organ Transplantation from Executed Prisoners in China," *Horitsu Jiho* (a prestigious law journal in Japan), Vol.68, No.9, 1996, pp.28-34.

I have been to China 5 times since 1995 for my research. Last time was April 1997 with a Japanese broker and patients. The patients got new kidneys. I spent one week with them and I got information. The patients knew the source of the kidneys. They didn't know Chinese laws about organ removal and transplants. Incidentally, there are no laws about organ removal and transplants in China. There are administrative regulations about them.

In general, Japanese patients who get organs not only in China but also in other foreign countries are indifferent about the source of organs. It is not important to them where the organs come from.

I have visited several Chinese transplant hospitals. I have talked with Chinese doctors. I know most of the complete systems of Chinese organ removal and transplants. In fact, details are mentioned in the article, Munro, R., "Organ Procurement and Judicial Execution in China," *Human Rights Watch / Asia Newsletter*, Vol.6. No.9, Aug.1994. In addition, I wrote about the system in my above mentioned article .

10. My opinion.

a. Utilization of organs from executed prisoners for transplant medicine.

The thorough utilization and commodification of human body parts has been progressing in the world, as a result of "life-utilitarianism". Transplant medicine is one of the driving force of this.

From a contemporary point of view, utilization of the dead body of executed prisoners for transplant medicine is a special version of the utilization of the human body, similar to the utilization of an anencephalic infant body or an aborted fetus.

In fact, prisoners' corpses have been utilized for anatomy for centuries all over the world (without their consent). From a historical point of view, the utilization of the dead bodies of executed prisoners for transplant medicine is an extension of the utilization of their corpses for anatomy.

Incidentally, there are cases of organ transplants from executed prisoners not only in China but also in Taiwan, Singapore, USA, etc.

b. The identification of organ transplantation from executed prisoners in China as "organ sales".

Can organ transplantation from executed prisoners in China be called organ sales? Most articles which appear in newspapers and magazines say so. I don't think so. Why? Executed prisoners in China are never paid for their organs. (In some cases, the family is paid some compensation, but this doesn't make it an organ sale.) Patients pay money for operation fee, drugs, and other expenses, but do not pay money as "valuable consideration" for the organ. Logically, at least, this means that this is not the sale of organs.

c. The consent of prisoners.

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

Organ removal from executed prisoners without their consent is a violation of the Chinese administrative regulation, "Temporary Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Criminals". However this regulation stipulates no punishment. In general, it has been said that organ removal from executed prisoners without their consent is an infringement of the human rights of prisoners. But even if this is claimed, nothing happens. And usually it is said that even if patients get organs from executed prisoners without their consent, it is not punishable because there is no law which punishes it.

From my legal point of view, in general terms, this taking of organs from executed prisoners' bodies without consent or payment is the stealing of a human body part. Nowadays human body parts (organs, tissues, cells, genes, etc.) have become valuable things which are given freely or for money. When a person is alive, the property of the body belongs to the person. After the death of the person, the dead body is the property of his or her family. (Strictly speaking from a legal point of view, a family's right to the dead body is not complete property right.) To whom does the prisoner's dead body belong? It belongs to the family of the prisoner not to doctors or the Chinese government. (There are no laws in China which stipulate that dead bodies of ordinary Chinese people or executed prisoners belong to the Chinese government.) So Chinese doctors are stealing organs! I think they should be punished according to Chinese Criminal Law, Article 264. Japanese patients are receiving stolen organs. It is a crime according to Japanese Criminal Law, Article 256, Clause1, if they know that the organ is stolen.

How about organ removal from executed prisoners who have given their consent? It is legal to remove organs from executed prisoners with their consent according to the Chinese administrative regulation above mentioned. The regulation admits the organ removal from executed prisoners on condition that there is the consent of the prisoner or his or her family.

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

1) The prisoner's will to donate organs or not should be respected even if he or she is a prisoner, if his or her consent is given voluntarily.

2) The use of prisoners' organs for transplant purposes is unacceptable, whether prisoners give their consent or not, whether their consent is voluntary or not, on the grounds of (a) or (b);

   (a) a kind of fiction that it is impossible for condemned criminals to give genuinely free consent because they are in a fundamentally coercive situation. (Munro, *op. cit.*, p.33)

   (b) a consideration from policy that a kind of safety device is needed in order to prevent all the cases in which prisoners do not give genuinely free consent, even if, in reality, there are cases of prisoners giving genuinely free consent. (Awaya, *op. cit.*, p.31)

d. The role of Chinese government.

In China, organs taken from executed prisoners have been used from the starting point of transplant medicine. There are almost no voluntary donors either now or in the past. Neither have the Chinese government or medical societies in China made any real effort to get voluntary donors. It has almost been national policy to use organs from executed prisoners. I imagine that the Chinese government had no hesitation or trouble about using them from the beginning.

Fundamentally, transplant medicine cannot be done unless there are voluntary donors. So, fundamentally, transplant medicine cannot be done in China. This is a case of technology making a nation lose its moral values.

Incidentally, the Chinese government does admit organ removal from executed prisoners with their consent. (It is legal according to the administrative regulation mentioned above.) But in reality, the Chinese government has tacitly admitted organ removal from executed prisoners without their consent, even if, as mentioned above, it means organ stealing.

On the whole, Chinese government has been pushing ahead with organ transplants from executed prisoners, whether they give their consent or not, as a national policy. I believe this policy to be a violation of human rights and to be unethical. As mentioned above, there are no laws in China which stipulate that the dead bodies of ordinary Chinese people or executed prisoners belong to the Chinese government. Therefore, although it has the property rights to Chinese land, the Chinese government has no property rights to dead bodies of executed prisoners!

e. Injection as a method of execution in China.

Recently the Chinese government has been changing the method of execution from shooting to injection. The previous Chinese Criminal Law stipulated shooting as the only method of execution (Article 198). But a new Chinese Criminal Procedure Law 1997 stipulates both shooting and injection as methods of execution (Article 212, Clause 2). So the injection as a means of execution is legal. Execution by injection is very reasonable and convenient for the purpose of taking organs. It goes without saying that this will create a very dangerous situation.

f. Brain death theory and contract-out approach in China.

Recently some Chinese doctors have begun to assert that brain death equals the death of a person. Some other doctors have begun to assert a so-called contract-out approaches; unless the deceased expressed an opposite intention about the removal of his or her organs during lifetime, doctors can remove the organs after his or her death. What will happen when these approaches are accepted in China? Surely, as great number of organs can be removed from ordinary people, doctors won't need to remove organs from executed prisoners. I imagine, however, that such a solution would generate new, more serious, problems.

Mr. GILMAN. Thank you, Mr. Awaya.

Our next witness is Phaibul Jitpraphai. We'll welcome your testimony. Please proceed.

Dr. JITPRAPHAI. Thank you. Mr. Chairman, ladies and gentlemen. In most of the Asian countries, the organ donations are stalled by the cultural beliefs. Most of the Asians believe that their bodies have to be buried or burned in whole. Otherwise, they will never be complete in the next stage of life. This obviously hinders the chance of getting the organs from the accidental death. As doctors, we can get very few to consent each year.

The Thai law in Thailand are to leave the decision limited in the family, approximately the same as in the United States—donors to only close family. If a donor cannot be found within the family, there are two options to be done. The first option is to buy the organ from the live donor. In order to prevent this trafficking, many countries, including Thailand, we have established laws to restrict the resale of organs from live donors.

The second option is to get the organ from the condemned prisoner, China being the main source. Thai patients have been going to China to get the transplantation, especially the kidney transplantation, for the past 7 years. To my knowledge, there are at least 40 patients a year going to China for the kidney transplantation. All of them are being told that their organs came from executed prisoners. Of course they don't know exactly why those people are being executed. They also do not know whether the prisoner has given consent or not. But how can they push away the opportunity to go there, to have a new life.

Most of the Thai doctors do exhort their patients not to go to China. Those kind of complications always have complications. But when the patient is dying from kidney failure or some of them are suffering from hemo dialysis, you can't stop them from going there.

The main problem is that the organized market has sprung around the desperate need for organs. People that we call brokers or travel agents make a profit on the illness of these individuals and the death of prisoners. My patients tell me how it is to go there and what happened. I have even met brokers. These individuals find the list of the waiting patients. They know the patients who are waiting for organs. They contact them directly and inform them that in a certain amount of time they can have a kidney available. They are going to have some of the livers available. They can tell even, they say the kidney has a group B for 20 kidneys, group O for 10 kidneys, or even AB for 5 or 10 kidneys.

They ask for the money. That money in U.S. dollars is about $30,000 to $40,000. The money has to be paid in cash, in Thai, I mean in Thailand. Or if they go over there, they have to pay in Hong Kong dollars. The broker will then take care of the whole thing, the accommodation of the hotel for the family, the hospital costs, or the cost of the operation. We really don't know how much is the cost for the organ. These are the people who make the major profit. The doctor probably gets a gift. Some people give them a gift, but they are not substantially paid.

This organized market is really what poses the main problem. It is because of this that abuses occur. It is because of the brokers that certain executions are postponed. Indeed, one to my knowl-

edge, one of the executions had been postponed because a patient did not arrive from Thailand. It is because of these brokers that important clients get operation tents or trucks with the operating room right on the killing field. It is because of those brokers that more than 100,000 Chinese patients, those people have their own kidney disease and are waiting for the kidney transplantation. They will rarely get the kidney.

I don't know who those brokers are. They can be a nurse, they can be a doctor, they can be an official hospital official or government official. No matter what, they need to be stopped.

I believe that China should use the organs from the executed prisoners if it can save other lives of Chinese people. But it should do so without trampling on human rights and on medical ethics. It needs to change a few of its policies. First, the donation of the organs should be voluntary and the family has to be informed. Of course they have to be consenting. The Chinese practicing ignore it. When you are a prisoner, you no longer have rights. This is an affront to the human rights.

Second, China has to put an end to the organ traffic. The government has to control or arrest the broker who makes the real problem or real profit on the transactions.

Third, organ allocation has to be ethically controlled. The organs should be allocated to the patients who have been waiting in the usual way as the international accepted system, and not only to those patients with the money to spare. Thank you.

[The prepared statement of Dr. Jitpraphai follows:]

STATEMENT OF DR. PHAIBUL JITPRPHAI

ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT

before the

INTERNATIONAL RELATIONS COMMITTEE AND

GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 4, 1998

In our highly technological world, the efficiency of organ transplants has developed considerably. Medical machinery and immunosuppression medication promote the survival of patients and increase their chances of a normal life. Most of the patients dying from kidney failure and other types of organ failures can be saved with organ transplants.

The only downfall to this miracle of modern medicine is the extent of the waiting lists. For kidneys, the list holds more than 35,000 names in United States and over 2,500 in Thailand.

In most of Asia, organ donations are stalled by cultural beliefs. Whether they are Chinese, Malaysian, Thai or Indonesian, most Asians believe that their bodies have to be buried whole or they will not be complete in the next stage of their lives. This obviously hinders the chances of getting organs from accidental death, as doctors can not obtain consent from anyone.

The donation from brain-dead donor is thus relatively low. In Thailand, there are on average 100 donors a year, giving 200 kidneys to use to save people. Every year, more than 200 new people put their names down on the waiting list.

The large majority of the countries around the world have an organ shortage. This is especially true in countries that have tight regulations around organ donation. In Thailand, the law only permits close relatives such as siblings, parents and children to make a living donation. Even husbands and wives have certain extra regulations. This law follows the basic principles that doctors have acquired while training in the United States. However, since the Thai government ratified this restrictive law in 1992, the chances of receiving an organ have become very slim. The demand for organs has by consequence become extremely high.

Due to the above reasons, the market for organs has boomed. As obtaining an organ from an accidental death is very limited, patients have three options left. The first is obviously the close family.

The second option is to buy an organ from a live donor. In order to prevent live individuals from selling their own organs, many countries including Thailand have established laws to restrict the retail of organs from live donors. In any case, live donors would not be extremely numerous because of the cultural beliefs that most Asians hold.

The last option is to obtain an organ from a condemned prisoner who is willing to donate his or her organs. Executed prisoners would be a helpful source. However, in Thailand, this is not an option because our regulations specify that a criminal has to be shot through the heart. This process is considered to be more humane than the shooting in the brain, which can sometimes miss. Their organs can not be used because cardiac arrest causes a circulation failure. China, on the other hand, has changed their regulations on the execution of their prisoners to shooting through the brain in order to keep all organs intact.

Thai patients have been going to China to get transplants for the past seven years. To my knowledge, there are at least 40 patients every year that get kidney transplants. All of them are told that the organs come from executed prisoners. Of course they don't know why these people are being executed. In reality, most of the patients are aware that many Chinese prisoners are not criminals by our standards. Of course they know that the prisoners did not really give their consent. But how can they push away the opportunity to live.

Many doctors in Thailand were trained in the United States. Those doctors seem to have higher ethical values and they do condemn the Chinese practices. These doctors do exhort their patients not to go through with the operation in China. But when a patient is dying from kidney failure, you can't stop him or her from going.

The main problem is the organized market that has sprung around this desperate need for organs. People that we call "brokers" or "travel agents" make a profit on the illness of these individuals and the death of prisoners. My patients tell me how it happens and I have even met brokers. These individuals find the lists of patients waiting for organs. They contact them and inform them that in a certain amount of time, they will have 20 B+ types, 10 O's, 25 AB's and so on. They then ask for 30 to $40,000. This money has to be paid in cash, in Thailand. The brokers will then take care of hotel accommodation, hospital rooms, the operation and the organ itself. These are the people who make the major profit. The doctors probably get "gifts" but they are not substantially paid.

This organized market is really what poses the main problems. It is because of this that abuses occur. It is because of these brokers that certain executions are postponed because a patient has not arrived. It is because of these brokers that important clients get

operation tents right on the field. It is because of these brokers that the 100,000 Chinese people who are also waiting for kidney transplants will never get them.

I do not know who these brokers are. Nurses, hospital officials, government officials, no matter what, they need to be stopped.

I believe that China should use the organs of its dead criminals if it can save lives. But it should do so without trampling all over human rights and all medical ethics, it needs to change a few of its policies.

1. The donation of organs has to be voluntary and the family has to be informed of this donation and they have to be consenting. The Chinese consider that when you are a prisoner, you no longer have rights. This is an affront to human rights.

2. China has to put an end to the organ traffic taking place within its territory. The government has to control and arrest the brokers who make the real profit on the transactions.

3. Organ allocation has to be ethically controlled. The organs should be allocated to patients who have been waiting for years and not only to those patients with money to spare.

Mr. GILMAN. Thank you very much for your testimony.

The next witness is Somporn Lorgeranon. Please proceed, Mr. Lorgeranon.

Mr. LORGERANON. Thank you, Mr. Chairman. Five years ago, I went to China for a kidney transplant. The procedure for obtaining the kidney was very direct. I dealt with the hospital, Zhongshan Hospital in Guangzhou, directly and never went through a Thai or a Chinese broker. On the first day, I went to stay at the hotel next to the hospital. It was on my second day that I went into the hospital. I told them that I was interested in having a transplant. They admitted me right away.

I paid the hospital $30,000 Hong Kong dollars before receiving the transplant. I was told to do this by the hospital. They did dialysis on me three times a week for the first 2 weeks and then I was notified that I would receive a kidney in 10 days. My operation took place on June 2, 1993. I paid another HK$20,000 after the operation. This included about HK$6,000 to each of the nurses and doctors who were taking care of me so that I would receive better care.

I did not know whether or not it happened on the same day as an execution. The doctor told me after I had recovered that the kidney I had received came from an executed prisoner. They also showed me a newspaper clipping about an execution that took place the same day. My mom went to the temple to pray for those people after we found this out. I cannot read Chinese, but the doctor told me that they were sentenced to death for drug trafficking. I didn't have much of a reaction to this at the time. I left China about 13 days after my operation.

Other foreign patients from Thailand, from Macao, from Taiwan, and from Hong Kong were at the hospital at the same time as me. There were about five who had an operation on the same day in the same hospital.

The question of whether the practice of executing prisoners for their body parts is right or wrong is very, very tough for me. I don't necessarily agree with the selling of body parts, but as a patient I go through the suffering. I know what it feels like to have kidney failure and suffer through the kidney disease and the pain that comes with it. My elder sister felt the same pain. She waited in Thailand for 10 years for a kidney before passing away. As for the question of whether faced with a second kidney failure I would do it again, I would wait in Thailand but I may have to wait for many years. I think that it is better to wait in Thailand for as long as I can afford before going to China.

In my view for this, if someone is killed just because the government wants to sell the body parts, that is wrong. But this is a difficult question because if the person really did something wrong, then their body part is used to help others.

A person in my office had a kidney failure a while ago. They came to me because they knew that I have gone to China to get a new kidney. They told me a story of how their relatives had to sell everything, even their house, to pay for the expensive dialysis. It is hard to tell someone that they should not go in this situation.

When I had kidney failure, I had no job. I had to live on whatever my family could support. After I had a transplant, I got a sec-

ond chance. I married my beautiful wife and I have a kid, got a job and promotion, and I have a wonderful family. But at the same time, I am not comfortable with someone being killed in order to sell their body parts to people like me.

[The prepared statement of Mr. Lorgeranon follows:]

TESTIMONY OF SOMPORN LORGERANON
ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT
before the
INTERNATIONAL RELATIONS COMMITTEE AND
GOVERNMENT REFORM & OVERSIGHT COMMITTEE
of the
UNITED STATES HOUSE OF REPRESENTATIVES

June 4, 1998

Five years ago, I went to China for a kidney transplant. In 1993, I experienced kidney failure, and receiving dialysis in Thailand is very expensive, and the wait for a kidney is very long. I heard from friends at the hospital that do dialysis and other friends that had traveled to China that I could get a kidney transplant there if I had the money.

The procedure for obtaining the kidney was very direct. I dealt with the hospital, Zhongshan Hospital in Guangzhou, directly, and never went through a Thai or Chinese broker. I obtained first a six-month tourism visa to travel to China. I knew to do this from friends and relatives who had the procedure or had heard about the procedure. On the first day, I went next to the hospital, but it was not until the second day that I went into the hospital. I told them that I was interested in having a transplant, and they admitted me right away. I paid the hospital HK$80,000 before receiving the transplant, and I was told to do this by the hospital. They did dialysis on me three times a week for the first two weeks, and then I was notified that I would receive a kidney in ten days. My operation took place on June 22, 1993. I paid another HK$20,000 after the operation, including HK$6,000 or HK$7,000 to each of the nurses and doctors taking care of me, so that they would provide me with better care. I did not know whether or not it happened on the same day as an execution, but the doctor, who is head of the urology department at that hospital, told me after I had recovered that the kidney I had received came from an executed prisoner. Also, we were shown a newspaper clipping about an execution that took place the same day. My mother went to the temple to pray for these people after I found this out. I can't read Chinese, but the doctor told me that they were sentenced to death for drug trafficking. I didn't have much of a reaction to this at the time, and I left China about thirteen days after my operation. Other foreign patients (from Thailand, Macao, Taiwan, and Hong Kong) were at the hospital at the same time as me, and there were about five who had an operation on the same day, in the same hospital.

The question of whether the practice of executing prisoners for their body parts is right or wrong is a very very tough one. I don't necessarily agree with the selling of body parts, but as a patient, I go through the suffering. I know what it feels like to have kidney failure, and suffer through kidney disease and the pain that comes with it. My elder sister felt the same pain—she waited in Thailand for ten years for a kidney before passing away. As for the question of whether, faced with a second kidney failure, I would do it again, I would wait in Thailand, but I might have to wait for many years. I think that it is better to wait in Thailand for as long as you can afford before going to China.

My view is this: If someone is killed just because the government wants to sell the person's body parts, that is wrong. But, it is a difficult question, because if the person really did something wrong, then their body part is used to help others.

A person in my office had kidney failure a while ago. They came to me, because they knew that I had gone to China to get a new kidney, and they told me a story of how their relatives had to sell everything (even their house!) to pay for the expensive dialysis. It is hard to tell someone that they should not go in this situation.

When I had kidney failure, I had no job, and I had to live on whatever my family could support. After I had a transplant, I got a second chance—I married my beautiful wife, got a job and a promotion, and I have a wonderful family. But at the same time, I am not comfortable with someone being killed in order to sell their parts to people like me.

Mr. GILMAN. Thank you very much.

Mr. Somporn Lorgeranon, I have here two photographs of a hospital in China that I have been informed you could identify. Can you tell me if this is the hospital where your transplant operation took place? I'll pass them down to you.

While that's being done, I am going to ask all of the panelists a question. How many years have patients from your countries been going to China for kidney and organ transplants, if you know? Could you please respond to that?

Dr. JITPRAPHAI. Yes. About 7 years.

Mr. GILMAN. Seven years from Thailand?

Dr. JITPRAPHAI. Yes.

Mr. GILMAN. And the gentleman from Japan, how many years have they been going to China for transplants, if you know?

Mr. AWAYA. For 10 years.

Mr. GILMAN. For how many?

Mr. AWAYA. Ten years.

Mr. GILMAN. Ten years. Thank you very much.

Can you identify those photos?

Mr. LORGERANON. Yes.

Mr. GILMAN. Is that the hospital where you were operated on?

Mr. LORGERANON. I stayed at the hospital, I went for operation.

Mr. GILMAN. What is the name of the hospital?

Mr. LORGERANON. Zhongshan Hospital.

Mr. GILMAN. Where is the hospital?

Mr. LORGERANON. In Guangzhou.

Mr. GILMAN. In Guangzhou. All right. If you could just mark those on the back, please. Mark it exhibit A and exhibit B for us, Kim. Thank you. Indicate the name of the hospital and where it's located.

How much does a typical transplant patient pay for an organ transplant procedure in China, to our panelists? I think that Mr. Lorgeranon said he spent $20,000 plus——

Mr. LORGERANON. Eighty thousand.

Mr. GILMAN. Eighty thousand. Twenty eight thousand all together?

Mr. LORGERANON. It's $100,000 together.

Mr. GILMAN. Pardon?

Mr. LORGERANON. A hundred thousand.

Mr. GILMAN. A hundred thousand?

Mr. LORGERANON. Eighty and twenty.

Mr. GILMAN. A hundred thousand dollars?

Mr. LORGERANON. Hong Kong dollars.

Mr. GILMAN. Hong Kong dollars. That was the total; $100,000?

Mr. LORGERANON. Yes.

Mr. GILMAN. That was for an organ transplant?

Mr. LORGERANON. Yes.

Mr. GILMAN. What year was that?

Mr. LORGERANON. In 1993.

Mr. GILMAN. 1993. If the other panelists would tell us what the average cost has been for some of your patients?

Dr. JITPRAPHAI. The same price, about.

Mr. GILMAN. A hundred thousand?

Dr. JITPRAPHAI. Right. Hong Kong dollars. It's about $30,000 U.S. dollars.

Mr. GILMAN. Then the witness from Japan, Mr. Awaya?

Mr. AWAYA. From $150,000 U.S. dollars to $192,000 U.S. dollars.

Mr. GILMAN. For an organ transplant?

Mr. AWAYA. Yes.

Mr. GILMAN. That's the average a Japanese patient pays for a transplant?

Mr. AWAYA. Yes.

Mr. GILMAN. A hundred and ninety two thousand dollars. Is that an accurate figure? Am I correct; $192,000?

Mr. AWAYA. Yes.

Mr. GILMAN. And where do these brokers who you have referred to who set up these transplant operations, where do they come from? Are they Chinese? How do they conduct their business? Do they do it by mail, by telephone? Could you tell us a little more about the brokerage business?

Dr. JITPRAPHAI. The one that I know is a doctor, a practitioner in China. He is Chinese.

Mr. GILMAN. A Chinese doctor?

Dr. JITPRAPHAI. Right. Some of the agents, middle agents, you know. The other is a nurse who has relatives in China. The nurse in Thailand.

Mr. GILMAN. The nurse is in Thailand but has relatives in China? She referred you to the broker?

Dr. JITPRAPHAI. I think so. But those people, they do it underground, you know? They never show themselves.

Mr. GILMAN. And Mr. Awaya?

Mr. AWAYA. In my written testimony on page 3, No. 7, Japanese brokers, I mentioned it.

Mr. GILMAN. There are Japanese brokers?

Mr. AWAYA. Japanese brokers. Nationality is all Japanese.

Mr. GILMAN. And they have contacts in the mainland of China. Is that right?

Mr. AWAYA. Yes.

Mr. GILMAN. And the broker refers you to someone in China for the organ transplant?

Mr. AWAYA. Usually a Chinese coordinator, sometimes it's a doctor or nurse.

Mr. GILMAN. Is this transplant business that you have both been involved in an underground business venture or is it done as far as you know open and with government cooperation? Can you answer that for us?

Dr. JITPRAPHAI. I don't think that the government is concerned about it.

Mr. GILMAN. There's no concern by the government?

Dr. JITPRAPHAI. Right.

Mr. GILMAN. As far as you know, is it underground or in the open?

Dr. JITPRAPHAI. Most of them are underground. They don't even try to disclose themselves.

Mr. GILMAN. They don't want to disclose themselves?

Dr. JITPRAPHAI. Right.

Mr. GILMAN. Mr. Awaya?

Mr. AWAYA. I think it is hidden but it's an open secret in China. Ordinary people know it.

Mr. GILMAN. Thank you.

Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman. I don't want to be redundant. I think you have asked a number of these very important questions.

Dr. Awaya, is there any kind of system or incentive program to recruit patients? If so, do patients recruit or are there brokers involved?

Mr. AWAYA. OK. I wrote that in my written statement.

Mr. BURTON. Was it in your written statement?

Mr. AWAYA. Yes.

Mr. BURTON. Well I'll be happy to read that later, but if you want to read it, it's fine.

Mr. AWAYA. Internet home page, they have. Some brokers have Internet home pages.

Mr. BURTON. They have Internet home pages?

Mr. AWAYA. Yes. And posters inside street cars.

Mr. BURTON. Posters on street cars?

Mr. AWAYA. Yes. And on telegraph poles. Telegraph poles. Or word of mouth communication between patients.

Mr. BURTON. They are very open about it then.

Mr. AWAYA. Very open.

Mr. BURTON. Very open about it.

Mr. AWAYA. And sometimes there are newspaper articles, TV programs about their business. Even when these criticize the brokers.

Mr. BURTON. Do you have any idea how many—either one of you can answer this question. How many foreign companies are partners in the kidney dialysis units that participate in transplants involving kidneys from executed prisoners? How many foreign companies might be involved that are in the dialysis business that participate in the transplant procedures?

Dr. JITPRAPHAI. Most of the transplants they have dialysis for their own. Even they have in Thailand, we have more than 200 transplant units. The hospital that does the surgeries, has about 23. So anyway, most of them have to have their own units. But anyway, most of the patients have to register through the central, the national registration when they wait for the kidney.

Mr. BURTON. I understand. But what I am trying to find out is are there any foreign companies that are involved in this process?

Dr. JITPRAPHAI. Some of the companies are owned by—only one of them is American owned, is National Medical Care.

Mr. BURTON. Do you know the name of that company?

Dr. JITPRAPHAI. Yes. National Medical Care.

Mr. BURTON. National Medical Care?

Dr. JITPRAPHAI. Right. They are located in Boston I think. They just come for the business I think. They are not really involved in the transplant business.

Mr. BURTON [presiding]. Mr. Somporn, how did you learn about the opportunity to receive human organs for cash in Thailand? Did you read about it or did somebody tell you about it?

Mr. LORGERANON. From friends and from a friend who does the dialysis in the hospital, even from my relative friends who had a transplant in China.

Mr. BURTON. And you said you spent a total of $28,000 that was Hong Kong dollars?

Mr. LORGERANON. Total is $100,000.

Mr. BURTON. How much?

Mr. LORGERANON. A hundred thousand Hong Kong dollars.

Mr. BURTON. A hundred thousand?

Mr. LORGERANON. Hong Kong dollars.

Mr. BURTON. A hundred thousand Hong Kong dollars. What would that translate into U.S. dollars. Do you know?

Dr. JITPRAPHAI. About $30,000.

Mr. BURTON. About $30,000, so it's comparable to what we have heard already.

Did they do their usual medical tests? I presume they did, blood tests and tissue samples before you had that?

Mr. LORGERANON. They took the blood, yes.

Mr. BURTON. And you said how long did you have to wait?

Mr. LORGERANON. About 3 weeks.

Mr. BURTON. About 3 weeks from the time they told you that they would go ahead with the transplant.

Mr. LORGERANON. Yes.

Mr. BURTON. And then you read in the paper about the execution of the person from whom you got the transplant?

Mr. LORGERANON. I could not read Chinese, but they told me.

Mr. BURTON. They told you about that. Were there any other patients receiving transplants in the hospital when you were there?

Mr. LORGERANON. Yes. There were five other persons.

Mr. BURTON. Five other persons?

Mr. LORGERANON. Yes.

Mr. BURTON. Where were they from?

Mr. LORGERANON. From Thailand, from Macao, from Taiwan, from Hong Kong. The other guy, I don't know where he's from.

Mr. BURTON. Four of them from four—one from Thailand——

Mr. LORGERANON. And from Taiwan, from Macao, from Hong Kong.

Mr. BURTON. Macao and Hong Kong. Was there any kind of an incentive offered to you by the officials in China to recruit other patients?

Mr. LORGERANON. No. No.

Mr. BURTON. There was no incentive? You just paid them and that was it?

Mr. LORGERANON. Yes.

Mr. BURTON. OK. Thank you.

Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. I want to thank our very distinguished panel for their very enlightening testimony. I do have a number of questions.

Dr. Jitpraphai, you spoke of the need for voluntarism earlier in your testimony. Yet, I am struck by the concerns that many of us have that in a closed society, in a dictatorship that currently and in the past has prevented the ICRC and other human rights organizations mere access to prisons and the laogai in order to ascer-

tain whether or not prisoners are being tortured. Amnesty International has testified repeatedly that torture is endemic in the gulag system and the laogai system. Harry Wu testified some years back, we had a panel of six survivors of the laogai, including Catherine Ho and Palden Gyatso, who spoke, actually brought in the instruments that are used, the electric cattle prods that are used against prisoners. If we didn't hear it from the inside, there were no independent witnesses who could get in from the outside to ensure that prisoners are well treated.

I have asked Li Peng personally, when I was in China on one of three human rights trips about torture, about forced abortion, which is pervasive throughout the People's Republic of China, a hideous crime against women and children. I asked him about the rape of Tibet. He denied it all outright, just denied it all. It doesn't happen. Pure fabrications by the media, by the Westerners, by the United States and by the human rights groups.

When Chi Haotian came in, the Defense Minister now, but who was the man in operational control of Tiananmen Square, the day we remember with great sadness today, he at the War College said nobody died at Tiananmen Square, an outrageous lie spoken right within our borders. We held a hearing a couple days later and had witnesses, including an editor from the People's Daily who bore witness to the fact that many people did indeed die. We had some of the leaders of the student organizations who left an open seat for Chi Haotian to come and tell us why it was otherwise. We invited somebody from the Embassy and said any time, any place, we will receive testimony that nobody died in Tiananmen Square.

The cameras were filming people being mowed down and killed. Then we all know they were tracked down thereafter. Many of them died. Certainly many of them were imprisoned as well. Yet the big lie was used to cover that up. He thought he would get away with it right here, with everyone watching. If you say the big lie often enough and maybe some people might buy into it.

Voluntarism, getting back to the question. How in a closed society where we have no access to these prisoners, if they sign we have no idea whether or not it's done under duress, threat of family members being incarcerated or in torture, because we know they use the family against inmates. How can there possibly be in such a closed society any semblance of voluntarism for them to sign at the bottom that they are indeed giving their organs freely and in an unfettered way?

Dr. JITPRAPHAI. Actually the Asian Society of Transplant Agents, that I am one of the committee, we tried to investigate on this subject too. We have been inviting Chinese transplant surgeons, especially Professor Xi, who is a chairman of the Transplant Society in China. He in the first couple years, you know, he refuted everything. He didn't know about much. We knew that he did it. But after that, we reject all the Chinese doctors to come to attend our Congress. We refuse all the papers that they sent to our journal.

After doing that for about a couple years, last 2 years ago, I mean last year in 1997, Professor Xi, the same guy, he came and gave us a talk about the problem. He said they have a consent. They asked a lot of patients, they said no. They don't know really. I asked one of the doctors who is a broker. He also said that they

didn't need the consent. But I really don't know what the fact is on that. But anyway, we tried to do something on that subject too.

Mr. SMITH OF NEW JERSEY. Let me, since my time is running out, and I would like to submit some questions for the record. Mr. Martinez said earlier that we need absolute proof or he talked using the phraseology of absolute proof with regard to this egregious practice of stealing, as you put it, organs from these inmates. Let me just say that we don't need absolute proof to convict someone of a crime here in this country and in most other countries of the world. A preponderance of evidence, there needs to be evidence beyond a reasonable doubt. But again, we are talking about a closed society that precludes access to the wrongdoers or the alleged wrongdoers. So I think that kind of bar is so high, if we did that, we would never raise human rights concerns in any closed society because we wouldn't have the proof.

Let me also say I think it was Mr. Hastings who said earlier that we're impugning the dignity or the integrity of the President. I don't know about the integrity of President Clinton. That is beyond my pay grade. But I do believe we are impugning his judgment. This President said that President Bush coddled dictators. I agreed with that in the way that he handled the dictatorship in the People's Republic of China. This is the President that said there had to be significant progress, right out of his Executive order when he issued his order on MFN, before MFN will be conferred for another year. There was significant regression. He took his Executive order and ripped it right in half.

This President has lost credibility. For him to talk about human rights, there needs to be some actions now. There needs to be some bold action. I think, as Mrs. Smith said earlier, as we go into this next couple of weeks, the more hearings, the more focus we have on human rights, and now with this concurrent concern about the military national security interests, the picture is a very bleak one. This partnership with the PRC inures to their benefit, not to the benefit of democracies, and certainly not to the people inside that captive nation.

So I would hope that the President would rethink his view. He had it right the first time. Coddling dictatorships and appeasement only gets more dictatorship. That is what we are getting right now. Again, I would hope that Mr. Clinton and others would look. I mean, in 1994, Human Rights Watch—which, Doctor, I know you know, I have read your testimony—you said it before. You contributed to that, their 1994 report. Amnesty International in their report, which is from 1996, No One Is Safe in China, talks about the use of organs for transplants and says there is no system of voluntary donation. It's a declarative sentence followed by a period. It is very clear that the evidence is overwhelming. It tips the balance almost to the point where there is nothing on the other side that this is going on.

If the Chinese Government wants to send us letters like they did categorically denying it, then allow a fact finding team with unfettered access to their prison camps. I would love to be shown to be wrong. But the Chinese Government, again, engages in the big lie and, regrettably, there are many, many, many prisoners who suffer unbelievable horror because of it. I yield back.

Mr. BURTON. Mr. Horn.

Mr. HORN. Thank you very much, Mr. Chairman. I have appreciated the testimony that each of these witnesses has given.

Professor Awaya, if I might, I would like to ask you a couple of questions about your testimony. On page 3 of your statement under 9, your own experience, second to the last paragraph, you note that "The patients knew the source of the kidneys. They didn't know Chinese law about organ removal and transplants." Then you note "Incidently, there are no laws about organ removal and transplants in China. There are administrative regulations about them." Could you give me an idea of what is in those administrative regulations? Have you received a copy of them for your research?

Mr. AWAYA. The exact name is on a different page. I think Mr. Harry Wu will mention it.

Mr. HORN. What do they say in these administrative regulations since they presumably have the equivalent of what we would know as law, but they are promulgated by the Government in Beijing? Do they mention prisoners in the administrative regulations? Or what kind of agreements or rules have they developed there? This is the second to the last paragraph, the last sentence. "There are no laws about organ removal and transplants in China. There are administrative regulations about them."

Mr. AWAYA. It's a document in Harry Wu's statement.

Mr. HORN. I see. Have you read that document?

Mr. AWAYA. Yes. Page No. 5.

Mr. HORN. Of your statement?

Mr. AWAYA. Yes. Second line. "Temporary rules concerning the utilization of corpses or organs from the corpses of executed prisoners."

Mr. HORN. So the only administrative regulations we know are in relation to executed criminals?

Mr. AWAYA. No.

Mr. HORN. Or are there still other regulations?

Mr. AWAYA. Three or four more internal rules, regulations I know.

Mr. HORN. In the case of, let's take the one you mentioned on page 5 here, do we know if prisoners were shot to provide organs or were they going to be executed anyhow and then their organs were available to make money for either what, the prison commander, the government? Do we know where the money goes? Do we know which came first, as we say, the chicken or the egg?

Mr. AWAYA. Japanese brokers. Brokers will give money to the hospital, usually a nurse or a doctor. So hospital distributes money to the police, military, and court.

Mr. HORN. OK. Now is any of that distribution of the money mentioned in these temporary regulations or in these administrative regulations?

Mr. AWAYA. No, no. These kind of administrative regulations don't mention it.

Mr. HORN. They don't mention where the money goes?

Mr. AWAYA. About the money.

Mr. HORN. What the distribution is. Well, I guess all we can do is say when people advertise that they can get you an organ transplant operation, they either have a relationship with someone in

China, in the government, in the prison somehow in order to get those organs. Or what are we to assume from the fact that they are advertising on the organs? Do we know whether this varies based on the person they have in Japan or in other countries?

Mr. AWAYA. I'm sorry. I don't know.

Mr. HORN. OK. If any witness in this panel or the panels, I am going to have to leave now, we all are, to vote for a while, but if anyone can answer those questions I would appreciate it as to what degree does the Chinese Government specify who gets what or the organs, and how much goes to the government, if that, or is this simply an entrepreneurial venture by some official in government or is this clearly sanctioned?

Now the policy there would say yes, we do permit organ transplants, so forth. But I am interested in how the money is related to it in terms of personal profit and exploitation perhaps.

Dr. JITPRAPHAI. Most of the patients, they never know where the money is going. Because they just ask for the money, just ask for $80,000 first. Then the money just for all the expenses, all the medicine. So far if the money is not enough, they are asking for some more, something like that. But we never get the money back.

Mr. HORN. Yes. But it's basically paid to the hospital?

Dr. JITPRAPHAI. They never guess at the bills.

Mr. HORN. Or to the broker?

Dr. JITPRAPHAI. In Thailand, some of them, about 50 percent of them pay to the broker. Only 25 percent are going directly to China, like Mr. Somporn, and they have to pay direct to the hospital.

Mr. HORN. In Professor Awaya's testimony, he notes that one Japanese broker recently ran away after collecting, American equivalent would be $385,000, from four patients. He notes that's fraud. The police are investigating. So there could be a lot of different types of fraudulent operators in this that don't deliver, even though they get the money.

Mr. BURTON. The gentleman's time has expired. We have about 7 or 8 minutes on the clock.

Mr. Burr, do you want to question before we leave quickly?

Mr. BURR. Just very quickly, Mr. Chairman.

Let me ask both the doctors on the panel, are you aware or have you heard of the Chinese Government profiting from the sale of organs?

Dr. JITPRAPHAI. So far, from the government, we never contact them. Most of them, they are just—in the case from Thailand, 25 of them, they go direct through the hospital, by friend or by recommendation from their friends. About 50 percent of them, they go by the broker. Besides that, another 25 percent, most of them are VIP people. They are dealing in direct contact with the doctors. They have tissue typing, they have everything set up. Then they go there and just have the surgery.

The way that they pay the money, they just pay directly to the broker or the hospital themselves. They never know where it's going. Even the doctors who do the operation, most of them they just give some gift. That's all, nothing else.

Mr. BURR. Dr. Awaya.

Mr. AWAYA. I am sure that the local government, people, judges, prosecutors, doctors, policemen, are getting the money from these kinds of organ transplants. But I do not know about Chinese central government.

Mr. BURR. Dr. Awaya, you said in your testimony that in 1997, the Chinese extended the ability for death by injection. Does death by injection make it easier for the removal of organs for transplant purposes?

Mr. AWAYA. Yes. Yes, two purposes. One is from humanism. So better than shooting. Chinese Government study and hidden purpose is getting organs easily.

Mrs. MALONEY. Will the gentleman yield?

Mr. BURR. The gentleman would be happy to yield.

Mrs. MALONEY. I thank you very much because we are approaching a vote. I really want clarification on one item. That is, do any of you have any reason to believe or do you have any proof that shows that the government will plan executions to coincide with the need of people to get these organs? Do you have any proof of people arriving in the country at the time that the people then are executed so that they can get these organs? Is there any proof to this?

Dr. JITPRAPHAI. No. From Thailand, we don't have.

In terms of your question, as a surgeon and I did surgery myself for almost 30 years, for the injection to kill as the United States does right now, we can't use the organs because they are already dead. Their only use for the organs, especially heart, lungs, liver, it has to be shot on the brain, that's all. It has to be brain dead, nothing else.

Mrs. MALONEY. Would anybody like to respond to my question? Is there any proof that executions coincide with the need of patients to get organs? I am asking everyone on the panel.

Mr. LORGERANON. Yes. Because after the operation, they showed me the newspaper clip.

Mrs. MALONEY. They showed you the newspaper clip?

Mr. LORGERANON. Yes. About the executed prisoner.

Mrs. MALONEY. Oh. So after you got your transplant, they showed you items in the paper about an executed person?

Mr. LORGERANON. Right.

Mrs. MALONEY. And you believe that your kidney came from that executed person?

Mr. LORGERANON. I do not know because I don't read Chinese. The doctor just informed us.

Mrs. MALONEY. Does anyone else want to comment? Doctor.

Dr. JITPRAPHAI. They are being informed by the doctor most of them. On your question, we have only one incident of the one patient. One of the patients, they have problems in Thailand and they can't go on time. That means a call by the broker that they expect to go to China to have the kidney transplantation. Then when the patient cannot go, they postponed the shooting time. That's all. That's what I heard, but no proof, just a rumor.

Mr. BURTON. We are going to have to recess for this vote. I think that we won't have any more questions. Are you finished? I think we don't have any more questions for this panel. When we come

back, we will go to the other panel. Thank you very much for being here. We stand in recess for about 10 minutes.

[Recess.]

Mr. GILMAN [presiding]. The committee will come to order. Members please take their seats. If the witnesses would please come to the witness table. Allison, would you fix the name tags appropriately?

We are pleased to welcome as our panelists Mr. Wei Jingshen and Mr. Harry Wu. Mr. Wei Jingsheng is recognized as China's most prominent political exile. Wei Jingsheng, age 48, spent nearly 18 years in jail or labor camps for championing freedom and democracy in China. He came to our Nation after prison authorities told him the only way he would receive medical treatment for a variety of illnesses would be to accept medical parole and come to the United States. He arrived in our Nation on November 19, 1997, is now a visiting scholar at Columbia University.

Harry Wu, who spent 19 years of his life in a Chinese laogai, came to the United States in 1979. In the years following, he made many trips into China to document the forced labor system, but was arrested on his last trip in the summer of 1995. After 66 days in detention, he was sentenced to 15 years, but was expelled as a result of an international campaign launched on his behalf. He is now the executive director of the Laogai Research Foundation, and continues to travel the world to tell of the abuses the Chinese Government inflicts on its own people.

Gentlemen, you may put your full statement in the record and summarize or utilize the full statement, whichever you deem appropriate.

With regard to Harry Wu's testimony, in view of the fact that there is an ongoing investigation of a particular transaction in New York that has been reported in the press, I would ask that Members avoid questioning our witnesses today about that specific transaction. I understand that Mr. Wu, who is a likely witness in that case, has been briefed by the Department of Justice about the specific areas he should avoid. He certainly may consult with counsel for the United States who are present, if he wants to make certain that he is avoiding any area he would rather avoid.

Please proceed, Mr. Wu. Allison, would you change the name plates? Oh, all right. I'm sorry.

STATEMENTS OF WEI JINGSHENG, CENTER FOR THE STUDY OF HUMAN RIGHTS; AND HARRY WU, THE LAOGAI RESEARCH FOUNDATION

Mr. WEI [speaking through an interpreter]. Chairman Gilman, Chairman Burton, and members of the committees, thank you for holding this hearing and inviting me to speak today. My main goal in coming to this hearing today is to relay to you the evidence a 20-year-old young man gave to me when he was to be executed more than 18 years ago.

Eighteen years ago, I was sentenced to 15 years in prison by the Chinese Government for counter revolution. Due to the personal animosity China's dictator Deng Xiaoping held for me, I was initially held on death row for more than 8 months. The death row was specifically for those criminals who are to be executed and who

may be soon executed. The treatment is worse than in regular prisons. According to China's own regulations, prisoners sent to the death row are not to spend more than 60 days in detention there. This is because the Chinese prison authorities' own experience showed that on the average, the prisoner cannot maintain control over their emotions for more than 60 days, and also because the process for carrying out the death sentence in execution historically did not exceed 60 days.

Prior to being sent to death row, I had heard of the removal of condemned prisoners' organs for use in medical research and organ tests. Most people upon hearing of this practice really cannot believe it. I shared that same disbelief. On death row after I often heard the screaming and unusual sounds of struggle of prisoners who were to be executed, these horrible noises caused me to question whether this practice could in fact happen. It caused me to look for an opportunity to try and confirm with the prisoner escort who escorted men about to be executed whether it were true or false. He lowered his head to look for guards and in a whisper told me, "You guessed right. This is a fact."

At that time, I remember asking a further question. "All the executed prisoners get the same thing?" He answered, "There are almost no exceptions. They are first given anesthesia, just the same as killing a pig." I asked, "How do the prisoners get to the execution ground then? They are already dead." He said, "We use cloth to wrap them up and bring them to the execution ground. No one cares if they are alive or dead." Although I knew that this prisoner escort respected me and would not cheat me, I still couldn't believe it was a fact. I thought, unless there were more concrete evidence, I still couldn't entirely believe that man was capable of such a thing.

One day in the spring of 1980, because the number of condemned prisoners was larger than normal, they brought a condemned prisoner to my cramped cell. He was named Zhang, 20 years old from Beijing. I saw his legs were injured by his leg irons and his hands were cuffed behind his back. He could not eat, drink, or go to the bathroom by himself. I tore a piece of my shirt and wrapped it around his leg irons. I helped him eat and drink and assisted him with his bodily needs. He said to me, "I know of the good things you did at Democracy Wall. I heard what you did when I was outside. I knew long ago that you were a good guy, so it's not worth being executed over. To be placed on death row really isn't fair."

His appeal proceeded quickly and it wasn't more than 20 days before it went through the entire procedure. The plan was that he would be executed within 3 or 5 days. At that point, he became calm, generally resigned and his temperament mellowed. From morning to night he constantly repeated how sorry he was for not being able to take care of his parents, particularly his father. He said how sorry he was for his pregnant girlfriend because they had made plans to marry in a couple of months. He once said to me, "What I regret in the end is that only now do I meet you. If I could avoid death, or even die later just to help you, that would be better. That way I finally would have something. I really regret that now."

At that, I suddenly thought why couldn't he help me try to prove the practice of stealing organs. After I briefly explained what I

knew about this to him, I asked if he were willing to help me prove once and for all if this were true or false. He quickly answered, "I'm willing. If you were able to take the news of this practice and spread it to the outside, then it would give something for me for the next life. If I in life could not have helped you, helping you in death is something."

We discussed it thoroughly. When he was brought out to the execution grounds, if he saw among the guards and police any people dressed in white clothes carrying medical bags, then he was to shout out, "I'm not sick. I don't need a doctor." If he didn't see such people in white clothes with medical equipment, then he would cry out as a normal prisoner.

The day following our discussion at 10 a.m., they came for him. Before the procedures for carrying out the execution began, I was worried that he would not remember our discussion of the previous night. So when he was brought out I was very nervous and listened very carefully. I listened for a long time. When I did not hear any sounds of a struggle, then I became disappointed. Just at that moment, I heard a loud and clear voice coming from the end of the corridor of death row. "I'm not sick. I don't need a doctor." At the second yell, there were the sounds of a scuffle. At the third yell, I could only hear half of his phrase, as someone had muzzled him.

My first feeling was of satisfaction, knowing that this evidence finally proved this practice. But this feeling was quickly replaced by another. My second feeling was of heaviness, knowing that this young man used his life to record an unbelievable crime. If I did not have the opportunity to tell others of this evil, if I did not have the opportunity to try and stop this evil from continuing, then I would have to apologize to this young man. All this time, I have deeply felt this responsibility. We must stop this practice.

I am very grateful for the opportunity from the chairman to allow me to come here today and present this evidence on this practice. Thank you.

[The prepared statement of Mr. Wei follows:]

TESTIMONY OF WEI JINGSHENG

VISITING SCHOLAR, COLUMBIA UNIVERSITY

ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT

before the

INTERNATIONAL RELATIONS COMMITTEE AND

GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 4, 1998

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Thank you.

Mr. GILMAN. We appreciate your testimony. We thank you for appearing today.

Mr. Wu.

Mr. WU. Chairman, ladies and gentlemen, I want to say something that today five witnesses come from different countries. You can see all of us are foreigners. We have nothing to do with American politics. Today because Republicans are the majority in the Congress, so they chair the meeting. That's why I talk to them. If today Democrats are the majority in the Congress, they chair the meeting and I talk to the Democrats. This issue is a human beings issue. It doesn't matter with politics. This crime is a fundamental crime today as it's in our human society. We want to tell everyone. It doesn't matter who you are. It doesn't matter the color of your skin, it doesn't matter your education, it doesn't matter your political view.

Can you imagine today in the world a government which controlled the most populous country, they have a national policy and the policy only less than 15 years. Here is the charge. Tell you how many organ kidneys have been removed, and most of them come from executed prisoners without their consent, against their will. Some people ask and say, where did the money go? The hospitals are government owned. The state run hospitals are a part of the government. And you ask me, the money goes to where?

We know that Nazi doctors used the Jewish and POWs for the medical experiments as guinea pigs. We condemned it. But today it's happening in Communist China. Here's the document from the Chinese Government. You can't find any similar document from any country either today or in the past. I don't think you can find it.

Mr. GILMAN. Mr. Wu, would you identify that document? What is that document?

Mr. WU. The document was issued by the Supreme People's Court, the Supreme People's Procuratorate, Minister of Public Security, Ministry of Justice, Ministry of Public Health and Ministry of the Civil Affairs on the Use of Dead Bodies or Organs from Condemned Criminals.

Mr. GILMAN. Is there a date on that document?

Mr. WU. October 9, 1985. Before 1990, this was a secret document, classified document. 1990, they internally published it.

Mr. GILMAN. I ask that both that document and the chart that Mr. Wu referred to be made part of the record. Without objection.

Mr. WU. The Communist government are doing what other autocratic regimes never did before. They are "using" on a large scale and for profit the organs from executed prisoners. Whether under the pretext of a medical reason or to use the waste, they call, so they called. The People's Republic of China is committing major human rights violations, even crimes against humanity. These crimes did not occur during the early stage of the Mao era. It started in 1979. They are taking place during the past 20 years. They are still going on today. China is the only country in the world to have committed such crimes.

The Beijing Government has flatly denied huge amounts of the facts in the recent years. In November 1994, a Chinese foreign minister spokesman accused the BBC of fabrication and slander.

Again in October 1997, the same accusation was leveled against ABC television which was urged to stop airing the controversial program. At the same point, the Beijing government has been forced to admit the executed prisoners organs were "used."

In the Chinese Ambassador's letter to Congressman Burton in 1998, he said, "China permits its medical units to use organs voluntarily donated by citizens following their death. This also applies to executed prisoners." However, this government insists that transplant surgeries are performed "with the consent of the prisoners themself or their families." We estimate that the 50 to 60 percent of the corpses, dead bodies, and their organs were used. According to this document, article 3, let me quote it from them, the following three categories. One, "Nobody claims the bodies or death row prisoners' families refuse to bury the bodies." No. 2, "Death row prisoners voluntarily donate their bodies for use for medical facilities." No. 3, "Death row prisoners bodies used with their families' consent."

According to this document, death row prisoners corpses can be used if one of the three conditions is met, not three, not two, but only one condition is required. Let's examine the first statement. "Nobody claims or their families refuse to bury the bodies." Families can refuse to claim the body. It could happen. Some families cannot afford to pick up their bodies for economic reasons. But the major reason remains political and social ones. It's a well known fact that mainland China is a society closely controlled by the Communist party. In this country, as soon as one is labeled by the Beijing Government as a class enemy or counter revolutionary, almost all relatives keep away from them.

I myself am a good example. In 1957, when I was termed as a counter revolutionary rightist, and in 1960 when I was arrested, my mother right away committed suicide. It's scary. My brother, sister, my classmates, my friends, right away separated from me. During the 19 years nobody came to see me. I strongly believe that should I have been executed, then my body would have fallen under the category so-called nobody claims and families refuse to claim the body. So my body can be used by the government for profit. Such family fear continues as this today in China.

As our investigation shows, many Communist cadres who had worked in the public security system, court system, judiciary system point out as late as early 1994, the Chinese Communist authorities had never once solicited any death row prisoners to sign an organ donation pledge. There was no consent at all.

In 1994, in Zhengzhou City, a hospital cadre who had many times extracted organs at executionsites told me "A shot in his head blew away his brain. The guy is brain dead. He has no more thinking. Ceases to be a human being, just a thing. We use the waste." In China, a dead person has no rights. In 1998, a Chinese Government cadre told me, "Once prisoners are sentenced to death, they are deprived of all rights. We can handle everything." Both quotations are recorded on tape.

We notice that in recent years families of death row prisoners are notified of their sentences. But for security reasons, they never know when and where executions take place. The time, execution time, the place, execution place remains top secret in China. So

how can you ask the family to sign a consent to donate their loved bodies.

According to Chinese Communist judiciary procedures, Intermediate People's Courts are entitled to carry out their sentences. But regardless of whether or not prisoners appeal, such sentences must be finally ruled on by the Supreme People's Court. Technically then, while the prisoners are awaiting such rulings, they cannot be solicited to sign organ donation consent, nor can related medical tests be conducted on them.

But our investigation shows that even before the Supreme People's Court rulings come down to the lower level courts, the courts and hospitals are already conducting such tests on prisoners. Data is thus collected and matched with those potential organ recipients. This is why especially the foreign patients are notified in advance to be hospitalized to wait for the first available organ. This process shows that everything is premeditated. The demand for organs then is the main factor in the consideration of whether or not to put a prisoner to death, killing in murder, murder on demand.

What factors decide on a human life? The government considers which death row prisoner's organ is compatible with such waiting patients as well as a multitude of political and social and economic factors before deciding which waiting recipient will be given preference. The usual pecking order is as follows: No. 1, Communist party and government high ranking cadres. They don't pay money. So definitely this is not a sale. No. 2, foreign and overseas Chinese patients. These patients add up to more than 20 percent of the Chinese transplants. They pay higher prices. Even the Japanese patients pay more than the Thai patients. No. 3, mainland Chinese who can pay a lot of money. Then the last category is the rank and file Chinese patients.

These patients are obviously hurt by this process. Today there are still 100,000 Chinese people awaiting for a kidney in China. But the Chinese authorities are happy to see more foreign patients go over there and receive the kidneys from the death row Chinese prisoners.

Many executions take place four and five times a year on New Years Eve, during the Spring Festival, during the Labor Day on May 1, and Communist party day on July 1, and National Day on October 1. The purpose of executions on major holidays is to manifest the might of the dictatorship of the proletariat, to curb crimes, and to maintain the social order during national holidays. For decades this has been the rule. But there are exceptions to certain political considerations. For instance, in 1997, a Chinese physician by the last name of Dai said while he was in the United States, "This year, 1997, there's no chance, that means no prisoners should be executed and no organs should be extracted before July 1, because Hong Kong is going to be handed over to the Chinese Government. But there will definitely be chances after July 1."

To date, the Beijing Government has failed to reply to the following questions. They just simply since 1994, all the time say this is ill-intentioned and fabrications. They must clarify the following questions. No. 1, how many transplantation surgeries have been performed since 1979 when the first surgery was performed? How many of them were performed with executed prisoners' organs?

Question two, even before the policy document was established in 1984, the Beijing Government had begun "using" executed prisoners' organs. What was and is the legal basis?

Question three. Of the used organs from executed prisoners, how many fell under the category of so-called nobody claims or families refuse to claim the bodies? Is the Chinese Government willing to publicize all related documents?

Question four. Of the used organs from executed prisoners, how many were used with the consent of the death row prisoners or their families? Is the Chinese Government willing to publicize related documents? If they do so, then they clarify all kinds of fabrications.

I call on the United States Congress and Government to react promptly to such atrocities by No. 1, formally denouncing the Chinese Communist authorities' actions of using executed prisoners' corpses and organs. Two, formally demanding that the Chinese Communist authorities immediately cease such actions. Three, using the United Nations organization and other international organizations to conduct investigations into this practice.

I believe that if we were to review these issues 10 years later, we would discover much more information to prove the extent of the Chinese Communist brutalities. But it will be too late to do anything about it.

We know that in 1941, we heard something from the Auschwitz camp, but finally approved everything after the Nazi falling. We want to stop it today, the practice which happens today in China. This crime is totally beyond the imagination of people who live in a free country and a civilized society. I'll be honest with you. Removing the organs from the death row prisoners in China actually is a public secret. But if we keep silent, we violate the very principles that we hold close to our hearts. Thank you.

[The prepared statement of Mr. Wu follows:]

TESTIMONY OF HARRY WU
ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT

before the

INTERNATIONAL RELATIONS COMMITTEE AND
GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 4, 1998

For the past five years, I have investigated and researched yet another atrocity committed by the Chinese communist authorities, namely the traffic of organs harvested from executed prisoners. By extracting organs from executed prisoners and selling them for a profit, the People's Republic of China is once again trampling all over human rights.

World history is replete with ruthless despots who murdered people under political, religious and racial pretexts. Whether in its scale, number of victims or methods employed, the atrocities perpetrated by the People's Republic of China are by no means inferior to those of historical tyrants. Furthermore, the Chinese communists are doing what other despots and autocratic regimes never did before: they are "using", on a large scale and for a profit, the organs of executed prisoners. Whether under the pretexts of "medicine dictates, " concern for patients", or "to use waste," the People's Republic of China is committing major human rights violations, even crimes against humanity.

These crimes did not occur during the early stage of Mao's era, but in the 1980s and 1990s, during Deng and his successors' era. This was the time when a policy of "Reforms and Opening up" was implemented and when a huge amount of Western capital was infused into the veins of this communist power.

In the early 1990's, the United States Government was made aware of the existence of such brutality. Numerous human rights organizations and the media provided a large amount of data. The issue was extensively covered by such television stations as Britain's BBC, Canada's CBC, the American ABC and NBC, France's TFI, Italy's RAI, various television stations from Hong Kong and Taiwan, as well as by the international press. In light of such publicity, the United States Senate held hearings concerning this problem in 1995, followed by the United States House of representatives in 1997. However, the government chose, on the whole, not to notice. Stanley Roth proposed a June 1997 Senate Foreign Relations Committee hearing at which he said, "if true this would be among the grossest violation of human rights imaginable." Yet even with all the facts at hand, he then added, "*If* we find such credible evidence, I will raise it personally with the appropriate officials."

In October 1997, ABC Prime Time Life covered the story of the two Chinese physicians who placed an advertisement in a Chinese-language newspaper located in Connecticut. The

couple was openly seducing American patients with immediate transplantation surgeries, conducted in Mainland China, with organs freshly removed from executed prisoners. This story lead the FBI to arrest two Chinese citizens suspected of peddling organs from executed Chinese prisoners in February 1998, in New York. Even in the face of such gross evidence, the United States Government only accepts to raise "questions to its counterpart's attention," failing to lead any serious action.

As for our European counterparts, they decided to take a stand. The European Parliament adopted a resolution on May 14, 1998, condemning the Chinese communist authorities for "using" executed prisoners' organs, urging them to cease such atrocities and calling for international investigation

In my opinion, the United States of America, as a great nation of democracy and freedom, has responsibilities to promote progress. The USA should clearly position itself on the side of human rights. Unfortunately, United States policy towards China is mainly focused on commercial interests. The leader of the free world, unwilling to see a foreign policy injure commercial interests, has decided to turn a blind eye and a deaf ear to human rights abuses in China.

The Beijing government, acting like an ostrich, has flatly denied huge amounts of facts exposed to daylight in recent years. The Chinese government has even tried to disavow its "Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs". This governmental policy was jointly promulgated on October 9th, 1984 by the Supreme People's Court, the Supreme People's Procurator, the Ministry of Public Security, the Ministry of Justice, the Ministry of Health and the Ministry of Civil Administration. Along the same lines, in November 1994 a Chinese foreign ministry spokesman accused the BBC of fabrication and slander. Again, in October 1997 the same accusation was leveled against ABC television, which was urged to stop airing their controversial program.

In certain circumstances the Beijing government was compelled to admit that executed prisoners' organs were "used." In his letter to Congressman Burton in 1998 the Chinese ambassador to the United States, Li Zhao Xing said, "China permits its medical units to use organs voluntarily donated by citizens following their death. This also applies to executed prisoners." However, the Chinese government always insisted that transplantation surgeries were performed "with the consent of the prisoners themselves or their families."

Let us examine the actual numbers of consent from prisoners.

Our investigation estimates that in recent years' organs of 40%-50% of executed prisoners were not "used" for the following reasons:

1. Death-row prisoners' families wanted the bodies buried.

2. Death-row prisoners suffered various diseases or were too old.

3. Executions were located in remote areas, or death-row prisoners could not be escorted to nearby areas, which made it difficult to deliver their organs to medical facilities.

4. Death-row prisoners were members of national minorities

5. Use of certain death-row prisoners' organs could cause political and social impact.

We can therefore estimate that corpses and organs of 50%-60% of death-row prisoners were "used."

According to Article 3 of the Chinese communist authorities' document "Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs" of 1984, corpses or organs of death-row prisoners can be "used", if they fall in one of the following three categories:

1. "Nobody claims the bodies or death-row prisoners' families refuse to bury the bodies;"

2. "Death-row prisoners 'voluntarily' donate their bodies for use by medical facilities;"

3. "Death-row prisoners' bodies used with their families' consent."

According to this document, death-row prisoners' corpses can be "used" if one of the three conditions is met. Not all three, or at least two of the conditions, but only one condition is required.

Based on my investigation and research, approximately one third of death-row prisoners' corpses fall under the first category, which is that "nobody claims or their families refuse to bury the bodies." But, what is the meaning of this statement?

When the Chinese communist authorities know that an executed prisoner has no relatives, his corpse automatically falls under this category. Even without the prisoner's consent, the body can be "used." Recently, the vast majority of death-row prisoners were "migrants," (i.e. most of them migrated from villages or small towns to municipalities looking for jobs). The places where they commit crimes are usually far away from their homes and families. Family members may receive an execution notice, but are unable to claim the bodies.

Families can also refuse to claim the body. Why would families refuse to claim bodies of those dear to them? Some families just cannot afford to do so for economic reasons (leaving work, paying for the trip). The major reasons remain political and social ones. It is universally known that Mainland China is a society closely controlled by the communist party. In the People's Republic of China, as soon as one is labeled by the Beijing government as a "class enemy" or a "counterrevolutionary," almost all relatives keep aloof from him/her, or accuse and cast him/her aside. I myself am a good example. In 1957, when I was termed a "counterrevolutionary rightist element," all my siblings severed relations with me. In 1960, when I was arrested, my mother, horror stricken, took her own life. During my long nineteen years in the Laogai camp systems practically no relatives came to see me. I strongly believe that

should I have been executed then, my body would have fallen under the category "nobody claims or family refuses to claim the body" and could have been "used" by the government for a profit. Such family fear continues to exist today.

Of the executed prisoners' bodies "used," approximately two thirds fall under the second or third condition stated in that document. The bodies are donated with the consent of the prisoners themselves or with the consent of their families. However, even if the families are in the area where they are executed, the families are actually notified only after the executions. The families know nothing about the word "consent," they just claim the ashes! As our investigation shows, many cadres who had worked in the Public Security system, and the Judicial system pointed out, as late as early 1994, that Chinese communist authorities had never once solicited any death-row prisoner to sign an organ donation pledge. There was no "consent" at all.

In 1997, in New York, a Chinese physician by the last name of Dai said, "Before Wu Hongda (Harry Wu) testified, there was nothing like "consent," but now [the Chinese government] has certain formalities, and prisoners must go through the formalities willy-nilly, so when foreigners ask about this, we have something to tell them. Please don't worry!"

In 1994, in Zhengzhou city, a hospital cadre who had many times extracted organs at execution sites told me. "A shot in [his] head, blow away his brain, and the guy is brain-dead. [He] has no more thinking, ceases to be a human being, just a thing, and we use the waste." In China, a dead person has no rights. A Chinese government cadre who said (on-the-spot audio recording) explicitly expressed this idea in 1998: "Once prisoners are sentenced to death, they are deprived of all rights, and we handle everything."

We noticed that in recent years' families of death row prisoners are notified of death sentences, but for security reasons, they never know when and where executions take place. The time and place of executions remains top secret in China. Public security organizations and courts today may solicit certain family members to sign organ donation pledges, but in the words of communist government cadres "We give them a few pennies, and see if they dare say no." This is practiced even when many international documents state that if something is signed under duress, it is null and void. It is well known that Nazi physicians claimed that the Jews and POWs used during WWII as live experimental subjects in Auschwitz were "volunteers." The verdicts carried out at the Nuremberg Trials are well known.

According to Communist China's judicial procedures, Intermediate People's Courts are entitled to carry out death sentences, but regardless of whether or not prisoners appeal, such sentences must be finally ruled on by Supreme People's Court. Technically then, while the prisoners are awaiting such rulings, they cannot be solicited to sign organ donation pledges, nor can related medical tests be conducted on them. But, our investigation shows that even before Supreme People's Court rulings come down to lower-level courts, public security organizations and hospitals are already conducting such tests on prisoners. Data is thus collected and matched with those of potential organ recipients. This is why patients, especially foreign ones, are notified in advance to be hospitalized to wait for the first available organ. This process shows that everything is premeditated. The demand for organs, then, is the main factor in the consideration of whether or not to put a prisoner to death.

What factors decide on a human life? The government considers which death-row prisoner's organ is compatible with which waiting recipient, as well as a multitude of political, social and economic factors, before deciding which waiting recipient will be given preference. The usual pecking order is as follows:

1. Communist party and government high-ranking cadres;

2. Foreign and overseas Chinese patients;

3. Mainland Chinese who can pay a lot of money;

4. Rank and file Chinese patients.

Many executions take place four or five times a year: on New Year's eve, during the Spring Festival (lunar calendar new year's day), during Labor Day on May 1st, Communist Party Day on July 1st and National Day on October 1st. The purpose of executions on major holidays is to manifest "the might of the dictatorship of the proletariat," to curb crimes, and to maintain social order during national holidays. For decades this has been the rule. But, there are exceptions due to certain political considerations. For instance, in 1997 a

physician by the last name of Dai said while he was in the US: "This year [1997] there's no chance [no prisoners executed and no organs extracted] before July 1st, because Hong Kong is reverting to Chinese sovereignty. But there will definitely be chances after July 1st."

Supreme People's Court rulings are usually declared on the morning of executions, and prisoners are immediately escorted to execution sites. The short turnaround time makes it totally impossible for death-row prisoners and their families to sign any documents and for medical facilities to conduct any tests. The procedure only reveals how the Chinese communist authorities brutally trample on human rights by secretly condoning the practice of pre-meditative testing of prisoners. It also highlights how flagrantly hypocritical the government is on issue of executions.

I am not opposed to organ transplantation. In fact a red dot is attached to my driver's license: I am willing to donate my organs should I die in a traffic accident. However, what is happening in Mainland China is inhuman.

To date, the Beijing government has failed to reply to the following questions, which must be clarified:

1. How many transplantation surgeries have been performed since 1979, when the first surgery was performed? How many of them were performed with executed prisoners' organs?

2. Even before the policy document was promulgated in 1984, the Beijing government had began "using" executed prisoners' organs. What was and is the legal basis?

3. Of the "used" organs from executed prisoners, how many fall under the category so-called "nobody claims or families refuse to claim the bodies?" Is the Chinese government willing to publicize all related documents?

4. Of the "used" organs from executed prisoners, how many were "used" with the consent of death-row prisoners or their families? Is the Chinese government willing to publicize related documents?

I call on the United States Congress and Government to react promptly to such atrocities by:

1. Formally denouncing the Chinese communist authorities' actions of "using" executed prisoners' corpses and organs;

2. Formally demanding that the Chinese communist authorities immediately cease such actions;

3. Urging the United Nations Organization and other international organizations to conduct investigations into this practice.

Please pay attention to the attached chart: (information excerpt from the Chinese Journal of Organs Transplants, *Zhong Hua Qiguan Yichi Zachi*, published by the Chinese Medical Association). It shows kidney transplants in China are rapidly growing. According to Amnesty International reports 90% of the organs were removed from executed prisoners.

This chart and the national document put together will give a clear sense of the brutality of the Chinese government.

I believe that if we were to review this issue in ten years time, we would discover much more information to prove the extent of the Chinese Communist brutalities. But it would then be too late to do anything about it.

This crime is totally beyond the imagination of people who live in a free country and a civilized society. If we keep silent, we violate the very principles that we hold close to our hearts.

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 People's Court; The People's Procuratorate; Department [Bureau] of Public Security; Department [Bureau] of Justice; Department [Bureau] of Public Health; Department [Bureau] of Civil Affairs at 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 medical science and to change social customs and traditional habits, while understanding the need for the strict implementation of legal provisions and awareness of the political impact as a 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 should be otherwise dealt with only after death is confirmed by the supervising procurator on the spot.

II. The dead bodies or organs from 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 the medical institutions;

3. Upon the 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 standards and facilities 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 to register.

2. The use of dead bodies shall be arranged in an unified way by 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 death penalty execution order is issued, and there are dead bodies that can be directly used, the People's Court should inform, in advance, the 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 the on-the-spot supervision. It is the responsibility of the units using the dead bodies to contact the People's, within the prescribed time limits of the execution determined by the People's Court.
   Regarding 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 to consult with the family members, and consequently reach a written agreement in relation to the scope of use, disposal after use, disposal expenses and economic compensation and other matters. The Bureau of Public Health of the municipality or prefecture shall, according to the agreement, grant the units the certificates to use the dead bodies and 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 and special attention must be paid to this objective. In general, all [tasks] should be performed within the same unit. Only in real need, and 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 ground to remove organs, but vehicles displaying 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 the remains 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.

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入人民法院备查。

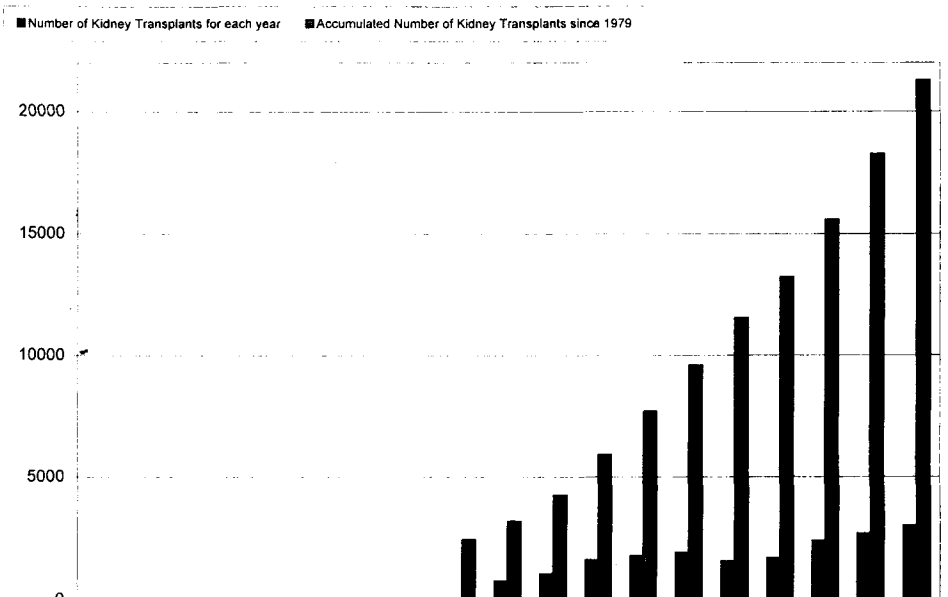
4.利用死刑罪犯尸体或尸体器官要严格保密，注意影响，一般应在利用单位内部进行。确有必要时，经执行死刑的人民法院同意，可以允许卫生部门的手术车开到刑场摘取器官，但不得使用有卫生部门标志的车辆，不准穿白大衣，摘取手术未完成时，不得解除刑场警戒。

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）在反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。

Kidney Transplants in China since 1979



	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Number of Kidney Transplants for each year	0	0	0	0	0	0	0	0	0	764	1,049	1,607	1,771	1,905	1,552	1,679	2,382	2,679	3,000
Accumulated Number of Kidney Transplants since 1979	0	0	0	0	0	0	0	0	2,435	3,189	4,248	5,904	7,675	9,580	11,522	13,201	15,583	18,262	21,262

source: Chinese Journal of organ Transplants. Zhong Hua Qiguan Yichi Zachi.
Published by the Chinese Medical Association.
0 means no information available
1997: numbers are estimates

Mr. GILMAN. Thank you, Mr. Wu for your eloquent statement. We thank Mr. Wei also for his statement.

I'll now ask our co-chairman Mr. Burton for any questions he may have.

Mr. BURTON. Let me first start off by saying to Mr. Wei Jingsheng and Harry Wu that I know that your testimony brings up a lot of painful memories. I could tell from your testimony in particular, Mr. Wu, that it was pretty painful. I just want to tell you that we empathize and sympathize with what you have gone through. I know we'll never understand it completely, but we do feel the problems that you had.

I would like to ask unanimous consent, Mr. Chairman, to enter into the record an affidavit from an organization called Life Resuscitation Technologies. The affidavit is from a Dr. Kelvin Brockbank. He is a member of the International Transplantation Society. Let me just say this, Mr. Chairman. I ask unanimous consent that this affidavit from Life Resuscitation Technologies be included in the record.

Mr. GILMAN. Without objection.

[The information referred to follows:]

LRT
Life Resuscitation
Technologies Inc.

June 3, 1998

The Hon. Dan Burton
Chairman
Government Reform & Oversight Committee
167 Ford House Office Building
Washington, DC 20515

Dear Congressman Burton:

If, in fact, inmates of Chinese prisons are being murdered in order to secure their body parts for sale to individuals in need of an organ transplant, we should not be surprised. It has been well documented that the Government of modern China engages in mass murder as they see fit; witness their occupation of Tibet. Nonetheless, we find this reprehensible behavior to be among the most despicable acts of human rights violations in modern times. Accordingly, we champion your investigations to discover the truth of the matter.

In the spirit of humanity and justice, we offer the following information and pray that it may assist in your investigation.

If transplant patients who have received organs from Chinese prisoners are experiencing statistically significant positive survival rates (versus survival rates in the western world), one explanation may involve the proactive management of an effective biological matching program between the prisoner donor and recipient. It is believed that better matching makes for better graft acceptance and less requirement for immunosuppressive drugs that weaken a patient's immune system, leaving them more susceptible to other disease. Given the annual number of alleged transplantation of prisoner donated organs, if precision matching were going on it would suggest an extensive pre-screening program of the prisoner population.

Another possible element that would aid in successful transplant outcomes is the apparently short interval of time between donor execution, harvest and transplant. This would be a function of the relatively low degree of ischemic damage experienced by the organ prior to transplant.

Based on contemporary transplant industry standards in the west, donor pre-screening would require both careful visual examination methods and extensive laboratory testing.

In America, for example, absolute donor rule-out criteria include donor specific age limits, past medical conditions and high-risk social behaviors. The on-site evaluation process is extensive and involves generally 5 components:

1. A physical exam both anterior and posterior of the donor including systematic evaluation of each organ system (i.e. neurologic, circulatory, pulmonary, etc.) plus hemodynamic maintenance needs, invasive line requirements, available routes for peripheral blood acquisition, and means of blood product and intravenous fluid administration.

2. Comprehensive evaluation of the donor's medical records, social histories, hemodynamic trends and recent laboratory studies, if any.

3. Lab testing to determine the following; a) donor serologic status, b) ABO blood group, c) human leukocyte antigen (HLA) profile and d) donor-recipient tissue compatibility.

4. Donor family interview to corroborate significant medical findings noted during the physical exam and medical chart review and to determine medical conditions and social behaviors not previously revealed.

5. Visual inspection by the organ recovery surgeon during the organ procurement procedure.

In 1985, the Transplantation Society (the leading international organization of transplant surgeons and scientists) produced a set of guidelines to help governments, courts, doctors, hospitals, and patients to deal with the question of transplant ethics (i.e., what should be done?) as well as the question of transplant process (i.e., how should it be done?).

The guidelines were intended to standardize the ethics of organ donation and to curb potential abuse. They have been published and adopted generally by medical communities in the western world.

I include herein, pertinent excerpts from this guideline:

- Priorities in the assignment of organs cannot be influenced by political consideration, gifts, and special payments or by favoritism to special groups;

- Transplant surgeons should not advertise regionally, nationally, or internationally;

- It must be insured that informed consent is made without pressure;

- Active solicitation of living donor for profit is unacceptable;

- No transplant surgeon/team shall be involved directly or indirectly in the buying or selling of organs/tissues or in any transplant activity aimed at commercial gain for himself or an associated hospital or institute;

- Violation of these guidelines by any member of the Transplantation Society may be cause for expulsion from the Society.

Respectively submitted,

David C. Kravitz
Co-Chairman &
Chief Executive Officer

Kelvin G.M. Brockbank, Ph.D.
Sr. Vice President
Clinical, Scientific & Regulatory Affairs

DCK/PT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

County of SAN FRANCISCO

On 6-3-98 (DATE) before me, S. O. KISH NOTARY PUBLIC

personally appeared Kelvin Gordon MBrockbank and Charles Kravitz

☐ personally known to me - OR ☑ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

S. O. KISH

WITNESS my hand and official seal.

S O Kish

OPTIONAL

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL

☑ CORPORATE OFFICER

CEO & Sr. V.P (TITLE(S))

☐ UNIVERSITY/SCHOOL OFFICER

☐ BUSINESS PROPRIETOR/MANAGER

☐ GOVERNMENTAL OFFICER/AGENT

☐ ATTORNEY

☐ TRUSTEE

☐ OTHER

SIGNER IS REPRESENTING: (NAME OF PERSON OR ENTITY)

Life Resuscitation Technologies, Inc

DESCRIPTION OF ATTACHED DOCUMENT

Affidavit (TITLE OR TYPE OF DOCUMENT)

3 (NUMBER OF PAGES)

6-3-98 (DATE OF DOCUMENT)

none (SIGNER(S) OTHER THAN NAMED ABOVE)

(415) 282-8685

Mr. David Kravitz – ***Co-Chairman of the Board, Chief Executive Officer***

Mr. Kravitz was a founding financial investor in LSH, joining its Board in 1996 and becoming its Co-Chairman and Chief Executive Officer in 1998. Most recently, he was Chairman of the Board of Omega Environmental, a market leading engineering, distribution, and environmental services company that he co-founded. Prior to becoming Chairman of Omega Environmental, he served in several other capacities including Executive Vice President, President, and Chief Executive Officer. Mr. Kravitz has also served as a business consultant to several businesses in a variety of industries, including healthcare, manufacturing, and filtration technology.

Dr. Kelvin G.M. Brockbank - ***Senior Vice President, Scientific, Clinical, and Regulatory Affairs***

Dr. Brockbank has twenty years of experience managing large scale, multi-centered research and development programs in the fields of cell, tissue, and organ transplantation, tissue engineering, including medical device research and development. He is an internationally recognized expert in the science of tissue transplantation and the development of cardiovascular devices. Additional areas of expertise include tissue banking, cryobiology, orthopedics, hematology, regulatory affairs, strategic planning/implementation, and technology assessment and marketing. Prior to LSH, Dr. Brockbank served as a Vice President of Research and Development with Baxter HealthCare Corporation, Edward's Cardiovascular Surgery Division and as Director of Research and Development for CryoLife, Inc. During his tenure with these companies, he was responsible for developing several products from conception through FDA approval and commercial success. He was also Senior Scientist at Erasmus University, Department of Cell Biology and Genetics in Rotterdam, Holland.

A graduate of the Medical University of South Carolina, Dr. Brockbank earned his Ph.D. in Experimental Pathology. He is a Fellow of the American College of Angiology, an Adjunct Associate Professor of Microbiology and Immunology, a licensed Clinical Laboratory Director, and a registered Tissue Bank Director. Dr. Brockbank's professional affiliations include the American Association of Tissue Banks, European Society for Vascular Surgery, Society for Organ Sharing, Society for Cryobiology, Academy of Surgical Research, and the Society for *In Vitro* Biology. He is an inventor, the author of over 200 publications, and a well-recognized presenter at major scientific conferences.

Mr. BURTON. This affidavit explains the extensive pre-screening procedures usually required for organ transplants. It concludes that there may be an extensive pre-screening program in the Chinese prison population, pre-screening, when they first go in. The affidavit was prepared by Dr. Kelvin Brockbank, who is a tissue bank director and author of over 200 publications. Now if he is correct with his affidavit, that means that they are planning when a person goes in if they are in fairly good health and they have the kind of blood type and tissue sample that they need, that those persons are going to be held in abeyance until somebody needs a kidney or some organ. Then they shoot them in the head at the proper time and transplant the organ. That is ghoulish and it's inhuman. Yet he believes that that is going on.

I would like to also read a comment from the 1988 training manual for state prosecutors. This is Communist Chinese state prosecutors. A very few localities in order to be able to use particular organs from the criminals' bodies, even go so far as to deliberately avoid killing them completely, killing them completely when carrying out the death sentence so as to preserve the live tissue. I don't know what they do to those people, but it must be really horrible to keep them partially alive so that the tissue doesn't die and it can be transplanted.

I would like to also read a couple of statements from Amnesty International. Then I have a question for you, Mr. Wu. Amnesty International says from an article, Inside the Walls of Beijing Prison No. 1, on chapter 5, it says

> Prisoners who are selected to provide organs are given medical examinations. Blood samples are taken usually without the prisoners being told why the tests are being done. Sometimes the organs are removed from the body immediately and a vehicle parked at the execution ground. Generally the body is cremated and the ashes returned to the family, who cannot therefore verify if organs have been removed. If the family requests the return of the in tact corpse, they are usually given a bill for the prisoner's upkeep during his detention, which is often beyond the family's means.

So the family can't afford it, so they already disposed of the body and the family never knows of the organ transplantation.

Then I would like to read just a sample from the Provisional Regulations of the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security. It says in section 4, "Use of the dead bodies or organs from condemned criminals must be kept strictly confidential." Let the world know about it. "Special attention must be paid to this objective. In general, all tasks should be performed within the same unit." Then it goes on to say, "The operation vehicles from medical institutions, if the Court allows, be allowed entry into the execution ground to remove organs, but vehicles displaying the logo of medical institutions are not to be used." They don't want them to know that medical institutions are going in. They want it to be very hush-hush. "White clinic garments are not to be worn." They don't want you to look like a doctor that's going to harvest the organs. "The execution ground should be guarded against before the operation is completed."

I think it is very clear, Chairman Gilman, that this is something that they don't want the world to know about. I am sure that this

particular hearing today is something that is repugnant. But the world needs to know about it.

I would just like to ask Mr. Wu one question. That question is this. Some of my colleagues on the other side questioned the veracity of some of the statements that have been made here today. They indicated that they didn't believe or they questioned whether or not the government was involved in these procedures, if the government was profiting from these harvesting of these organs. Would you care to comment as a person or would Mr. Wei Jingsheng care to comment about that?

Mr. WU. First of all, the regulation is made by the top of the government, not the local government. Without this document nobody can do that. Sentencing someone to death is a very serious national affair. Carrying out the death sentence definitely is related to the government. Just as you mentioned from this document, the execution ground is entirely controlled by the military police. So what shall we say? It doesn't matter with the government, the government didn't know anything about it, not related? Or maybe it's the local government activities. But it's central government. We have so many witnesses from different provinces at different times.

The second question they ask, the money goes where? China is a socialist country. All the hospitals are owned by the government. The doctors are government employees, government cadres. They are not like your hospitals in your country which are private. They didn't get any special benefits. Maybe we see some bribes from the foreign patients, but they only own the salary from the government. So the profit goes straight into the Chinese Government. It's entirely a government business.

Mr. GILMAN. Thank you, Mr. Burton.

Mr. Cummings. Mr. Davis.

Mr. DAVIS OF ILLINOIS. That's quite all right. Thank you very much, Mr. Chairman. Let me certainly thank you and Chairman Burton for convening this hearing. I certainly would want to thank the witnesses who have appeared. Echoing the sentiments that have already been expressed, I too share with you as you recount experiences and recall difficulties that have existed.

I understand that this administration, that is the Clinton administration, has indicated that allegations of organ trafficking are a key human rights issue with the Government of China, and that it has actually pressed authorities in Beijing to ensure compliance with the governmental regulations. That is, the government with its own regulations requiring prior consent and prohibiting the sale of organs for profit. In addition, it is my understanding that the administration has consistently pushed for reform of China's legal system to safeguard individual rights and due process.

Mr. Wu, are you aware of this Government's efforts to press the issue with the Government of China?

Mr. WU. I heard in the 1992 Presidential election, Mr. Clinton publicly condemn the butcher from Baghdad to Beijing. He also criticized the Bush administration's China policy as a coddling policy. So that's what I heard in 1993, Clinton had executed an order on most favored nation trading status. That means link the human rights issue with trade. That is a very good message to the Chinese Communist government. No free lunch. When you enjoy the bene-

fits from the West, we want to see you moving on the direction to reform your political system.

Unfortunately in 1994, it was totally delinked. Human rights became another issue. Today the State Department is talking about they are seeing improvement. For example, Wei Jingsheng got a release. Wang Dan got a release. You see, this is our success. Exile itself is a violation of human rights. Why this person cannot live in their own country? Exile itself tells you that this government still violates human rights. In the cold war, the Soviet Union, Poland, Hungary exiled their dissidents. But the West never applauded that kind of policy, never said they exiled—or dissidents say, oh this thing is changing. If they really have an improvement in the human rights situation today in China, they have to allow Wei Jingsheng to stay in his own country and his home free as a free man.

China today is on a crossroads of history. In many areas, China is changing significantly, rapidly changing. America has played a very important role in there. I think this is a good opportunity for we Chinese and also American and the American Government to do something to help this most populous country go into a peaceful prosperity and free, democratic China.

Mr. DAVIS OF ILLINOIS. Let me agree with you that change is absolutely necessary. I would be the very first to agree. What I am really trying to get at is the extent to which this administration has been moving in that direction. Are you aware that Secretary Albright raised the issue with Vice Premier and then Foreign Minister Chen Qichen last year during a visit?

Mr. WU. Yes.

Mr. DAVIS OF ILLINOIS. And are you aware that Assistant Secretary of State Stanley Roth and Deputy Secretary of State Talbot raised the issue with State Council of Foreign Affairs Officer Director Li Huachu in Beijing?

Mr. WU. Yes. Let me answer your question.

Mr. DAVIS OF ILLINOIS. There is some concern as to whether or not the President should indeed visit China. You have talked about the need to raise the issue at the highest level. Do you believe that such a visit would then provide an opportunity for the President of this country to raise directly the issue with the President of China?

Mr. WU. First of all, if the State Department was really concerned with the issue, why didn't they show up today here? They have to come over here and tell us what they know and what they want to do.

Second, the organ issue actually happened many years ago. There's a tremendous report from Asia Watch, Human Rights Watch, and Amnesty International mediums, a lot of things that only in 1995, the Senate had a hearing. Then in 1997, in Stanley Roth's nomination, Senator Jesse Helms asked Mr. Roth, are you aware of this issue. Then this is the first time I saw in the record a State Department official responding to this issue. He responded to the Senator by writing. He said if true, this will be among the grossest violations of human rights imaginable, if true. That is 1996.

Then he said if we found such credible evidence, I will raise it personally with the appropriate officials. If they find evidence. Until this moment, I never found that State Department said yes, we did find the evidence. They just raise, raise, raise, raise. Yes, on a very high level, Mrs. Albright raised the question to Chinese partners. I appreciate that. But this is not enough. I see the evidence so clear. This is the third hearing on this issue. Last October the House had a hearing. I wish the United States Government and the Congress just do something like the European Parliament did, have a public very solid condemnation on this issue. They did it May 14, just recently. But we still are on the procedure so-called raise the question, find evidence.

Mr. DAVIS OF ILLINOIS. I agree with you. I can't account for the reason the State Department did not come today or the reason that the State Department did not respond.

I just want to make sure that the record—and I agree with you, I don't believe that enough is being done, unequivocally and without a doubt. I don't believe that our actions have been as forthcoming as they ought to be and should be. I don't believe that they have been as much as will be. But I do want the record to be clear that this administration has not stuck its head in the sand and has not addressed the issue, has not looked at the issue, has not raised the issue. I believe that a visit by the President could be a further indication and opportunity to really raise it more directly and raise it more profoundly with the leadership of the Government in China. I look forward to that happening and do believe that as a result of your testimony, and as a result of these hearings, there will be further activity in this direction. I thank you very much.

[The prepared statement of Hon. Danny K. Davis follows:]

Danny K. Davis

Statement of Danny K. Davis (IL07)
Joint Hearing of Committee on Government Reform and Oversight and
Committee on International Relations
"The Illegal Sale of Human Organs by China"
June 4, 1998

Thank you for allowing me to express my thoughts and concerns on this morning's joint hearing regarding the "Illegal Sale of Human Organs by China."

I would first like to thank the distinguished witnesses for attending today and providing us with their special insight on the subject and for sharing with us their past personal experiences.

The subject matter of today's hearing is serious and troubling. It is one which merits serious consideration. However, I want to caution and urge my colleagues not to begin "mixing apples with oranges." I hope that the Members of the respective committees stick to the subject matter of this hearing and not detour into other avenues such as, should the President go to the People's Republic of China or should we renew Most Favored Nation status or not?

Having said that, I still believe that the President should go to China this month. We should continue to engage in healthy dialogue with this country. If we cut off communication with approximately 1/5 of the world's population, then all Americans are put at somewhat of a disadvantage.

Decisions should be made on the basis of the known. We must always be in continuous search of the truth. John F. Kennedy said in his 1961 Inaugural address, and I quote ". . . Let us never negotiate out of fear. But let us never fear to negotiate . . . "

Finally, I submit that the doors of interaction should always remain open. The President is going to China to advance a world wide set of interests. Issues to be included will be: stability in North East Asia; relationship between other nations, such as India and Pakistan; trade; human rights and environmental issues. His visit is part of a broader effort to develop and maintain a constructive relationship with this important country so that all citizens of the world may benefit.

Thank you very much and I yield back the balance of my time.

Mr. GILMAN. Thank you, Mr. Davis. I hope you will call on the President to raise the issue when he does go to China. We will join with you in that regard.

I would like to address to both panelists, has this issue been raised at the United Nations at all to your knowledge?

Mr. WU. No. It has not.

Mr. GILMAN. Has this issue been raised by any other country besides our country, to your knowledge?

Mr. WU. Yes. No, I'm sorry. The first question, yes. I went to Geneva and the United Nations Human Rights Commission raised the question. But not raised by any other country, any government in the world.

The second is the European Parliament on May 14, 1998, had a resolution to publicly condemn this practice, asked the Chinese Government to stop the practice. They want to ask, set up a commission to investigate this practice.

Mr. GILMAN. There was a resolution adopted by the European Union?

Mr. WU. May 14, 1998, the European Union.

Mr. GILMAN. This year?

Mr. WU. Yes.

Mr. GILMAN. And have they set up a commission?

Mr. WU. I have not heard about it. It's in the proposal, in the resolution, they say about it.

Mr. GILMAN. You said you appeared before the United Nations Commission on Human Rights?

Mr. WU. Yes. I raised this issue to them.

Mr. GILMAN. And what did they do? Was there any action by the commission?

Mr. WU. Chairman Gilman, I'll be honest with you. For this United Nations Human Right Commission, I think we can do nothing. This is talking area, just raise the question, that's all.

Mr. GILMAN. When did you appear before them?

Mr. WU. Last year.

Mr. GILMAN. And had they indicated they would undertake any action?

Mr. WU. No.

Mr. GILMAN. So there's only one other body then and that's the European Union that has raised any interest in this?

Mr. WU. Yes.

Mr. GILMAN. Is that right?

Mr. WU. Yes.

Mr. GILMAN. Has there been any evidence of corruption among the Chinese officials in bringing a prisoner before them so that they can be utilized for a transplantation?

Mr. WU. There's a couple witnesses I will share with you. One witness's last name is Chen, Chen Miao. Dr. Chen Miao today lives in Hamburg, Germany. In 1986, as a doctor in China, he participated in surgery. He went with another three doctors into the prison at midnight, removed two kidneys from live prisoners. At the time, he was surprised. He asked the chief doctor, said "What is going on?" The chief doctor said "Oh, he's a bad guy, he's sentenced to death. Tomorrow morning he will be executed." So he is a witness available to tell you that story.

Another doctor lives in London, Dr. Huang. He was arranged by the authorities to sit in the surgery car just like the regulation said, stand by, in the surgery car stand by in the executionsite. He wasn't allowed to go out before the shooting. He heard the shooting. I asked him, "What was the distance from your surgery vehicle to the shooting?" He said about 20 to 25 meters. After the shooting, about 2 or 3 minutes, there was an order, go over there to grab the body. So move the body to the surgery vehicle. The vehicle of course just like a regulation, remove the hospital logo. The vehicle drove to the cremation. On the way, the doctor was very busy. He said what are you doing? He said, well we put a body on the floor and turn it over and four people very hardly hold it. We cut on the back and take the kidney and some doctor takes the lung, takes the cornea, takes whatever they want.

So when we arrive in cremation, so we put our organs in our container, get into another vehicle back to the hospital for the transplantation. I said wait a minute. When you grab the body in the surgical vehicle, tried to extract organs, what did his body look like? Of course the body is still breathing. The breath is coming out from the mouth. That's why we hold it hardly.

Then they throw the meat, cremate it timely. And then notify the family. They pay them some money and we get them an urn of ashes. That's the procedure. The witness today is still in London.

Mr. GILMAN. What is the name of that witness?

Mr. WU. Excuse me?

Mr. GILMAN. What is the name of that witness?

Mr. WU. Huang Ning. Dr. Huang Ning, N-I-N-G.

Mr. GILMAN. He is a physician in London?

Mr. WU. A physician. The other one is a physician in Hamburg, Chen Miao, M-I-A-O, C-H-E-N.

Mr. GILMAN. And they recited these facts to you?

Mr. WU. It's on the tape, video tape.

Mr. GILMAN. And what was the date of that execution?

Mr. WU. The Chen Miao was in 1986. The execution in the second one is 1991 in Guangzhou.

Mr. GILMAN. And this testimony was videotaped?

Mr. WU. I taped it.

Mr. GILMAN. You have the tape?

Mr. WU. Yes. I do.

Mr. GILMAN. Can you make that tape available to this committee?

Mr. WU. I have to ask the witnesses to approve it.

Mr. GILMAN. I would appreciate if you would make that request and submit it to our committee.

Mr. WU. I hope you understand. There is a security problem for them.

Mr. GILMAN. Yes. I welcome that, but I would appreciate any assistance you might be able to render in providing that tape for this committee.

Mr. WU. I will try.

Mr. GILMAN. To both Mr. Wei and Harry, did you present the kind of testimony you gave today to our State Department at any time?

Mr. WU. I will.

Mr. GILMAN. Have you?

Mr. WU. I have not.

Mr. GILMAN. Mr. Wei Jingsheng, have you presented your testimony to the State Department?

Mr. WEI [speaking through translator]. I have not given them today's testimony. I am looking for an opportunity to present it to them. I believe that to continue to have talks with the State Department would be extremely important.

Mr. GILMAN. Thank you very much both of you. We appreciate your being here.

Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. I want to thank Mr. Wei Jingsheng and Harry Wu for their excellent testimony and again for bearing witness for yet another human rights abuse in the People's Republic of China.

You know in World War II, the Japanese deployed the unit 731 to Mukdeu, Manchuria. As we all know, they did bizarre and obscene experiments on human beings, mostly on Chinese. Sadly, it seems, the Chinese Government has learned all the wrong lessons from the misuse of human life and the experimentation, in this case the transplantation of vital organs from living almost dead human beings. They have added one additional wrinkle to it, that is the profit motive, which I don't think unit 731 had in mind at the time. But it's no less serious. It's no less egregious. I find it appalling that the administration continues to take the view of putting these abuses in a closed society, which if these aren't true, why don't the Chinese let us and let human rights activists, Amnesty, Human Rights Watch, and all the other groups in to verify the accuracy or lack thereof with regards to these abuses.

There is enough evidence, I think, to say a reasonable man or reasonable woman can only conclude that these are going on. They are going on each and every day. And that thousands of people have suffered this cruelty while we look askance and we say, as Stanley Roth pointed out, these are terrible abuses, but he is looking for credible evidence.

This panel, previous panels, and the very noteworthy work of Human Rights Watch/Asia and others, Amnesty International, seem to have fallen on deaf ears. In a letter that we got from Barbara Larkin, for example, those of us who signed the April 22 letter that was initiated by Linda Smith, Secretary Larkin says,

> The Chinese authorities have provided documents which clearly state that the sale or export of human organs and tissues is prohibited. The Chinese have emphasized that the sale of human organs is not only against Chinese Government policy, but against the law. We are urging the Chinese Government to make sure that this prohibition isn't forced.

Now that takes at its face official government statements that A, they have a law or regulation, B, that it's just a matter of lax enforcement if only they would just do something to make sure that their law, which our State Department accepts at face value, were to be properly implemented. Yet, Mr. Wu, you bring before us documents and then most importantly, an explanation for each of those categories, like the approval of family members. I think to have an understanding of what that means and that the family members themselves run the risk of becoming persona non grata if they

claim the body or are involved, it is a very important insight that this committee and the Congress needs to have.

The whole idea of voluntary consent is ludicrous, absolutely ludicrous. It's like saying somebody in Auschwitz could give voluntary consent to a Dr. Mengele experiment. On the face of it, it ought to be laughed out of the room. The fact that our own State Department takes at face value assessments given to them by high level Chinese on this issue, and I would ask you to respond to that, this idea of—I mean that's one of the flaws I think we all recognize with the rapporteur system. There is an exchange between official channels. We say you did it. They say they didn't. Then it just rests there, it goes no further. So I have a real problem with this kind of exchange with our own State Department.

This idea of raising the issue. I have been in Congress 18 years. I have been around for several administrations. I know what raising an issue can be. It can be a talking point on a list of things that are just run through rather matter of factly. The Chinese Government, I believe, and please comment on this, feel that if they endure a little weather, a little criticism on their human rights policy, that opens up the flood gates to the economic side of the equation, which is a balance of trade that is in their favor by about $50 billion and counting. So they will listen to a little jawboning. It doesn't really mean much. It is soon forgotten because again, we speak softly and we carry no stick. There is no stick whatsoever. There is no linkage, there's no punishment.

We are talking about a government that looks at its people as the enemy and treats them as class enemies, as you put it, Mr. Wu. So if you could comment, this is kind of a lame response that we have received about "We're calling on them to enforce their law." Well, if I read these regulations, it is riddled with non-enforcement. Even if it were enforced, there are no protections whatsoever for voluntarism on the part of the inmate.

Mr. WU. Let me make a small comment. I think yes, the Chinese Government says they have a law forbidding the organ sales. I think they are misusing the word, so-called sell. It shows there's supposedly no money involved, because the prisoners or prisoner's family didn't receive any money. So let me explain it this way. If you pay money in the Philippines or India for a private or individual person, say I buy you one kidney, you give money and you get the kidney, put it in a container and come back, we say this is sell, buy and sell. In China, the government, no pay. They are not talking about sell. You go to China, receive a surgery, medical service, operation. You pay the operation fee, yes, include the kidney. You come back with a kidney, but not in a container, in your body.

So we're not selling anything. We didn't sell any kidney, anything put in a container and give it to you. We helped you survive. We helped you continue your life. We had a surgery for you. But that included human body parts. The body parts come from executed prisoners. It's executed by the Communist government.

Mr. BURTON [presiding]. The gentleman's time has expired.

Mr. Cox.

Mr. COX. Thank you, Mr. Chairman. Thank you, Wei Jingsheng and Harry Wu for testifying here today.

Mr. Wei, you have been exiled to the United States. Your punishment thus continues. You are not permitted to return to China. You are not permitted to see your family or to have a life. Ultimately your return to China depends upon your being in the good graces I suppose of the Communist government. Has that caused you to hesitate to come here to testify about the human rights abuses that you have described are presently being committed by the Chinese Government?

Mr. WEI [speaking through interpreter]. It is possible that my appearing today will have an influence, but I don't believe that this particular problem should be evaluated upon the personal interests of an individual, the interests of a political party. These questions today are a question of humanitarian questions. That if an individual does not come forward to take a stance on these type of questions, then I believe it's time for them to very seriously evaluate what their own character is.

Right now inside of China for someone to speak the truth you have to be very courageous in the face of the one party dictatorship. Myself spent 18 years precisely because I was willing to speak those truths. But I also believe that this is extended to whether or not people are speaking the truth in Western countries. If you are to stand up and to speak out about the behavior of the Chinese Communist party, then it's possible that you yourself will have greater difficulties to work inside Western countries.

Because there are serious repercussions to coming to any location to give this type of evidence, many Chinese are unwilling to come forth and to speak about these issues. Even those Chinese who are living in a foreign country for a long period of time can receive a great deal of pressure from Chinese Embassies or their agents throughout that country. Even those who are living in the West are also hesitant to come forward. I am very curious to know why the Western governments understand clearly the role the Chinese Embassy plays in the Chinese community. Yet this still continues.

Mr. COX. Mr. Wei, you were imprisoned for your role as a leader of the democracy wall movement and you found yourself on death row as a counter revolutionary. The evidence that you have provided us with this morning concerns your own cellmate who was executed and the device that you contrived with him for him to signal to you if it appeared as he went to his execution that they were prepared to extract his organs. Are you testifying today that you believe that his organs were in fact extracted?

Mr. WEI [speaking through interpreter]. In the past, prior to being in the prison I had heard of these things. Yet, I really did not want to bring myself to believe that this was an actual possibility, that someone could carry out such an inhumane act. But this individual in his willingness to help me to prove that this practice was going on, I believe not only that he was killed to use his organs, but that his organs may have even been taken from him prior to his death.

There was an opportunity soon after this episode with my cellmate where I had a chance to have a conversation with some of the guards that were charged with overseeing the inside of the prison. Our relations were good enough so that I was able to discuss with them about this theft of prisoners' organs. I asked them whether

or not this was true. The guard said to me very clearly that these individuals are already dead. If we are to cremate these organs, that is just simply a waste.

Mr. COX. Mr. Chairman, I wonder if I might ask to put a question to Mr. Wu.

Mr. WU. Actually, many years ago Chinese prisons already had a regulation that allowed the families to take back the death row prisoner's body. So that's why there's nobody who actually knows what it looks like, the body, because they only can receive an urn of ashes. Nobody can see the real body after the execution.

Mr. COX. Mr. Wu, I wanted to ask you about your own circumstance because you spent most of your adult life in the laogai prisons. The regulations of the Chinese Government that permit the withdrawal of organs, the harvesting of organs from executed prisoners if nobody claims the body, if the death row prisoners' families don't accept the bodies for burial, require that there be some contact between the person in prison and the family. I wonder if you can tell me about your own situation. My understanding from your testimony is that when you were declared a counter revolutionary, that your relatives decided for their own safety that they should keep their distance. Indeed, that your mother was driven to suicide.

When last year I was in China as part of an official United States delegation, I had arranged to meet with the mother of Wang Dan, the Tiananmen Square democracy organizer who was imprisoned there. I was told by our own U.S. Embassy that I should not do that because to meet with her, Wang Dan's mother, was to risk her safety. So in your experience, I wonder whether you reached the conclusion that is leaping out at me, that it is foolish to think that anybody's family is going to volunteer to come and keep relations with the prisoner. What happened to you? You were in prison for many, many years. What happened between you and your family during that time, besides your mother?

Mr. WU. Congressman Cox, to answer your question, I want to make an announcement that I was just talking about the organ sales. Chinese deny that. Yes, in some way you can explain that it's not allowed, organ sales, because they didn't pay the donors. The donor is the executed prisoner. Actually it's not the donor. They rob it. They steal it from them. You can see this is a medical service fee. But actually their brokers not only in Japan, in Hong Kong, in the United States, in Thailand, Indonesia, in Taiwan, they are pushing the sale, organ sales, but they didn't use the name so-called organ sale. They say medical service fee.

So for example, there's an infamous military hospital in Guangzhou that belongs to No. 1 PLA University's Nanfang Hospital. They have a broker in Hong Kong. We interviewed her. We taped it. That she said, she said well, don't ask about the kidney comes from where, but we have a good service, good quality. This is a job for the broker everywhere to sell.

Now I want to answer your question. In 1957, I was labeled as a counter revolutionary. In that political campaign, the number of the victims was around 550,000 to 1 million. So I am one of them. Lu Bing is one of them. But I at the time I was a very young student, 20 years old, nobody knew about me. So I am a common

criminal, common political prisoner. Not like Wei, who is aware by the world. Wang Dan is aware by the world.

So the Chinese Government is very clever. They treat you very differently. If you are aware by the international society, there are two reasons they treat these people very differently. The reason is what? First, these people can become a bargaining chip. So they never force them into labor. Their food is not really adequate, but it's OK. Normally they don't want to touch you. But you see, even Wei himself at the beginning because he's No. 1 enemy of Deng Xiaoping, he was sentenced 15 years, but he was put in a death row cell. Later the international society was calling to free Wei Jingsheng. He right away moved to another cell. They treated him very differently.

The situation in 1990 and 1980 is different from today because the whole situation, human rights situation today in China is very different now. In my time, I want to say 95 percent of the criminals when they were put in the jail, the family refused to talk to them. They have to make a clear separation and make a public denouncement of them. Today the situation is different, particularly these famous dissidents. They have very different treatment.

You see, Wei, once you saw Wei in last December, he looked very healthy. His weight in the last 4 months increased about, he told me it's about 35 pounds, because they put some medicine in his food. The Chinese authorities want to give you a nice look, they didn't torture them. We can go back to much earlier years, 1964, the famous French prisoners, Jean Pasqualini, because Charles de Gaulle visited China. He was sentenced 12 years in the prison. The Chinese Government said OK, now you can come out. They were put in different cells and every day had services of cigarettes and good food. When he went back to Paris, he looked very healthy. The people will say oh, not bad.

If you really want to see the real situation, you have to go somewhere like me, smuggle into China with my hidden camera. Otherwise, you never can see the truth.

I'm sorry, I have to go to another press conference.

Mr. BURTON. Have you got 5 minutes?

Mr. WU. OK.

Mr. BURTON. Thank you, Mr. Cox.

Mr. Burr, and then we have one question from him and we'll be finished. Mr. Burr.

Mr. BURR. Thank you, Mr. Chairman.

Mr. Wu, thank you for your courage. My greatest hope today is that your courage and the rest of our panelists' courage is in fact something that will be contagious in Washington.

Let me ask you just a series of questions, if I may. Is it possible for the military police to do anything that the government is not aware of in China?

Mr. WU. Possible.

Mr. BURR. Is it possible for surgeons to remove organs at a prison and for the government not to be aware of it?

Mr. WU. No.

Mr. BURR. Is it possible for a transplant to take place in China that uses prison organs that the government is not aware of?

Mr. WU. No. No way.

Mr. BURR. Is it possible for an organ to be removed from China, exported without some government official being aware of it?

Mr. WU. I decline to answer this question.

Mr. BURR. Could two Chinese physicians place an add in a Connecticut paper offering organs from executed prisoners without the Chinese Government being aware of it?

Mr. WU. I suggest you look at the ABC Primetime Live tape. I think your question is already there.

Mr. BURR. In 1996, the list of capital crimes had grown to an estimated 68 offenses in China. Can you estimate for us how many prisoners on average might be executed in any given year in China?

Mr. WU. The number of the executions in China is top secret. But according to Amnesty International's report, in 1996, the executions that took place were 4,367. Probably it's 80 percent of the world, of the execution number. It's No. 1 in the world.

Mr. BURR. Amnesty International estimates that 4,800 prisoners were executed?

Mr. WU. Forty three hundred.

Mr. BURR. Forty three hundred.

Mr. WU. In 1996, in that year only.

Mr. BURR. I think you supplied in your testimony a chart, if I remember, the source was Chinese Journal of Organ Transplants. Where it said that in 1996, the number of kidney transplants were 2,679. Correct?

Mr. WU. Yes.

Mr. BURR. So clearly there are sufficient executions enough to cover the number of official kidney transplants that the Chinese Government says took place?

Mr. WU. First of all, the information came from this Chinese magazine. Second, this number over here on the chart, this includes the family donations. Not 100 percent are from executed prisoners.

Mr. BURR. I thank you again for your willingness to testify.

I yield back, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Burr.

Mr. WU. I go back to your one question. You said can the military police do something without the government permission. I say yes. Because some people can bribe the police because they want the organ to be of very good quality. They can ask military police to shoot in a different place, to keep a body still warm and alive, and get a good quality of organ. That could happen.

Mr. BURTON. Thank you. Mr. Davis.

Mr. DAVIS OF ILLINOIS. Mr. Wu, let me commend both you and Mr. Wei Jingsheng for both your courage and your commitment. The question that I am trying to get at in my mind is over the period of the last decade, would you suggest that there has been improvement or lack of improvement in terms of the atrocities and human rights violations that both of you have spoken to this afternoon?

Mr. WU. The answer is yes or no. I want to say yes because compared to the last 30 years, it means since 1949, we were under the Communist control. The situation today in China for the people can

move to other cities, not really freely but it's more convenient than in earlier 30 years.

The people sometimes can complain, the authorities, not like 1957–1958, you know, you have a single wrong word, you can go to jail. Yes, today has many government established patriarchical church. I think you know Newt Gingrich can do a prayer in a Sunday morning in Beijing in a patriarchical church. If you say this is a kind of improvement, I am not going to argue. If this is really an improvement, and you have to know it's come from the people's suffering. Chinese people demand in the first place, ask for change.

But many situations actually are worse. For example, religious freedom fighters. You know the Roman Catholic church today in China is still illegal. Chinese Government says all kinds of religions have to register. If you don't register it, I don't approve you, it's illegal. So some people ask me is there any religious persecution in China. I say maybe you never can find it because what, if the Roman Catholics, they want to gather together, have a worship in the home, and the Chinese Government can arrest them, but not under religious persecution. They say this illegal gathering disturbs the social order.

In our constitution, there is an article, religious freedom for religions. But you know, Roman Catholic, the people cannot have a worship in their family. So how to explain this improvement or not. If there is really some improvement, I still want to emphasize again, it's demanded by the Chinese common people, not from the authorities.

Mr. DAVIS OF ILLINOIS. Well, I certainly thank you for your conclusion in terms of I agree that all power belongs to the people and the people are the primary promoters of change. It is the extent to which people are willing to struggle. That's the extent which changes will occur.

Again, I appreciate your testimony. I certainly appreciate your courage.

Mr. WU. Thank you.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. BURTON. Thank you, Mr. Davis. Mr. Wu, we want to thank you for being here. Would you please convey to Mr. Wei Jingsheng our appreciation as well?

This hearing stands adjourned.

[Whereupon, at 1:51 p.m., the committees were adjourned subject to the call of the Chairs.]

THE SALE OF BODY PARTS BY THE PEOPLE'S REPUBLIC OF CHINA

TUESDAY, JUNE 16, 1998

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, JOINT WITH COMMITTEE ON INTERNATIONAL RELATIONS,

Washington, DC.

The committees met, pursuant to notice, at 3:10 p.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the Committee on Government Reform and Oversight) and Hon. Benjamin A. Gilman (chairman of the Committee on International Relations) presiding.

Present: Representatives Burton, Gilman, Morella, McHugh, Norton, Kucinich, Smith of New Jersey, Rohrabacher, Fox, Hamilton, and Sherman.

Government Reform and Oversight Committee staff present: Kevin Binger, staff director; Daniel R. Moll, deputy staff director; Judith McCoy, chief clerk; Teresa Austin, assistant clerk/calendar clerk; Robin Butler, office manager; Mike Delph, Jason Lovell, and Milt Copulos, professional staff members; Will Dwyer, director of communications; Ashley Williams, deputy director of communications; David Kass, deputy counsel and parliamentarian; Phil Barnett, minority chief counsel; Michael Yaeger, minority counsel; Ellen Rayner, minority chief clerk; and Earley Green and Andrew Su, minority staff assistants.

International Relations Committee staff present: Richard J. Garon, chief of staff; Michael H. Van Dusen, Democratic chief of staff; Hillel Weinberg, counsel and senior professional staff member; Paul Berkowitz, professional staff member; Allison Kiernan, staff associate; and Charmaine Houseman, staff associate.

Mr. BURTON [presiding]. The joint committees will come to order. A quorum being present, this joint hearing of the Committee on Government Reform and Oversight and the Committee on International Relations will come to order.

Before the distinguished co-chairman, I, and the ranking members deliver our opening statements, the committees must first dispose of some procedural issues. I ask unanimous consent that all Members' and witnesses' written opening statements be included in the record. Without objection, so ordered.

I will also note at the outset that we will be seeing several video clips and a number of photographs during the hearing. I will warn those in attendance that a number of these videos and photographs are quite graphic and could be upsetting to some people. In addi-

tion, I believe that Chairman Gilman has one procedural issue relating to this committee that he would like to address at this time.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. Mr. Chairman, I ask unanimous consent that the joint hearings of the committee and the Committee on National Security be held on June 17 and 18, on the subject of United States policy regarding the export of satellites to China. The rules of the Committee on International Relations shall apply and members of the Committee on National Security shall have the right to participate in the hearing. Thank you, Mr. Chairman.

Mr. BURTON. Without objection, so ordered.

I do not see anybody from the minority yet, so we'll reserve their statements for when they arrive. I'll start off with my opening statement right now.

It has been said that the only thing necessary for the triumph of evil is for good men and women to do nothing. We are meeting here today to ensure that our Government does not stand by and let one specific evil go unchallenged; the Communist Chinese Government's sale of human organs from executed prisoners for profit.

I would like to start off by saying in the Indianapolis Star today, they had a cartoon of Dr. Kavorkian. It was very graphic. It shows that somebody that he had helped commit suicide, they were going to donate their organs. It was very graphic. It pointed out that it was really kind of unseemly for Dr. Kavorkian to be selling organs of people that he had helped commit suicide. Then you look at what's going on in Communist China, where they are killing people who have the same blood type as someone who needs an organ and make $60 or $70 or $80 million a year, and the world doesn't hardly know about it. It's really sad. We pay attention to Dr. Kavorkian in one instance, but we ignore thousands of people who are being slaughtered for their kidneys and their livers and their hearts in Communist China. We don't even pay any attention to it.

We know the Communist Chinese routinely engage in a wide range of human rights abuses. Religion is suppressed. Slave labor is used. Dissidents are imprisoned. Forced abortions take place. But the latest outrage which was examined at our June 4 hearing is beyond belief, the sale for profit of human organs. In that session our committees received testimony from a number of highly credible witnesses concerning the Communist Chinese Government's practice of trafficking in human organs. I wish the State Department had been present to hear first hand what they had to say.

Assistant Secretary Shattuck is here today to testify. I am glad that he is here. But what really bothers me is that it has been like pulling teeth, wisdom teeth wrapped around the jaw bone to get the State Department to talk about this issue at all. As a matter of fact, we couldn't even get them up here to testify. We had to really force the issue. This is the fifth hearing that Congress has had about organ sales in China in the last 4 years. This is the first time that the State Department has agreed to testify. As I said, we had to force that issue.

We requested that Assistant Secretary Roth testify at our last hearing, and the State Department turned us down. I had to threaten to send a subpoena to get the State Department to agree

to send these two witnesses today. Can you imagine that? Something as important as this issue, and having to subpoena our own Government to come and testify. The Chinese Government is executing prisoners and then selling their organs to make money. I have to threaten to send a subpoena to get someone to come up and testify about it. I think it's shameful.

It's awful that the President is leaving for China in a week and the State Department wants to avoid even talking about this. People are dying, being murdered for their organs. We can't stand by and be silent.

Since Assistant Secretary Shattuck was not here at our first hearing, I want to review briefly what happened. Mr. Shattuck, had you been here, you would have heard Dr. Awaya, a Japanese expert on law and sociology, tell us about an organ trade so blatant that brokers in Japan advertise on the Internet. If they advertise on the Internet, I am sure our Government and CIA know about it. They even place posters inside street cars and on telephone poles. So it is no big secret.

You would have heard him charge that the Communist China's recent introduction of lethal injection is a method of execution, had a sinister hidden purpose, getting organs easily and preserving them. In his statement, Dr. Awaya said, "There are almost no voluntary donors either now or in the past in China. Neither have the Chinese Government nor medical societies in China made any real effort to get voluntary donors. It has been almost a national policy to use organs from executed prisoners."

If you had been here, you would have also heard Harry Wu's emotional testimony. You would have heard how hospitals run blood and tissue typing tests on prisoners, even before their death sentence is final, and how the information collected from these tests is used to identify matches with potential recipients. Harry Wu charged that, "This process shows that everything is premeditated. The demand for organs then is the main consideration of whether or not you put a prisoner to death," whether or not they are going to make a little money.

You would have heard Wei Jingsheng tell the horrifying story of a fellow inmate who helped him confirm, as he was dragged to his death, that organs were being taken from those who were executed more than 18 years ago.

You would have heard the testimony of Dr. Phaibul, head of Thailand's Transplantation Society, describe how brokers selling organs, prisoners' organs, solicit patients for fees of up to $40,000 and more.

The entire world needs to hear how enormous the scope of the traffic in prisoner organs actually is. Between 1988 and 1996, the number of kidney transplants grew almost four times, rising to 2,700 that we know of in 1996. The number of executions has been rising just as fast, reaching almost 4,400 in 1996.

Remember, Amnesty International tells us that 90 percent of all transplants performed in China use organs taken from executed prisoners. We don't know about these prisoners. Some of them may be political prisoners, some of them may be people who were petty criminals, but you can make money off of them if they are healthy and if their organs are saleable. In 1996, these transplants would

have generated almost $100 million in hard currency for the Communist government.

Communist Chinese transplant surgeons have bragged that their patients experience a 90 percent success rate. An analysis prepared for our June 4 hearing by Dr. Kevin Brockbank, an expert in organ transplantation and registered tissue bank director, concluded that the "extremely high success rates claimed by the Communist Chinese would suggest an extensive pre-screening program of the prisoner population." The only possible reason for such pre-screening would be to create an inventory of prisoner tissue and blood types so they can be matched to donors. At the same time that the number of transplants has been growing so rapidly, the number of executions has increased sharply as well. The growth in executions is fueled by 150 percent rise in the number of capital crimes, according to Asia Watch; 35 percent of all crimes now carry a death sentence. Some of those crimes in the United States wouldn't carry anything like a death sentence.

The situation is particularly grave for dissidents. The likelihood of their getting anything resembling an adequate defense is virtually nil. But that's not all. According to one source, police officers have come under pressure to meet arrest quotas. Why would they want to have arrest quotas? Maybe so they can get more kidneys and hearts for transplanting.

Are these quotas and the expansion of capital offenses intended to ensure that there is an adequate supply of organs from executed prisoners?

Is this a ghoulish attempt to make money from dissidents at the same time they are forever silenced?

Human Rights Watch/Asia thinks so. Amnesty International thinks so. All of the available evidence seems to indicate a connection.

I can only conclude that the administration does not think this is much of a priority. I say this because since mid-October of last year, some 8 months, repeated congressional inquiries to the State Department about this problem have met with little more than lip service. This, despite the fact that during his confirmation hearings, Assistant Secretary of State Stanley Roth promised to "follow up vigorously" on any information concerning the Communist Chinese traffic in human organs.

What has this "vigorous followup" been? In a May 22, 1998 letter, Barbara Larkin, the Assistant Secretary of State for Legislative Affairs, said "Chinese authorities have provided documents which clearly state that the sale or export of human organs and tissues is prohibited. The Chinese emphasize that the sale of human organs is not only against Chinese Government policy, but it's against the law."

Apparently the administration is willing to accept the Communist Chinese Government's denials at face value, despite overwhelming evidence, some of which you will see here today, to the contrary.

Of course, the Chinese Government also claimed they did not use prisoner organs for transplants at all—that is until an FBI sting operation caught one of their brokers trying to sell prisoner organs to an undercover agent. Only then in response to a letter from my-

self, Chairman Gilman, and Mr. Cox, the State Department finally, grudgingly acknowledged the practice, stating: "China permits its medical units to use organs voluntarily donated by citizens following their death. This also applies to executed prisoners in which either the prisoners themselves or their relatives must approve the voluntary donation by affixing their signatures." The trouble is there could be no such thing as voluntary donation by an individual in prison. Yet our State Department is willing to accept China's claims that prisoners willingly consent before their organs are harvested. Since they say they get consent, I guess it must be true.

Of course, China also said they didn't kill anyone at Tiananmen Square or try to funnel money into United States campaigns, or do other things that they later were shown to have done. I don't know if the administration is simply naive in dealing with the Chinese or if they are placing expediency ahead of what is right. What I do know is that it is unacceptable. We are the last remaining superpower in the free world. If we are not willing to stand up for what's right, then no one will.

Before we begin hearing testimony, I want to put the issue in perspective with a brief excerpt from a BBC documentary featuring Pei Qi Gao, a former member of the Communist Chinese Public Security Bureau, who was one of the first eyewitnesses to bring news of this terrible practice to the West. I hope you will all look at the TV monitors. You can play it now.

[Video shown.]

Mr. BURTON. Chairman Gilman.

Mr. GILMAN. Thank you, Chairman Burton.

On June 4, our committees held a joint hearing on the sale of body parts by the People's Republic of China. We heard then from physicians, a transplant recipient, dissidents, who had compelling facts to share with us about the horrid practice by the Government of the People's Republic of China of harvesting the organs of prisoners. Experts on the issue have pointed out to our committees that some of the organs, in order to ensure that they are fresh, are taken from prisoners the night before execution. Many of the prisoners are executed for such crimes as "counter-revolutionary offenses," a code word for pro-democracy activism.

An Asia Watch report points out that young women who hid the writings of a pro-democracy activist was executed for her actions and "one kidney was transplanted into the body of the son of a high ranking military official, a deputy battalion commander of the Nanjing Military Region who had earlier arranged for officials in the prison to facilitate that operation."

In addition, while the Chinese Government claims that the prisoners are asked for their consent, last week's and some of this week's testimony makes it clear the prisoners and their families are in no position to object to the organ extraction. Equally distressing are recent reports by the BBC that Burmese troops are allegedly selling ethnic children to the Chinese for organ transplants.

In the testimony received to date by our committees, it is evident that what is happening in China with regard to organ extraction is unspeakably inhumane, horrendous, and criminal. If it were not collaborated by so many sources, it would be almost unbelievable. Chinese Government executions and organ extractions that are co-

ordinated with the arrival of transplant recipients from overseas or wealthy Chinese themselves rivals the worst human rights violations the world has ever known.

Today, we are going to be hearing from a Chinese citizen who witnessed a number of these executions and organ extractions. We will also receive the testimony of the representatives of the State Department in order to learn how the Department is pursuing these distressing matters with the Chinese Government. A representative in Amnesty International, a professor from Columbia University, and Harry Wu, will share with the committees their expertise on these issues. I welcome our witnesses. We look forward to hearing their testimony. Thank you, Mr. Chairman.

Mr. BURTON. Do other Members have an opening statement?

Mr. SMITH OF NEW JERSEY. Mr. Chairman. I'll be very brief, and would ask that a full statement be made a part of the record.

Mr. BURTON. Without objection.

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

Statement by
Hon. Ileana Ros-Lehtinen
June 16, 1998

"Sale of Body Parts in China"
Part II

I would like to take this opportunity to commend my colleague Chairman Gilman for his inspiring leadership and his tremendous dedication in bringing to the forefront the issue of human rights in China. His persistence in ensuring that the United States recognize and actively pursue policy goals that work towards bringing an end to the oppression and subjugation of millions inspires many of us who work towards bringing democracy to the nations of the world.

Thank you, Mr. Chairman, for your tireless work on this issue.

This Congress, I introduced the Political Freedom in China Act of 1997, which the House passed and is presently in the Senate. We incorporated an amendment that addresses the very issue we are discussing today and calls upon the Chinese government to cease the practice of harvesting and transplanting organs for profit from executed prisoners, bars officials of the Government of China involved in such practices from entering the United States, and seeks to prosecute to the fullest extent of the law those known to be participating or facilitating the sale of such organs in the U.S.

As we gather here today in a country where freedom and respect for human rights serve as the foundation for our great democracy, in China men and women sit in squalid prison cells awaiting execution for exercising their rights as free-thinking human beings.

As we ponder the question of what our country can do to stop the systematic torture and execution of these prisoners of conscience, Chinese men and women will be lined up for firing squads that with great deliberation and care, will shoot the prisoners in strategic parts of the body so as not to damage vital organs that will be sold to foreigners awaiting organ transplantation procedures.

China has taken the violation of human rights to a new level. One in which not only are political prisoners harassed, detained, and executed, but where their bloody, lifeless bodies are then desecrated--taken apart for profit.

It is estimated that the number of organs obtained from executed prisoners in China lies between 2,000 and 3,000 per year. These practices are not only sanctioned by Chinese government officials, but are carried out in government institutions that profit directly from these morbid sales. As we have witnessed a demand for organs increase, so have the numbers of executions in China. With organ transplantation operations costing foreigners sometimes as much as $30,000, the profits have created a seemingly irresistible incentive to continue

the systematic killings.

Although China claims that it occasionally takes organs from executed prisoners with their consent, Human Rights Watch and Amnesty International estimate that more than 90% of the kidneys transplanted in China come from prisoners who have not consented or who are unaware of the fate that awaits them.

The Political Freedom in China Act of 1997 is a first, yet critical step in making a statement to the People's Republic of China that the United States will not stand by silently while thousands of our fellow human beings are killed. As the great Cuban patriot Jose Marti once said: "To witness a crime in silence is to commit it." We will not be silent on this issue and we will give voice to those whose words the Chinese government seeks to quell.

Mr. SMITH OF NEW JERSEY. I am, like you, very glad to see the administration is here. We would have liked to have had them previously, not only at this hearing but at a whole series of hearings, important hearings on human rights. Last week when we had a woman who had defected and brought forth information about the coercive population control program, we had asked and hopefully the administration will accommodate us at some point, to send one of its top representatives to give an accounting on that issue.

The hope is that with the overwhelming and credible evidence, and again we are talking about a closed society, so getting information that is absolute is obviously very, very difficult. But on this issue of organ harvesting, it seems to me that there are few issues that are as compelling and about which we should be absolutely united in condemning: taking prisoners, rounding them up—God only knows how many of those are for minor offenses—and killing them for the purpose of extracting their organs, this is right out of the pages of the Third Reich. Concurrent and absolutely parallel with that, Mr. Chairman, is the continued reliance on the use of forced abortion and forced sterilization in the People's Republic of China.

I continue to be appalled at the administration's view on this. They pay lip service to it. But when it comes to actually taking a meaningful role in trying to deter this kind of abuse of women and this kind of murder of children, because the children are literally stolen from their mothers and then murdered, there has been some lip service but almost no action.

I remind the Members that even last—on June 10, Mike McCurry, the Presidential spokesman, when he was asked about our hearing, responded and I quote, "while I think that the anecdotal evidence that comes forward suggests that there is poor supervision of local officials who are sometimes under very intense pressure to meet family planning targets." That is the justification that is routinely given by the People's Republic of China from Li Peng to Jiang Zemin, Peng Peiyun. Everyone else always say that they are against coercion. It is not written into the handbook and into the regulations. However, it is not, as Mrs. Gao pointed out so clearly last week, a consequence that just happens to happen down at the local level. It is dictated from the very top.

The sooner we got rid of acceptance of the Chinese rationalization that is given, it's like saying there was no Holocaust, it's like saying that—as the Soviets did for so many years, as Mr. Shattuck and I and Mr. Gilman and all of us know so well—their constitution when it came to religious freedom and immigration rights and everything else, read almost like ours. And then they always gave us, as Mr. Gilman points out, it's just an internal matter anyway. But they were written in such a way that they always had plausible deniability to say it's not us, it must be somebody further down on the pecking order. Nothing, Mr. Chairman, could be further from the truth.

Hopefully, that myth was exploded back in 1985, when Michael Weiskopf, writing for the Washington Post and Beijing bureau chief, did his three-part expose. He said publicly they deny it, privately a closer look reveals it, and they always give the same Potemkin village perspective to the UNFPA, which embraces forced

abortion by its indifference and says it's a voluntary program, as does our own State Department, regrettably, Mike McCurry just recently. And even the advice that goes out to our asylum officers, which again completely exonerates the central government does not authorize physical force to make people submit to abortions or sterilizations.

When are we going to stop accepting those patent lies, Mr. Shattuck? I have been trying to raise this issue since 1983. Twice the House has gone on record condemning forced abortion in China as a direct result of the very top, not some implementation problem along the way, as Mike McCurry indicates, but at the very top. You know, I always think, if my wife was in this situation, how hard would I fight to protect my own children? These Chinese women cannot protect their own children. The international community has done almost nothing on this. These two issues, forced abortion and forced sterilization and this hideous practice of stealing the organs of men and women as they are being executed, have to stop. I hope that from the country reports on human rights practices to this advice to our asylum judges, to this whole idea of giving the benefit of the doubt to the dictatorship in Beijing will stop. They do not deserve the benefit of the doubt, Mr. Chairman. They have proven since 1979, when the one child per couple policy was implemented with the full applause of the population control community, from Planned Parenthood to the U.N. Population Fund, which helped set it in motion, to all the others that have sat there on the side and said that a boy, way to go Beijing. You are keeping your numbers down. But the cruelty is unspeakable.

Someday, I don't know when—it certainly hasn't happened yet, even with last week's hearing bringing more information forward—someday the book will be written on this and all those who sat there and said it's just an aberration, somebody who stepped over the line. It is part and parcel of this program, Mr. Chairman. I hope we will be much more emphatic about this.

Then, finally, just let me say Ambassador Li, the Chinese Ambassador to the United States was in the paper last week in the Scripps Howard report suggesting that somehow those of us who are raising these issues long for the "nostalgic days of the cold war." Nothing could be further from the truth. We stand with the oppressed in China, not with the oppressor. The oppressors are the very individuals that Mr. Clinton will be meeting with very soon.

My hope is that his message will be absolutely strong. I would have hoped that he wouldn't go until there were some meaningful changes. But if he does go, it has to be a strong message. He can't give them the benefit of the doubt as so many are willing to do when the evidence suggests otherwise. I yield back.

Mr. BURTON. Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. I will try to be brief. I certainly would like to associate myself with the passion of Mr. Smith, but I'll try to keep my passion under control, although I certainly agree with everything and the sentiment and the spirit in which he presented his case.

Yesterday, I participated in a rally on the steps of the Congress here concerning Tibet. All of this of course fits together. Today in the Washington Post the Ambassador to the United States from

Communist China sent a letter saying actually this is all a misunderstanding with Tibet. He said there are a lot of misconceptions around. One misconception, according to the Ambassador, is that China occupies Tibet. It says here the region was liberated peacefully through an agreement reached between the central government and the local government there in 1951. Thus, the question of China's occupation of Tibet does not exist. That's nice.

Misconception No. 2. That there are great numbers of Han Chinese who have immigrated into Tibet. He says that's not true. People are just coming there and they are giving some advice to the local Tibetans and then going home. The third misconception is that the Tibetan religion and culture are being destroyed. Then it says how Communist Chinese actually are doing everything they can to bolster that culture.

You know, when we have people, you know we have an Ambassador from a country, I shouldn't say a country, from a government that will just put this type of nonsense out and expect that he is going to be taken seriously and that this administration will take them seriously, should make us question some of the fundamentals that are at play. We have been told over and over again that engagement, that engagement in some way, either it's engagement or isolation which of course is a false argument, but we are assured that the engagement as envisioned by this administration would lead to somewhat of a civilization or a civilizing of this regime in Beijing, which is the old Communist regime that's always been there.

Instead of a civilizing force on China, what we are finding is the engagement that is taking place is acting as a corrupting force on our society. That will turn around and hurt us in the end. You cannot degenerate the values and standards of a society like ours and expect that in the long run it will not hurt our people. We already see evidence of that. We see that in the fact that American companies now, it appears that American companies have used American technology to upgrade the capabilities of Communist Chinese rockets, putting us all in greater jeopardy because we have permitted the type of engagement that is absent of a moral basis.

Finally, let me say that it seems to me, and again, I agree with the fervor that this was presented by Mr. Smith, but let me just say it seems to me when we look to our Government to represent our values, there is a reason for great disappointment with this administration. I believe that this administration has one of the most disgraceful human rights records of any administration in my lifetime. I have said that over and over again. No one has ever said anything to make me feel otherwise.

What we have, and it seems to me, and I don't want to be cute here, but it seems like the people representing our Nation who we look to to represent our values and to stand for the things America stands for, there is something alien going on with this administration. If there's any transplants going on, it seems like something has been transplanted out of their soul, this love of human rights and freedom and democracy that we have always felt was the basis of what makes our country different from other countries seems has been yanked out of their soul and replaced by some sort of notion that by eliminating any type of necessity to confront the Com-

munist Chinese on these basic values, that we in some way will grease the skids toward an evolution toward some sort of higher goal, as I say, maybe civilizing the Communist Chinese.

It hasn't worked. If indeed that has been the purpose, it has not worked. It is time instead for this President to acknowledge that those policies have not worked. It is putting our national security in jeopardy. It is making a mockery of everything this country stands for. When the President stands in Tiananmen Square, almost 10 years to the day after the democracy movement was massacred in Tiananmen Square, it will not only dishearten the people of China, but it will strengthen the conviction of those people, not only in China, but elsewhere, the ghouls of this world, the dictators of this world, it will strengthen their conviction that the United States doesn't really believe in these things and we never have to give in on human rights demands.

So with that, I yield back the balance of my time. I look forward, again, I am sorry, and I agree with you, Mr. Chairman, not only does it seem like the policy is a disgrace, but it's a disgrace that you have had to work so hard to get someone from the administration down here to defend those policies.

Mr. BURTON. Thank you, Mr. Rohrabacher.

Mr. McHugh, you have no questions or have any statement? OK. Mr. Fox, do you have a statement?

Mr. FOX. It's a brief one. Thank you, Mr. Chairman. Chairman Gilman, Chairman Burton, members of both the International Relations and Government Reform and Oversight Committees, I have long been a vocal opponent of certain practices of the People's Republic of China, especially the illegal harvesting of organs from prisoners, many who committed minor crimes and their body parts have been stolen from them.

I have written to the President outlining my deep concerns and those of members on the committee and others in Congress, and have called for hearings on the issue. I am pleased to see that these hearings have come to fruition.

During Harry Wu's recent visit to Washington, DC, I was fortunate to share a couple of hours of his time in which he shared with me first hand experiences of the atrocities committed by the Chinese Government. From anti-coagulants given to prisoners prior to the execution, to the lack of permission granted by prisoners allowing donation of their organs, his stories shocked me.

On October 15, 1997, the ABC news program Primetime Live ran a segment detailing and documenting a representative of the Chinese Government making a deal, including the acceptance of cash down payment for the person posing as a patient. In this segment, the pretend patient was promised that a kidney match would become available with the July batch.

Mr. Chairman and members of the committee, we must continue to research these atrocities that have been described by multiple sources and stop the Nazi Holocaust type experiments and taking body parts from prisoners who have not given permission, who have committed minor offenses. This never should have happened to them.

I look forward to hearing the testimony that will be provided today and hope we'll begin working toward solutions. Thank you.

Mr. BURTON. The ranking member on the International Relations Committee is with us, Mr. Lee Hamilton.

Mr. HAMILTON. Thank you very much, Mr. Chairman. I appreciate the fact that you and Chairman Gilman have called the hearing. I just want to thank Assistant Secretary John Shattuck and the other panelists for testifying this afternoon. I think all of us understand that organ harvesting is a most repugnant practice. It deserves serious investigation and exposure. I think my interest today will be what do you do about it. I am persuaded from listening to the witnesses previously on this topic that we have got a very serious problem here. I think that has been acknowledged by the administration and of course in the private press and media we have seen a lot of attention paid to it.

The real question in my mind is what do you do? How do you best approach the issue to make progress, to make genuine progress in getting a reduction of this horrible practice. So I will be listening especially to the witnesses today to see what suggestions they have with regard to policy to get at this practice. I look forward to their testimony. Thank you very much, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Hamilton.

Mr. Shattuck and Mr. Lange, if you would stand and raise your right hands, please.

[Witnesses sworn.]

Mr. BURTON. I don't know which one of you would prefer to start. Mr. Shattuck, would you prefer to make an opening statement first?

STATEMENTS OF JOHN SHATTUCK, ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS AND LABOR BUREAU, ACCOMPANIED BY HOWARD LANGE, ACTING DEPUTY ASSISTANT SECRETARY OF STATE AND CHINA DESK DIRECTOR

Mr. SHATTUCK. I will give the testimony, Mr. Chairman. Chairman Burton, Chairman Gilman, Mr. Hamilton, and other members of the committee, both committees, we appreciate the opportunity to appear today before you to address this very serious issue of harvesting and trafficking in human organs in China. I might say, Mr. Chairman, that we regard this issue as so important that I have postponed planned international travel in order to appear before you today. I appreciate the chance to do that. With respect to the June 4th hearing, I would point out that Secretary Roth was in Indonesia on business at that time. Certainly, I would have been happy to appear at that time if I had been able to, but was not invited at that moment.

But we do welcome this opportunity to appear here to discuss the issue, what we have done, and, with all due respect, what we are continuing to do as well as what can be done, as Mr. Hamilton says, to further address this horrendous issue that faces all of us.

The removal of organs from executed prisoners and the trafficking in these organs is a serious, disturbing subject that raises a number of profoundly important human rights issues, as all members of the committee have noted.

As you know, reports of this practice in China are not new. The Hong Kong and London press carried reports as early as the

1980's. Nor is the concern of the U.S. Government. We have been raising this issue with high level Chinese officials since 1994, pressing for changes about Chinese policy, and pressing for changes in China's legal system to guard individual rights and due process. We have also regularly spotlighted the issue of organ harvesting in our annual human rights report on China. The problem of organ harvesting is squarely on our human rights agenda with China.

Beginning in 1994, I am the first Assistant Secretary of State to have raised the issue repeatedly and at high levels in the Chinese Ministry of Justice and Ministry of Health. Assistant Secretary of State for East Asia and the Pacific, Stanley Roth, and his predecessor, Winston Lord, both have actively pursued this issue with the Chinese, as has our Embassy in Beijing. Secretary Albright discussed organ harvesting with her counterpart during President Jiang's October 1997, state visit to Washington, and during her May 1998, trip to China. The issue will be raised in the context of our human rights discussions during the upcoming summit in Beijing.

Despite these efforts, as well as the courageous efforts of activists like Harry Wu, human rights organizations, and concerned medical professionals, I think we would all agree that there is much that we do not know because of the lack of transparency in the Chinese criminal justice system and the secrecy that surrounds prison executions and the removal of organs. Nonetheless, the Department of State, and I want to stress this point, finds credible much of the substantial, anecdotal and circumstantial evidence that organs are removed from executed prisoners and sold to foreigners and wealthy Chinese. Credible sources include public statements by patients who have had transplants in China, and testimony by doctors and former Chinese officials who claim to have witnessed or taken part in such practices or to have seen incriminating evidence. The most recent 1997 Country Report on Human Rights Practices in China stated, "credible reports have alleged that organs from some executed prisoners were removed, sold and transplanted." Allegations include claims that organs of executed prisoners are used without their consent. China's stated policy is that human organs may not be sold and are transplanted with the consent of donors or their families.

The credibility of reports on trafficking in organs, and United States actions to address them, were dramatically illustrated on February 23, 1998, when the United States Attorney for the Southern District of New York announced the arrest and indictment of two Chinese nationals, including a former Chinese official in Hainan Province, who had participated in the execution of Chinese prisoners on charges of conspiring to sell organs, including the kidneys, corneas, livers, skin, pancreases, and lungs for transplant.

There are also reports, which the Department of State cannot now 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, allegations have been made 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 magnified by our concerns about the lack of due process in Chinese death penalty cases and the inconsistent and arbitrary application of the death penalty. The 1995 law raised the number of capital offenses from 26 to 65, and included financial crimes. In May 1996, the Chinese Supreme People's Court ruled that crimes resulting in death should be punished by death, regardless of extenuating circumstances. According to a 1997 Amnesty International report, China sentenced more than 6,100 convicts to death and carried out 4,367 executions. The high court nominally reviews all death sentences, but the time between arrest and execution is often days, and reviews have consistently resulted in confirmation of sentence.

The issue of what constitutes meaningful consent also raises serious concerns. According to Article 3 of China's Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs in 1984, a corpse may be used for medical purposes if it falls into one of three categories: 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 consent to its use after death.

The first category opens the door to abuse because families are often not notified of the 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 for 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 our country, the Federal Bureau of Prisons does not allow posthumous organ donation by condemned Federal prisoners. Prisoners may make living donations, but only if the recipient is a family member. Other countries have similarly strict laws regarding organ donations by prisoners.

Clearly, these issues and the credible reports about this practice raise very serious human rights concerns. We, like Congress, are committed to obtaining the information that would confirm or refute reports that organ harvesting is practiced in China, and to press the Chinese authorities to take strong action to address this human rights abuse wherever it occurs. We believe that such reports are credible. I have emphasized that throughout the testimony.

I would like to detail for you the steps that we have taken in recent years to try to determine exactly what the facts are, what Chinese policy is, how effectively Chinese authorities have implemented existing regulations governing the practice; to press the Chinese authorities to end all such human rights abuses; and to investigate and prosecute to the fullest extent of our own law any criminal acts over which the United States has jurisdiction.

In October 1994, I raised the issue of reports of organ harvesting from executed prisoners with my counterpart in the Chinese Ministry of Foreign Affairs during a round of the United States-China

Human Rights Dialogue in Washington, and made clear that such practices would constitute grave human rights abuses.

In January 1995, during the last round of the Human Rights Dialogue in Beijing, I had extensive discussions with Ministry of Health officials. I inquired into the existence of any safeguards in China that would prevent the removal of organs without the donors or the donors' families' consent, as well as prevent prison managers and other non-family members from benefiting from the sale of organs. Chinese officials responded that organs for transplants are not a commodity to be traded in China. The Chinese acknowledged that no law governed organ donation at that time, but maintained that "in accordance with Chinese tradition and ethics, no organ can be used without the individual's or family's consent."

In February 1995, Secretary of State Christopher, in support of our diplomatic efforts on the organ harvesting issue, stated that the removal of organs from executed prisoners without consent would be, if true, one of the grossest of human rights violations.

In June 1995, the director general of the Chinese Ministry of Health, in response to questions I raised in January, publicly asserted that there are stringent standards for organ transplants. Nevertheless, they acknowledged that it was impossible to rule out the occurrence of abuses in light of China's size.

The administration again requested in October 1997, more information in Washington and Beijing of Chinese policy on organ transplants. The Chinese denied allegations of organ harvesting and called the Primetime Live broadcast a fabrication. Officials did, however, admit to having heard reports of unregulated occurrences in which alleged brokers in Hong Kong had offered to arrange transplants in China, but stressed that they had no independent confirmation of such reports.

Secretary Albright raised the question of the allegations with then Foreign Minister Qian Qichen. The Department of Justice referred allegations raised in the Primetime Live broadcast to the FBI Health Care Fraud Unit for investigation.

In November 1997, Deputy Secretary Talbott and Assistant Secretary Roth raised the allegations with Vice Foreign Minister Liu Huaqiu. The Chinese Government at that time provided copies of two new 1996 regulations prohibiting the sale and export of human organs and tissues.

In January 1998, Embassy Beijing requested information from the Chinese Government about whether any investigations have been conducted regarding allegations of organ harvesting in China. In February, the Chinese Government informed Embassy Beijing that there have been no investigations and/or arrests for illegal trafficking in human organs by the People's Liberation Army or anyone else in China.

At the same time, the United States attorney in New York arrested two Chinese nationals, Wang Chengyong and Fu Xingqi for conspiracy to sell human organs. Wang claimed that he had, in his former role as prosecutor in Hainan Province of China, participated in the execution of Chinese prisoners. Assistant Secretary Roth met with Harry Wu to discuss allegations and the basic underlying information in this case.

In March, the Chinese Government contacted Embassy Beijing and confirmed a Xinhua press report, stating that Wang Chengyong formerly worked at the Office of the Hainan Procuratorate. Authorities said that Wang had resigned and maintained that the Hainan Procuratorate was not involved in the activities of which Wang stands accused. Deputy Assistant Secretary Shirk raised the issue in Beijing in March, requesting information relating to the arrest of the former Hainan prosecutor in New York and the implementation of Chinese regulations.

In April 1998, the Embassy conveyed a copy of Chairman Helms' March 26 letter to the Chinese Government and requested a response to the questions enumerated in the letter. Secretary Albright and Deputy Assistant Secretary Shirk raised allegations with the Chinese Government and pressed for information on implementation of Chinese regulations.

In June, the Department of State forwarded a formal request for China's legal cooperation in the case of the *United States* v. *Wang Chengyong et al.* Embassy Beijing again requested information from the Ministry of Foreign Affairs on implementation of Chinese regulations on organ transplants. Embassy Beijing followed up with the Ministry of Foreign Affairs on the request for answers to Chairman Helms' letter.

As this chronology indicates, Mr. Chairman, we have actively pursued this issue over an extended period of time. The Chinese have responded by providing information on their official policy, including two internal documents on regulations promulgated on April 6, 1996, governing organ donation. The new 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 the illegal practice of harvesting and trafficking in human organs and about Chinese authorities' efforts to implement their own regulations. As Assistant Secretary Roth has said on several occasions, we consider this a very serious issue and we do not consider the matter closed. We will continue to pursue answers to all unresolved questions, including those we have submitted to the Chinese on behalf of Senator Helms.

We will continue to voice our strong opposition to the repugnant practice of coercive organ harvesting, and to press the Chinese to enforce all laws governing organ transplants, to prosecute those who violate these laws, and to change laws and regulations that do not provide adequate safeguards of basic human rights. We will investigate and prosecute all violators over whom the United States has jurisdiction to the fullest extent of the law. We will also continue to press for and encourage continued reform of China's legal system.

Let me just quickly tick off the seven aspects of how this issue can and must be addressed, and will be in the coming months, as it has in the period that I have been discussing. First, pressing the Chinese to end the practice.

Second, spotlighting abuses through reports, and public statements.

Third, getting clearer information about Chinese regulations, and stressing the inadequacy of current regulations in this whole area.

Fourth, gathering and assessing reports and finding them as I have indicated throughout the testimony, to be credible in many respects, and therefore to constitute the kind of gross and serious human rights abuse that we have been discussing here. Fifth, to prosecute when any of these cases is in the U.S. jurisdiction. Sixth, to press for access to Chinese prisons through international organizations, the United Nations, and the International Committee for the Red Cross.

Finally, to engage and interact with China in a wide variety of ways. I would note that the testimony to be offered by Dr. David Rothman later in this hearing indicates the importance of interaction between United States professional medical associations and Chinese medical associations, to put the spotlight on this very serious issue and bring to bear the kind of international pressure through the professional arena. Also through legal professions, through the full implementation of the International Covenant on Civil and Political Rights, which is at the top of our agenda, and through the efforts to develop law reform.

In the end, such reforms, and our own intensive engagement with China on human rights issues, hold the greatest promise for ensuring and protecting the individual rights and due process of all Chinese citizens. Thank you, Mr. Chairman.

Mr. BURTON. The Chinese ground under their tanks hundreds, possibly thousands, of young people in Tiananmen Square. A short time afterward, we were toasting them in the Great Hall over there, and nothing happened. They started rattling their sabers in the Taiwan Straits threatening Taiwan. We didn't do anything. We now believe that campaign contributions have come into the United States from the Chinese Government. Nothing is being done. We believe there is a possibility of a technology transfer that may further endanger American citizens in the future. Nothing is being done.

We know that forced abortions are taking place, and I have talked personally to people who stand at airports and watch women crying as they put a little girl on a plane because they can only have one child. If they wanted to keep the little girl, the boy will be killed. Because boys are held in higher esteem in China, they send a little girl away, never to be seen again to be adopted by somebody. The mother cries and the father cries because of the forced abortion process practices over there.

These are terrible. We don't do anything. We talk. People from the State Department come up here and tell us we are going to do something and nothing happens. Wrong rules the land and waiting justice sleeps, as the poet said. Now we find out that human beings who may have committed very small crimes are having their organs harvested and sold for $30,000 or $40,000 or $50,000 a crack.

What did I read in the paper this morning? Because of the devaluation of all the currencies in Asia and because the Chinese are not devaluing the yuan, that we may reward them by helping them get into the World Trade Organization. We are really putting a hell of a lot of pressure on them, aren't we. Nothing is being done about any of these things. Because they are the largest nation in the

world, because they are a nuclear power, because there is a lot of trade there, a lot of money to be made, we don't do anything about this. It really bothers me. It really bothers me as a human being, not as a Congressman, but as a human being to sit here and listen to this month after month, year after year after year.

I remember when Lord Chamberlain came back from Munich waving that paper after the big lies that Hitler told. Peace in our time. There will be peace in our time. We ended up with the biggest war that you can imagine. Millions, 50 million people died. We keep turning around and looking the other way as Communist China continues to move ahead, selling technology, selling weapons, doing all this stuff. We don't do anything.

I hope, gentlemen, that you will stay around because we have a confidential witness from the Chinese Government that's going to testify. I would like for you to hear what he has to say. So I would ask you to stay around.

I have a tape here I want you to see. Then I have a question. Then I will conclude my remarks. There are two tapes back to back.

[Video shown.]

Mr. BURTON. It could get complicated if the world finds out. The State Department has repeatedly said, including today in your testimony, that if credible evidence became available to suggest that the Chinese Government was harvesting the organs of executed prisoners for sale that it would take vigorous steps to stop the practice. The State Department report on China says that, "credible reports have alleged that organs from some executed prisoners were removed, sold, and transplanted."

Here is the question. Oh, we have one more tape. I'm sorry. Go ahead.

[Video shown.]

Mr. BURTON. Let me ask my question. I hope my colleagues will indulge me just for a second. Considering that this is the fifth hearing in Congress on organ harvesting and the first time that the State Department has appeared before us, after three major international network broadcasts on the issue, NBC, BBC, and ABC, after years of vigorous pursuit by Amnesty International and Asia Watch, now an investigation by the FBI and after having seen this video clip, do you now believe there is credible evidence to support an active and vigorous investigation by the State Department, and what should our Government do about it?

Mr. SHATTUCK. Mr. Chairman, the centerpiece of my testimony is that we believe that there is credible evidence of this very serious problem, and that we have been actively engaged in it since as early as 1994.

I have laid out a variety of specific things that we have done. I can repeat that. I think the issue here above all is to continue to shine a spotlight on this practice, to bring it to an end through the kind of aggressive diplomatic involvement that we have with China. The issue will be raised during the course of the upcoming summit again.

I think we have shown some progress in the ability to get more information about regulations. We do not regard the issue as even remotely closed. In fact, if anything, I think we are learning more

about it now to the extent that the full prosecutive force of the U.S. Government can be brought to bear on this issue when it is within our jurisdiction. We are actively engaged in getting access to Chinese prisons. They are among the most difficult institutions in China to get access to. The International Committee for the Red Cross, the United Nations investigations conducted by the Working Group on Arbitrary Detention, these are squarely on our diplomatic agenda. At the same time, we are assessing constantly the reports that come in, and publicizing them as we can, both through public statements of the kind that I have reported in my testimony, and also through our human rights reports.

I think our involvement in interaction in many levels with China is going to open up the prospect for the kind of professional association, medical association engagement with China. I think there can be pressure brought to bear both from outside government and within China through that route. I think that is a result of the kind of engagement that we have with China.

These are all ways in which this issue is being pursued. Frankly, I am very proud that since 1994, as Assistant Secretary of State, I have raised it, as have not only myself, but colleagues. It was not raised in previous administrations, despite the fact that a good deal was known about it going back into the 1980's.

Mr. BURTON. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. Mr. Shattuck, it is my understanding you will be joining the President in his forthcoming meeting to China. Is that correct?

Mr. SHATTUCK. Right.

Mr. GILMAN. Will you have the opportunity yourself to raise the issue during that meeting?

Mr. SHATTUCK. I will, and I am sure others will as well.

Mr. GILMAN. Does the President intend to raise the issue during his meetings?

Mr. SHATTUCK. I can't tell you precisely how the issue is going to be formulated.

Mr. GILMAN. Well, I would hope that you would urge the President to do just that in his meetings. Since you have mentioned that since 1994, you yourself have raised the issue a number of times, Secretary Albright has raised it, Secretary Christopher has raised the issue, and yet we see nothing accomplished. At least 10 times it's been raised by higher officials, according to the testimony. Yet, we haven't had any significant results.

What more can we or should we be doing and how should we be raising it more forcibly?

Mr. SHATTUCK. Well, I think we have had results. But let me be very clear that I am not coming back to declare peace in our time, as was suggested by one of the earlier comments. This is going to be an extremely difficult and long-term process to try to get both progress on this issue and other issues. Human rights abuses in China are widespread and in violation of many international norms. I think we know that. I think over the course of the last several years, there have been some steps taken in a number of areas that are positive, but by no means sufficient.

I think in this case, in the case of specifically the use of organs harvested from executed prisoners, to use that term that we are

using here, I think we have shown a much brighter spotlight on this. Some of this has come as a result of courageous work by people like Harry Wu. There has also now been an official government spotlight that's been put on this. I think the fact that the 1996 regulations now much more clearly make this practice illegal, that doesn't mean that it is stopped, I think shows some progress as a result of this kind of engagement.

We are going to keep pressing. There is no question about it. I think the most effective long-term means to get this issue resolved is to interact with the Chinese people in the broadest possible way. That is what the President's policy is all about.

Mr. GILMAN. Mr. Shattuck, what is the progress you are indicating has been accomplished to date?

Mr. SHATTUCK. I said that I think there has been some progress in terms of some access to Chinese prisons, and some progress in terms of the kinds of regulations that came out that I cited in 1996, which more clearly make this practice illegal and a much stronger basis for prosecuting it within China. We would like to see, and we have not seen any progress in terms of China using those regulations to prohibit this practice in terms of prosecuting those who may be involved in it. There certainly no doubt are many such people.

We, on the other hand, have shown progress in our own Government on this by prosecuting to the full extent of our law through the indictment that was issued on February 28th in the Southern District of New York and other investigations that are underway. I think this is all a result of the constant raising and pressuring on this issue.

Mr. GILMAN. You mentioned some access to Chinese prisons. What access are you referring to?

Mr. SHATTUCK. The very limited access that the U.N. Working Group on Arbitrary Detention obtained, and the discussions that are underway to get international humanitarian organizations into Chinese prisons. Certainly the reporting that is being done on the Chinese judicial system that our own State Department officials are engaged in out of the Embassy in China.

Mr. GILMAN. Let's assume that the Chinese now agree to allow some inspection. What more can we then do or what will you suggest we do if this practice continues?

Mr. SHATTUCK. Well, I think we should continue to prosecute it and investigate it in our country. I think that's certainly——

Mr. GILMAN. That is for any crime committed here. But what about the continuing ability by the Chinese, the continuing efforts by them to sell the organs? What do we do about that?

Mr. SHATTUCK. Well, I think we certainly have made clear repeatedly to China on a wide variety of human rights issues. This is perhaps the single most important, in terms of the egregious nature of it. Full development of the kind of relations between our two countries that they would like to see and we would certainly like to see, will not be possible with the kind of—unless there is overall progress in this area, and certainly in the area of ending this horrendous practice, would be one such indication. That is why the questions that we have posed to the Chinese Government as recently as yesterday for further information about cases in which

they may have pursued and prosecuted people under their own regulations is important.

Mr. GILMAN. Secretary Shattuck, one last question. I know my time has run out. If this egregious procedure continues and you have raised the issue and they still don't stop it, what will you recommend to the administration to make some determined effort to bring it to a halt?

Mr. SHATTUCK. Well, again, there are certainly things that could be done to further develop our relationship in a positive direction that may be not possible to do unless there is the kind of progress that is needed here. I think at the same time I would strongly recommend that there be much more interaction among professional organizations, among legal associations and developing legal reform in China to clearly prohibit this practice and bring to bear the kind of prohibition that now does not exist and therefore has created a large measure of the problem that we are discussing here today.

Mr. GILMAN. So you are talking about some passive remedies instead of any active remedies? Is that correct?

Mr. SHATTUCK. I am talking about real remedies, Mr. Chairman.

Mr. GILMAN. Without taking any action against the Chinese?

Mr. SHATTUCK. I think the kind of remedies that I am talking about are the ones that we would like to see occur and which we think can occur as a result of the kind of approach that we are taking right now.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Chairman Gilman.

Mr. Hamilton.

Mr. HAMILTON. Thank you very much, Mr. Chairman.

Mr. Secretary, for what it's worth, I think the President should raise the question of human rights and organ transplants with the Chinese in his conversations during the summit. As I understand the concerns in the Congress about the China relationship, there are two really that are most frequently mentioned, one is human rights, and this is one aspect we are talking about today of human rights abuses by the Chinese, and the other is non-proliferation or acts to proliferate with regard to nuclear weapons. Both of them I think are of such serious consequence that the President must raise them. Now it is important for you to raise them. It is important for others to raise the issues. But I hope you will pass that on to the White House, because I think he has to raise those issues, because they are important issues substantively, but also because of the feelings of the U.S. Congress and the American people, I think, with respect to these issues.

Do other countries join us in protesting these repugnant practices?

Mr. SHATTUCK. I think we are probably the most outspoken of countries on these practices. I think we have every reason to want to get other countries much more actively outspoken.

Mr. HAMILTON. Can you name any country that has been supportive of our criticisms of human rights and particularly the organ transplant problem?

Mr. SHATTUCK. Well recently the European Parliament last month passed a resolution which raises many of the same issues that we are discussing here today.

Mr. HAMILTON. So there is world opinion against it, but in your view, not enough? Is that a fair summary?

Mr. SHATTUCK. That is correct.

Mr. HAMILTON. I want to understand the Chinese position better. As I understand your testimony, the Chinese law here, as we understand it, prohibits these organ transplants?

Mr. SHATTUCK. Yes. There is a set of regulations issued in 1996 which prohibits trafficking.

Mr. HAMILTON. If you sat down today with Chinese leaders and say to them, is your law opposed to organ transplants, would they say yes?

Mr. SHATTUCK. They would say yes.

Mr. HAMILTON. And yet the practice is that it occurs or at least you have found credible evidence that it occurs?

Mr. SHATTUCK. That is correct.

Mr. HAMILTON. Is that correct?

Mr. SHATTUCK. Yes.

Mr. HAMILTON. And do you find any evidence at all that there has been a decline in the practice, since we began to raise the issue in I think you said October 1994?

Mr. SHATTUCK. I have no evidence to indicate that there has been a decline in the practice. I think more information is known about it now than was the case in 1994.

Mr. HAMILTON. How would you characterize the Chinese Government's response to all of these inquiries that you mentioned that you and the administration and some of the Senators, I guess, had raised?

Mr. SHATTUCK. I think the response has been very uneven. In some cases there have been recently statements indicating that there may well be abuses occurring in a country the size of China. There have also been more information provided about regulations and prohibitions.

On the other hand, there has been not an adequate response in terms of the information about what China itself may be doing to try to prevent this from occurring.

Mr. HAMILTON. Now, our policy approach to the question of human rights, and I think all of us would acknowledge that this is among the most difficult matters between us, the two countries, the whole question of human rights. Our policy approach in this administration and previous administrations has been to try to engage the Chinese. I know that word has some connotations to it to many people in the present debate, but it's basically I think a fair description. Would you say, putting aside the question of body parts and organ transplants, would you say that the policy followed by the United States Government over a period of years, really decades, of engagement of the Chinese on human rights has made any progress?

Mr. SHATTUCK. Yes. I would say it has.

Mr. HAMILTON. Could you spell that out for us, as to why you think that?

Mr. SHATTUCK. Well, I think over different periods there's been different kinds of progress. Certainly the most horrendous single recent incident was the Tiananmen disaster of 1989. That was major, major regression. The continued systemic and broad scale

human rights abuses in China indicate that there is a very long way to go.

There has been some slight improvement in the climate of ability to exercise some degree of freedom of speech and freedom of religion in recent, particularly in recent months, and going back over perhaps a couple of years. There has been certainly a great deal of development around legal reform in which over the long term holds the greatest prospect for improvement. The Chinese for the first time have agreed to have a joint United States-Chinese experts level discussion of the implementation of international human rights law. That will take place in the United States in the fall.

These are I think positive developments, but I do not want to exaggerate them by any means. But I think they are far better than what kinds of developments would occur were China to be isolated or were we to stop engaging with China in the way that we are. I don't think that would save one political prisoner or solve this problem, horrendous problem of organ donation or rather organ harvesting abuse that we are talking about today.

Mr. BURTON. Thank you, Mr. Hamilton.

Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Chairman.

Mr. Secretary, you accept Amnesty International's number of 4,367 executed. You reference it in your testimony. That 6,100 were condemned to death. Amnesty will testify today that we are not aware of any concrete steps taken by the Clinton administration to raise this issue with the Chinese authorities. In addition, this issue was not addressed during the Clinton/Jiang Zemin summit so far as we know. Amnesty International is concerned about the lack of attention given by the Clinton administration to address the appalling human rights conditions in China. It goes on and on and on from there.

Is Amnesty wrong? Are they misguided? Are they bashing? Or are they accurate? I mean they are saying there are no concrete steps. If you could in your answer, when we raise something, because I have, like you—and we have done it together at times—talked to totalitarian leaders, and is it just raising it as another bullet, a talking point, or how do you go about raising it with the Chinese?

Mr. SHATTUCK. Well, first of all, Amnesty is wrong. I have great respect for Amnesty, but I have just outlined at some length, and my written statement is a full account of this, precisely what steps the administration has taken. I summarized at the end of my prepared statement some additional points that are not in the written statement but which I think indicate the amount of activity that we have been involved in since 1994 on this issue. I think it's without in any way suggesting that our predecessors were not interested in this issue. The fact of the matter is that this administration is the first to have raised this very serious human rights issue on a consistent and systematic basis in China.

What does it mean to put this on our bilateral agenda, to raise these issues, to press the Chinese for improvements? As I said in answer to Mr. Hamilton's question and Chairman Gilman's question, we have made very clear that the kind of full flowered and

fully developed long-term relations where all obstacles between our two governments are removed is not possible without progress on human rights. That is made very clear. That gets played out in specific kinds of decisions too.

I think raising an issue is not simply putting it in a talking point. It is pressing another government to address it. I think there has been a change on some issues in our discussions with China on these issues, a change in tone, as well as I said in response to Mr. Hamilton, some change in substance. I don't want to exaggerate those. I want to make very clear, as you yourself did in your very compelling opening statement, that this is a very, very serious issue which must be addressed in China.

I do not believe it can be solved by either isolating China, and I know you are not suggesting that that is the case, nor by finding some magic means of pressure which is automatically going to resolve the problem in the short-term. So I think it is on our agenda and we have got to show progress on it. I totally agree with that.

Mr. SMITH OF NEW JERSEY. There are a couple of points that come to mind. You have mentioned how egregious this was. I believe a number of abuses vie for most egregious in the PRC, but certainly this one is at least parallel with others like forced abortion. I mean it's horrendous what the Chinese leadership is willing to do to their own people. Yet we fail to raise the issue at the U.N. Commission on Human Rights in Geneva, which was a natural forum for us to engage this aggressively, to bring all of these things out in the open. We took a pass on that.

How many State Department human rights investigators are currently posted in the PRC who are solely dedicated to determine in the accuracy and the incidence of these harvesting issues? How does that compare to the number of people who are focused on ferreting out forced abortion asylum applicants to judge them as not credible? How many, again, in this juxtaposition, how many people are dedicated to business interests in our Embassy and consuls in the PRC?

Mr. SHATTUCK. Let me give you a short answer. Maybe Mr. Lange would like to give you a somewhat longer answer or at least choose to supplement what I have to say since he actually represents the bureau that manages the Embassy and all the consulates in China.

The fact is, in my nearly 10 trips to China, I can't remember exactly the number, but it very clear to me from travels that I have made, and I think it must be to you as well from your travels, that virtually everybody in the Embassy is engaged in one way or another in the human rights issues. It is one of the principle issues between us. As Mr. Hamilton said, it's human rights and non-proliferation right now are two extremely difficult, complex, and issues over which there are great divisions between the United States and China. So all of the officers are involved.

When our human rights report is——

Mr. SMITH OF NEW JERSEY. Will the gentleman suspend just briefly?

Mr. SHATTUCK. Yes.

Mr. SMITH OF NEW JERSEY. You are saying the people who are dedicated to trade promotion, and I have met with those people,

are also engaged in trying to discover, to ascertain the accuracy or lack of accuracy of organ harvesting?

Mr. SHATTUCK. No. I'm not saying that every officer is involved to the same extent or that they are all being assigned to one issue, in this case the organ harvesting issue.

Mr. SMITH OF NEW JERSEY. Do we have anybody dedicated solely to this, like a strike force, five people who just do nothing but determine the accuracy of this most egregious of abuses?

Mr. SHATTUCK. There are people in the Embassy who are spending full-time on human rights issues.

Mr. SMITH OF NEW JERSEY. How many people?

Mr. SHATTUCK. That precise number, I am not sure.

Howard, do you want to help?

Mr. LANGE. I think if you were to identify those who are solely devoted to human rights issues, well there aren't any because they all have to double up with other duties. But those who are specifically responsible for human rights affairs, there are six officers in the Embassy in Beijing who are devoted to political affairs. A substantial amount of their time is devoted to human rights. Plus, at each one of the consulates, between two and four officers who are doing political affairs. As I say, a large substantial amount of their time is devoted to human rights.

Mr. SMITH OF NEW JERSEY. If the gentleman would allow me just to continue the line of questioning.

Mr. GILMAN [presiding]. One more question.

Mr. SMITH OF NEW JERSEY. We're still not getting to the core of the matter. This is an absolute horrific abuse against the human person. I find it very dismaying that we do not have people, a strike force if you will, whose sole job is to work on this. If it's more resources that the department needs to dedicate people to human rights enforcement and to ascertain whether or not something is true or untrue, ask us. We have offered it. We have more people doing protocol and other kinds of functions, important as they are, but I detected in Secretary Shattuck's comments, even though he judges the information credible, there is that big "if," with big quotation marks around it surrounding everything. "If it's true." We get that again. Not to belabor the point, but Mike McCurry said it on June 10th again vis a vis the forced abortion issue. That is the same kind of dodge that we have been getting on these abuses since I have been in Congress, since 1981. Now we are getting it again here. I respectfully would submit to get to the bottom of it, we need sufficient resources dedicated to finding out what's going on and to aggressively uncover this. I don't see it existing. I mean we are getting numbers thrown around here that becomes—I mean how many people are doing just human rights and just this issue. Doesn't it warrant that kind of dedication? If all of this is untrue or there is exaggeration or hyperbole, I would like to know. But Harry Wu and others, they organize strike forces, if you will, investigative teams of just a few people and finding huge amounts of credible information, using all kinds of methods and types of evidence gathering and bring it forward. We sit here and say "My God, why don't we know it? Why aren't we the first ones to report on this?"

I have the highest respect for our State Department personnel. But it seems to me that comes from the top as well. We need to say this many people are going to be working on this issue, that issue. Just to say it's part of all of our portfolio, I mean, then you become a jack of all trades and masters of none. This takes real discernment, I would suggest and submit. It is difficult to pierce through this. You know, as Secretary Shattuck said, it's hard to get into their prisons unless you are a Chinese person or Tibetan. Then it's very easy. Just cross the line. Just have a baby that has not been given a permission certificate and you'll find yourself in prison.

But I would respectfully ask, again, how many people are going to work on this. Because judging by your answer, we would have no real dedicated strike force looking at this. I think when you are talking about crimes against humanity, this should be right at the very top. Trade promotion will take care of itself. Boeing has enough people. They all have enough people to do their own trade promotion. It seems to me that we need to do what no one else really can do credibly, certainly not in the business community. That is the human rights work.

Mr. GILMAN. The gentleman's time has expired.

Mr. SHATTUCK. Could I just give another very brief response, Mr. Chairman?

Mr. GILMAN. Please.

Mr. SHATTUCK. Yes. I think what is important to emphasize here in how the resources are used right now is there is now more attention by the political officers, not only in Beijing but in the consulates, to human rights issues, particularly over the last couple of years as we have deepened the engagement with China and it's been more possible for human rights officers to move somewhat more around the country, considerably more I might say, and also to find ways of having discussions in a wide variety of low levels, which is often where you get best information at Government agencies and ministries.

There is much more attention I think paid, and I can say this quite satisfactorily from my point of view, to human rights than certainly was the case when I came into the State Department 4½ years ago in China.

Mr. SMITH OF NEW JERSEY. Mr. Shattuck, we still don't have a strike force or a task force mentality where a group of people will strategize: How do we get the information; is what Harry Wu is saying credible; is it as pervasive; is it what Mrs. Gao said the other day, which the administration again said exactly what Beijing loved for them to say, that it's not approved at the higher levels, that it's somebody at the local level going amuck. Nothing could be further from the truth.

Mr. GILMAN. The gentleman's time has expired.

Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman. I want to thank the Chair and the members of this committee for their work on this issue. I would certainly want to associate myself with many of the comments that have been made.

As we continue to delve into this issue of the conduct of the Chinese Government, I think it's important for us to take stock as to

what we represent as a Nation. I would like to begin my brief remarks with a reflection on these words. "We hold these truths to be self-evident that all men," and we know of course women, "are created equal, that they are endowed by their creator with certain inalienable rights, and among these, the rights to life, liberty, and the pursuit of happiness."

Those words which harken back to the founding days of this country are words that have a powerful impact in America and help to generate a consciousness in this country that's supported certain principles and helped to build certain democratic institutions to keep those principles in action in our daily lives.

Now part of America's historic mission has been to try to translate those principles into policy which we then hold up around the world. We have had some success in doing that. We have to remember that we have had success in helping to spread democratic principles around the world. We have understood from the time that President Nixon made his first entry into China and we understand as President Clinton makes his continued initiatives, that China has not and does not subscribe to the same basic principles, democratic principles which have supported our society for 200 years. That doesn't mean they can't get there, but what this presents I think for us, members of this committee, is the responsibility that we have for holding the administration and the Government of China to a higher standard. That is our job as Members of Congress. We appreciate the efforts which have been made, however weak they may be, frankly, but we also have to recognize that the changes that we hope to bring about in China are not going to occur over night.

But China needs to recognize that in dealing with the United States of America, that we do hold life as a very high value here. That the life of the humblest citizen has value in this country. That the life of even a prisoner would not be violated in a way where someone's demise would be expedited to harvest their organs. That would never happen in the United States of America because we put values on life.

I believe some day China will come to appreciate why America takes the stand that it does on issues of life and liberty. I believe that the Clinton administration's position is that the only way we are going to bring that about is if we have contact with them. Frankly, I did not appreciate some of the policy initiatives of the administration with respect to China, but I recognize that President Clinton is very committed in this area.

But I can tell you this, as a member of this committee and working with these other Members, I am going to insist that we continue our efforts to hold China to a higher standard, and whether it's this Congress or some Congress in the future, I predict that the day will come when we will be able to join hands with our Chinese brothers and sisters and celebrate an equal appreciation for life and an equal appreciation for liberty. But that day will not come without our continued vigilance. To that, I salute my colleagues, Mr. Rohrabacher, Mr. Smith, Mr. Burton, Mr. Gilman, and my good friend from Indiana, Mr. Hamilton, and Mr. Fox as well. Thank you.

Mr. GILMAN. Thank you, Mr. Kucinich.

Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you. I thank my colleague for joining the team. Since he has been in Congress, he has done his best to associate himself with some of the fundamental values that were at play and we appreciate that and appreciate him weighing in on behalf of human rights as he has done.

A couple of issues, Mr. Secretary. In the last 6 weeks, we have had people here representing the administration who talked about the President's upcoming visit to China. At one hearing we heard that the President was going to be promoting a strategic partnership with Communist China. Does the President still intend to propose a strategic partnership with Communist China?

Mr. SHATTUCK. The President proposes to work very directly on issues as to which the United States and China have deep disagreements, human rights being of paramount importance in that area, to stand up for American and universal values, to press the Chinese on human rights issues, both publicly and privately, and to let the chips fall where they may on subjects of disagreement. That is what our relationship with China is right now.

Mr. ROHRABACHER. Right. In terms of—has the President then—you are saying the President has decided that he is no longer going to be proposing a strategic partnership with China? Is that your——

Mr. SHATTUCK. No. I didn't say that.

Mr. ROHRABACHER. I know. My question was that. You must have answered something else.

Mr. SHATTUCK. I was answering the question about the President's plans with respect to human rights in this trip.

Mr. ROHRABACHER. Actually I think my question dealt with specifically whether or not the President still planned to offer a strategic partnership with Communist China.

Mr. SHATTUCK. The President plans, as I understand it, to work wherever possible with China strategically to solve major problems around the world, whether it be India and Pakistan or any other major topic, while at the same time, as Secretary Albright has made very clear, the policy of engagement is not a policy of endorsement of all aspects of China's activity.

Mr. ROHRABACHER. Certainly that is the case, but are you indicating to me that he is pulling back from the concept of strategic partnership?

Mr. SHATTUCK. No.

Mr. ROHRABACHER. All right. So the President is moving forward with this concept of strategic partnership with Communist China as he visits China, even though all of these concerns about human rights are being raised.

At another hearing, it was suggested that the President would be offering the Communist Chinese Government in Beijing an agreement on expanding cooperation in space endeavors dealing with space technologies. Considering the fact that we have since learned that the President or let's put it this way, that American companies may well have used our technology to upgrade Communist Chinese missile capabilities, is the President still going to be suggesting that we expand our cooperation with the Communist Chinese in the area of space exploration and utilization?

Mr. SHATTUCK. I will be happy to provide you with an answer to that question in writing. I am not here as a witness that is competent to testify about all aspects of United States-China relations.

[The information referred to follows:]

There were no discussions of or agreements on space cooperation or utilization during the President's trip to China. Let me add that the President has not "used our technology to upgrade Communist Chinese missile capabilities." Rather, he has continued a program begun under the Reagan administration of launches of U.S. satellites on Chinese rockets under strict safeguards. There is an ongoing investigation into whether unauthorized information that could have assisted Chinese missile capabilities was provided by a U.S. company.

Mr. ROHRABACHER. In terms of your own testimony, you have stated time and again that the issue of human rights and the issue of this particular issue and other human rights issues has been raised and you detailed the times they have been raised. Most people I don't think understand what it means to raise an issue. Could one of those times when the issue has been raised be nothing more than a 30 second or a 15 second segment in a speech that had no follow on?

Mr. SHATTUCK. These are not speeches when I say they are raised. This is part of the agenda that one of our officials would have with the Government of China.

Mr. ROHRABACHER. When you say the issue was raised, could that mean nothing more than as part of a conversation it was brought up and then nothing further was said about it? Is it possible when you say it's been raised here that that's one of the things——

Mr. SHATTUCK. No. I would say when it is raised, it is made very clear what the U.S. position is on that topic.

Mr. ROHRABACHER. Right. But then people move onto other topics. How many of the times that it was raised was it raised with the caveat that unless something is decided at that moment, that there would be certain consequences that would follow?

Mr. SHATTUCK. The consequences always that would follow from any serious human rights abuse that is not addressed over time is the inability to develop the deepest possible relationship that China would like to have with us and vice versa.

Mr. ROHRABACHER. So it's a—in most of these situations when it was raised, you are raising the issue and then some nebulous broad concept of consequence, rather than a specific raising of an issue and a specific consequence?

Mr. SHATTUCK. That is kind of a theoretical point. I mean sometimes issues are raised and specific consequences would follow.

Mr. ROHRABACHER. Actually it's not theoretical at all. I am asking about the procedures being used. Frankly, I am being very disappointed. Well, I'm not being disappointed. This is what I figure is happening. This is what those of us who have doubts about the administration's commitment to human rights believe is going on.

You stated that there were six political officers dealing with human rights on a part-time basis in our Embassy?

Mr. SHATTUCK. There are six political officers. Well, I'll let Mr. Lange answer the question. It was really his answer.

Mr. LANGE. At least six who devote a substantial amount of their time to human rights.

Mr. ROHRABACHER. How many are involved there with trade issues, for example?

Mr. LANGE. I think the FCS contingent in Beijing is four or five, something like that.

Mr. ROHRABACHER. There's only four or five of our State Department employees, our United States Government employees who are in China that are full-time involved with the trade issue?

Mr. LANGE. No, sir. Not in China. In Beijing. That is my best recollection. I don't have a staffing list in front of me.

Mr. ROHRABACHER. I'm not sure about what the facts are in that. We'll have to look into that.

Mr. Chairman, it is my belief that we have many people who are involved full-time on the trade issue and there's some concern about trade and making sure our people aren't ripped off. Although these major corporations do have their own ability to spend money to represent their own interests, no one seems to have that job except our Government of representing our values. I thank you very much and yield back the balance of my time.

Mr. GILMAN. Thank you, Mr. Rohrabacher.

Mr. Smith has one more question.

Mr. SMITH OF NEW JERSEY. Just briefly, because I don't believe that our distinguished witnesses responded. But I mentioned earlier that Mr. McCurry, and I have the actual transcript, blamed forced abortion and sterilization on "poor supervision of local officials." As you know, Mrs. Gao clearly stated in her testimony that forced abortions and sterilizations are not the product of poor supervision. Rather, they are what the central government wants, because it does lead to a lower number. She testified that family planning employees are never disciplined for forcing women to have abortions or sterilizations and that they are in fact "criticized, fined, and fired for loose enforcement of the rules."

When she was asked what would happen to a local family planning official who allowed a woman to have an unauthorized pregnancy not to have an abortion on the grounds that the program should be voluntary and not coercive, she said that employee would be fired just like that. Human rights advocate and crusader Harry Wu, who is here and will testify momentarily, said in answer to that question, if you want to punish the person responsible for forced abortion in China, you would have to punish Jiang Zemin. He said it came right from the top.

So please, from this moment forward, Mr. Secretary, I hope you will look and search the information that's available from the Census Bureau and all the other, the China division and all the other sources, please don't have Mike McCurry and others standing there and saying exactly what Ambassador Li, Jiang Zemin, Peng Peiyun and the whole list of criminals, because they are criminals and they have committed crimes against humanity. They continue to do it. For us to parrot their exact same line is indefensible. So please, I implore you. Because with this summit coming up, there will be all kinds of opportunities. If we just take at face value the big lie and amplify it, shame on us.

Mr. GILMAN. Thank you, Mr. Smith.

Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman. I think I join with some of my colleagues in regretting the President's decision to go to Tiananmen Square. Of course the ultimate outcome of his trip to China is something that we'll all await eagerly.

We have had hearings on the sale of body parts, and on forced abortion. We are aware of other aspects of the Chinese Government policies that we would want to respond to. Other than voting against MFN, what can a Member of Congress do with teeth or what do you suggest or offer us as a policy alternative other than voting against MFN to show the Chinese Government they will respond not only to these human rights abuses that have come before this committee, but other human rights abuses; their nuclear proliferation and missile proliferation to Iran, Pakistan, and Iraq; and finally, their incredibly unfair trade practices? Which have led to the most warped and mutated trading relationship in terms of a balance of payments—not total dollars in balance of payments, but a combination of total dollars of balance of payments and looking at that deficit as a percentage of the relationship—the most mutated trading situation in I would say the history of international commerce.

With all that, what do you offer us by way of a policy alternative to actually change Chinese behavior other than just hoping that toasts in Tiananmen will change?

Mr. SHATTUCK. Well, I think a hearing such as this and other hearings that have been conducted are very important signals about the deep concerns in the Congress, in addition to the American people and the administration.

Mr. SHERMAN. Mr. Secretary, if I can interrupt. Why do we believe that anyone in Beijing cares at all what the American people think or what the American Congress thinks as long as they get the money?

Mr. SHATTUCK. I think they care. First of all, there are many people in China as others on this committee have pointed out, and I certainly believe, who take great, I'm not talking about government officials, I am talking about the people of China, who take I think a great deal of interest in the international opinions about human rights conditions in China.

I think, therefore, the kind of signal that is sent by the kind of congressional concern that's expressed here and in many other hearings, and let me take that to a second level because I think the travel by Members of Congress to China, Mr. Smith mentioned his trips. I don't know whether you and others have had occasion to travel, but I think raising these issues directly through congressional delegations with the Chinese Government as well as others in China is very useful.

Mr. SHERMAN. Mr. Secretary, if I can interject at this point. What I would hope would emerge from this Congress perhaps next year is something between eliminating most favored nation status for China or keeping it in full, and instead that we would have the opportunity to reduce by 10 percent or 20 percent or 30 percent the tariff benefits that the Chinese receive for most favored nation status. I, for one, have not been willing to take away all those benefits. But to say that it is enough that human rights activists in China care what human rights activists in the United States say,

and an opportunity to influence the powerless is I think insufficient.

I would hope that as we look at this relationship so that for each good we say what would be the tariff on tennis shoes if China was deprived of MFN status. What is the tariff under the present circumstance? If the difference is $2 per pair of shoes, that we think in terms of a 10 cent or 20 cent or a 30 cent tariff on those tennis shoes for so long as the Chinese Government continues to abuse human rights. We will never, I at least in the foreseeable future, deprive China of all of the benefits of MFN, but if we don't impose economic effects, I think all we are doing is providing a farce, a comedy, and a good laugh to those in Beijing bent on these human rights abuses. Thank you, Mr. Chairman.

Mr. GILMAN. Thank you, Mr. Sherman.

Mr. Fox.

Mr. FOX. Thank you, Mr. Chairman.

Mr. Secretary, are you aware that the BBC recently reported that Burmese soldiers are allegedly selling ethnic children to merchants in China for organ extraction?

Mr. SHATTUCK. I have heard that here today. I have not heard that previously. I did not see the program.

Mr. FOX. Would you investigate that then in the State Department?

Mr. SHATTUCK. I am very interested in what I have heard today. We will look into that.

Mr. FOX. As a followup to what Mr. Hamilton said earlier, the ranking member, could the State Department provide a letter to our committees indicating that this horrific issue of organ harvesting of individuals in China, that it's been raised by President Clinton during his upcoming trip? Will you get back to us then?

Mr. SHATTUCK. Yes. As I said in my prepared statement, and this reflects the entire Government's view, this issue will be raised during the summit.

[The information referred to follows:]

Secretary of State Madeline Albright raised the issue of harvesting organs from executed prisoners directly with her counterpart, Foreign Minister Tang Jiaxuan. We expressed our deep concern about credible reports of this horrific practice and, as we have in the past, urged the Chinese Government to take steps to end this serious human rights abuse.

Mr. FOX. I can't think of anything more important. Thank you. Thank you, Mr. Chairman.

Mr. GILMAN. Thank you, Mr. Fox.

We thank the panelists for appearing today. We request your cooperation in responding in writing to any remaining questions that may be submitted to you.

Pursuant to Chairman Burton's request, we hope that you would stand by to hear the next panel.

Mr. SHATTUCK. Mr. Chairman, if I could, when Chairman Burton made that request, it was about an hour ago. I now am half an hour late for a meeting. But what I would like to do, and I am quite serious about this, I would like very much to meet with this confidential witness. I, here in a public session, indicate to him or her that we would be very pleased to set up an opportunity to hear personally what the witness has to say.

Mr. GILMAN. If that can be arranged, we'll try to make such an arrangement.

Mr. SHATTUCK. Thank you, Mr. Chairman.

Mr. GILMAN. I thank our panelists for being patient.

We'll now call our next panel. We may be interrupted by going to the floor for a vote. Our next two witnesses for our second panel, we have Mr. Harry Wu before our committee again. Joining him on the panel is Witness X, a former Chinese prison official. Mr. Wu's testimony at our last hearing on a subject, the sale of body parts by the People's Republic of China, was very enlightening. His courage and his fight for freedom are well known throughout the world.

Harry Wu was first arrested as a young student in Beijing for speaking out against the Soviet invasion of Hungary, and criticizing the Chinese Communist party. In 1960, he was sent to the laogai, a China gulag. While in prison, he was beaten, tortured, and nearly starved to death. He witnessed the deaths of many other prisoners from brutality, starvation and suicide.

Mr. Wu was released in 1979, and left China in 1985. He came to the United States. After an impressive academic career as a professor at the University of California at Berkeley, Mr. Wu decided to devote his life to exposing the truth about China's largest forced labor camp system. In 1992, Mr. Wu established the Laogai Research Foundation to gather information on China's most extensive forced labor camp and to disseminate it to as many people as possible.

Through his research, Mr. Wu's foundation has identified more than 1,100 laogai camps, many of which produce products for export to dozens of countries around the world, including our own Nation. In 1995, Mr. Wu was arrested again by the Chinese Government as he tried to enter China with a valid legal documentation. He was held by the Chinese Government for 66 days before he was convicted in a show trial for stealing state secrets. He was sentenced to 15 years, but immediately expelled as the result of an extensive international campaign launched on his behalf.

I now ask our second panel to approach the witness table. This panel consists, as I indicated, Mr. Wu, and a confidential witness that has requested that his identity be protected. He has recently fled from China and fears that his testimony here today could endanger his security. Therefore, the committee is concealing his identity and will allow him to testify behind the screens. In addition, we'll refer to the confidential witness as Witness X. We'll request Members to refrain from asking Witness X any questions that would reveal his identity. In addition, I would like to note that Mr. Harry Wu is a witness in an ongoing Federal criminal investigation in New York City dealing with a number of these issues. Therefore, I will ask Members to refrain from asking Mr. Wu about the ongoing investigation.

Mr. Wu and Witness X, please stand and raise your right hands.

[Witnesses sworn.]

Mr. GILMAN. The witnesses have been properly sworn in. Let the record reflect they have responded in the affirmative. Please be seated.

On behalf of the committees, we welcome you here today. You are recognized to make any opening statement that you may desire.

Mr. Wu, please proceed.

STATEMENTS OF HARRY WU, EXECUTIVE DIRECTOR, LAOGAI RESEARCH FOUNDATION; AND WITNESS X, A FORMER CHINESE PRISON OFFICIAL

Mr. WU. Mr. Chairman, members of the committee, it is my honor to come back to testify again because last time you asked me to submit some evidence that I mentioned in the last hearing.

Today, in China a majority of organs used in transplant operations come from executed prisoners. China, as you have heard, is the No. 1 country in the world in terms of executing people. It has been in the first place in this grim category for many years. Standard procedure of executions in China involves a bullet in the back. So today I want to present a series of slides to show you how the Chinese Communist government executed their people. After the execution, they can remove the organ from the body and put it in the market for international patients and domestic patients.

This is a series of pictures, smuggled out from China.

[Slide Presentation.]

Mr. GILMAN. When were these pictures taken, Mr. Wu?

Mr. WU. In 1989, October 1989, Chengdu. That means after the Tiananmen Square incident. Because in that city, there were serious riots. The protests brought down a commercial building and many vehicles turned into fire and destroyed.

Mr. GILMAN. Will you describe what we are seeing in these photographs?

Mr. WU. This first picture is the court, they made a news announcement and announced the persecution. This is the chief of the court, they announced the prisoners will be arrested. In this announcement, there are two people. This one is 18 years old. The other one is in the mid-50's.

Mr. GILMAN. What was their crime?

Mr. WU. Arson. Because two people were on the street, they saw the students turn over the car and don't know how to set a fire to burn the car. These two grabbed a newspaper for the students to set a fire and burn a car. So the sentence is sentenced to death, immediately executed.

So this is the procedure. They take pictures and hide it, and ready to go to the execution. There's an escort of police and plain car police to a place never noticed by anyone. It's around 100 People's police. They force the people to kneel down, waiting for the order.

So today the Chinese Government said the people being sentenced, yes, these two people are sentenced to death because of setting fire in the movement. So when they are ready, they just aim the rifle in the back. One aimed it, the other officials hold the rifle on the so-called the right place in back of the heart, and then fire.

In the area, many unidentified vehicles waiting include medical surgery vehicle. According to Chinese law, the medical vehicle, surgical vehicle has to remove the sign of the hospital. Then you see armed police, plain clothes police, public security police, prosecutor,

judge, to check the two bodies. The young man is seen instantly dying. But that is not soon enough. The police are holding his two legs, shaking to make sure he was dead. They want to get the blood out. Here's the prosecutor. Remember last February, the FBI arrested two Chinese citizens, one is a prosecutor. This is a job as a prosecutor in the execution ground, to approve the people are dead.

Mr. GILMAN. Mr. Wu, you say that the FBI arrested the prosecutor?

Mr. WU. One of the Chinese prosecutors in last February.

Mr. GILMAN. Where was that arrest?

Mr. WU. Because he intended to—he wanted to sell the organs in China.

You see the prosecutor turned over the elder prisoner's body. He stepped on his stomach four and five times. He forced the air and blood to flow out. And then he signed the paper to approve he was dead. Then put the white whatever, the name and the crime on the body for the police to take a picture to identify them. We don't know that these two people's organs have been removed or not because we don't have a witness to tell us about it. But we saw the medical surgery vehicles standing by over there.

There's another story in 1992. I went to Germany. Dr. Chen, he graduated from China's Huaxi University of Medicine. He told me that in 1986, it was arranged by the party committee of the university and joining with three other doctors, went to a prison at midnight and the four doctors together worked and removed two kidneys from a live living prisoner. Because he is a young student, he asked the senior doctors what's going on. They said this is a political task and this prisoner has to be executed tomorrow morning because they want a good quality of kidney, because the military helicopter was waiting outside to timely deliver the kidney to the hospital for a senior military cadre.

According to his information, in 1994, this is a picture of the university, medical university in Chengdu. I went over there with a BBC correspondent, Sue Lloyd Roberts. We posed. In the middle is Sue Lloyd Roberts. The other are Chinese doctors. We posed as a patient's family to seek organ transplant. Because they really want hard currency from us, just like the BBC reported, the Chinese female officer said no credit cards and only cash. We promised we will pay the cash and later allowed to talk to the doctor. We were allowed to go into the ward to meet these patients.

In one of the wards, there were 12 patients. They told us they received the kidneys on the same day. That means the patients received the kidneys from somewhere just like a wholesale batch. Actually, later we found out in the Chinese newspaper on the same day, there was an execution in that same city. So these are the patients in this room. After the surgery, they were waiting. They were still continuing to use the dialysis machine to keep going. So all the patients told us that the kidneys came from executed prisoners.

We particularly tried to talk to these Chinese doctors in this hospital. My question was what kind of transportation are you using for transferring the kidney back from the execution ground to your hospital. The Chinese doctor right now is living in Hamburg, he

said at the time they were using a helicopter. I asked the doctor at the Chengdu University, I said well, yes, we Americans also are using helicopters for patients, but mostly it was the helicopter landing on the roof. But I see your building, the roof is not strong enough. The Chinese doctor said no, we land it over there, and we took the picture of it landing on the playground.

I took these pictures back to Germany and BBC correspondent Sue Roberts with me, when we came back from China, we went to Hamburg to interview the Chinese doctor again. We showed him all of the pictures, including the Chinese doctors which are his former colleagues. He identified all of these pictures and persons we obtained from China.

Today, the Chinese Government tries to tell the people they did harvest organs from deathrow prisoners, but they obtain the consent from the deathrow prisoners. It seems to me the State Department also wants to look into this direction. It means China is legally, if they can really obtain the consent from the deathrow prisoners themselves or their families, that means that kind of thing suppose we can tolerate and it seems it's a legal way.

The notion of the condemned man or woman freely consenting to give up their organs, it is the ugliest kind of joke a government can play on its people. Let me quote. The quote is from "Ruling on consent of prisoners in the Nuremberg Trials." Here is a quote from American grand judge, Mr. Taylor. He said,

> None of the victims of the atrocities perpetrated by those defendants were volunteers, and this is true regardless of what these unfortunate people may have said or signed before their torture began. . . . In the tyranny that was Nazi Germany, no one could give such a consent to the medical agents of the State; everyone lived in fear and acted under duress.

In China today, any prisoner who is asked to consent to the donation of his or her organs after execution is under similar duress. I hope everybody remembers I want to raise this question and leave it over here. What are we as fellow human beings going to do about it? Thank you, Mr. Chairman.

[The prepared statement of Mr. Wu follows:]

TESTIMONY OF HARRY WU,

EXEC. DIRECTOR OF THE LAOGAI RESEARCH FOUNDATION

ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT

before the

INTERNATIONAL RELATIONS COMMITTEE AND

GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 16, 1998

Mr. Chairman, members of the committee it is an honor to be able to appear before you again to discuss this important subject. You have heard much this afternoon about Chinese transplant organs and where they come from. Before I begin my testimony, I would like to share with you a few images that will attach some human faces back on to this technical discussion. [SHOW SLIDES]

In China, a majority of the organs used in transplant operations come from executed prisoners. China, as you have heard, is the number one country in the world in terms of executing people. It has been first place in this grim category for many years. Standard procedure for executions in China involves a bullet in the back. "Barbaric" is the best word I can think of to describe execution in China. These two men were executed near Chengdu in 1989. Since these executions, many thousands of other Chinese have met with similar deaths. It is difficult to say how many of these people had their organs removed. Finding evidence that the practice exists is easy.

When I appeared before these committees two weeks ago, Chairman Gilman asked me to provide further details about a Chinese doctor I met in Europe who told me that he had been participated in the removal of organs from a prisoner *before* his execution. I am happy to now share with you the details of my encounters with this doctor:

When I was in Germany in 1992, I happened to make the acquaintance of a Chinese surgeon named Chen Miao, who graduated from the Huaxi University of Medical Sciences. (ATTACHMENT 1) Huaxi University is located in the Chinese city of Chengdu, which is the capital of Sichuan Province.

Dr. Chen told me that late one night in March of 1986 he received a call from the Communist Party Committee of his hospital with orders to travel with three other surgeons to prison in the Sichuan Province county of Xindu. Dr. Chen told me that, at this prison, he and the other surgeons removed two kidneys from a living prisoner. The removed kidneys were then transported by a Chinese military helicopter to the hospital at Huaxi University, where they were immediately transplanted into the body of a waiting patient. Dr. Chen said he heard the patient was a high-ranking Communist Party cadre.

Dr. Chen said he was told that the kidney-less prisoner would be executed the following morning. Dr. Chen said he and the other doctors in the surgical team were told the procedure was a "political task" and that they were strictly forbidden to talk about their involvement.

The removal of two kidneys from a living human being is more than a violation of the various medical codes of ethics. It is murder. I think Dr. Chen displayed considerable bravery by telling his story to me.

I, in turn, wanted to verify the truth of Dr. Chen's story myself. In 1994, BBC reporter Sue Lloyd Roberts and I made an extensive trip through China to follow up a variety of leads like the one provided to me by Dr. Chen and turn them into a BBC documentary report. After airing in October of 1995, this report earned Ms. Lloyd Roberts an investigative journalism award from Amnesty International.

Ms. Lloyd Roberts and I spent a day in April of 1994 at Huaxi University of Medical Sciences. (ATTACHEMENT 2) There we posed as two wealthy foreigners interested in arranging a kidney transplant for a sick relative. The staff at the Huaxi University hospital were more than happy to talk with us. They showed us around the ward where transplant patients receive dialysis treatments as they await transplant operations and allowed us to speak with several patients who had recently received transplant organs from executed prisoners. Explaining that I wanted my sick relative to be able to see these facilities and people, I openly took photographs inside the hospital. (ATTACHMENTS 3-7)

Remembering that Dr. Chen had told me the organs he helped extract were transported to this hospital by helicopter, I asked a member of the hospital staff where a helicopter bearing organs for transplant would land. I was shown to an open area of ground behind the hospital. (ATTACHMENT 8)

In August of 1994, Ms. Lloyd Roberts accompanied me to a second interview with Dr. Chen—this time at his home in Hamburg. (ATTACHMENT 9) At this meeting he looked at the photos we had taken on the grounds of the Huaxi Medical University and he confirmed that this was the same facility he had been working at when he was called to remove those kidneys from a that live prisoner.

During this 1994 visit, I asked him: "How did you know he was going to be executed?" He replied: "We were told. We asked, 'how was the guy going to live if he had no kidneys?' and we were told that he was going to be executed the next day."

"How were you told?" I asked him. "We were told by the doctors," said Dr. Chen. "After all, it was a two hour drive [to the prison] and we had nothing else to talk about."

Chairman Gilman, I am glad you asked me at the last hearing to tell you about Dr. Chen today. To tell you the truth, over the past year or so of working on other aspects of this organs issue—I had almost forgotten about him.

The truth is that the mountain of reports and evidence documenting the Chinese government's systematic practice of harvesting organs from the prisoners it executes has grown *so large* that Dr. Chen's account amounts to little more than a footnote in the bibliography of Chinese organ harvesting that the Laogai Research Foundation has

accumulated. (ATTACHMENT 10) I sincerely encourage anyone who says there is not enough evidence to confirm that the practice exists to look at this bibliography.

I think that anyone who reads these materials will have to agree with me—that the problem of government-backed organ harvesting has exited for years in China and persists today. The BBC has reported on this. So has NBC, ABC and the Canadian Broadcasting Company. And the media aren't the only ones who are trying to get to the bottom of this practice. As most of you know, the FBI arrested two Chinese citizens in New York this past February on charges that they were trying to sell organs from executed Chinese prisoners. The evidence is extensive, it is available in the mainstream of society and it continues to accumulate.

I am glad to have an opportunity to share these materials with you. It gives me a chance to look back on them as I prepare to move forward with new investigations in this area. Bringing the facts about this horrible practice of the Chinese government has been a long and difficult process, but there have been significant rewards.

One of these rewards has been to force the Chinese government into a grudging admission that human organs are indeed harvested from the bodies of executed prisoners. Now they draw the line at organ "sales" and state that consent is obtained either from the prisoners whose organs are taken, or from their family members.

Mr. Chairman, members of the committees, if I can leave you with one thought today, let it be this: the notion of condemned men and women freely consenting to give up their organs is the ugliest kind of joke a government can play on its people.

Even if the Chinese were to make the process by which it obtains such consent completely open to the international community, it would still not change the fact that it makes a mockery of medical ethics standards set up in the wake of Nazi experiments at the Nuremberg Trials.

In closing, let me quote to you from the "Ruling on consent of prisoners in the Nuremberg Trials."

> "None of the victims of the atrocities perpetrated by those defendants were volunteers, and this is true regardless of what these unfortunate people may have said or signed before their torture began. Most of the victims had not been condemn to death, and those who had been were not criminals....Whatever book or treatise on medical ethics we may examine, and whatever expert on forensic medicine we may question, will say that it is a fundamental and inescapable obligation of every physician under any known system of law not to perform a dangerous experiment without the subject's consent. **In the tyranny that was Nazi Germany, no one could give such a consent to the medical agents of the State; everyone lived in fear and acted under duress."** (ATTACHMENT 11)

In China today, any prisoner who is asked to consent to donation of his or her organs after execution is under similar duress. If everyone agrees that people being murdered for

their body parts is one of the grossest violations of human rights imaginable, the only question left is this:

What are we—as fellow human beings—going to do about it?

Thank you Mr. Chairman. I will be happy to answer any questions members of the committee may have.

Mr. BURTON [presiding]. Just 1 second, Harry. We have two votes on the floor. We have to go vote. I wish everyone would stay still in the room so the witness can be removed. He'll come back afterwards and we'll conclude with this panel.

I would like to talk to the last panelists over here at the corner of the room before we leave to vote, if I could because of the time constraints that we have, Chairman Gilman. So if the last panelists could come over here. Then, Mr. Wu, we'll be back just as soon as these two votes take place to talk to you and the confidential witness.

We stand in recess.

[Recess.]

Mr. BURTON. I apologize to those who are still at the hearing for our votes and for the long afternoon. I really appreciate you coming back, Harry Wu, because your testimony has been so instrumental in bringing this to the attention of the Congress and the American people.

Did you have any further statements that you wanted to make or had you concluded?

Mr. WU. No. I'm fine, thank you.

Mr. BURTON. You had concluded your statement?

Why don't we bring in the other witness. I would like to hear what he has to say and ask him a few questions. Mr. Gilman is going to try to get back here, but he had another hearing or meeting he had to go to. Mr. Smith should be joining us quickly.

I want to thank the Capitol Hill's finest for being so nice to us in bringing the gentleman out here.

OK. Since Mr. Wu has concluded his testimony, I will reserve questions for him after we hear from our witness, which we'll designate as Mr. X. Does he have an opening statement? He does not have an opening statement? OK. Then what I'll do is I'll start with some questions of——

Witness X [speaking through translator]. I'm sorry. He does have a statement, yes.

Mr. BURTON. He does have an opening statement?

Witness X [speaking through translator]. Yes, yes. I'm sorry.

Mr. BURTON. OK. We would like to hear his opening statement then. He is recognized.

Witness X [speaking through translator]. In China, the usual procedure for handing down the death sentence and carrying out executions is as follows. Before the accused person is sentenced to death, they are incarcerated in detention centers attached to the Public Security Bureau. If they are involved in a serious crime and are possibly to be sentenced to death, they are incarcerated in municipal level detention centers. As soon as they are sentenced to death by the intermediate court, they are immediately transferred to the municipal level death row. They are allowed to appeal to a higher court within 10 days.

In practice, before the intermediate courts deliver a death sentence, they invariably consult with the higher courts and obtain consent. Many intermediate and higher courts are located in the same building. Therefore, the death penalty is rarely overturned on appeal. When the higher court makes its final ruling, it applies for consent from the Supreme People's Court in Beijing. Once the ver-

dict is affirmed by the Supreme People's Court, the prisoner can be executed at any time. There is a committee consisting of members of the higher courts which determines the date of execution and the number of death row inmates to execute at that time. They take into consideration crime fighting strategies, suggestions from the municipal level Communist party committee secretaries and mayors, and possibly requirements for organ extraction. Executions are generally carried out on the eve of traditional holidays.

Within about 1 to 2 weeks from when the Supreme People's Court approves the death sentence, death row inmates are subject to physical examinations, blood pressure, blood samples, et cetera. The prisoner's family is usually notified of the high court's final verdict, but they do not know the actual time or place the execution will be carried out. The families usually learn from the newspapers after the execution has already taken place. This is often reflected in reports in Chinese legal periodicals.

In this city, serious criminal offenders are incarcerated in this detention center, which is with the municipal public security bureau. This means the prisoners to be executed are also incarcerated at this place. When the intermediate people's court carries out the death sentence, the prisoners are immediately escorted to the municipality prison to be incarcerated with one wing for males, and another wing for females. There are usually about 400 prisoners on this wing, and these prisoners are generally those sentenced to death, sentenced to death with a reprieve, or other prisoners convicted of serious offenses. About 40 of these are death row inmates who are incarcerated on these floors with handcuffs and leg irons on 24 hours a day. A lot of death row inmates are put in a cell with two other common criminals.

One to two weeks before execution, the prison hospital conducts a physical examination of the prisoner, blood pressure, blood samples, et cetera. On the day of execution, the intermediate and high courts dispatch four standard garrison vehicles and three prisoner vans. Judicial police officers fingerprint the prisoners, identify them, and then handle the transfer formalities.

I happened to run into a judicial police officer that I knew. Smiling, he told me, "Would you like a cup of orange juice?" I was baffled. He was actually asking me if I would like to witness the execution, since it is a standard courtesy for the hospital to hand out boxes of orange juice as a way to thank the judicial police officers at the executionsite. Of course judicial police officers never refuse this type of invitation.

I witnessed an execution in 1989. Two judicial police officers made the prisoner kneel down. Then the other officer standing behind shot the prisoner in the back of the head point blank with a pistol. Then the procuratorate members took photos of the prisoners' heads and whole body. Medical personnel in surgical garb took the bodies into a tent. Although I did not see inside, I assumed it was for medical inspection.

One particular execution stays clearly in my mind. A prisoner was sentenced to death for stealing items of a certain amount of money. I saw all of the recovered items. After he was shot, within 1 minute, one of two nurses exposed his torso to the waist. The other nurse quickly sterilized his torso. In less than 10 minutes, a

physician extracted his kidneys, placed them in a stainless steel vessel the size of a thermos. Then several medical personnel moved the corpse into an ambulance which drove away.

The judicial police officer standing next to me said, "They" referring to the hospital, "always take kidneys first. The hospital has an agreement with the higher court. The hospital can extract whatever organs they can from the executed prisoners and then pays the higher court over 100,000 renminbi per year as compensation. But I do not know all the details." That was a quote from the judicial police officer.

After I returned to work, a colleague showed me some documents which described this practice which was described as "putting waste to good use to treat patients which was an opportunity for prisoners to atone for their crimes and a chance for a new life." It is my feeling that Chinese judicial authorities never take ethics into consideration when they are extracting executed prisoners' organs. They do not think anything about it is wrong.

I witnessed several other executions. They were pretty much all carried out in a similar manner. Sometimes there was a tent, sometimes no tent. But one thing was certain. Organs of executed prisoners were extracted. Thank you.

[The prepared statement of Witness X follows:]

TESTIMONY OF [redacted]

ON ORGAN TRAFFICKING BY THE CHINESE COMMUNIST GOVERNMENT

before the

INTERNATIONAL RELATIONS COMMITTEE AND
GOVERNMENT REFORM & OVERSIGHT COMMITTEE

of the

UNITED STATES HOUSE OF REPRESENTATIVES

June 16, 1998

My name is [redacted], born [redacted] in China [redacted]

[redacted]

In China, the usual procedure for handing down the death sentence and carrying out executions is as follows:

Before the accused person is sentenced to death, they are incarcerated in detention centers attached to the Public Security Bureau. If they are involved in a serious crime and are possibly to be sentenced to death, they are incarcerated in the municipal-level detention centers. As soon as they are sentenced to death by the intermediate court, they are immediately transferred to the municipal-level death row. They are allowed to appeal to a higher court within ten days. In practice, before intermediate courts deliver a death

sentence they invariably consult with the higher courts and obtain consent (many intermediate and higher courts are located in the same building). Therefore, the death penalty is rarely overturned on appeal.

When the higher court makes it final ruling, it applies for consent from the Supreme People's Court in Beijing. Once the verdict is affirmed by the Supreme People's Court, the prisoner can be executed at any time. There is a committee consisting of members of the higher courts which determines the date of execution and the number of death-row inmates to execute at that time. They take into consideration crime-fighting strategies, suggestions from the municipal-level communist party committee secretaries and mayors and possibly requirements for organ extraction. Executions are generally carried out on the eve of traditional holidays. Within about 1-2 weeks from when the Supreme People's Court approves the death sentence, death-row inmates are subject to physical examinations (blood pressure, blood samples, etc.) The prisoner's family is usually notified of the high court's final verdict, but they do not know the actual time or place the execution will be carried out. The families usually learn from the newspapers after the execution has already taken place. This is often reflected in reports in Chinese legal periodicals.

In [redacted], serious criminal offenders are incarcerated in the [redacted] Detention Center [redacted] the municipal Public Security Bureau located at [redacted]. This means that prisoners to be executed are also incarcerated there. When the [redacted] Intermediate People's Court carries out death sentences, the prisoners are immediately escorted to the [redacted] Municipality Prison ([redacted]) to be incarcerated in the [redacted] Wing (males) or the [redacted] Wing (females). There are usually about 400 prisoners on the [redacted] Wing and these prisoners are generally those sentenced to death, sentenced to death with a reprieve, or other prisoners convicted of serious offenses. About 40 of these are death-row inmates who are incarcerated on the [redacted] floors with hand-cuffs and leg irons on 24 hours a day. A lot of death-row inmates are put in a cell with two other common criminals. Their job is to watch over the prisoner to prevent him/her from committing suicide, etc. One to two weeks before execution the prison hospital conducts a physical examination of the prisoner (blood pressure, blood samples, etc.) On the day of execution, the intermediate and high courts dispatch four standard garrison vehicles and three prisoner vans. Judicial police officers fingerprint the prisoners, identify them, and then handle the transfer formalities.

I happened to run into a judicial police officer I knew. Smiling, he told me, "Would you like a cup of orange juice?" I was baffled. He was actually asking me if I would like to witness the execution, since it is standard courtesy for the hospital to hand out boxes of orange juice as a way to thank the judicial police officers at the execution site. Of course, judicial police officers never refuse this type of invitation. I witnessed an execution in 1989. Two judicial police officers made the prisoner kneel down. Then the other officer standing behind shot the prisoner in the back of the head, point-blank, with a pistol. Then, the procuratorate members took photos of the prisoner's heads and whole body. Medical personnel in surgical garb took the bodies into a tent. Although I did not see inside, I assumed it was for medical inspection.

One particular execution stayed clearly in my mind. [redacted]. A prisoner by the name of [redacted] was sentenced to death for stealing items worth about RMB [redacted]. I saw all of the recovered items. His wife, [redacted], was sentenced to 5 years imprisonment for concealing what she knew about the crime. After [redacted] was shot, within one minute one of two nurses exposed his torso to the waist. The other nurse quickly sterilized his torso. In less than 10 minutes a physician extracted his kidneys, placed them in a stainless steel vessel the size of a thermos. Then several medical personnel moved [redacted] corpse into an ambulance which drove away. The judicial police officer standing next to me said, "They (referring to personnel from [redacted] located near the [redacted]) always take kidneys first. The hospital has an agreement with the higher court: the hospital can extract whatever they can from executed prisoners, and pays the higher court over RMB 100,000 per year as compensation, but I do not know all the details." After I returned to the Institute, a colleague showed me documents which described this practice as like "putting waste to good use to treat patients, which was an opportunity for prisoners to atone for their crimes and a chance for a new life." As a matter of fact, Chinese judicial authorities never take ethics into consideration when extracting executed prisoners' organs, and they do not think anything about it is wrong.

I witnessed several other executions [redacted]

When we arrived at the execution site everything was basically the same. There were the indispensable medical personnel. Sometimes there was a tent, sometimes no tent. As I felt nauseous, I did not see the details. But one thing was certain: organs of executed prisoners were extracted.

Mr. BURTON. First of all, let me thank the gentleman for testifying. Let me ask a couple questions. First of all, how much money is 100,000 RMBs in American dollars?

Witness X [speaking through translator]. It's approximately $15,000 U.S. dollars.

Mr. BURTON. Fifteen thousand U.S. dollars? Now the prisoner that he saw executed, whose kidneys were removed, he said he stole some items and that's why he was arrested. I presume it was a minor crime. Can he tell me roughly how much the items were worth that he had stolen?

Witness X [speaking through translator]. It's approximately $40,000 to $50,000 U.S. dollars worth of goods that he stole.

Mr. BURTON. He had stolen $40,000 to $50,000 worth of U.S. goods?

What was your occupation in China?

Witness X [speaking through translator]. Police officer.

Mr. BURTON. And you were in close contact with the prisoners?

Witness X [speaking through translator]. He prefers not to answer that question.

Mr. BURTON. How many executions did you witness first hand?

Witness X [speaking through translator]. Four to five.

Mr. BURTON. Four to five? And how many of those were ones where you witnessed organs being removed?

Witness X [speaking through translator]. He said approximately 15. But the question was that each time he saw, we mentioned a figure of four to five for the number of executions. But each time, at each executionsite, there were approximately five executions taking place at that site. So the number of prisoners that he saw where he figures the estimate is about 15, where he saw where organs were being extracted.

Mr. BURTON. And this was known by the officials at the prison and the courts?

Witness X [speaking through translator]. Yes. He says it's known by the courts, also by the jails, the prison system and the hospitals.

Mr. BURTON. The thing that is interesting to me is that we had the State Department testify earlier today. They indicated that the policy in the rules of the Chinese Communist government is that this is not legal. But it seems to me, from what he has said and from what Mr. Wu has said, that the Chinese Communist government knew it, knew about it and supported it.

Witness X [speaking through translator]. He said that what China says to the outside world, what they are doing, and what they actually do inside China is quite different.

Mr. BURTON. Yes. I think that Harry Wu has made that point very clear. They say one thing and do another in a number of areas.

Why did you leave China?

Witness X [speaking through translator]. He is afraid to answer that question.

Mr. BURTON. OK. Let me ask one more question, then I'll yield to my colleague. You said you saw probably four executions and maybe five people at each execution. So that was about 20 people. Do you know what kind of crimes those people committed? Were

they heinous crimes? Were they major crimes? What kind of crimes were they?

Witness X [speaking through translator]. They were all serious crimes.

Mr. BURTON. They were serious crimes. Are people executed over there who have not committed serious crimes, such as political dissidents and others?

Witness X [speaking through translator]. He personally has not seen any, seen or witnessed such an execution.

Mr. BURTON. Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman. I would like to ask our witness who for obvious reasons is not identified: Are prisoners generally aware what is about to befall them at an execution? They know that they are slated to die. But is there a general understanding among the prison, especially the death row population, that their organs may be stolen while they are still alive?

Witness X [speaking through translator]. He said it's possible that they know, but they know that they can't do anything about it.

Mr. SMITH OF NEW JERSEY. The fear level must, knowing that one might still be alive while an operation is going on with or without an aesthesia, which is probably without—do they, I mean in the four or five, I think it was four that you said that you witnessed, was there a struggle? Were they doped up in any way to mitigate the possibility of a struggle, even though they know they are going to their death?

Witness X [speaking through translator]. He hasn't seen anybody that was given medication prior to the execution.

Mr. SMITH OF NEW JERSEY. I would like to ask you, Mr. Wu, you might want to respond to this as well. Again, part of the ruse that is put forward and part of the disinformation is that somehow the higher echelons of the Chinese Government are unaware or unable to stem this abuse. Let me ask, is it consistent with the central government's modus operandi that this is just happening and it's not known by the Li Pengs and the Jiang Zemins? Are these doctors just operating outside the parameters of Chinese law and especially its policy?

Mr. WU. First of all, this is national policy. This is national document. Second, executions only—first of all, this is national policy. Second, the executions are held by Chinese public security police and the court. Nobody—not any people can be involved. Just like some people say it is a kind of a mafia involved or not. Nobody can be involved in executions because this is strictly in the legislation procedures.

Mr. SMITH OF NEW JERSEY. Secretary Shattuck listed to some of the things that he claims that the administration has done in "raising" the issue. You were here I think when I suggested that Amnesty International had come in with a whole different perspective that they had done nothing, "no concrete steps" to try to stop this problem. Are you satisfied with the Clinton administration's action on this issue?

Mr. WU. Yes. I read the State Department's human rights report. On this issue, there's a very small paragraph on that. But I do re-

member that Stanley Roth, he said if true, this is the grossest human rights violation. If this is really a gross violation of human rights, I suppose it should be a big part in the human rights report.

On the other hand, they said we don't have enough evidence. On the other hand, they said since 1994, we again and again raised the question. It means they do have the evidence. Actually the reality is they don't really want to put this issue on the table.

Mr. SMITH OF NEW JERSEY. In my response to Mr. Shattuck earlier, I spoke about the "if" factor, the fact that this administration wants to always insert an "if," with a capital I and a capital F. You mentioned Mr. Roth doing the same thing.

At what point and how much evidence do you think they need before they move from "if true" to "this is true, it's about time we did something." Second, what is your response to Mr. Shattuck's assertion that they have some political officers working on this. My comeback was that there needs to be a task force. If you with the Laogai Institute, inadequately funded as you are, are able to bring reams of documents and information about this horrendous practice to the light of day, prompting international parliaments in Europe and the United States, Linda Smith's bill, and these hearings, to come forward, you have been the ultimate whistle blower. Yet, even when you go back or when you have gone back, you did it at great risk to yourselves.

We have people who could be deployed there, who could undertake investigations, seriously deal with this issue rather than make it part of an overall portfolio. What is your take on this seemingly inadequate staffing so that we don't get the information that we need?

Mr. WU. I think I want to point out one, it's a funny contradiction between Mr. Shattuck and Mr. Roth. Mr. Shattuck says in 1994, they were aware and they constantly raise the question concerning this issue. But Mr. Roth in 1996, he wrote a letter in response to Jesse Helms, Senator Jesse Helms. He said if it's true, and we don't have enough evidence to prove. So two officials coming from the State Department have a different statement.

Mr. SMITH OF NEW JERSEY. Let me also say, Mr. Chairman, that once you ask the question "if," and if you do so seriously, I believe you have a moral obligation to ascertain whether or not the information is true or not, given the grave consequences of if that answer comes back in the affirmative. Not to have adequate resources addressing the problem is beyond the pale. It makes us complicit by our indifference.

Let me just ask one final thing.

Mr. BURTON. Let me just say that the gentleman, Mr. X has to leave for transportation reasons in about 10 minutes.

Mr. SMITH OF NEW JERSEY. I'll just end with 15 seconds, that one of the things that Mr. Shattuck's statement pointed out was the 1995 law raised the number of capital offenses from 26 to 65 and included financial crimes. That, at the very time when constructive engagement and a wholesale embrace of the economic issue with China is occurring. Now if one is convicted of financial crimes, you could find yourself being executed and your body parts extracted. That again underscores the outrageous nature of our so-called con-

structive engagement. It's a one-way street. Human rights are belittled in the process. Thank you.

Mr. BURTON. Thank you, Mr. Smith. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. If I could ask Mr. X a question?

In our previous hearing, Mr. Wu provided our committees with an official Chinese document that stipulates conditions under which organs from executed prisoners could be used with regard to consent. It allows for organ transplants if the condemned prisoner consent to the practice or the prisoner's family consents. Let me ask you, Mr. X, were you witness to or aware of any policy whereby prisoners were asked to sign a consent form? Was that done voluntarily or by a forceful method?

Witness X [speaking through translator]. He has never seen prisoners give their permission.

Mr. GILMAN. I'm sorry. Would you repeat that?

Witness X [speaking through translator]. He has never seen this type of procedure, where prisoners are asked for permission.

Mr. GILMAN. Never saw them sign any form of consent?

Witness X [speaking through translator]. He said he has never seen prisoners sign anything. He said that there are administrative policies which are never implemented.

Mr. GILMAN. Thank you.

Mr. Wu, one last question. What do you recommend we should do to stop this as Members of Congress?

Mr. WU. Mr. Chairman, before I answer your question, let me respond to a previous question pointed to Mr. X. My impression from the State Department today, tried to tell the people they are concerned with this issue, but if Chinese Government can make a kind of procedure, have asked the prisoners or their family to sign the consent, so that is a kind of other issue. You just heard from Mr. X, he said I never saw that kind of consent. I want to ask Congressman Burton, later you show again about the ABC Primetime Live. Because in this program, it's very clear. They say we never do it. We have heard from another Chinese official. He said hey, they are sentenced to death. So no rights at all. Why should we ask them to sign a consent? So this is the first question.

The second answer, I want to answer before I answer your question, I want to say something about this. If we today we heard some doctor in Germany in a concentration camp using the human being as a guinea pig for their medical experiments, what is the American President, American Government response to that kind of practice? I think just because today the China policy is based on commercial interests, they don't want the other issue to bother them because they really want to keep the good relations with the Government in China, keep the dialog. So when you criticize their policy and say oh, are you going to suggest containing or isolation. This is a very cheap argument.

If we never in our policy put our morality, put our principles into it, then we've lost our principles. That's leading our country to a wrong direction in history.

Mr. BURTON. Thank you, Mr. Wu.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. Are you finished, Mr. Gilman?

Mr. Fox, if you could hold your questions to a couple minutes because like I said, Mr. X has to leave.

Mr. FOX. I assume that Mr. Wu will stay with us for a few more minutes? Mr. Wu.

Mr. BURTON. Mr. Wu can stay for a while, if you like.

Mr. FOX. OK. Great. I hope he would because I am going to direct my questions to Mr. X then.

First, I would ask Mr. X, was there anything about what you observed to suggest that this was just a local abuse unknown to higher authorities?

Witness X [speaking through translator]. He said there had to be permission from the top. Otherwise, nobody would dare to act in that manner.

Mr. FOX. Mr. Chairman, I would also like you to have the committee, if they can, cue up video ABC No. 3. I would ask witness X to respond to its accuracy. This deals with the tape from the head of the International Transplantation Society.

Mr. BURTON. Can you do that for us over there? Can he see that? He cannot see that?

[Video shown.]

Mr. FOX. So I would ask Mr. X whether or not he believes that the testimony of the head of the International Transplantation Society is accurate, to the best of his knowledge.

Witness X [speaking through translator]. He said it's difficult to say exactly if everything is correct because he doesn't know specifically about the actual selling of the organs. He only knows that they are extracted and then taken to the hospital.

Mr. FOX. And without the permission of the patient.

Witness X [speaking through translator]. Right. He has not personally witnessed them, for example, being given anti-coagulants or other types of drugs.

Mr. BURTON. Let me interrupt. Have you finished with this witness, Mr. Fox?

Mr. FOX. Yes. I thank you, Mr. Chairman. I thank Mr. X for his testimony.

Mr. BURTON. If the police would help Mr. X leave now.

Mr. Wu, a couple of our Members have some more questions for you, if you wouldn't mind answering them.

Chris, would you take the Chair? I have to leave.

Harry, thank you. You are a wonderful man. Thank you.

Mr. WU. Thank you.

Mr. SMITH OF NEW JERSEY [presiding]. Please proceed.

Mr. FOX. Mr. Chairman, I wanted to first of all again carry forward the sentiments of this committee. I know I speak for Mr. Smith and the two chairmen, how much courage you have displayed, Mr. Wu and Mr. X, in coming forward to talk about such heinous and outrageous and reprehensible behavior that takes place in China. We know through your efforts hopefully this will stop.

I wanted to ask that if we could cue up the video, the Primetime video of the execution for the committee?

[Video shown.]

Mr. FOX. After seeing that video, and I'm sure has also seen the pictures you have shown us, but would you say that this is a depic-

tion of the standard operating procedure that takes place in parts of China where they are harvesting organs?

Mr. WU. It is a standard procedure. Actually, the video tape has another footage following that. The second policeman goes forward, kicks on the back, shoots a second time.

Mr. FOX. To make sure they are dead?

Mr. WU. Yes.

Mr. FOX. And they shoot them behind the head in order to make sure the least amount of injury to the organs that are going to be sold?

Mr. WU. I interviewed a couple of Chinese judges and prosecutors and policemen, talking of procedures. In the early 1950's, mostly they shoot on the head. Then the court complained that because the prisoner's face was damaged and they cannot take a picture to put in the file, that means no identification for the prisoner who was executed. So later they changed the regulation and shoot on the heart. Shooting on the heart, they have some problems because most of these executioners are new, young. Usually they do this job only one time. So there is some kind of fear and cannot really exactly aim on the heart. So they asked the court, medical person from the court to use the chalk, make a mark behind. It means this is the place to aim on it. So that is why you saw the pictures, one policeman, the rifle is just in on the back. The other officer is holding the rifle, moved around, saying here is the right place. Shoot over here.

Some places today still shoot on the head because according to Chinese medical professionals' request, they say we have to take the international standard of the death. That means brain dead. Then one of the Chinese doctors on the tape he told me we blow to his head so he's right away brain dead. So we can use the things. Because human beings, are human beings because they have a brain, as a concept. The brain blown away, no more is a human being. So it becomes a thing. We are using the waste.

The other issue, if I will take the liberty to talk about, are organ sales. If you go to India and you go to the Philippines, you talk to individual persons, you pay money to ask for a kidney. You can go along with your doctor and remove the kidney, put in a container and back to your hospital for your transplantation. We say this is organ sales. Because you pay and you have got the kidney.

The Chinese Government today, they deny. They say we never allow that. The State Department today, I want to ask the State Department to submit the Chinese 1996 regulations. The Chinese 1996 regulation says in their country, never allow sales of organs. It shows in China you can talk to the individual person and have an organ transplant, have his kidney or something for your organ transplantation. But the business in China is Government business. It's from the court, from the procuratorate, from the public security. Then sentence the people to death and executions are held by the government. The hospital is owned by the government. The doctors are Chinese Government employees. So that's why ABC Primetime Live, the people said no, we didn't sell the organs. We charge you a service fee. So you went to China, came back with a kidney in your body not in a container. You paid the money for the medical service.

Mr. FOX. So it's a distinction without a difference.

Let me ask you this, Mr. Wu. Aren't sometimes these people executed and they have committed minor crimes? Is that not true? They have not committed capital offenses?

Mr. WU. So far, I personally don't have knowledge. But it's possible.

Mr. FOX. And is the reason for doing this, they're deciding who is going to live and die, is it the money that's made by the Chinese Government? What is the motivating factor for this reprehensible procedure, in your opinion?

Mr. WU. I already mentioned that the hospital in China is government, owned by the government. So the money right away comes back to the government. Maybe some individuals in the organ trafficking can make special profit, but basically the whole thing is government business.

Mr. FOX. How many years has this been going on in China? When did this begin, as far as you know?

Mr. WU. I heard the first case was operated in 1979.

Mr. FOX. And do we have any idea how many people have been wrongfully executed and their body parts taken? Any idea of numbers?

Mr. WU. I think last time I testified, there was a chart, a table in my testimony. According to Amnesty International, 90 percent of the organs were removed from the executed prisoners.

Mr. FOX. How many have been executed since 1979? Do you know?

Mr. WU. I don't know, but there is information from Amnesty International that in 1996, 4,376 executed.

Mr. FOX. In 1 year?

Mr. WU. In 1 year.

Mr. FOX. Four thousand three hundred and seventy six?

Mr. WU. Yes. That means 79 percent of the executions of the world happened in China.

Mr. FOX. Unbelievable. I thank you, Mr. Wu. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Fox.

As we conclude the hearing, I just want to ask one final question. Mr. Wu, we have seen most of the pictures have depicted men being executed. Are there any reliable reports of women prisoners being executed in a like manner and their body organs extracted?

Mr. WU. I only received one report from inside China. It's a long time ago. Probably in 1986 or 1990, a female prisoner's so-called counter-revolutionary because some Chinese doctors said the female kidneys are much better than males. So the report said on the way from the detention center to the executionsite, in the midway, the truck was stopped by someone and the doctor was stopped by the truck, right away cut the kidney from the live female prisoner, took the kidney back to the hospital. One of the receptors actually was a Chinese military pilot. I have the Chinese written report, that I heard about.

Mr. SMITH OF NEW JERSEY. I thank you very much, Mr. Wu. Again, I want to congratulate you for your ongoing tenacity in exposing human rights abuses in the People's Republic of China. You have done so consistently on a number of those issues, from the

laogai, to the population control, and the use of coercion in forced abortions and forced sterilization, this hideous practice of killing prisoners to extract their organs, and other issues. You have just been a real hero to all of us who want more information and want to do more to protect the lives of oppressed peoples. You have been very, very helpful.

Your information, and I say this in a business where information has to be accurate and has to be reliable, you have strained to ensure that the information you provide is indeed accurate and reliable and truthful. Unlike, I mean just looking at a press release that was put out by the Embassy of the People's Republic of China on population control as a direct response to Mrs. Gao's testimony and your testimony as well. They claim in usual lying fashion, and it's about time we stopped the diplomatic fiction of dealing with brutal dictators as if they were reliable and honorable. They make the point that family planning is voluntary, which nothing could be further from the truth in China. So I want to thank you for being a truth teller, a whistle blower, and a true hero and giant for human rights.

Finally, I would ask unanimous consent that the written testimony of T. Kumar and Professor Rothman be included in the record. Without objection it's so ordered.

[The prepared statements of Mr. Kumar and Mr. Rothman follow:]

Amnesty International Testimony

The Sale of Body Parts by the People's Republic of China

Before the

Joint Committee Hearing: Committee on International Relations and Committee on Government Reform & Oversight

Presented by

T. Kumar
Advocacy Director for Asia & Pacific
Amnesty International USA

June 16, 1998

Thank you, Mr. Chairman, and distinguished members of this committee. Amnesty International is pleased to testify at this hearing. We are an international – grassroots – human rights organization which has over a million members around the world and over three hundred thousand members in the United States.

The hearing today is of great importance to Amnesty International. We have been reporting about the practice of harvesting organs from executed prisoners for several years. Despite international pressure, the practice still continues. We are not aware of any concrete steps taken by the Clinton Administration to raise this issue with the Chinese authorities. In addition, this issue was not addressed during the last Clinton-Jiang Summit so far as we know.

Amnesty International is concerned about the lack of attention given by the Clinton Administration to address the appalling human rights conditions in China. Improvements in China's human rights record have been seriously exaggerated, despite "token" releases of high profile political prisoners. Just as Wang Dan was released, Chinese authorities arrested several new prisoners for promoting independent labor unions and having "unauthorized" contact with foreign journalists, thus restocking their supply of hostages.

Thousands of political prisoners are still languishing in Chinese prisons today. The Clinton Administration seems to be more interested in high profile political prisoners than less known human rights activists. Amnesty International wishes to urge President Clinton to keep human rights as an integral part of his agenda during the Summit with Chinese President later this month.

As the first United States President to visit China after the 1989 Tiananmen Square massacre, President Clinton has a special responsibility of not compromising human rights for any other concerns.

We have released several reports detailing the human rights situation in China, including reports on torture, unfair trials, imprisonment of dissidents, mass executions, the wide-scale use of forced labor camps, widespread oppression in Tibet, persecution of religious groups, and the practice of forced abortion and sterilization to enforce the "one child policy".

The harvesting of organs is directly connected to the execution of prisoners. More people are executed every year in China than in all other countries of the world combined. In China there are about 68 offenses punishable by death, including reselling value-added tax receipts, theft, burglary, hooliganism, seriously disrupting public order, pimping, trafficking of women, taking of bribes, corruption, forgery and tax evasion. Condemned prisoners tend to be paraded at mass rallies or through the streets before being privately executed.

Spates of executions often precede major festivals or international events and usually accompany official announcements of anti-crime campaigns. A 'strike hard campaign' against crime, for example, led to over 4,000 executions in 1996.

Execution is usually carried out shortly or immediately after the sentence is publicly announced, In Jilin province, for example, three men, Tian Zhifia, Tian Zhiquan and Zhaolian, were executed on May 31, 1996 – seven days after their arrest – for allegedly committing a robbery on May 21, 1996. Their trial, sentencing, as well as the hearing of one of the three men's appeal and the review and approval of the three death sentences by a high court, all took place between their arrest on May 24 and May 28, 1996. Some people are executed solely on the basis of confessions which may have been extracted under torture.

Harvesting Organs from Executed Prisoners

It has been known for some time that organs taken from executed prisoners are used for transplants in China. Amnesty International reported this practice in 1993 and called at that time for the Chinese government to ban the use of organs from executed prisoners without their free and informed consent. However, the use of organs from this source continues in China, reportedly on a widespread scale. In the absence of a system of voluntary death-related organ donation, the main source of organs in China is reported to be executed prisoners. The percentage of transplant kidneys estimated to be derived from executed prisoners has been put as high as 90%. Organs reported to have been harvested from this source include corneas, kidneys and hearts. A number of recent reports indicate that it is also possible for foreigners to travel to China and to buy transplants using organs from executed prisoners.

The Procedure

The details of the organ retrieval process are closely guarded by the Chinese government. Information has emerged largely through confidential statements given to Amnesty International and other organizations by security and health personnel who have been involved in the procedure. In the experience of one medical source who gave testimony for the report *China: Victim in their thousands: the death penalty in 1992*, the following procedure occurred when executions were imminent. The Head of the Intermediate People's Court gave notice of impending executions to the Deputy Head of the court's executive office, who in turn notified the relevant government Health Department. The Health Department official with responsibility for such cases then contacted the appropriate hospitals, giving the number and date of the executions and medical details of the condemned. In the experience of this source, use of organs was routine following executions.

Condemned prisoners who are selected to provide organs following their execution are subjected to medical investigations, including invasive procedures such as removal of blood samples for tests, generally without being told the reason that such tests are being done. If the death sentence is confirmed on appeal, the prisoner is informed only a few hours before the execution and may spend his last night handcuffed and shackled on a chair, watched by fellow detainees, to prevent attempted suicide or acts of insubordination. On the following day the execution may be preceded by a "mass sentencing rally", during which the prisoner's name, crime and punishment are announced to a crowd while the prisoner is forced to stand with head bowed and hands tied behind his back. Finally, the prisoner is taken to the execution ground and put to death. Although the method of execution in China is specified as a single shot to the back of the head, there are reports that this may be altered to a shot to the heart if the prisoner's corneas are to be harvested.

Once the execution has been carried out, the body is removed to the designated hospital in an ambulance. On some occasions the transplant organs are removed from the body immediately in a vehicle parked at the execution field itself. Generally the body is then cremated and only the ashes returned to the family which is therefore unable to verify that organ retrieval has been carried out. If the family requests the return of the intact corpse, it is usually met with a bill for the expenses of the prisoner's upkeep during detention, which is often too large for the family to pay.

Consent

In April 1993, Jin Yongjian, China's ambassador to the United Nations (UN) in Geneva, stated before the UN Committee against Torture that organs have been used for transplant operations only rarely and "with the consent of the individual" In its August 1994 report on China, Human Rights Watch/Asia published the

Temporary rules concerning the utilization of corpses or organs from the corpses of executed criminals, a set of official regulations circulated in October 1984 to the High People's Courts, People's Procuracies, and the Departments of Public Securities, Health and Civil Affairs of each province, autonomous region and directly-administered city in China. Section 3 of the *Temporary rules* states:

> *3. The corpse or organs of executed criminals may be provided for use in any of the following circumstances:*
>
> 1. *No one claims the body or the family refuses to claim the body;*
> 2. *The executed criminal has volunteered to have his corpse provided to a medical treatment or health unit for use;*
> 3. *The family consents to the use of the corpse*

However, multiple sources concur that transplants organs do not normally come from unclaimed bodies or following consultation with the prisoner's family, and that consent for organ retrieval is rarely sought from the condemned prisoner. Medical investigations that are necessary prior to organ donation are performed without revealing to the prisoner the purpose of these investigations. From the time the death sentence is handed down and, in cases where the prisoner is appealing against the death sentence, during the time that his or her appeal is processed, the condemned prisoner is held in degrading conditions, often restrained with handcuffs or feet-shackles, or both. The prisoner is generally told about the failure of his or her appeal against the death sentence only hours before the execution.

If consent for organ donation were sought, it is difficult to see how it could be truly free and informed under these circumstances. And if the prisoner wished to withhold consent, it is difficult to see how he or she could make this wish known in the hours prior to execution. Condemned prisoners have the right to write a will, but the authorities have the official power to censor it. Even if a will is written, there is no guarantee that it will make its way from the prisoner, via guards and prison officials, to the prisoner's family, particularly if it expresses a determined wish to be spared organ retrieval.

The performance on a prisoner of invasive medical investigations that are not for that person's benefit, without explaining the purpose of the investigation and without gaining the prisoner's express consent, amounts to medical exploitations of that person and clearly is a form of degrading treatment which Amnesty International condemns.

Medical Involvement in the Process of Organ Retrieval

The involvement of health professionals in the organ retrieval process begins prior to the execution, with medical investigation aimed at ascertaining the prisoner's suitability as an organ donor. However, Principle 3 or the *UN*

Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman and Degrading Treatment, states:

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

Health professionals who take part in pre-execution investigations for organ transplantation are in breach of this principle, and they are also in breach of their ethical duty, set out both in the UN Principles of Medical Ethics and in the World Medical Association's Declaration of Tokyo, not to participate in forms of cruel, inhuman or degrading treatment.

After the execution, health professionals are involved in retrieval of organs from the body. This may occur at the site of the execution itself. Sources report the presence of unmarked vehicles at the execution ground within which organs are removed from the body by medical personnel.

The Temporary Rules concerning the utilization of corpses of organs from the corpses of executed criminals state:

The use of the corpses or organs of executed criminals must be kept strictly secret, and attention must be paid to avoiding negative repercussions. [The removal of organs] should normally be carried out within the utilizing [transplant] unit. Where it is genuinely necessary, then with the permission of the people's court that is carrying out the death sentence, a surgical vehicle from the health department may be permitted to drive onto the execution grounds to remove the organs, but it is not permitted to use a vehicle bearing health department insignia or to wear white clothing. Guards must remain posted around the execution grounds while the operation or organ removal is taking place.

The systematic involvement of medical personnel in a process that is intended to be kept secret from the public, and the clandestine nature of the procedure itself, suggests that this involvement is not in keeping with professional ethics and that the authorities are aware of that.

Hospitals receive payments from Chinese patients or their work units for performing transplantations with organs from executed prisoners. It is an open secret in neighboring Asian countries with long transplant waiting lists that a transplant can be arranged promptly in China in exchange for payment. In both cases, the fee paid probably greatly exceeds the treatment costs of the operation itself, violating World Health Organization (WHO) *Guiding principles on human organ transplantation* (1991) that stipulate that payment for transplants should be limited to a justifiable fee for the services rendered. The lucrative nature of the

organ transplant business means that hospital personnel send gifts to police officials who are involved in executions, hoping to ensure the future supply of organs.

Some concerns have also been expressed that priorities in organ allocation are based on nonmedical criteria such as political position or ability to pay high fees.

Lack of Due Process

The system of organ procurement from executed prisoners in China occurs against the background of a judicial system which fails to meet international standards at almost every stage from arrest to execution. Amnesty International has repeatedly highlighted the numerous flaws in the legal process that leads to capital punishment in China The lack of legal safeguards in China raises the concern that the use of the corpse of executed prisoners as a source of organs may play a role in encouraging the imposition of the death penalty.

It is impossible to give an accurate figure for the number of people executed in China each year. Such statistics are considered a "state secret" and are not made public. In 1996, Amnesty International monitored over 6,000 death sentences by Chinese courts, and recorded the executions of 4,367 prisoners. However, many capital cases are not publicized and do not come to the attention of Amnesty International and the true figures for both death sentences and executions are far higher than those given here.

Imposition of the death penalty is based on China's Criminal Law and Criminal Procedure Law, both of which were adopted in 1979 to provide fundamental legislation which had previously been non-existent. Amendments to the Criminal Law, expanding the number of offences punishable by death, were made in 1982 and, as part of a nationwide "campaign against crime", in 1983. Further amendments have been made since 1983. Today, approximately 65 offences are punishable by death in China, including many non-violent and economic crimes such as "speculation" and "bribery". In 1992 Luo Deming was sentenced to death for allegedly selling ordinary alcoholic spirits under the prestigious *Maotai* name. To Amnesty International's knowledge this was the first time in China that the death penalty had been applied for infringement of trademark rights.

Once under suspicion of a capital offence, defendants find themselves trapped in a legal process that is weighted heavily against them. The poor and less-educated are particularly ill-equipped to resist the procedure that is set in motion, since they are often unaware of their rights and of the legislation under which they may be sentenced to death, and their access to legal advice is often inadequate or even nonexistent.

The Criminal Procedure Law allows the police to hold suspects for at least four and a half months before a decision is taken on whether or not to prosecute

them. During this period, the police are able to interrogate the suspect but the suspect has no right of access to a lawyer or to meet with a judge. There have been numerous reports of the use of torture and physical intimidation to extract confessions during such interrogations. In *China: The Death Penalty*, Amnesty International documented cases in which official admissions were made that the death sentence had been handed down on the basis of confessions extorted through police mistreatment.

Once a decision is made to try a case, often after a period of several months' police detention, the detainee can seek the assistance of a lawyer. Normally, under the Criminal Procedure Law, the trial can take place just seven days after the defendant receives the bill of prosecution, leaving inadequate time for the preparation of an effective defence. In addition, under legislation adopted in 1983, some capital cases may be tried without the defendant having been given any advance warning of the trial. In such cases defendants are tried either without a lawyer or with a court-appointed lawyer who has had no time at all to prepare a defence. Defence lawyers are seriously handicapped by established judicial practices. They have access only to a part of the file concerning the defendant, they cannot confront witnesses and are effectively barred from challenging the validity of the charges. Some lawyers have been subjected to demotion, detention and even physical violence as a consequence of attempting to mount an adequate defence in criminal cases, so that many lawyers decline to take on criminal cases or, if they do take such cases, rarely try to prove the innocence of their clients.

In all events, the accused's defence is likely to have little effect on the verdict in the trial, since there is no presumption of innocence in Chinese legal practice. Decisions on guilt and innocence are generally made outside the court, by committees subject to political influence. In some instances a "preparatory court" (*yupei ting*) meets to decide on the cases on the basis of the police findings and the requisitions of the prosecution. "Major and difficult" cases, which include those liable to the death penalty, are submitted for determination to the court's "adjudication committee" (*shenpan weiyuanhei*), which makes decisions on the basis of files and without the presence of cases. In the overwhelming majority of cases known to Amnesty International, court verdicts are almost verbatim reproductions of the prosecutors' indictments.

Having been convicted and sentenced to death by this process, the defendant may lodge a single appeal to a higher court. The appeal process includes no hearing: the High Court merely reviews the files of the case together with any submission made by the defendant or lawyer. Once the sentence has been confirmed by the High Court, the defendant has, in principle, the right of petition for commutation of the sentence to the President of the Republic of the Standing Committee of the National People's Congress. There is no known record of such a commutation since at least the early 1980's. In fact, this right of petition for commutation is virtually non-existent in practice, since the condemned prisoner is

usually told of the failure of his appeal to the High Court only hours before his execution, and a petition for commutation does not suspend the execution of the sentence.

The lack of legal safeguards is a crucially important consideration in the process that leads to the removal of organs from the corpse of an executed prisoner. Given the close liaison between courts, health departments and hospitals over the distribution of transplant organ, the fact that organ transplantation represents a source of income for hospitals, and the fact that "gifts" are reportedly circumstances convicted individuals will be condemned to die, and the execution scheduled, in order to fill a need for transplant organs. The Chinese legal system, riddled with flaws, provides no protection against such a development.

A Lethal Combination: the Market in Organs and Lack of Legal Safeguards

Given the deplorable lack of legal safeguards, there is a real risk that the decision to impose the death penalty, already a common punishment in China, and the timing of its execution, will be dictated at least partially by the existence of a lucrative market for organs.

The well-established market in organs within China is revealed in a number of prevailing conditions reported to Amnesty International, particularly the fact that transplant operations are an extremely lucrative source of income for hospitals. Hospitals receive payment from Chinese patients (or the patients' work units) for performing transplant operations with organs from executed prisoners. It is an open secret in neighboring Asian countries with long transplant waiting lists that a transplant can be arranged promptly in China in exchange for payment. In both cases, the fees paid probably greatly exceed the treatment costs of the operation itself.

In fact, it should not be surprising that Chinese hospitals are cashing in on the organ trade. In the Asian region as a whole, illegal human organ trafficking is highly profitable. In South Korea, for example, the Government announced on April 16 a comprehensive package of measures to curb what is described by Korean newspapers as a "booming" organ market, with rates of $25,000 to $38,000 for a kidney, of which 10 or 20 percent goes to the trafficker.

The lucrative nature of the organ transplant business means that when there is an undersupply, hospitals have to "compete" for organs. Sources that have spoken to Amnesty International report that Chinese hospitals' personnel send gifts to police officials who are involved in executions, hoping to ensure the future supply of organs.

The thorough involvement of the Chinese judiciary in this illegal organ market is confirmed by reports of the close cooperation between courts, government health departments and hospitals over the distribution of transplant organs, and the

evident cooperation of police and prison officials in accepting the "gifts" offered by hospital personnel.

Given the existence of a market in human organs, the lack of legal safeguards is a crucial loophole in the process that leads to the profitable harvesting of organs from executed prisoners. The gross inadequacy of legal safeguards and enforcement of existing law with regard to due process in the investigation and trial of accused prisoners, prevention of degrading treatment in detention, ethical requirements of health personnel, and obtaining consent for organ removal therefore allows the widespread practice of removal of organs from the corpses of executed prisoners. Amnesty International is concerned that in some cases convicted individuals may be condemned to die, and the execution scheduled, in order to fill a need for transplant organs. The Chinese legal system, riddled with flaws, provides no protection against such a development.

Conclusion

The use of organs from executed prisoners is reported to be the source of the overwhelming majority of transplant organs used in China. Despite official denials, multiple sources with direct experience of the practice concur that such organ procurement rarely, if ever, occurs with the prior consent of the prisoner, and, given the degrading conditions in which condemned prisoners are held in China, it is difficult to see how free and informed consent could actually be given by a condemned prisoner.

The process of organ procurement involves pre-execution medical investigations, the purpose of which is rarely if ever revealed to the prisoner. Medical personnel who take part in this practice are therefore breaching their ethical obligation to act for the benefit of patients, to only undertake medical procedures with informed consent and not to participate in degrading treatment, and are also violating a number of the WHO's guiding principles on organ transplantation. In view of the deplorable lack of legal safeguards in China's judicial system there is a real risk that the decision to impose the death penalty, already a common punishment in China, and the timing of its execution, will be dictated at least partially by the need to fill a need in the supply of transplant organs. Finally, the existence of a lucrative trade in organs based on prisoners with few if any legal rights pose a major obstacle to reform capital punishment practice and eventually to abolish the punishment.

In view of the gross inadequacy of current judicial safeguards in China, Amnesty International is calling on the Chinese government to stop the practice of organ procurement from executed prisoners immediately and, if it wishes to ensure a supply of transplant organs for those with genuine medical need, to institute a system of death-related and living-related donation that is truly voluntary and in accordance with the WHO's guiding principles. Amnesty International is also calling on Chinese medical associations to inform all Chinese health professional

that participation in executions, including ante-mortem and post-mortem removal of organs from condemned prisoners for transplantation, is unethical. Amnesty International urges the Chinese authorities to review the practice of the death penalty with a view to its curtailment and eventual abolition.

Recommendations

- We strongly urge President Clinton to raise the issue of organ harvesting from executed prisoners during his upcoming Summit with President Jiang.

- We urge the Chinese government to put an immediate end to the practice of harvesting organs from the bodies of executed prisoners without their consent.

- We urge the Chinese government to review the practice of the death penalty with a view to correcting the gross inadequacy of judicial safeguards against human rights abuses, and with a view to the curtailment of the use of the death penalty.

- We urge Chinese health professionals to refuse to participate in the unethical retrieval of organs from executed prisoners or the use of such organs, whatever the stage of the process in which they are involved

- We urge the Chinese Medical Association to adopt a policy against the retrieval of organs from executed prisoners or the use of such organs, in conformity with the consensus of the international medical community.

Thank you for inviting Amnesty International to testify on this important issue.

TESTIMONY OF DAVID J. ROTHMAN, PH.D

Bernard Schoenberg Professor of Social Medicine,

Columbia College of Physicians and Surgeons

To the Committee of International Relations and the Committee on

Government Reform & Oversight

June 16, 1998

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

without previously obtaining their consent or giving them the opportunity to refuse." The WMA condemned this practice and called upon national medical associations to "severely discipline the physicians involved."[1] So too, the June 1977 Protocol One Additional to the Geneva Conventions of 1974-1977, bans the use of organs from prisoners of war. "The physical or mental health and integrity of persons who are in the power of the adverse Party...shall not be endangered by any unjustified act.... It is prohibited to subject the persons described...to any medical procedure which is not indicated by the state of health of the person concerned." Specifically, the Protocol declares: "It is, in particular, prohibited to carry out on such persons, even with their consent...removal of tissue or organs for transplantation."[2]

II. Despite denials, there is no doubt Chinese transplantation practices rely on organs from executed prisoners.

Although Chinese officials continue to deny that executed prisoners are the major source for their organ transplantation practices, there is no question but that Chinese transplantation facilities rely upon these very organs.

The history of the use of organs from executed prisoners begins in the mid-1980s. Like many other developing countries, China eagerly adopted the western technology of transplantation once cyclosporine came onto the market and reduced, albeit did not eliminate, the problem of organ rejection. Its physicians mastered the

procedure, often by undertaking a surgery fellowship in the United States, and then implemented programs, particularly in kidney transplantation. Indeed, for China the timing of cyclosporine's appearance was especially fortuitous, for by the mid-1980s, the extraordinary havoc that the Cultural Revolution had caused in medicine was dissipating and surgeons were now returning to the universities from their exile in the countryside.

How can we be certain about the practices followed in China? First, in 1984, immediately after the demonstrated efficacy and availability of cyclosporine, China enacted "Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Prisoners." The law, brought to public attention by Robin Munro of Human Rights Watch/Asia, provides that corpses or organs of executed prisons could be harvested if no one claimed the body, if the executed prisoner volunteered to have his corpse so used, or if the family consented. In the latter case, officials were to discuss "the scope of the use of the corpse, method and cost of disposition after use, and financial compensation." The 1984 law then stipulates:

> The use of the corpses or organs of executed criminals must be kept strictly secret, and attention must be paid to avoiding negative repercussions.... A surgical vehicle from the health department may be permitted to drive onto the execution grounds to remove the organs, but it is not permitted to use a vehicle bearing health department insignia or to wear white clothing. Guards must remain posted around the execution grounds while the operation for organ removals is going on.

> In Han regions the corpses and organs of executed criminals of minority nationality shall in principle not be use. In regions where there is a concentration of minority nationalities, the funerary customs of minority nationalities should be respected when implementing these rules.

The 1984 law makes eminently clear that the use of executed prisoners' organs is national policy.

Chinese practices are also confirmed by former Chinese prisoners, from Chinese transplant surgeons who have left the country as well as former Chinese police and prison officials. It is corroborated by compelling circumstantial evidence. For one, patients who travel to China for a kidney are told the precise date of their operation-- something which could not be done were donation a matter of chance. Only by matching execution timetables with travel schedules could such efficiency be achieved. (One American transplant surgeon told me of an invitation he received from China to perform a heart transplant; when he asked how he could be assured that an organ would be available during the week he would be there, he was told that an execution would be set to fit his schedule. The surgeon turned down the invitation.)

Other evidence appears in the Journal of Chinese Organ Transplantation, the country's leading publication in the field It often describes donors as having died from "extensive open cranial wounds," a clear reference to the Chinese practice of

executing prisoners by a bullet to the brain. contains no articles on enhancing the supply of organs-- an omission that would be baffling were it not for the prisoner supply of organs. All the while, Hong Kong and Taiwanese physicians have reported on caring for patients who have traveled to China to obtain an organ.

The full extent of the practice cannot be known because China classifies the number of prisoners executed and does not release the number of transplantations carried out. Amnesty International estimates that in 1996 alone no less than 4,367executions took place and the number may be even higher. Many of the people executed were petty criminals who in the United States would have received less drastic sentences. With organs so readily available and travel to China from surrounding countries relatively simple, Human Rights Watch estimates that more than 2,000 organs, most of them kidneys, are transplanted in China each year; according to the Worldwide Transplant Center Directory, based at the University of California, Los Angles, the Chinese have reported performing 6,900 kidney transplants in the three year period 1994-1996-- and that that number is a vast under- representation.[3]

III. The claim that Chinese prisoners give informed consent to the use of their organs is not to be credited.

The critical fact that must be appreciated is that Confucian and Buddhist concepts insist on the bodily integrity of the corpse until the moment of cremation; prevailing attitudes about the respect due elders also deters organ removal.

In much of Asia, conceptions of the respect due elders has practically eliminated organ transplantation. Japan, for example, despite a readiness to embrace new technology and to celebrate gift-giving, has only a minuscule program, devoted almost exclusively to transplanting kidneys from living related donors. And the same attitudes hold in China as well. As the anthropologist Margaret Lock has explained: "The idea of having a deceased relative whose body is not complete prior to burial or cremation is associated with misfortune, because in this situation suffering in the other world never terminates."[4] Moreover, for the traditional-minded, death does not take place at a specific moment. The process of dying, which involves not only heart and brain but soul, is not complete until services have been held on the seventh and forty-ninth days. It takes even longer to convert a deceased relative into an ancestor, all of which makes tampering with the body for the sake of transplantation unacceptable.

So too, many Asian countries, including China, do not legally recognize the standard of brain death. As a result, cadaveric donation is a rarity in Hong Kong, Japan, Singapore, and Korea. Hong Kong, for example, does about 55 kidney transplants a year (with organs donated by living relatives), and has a waiting list of some 600.

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

IV. The use of organs from executed prisoners subverts the ethical integrity of the medical profession.

Although reliable eyewitness accounts are not available, the execution process and retrieval procedures in China may well duplicate those followed in

Taiwan between 1987 and 1994 (when the practice was abolished). In both cases, execution is by gunshot and the need to protect and preserve the organ, critical. Immediately before the execution, the physician sedates and intubates the prisoner and inserts an intravenous catheter prior to execution. The prisoner is then executed with a bullet to the head; the physician stems the blood flow, puts the prisoner on the respirator, and injects drugs to raise blood pressure and cardiac output. With the organs thus maintained, the body is transported a nearby hospital where the recipient is waiting and the surgery is performed. The physicians have become intimate participants in the execution process, functioning not to preserve life but to manipulate death in the service of transplantation.[5] In using organs from executed prisoners, there is no avoiding this compromise of medical ethics and violation of ancient axioms to do no harm. However acute the need for organs, physicians should not be turned into executioners, and hospitals, into execution chambers.

V. It is the widespread Asian cultural antipathy to organ donation that gives Chinese hospitals their opportunities to profit.

To the extent that Chinese hospitals can obtain organs from executed prisoners, they can tap into a lucrative market fed by almost insatiable demand. Desperate patients in neighboring Asian countries who would otherwise have to wait years for a transplant, will eagerly travel to China to undergo the procedure.

Indeed, the pricing of transplant procedures make the trip still more attractive. The cost of a kidney transplant in Chinese hospitals is considerably below that of western medical centers (usually between $15,000 and $25,000, not $40,000 to $100,000.) At the same time, insurance companies in Hong Kong and Taiwan, who will not pay for obtaining operation in China, readily cover post-operative care. Their reasoning is strictly financial: the costs of post-operative care are much lower than the annual costs of dialysis.

VI. Conclusion.

China does not have strong national medical associations capable of drawing attention to the ethical problems involved in harvesting organs from executed prisoners. Chinese medical organizations are too weak and frail to stand out against state directives. Indeed, there is no formal licensure of physicians in China so that the profession cannot set standards for medical training and conduct. Chinese leaders refuse to tolerate the strong institutions that are vital to a civil society, precisely because these groups might promulgate and defend ethical codes that challenge state ideology and authority. As it now stands, the ethics of medicine, whether the issue is transplantation or eugenics, set no limits on state authority.

What might be done to alter these practices? Here, as in other debates on how to respond to human rights violations in China, the issue comes down to a choice between effective sanctions that might isolate China as against weaker recommendations that aim to keep China engaged.

At the moment, dialogue and mild sanctions, such as not allowing China to join the major Asian transplant association, are the order of the day. Whether these measures will produce changes in policy, or whether, in the wake of failure, other countries will step up the pressure, remains uncertain. But unless something is done, medical ethics will continue to be subordinated to financial considerations, violating fundamental principles of human dignity.

David J. Rothman, Center for the Study of Society and Medicine, Columbia College of Physicians and Surgeons, 630 West 168th Street, New York, NY 10032.

ENDNOTES

1. World Medical Association Resolution on Physicians' Conduct Concerning Human Organ Transplantation, adopted by the 46th WMA General Assembly, Stockholm, Sweden, September 1994

2. Protocols additional to the Geneva Conventions of 12 August 1949, International Committee of the Red Cross, Geneva, 1977.

3. "Chinese Transplants are Raising Ethical Concerns," New York Times, June 3, 1991, A10.

4. "Deadly Disputes: Ideologies and Brain Death in Japan," in Younger et al., **Organ Transplantation**, 157.

5. J. Parry, "Organ Donation after Execution in Taiwan," British Medical Journal, 303 (1991), 1420.

Mr. SMITH OF NEW JERSEY. Without further ado, this hearing is adjourned.

[Whereupon, at 6:32 p.m., the committees were adjourned, subject to the call of the Chairs.]

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