

Witness statement from Wendy Rogers¹

I would like to offer two pieces of evidence to the Tribunal, followed by an opinion. The first piece of evidence concerns lack of compliance with international ethical standards in organ procurement in China and the second concerns attitudes and actions of some leading members of the international transplant community regarding evidence about procurement of organs from executed prisoners of conscience. The opinion proposes potential reasons for the second piece of evidence.

1. Lack of compliance with international ethical standards in organ procurement in China²

In my capacity as an expert in the ethics of organ donation, I led a team of researchers investigating whether publications reporting data from transplant recipients in China comply with international ethical standards.

The transplantation of organs procured from executed prisoners is widely condemned by the World Health Organisation, the World Medical Association, The Transplantation Society, Amnesty International and others. This condemnation extends to undertaking research and presenting results that involve the use of organs obtained from executed prisoners. In 2006, The Transplantation Society (TTS) explicitly stated that it would not accept conference papers based on research involving organs sourced from executed prisoners. The 2006 TTS policy statement led to calls for a boycott on publishing journal articles based on research involving organs from executed prisoners. Together, these statements by international bodies, professional societies, academics and journals constitute explicit ethical standards prohibiting the publication or presentation of research involving organs sourced from executed prisoners.

These ethical standards require peer-reviewers and journal editors to ask consistently whether the research:

- (1) involved any biological material sourced from executed prisoners;
- (2) received Institutional Review Board (IRB) (Research Ethics Committee) approval; and
- (3) required consent of donors.

To maintain these ethical standards, papers that do not comply should be rejected.

With a multi-disciplinary group of volunteer researchers, I performed a systematic analysis of articles reporting on lung, liver and heart transplants performed in mainland China, using scoping review methodology. We identified 445 relevant papers reporting on a total of over 85,000 transplants from 2000-2017.

¹ See Appendix 1 for my credentials.

² This evidence is based upon Rogers WA, Robertson M, Ballantyne A, Blakely B, Catsanos R, Clay-Williams R & Fiatarone Singh M. Compliance with ethical standards in the reporting of donor sources and ethics review in peer-reviewed publications involving organ transplantation in China: A scoping review. *BMJ Open* (accepted 13 Nov 2018), and is provided to the Tribunal in confidence. Once the paper is published, it can be made available to the Tribunal members. Please do not cite or repeat any data from this statement without permission.

Of these:

1. 33 (7%) stated explicitly that no organs from executed prisoners were used in the research;
2. 324 (73%) reported research ethics approval
3. 6 (1%) reported that organ donors gave consent for donation

Overall, less than 1% of papers included all three pieces of evidence of ethical practice as mandated by international groups including TTS. However, the absence of this information had not been a barrier to publication, despite the failure to comply with ethical standards.

Furthermore, the claim in 33 papers that that no organs were procured from executed prisoners was demonstrably false in many cases. 19 of the 33 papers claiming that organs were not procured from executed prisoners reported on 2,688 transplants that took place prior to 2010, during which time there was a total of 120 volunteer donors across the whole of China, and all other organs were sourced, by Chinese admission, from executed prisoners.

This research shows that the majority of the published literature reporting research on transplants in China from 2000-April 2017 fails to comply with ethical standards regarding exclusion of research based on organs procured from prisoners and provision of consent by donors.

Of considerable concern, the research shows that the international transplant community (broadly construed), whose members reviewed the papers, and the journal editors who accepted papers for publication, failed to enforce their own professional ethical standards.

Another piece of research, performed with Prof Jacob Lavee and Prof Maria Fiatarone Singh, demonstrated that a paper published in the journal *Liver International* falsely claimed all of the transplanted organs were procured from volunteers. Our investigation, published in the form of two letters, led to a retraction of the paper by the journal.³

Overall, my conclusion from this research is that the international transplant community demonstrates little inclination to make even the most basic and cursory inquiries about the sources of organs reported in Chinese transplant research. This lack of concern is part of a broader failure to hold Chinese transplant researchers to widely agreed ethical standards. This is despite a proclaimed policy (of TTS) to refuse to engage with China or offer international acceptance as peers unless the Chinese transplant community complies with international ethical standards.

³ Rogers WA, Fiatarone Singh MA, Lavee J. Papers based on data concerning organs from executed prisoners should not be published. *Liver International* 2017; 37:769; and Rogers WA, Fiatarone Singh MA, Lavee J. Papers based on data concerning organs from executed prisoners should not be published: Response to Zheng and Yan. *Liver International* 2017; 37: 771-772. Both letters are available from the Supplementary Reading list supplied to the Tribunal.

2. Attitudes and actions of members of the international transplant community regarding procurement of organs from executed prisoners of conscience

Over the three years in which I have been performing research on the topic of organ sourcing in China, I have noted that prominent members of the transplant community, two of whom reside in Sydney (Jeremy Chapman and Philip O'Connell) seem unwilling to make themselves familiar with evidence about forced organ harvesting from prisoners of conscience. Instead, their attitude is one of dismissal, repetition of official Chinese denials and claims that allegations of forced organ harvesting are a political strategy by what they describe as "the Falun Gong".

I offer the following evidence in support of my view.

When I first became aware of concerns about sourcing of organs from prisoners of conscience, I sent a message to Prof Jeremy Chapman (recent past president of TTS) through a mutual acquaintance. In the reply conveyed to me by my acquaintance, Prof Chapman indicated his view "Though some genuine humanitarians have an honest belief that the Chinese are persecuting innocent people by killing them for their organs, the stories are without substance. Those who travel to China and visit the wards of the transplant units looking for this activity have not found it." (personal communication, 27 Nov 2015, anonymised copy provided). However, the fact that visitors to China are not shown organ harvesting from prisoners of conscience is not proof that it does not occur.

In the time since then, Prof Chapman's rhetoric has become more dismissive of any reference to sourcing organs from prisoners of conscience. This is evident, in for example, his comments to the Joint Standing Committee on Foreign Affairs, Defence and Trade.⁴ In that statement he says that the figure of 60,00-100,000 transplants per year (based on the research summarised in the *Update*) is a "concoction". On page 2 Prof Chapman provides details about the lengths of time that Chinese transplant patients spend in hospital, based upon which he concludes that if there were 60,000-100,000 transplants per year in China, there would need to be 30-40 times the amount of transplant infrastructure that there is in the US. His reasoning is hard to follow. I therefore sought clarification by email and was told that in China, patients stay in hospital for much longer than in the US or Australia - weeks compared to 4-6 days (Chapman, personal communication 6/6/2018, copy provided). This response indicates that Prof Chapman had failed to engage with the methodology in the *Update* and seemed unaware that in calculating the figure of 60,000-100,000 transplants per year, the authors allowed for a 4 week stay per person per transplant.

In that same transcript, Prof O'Connell (p 4) refers to the COTRS, the Chinese organ register, claiming that transplants recorded in this register are legitimate. However, this registry is not open to independent scrutiny therefore anything Prof O'Connell says about it is hearsay from Chinese sources. Like Prof Chapman, Prof O'Connell is "convinced there has been a profound change" but this conviction is based upon access to information and hospitals selected for visits by Chinese hosts, and in which information is provided via interpreters. These representatives of TTS have no independent way of knowing if the claims they make about sources of organs in China are true.

⁴ See Appendix 2 (with highlight on relevant sections)

There is one further piece of evidence about reluctance to engage with credible research. In July 2016, shortly after the publication of the *Update*, one of the authors, Ethan Gutmann, visited Australia. I was keen to broker a meeting between Gutmann and members of the transplant community, so that they could become familiar with the evidence and methods used in the *Update*, and indicate any potential flaws or weaknesses. I contacted an acquaintance who is a transplant surgeon, to help arrange the meeting. Via this contact, Prof Chapman offered to organise it. I accepted his offer of help, but this was withdrawn on the grounds that he was concerned about who would be present at the meeting and that it might be “political”. In a lengthy email chain, I sought to reassure him, and in the end organised the meeting myself. Despite his proclaimed interest, Prof Chapman did not attend the meeting and it is my view (although I do not have evidence of this) that he warned other transplant professionals not to attend it. In the end, only one surgeon attended, who was visibly shocked to find himself the only transplant person in the room, as several of his colleagues had previously indicated their intention to attend.

These and other experiences with members of the transplant community indicate to me that there is a significant determination by that community to deny all claims of organ harvesting. Denial is based upon largely upon unverifiable Chinese assurances combined with ignorance about detailed investigations and evidence amassed to date.

Opinion regarding attitudes amongst members of the transplant community

I have had little direct communication with members of the transplant community therefore can only speculate regarding the apparent general unwillingness to engage with evidence about forced organ harvesting from prisoners of conscience. There is one exception to this. In 2017 I had a lengthy conversation with one person associated with the international transplant community, who asked me to preserve their anonymity. This person expressed the strong view that if there were 60,000-100,000 transplants per year, then this volume would be obvious to external observers. However, my informant was unable to explain how information about transplant volumes in China would become known in the absence of transparent organ tracing processes, and admitted that the idea of forced organ harvesting was almost too terrible to contemplate.

Regarding apparent wilful blindness about procurement of organs from executed prisoners of conscience, I offer the following potential explanations, but stress that I have no evidence regarding their accuracy or otherwise:

1. Huang Jiefu undertook several years of his transplant surgery training in Sydney, becoming colleagues with now senior clinicians including Jeremy Chapman. Given this strong professional and personal connection, it may be difficult for Australian transplant clinicians to believe that Huang Jiefu could preside over a system in which organ harvesting from prisoners of conscience (POC) takes place. Instead, it may have been easier for these clinicians to focus on the heroic narrative of assisting Huang to reform the unethical system of removing organs from prisoners who had received the death sentence. Huang vehemently denies any forced organ harvesting from POC, therefore any questioning of this by Australian clinicians would jeopardise their relationship and any potential good to be achieved by assisting with some degree of reform in China.

2. There are extensive research and other ties between Sydney hospitals and hospitals in China, some of which concern transplantation. For example, in 2011, a Memorandum of Understanding was established between the 2nd Xiangya Hospital of Central South University in Hunan Province and Westmead Hospital in Sydney. I am not privy to the details of this MOU other than those details of the arrangements that have been published in the Chinese media, which indicate that exchanges included clinical and research activities involving transplantation. The Chinese research included xenotransplantation of animal tissue into humans, which at the time was not permitted in Australia. On a 2011 paper reporting on this research, one of the authors, Shounan Yi, reports his academic affiliation as Westmead.⁵ 2016 Australian media articles⁶ questioning the ethics of this research relationship led to forceful denials by Jeremy Chapman.⁷
3. The final explanation I wish to canvas concerns ignorance about the freedom of Chinese transplant doctors to speak openly about their practices. The degree of surveillance and brutal repression in China is unfathomable by Western standards. At least some transplant clinicians have expressed the view that it would not be possible to conceal organ harvesting from POC because there would be whistleblowers. This view ignores the totalitarian system operating in China and the extent and gravity of the threat to anyone contemplating whistleblowing.

I am willing to provide more details on these matters should this be of assistance to the Tribunal.

Wendy Rogers



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⁵ Wang W1, Mo Z, Ye B, Hu P, Liu S, Yi S. A clinical trial of xenotransplantation of neonatal pig islets for diabetic patients. *J Cent South Unw (Med Scz)* 2011 Dec;36(12):1134-40. doi: 10.3969/j.issn.1672-7347.2011.12.002 (copy available on request).

⁶ See e.g. 'Chinese organ harvest furore', John Ross, *The Australian*, August 24, 2016.

⁷ 'Westmead Hospital rejects China link transplant 'benefits'' John Ross, *The Australian*, September 7, 2016.