

Dear Mr Andrews, Senator Moore and Ms Fladun,

Thank you for the opportunity to appear at the public hearing on 8 June 2018 regarding the Inquiry into Human Organ Trafficking and Organ Transplant Tourism.

Your commitment to addressing the issue of organ trafficking is greatly appreciated, as is your concern regarding organ trafficking in China and the potential impact upon Australians and the victims in China.

We write to you to address a number of questions raised by the Human Rights Sub-Committee (**the Committee**) at the public hearing on 8 June 2018. We hope this additional information will assist the Inquiry.

Mr Andrews asked about evidence regarding forced organ harvesting in China. The evidence of forced organ harvesting from prisoners of conscience is drawn from multiple sources. We provide a brief summary of the evidence in Appendix A to this letter, and we are able to provide a report if this would be of assistance to the Committee.

We would like to request the opportunity to provide further information and to answer any questions you may have about the evidence given throughout the course of the Inquiry. Professor Wendy Rogers, an expert in this field, is available to provide further oral evidence by video link and/or she and I are available for a private meeting either online or in person to answer any further questions you may have.

We note that there are apparent errors of fact in the evidence given at previous hearings:

1. The volume of transplants that take in place in China is disputed. Chinese officials claim that there have been approximately 10,000 transplants per year over the past decade. The estimate in The Update is 60,000-100,000 transplants per year. During the hearing of 13 June 2017, this finding in The Update was described as "a concoction". The reason these higher figures were dismissed is because, based on the witness' experience, Chinese transplant patients spend much longer in hospital than transplant patients in Australian or US hospitals, sometimes weeks for Chinese patients compared with 4 - 6 days for Australian or US patients (private communication, 6 June 2018). Given this difference in hospital stays, it was claimed that "they [the Chinese] would have to have between 3 and 4 times the entire US transplant program implemented in China. Because of the difference in the capacity to manage them, you would probably have to multiply that by 10 because of the different practices. Thirty to forty times the US infrastructure—doctors, surgeons, operating theatres and medications—and not being able to see it is just implausible to us."

However, the estimates in The Update are based on an average 30 day stay per patient in the hospital transplant wards. That is, the estimates are conservative and have taken into account the longer hospital stays of Chinese patients compared to those of US or Australian patients,

Our concern is that this dismissal of the estimates in The Update is based on lack of familiarity with the research methods used, which did take account of the very

concerns raised in the evidence. We encourage the Committee to read carefully the basis for the findings in The Update, as this report is one of the few credible sources of information on the current situation in China regarding organ trafficking. Reputable human rights organisations and government bodies such as Freedom House¹, the United States Commission on International Religious Freedom² and the Conservative Party Human Rights Commission³ cite the data provided in The Update, indicating their confidence in its credibility. Amnesty International East Asia Director, Nicholas Bequeli, told The Guardian in February 2017, “They haven’t stopped the practice (of forced organ harvesting) and won’t stop. They have a need for organ transplants that far outpace the availability of organs.”⁴

2. As mentioned in our opening statement, it has been claimed that the amount of blood taken from Falun Gong practitioners in detention is not enough for tissue typing as a potential organ source. This claim is incorrect. Initial tests for tissue typing can be done on less than 10ml of blood (*private communication, transplant anaesthetist and cardiac transplant surgeon, 6 June 2018*).

Once prisoners have been blood and tissue typed, this information can be used for reverse matching to potential recipients. Further testing for cross matching is not required until a potential recipient has been identified, close to the time of the actual transplant.

3. Senator Moore questioned Ms Susanne Hughes, Executive Director of ETAC, about the definitive statement made by her during the hearing: “*If you’re booking in advance to get a vital organ, such as a heart or a liver, from China, somebody is going to be killed for you to be able to have that organ.*”

Transplants booked in advance for vital organs such as a heart or liver are prima facie evidence of killing on demand for organs. In fact transplants booked in advance for any organ from a deceased person, as opposed to an organ donated by a living person, are prima facie evidence of killing on demand for organs. In Australia, receiving an organ from a deceased donor is unpredictable and unplanned as no-one knows when a suitable donor will die. It is impossible to book deceased donation transplants in advance in Australia. If a person is travelling overseas for advance-booked transplantation of any organ from an alleged deceased “donor”, this is possible only if the “donor’s” death is also planned in advance. The only source for advance-booked deceased “donations” are people who are killed for the purpose of providing the organ. There is simply no other way of guaranteeing deceased donor organs in advance.

Following the hearing we verified this information with two experts, Professor Jacob Lavee, Immediate Past President of the Israel Transplantation Society,

¹ <https://freedomhouse.org/report/china-religious-freedom>

² <http://www.uscifr.gov/sites/default/files/2017.USCIRFAnnualReport.pdf> - p36

³ http://conservativehumanrights.com/reports/CPHRC_ORGAN_HARVESTING_REPORT.pdf

⁴ <https://www.bioedge.org/bioethics/forced-organ-harvesting-may-still-be-occurring-chinese-official/12182>

Professor of Surgery and Director of the Heart Transplantation Unit at the Leviev Heart Center in Israel and Professor Arthur Caplan, Head of the Division of Bioethics at New York University.

Professor Lavee in a reply email to ETAC, about whether or not a vital organ, such as heart of a liver, could be booked in advance, stated:

“Indeed, scheduling a pre-specified date for any organ transplant from a deceased donor can only be explained by the prior knowledge of the date this donor will die.” (email communication, 8 June 2018, available upon request)

Professor Caplan, replying to the same question, stated:

“Yes. No other source is possible.” (email communication, 8 June 2018, available upon request)

We believe that Australians should be told this information so as to protect them from sourcing organs illegally and unethically. Extra-judicial killings for organ procurement is a serious and heinous crime against humanity, and no Australian should be involved in such crimes.

We also believe that if this information was included in a public education campaign it may encourage more Australians to donate, which in our view is a major part of the solution to organ trafficking and organ tourism.

4. Regarding Mr Andrews’ question about legislation in other countries aimed at combatting organ tourism, a comprehensive list of actions taken by countries including Israel, Spain and Taiwan, along with links to the legislation, can be found here: <https://endtransplantabuse.org/legislation/>.
5. The recommendations in our submission include a number of potential responses which go beyond amending the Criminal Code and acceding to the Council of Europe Convention against Trafficking in Human Organs. We would like to draw your attention to three of these that are not onerous but together send a strong message of Australia’s disapproval of organ trafficking and organ tourism
 - 5.1 Inclusion of a question on Australian visa applications, similar to that used in the US online visa applications where applicants are asked: *“Have you ever been directly involved in the coercive transplantation of human organs or bodily tissue?”* Failure to answer truthfully has legal consequences including being banned from entry on the grounds of foreclosing relevant enquiries. Instituting this question in visa applications will apply equally to citizens of any country who have been involved in organ trafficking. Please see attached the DS-160 visa form from the United States.
 - 5.2 Inclusion of a question on the compulsory Australian incoming passenger card which directly asks returning Australian citizens and

residents if they have received an organ transplant overseas, and if so in what country. The incoming passenger card seeks information required to administer immigration, customs, quarantine, statistical and health matters, therefore seems suitable for collecting information on organ tourism. The presence of a question about organ transplants overseas will help to raise awareness amongst all travellers. An individual who ticks “yes” on this form can then be followed up on the Australian transplant register and further enquiries can be made about the transplant.

- 5.3 Creation of a comprehensive transplant register which mandates the registering of all Australians who have transplants, regardless of where the person had the transplant. The Australian and New Zealand Organ Donation Registry provides a robust foundation for the creation of a more comprehensive registry that will capture transplants overseas. A compulsory registry will overcome any concerns regarding possible breaches of confidentiality for doctors who may have to report suspected illegal or unethical organ transplants, as data on all transplants will be collected, irrespective of where the transplant took place. On the issue of confidentiality, Australian health professionals are already mandated to report suspected cases of child abuse and issues of confidentiality do not prevent such reporting.

We thank the Committee once again for the opportunity to provide evidence as part of this Inquiry and would be grateful for a further opportunity to meet and discuss the above.

Yours sincerely,

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APPENDIX A

BRIEF OVERVIEW OF EVIDENCE

1. In 2006, a woman known only as “Annie” reported that her husband, who was a surgeon in a hospital in Sujiatun, had been involved in removing the corneas from anaesthetised patients. Other doctors took kidneys, skin, and other organs, before the remains of the patient were incinerated. The “patients” were Falun Gong practitioners. There was no paperwork recording these operations.⁵
2. There are multiple, independent reports of Falun Gong detainees being singled out and subjected to unusual blood tests, chest X-rays, and ultrasounds. There are no reports of other prisoners receiving the same tests. No explanation for the tests is provided.⁶ In the weeks and months that follow, some of the tested prisoners disappear.⁷
3. Chinese hospital staff admit to using Falun Gong as an organ source. These telephone admissions are made to amateur investigators who pose as prospective recipients or fellow doctors in China.⁸
4. Transplantation numbers started rising in China just six months after the campaign against Falun Gong began, at a time when the death row population was going into decline.
5. There are documented cases of families seeing the dead with scars indicative of tampering with the body, consistent with organ harvesting.⁹
6. There is an overlap in personnel carrying out the anti-Falun Gong campaign and performing transplants.¹⁰
7. Finally, there is one eyewitness to forced organ harvesting who has given evidence in various venues including Westminster, Brussels and Dublin. Dr. Enver Tohti, a former cancer surgeon, has testified about being ordered to extract the kidneys and liver from a prisoner in 1995. The prisoner was shot in the right side of the chest and was still alive during removal of the organs. Dr Tohti reports that the victim had long hair, unlike the shaved heads of convicted prisoners.

⁵ Gutmann, *The Slaughter*, p 222.

⁶ Refugee interview conducted by Matthew Robertson.

⁷ Ethan Gutmann makes extensive documentation of such cases in “*The Slaughter*,” Prometheus Books, 2014.

⁸ These calls and files are available for inspection from Matthew Robertson.

⁹ Larry Ong, “Seeking Justice in a Lawless China,” *Epoch Times*, November 6, 2015.

¹⁰ Just for one example, here is Zheng Shusen, a top transplant official, with a powerpoint slide in the background showing non-voluntary liver donors (i.e. prisoners of some kind) in 2015:

<https://archive.is/ROnto>