

HARVESTING HUMANS

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INTRODUCTION

For over thirty years, the United States government has investigated, protested, and condemned the harvesting of humans by the People's Republic of China ("China"). In 2016, the United States House of Representatives passed Resolution 343, condemning the practice of forced organ harvesting in China, and specifically calling on the Communist Party of China ("CCP") to end the practice of organ harvesting from prisoners of

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conscience.¹ Since that resolution, human rights abuses by the Chinese government have only increased.² China continues to imprison individuals based on their religious beliefs and ethnic backgrounds, and hold these victims as crops³ for the Chinese body parts industry.⁴ In 2021, the United States Secretary of State declared that “[China], under the direction and control of the CCP, has committed genocide against the predominantly Muslim Uyghurs and other ethnic and religious minority groups in Xinjiang.”⁵ That genocide fuels the Chinese organ industry, in which victims are killed,⁶ and their organs are sold to an ever-expanding international market.⁷

For many years, Congress has proposed—and even passed—a variety of laws⁸ to prevent American participation in the harvesting of human organs. The Stop Forced Organ Harvesting Act of 2023 currently remains in limbo in the Senate Committee on Foreign Relations⁹ along with

1. H.R. Res. 343, 114th Cong. (2016) (enacted).

2. Thomas Lum & Michael A. Weber, *Human Rights in China and U.S. Policy*, CONG. RSCH. SERV. (2024) <https://www.congress.gov/crs-product/R48288> [<https://perma.cc/A68L-HDXS>]. This article specifically discusses the concept of “Sinicization,” under which the PRC attempts to compel Chinese ethnic minorities and religious practitioners into conforming to mainstream Chinese culture. This is just one example of how the PRC has increased violations of human rights since the passing of House of Representatives Resolution 343 in 2016.

3. This Article will refer to the group of people whose organs are harvested as *crops* because of the Chinese government’s treatment of the victims as a natural resource to the government. See *Stopping the Crime of Organ Harvesting—What More Must Be Done?: Hearing Before the Cong.-Exec. Comm’n on China*, 118th Cong. (2024) [hereinafter *Stopping the Crime Hearing*] (statement of Tom Oliverson, M.D., Tex. State Rep. & Chair, Ins. Comm., Tex. H.R.).

4. *Id.*

5. Michael R. Pompeo, *Determination of the Secretary of State on Atrocities in Xinjiang Press Statement*, U.S. DEP’T OF STATE: PRESS RELEASES (Jan. 19, 2021), <https://2017-2021.state.gov/determination-of-the-secretary-of-state-on-atrocities-in-xinjiang/> [<https://perma.cc/TAF5-NF3P>].

6. *Editor’s Note*: Throughout this Article, the Author uses the term “killing” to refer to the execution of individuals—religious or political prisoners—pursuant to Chinese domestic law. Although such executions are lawful under Chinese domestic law, they are regarded as improper, immoral, and unlawful under international law.

7. See Press Release, U.N. Hum. Rights, Off. High Comm’r, China: UN Human Rights Experts Alarmed by ‘Organ Harvesting’ Allegations (June 14, 2021), <https://www.ohchr.org/en/press-releases/2021/06/china-un-human-rights-experts-alarmed-organ-harvesting-allegations> [<https://perma.cc/Z2CR-XFYG>].

8. 42 U.S.C. § 274e(a).

9. Stop Forced Organ Harvesting Act of 2023, H.R. 1154, 118th Cong. (2023); RFA Staff, *Whistleblower Uyghur Surgeon Speaks Truth to Horror*, RADIO FREE ASIA (Apr. 25, 2024), <https://www.rfa.org/english/news/uyghur/organ-harvesting-04242024123922.html> [<https://perma.cc/3TB8-4UZC>] (“Despite offering his testimony, [Dr. Enver Tohti] is skeptical about whether the U.S. Stop Forced Organ Harvesting bill will solve the problem. ‘It won’t have much effect, because Chinese officials are adept at evading U.S. sanctions,’ he said, adding wryly that such measures can at least offer a talking point for journalists and politicians.”).

the equally stalled Falun Gong Protection Act.¹⁰ Proposals to prohibit insurance companies from paying for organs harvested from victims in China have been passed in a few states,¹¹ but not federally. Over the past thirty years, Congress has held upwards of five Congressional Hearings concerning the harvesting of human organs in China.¹² None of these actions have proven effective as China continues to expand its human harvesting industry.¹³

One unexplored option could be a powerful tool to stop American participation in the Chinese organ industry. The United States government could prosecute Americans who conspire with the Chinese organ industry, thereby discouraging the “demand” side of the industry.¹⁴ Federal statute 18 U.S.C. § 956 prohibits Americans from conspiring to maim or kill victims overseas.¹⁵ Americans conspiring with those involved in the Chinese organ industry have never been prosecuted, despite clearly violating this law.¹⁶ While federal prosecutions for homicide remain low,¹⁷ prosecutions for

10. Falun Gong Protection Act, H.R. 4132, 118th Cong. (2023).

11. S.B. 1040, 88th Leg., Reg. Sess. § 1380.003(a) (Tex. 2023); *see also* H.B. 670, 67th Leg., 2d Reg. Sess. (Idaho 2024); S.Res. 19, 118th Leg., Reg. Sess. (Pa. 2023).

12. *See, e.g., China: Illegal Trade in Human Body Parts: Hearing Before the S. Comm. on Foreign Relations*, 104th Cong. (1995) [hereinafter *China: Illegal Trade*]; *The Sale of Body Parts by the People's Republic of China: J. Hearing Before the H. Comm. On Gov't Reform and Oversight & H. Comm. on Int'l Relations*, 105th Cong. (1998); *Organs for Sale: China's Growing Trade and Ultimate Violation of Prisoners' Rights: Hearing Before the Subcomm. On Int'l Operations and Human Rights of the H. Comm. on Int'l Relations*, 107th Cong. (2001) [hereinafter *Organs for Sale Hearing*]; *Organ Harvesting of Religious and Political Dissidents by the Chinese Communist Party: Hearing Before the Subcomm. on Oversight and Investigations and the Subcomm. on Africa, Global Health, and Human Rights of the H. Comm. On Foreign Affairs*, 112th Cong. (2012) [hereinafter *Organ Harvesting of Dissidents Hearing*]; *Organ Harvesting: An Examination of A Brutal Practice: J. Hearing Before the Subcomm. on Africa, Global Health, Global Human Rights, and Int'l Org. and the Subcomm. on Europe, Eurasia, and Emerging Threats of the H. Comm. on Foreign Affairs*, 114th Cong. (2016) [hereinafter *Organ Harvesting: An Examination*]; *Stopping the Crime Hearing*, *supra* note 3.

13. Michael Nguyen, *Forced Organ Harvesting: A Decades-long Injustice in Need of International Accountability and Action*, SANTA CLARA MARKKULA CTR. FOR APPLIED ETHICS: ETHICS IN HEALTH CARE BLOG (May 2, 2024), <https://www.scu.edu/ethics/healthcare-ethics-blog/forced-organ-harvesting-a-decades-long-injustice-in-need-of-international-accountability-and-action/> [https://perma.cc/9VSX-RUJP].

14. *See* Jean-Philippe Duguay et al., *Trafficking in Human Organs: An Overview*, LIBR. OF PARLIAMENT: RSCH. PUBL'NS. (Jan. 24, 2025), https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/202083E [https://perma.cc/6HHU-F8XP].

15. 18 U.S.C. § 956.

16. *See infra* Part II–III.

17. Susan R. Klein & Ingrid B. Grobey, *Debunking Claims of Over-Federalization of Criminal Law*, 62 EMORY L.J. 1, 26–27 (2012) (“Homicide: In 1980, federal prosecutors commenced homicide cases against 180 defendants; in 2011, federal prosecutors commenced homicide charges against just 130 defendants. Note that there was a decrease in the number of prosecutions in spite of the fact that Congress enacted at least five new homicide statutes since 1980.”); *see also Fiscal Year 2021 Overview of Federal Criminal Cases*, U.S. SENTENCING COMM’N 11 (2022), <https://www.ussc.gov/sites/default/files/pdf/>

conspiracy to murder and maim overseas have occurred throughout the modern era, including as recently as 2024.¹⁸ Prosecuting Americans who participate in the Chinese organ industry offers a novel way to deter such conspiracies, especially since penalties include the possibility of life in prison.¹⁹

As 18 U.S.C. § 956 is a crime of conspiracy, it applies to all participants of the Chinese organ industry.²⁰ Americans are involved in every level of China's practice of harvesting humans. Americans train many Chinese transplant surgeons.²¹ Americans develop and sell some of the transplant equipment, medications, and technology to China.²² Americans provide platforms for China to advertise their two-week turnaround on organ orders.²³ Americans conspire with the killers to buy the organs of the murdered.²⁴

Some commentators have speculated that the United States prefers to avoid conflict with China by minimizing or ignoring the evidence of human harvesting, and naïvely accepting Chinese denials or promises of reform.²⁵ Others may believe that there is nothing that can be done to stop

research-and-publications/research-publications/2022/FY21_Overview_Federal_Criminal_Cases.pdf [https://perma.cc/54XL-L43Q].

18. United States v. Diaz-Diaz, 90 F.4th 335, 335–36 (5th Cir. 2024).

19. 18 U.S.C. § 956(a)(2) (1996) (“The punishment for an offense under subsection (a)(1) of this section is—(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and (B) imprisonment for not more than 35 years if the offense is conspiracy to maim.”).

20. See *infra* Part II.

21. See *infra* Part III.

22. See *infra* Part III.

23. See Adnan Sharif et al., *Organ Procurement From Executed Prisoners in China*, 14 AM. J. OF TRANSPLANTATION 2246, 2248 (2014) (“For example, verifiable cases of unusual, prescheduled heart transplants for transplant tourists 2 weeks ahead of time have been published . . .”) (citing Jacob Lavee, *The Impact of the Use of Organs from Executed Prisoners in China on the new Organ Transplant Law in Israel*, in STATE ORGANS: TRANSPLANT ABUSE IN CHINA 108–13 (David Matas & Torsten Trey eds., 2012)).

24. See e.g., DANIEL A. ROSE, LARRY’S KIDNEY: BEING THE TRUE STORY OF HOW I FOUND MYSELF IN CHINA WITH MY BLACK SHEEP COUSIN AND HIS MAIL-ORDER BRIDE, SKIRTING THE LAW TO GET HIM A TRANSPLANT—AND SAVE HIS LIFE (2010); Eric DeLeon, *Transplant Tales: To China and Back*, *BLOGGER*, https://newfilter.blogspot.com [https://perma.cc/27M7-RAQH] (last visited Jan. 10, 2025); *Anderson Cooper 360 Degrees: Keeping them Honest on the West Coast; War and Politics; Political Roundtable; Predicting an Earthquake; Ready for the Big Quake?; Organ Tourism; Jerry Brown Redux; Dispatches from Somalia* (CNN Television Broadcast June 15, 2006), https://transcripts.cnn.com/show/acd/date/2006-06-15/segment/02 [https://perma.cc/7Q8V-LVYJ] [hereinafter *Anderson Cooper 360 Degrees*].

25. Nina Shea et al., *China’s Forced Organ Harvesting Demands U.S. Response*, REALCLEAR POL. (Sept. 1, 2022), https://www.realclearpolitics.com/articles/2022/09/01/chinas_forced_organ_harvesting_demands_a_us_response_148131.html [https://perma.cc/8PFV-U3ZY];

To date, no U.S. administration has taken seriously the charges of China’s ongoing organ harvesting. In 2018, the State Department tried to close the

the killing of non-Americans living in another country.²⁶ Worldwide, entities such as the Transplantation Society and the World Health Organization (WHO) accept the denials of genocide and organ harvesting by the CCP.²⁷ Yet, in the face of evidence that the Chinese government's organ harvesting practices pervade the genocide of the Uyghur people, the United States government should, at a minimum, enforce its own laws against those who profit, participate, and conspire to kill and maim innocent victims. Prosecuting American violators of 18 U.S.C. § 956 who conspire to kill or maim victims in China for their organs would serve as a strong deterrent to continued American participation.²⁸

This Article first describes the history of human organ harvesting by the government of China. Next, this Article explains the federal crimes of conspiracy to kill, kidnap, maim, or injure persons or to damage property in a foreign country. Finally, this Article details which individuals should be immediately investigated under federal law.

I. HUMAN CROPS

The prisoner had not yet died, but instead lay convulsing on the ground. We were ordered to take him to the

book on the issue, declaring point blank that China's government "officially ended the long-standing practice of involuntarily harvesting the organs of executed prisoners for use in transplants in January 2015."

26. See generally H.R. Res. 343, 114th Cong. (2016) (enacted); Stop Forced Organ Harvesting Act of 2023, H.R. 1154, 118th Cong. (2023); Falun Gong Protection Act, H.R. 4132, 118th Cong. (2023). These are just a few examples of actions that have been taken in an effort to stop the Chinese organ trade, but that have yet to be successful as the issue is still continuing today.

27. See Sir Geoffrey Nice QC et al., *Independent Tribunal Into Forced Organ Harvesting from Prisoners of Conscience in China*, CHINA TRIBUNAL (Mar. 1, 2020), https://chinatribunal.com/wp-content/uploads/2019/06/China-Tribunal-SUMMARY-JUDGMENT_FINAL.pdf [<https://perma.cc/FJ6H-55TR>];

Yet the evidence with which this Tribunal has been presented, and in particular the mismatch between voluntary donors and transplants done, does not support their optimism that The PRC's unethical practices have ceased. Taking into account the absolute lack of credibility of The PRC's official transplant statistics as revealed by Robertson *et al*, it is very difficult to support the position of these two authorities who both make strong claims for the need for ethical practice in medicine. For example, In May 2010, the WHO adopted WHA63.22 on Human Tissue and Transplant at the 63rd World Health Assembly which condemned the purchasing of body parts and called for transplant and ethical systems in organ donation centres.

28. See *Developments in the Law: Criminal Conspiracy*, 72 HARV. L.R. 920, 925 (1959) ("In its deterrent function the law operates on the mechanism of choice, seeking to make the disadvantages of criminal activity appear to outweigh its advantages.").

ambulance anywhere [sic] where urologists extracted his kidneys quickly and precisely.²⁹

At a basic level, harvest includes equipment preparation, combining, storing and delivering grain and preparing for next year's spring planting.³⁰

Testimony on the Chinese organ harvesting industry describes a system that treats donors more as crops than as human beings: by some accounts, Chinese surgeons prepare the killing equipment, the Chinese military stores the victims in prisons and forced work camps, the victims are selected as the organ orders are received, and the victims are provided to the hospital where the surgeons reap the human harvest by killing the victim through organ removal and then transplant the organ into the recipient's body.³¹ Next year's spring planting will be harvested from those currently detained in brutal "re-education" camps across China.³²

Successful organ transplantation often requires that the donor and recipient share similar biological characteristics.³³ The closer the match, the more likely the organ will not be physically rejected by the recipient's body.³⁴ Successful transplantation also requires a fairly fresh organ—moving an organ from one live body to another increases the chance that

29. Anderson Cooper 360 Degrees, *supra* note 24.

30. Caitlyn Lamm, *What are the Steps of Harvesting?*, IOWA FARM BUREAU (Oct. 13, 2020), <https://www.iowafarmbureau.com/Article/What-are-the-steps-of-harvesting> [<https://perma.cc/6GR3-MAH9>].

31. See *Stopping the Crime Hearing*, *supra* note 3, at 31 (statement of Ethan Gutmann, adjunct fellow at the Foundation for the Defense of Democracies, China Stud. Rsch. Fellow, Victims of Communism Mem'l Found., and author of the book, *Losing the New China: A Story of American Commerce, Desire and Betrayal*, and author of *The Slaughter*). See Matthew P. Robertson & Jacob Lavee, *Execution by Organ Procurement: Breaching the Dead Donor Rule in China*, 22 AM. J. TRANSPLANTATION 1804 (2022).

32. See *Stopping the Crime Hearing*, *supra* note 3, at 31 (statement of Ethan Gutmann); Robertson & Lavee, *supra* note 31, at 1804; see also Sharif et al., *supra* note 23 ("The Laogai System (prison labor camps) offers a readily accessible supply of organs to meet demand, with greater potential for exploitation in military versus civilian hospitals due to greater military control over the Laogai System.").

33. Yanni Li et al., *The Impact of Donor and Recipient Genetic Variation on Outcomes After Solid Organ Transplantation: A Scoping Review and Future Perspectives*, 106 THE OFF. J. OF THE TRANSPLANTATION SOC'Y 1548, 1548–50 (2022), https://journals.lww.com/transplantjournal/fulltext/2022/08000/the_impact_of_donor_and_recipient_genetic.12.aspx [<https://perma.cc/MHE9-H6C8>].

34. *Kidney Transplants from Relatives and Friends*, NAT'L KIDNEY FED'N, <https://www.kidney.org.uk/kidney-transplants-from-relatives-and-friends> [<https://perma.cc/LR46-QKVT>] (last visited July 22, 2025) ("A living related transplant is 'better' than a deceased donor transplant in that it is more likely to work.").

the organ will remain vital.³⁵ Family members and others with similar characteristics often donate one of their two kidneys to another,³⁶ allowing both the donor and the recipient to continue to live. However, other organs, such as hearts, require a deceased donor.³⁷

In the United States, transplant waiting lists take into account criteria concerning the health and suitability of the recipient, and deteriorating health can result in removal from the list altogether.³⁸ Additionally, some organs are more plentiful in certain countries than in others. In America, “[d]onor hearts are in short supply. Some individuals die while waiting for a suitable donor heart.”³⁹ In contrast, certain observers of the Chinese system have noted that anyone with enough cash can receive a compatible heart within two weeks of placing the order with doctors in China because the “donors” are killed to order.⁴⁰

35. *Benefits and Risks of Living-Donor Kidney Transplant*, UNIV. PITT. MED. CTR., <https://www.upmc.com/services/transplant/kidney-pancreas/living-donor/benefits-risks> [https://perma.cc/D9E8-KKKZ]:

Improved long-term outcomes for kidney transplant recipients: Compared to deceased-donor transplants, recipients of living-donor kidneys have better outcomes because surgeons transplant the kidney immediately after removing it from the donor. This improves the chances that the transplanted organ will function right away. A kidney from a deceased-donor may need to be stored for many hours before it can be transplanted, and it may take a few days to function properly. A kidney from a living donor helps to ensure that the transplanted organ will be of better quality, and therefore more likely will reduce the risk of kidney transplant failure.

36. *Living-Donor Transplant*, MAYO CLINIC (Mar. 8, 2024), <https://www.mayoclinic.org/tests-procedures/living-donor-transplant/about/pac-20384787> [https://perma.cc/D9A7-R5JN] (“More than 5,700 living-organ donations are reported each year in the United States. Living-kidney donation is the most common type of living-donor transplant. Individuals can donate one of their two kidneys. The remaining kidney is able to perform necessary functions.”).

37. *Heart Donation*, DONATE LIFE AM., <https://donatelife.net/donation/organs/heart-donation/> [https://perma.cc/K9D9-MP8W] (last visited July 19, 2025) (“A heart transplant requires a heart donation from an individual who is declared brain dead and on a ventilator.”).

38. Rosamond Rhodes & Thomas Schiano, *Transplant Tourism in China: A Tale of Two Transplants*, 10 AM. J. OF BIOETHICS 2, 5 (2010), <https://pubmed.ncbi.nlm.nih.gov/20131159/> [https://perma.cc/6F57-T7JJ].

39. *Programs Operations Manual System: DI 23022.082 Adult Heart Transplant Wait List – Status Levels 1-4*, SOC. SEC. ADMIN. (Aug. 12, 2024), <https://secure.ssa.gov/apps10/poms.nsf/lnx/0423022082> [https://perma.cc/GTE3-QG34].

40. Matthew P. Robertson & Jacob Lavee, *Execution by Organ Procurement: Breaching the Dead Donor Rule in China*, 22 AM. J. TRANSPLANTATION 1804, 1805, 1808 (2022) (“PRC hospitals continue to advertise transplant waiting times of weeks, whereas wait times in the United States are measured in months and years.”); Sharif et al., *supra* note 23; Dina Cirigliano, *An Intercontinental Criminological Focus: The Killing and Forced Organ Harvesting of China’s Falun Gong for the Profitable Purpose of Transplant Tourism*, 19 J. FORENSIC SCIS. & CRIM. INVESTIGATION 1, 3 (2025); *Organ Harvesting: An Examination*, *supra* note 12 (“So and what we see in China is sometimes transplantation is

The reaping of organs from individuals killed by the Chinese government has been widely reported throughout the world since the 1980s without any lasting adverse political or economic consequences.⁴¹ In fact, “the international community appears to have largely accepted China’s leading role in transplant medicine without questioning how China, with virtually no voluntary organ donation program over the past 25 years, could source the volume of organs needed to perform so many transplant surgeries.”⁴² This Article summarizes the manner in which China has “diversified” its human crops to both counter international criticism as well as meet the ever-increasing demand.

A. Prisoners

First they came for the prisoners,⁴³ specifically the ones executed for their crimes.

First, there was a cut from the back to extract the kidneys. Dr. Chen from the surgical department also took out the eyeballs and a piece of skin from the dead prisoner’s abdomen. The orthopedist cut out one section of the bone from the lower leg. All the extracted organs were placed in a special kind of liquid to maintain the freshness.

Then they rushed back to the hospital. In the hospital, two patients were lying on the operating table waiting for the transplants. When the ambulance arrived, the kidneys were

scheduled on demand of the patient, short waiting times, so that—we do not have patients waiting for organs very often but rather organs waiting for patients, which means, especially in the case of vital organs, that people are being killed for their organs.”).

41. See generally *Special Report: Forced Organ Harvesting From Living People in China*, DRS. AGAINST FORCED ORGAN HARVESTING 1, 25 (2024), <https://dafoh.org/wp-content/uploads/sites/3/2024/04/dafoh-special-report-04252024.pdf> [<https://perma.cc/2WC9-S99S>]. This article indicates that other countries have been aware of and appear to have accepted China’s practices, however, have not questioned where China obtains the high volume of organs needed to conduct such practices. China’s practices were not questioned by these other countries, thus lending support to the idea that China has faced little to no negative consequences as a result of its organ transplantation practices.

42. *Id.*

43. Martin Niemöller, *First They Came*, HOLOCAUST MEM’L DAY TR. (Jan. 6, 1946), <https://hmd.org.uk/resource/first-they-came-by-pastor-martin-niemoller/> [<https://perma.cc/P8SW-L359>]. The behavior of the Chinese Community Party eerily echoes the powerful Holocaust poem of Pastor Martin Niemöller, *First They Came*. The identities of the murderers and the murdered have changed during the past century, but the crime has taken on a sickening new aspect: genocide for profit.

placed into the patients' bodies. All the other organs were only for laboratory experiments.⁴⁴

This eyewitness account describes the early days of the Chinese government organ industry.⁴⁵ The number of executions vastly increased through the 1980s, resulting from the expansion of capital crimes in China beginning in 1979 and 1982,⁴⁶ medical advances in organ acceptance by the recipient,⁴⁷ and laws passed to facilitate organ harvesting from prisoners.⁴⁸

44. Brian Ross et al., *Primetime Live: Blood Money*, ABC NEWS (Oct. 15, 1997, 11:49 AM), https://abcnews.go.com/images/International/PTL_Blood_Money971015.pdf [<https://perma.cc/F4AA-L8Z8>] ("A Chinese doctor, Zhou Wei Cheng, who now lives in Atlanta, told us what happens once the prisoners are dead, based on what he saw at his hospital just before he fled China in 1994.").

45. *Id.*

46. See Zhenjie Zhou, *The Death Penalty in China: Reforms and Its Future*, 早稲田大学高等研究所紀要 [WASEDA INST. ADVANCED STUD. BULL.] 31, 32 (2022), https://www.waseda.jp/inst/wias/assets/uploads/2022/04/RB004_031-044.pdf [<https://perma.cc/4LJ7-PBDE>];

In order to lay down legal foundation for these strike hard campaigns, legislature adopted more than 10 special criminal laws and more supplementary criminal provisions in economic and administrative laws between 1982 and 1995, and thereby added 33 capital offences. That is to say, the total number of capital offences had reached 71 by the year of 1997, when the 1979 Criminal Law was thoroughly amended.

See also *id.* at 40; Allison K. Owens, *Death Row Inmates or Organ Donors: China's Source of Body Organs for Medical Transplantation*, 5 IND. INT'L & COMP. L. REV. 465, 499 (1995):

As a result of legislative changes promulgated by the government since 1982, there are two and a halftimes as many criminal offenses punishable by the death penalty and almost three times as many articles of law stipulating capital punishment as there were prior to the introduction of the criminal law in 1979.

47. Owens, *supra* note 46, at 498:

Cyclosporine A, an immunosuppressive agent which inhibits the body's natural tendency to reject foreign body tissue, was introduced into China in the mid-1980's by the Swiss company Sandoz. The drug raised the first year survival rate for recipients of kidney transplants from fifty to eighty percent. By 1991, the survival rate rose to more than ninety percent. In addition to raising the transplantation program's success rate, Cyclosporine A also introduced a major financial element into the organ transplantation process. The drug's high price created, not only a need to cut costs, but also, an incentive to provide organ transplants for high-paying foreign customers as a way of subsidizing wider domestic availability.

See also Lena H. Sun, *China's Executed Convicts Donate Organs Unwittingly*, WASH. POST (Mar. 26, 1994), <https://www.washingtonpost.com/archive/politics/1994/03/27/chinas-executed-convicts-donate-organs-unwittingly/9363193b-db77-4584-aa43-53eceb4b7d8/> [<https://perma.cc/K6CX-2UMF>] (Such medical advances were incorporated into the

From early on, China promulgated best practices and worked to improve the success of transplanting organs of the executed,⁴⁹ seemingly without expecting moral or political opposition⁵⁰:

A 1982 article in the medical publication *China Journal of Organ Transplantation* suggests that experimental work conducted then used livers from executed prisoners. “What should be stressed here is that our donors were by no means ‘brain dead’⁵¹; rather, they were all people who had died from severe, open-style cranial injury”⁵²

executions in order to preserve the organs for transplantation: “It is common, according to a former judicial employee, for prisoners to receive an injection of an anti-coagulant hours before death to facilitate transplants.”).

48. Owens, *supra* note 46 (“A directive issued jointly on October 9, 1984, by the Supreme People’s Court, Supreme People’s Procuracy, Ministry of Public Security, Ministry of Justice, Ministry of Health and Ministry of Civil Affairs, provides three ways in which organs may be removed from prisoners.”).

49. Beijing has had a long-standing ambition to make its transplant industry number one in the world, in terms of transplant volume, quality, and medical outcome. See David Kilgour, Ethan Gutmann & David Matas, *Bloody Harvest/ The Slaughter: An Update*, End Transplant Abuse (June 22, 2016) https://endtransplantabuse.org/wp-content/uploads/2017/05/Bloody_Harvest-The_Slaughter-2016-Update-V3-and-Addendum-20170430.pdf [<https://perma.cc/MF8N-3X8Z>] (revised Apr. 30, 2017).

50. Didi Kirsten Tatlow, *China Bends Vow on Using Prisoners’ Organs for Transplants*, N.Y. TIMES (Nov. 16, 2015), <https://archive.nytimes.com/www.nytimes.com/2015/11/17/world/asia/china-bends-vow-using-prisoners-organs-for-transplants.html> [<https://perma.cc/L7ML-ZVZR>]. To assuage growing concerns of unethical organ harvesting, the former deputy health minister of China, Huang Jiefu, announced that by January 1, 2015, China would stop using prisoners’ organs for transplants: “[t]he only source will be organs from dead citizens who have voluntarily donated.” *Id.* In what has been labelled an “administrative trick,” prisoner donations were reported to be merely reclassified as citizen donations, permitting organs to be sourced from even death-row inmates despite Dr. Huang’s representations. *Id.* The Author believes this reclassification was intended to neutralize any moral or political opposition to prisoner organ harvesting through calculated messaging. Indeed, Dr. Huang’s misleading statement has been lauded by some as “the final step toward an ethical and sustainable organ donation system” and “a historic shift.” Shaofa Wang & Xiaoping Chen, *Development of organ transplantation in China and organ donation*, 10 ONCOLOGY & TRANSLATIONAL MED. 257, 259 (2024). The Author suspects that moral opposition was unexpected by the Chinese government given that many mitigating ethical developments, such as Dr. Huang’s statement and the 2007 passage of the first formal Chinese regulation to standardize the organ harvesting industry, occurred years after industry’s the rapid growth and development. *Id.* at 258–59.

51. Rhodes & Schiano, *supra* note 38 at 7:

[L]ike most other Asian countries, China has no “brain death” law. For that reason, almost all organ transplants in most Asian countries come from living donors. Yet, in the PRC, approximately 95% of liver transplants come from deceased donors. In 2005, approximately 3,500 liver transplants were performed in China. The country now has about 10 well established centers that perform the vast majority of the liver transplants. There are also more

As transplant medicine became more successful throughout the 1980s, China advanced from providing organs to Communist Party officials to selling such organs to wealthy foreigners.⁵³ Known by the deceitfully benign nickname “transplant tourism,”⁵⁴ increasing numbers of Americans and wealthy individuals from other nations travel to China to purchase replacement organs.⁵⁵

The communist Chinese government has long shielded its human harvesting behind governmental secrecy.⁵⁶ A description from an official Chinese governmental document entitled *Temporary Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Criminals*, Oct. 9, 1984 states:

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 unit.

than 200 additional centers with developing programs that perform a small number of liver transplants. The official reported survival in Chinese programs is close to the reported survival in the United States, 85% for one-year survival and 70% for 5-year survival. The obvious implication of these data is that approximately 3,325 transplanted livers come from executed prisoners in the PRC. On its face, this looks like a tremendously high number of executed prisoners.

52. Sun, *supra* note 47.

53. Adrienne Thompson, *China's Illegal Organ Trade: From Executed Prisoners to Organ Tourism to Falun Gong*, 1 W. VA. U. HIST. REV. 53, 54–55 (2020).

54. *See id.* at 55:

By utilizing organs from executed prisoners, organ tourism became an extremely profitable business for Chinese hospitals; a vast majority of medical centers in China reported that their main sources of revenue came solely from their adjourning transplant units. According to the China International Transplantation Network Assistance Centre website, organs were advertised to patients by their monetary value: \$30,000 for a single cornea, \$30,000 to \$62,000 for a kidney, \$98,000 to \$130,000 for a liver, \$130,000 to \$160,000 for a heart, \$150,000 for a pancreas, and \$150,000 to \$170,000 for a lung. Their original prices have been maintained and upheld far into the twenty-first century. In 2001, a group of seven foreign patients who traveled to China together for unspecified transplants were each asked to bring around \$26,000 for their surgeries. Another patient disclosed that they paid \$27,000 for their kidney transplant at the Economic and Technical Development Hospital in Guangzhou in 2004; the following year, a patient from Taiwan paid an increased amount of \$29,000 at the Guangdong Province Border Patrol Armed Police Central Hospital in Shenzhen for the same procedure.

55. Thomas D. Schiano & Rosamond Rhodes, *The Dilemma and Reality of Transplant Tourism: An Ethical Perspective for Liver Transplant Programs*, 16 LIVER TRANSPLANTATION 113, 114 (2010).

56. *See* Owens, *supra* note 46.

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 for organ removal is going on.⁵⁷

Unmarked vans and camouflaged doctors hiding in plain view assisted in shielding the organ harvesting from the world press.⁵⁸ Despite the focus on secrecy, news of forced organ transplants leaked out through a variety of means including journalists, eyewitnesses, and political asylum seekers.⁵⁹

Prisoners do not have the autonomy to consent to organ donation, thus, any perceived “consent” should be questioned. Stung by international criticism⁶⁰ of forced organ “donations,” the Chinese government simply reclassified its procedures in order to plausibly claim that organ donations were “voluntary.”

Harry Wu's research [shows that] [h]arvesting criminals began in the 1980s. By the early 1990s it had become systemic, a practice involving organ donation consent forms and mobile organ harvesting vans at execution sites. These donors were criminals. Whether or not the criminals signed the [“donation”] forms under duress, they had been convicted of capital crimes under Chinese law.⁶¹

57. *Id.* at 496–97 (quoting *Temporary Rules Concerning the Utilization of Corpses or Organs from the Corpses of Executed Criminals*, (Oct. 9, 1984), reprinted in *China: Organ Procurement and Judicial Execution in China*, 6 HUM. RIGHTS WATCH/ASIA APP. 36 (1994)).

58. See ETHAN GUTMANN, *THE SLAUGHTER: MASS KILLINGS, ORGAN HARVESTING, AND CHINA'S SECRET SOLUTION TO ITS DISSIDENT PROBLEM*, 1 (2014) (describing the vans used as “clean, white, with smoked glass windows, and prominent red crosses on the side”); *China Organ Harvesting*, 157 CONG. REC. 19269 (2011), <https://www.govinfo.gov/content/pkg/CRECB-2011-pt14/html/CRECB-2011-pt14-Pg19268-3.htm>, [<https://perma.cc/L87X-5KEP>] (citing to Ethan Gutmann, *The Xinjiang Procedure*, WEEKLY STANDARD (Dec. 5, 2011)) (saying the same); see also TRT World, *Enver Tohti: I Was Forced To Harvest Organs in Xinjiang | The InnerView*, YouTube (Apr. 23, 2023), <https://www.youtube.com/watch?v=Oam5kAU1kc4> [<https://perma.cc/C52T-6JVQ>] (interview with Dr. Tohti describes taking a hospital ambulance to the field).

59. See Thompson, *supra* note 53, at 55 (“Despite China's growing position as an organ epicenter for foreign patients, Chinese health officials continued to harvest organs from prisoners in extreme secrecy, which eventually piqued the attention of global ethical and medical organizations.”).

60. *Id.*

61. *Organ Harvesting of Dissidents Hearing*, *supra* note 12 (statement of Ethan Gutmann).

As the market developed and transplant successes increased, the Chinese government's execution techniques were adapted.⁶² The manner in which the person was killed depended on the type of organ requested.⁶³

In 1994, a Washington Post article described that the method of execution catered to the specific organ requested by the buyer.⁶⁴ "If they want the [corneas] they shoot in the chest. If they want the internal organs, they shoot in the head," said the official, who has been present at two executions where organs have been removed.⁶⁵ Unlike the due process requirements for capital punishment in the United States, these Chinese execution procedures were designed to facilitate organ harvesting, not to reduce unnecessary pain.⁶⁶

In 1995, the United States Congressional Committee on Foreign Relations opened a hearing by describing the process of the Chinese government killing to order:

[A]nybody in this world needing an organ transplant can today catch a plane and go to Mainland China, present \$30,000 in cash, U.S. money, and receive a new organ within hours. The Chinese Public Security Bureau measures the blood type and other physical information about prisoners on their death row. They can do that at any prison. And the prisoner best fitted for the customer is scheduled for a quick execution.⁶⁷

In 2001, Congress heard testimony from a former Communist Party doctor, who described his horror at having to remove organs from a still-living victim.⁶⁸

62. See generally Yanhong Guo, *The "Chinese Mode" of Organ Donation and Transplantation: Moving Towards the Center Stage of the World*, 7 HEPATOBIILIARY SURGERY AND NUTRITION 1 (Feb. 6, 2008).

63. See Robertson & Lavee, *supra* note 31, at 1808.

64. Sun, *supra* note 47.

65. *Id.*

66. See *Glossip v. Gross*, 576 U.S. 863, 864, 867 (2015) (on the issue of reducing unnecessary pain during executions in the United States under the 8th Amendment); see also Sun, *supra* note 47; see also Robertson & Lavee, *supra* note 31, at 1808.

67. *China: Illegal Trade*.

68. See *Organs for Sale Hearing*, *supra* note 12 (statement of Wang Guoqi, former doctor at the Chinese People's Liberation Army Hospital):

At the site the execution commander gave the order, "Go," and the prisoner was shot to the ground. Either because the executioner was nervous, aimed poorly or intentionally misfired to keep the organs intact, the prisoner had not yet died, but instead lay convulsing on the ground. We were ordered to take him to the ambulance anyway where urologists Wang Shifu, Zhao Qingling and Liu Qiyu extracted his kidneys quickly and precisely. When they finished, the prisoner was still breathing, and his heart continued to beat. The execution commander asked if they might fire a second shot to finish him off,

In 2006, journalist Anderson Cooper featured a story on organ transplants in China that revealed a grisly aspect of the Chinese organ crops: death by organ removal.⁶⁹ “Those organs may be surgically cut from an executed death row prisoner without consent. Even worse, to keep the organ as fresh as possible, some organs have allegedly been removed before the prisoner even took a last breath.”⁷⁰ Instead of executing first and then removing the organs, in some instances organ removal itself is the method of execution.⁷¹

In addition to harvesting from live patients, the report by Anderson Cooper indicated that the Chinese government was expanding its list of crimes in order to provide organs for reaping.⁷² “Critics say some prisoners in China, both men and women, are actually executed for petty crimes, such as tax fraud, embezzlement and bribery. The practice provides an endless supply of organs for needy foreigners willing to pay top dollar.”⁷³ This scheme falsely indicated to customers that the victim was going to be killed whether or not the order was placed.⁷⁴

to which the county court staff replied, “Save that shot. With both kidneys out, there is no way he can survive.” The urologists rushed back to the hospital with the kidneys. The county staff and executioner left the scene, and eventually the paramilitary policemen disappeared as well. We burn surgeons remained inside the ambulance to harvest the skin.

69. *Anderson Cooper 360 Degrees*, *supra* note 24. See *Organs for Sale Hearing*, *supra* note 12.

70. *Id.*

71. See generally *Organs for Sale Hearing*, *supra* note 12 (Prepared statement of Thomas Diflo, M.D., Renal transplant Program Director, New York University Medical Center):

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

See also Robertson & Lavee, *supra* note 31, at 1804.

72. See *Anderson Cooper 360 Degrees*, *supra* note 24.

73. *Id.*

74. See *Special Report: Forced Organ Harvesting From Living People in China*, *supra* note 41, at 26:

China has attempted to export this use of propaganda to prevent those beyond its border from taking action to stop forced organ harvesting. We, as free-thinking people not living under the iron fist of a communist regime, have a choice of whether to accept or reject the fallacies given by the CCP. This choice amounts to either choosing to be willfully blind or choosing to open our eyes and see China’s transplant industry for what it is: a state-organized,

As international criticism grew, China claimed to have consent of those killed, maintaining that organ donations by convicted criminals were done so voluntarily.⁷⁵ “Executed prisoners can voluntarily donate organs. Given the willingness of death row prisoners to donate organs, once entered into our unified allocation system they are counted as voluntary citizens—the so called death row organ donation doesn’t exist any longer.”⁷⁶ Yet these claims were demonstrably false,⁷⁷ and even the Chinese government eventually tacitly admitted as such.

After decades of denial, a Chinese medical professional finally admitted that the organs of executed prisoners had been harvested without

industrial-scale transplant market of mass murder through forced organ harvesting of living prisoners of conscience.

See Organs for Sale Hearing, supra note 12, at 7, 26 (Statement of Ileana Ros-Lehtinen, a Representative in Congress from the State of Florida, and Chairwoman, Subcommittee on International Operations and Human Right):

Unfortunately, the evidence gathered throughout the last two decades clearly shows that China's Communist regime is not just looking at traditional sectors of the economy to generate income for its military expansionist policies. It has found a lucrative industry in the field of organ transplantation which not only yields great financial rewards, but provides the regime with a powerful tool to coerce and intimidate the population into submission. . . . The Department of State is also aware of reports, which it cannot independently confirm, of other even more egregious practices, such as removing organs from still living prisoners and scheduling executions to accommodate the need for a particular organ. I have to tell you that that is the thing that is absolutely the most revolting act as I prepared for this hearing.

Id. at 36 (Statement of Benjamin A. Gilman, a Representative in Congress from the State of New York, and Chairman, Committee on International Relations):

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

75. Torsten Trey et al., *Transplant Medicine in China: Need for Transparency and International Scrutiny Remains*, 16 AM. J. TRANSPLANTATION 3115, 3116 (2016).

76. Sharif et al., supra note 23, at 2248.

77. See *Special Report: Forced Organ Harvesting From Living People in China*, supra note 41, at 21:

Witnesses have reported that detained Falun Gong practitioners were given the choice to either sign a form to ‘voluntarily donate’ their organs and have a painless death, or be brutally tortured to death. This illustrates how deceptive a so-called organ donor program can be in a totalitarian country, and how crimes against humanity can be camouflaged from the outside world.

consent.⁷⁸ The Chinese government admitted to the prisoner-to-organ-harvesting pipeline:

The accusations of forced organ extraction were “ridiculous,” Huang Jiefu, a former deputy health minister who is in charge of overhauling China’s organ donation system, said in a speech. The Chinese government says that it switched from a system dependent on executed prisoners to one based on voluntary, nonprisoner donations on Jan. 1, 2015.⁷⁹

Instead of exonerating the Chinese government, this denial served as a confession that, prior to 2015, organs of executed prisoners were harvested without consent.⁸⁰

China did not respond to criticism of its human harvest by eliminating the sale of organs or by ceasing the killings. Instead, the Chinese government responded to criticism by redefining words:

Huang [Director of the China Organ Donation Committee and former Vice-Minister of Health] seems to have re-invented the definition of prisoner organs. According to his definition, only organs sourced from prisoners in the “traditional way” (i.e. harvested without consent but through informal arrangement between hospital and local courts) are considered prisoner organs. If “consent” is provided, he classifies these organs as voluntary donations from citizens.⁸¹

78. Didi Kristen Tatlow, *Angry Claims and Furious Denials Over Organ Transplants in China*, N.Y. TIMES (Aug. 24, 2016), <https://www.nytimes.com/2016/08/25/world/asia/china-organ-transplants.html> [<https://perma.cc/WD7B-XS2Q>]; Allison C. Kirk et al., *Historical Development and Current Status of Organ Procurement from Death Row Prisoners in China*, 16 BMC MED. ETHICS 1, 2 (2015):

Organ harvesting from executed prisoners in China was based on informal arrangements between hospitals and the local courts that supervise the penal system. For decades, organs from executed prisoners were simply taken without consent. After the regulations of 1984 and 2007, written consent was officially required. However, this rule was largely ignored. In 2013, a Chinese medical official admitted that “previously, authorities used executed criminals’ organs without their consent, while permission has been required in recent years.”

79. Tatlow, *supra* note 78.

80. See Thompson, *supra* note 53, at 55.

81. Kirk et al., *supra* note 78, at 3; see also *Interview by Doctors Against Forced Organ Harvesting with Arne Schwarz*, INT’L COAL. TO END TRANSPLANT ABUSE IN CHINA

Journalists covering such announcements by Huang voice skepticism: “Huang’s announcements aim mostly at silencing or appeasing the international criticism while leaving a backdoor to slip through on the organ harvesting from prisoners.”⁸² In addition to changing the meaning of the term “executed prisoner” to “voluntary donor,” the Chinese government also redefined the word “consent.” Historically, prisoners “consented” to organ donation after being tied to a chair, with ropes around their necks to prevent speech, and helplessly having their fingerprint inked and pressed on a “consent” form the night before the execution.⁸³

(May 12, 2015) [hereinafter *Doctors Against Forced Organ Harvesting*], <https://endtransplantabuse.org/interview-arne-schwarz/> [https://perma.cc/4JQU-F3BP]:

Huang has deceived the public for 15 years, again and again. Why should we trust him now? Huang also claimed that China now complies with the World Health Organization’s, (WHO), guiding principles for organ transplantation. But, this claim is also deceptive. The WHO guidelines demand that organ donation and transplantation must be transparent and open to scrutiny. The Chinese transplant system is not yet transparent or open to critical observation. We should not trust Huang Jiefu now, but like the other international transplant systems, demand that the Chinese transplant system be made transparent and open to scrutiny before granting cooperation.

82. *Doctors Against Forced Organ Harvesting*, *supra* note 81 (“Huang Jiefu is very well informed about the level of international criticism over the unethical Chinese transplant system, largely due to his friendship with U.S. transplant surgeons Francis Delmonico, Michel Millis, and others.”).

83. *Organ Procurement and Judicial Execution in China*, 6 HUM. RTS. WATCH 1, 15, 27 (1994):

Each prisoner would be placed in a chair and have his or her wrists bound tightly to its arms with rope; another rope would then be tied around the prisoner’s waist while the feet remained in shackles. The judge responsible for announcing the court’s final rejection of the prisoner’s appeal against execution would then enter the room, read the final death warrant aloud to the prisoner and request that he or she sign their name to the document. Since the wrists remained tied to the chair, this was often a difficult feat. Should the prisoner prove unwilling to sign, the judge would forcibly press his or her finger on to an ink pad and stamp a fingerprint on the sentencing document. The judge would then depart, and the prisoner—as a “security precaution” against attempted escape or suicide—would remain bound to the chair for the rest of the night. . . . At dawn, each prisoner would be untied from the chair, then placed (still in fetters) on the back of an open lorry, an armed guard to either side, and driven slowly to the execution ground. A thin rope tied around the prisoner’s neck would be gripped tightly by one of the guards throughout the journey. . . . Through a numbers [sic] of urgent directives issued over the past decade demanding increased security at China’s execution grounds, the government has sought to ensure no evidence of these gruesome abuses will ever reach the outside world.

China appears to deceitfully render all organ “donations” voluntary,⁸⁴ while continuing to kill to fill the orders placed by the wealthy.⁸⁵ “Considering the many lies, delusions, semantic tricks and unfulfilled announcements in the past 30 years of organ transplantation in China, it would not be optimistic, but naïve to believe things will change without scrutiny and transparency.”⁸⁶ The United States government appears to accept the narrative of the Chinese government, perhaps in order to maintain friendly diplomatic relationships or trade deals:

The CCP’s [Chinese Community Party’s] tactics of bullying and mockery have pushed us to self-censorship and silence. It has intimidated us into curtailing our own free expression. The CCP has conditioned the Western populace to remain silent and withhold criticism against the CCP or face a barrage of scathing attacks, bullying and

84. See *Doctors Against Forced Organ Harvesting*, *supra* note 81:

For more than 20 years there were no “announcements” at all. But, all allegations of unethical organ harvesting had been flatly denied by China, although basically tens of thousands of transplanted organs have been harvested from prisoners. This eventually had to be admitted by the government. Then, in 2005, China announced a transplant law to regulate organ transplantation. But this law still allowed organ harvesting from prisoners and the practice continued. In 2009 a pilot project for voluntary organ donations was announced, but organ harvesting from prisoners continued. In 2013 new regulations were announced, but again, they excluded organ harvesting from prisoners and the practice went on unabated. In November 2013, the end of organ harvesting from prisoners was announced and set for June 2014. In March 2014 this announcement was revoked and an integration of prisoners’ organs into a system meant for citizen’s voluntary organ donations was announced instead. After heavy international criticism, in December 2014, the end of organ harvesting from prisoners by Jan 1, 2015 was announced. But still, in 2015 it was claimed that prisoners would now have a “right to donate their organs voluntarily.”

There is no confirmed evidence that China gets informed consent other than when they coerce families into signing donations, which is still considered involuntary under U.S. law. See Jillian Proshan, *Uncovering Evil: Illegal Organ Harvesting in China and the 2025 “Stop Forced Organ Harvesting Act”*, MCCAIN INST. (Aug. 7, 2025), <https://www.mccaininstitute.org/resources/blog/uncovering-evil-illegal-organ-harvesting-in-china-and-the-2025-stop-forced-organ-harvesting-act/> [<https://perma.cc/E5S9-CL5F>].

85. See Am. Pub. Health Ass’n, *Building a Public Health Response to Organ Transplant Abuse in China*, APHA: POLICY BRIEFS (Oct. 23, 2020), <https://www.apha.org/policy-and-advocacy/public-health-policy-briefs/policy-database/2021/01/13/building-a-public-health-response-to-organ-transplant-abuse-in-china> [<https://perma.cc/LDB7-WCVW>] (“While organ transplants around the world are conducted only as donors become available, in China even vital organs can be made available as needed. One hospital claimed to have ‘donors seeking matched recipients.’ Transplants in China are characterized by short waiting times, surgeries scheduled ahead of time, and procurement from living organ sources.”).

86. *Doctors Against Forced Organ Harvesting*, *supra* note 81.

termination of benefits. We have quietly agreed to censor ourselves on an individual level as well as on an institutional and professional level. Media has also succumbed to CCP pressure under threat of exclusion from events like the Olympic Games or medical conferences in China.⁸⁷

While such acceptance directly involves the United States in these killings, many have justified them as lawful executions in China, making the consent of the executed an unresolved ethical issue.⁸⁸ Such justification laid the foundation for the current genocide⁸⁹ by lulling Americans and American companies into involvement with the Chinese organ industry.⁹⁰ Objectors were drowned out by financial motivations among others.⁹¹ “At what point does our treatment of China as a normal country become complicity [in the forced organ harvesting]?”⁹² asked journalist and lawyer Wesley J. Smith in 2024.

As the extremely lucrative organ industry became even more profitable and well-known, the demand for “donors” soon developed into a

87. *Special Report: Forced Organ Harvesting From Living People in China*, *supra* note 41, at 26.

88. See Frances Delmonico et al., *Open Letter to Xi Jinping, President of the People's Republic of China: China's Fight Against Corruption in Organ Transplantation*, 97 *TRANSPLANTATION* 795, 795 (2014) (“Some Chinese officials contend that prisoners give ‘consent’ before their execution. It is obvious, however, that prison inmates condemned to death are not truly free to make an autonomous and informed consent for organ donation and that no legal due process exists to assure consent.”).

89. See *Special Report: Forced Organ Harvesting From Living People in China*, *supra* note 41, at 49:

After 1999, the practice of harvesting organs from convicted and executed prisoners was extended and applied to prisoners of conscience. Instead of torturing them to death, the killing of Falun Gong practitioners for their organs was not only an efficient way to annihilate this group of peaceful citizens, but also offered significant financial gains for the government. The profitable nature of forced organ harvesting is important for remotely “recruiting” doctors across the country and bribing their participation.

90. See Pavel Porubiak & Lukas Kudlacek, *The Economics of Organ Harvesting In China: The Part of Companies and Doctors in Democratic Countries In the Illegal Organ Harvesting in China*, INST. TO RSCH. THE CRIMES OF COMMUNISM 1, 28–53 (Dec. 2019), <https://theircdotorg.wordpress.com/wp-content/uploads/2019/12/the-economics-of-organ-harvesting-in-china-ircc-2019-1.pdf> [<https://perma.cc/5NZF-WD7W>].

91. See generally Jacob A. Akoh, *Key Issues in Transplant Tourism*, 2 *WORLD J. TRANSPLANTATION* 9, 11 (2012).

92. Wesley J. Smith, *Falun Gong Member Whose Organs Were Harvested Proves China's Guilt*, NAT'L REV.: THE CORNER (Sept. 11, 2024, 3:24 PM), https://www.nationalreview.com/corner/falun-gong-member-whose-organs-were-harvested-proves-chinas-guilt/?utm_source=recirc-desktop&utm_medium=homepage&utm_campaign=right-rail&utm_content=corner&utm_term=third [<https://perma.cc/3WJ2-L3FJ>].

call for healthier, non-prisoner bodies.⁹³ The Chinese communist government located a source that served a dual purpose: eliminating political opposition domestically, while also reaping a healthier organ crop for exportation.⁹⁴ The harvesters moved to reap the Falun Gong.⁹⁵

B. Falun Gong

Next, they came for the Falun Gong:

Chinese doctors and health professionals were systematically screening all detained Falun Gong members in order to match them with sick patients seeking biologically compatible organs.⁹⁶

While not well-known or easily recognizable in the United States, the Falun Gong⁹⁷ religion became popular in China in 1992. “Falun Gong surged in popularity nationwide before it was banned and brutally

93. *See infra* Part I.B–C.

94. Cirigliano, *supra* note 40, at 2:

Any group that outnumbers the CCP is seen as a threat, and with the commands of several top officials, China banned the practice of Falun Gong, labeling it an unregistered religion, deeming it a cult, and propagandizing against it in a very harsh manner. Despite this, the Falun Gong wanted to continue their practices, standing firmly against governmental control, becoming known for their opposition to the CCP. Falun Gong who “continued to practice were arrested and offered a chance to rebuke it and if not, they were detained and tortured in labor camps.” For the reason of lack of compliance to the demands of the CCP, the Falun Gong were specifically chosen, once imprisoned, to experience the most horrific of fates. That is the fate of forced, fatal organ harvesting.

(quoting RED REIGN: THE BLOODY HARVEST OF CHINA’S PRISONERS (Cinema Libre Studios 2013)).

95. *See* GUTMANN, *supra* note 58 (“That the organ harvesting of prisoners of conscience did not begin with Falun Gong but evolved organically from the practice of criminal executions and organ harvesting in China.”).

96. Thompson, *supra* note 53, at 62.

97. *See Stopping the Crime of Organ Harvesting*, *supra* note 3 (statement of Lebin Ding, Falun Gong Practitioner & Human Rights Activist):

Falun Gong (also called “Falun Dafa”) is a Chinese meditation practice rooted in the Buddhist tradition. Following the practice’s introduction to the public in 1992, many people in China saw it as a revival of traditional Chinese culture. The practice’s core values of truthfulness, compassion, and forbearance resonated across the country, and according to Chinese government estimates, 70 million to 100 million people had taken up the practice by 1999.

suppressed on the mainland in 1999.”⁹⁸ Similar to the Amish, who fled persecution in Europe,⁹⁹ the Falun Gong flourished in the United States after fleeing oppression in China.¹⁰⁰ Alternatively described as either a cult or an ancient Chinese religious tradition,¹⁰¹ the Falun Gong were targeted by the Chinese government for persecution.¹⁰² As perceived critics of the communist Chinese government, several recent theories suggest that the Falun Gong emerged as ripe and desirable targets for the next crop of organs.¹⁰³

In July of 1999, the Chinese government imposed harsh restrictions on practitioners of Falun Gong,¹⁰⁴ followed by an enormous increase in

98. James Griffiths, *Can a Religious Group that Wants to Bring Down China's Communist Party Survive in Hong Kong?*, CABLE NEWS NETWORK (July 18, 2020, 8:29 PM), <https://www.cnn.com/2020/07/18/asia/hong-kong-china-falun-gong-intl-hnk/index.html> [<https://perma.cc/F84J-34H4>].

99. Jon Guss, *Persecution, Division, and Opportunity: The Origins of the Old Order Amish*, PA. CTR. FOR THE BOOK (2007), <https://pabook.libraries.psu.edu/literary-cultural-heritage-map-pa/feature-articles/persecution-division-and-opportunity-origins-old> [<https://perma.cc/DK77-CHH9>].

100. See generally William Bredderman, *The Little Town Being Taken Over by Falun Gong*, INTELLIGENCER (Aug. 14, 2024), <https://nymag.com/intelligencer/article/falun-gong-epoch-times-middletown.html> [<https://perma.cc/U2WK-7MHJ>].

101. See generally Lorien Holland, *China Bans Sect of 100 Million Over Suspected Political Agenda*, INDEPENDENT (July 11, 1999, 11:02 PM), <https://www.independent.co.uk/news/world/china-bans-sect-of-100-million-over-suspected-political-agenda-1108091.html> [<https://perma.cc/TF77-YFYM>] (The Chinese government referred to the Falun Gong as “an illegal organisations [sic] that cheats people and threatens social chaos.” The government’s view on this religion is similar to negative viewpoints commonly associated with the term “cult.”).

102. *Id.*

103. Kirk et al., *supra* note 78, at 89 (“Since 2006, mounting evidence suggests that prisoners of conscience are killed for their organs in China with the brutally persecuted Buddhist practice, Falun Gong, among others, being the primary target . . . By re-defining prisoners as regular citizens for “voluntary” organ donation, China’s national organ donation system whitewashes the use of organs from both death-row prisoners and prisoners of conscience.”).

104. Holland, *supra* note 101:

These are the terms of the ban on Falun Gong declared by China’s Ministry of Civil Affairs: No one may hang or post in any place streamers, pictures, insignias or other signs that advertise Falun Dafa (Falun Gong). No one may distribute in any place magazines, books, audio and video products and any other propaganda materials that advertise Falun Dafa (Falun Gong). No one may assemble in any place people for promoting Falun Dafa (Falun Gong) activities, such as “synthesising energy” or “fostering the Falun law.” Activities such as assemblies, parades and demonstrations held in the form of sitting in and submitting petitions, for the purpose of protecting and advertising Falun Dafa (Falun Gong) are prohibited. All forms of activities inciting the public to disturb social order through fabricating and distorting facts or spreading rumours deliberately are prohibited. No one may organise, link up and command activities contesting relevant government decisions.

organ transplants the following year.¹⁰⁵ The number of “Chinese transplant centers went from 150 in 1999 to over 600 by early 2000. And according to the Chinese Vice Minister of Health, the number of transplants performed each year went from several hundred in 1999 to well over 10,000 a year by 2008.”¹⁰⁶ With detained Falun Gong members allegedly providing an abundant source of organs, the Chinese organ industry advertised not only availability, but special product guarantees to ensure successful transplants.¹⁰⁷ One advocate against this practice asserted in a House of Representatives hearing: “Falun Gong sources were characterized as being of high quality and often available in as short a time as a week, in some cases with a guarantee of a backup organ should the first fail.”¹⁰⁸ The

105. Thompson, *supra* note 53, at 58 (“The following year, organs originating from Chinese transplant centers skyrocketed to unbelievable proportions ...”).

106. *Organ Harvesting of Dissidents Hearing*, *supra* note 12 (statement of Damon Noto, M.D., Spokesman, Doctors Against Forced Organ Harvesting).

107. *Id.*; *The Killing of Prisoners of Conscience for Organs in China*, CHINA ORGAN HARVEST RSCH. CTR. 1, 13, <https://www.chinaorganharvest.org/app/uploads/2017/08/COHRC-OH-Report-20170827.pdf> [<https://perma.cc/ALP7-T4M3>] (citing to David Matas & David Kilgour, *Bloody Harvest: Revised Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China* app. 5 (2007)), https://organharvestinvestigation.net/report0701/report20070131.htm#_Toc158023098 [<https://perma.cc/F4Z5-FXUH>]:

In Mainland China, it is not unusual for doctors to procure multiple organs for use as spares or to perform multiple transplant operations due to rejection, both in quick succession, on the same patient. These cases have even included third and fourth transplants. On one occasion, eight pairs of kidneys were procured for the same patient.

Id. at 11 (“Yunnan Kunming Kidney Disease Hospital is one of the top 100 private hospitals in southwestern China and specializes in kidney and liver transplantation. . . . When answering a patient’s question online, this hospital referred to itself as ‘an organ transplant hospital that has donors seeking matched recipients[,] [g]uarantees to every patient to find a healthy kidney in the shortest possible time[,] [p]rovides the shortest possible cold and warm ischemia times’” and “[i]n case of failure, [we will] continue to perform transplants until one is successful, and will not charge for the repeat surgeries.”); Matas & Kilgour, *supra*

When we were in Asia promoting our report, we met a man who in 2003 flew to Shanghai to obtain a new kidney for the \$20,000 USD price negotiated before his departure. He was admitted to the No 1 Peoples’ Hospital—a civilian facility—and during the ensuing two weeks four kidneys were brought for testing against his blood and other factors. None proved compatible because of his anti-bodies; all were taken away.

108. *Falun Gong: Organ Harvesting and China’s Ongoing War on Human Rights: Hearing Before the Subcomm. on Oversight and Investigations of the Comm. on Int’l Relations*, 109th Cong. 19 (2006) (statement of Kirk C. Allison, Ph.D., Dir., Program in Hum. Rights and Health, Sch. of Pub. Health, and Assoc. Dir., Program in Hum. Rights and Med., Med. Sch., Univ. of Minn.).

organs harvested from Falun Gong members by the Chinese organ harvesters have skyrocketed.¹⁰⁹

In 2012, the United States House of Representatives, Subcommittee on Oversight and Investigations, Committee on Foreign Affairs held a hearing in which eyewitness testimony described the persecution of the Falun Gong.¹¹⁰ This persecution included prison camps, torture, and expansion of the organ industry of the CCP:

The CCP, in control of the Chinese government, has weaponized the discipline of transplant medicine by using medical doctors to carry out the killing of dehumanized adherents of Falun Gong. The execution of banned dissidents has shifted from public squares to secret operating rooms. While personnel are incentivized financially for their work in transplantation, the incentive for the Chinese government is different: They use profit from the transplant market to entice doctors to continue transplant abuse, but the real incentive for the CCP is to silence Falun Gong practitioners and propel their destruction.¹¹¹

109. *Special Report: Forced Organ Harvesting from Living People in China*, *supra* note 41, at 22 (“In the context of forced organ harvesting of living people in China, we have observed a pattern of misleading and fraudulent actions with three goals: profit, expansion of China’s influence in transplant medicine globally and eradication of the spiritual discipline of Falun Gong.”). *See also* Matthew Robertson, *Organ Procurement and Extrajudicial Execution in China: A Review of the Evidence*, VICTIMS OF COMMUNISM MEM’L FOUND. 30 (2020):

Yet in China, waiting times during the 2000s were remarkably short, sometimes measured in months, but often in weeks or days. Some medical papers refer to wait times of hours. The most parsimonious inference that can be made from this phenomenon is that vital organs from living donors were being made available on demand. In cases of liver transplantation, the removal of the full organ must be coincident with death.

Matas & Kilgour, *supra* note 107.

110. *Organ Harvesting of Dissidents Hearing*, *supra* note 12, 1–2 (statement of Hon. Dana Rohrabacher, chairman of the Subcommittee on Oversight and Investigations):

Since the CCP began its crackdown in 1999, and began to call the peaceful practice of the Falun Gong an evil cult, thousands have been killed and their organs ripped out of their body while they were still warm and transplanted into the bodies of rich Chinese and foreign accomplices. Members of the CCP do this in order to make themselves and their children rich, and because the Falun Gong was and remains a peaceful and indigenous movement which attracts tens of millions of followers in China.

111. *Special Report: Forced Organ Harvesting from Living People in China*, *supra* note 41, at 55–56.

In addition to eliminating critics of the CCP, interning and killing members of the Falun Gong boosted the harvest for the organ trade.¹¹²

Members of the Falun Gong were detained, and their health was evaluated for each victim's suitability as a source of organs to sell.¹¹³ One

112. See Matas & Kilgour, *supra* note 107 ("Director Song at the Tianjin city central hospital in mid March 2006 volunteered that his hospital had more than ten beating hearts. The caller asked if that meant 'live bodies' and Song replied, 'Yes it is so.'"); *see also* *Special Report: Forced Organ Harvesting from Living People in China*, *supra* note 41, at 25 ("Doctors and others involved in China's transplantation infrastructure are offered significant financial incentives. In the last 23 years, the Chinese government has garnered a massive profit from harvesting the organs of living Falun Gong practitioners and other prisoners of conscience. Financial gains fuels the continuation of the practice."); Cirigliano, *supra* note 40, at 4, 5:

The numbers don't lie. "Transplant volumes on a multi-year basis were pretty constant before the persecution of the Falun Gong and then shot up after the persecution. . . . the explanation is the killing of Falun Gong for their organs." During the year prior to the persecution and imprisonment of the Falun Gong, only three liver transplants occurred in all of China. After the CCP targeted the Falun Gong to prison camps, by the year 2005, 2248 liver transplants had occurred. . . . The vicious killing of the imprisoned Falun Gong facilitates organ harvesting for profit to benefit Communist China. The Falun Gong were targeted by the CCP to be torn open and sold in chunks for financial gain on account of their religious movement that was viewed as a threat to the government. The bloodshed and organ theft occurs in accordance with transplant tourists' timetables. With regard to individuals worldwide flowing into China for this purpose, there is no end in sight. This is occurring because when supplies are low and demands are high in what are literally life-and-death situations, ethics are forsaken.

(quoting RED REIGN: THE BLOODY HARVEST OF CHINA'S PRISONERS (Cinema Libre Studios 2013)).

113. See Ryan Connelly Holmes & Dan Sagalyn, *One Doctor's War Against Global Organ Trafficking*, PBS NEWS (May 29, 2017 5:18 PM), <https://www.pbs.org/newshour/world/one-doctors-war-global-organ-trafficking> [<https://perma.cc/XJ6K-NGH2>]; Matas & Kilgour, *supra* note 107:

Falun Gong practitioners in detention are systematically blood tested and organ examined. Other prisoners, who are not practitioners, sitting side by side, with practitioners are not tested. This differential testing occurs in labour camps, prisons and detention centres. . . . These tests and examination happen whether practitioners are held at labour camps, prisons or detention centres. . . . The practitioners themselves are not told the reason for the testing and examination. It is unlikely that the testing and examination serves a health purpose. For one, it is unnecessary to blood test and organ examine people systematically simply as a health precaution. For another, the health of the Falun Gong in detention is disregarded in so many other ways, it is implausible that the authorities would blood test and organ examine Falun Gong as a precautionary health measure. Blood testing is a pre-requisite for organ transplants. Donors need to be matched with recipients so that the antibodies of the recipients do not reject the organs of the donors. The mere fact of blood testing and organ examination does not establish that organ harvesting of Falun Gong practitioners is taking place. But the opposite is true. If there were no blood testing, the allegation would be disproved. The

eyewitness described her ordeal as she was screened as a potential organ supplier:

Wang Chunying, a nurse from Liaoning Province, described one incident in which she was forced to give blood. She suspected the purpose of the blood draw was to determine if she would be a good match for organ donation.

“The atmosphere was very tense and horrific,” she said. She resisted, she said, but was pinned down by nine policemen as they drew blood from her leg. Wang said the policemen claimed they were checking the prisoners to make sure they did not have infections, But she said since prisoners were treated badly, it did not make sense that detention officials would care if the prisoners were sick.¹¹⁴

As this eyewitness account demonstrates, medical testing was done on Falun Gong members as the crop was screened for harvesting.¹¹⁵

As demand for organ harvesting increased, diversification again became necessary:

The evidence is that in 2013 they started running out of Falun Gong organs . . . they started to visit Falun Gong in their homes, in fact, to do a DNA cheek swab . . . and blood tests in their homes. These were people who were not incarcerated. This was very unusual, and it happened in, I believe, six provinces simultaneously. Now, in 2014, that’s when the mass health checks of the Uyghurs began, so it seems to me that they were looking for another source at that point.¹¹⁶

Oppression of political opposition proved quite successful. The government crackdown and laws ensured that the Falun Gong movement slowly dissipated.¹¹⁷

Yet dissipation presented a new problem for the organ “farmers,” as the dwindling Falun Gong population rapidly aged out of the optimum

widespread blood testing of Falun Gong practitioners in detention cuts off this avenue of disproof.

114. *Supra* note 113.

115. *See supra* note 113.

116. *See Stopping the Crime Hearing, supra* note 3, at 16–17 (statement of Ethan Gutman from 2024 Congressional Testimony contained herein).

117. *See id.*

age for “donors.”¹¹⁸ The CCP soon focused on another human crop to harvest:

We had several survivors of Chinese detention camps share their powerful stories with us. They told us about the daily horrors of being a religious and political prisoner, and about those in the camps who would suddenly disappear, never to be seen again. They spoke of undergoing a series of medical tests, not for their benefit but rather to assess their overall health and tissue type. They shared that, because of their healthy lifestyles and abstinence from alcohol, Falun Gong practitioners and Uyghurs were the most often targeted groups.¹¹⁹

In need of fresh pastures, the Chinese government built new warehouses and stockyards as they gathered their latest human crop: the Uyghur Muslims.¹²⁰

118. *See id.*

119. *Id.*

120. The Author opines that the construction of Uyghur re-education centers following the purported decline in Falun Gong organ harvesting supports a causal inference. *See* John Sudworth, *The Faces From China’s Uyghur Detention Camps*, BBC NEWS (May 2022), <https://www.bbc.co.uk/news/extra/85qihtvw6e/the-faces-from-chinas-uyghur-detention-camps> [https://perma.cc/G7BR-5RKP]:

Thousands of photographs from the heart of China’s highly secretive system of mass incarceration in Xinjiang, as well as a shoot-to-kill policy for those who try to escape, are among a huge cache of data hacked from police computer servers in the region. The Xinjiang Police Files, as they’re being called . . . can be shown to offer significant new insights into the internment of the region’s Uyghurs and other Turkic minorities. Their publication coincides with the recent arrival in China of the United Nations Human Rights Commissioner, Michelle Bachelet, for a controversial visit to Xinjiang, with critics concerned that her itinerary will be under the tight control of the government. The cache reveals, in unprecedented detail, China’s use of “re-education” camps and formal prisons as two separate but related systems of mass detention for Uyghurs—and seriously calls into question its well-honed public narrative about both. The government’s claim that the re-education camps built across Xinjiang since 2017 are nothing more than “schools” is contradicted by internal police instructions, guarding rosters and the never-before-seen images of detainees. And its widespread use of terrorism charges, under which many thousands more have been swept into formal prisons, is exposed as a pretext for a parallel method of internment, with police spreadsheets full of arbitrary, draconian sentences. The documents provide some of the strongest evidence to date for a policy targeting almost any expression of Uyghur identity, culture or Islamic faith—and of a chain of command running all the way up to the Chinese leader, Xi Jinping.

C. Uyghurs

Today, as the world silently acquiesces, they come for the Uyghurs:

The parallels between the current repression of Uyghurs and the earlier persecution of Falun Gong practitioners, which coincided with a surge in organ transplants and

Emma Graham-Harrison, *China Has Built 380 Internment Camps in Xinjiang, Study Finds*, GUARDIAN (Sept. 23, 2020, 10:00 PM), <https://www.theguardian.com/world/2020/sep/24/china-has-built-380-internment-camps-in-xinjiang-study-finds> [<https://perma.cc/K6FF-R497>]:

China has built nearly 400 internment camps in Xinjiang region, with construction on dozens continuing over the last two years, even as Chinese authorities said their “re-education” system was winding down, an Australian thinktank has found. The network of camps in China’s far west, used to detain Uyghurs and people from other Muslim minorities, include 14 that are still under construction, according to the latest satellite imaging obtained by the Australian Strategic Policy Institute. In total ASPI identified 380 detention centres established across the region since 2017, ranging from lowest security re education camps to fortified prisons. That is over 100 more than previous investigations have uncovered, and the researchers believe they have now identified most of the detention centres in the region. “The evidence in this database shows that despite Chinese officials’ claims about detainees graduating from the camps, significant investment in the construction of new detention facilities has continued throughout 2019 and 2020,” said ASPI researcher Nathan Ruser. The information has been made public, including the coordinates for individual camps, in a database that can be accessed online, the Xinjiang Data Project. The camps were identified using survivor accounts, other projects tracking internment centres, and satellite images.

Lindsay Maizland, *China’s Repression of Uyghurs in Xinjiang*, COUNCIL ON FOREIGN RELS., <https://www.cfr.org/background/china-xinjiang-uyghurs-muslims-repression-genocide-human-rights> [<https://perma.cc/L53Z-JV3M>] (last updated Oct. 3, 2025, 12:28 PM):

The Chinese government has reportedly detained more than a million Muslims in what the Chinese government calls “reeducation camps” since 2017, with an estimated half a million still currently held in prison or detention. Most of the people who have been detained are Uyghur, (spelled alternatively as Uighur) a predominantly Turkic-speaking ethnic group located primarily in China’s northwestern region of Xinjiang (新疆), one of five autonomous regions in China. (The others include Guangxi, Inner Mongolia, Ningxia, and Tibet.) Uyghurs in the region have also been subjected to intense surveillance, forced labor, family separation, and involuntary sterilizations, among other rights abuses. The United States and several other foreign governments have described China’s actions in Xinjiang as genocide, while the UN human rights office said that the violations could constitute crimes against humanity.

evidence of forced organ harvesting, are striking. Uyghur detainees have reported being subjected to unexplained blood tests and medical examinations focused on assessing organ health, mirroring the accounts of Falun Gong detainees in the early 2000s. The transfer of Uyghur prisoners by rail to facilities across China, the lack of accountability for deaths in custody, and the continuation of organ trafficking in Chinese hospitals despite claims of reform all contribute to an environment in which Uyghurs are highly vulnerable to being exploited as an organ source.¹²¹

In May of 2014, the Chinese government began systematically oppressing the Uyghur Muslim population, including detaining huge numbers in camps.¹²² China justified internment of the Uyghurs in two ways. First, playing to an international audience sensitive to terrorism,¹²³

121. See *Stopping the Crime Hearing*, *supra* note 3, at 39–40 (statement of Matthew Robertson, Member, Victims of Communism Memorial Foundation).

122. *Uyghur ‘Terrorism’: The Impacts of Chinese Propaganda*, EUR. FOUND. FOR S. ASIAN STUD. 4 (Feb. 2024), <https://www.efsas.org/publications/study-papers/uyghur-impacts-of-chinese-propaganda/> [<https://perma.cc/Q9ZL-RTF7>] (“Throughout the region of Xinjiang, the Uighur population has become increasingly subject to egregious human rights violations, that include, but are not limited to, arbitrary detention, torture, unjustified religious restrictions and increasingly widespread surveillance of their day-to-day life. These violations quickly escalated after May 2014, when the Chinese state launched a renewed ‘Strick Hard Campaign against Violent Terrorism’ in Xinjiang. This not only massively scaled up military presence within the region, but also introduced stringent restrictions on the freedom of movement and assembly of the local population.”) (internal citations omitted).

123. Sudworth, *supra* note 120:

After approaching the Chinese government for comment about the hacked data, with detailed questions about the evidence it contains, the media consortium received a written response from the Chinese Embassy in Washington DC. “Xinjiang related issues are in essence about countering violent terrorism, radicalisation and separatism, not about human rights or religion,” the statement said, adding that the Chinese authorities had taken “a host of decisive, robust and effective deradicalisation measures.” . . . The hacked files contain a number of speeches from high-ranking Party officials that allow an insight into the mindset behind the policies, as well as some of the clearest evidence so far for where responsibility ultimately lies. In a speech, stamped as “classified” and delivered by Zao Kezhi, China’s Minister for Public Security, on a visit to Xinjiang in June 2018, he suggests that at least two million people are infected with “extremist thought” in southern Xinjiang alone. . . . The cache contains another secret speech, delivered in 2017 by Chen Quanguo—until recently Xinjiang’s hardline Communist Party secretary. “For some, even five years re-education may not be enough,” he tells his audience of senior military and police cadres, a seeming admission that for as long as any Uyghur continues to feel a loyalty to identity or faith at least as strong as to the Party, there’s no end in sight. “Once they are let out, problems will reappear, that is the reality in Xinjiang,” he says.

the Chinese government claimed to be preventing terrorism by the Uyghurs.¹²⁴ Second, the Chinese government claimed that the Uyghurs needed education and training for their own advancement. “The training will turn them from ‘nomads’ into skilled marvels,” the official Xinjiang Daily said in November 2018. The publication further stated that “[e]ducation and training will make them into ‘modern people,’ useful to society.”¹²⁵ The announcement concealed that the Chinese government may not have been looking solely at the labor potential of the Uyghur Muslims, but also at their potential to fuel the organ industry.¹²⁶

In 2017, the United States Congress released reports concerning the detention as well as the medical data collection of the Uyghur Muslims.¹²⁷

Ben Westcott & Nanlin Fang, *China Admits to Locking Up Uyghurs, But Defends Xinjiang Crackdown*, CNN, <https://www.cnn.com/2018/10/16/asia/xinjiang-uyghur-china-camps-intl> [<https://perma.cc/K6AZ-2DQ6>] (last updated Oct. 17, 2018, 3:03 AM) (“In the most vocal defense yet of the mass internment of the mostly Muslim Uyghur minority group, Shohrat Zakir, a high-ranking Xinjiang government official, told state media the Chinese government was fighting ‘terrorism and extremism’ in its own way, and in accordance with United Nations resolutions.”); Chris Zambelis, *Uighur Dissent and Militancy in China’s Xinjiang Province*, 3 COMBATING TERRORISM CTR. SENTINEL 16 (2010) (before gathering Uyghurs into camps, China “[f]requently downplay[ed] the veracity of Uighur grievances, [and] instead equate[d] Uighur aspirations with those promulgated by radical Islamists. China link[ed] Uighur militants to al-Qa’ida and the Taliban and the specter of radical Islam in Central and South Asia.”).

124. See Maria A. Soloscheva, *The Uyghur Terrorism: Phenomenon and Genesis*, 21 IRAN & CAUCASUS 415, 417–18 (2017) (“In March, 2017, a video was released by the Uyghur ethnic minority members of the Islamic State who vowed ‘to return home and shed blood like rivers.’ This was in fact the first direct threat against China by ISIL Uyghurs. Chinese scholars agree that the influence of terrorism on the territory of the PRC is constantly growing.”) (internal citations omitted).

125. Chris Buckley & Austin Ramzy, *China’s Detention Camps for Muslims Turn to Forced Labor*, N.Y. TIMES (Dec. 16, 2018), <https://www.nytimes.com/2018/12/16/world/asia/xinjiang-china-forced-labor-camps-uyghurs.html> [<https://perma.cc/LJ63-YK8X>]. Indeed, American demand for cheap labor likely also fuels the genocide. See Sheridan Prasso, *Shein’s Cotton Tied to Chinese Region Accused of Forced Labor*, BLOOMBERG (Nov. 20, 2022, 7:00 PM), <https://www.bloomberg.com/news/features/2022-11-21/shein-s-cotton-clothes-tied-to-xinjiang-china-region-accused-of-forced-labor?embedded-checkout=true> [<https://perma.cc/TW4Z-7ECA>] (Tests link retailer’s apparel to Xinjiang, where US officials say China abuses Uyghurs.).

126. See *Stopping the Crime of Organ Harvesting*, *supra* note 3, 14–15 (statement of Tom Oliverson) (“We had several survivors of Chinese detention camps share their powerful stories with us . . . [t]hey shared that, because of their healthy lifestyles and abstinence from alcohol, Falun Gong practitioners and Uyghurs were the most often targeted groups.”); see also Alex Willemyns, *Experts: China is sequencing Uyghur DNA for organ harvesting*, RADIO FREE ASIA (Mar. 20, 2024), <https://www.rfa.org/english/news/uyghur/forced-organ-harvesting-03202024133851.html> [<https://perma.cc/MGD7-AMVQ>].

127. CONGRESSIONAL-EXECUTIVE COMM’N ON CHINA, 115TH CONG., ANNUAL REPORT 5 (2017):

In the Xinjiang Uyghur Autonomous Region (XUAR), which Chinese officials have promoted as an important center for Belt and Road development projects, authorities reportedly heightened security controls over

The scale of the DNA collection was massive, as the “Xinjiang province is the largest province in China, home to 21.8 million people, including more than 11 million Muslims. . . . Chinese authorities recently told Radio Free Asia they ‘have been ordered to send almost half of area residents to re-education camps.’”¹²⁸ The reports allege that the Uyghur Muslims currently provide a ready source of organs for transplant orders.¹²⁹ “Just as the rise of China’s transplant system was built on the persecution of Falun Gong, harvesting is now bound to the Xinjiang camp system constructed from 2016 to 2018.”¹³⁰ With this new crop, the Chinese have become even more sophisticated in victim selection and maintaining organ quality.

First, the massive DNA collection seems to allow for even better biological matches between victim and consumer:¹³¹

When a patient requests an organ in China, his or her DNA sequence data will be blasted against millions of DNA databases stored in computers. Within a few minutes, a perfect match will be found. If a potential donor of the organs is not in a prison or camp, then Chinese authorities can easily find a reason to detain a match to be killed for their organs on demand.¹³²

Second, scientific research in China determined that the bodies of young adult victims provided the optimum age of the organ for harvesting.¹³³ The Chinese perform extensive medical examinations of the

Uyghurs and other ethnic minorities who live there, and imposed severe restrictions on Internet access. In this same region, authorities began expediting the collection of residents’ DNA on a massive scale, in many cases without consent, prompting transparency concerns regarding the purpose of collecting such information.

128. *Reporter on China’s Treatment of Uighur Muslims: “This is Absolute Orwellian Style Surveillance”*, CBS NEWS (July 3, 2019, 2:16 PM), <https://www.cbsnews.com/news/china-puts-uyghurs-muslim-children-in-prison-re-education-internment-camps-vice-news/> [<https://perma.cc/DKJ6-MBVN>].

129. *See id.*

130. *See Stopping the Crime Hearing*, *supra* note 3, at 31–32 (statement of Ethan Gutmann).

131. The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China, CHINA TRIBUNAL (March 1, 2020), https://chinatribunal.com/wp-content/uploads/2020/03/ChinaTribunal_JUDGMENT_1stMarch_2020.pdf [<https://perma.cc/X2EG-VHH5>] (“A vice-president of a medical university reported to Yang Guang, a China expert who resides in Denmark, that before 2009 two hospitals of which he was in charge each conducted 2,000 to 3,000 organ transplants every year. ‘[Having] a pool of living organ sources meant tissue matching took less than a month, sometimes as short as 48 hours’”).

132. *Id.* at 13 (statement of Maya Mitalipova, Director, Hum. Stem Cell Lab’y, Whitehead Inst. for Biomedical Rsch., MIT).

133. *Id.* at 8 (statement of Ethan Gutmann) (“Now, the second group is between 25 and 35. The average is usually 28—this was very explicit from witness to witness—the age the

Uyghurs detained as young adults.¹³⁴ Third, as the transplant surgery becomes more sophisticated, the Chinese are able to harvest more organs from each victim.¹³⁵ In many documented cases, killing finally occurs by organ removal.¹³⁶

As long ago as 1994, organs had been harvested with the patients alive (usually in a state of deep shock from a traumatic injury so as to minimize the movement during the procurement, which occurred in mobile harvesting vans).¹³⁷ Harvests were conducted immediately following execution, and reports indicate instances where organs were removed prior to physiologic death of the patient.¹³⁸ During this period, organs ranged in price from 60,000 to over 100,000 in United States dollars.¹³⁹ However, harvesters were limited in the number of organs feasibly available to transplant in this manner.¹⁴⁰

Medical advances, especially the ability to oxygenate the victim's blood, greatly increased the value of each human harvested for organs¹⁴¹ because more organs can be removed from donors who remain alive during

Chinese medical establishment prefers for organ sourcing. They are removed in the middle of the night. There is no applause. They are not to be mentioned again.”).

134. *Id.*

135. Steven W. Mosher, *Chinese Dissidents are Being Executed for Their Organs*, *Former Hospital Worker Says*, N.Y. POST (June 1, 2019, 10:01 AM), <https://nypost.com/2019/06/01/chinese-dissidents-are-being-executed-for-their-organs-former-hospital-worker-says/> [<https://perma.cc/DR54-ZK3U>].

136. See Robertson & Lavee, *supra* note 31, at 1804.

137. See *China, Illegal Trade in Human Body Parts: Hearing Before the S. Comm. on Foreign Relations*, 104th Cong. at 5–6, 14 (1995) (statement of Pei Qi Gao, Former Member, Public Security Bureau, China).

138. *Id.*

139. Ethan Gutmann, *Bitter Harvest: China's 'Organ Donation' Nightmare*, 175 WORLD AFFS. 49, 50 (2012).

140. Current medical advances in the oxygenation of a deceased donor's blood have resulted in a greater number of organs being viably procured. See Cirigliano, *supra* note 40, at 3 (citing Tasnim Nazeer, *First Known Survivor of China's Forced Organ Harvesting Speaks Out*, THE DIPLOMAT (Aug. 10, 2024), <https://thediplomat.com/2024/08/first-known-survivor-of-chinas-forced-organ-harvesting-speaks-out/> [<https://perma.cc/S5KJ-EXNP>]); see also Rob Stein, *Doctors Try A Controversial Technique To Reduce the Transplant Organ Shortage*, NPR (July 8, 2024, 5:44 AM), <https://www.npr.org/sections/shots-health-news/2024/07/08/nx-s1-4896568/transplant-organ-shortage-nrp-normothermic-regional-perfusion> [<https://perma.cc/46RS-ARMH>].

After a patient has been declared dead because their heart and circulation have stopped, a surgeon quickly attaches a special external pump to their heart or elsewhere in the body. That restores blood flow and sometimes the heartbeat to keep organs supplied with oxygen-rich blood. “So when we put them on ice to be transported to the recipient center, the organs are in a healthier state and therefore when they get into the recipient they perform better immediately and long term,” Sellers says. “It not only increases the number of organs available for transplant, but it also improves outcomes for those organ recipients.”

141. Mosher, *supra* note 135.

the harvesting.¹⁴² As a stark contrast to the way such oxygenation has been used in the United States, which prolongs life and can be a bridge therapy prior to organ transplant, China uses these medical advances to accelerate and expand organ procurement.¹⁴³ Some reports indicate that almost any organ can be harvested before an officially documented death of a donor aside from the heart and lungs. This has also greatly increased the value of the victim's body.¹⁴⁴

After ECMO [medical advances in oxygenating blood], it became possible to harvest as many as four healthy organs from a single person. Suddenly turning a person from \$100,000 into half a million dollars or more from foreign organ tourists. This is a dramatic difference. It became an incentive to harvest Falun Gong. It improved the chances that you'd make real money.¹⁴⁵

Such technology enables the possibility that the Chinese government could harvest the organs of the living¹⁴⁶. The profits driven market for human organs reduces concerns about patient care and voluntariness of consent while instead focusing on ensuring that the high-value product is properly preserved.¹⁴⁷

142. *Id.*

143. *Id.*

144. *Id.*

145. See *Stopping the Crime Hearing*, *supra* note 3, at 14–15 (statement of Tom Oliverson) (testimony of Ethan Gutmann).

146. *Id.* at 128 (Statement of Thomas Diflo):

The concept of brain death is not well defined or fully accepted in China. As there is no requirement for certifying brain death prior to organ procurement, this can lead to the potential for procuring organs from prisoners who are not brain dead, as we have heard today. There are numerous eyewitness accounts of continued movement and heart activity in some of the prisoner/donors, indicating that these people have been subject to the removal of their organs while they are, strictly speaking, still alive. Finally, there is the issue of the intimate involvement of the transplant physicians and surgeons regarding the executions and procurements. None of this would happen without the agreement and full participation of the doctors involved. This obviously represents a significant breach of medical ethics for these doctors in that the primary tenet of our profession, to do no harm, is violated on a continuous and ongoing basis. I am neither a politician nor an expert in international relations. I do witness firsthand the suffering of my patients as they wait seemingly endlessly for organs to become available for their transplants. My hope in appearing before this Committee today is twofold. First, I hope to point out that the rumors and allegations about the use of prisoners' organs in China are unequivocally true. As a transplant surgeon, I have no power and little influence to dictate international policy toward China, but as the Committee on International Relations of the House of Representative.

147. *Id.* at 128:

A 2021 forensic review of thousands of Chinese medical records demonstrates that organ procurement has been the cause of death of executed prisoners in many instances in the decades preceding the construction of the Xinjiang camp system:

We find evidence in 71 of these reports, spread nationwide, that brain death could not have properly been declared. In these cases, the removal of the heart during organ procurement must have been the proximate cause of the donor's death. Because these organ donors could only have been prisoners, our findings strongly suggest that physicians in the People's Republic of China have participated in executions by organ removal.¹⁴⁸

While the inaction of the United States government to prosecute American participants in a current genocide mysteriously continues, the reasoning behind the actions of the Chinese government is easily identifiable. The Chinese are killing the Uyghurs for two very specific reasons: product quality¹⁴⁹ and supply chain.¹⁵⁰

The concept of brain death is not well defined or fully accepted in China. As there is no requirement for certifying brain death prior to organ procurement, this can lead to the potential for procuring organs from prisoners who are not brain dead, as we have heard today. There are numerous eyewitness accounts of continued movement and heart activity in some of the prisoner/donors, indicating that these people have been subject to the removal of their organs while they are, strictly speaking, still alive. Finally, there is the issue of the intimate involvement of the transplant physicians and surgeons regarding the executions and procurements. None of this would happen without the agreement and full participation of the doctors involved. This obviously represents a significant breach of medical ethics for these doctors in that the primary tenet of our profession, to do no harm, is violated on a continuous and ongoing basis. I am neither a politician nor an expert in international relations. I do witness firsthand the suffering of my patients as they wait seemingly endlessly for organs to become available for their transplants. My hope in appearing before this Committee today is twofold. First, I hope to point out that the rumors and allegations about the use of prisoners' organs in China are unequivocally true. As a transplant surgeon, I have no power and little influence to dictate international policy toward China, but as the Committee on International Relations of the House of Representative.

148. Robertson & Lavee, *supra* note 31, at 1804.

149. The fact that organs are being advertised as "halal" is evidence of product quality because of the religious ties associated with a halal diet. See *European Parliament Resolution of 5 May 2022 on the Reports of Continued Organ Harvesting in China*, PARL. EUR. DOC. 2657 (RSP) (2022), https://www.europarl.europa.eu/doceo/document/TA-9-2022-0200_EN.html [<https://perma.cc/LE84-HGGU>] [hereinafter *European Parliament Resolution*] ("Calls for the EU and its Member States to raise the issue of forced organ harvesting in its engagement with third countries, especially with its partners in the Gulf

First, many Uyghurs are practicing Muslims, which means they do not consume pork or alcohol.¹⁵¹ Not only does a healthy diet contribute to healthy organs, but the donor's lack of consuming pork is also a selling point for many buyers:

Now on the assumption that the Gulf states organ tourists prefer Muslim donors who don't eat pork, the CCP has tried to capitalize on the switch from Falun Gong to

region, where Chinese transplant centres have advertised 'halal organs' from Uyghurs and Muslim minorities in China."); Press Release, *supra* note 7:

In order to attract Muslim patients waiting for an organ transplant to the country, the Chinese government makes "halal organ" ads, emphasising that the person who "donates" the organ follows the rules of the Islamic religion, such as not consuming alcohol and pork. A separate price is set for each organ. A liver, for example, reaches one hundred thousand dollars, but if the organ is "halal," its price triples. China Is Selling [Halal Organs] Taken from Uyghurs.

150. Allegra Mendelso, *China 'To Triple Number of Uyghur Organ-Harvesting Centres'*, YAHOO (July 3, 2025), <https://www.yahoo.com/news/china-triple-number-uyghur-organ-050000310.html> [<https://perma.cc/6EG4-FMQC>]:

The new facilities, four of which will be built in Urumqi, will add to the types of transplants that can be carried out by increasing the province's capacity to harvest hearts, kidneys, livers, small intestines and lungs. Prof Rogers told The Telegraph that the new facilities would likely allow for the "donation" and implantation of organs to happen at the same place. "It would be more cost-effective to bring the recipients to Xinjiang for their operations rather than send the organs out because it shortens the time in between taking the organ out of the person who's killed and putting it into the recipient," said Prof Rogers. "If you have to fly a heart for six hours across China, it's not going to be in such a good condition as a six-minute walk down the corridor."

Lin Lanfen, *Transplant Facilities Greatly Expanded in Xinjiang—For More Organ Harvesting?*, BITTER WINTER (July 4, 2025), <https://bitterwinter.org/transplant-facilities-greatly-expanded-in-xinjiang-for-more-organ-harvesting/> [<https://perma.cc/PPD2-GQ3A>]:

"This massive expansion in Xinjiang—a region already under scrutiny for systematic repression—raises deeply troubling questions about the source of the organs," stated Wendy Rogers, Chair of the International Advisory Board of ETAC. "There is simply no justification for such growth in transplant capacity given the region's official organ donation rate, which is far below the national average." In Xinjiang, the official rate of organ donation is very low, at just 0.69 donations per million people. This is significantly lower than the national average in China, which is 4.6 donations per million. Despite this, Xinjiang is planning to expand its capacity for organ transplants, even more than some other provinces that have larger populations and economies, like Gansu, Jilin, Shanxi, and Guizhou.

151. See *Stopping the Crime Hearing*, *supra* note 3, at 14–15 (statement of Ethan Gutmann) (statement of Tom Oliverson).

Uyghur sources. At least one Chinese transplant hospital blatantly displays a Muslim prayer room and halal canteen on the web.¹⁵²

Cultures that are reluctant to accept organ transplants in general¹⁵³ worry about the overall health of the “donor,” and prefer to know the condition of the body from which the organs are removed.¹⁵⁴

Second, there are plenty of human organs to harvest from those in the optimum age group for the best quality organs. “The average [age] is usually 28—this was very explicit from witness to witness—the age the Chinese medical establishment prefers for organ sourcing.”¹⁵⁵ The preference for organs from a 28-year-old likely stems from the belief that a young organ is healthy.

Despite the fact that the U.S., the UK, Canada, and the Netherlands acknowledge that the CCP currently commits genocide, there has been a startling lack of repercussions.¹⁵⁶ Israel was a trailblazer among the few countries that actively prevent their citizens from participating in this harvest.¹⁵⁷ Led by Dr. Jacob Lavee, who refused to participate when his patient told him in 2005 that a new heart awaited him in “China in two weeks—something only possible if there is a pool of living, blood-typed donors.” Dr. Lavee responded, “I’m a simple Jewish heart transplant surgeon and the son of a Holocaust survivor, and the reason I spend so much time on this is that I can’t keep silent in the face of a new crime against humanity.”¹⁵⁸ His efforts led to the illegalization of Israeli citizen participation in the Chinese organ transplant system.¹⁵⁹

152. *Id.* at 8 (statement of Ethan Gutmann).

153. See Sun, *supra* note 47 (“Chinese have a deep-seated cultural taboo against damaging the integrity of the body. Hospitals frequently are unable to perform required autopsies because families refuse consent. Chinese rarely even give blood for fear their bodies will be irreparably harmed.”); see also Miah T. Li et al., *Cultural Barriers to Organ Donation Among Chinese and Korean Individuals in the United States: A Systematic Review*, 32 TRANSPLANT INT’L 1001, 1001 (2019); *Religious Attitudes About Donation*, UNIV. TEX. SW. MED. CTR., <https://www.utsouthwestern.edu/education/medical-school/departments/transplant-services-center/faqs/religious-attitudes.html> [<https://perma.cc/R92Q-WEH4>] (last visited Dec. 22 2024).

154. See generally David Matas, *Ethics of Contact with China on Transplants in THE ETHICS OF ORGAN TRANSPLANTATION* 232, 236–37 (Steven J. Jensen, ed., 2011).

155. *Id.*

156. *Who are the Uyghurs and why is China being accused of genocide?*, BBC NEWS (May 24, 2022) <https://www.bbc.com/news/world-asia-china-22278037> [<https://perma.cc/QY6Z-3296>] (“Several countries, including the US, UK, Canada and the Netherlands, have accused China of committing genocide - defined by international convention, external as the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”). See generally *id.* at 39 (statement of Matthew Robertson, Member, Victims of Communism Mem’l Found.).

157. Am. Pub. Health Ass’n, *supra* note 85 (Israel passed this law in 2008.).

158. Didi Kristen Tatlow, *Debate Flares on China’s Use of Prisoners’ Organs as Experts Meet in Hong Kong*, N.Y. TIMES (Aug. 17, 2016),

The United States government has recognized that China is currently committing genocide. In 2021, the U.S. Secretary of State declared that “the PRC, under the direction and control of the CCP, has committed genocide against the predominantly Muslim Uyghurs and other ethnic and religious minority groups in Xinjiang. I believe this genocide is ongoing, and that we are witnessing the systematic attempt to destroy Uyghurs by the Chinese party-state.”¹⁶⁰ Despite this acknowledgement, the United States government has failed to apply 18 U.S.C. § 956 to those who conspire in this genocide.

The Chinese government endlessly obfuscates¹⁶¹ and successfully avoids international efforts to curtail its continued expansion of its human harvest.¹⁶² Yet such efforts only target the supply side of the market.

[I]t’s important to understand that in its clearest form, a communist government . . . looks at a human being not as an individual with inalienable rights but as a natural resource. If that can be monetized for the benefit of the collective good, you’re never going to stop that unless you

<https://www.nytimes.com/2016/08/18/world/asia/debate-flares-on-chinas-use-of-prisoners-organs-as-experts-meet-in-hong-kong.html> [<https://perma.cc/2888-FVGP>].

159. Jacob Lavee, EUR. ASS’N FOR CARDIO THORACIC SURGERY, <https://www.eacts.org/faculty/jacob-lavee/> [<https://perma.cc/7LSG-A8T5>] (last visited Jan. 2, 2025) (“Jacob Lavee spearheaded the preparations of the Israeli Organ Transplant Law in 2008, with its unique clauses which have significantly reduced outgoing transplant tourism from Israel, blocking outgoing transplant patients to China altogether, while significantly increasing local deceased and living donations by prioritizing registered organ donors.”).

160. Pompeo, *supra* note 5; see *European Parliament Resolution*, *supra* note 149 (The European Parliament “[e]xpresses its serious concerns about the reports of persistent, systematic, inhumane and state-sanctioned organ harvesting from prisoners in the People’s Republic of China, and, more specifically, from Falun Gong practitioners and other minorities such as Uyghurs, Tibetans and Christians.”).

161. See *Organ Harvesting of Dissidents Hearing*, *supra* note 12, at 27 (Statement of Damon Noto, M.D., Spokesman, Doctors Against Forced Organ Harvesting) (For example, in 2012 a witness described how the Chinese government had always denied harvesting the organs from prisoners, testifying that “in 1998 when a prisoner guard testified here, and then in 2001, a Chinese medical doctor named Wang Guoqi fled to the United States, testified in front of Congress that China was organs from executed prisoners. This is something the Chinese Communist Party at the time completely denied.”).

162. See e.g., *Canadian Gets Kidney in China After Three Days, Sparking Fears Beijing Still Harvests Organs of Executed Prisoners*, ASSOC. PRESS (Aug. 19, 2016), <https://perma.cc/G4X3-H5AH> (“A Canadian patient’s receipt of a kidney transplant after waiting just three days during a recent visit to China raised an immediate red flag among surgeons at the Montreal-based Transplantation Society: A turnaround that quick indicates the organ likely came from the body of an executed prisoner. The case adds to doubts among many doctors internationally about whether China has met its pledge to stop harvesting the organs of executed inmates.”).

can choke off the demand. . . . If nobody wants the organs, then they'll stop taking them.¹⁶³

The United States has the power and authority to curtail the *demand* side and to stop American citizens from participating in the harvesting of human organs. The *demand* side includes not only customers ordering organs, but also everyone profiting from and conspiring with the Chinese organ industry. The Attorney General of the United States should kill the demand for the murder victims of the CCP by enforcing federal law prohibiting conspiracy to murder overseas and prosecute anyone conspiring to kill others for body parts.

II. CONSPIRACY

[E]ven when many participants lack knowledge about it, conspiracy law can deter criminal activity. Conspiracy law encourages organizations to adopt practices, such as employee monitoring, that generate inefficiencies, stymie group identity, and sow distrust within the group. In so doing, it helps make criminal enterprises unattractive places in which to work, regardless of the members' understandings of their personal legal risks.¹⁶⁴

Conspiracy punishes an agreement to commit a crime,¹⁶⁵ even if the crime is never committed.¹⁶⁶ "The crime of conspiracy is separate and distinct from the substantive offense the participants agreed to commit. The conspiracy is a separate crime completed when the agreement is made."¹⁶⁷ Even if the agreed upon criminal act does occur, "the unlawful agreement constitutes the gist of the offence, and therefore it is not necessary to charge the execution of the unlawful agreement."¹⁶⁸ Charging a defendant with

163. *Stopping the Crime Hearing*, *supra* note 3, at 27 (statement of Tom Oliverson).

164. Neal K. Katyal, *Conspiracy Theory*, 112 YALE L. J. 1307, 1334 (2003).

165. 16 AM. JURIS. 2D Conspiracy § 41 (2020):

In a conspiracy prosecution, the critical inquiry is whether the circumstances, acts, and conduct of the parties are of such a character that the minds of reasonable persons may conclude therefrom that an unlawful agreement exists. It is not necessary, however, to prove the specific terms or the specific scope of the conspiratorial agreement or to prove that the substantive object of the conspiracy was accomplished. In a conspiracy prosecution, the existence of an agreement may be inferred from the participants' conduct.

166. See Abraham S. Goldstein, *Conspiracy to Defraud the United States*, 86 YALE L. J. 405, 406 (1959) ("The agreement to accomplish the prohibited purpose furnishes, without more, the basis for criminal liability.").

167. *United States v. Elliot*, 266 F. Supp. 318, 323 (S.D.N.Y. 1967).

168. *Commonwealth v. Hunt*, 45 Mass. 111, 125 (1842) (citing *Commonwealth v. Judd*, 2 Mass. 329, 330–331 (1807)).

conspiracy does not necessitate an ability to prove that the conspiracy resulted in successful commission of an additional, substantive crime. The agreement is the crime.

Conspiracies flourish because “the strength, opportunities and resources of many is obviously more dangerous and more difficult to police than the efforts of a lone wrongdoer.”¹⁶⁹ The Chinese organ industry demonstrates those advantages. The industry prospers expressly because of the strength of the CCP, the opportunities presented by collaborations with individuals needing new organs, as well as the worldwide medical community, and the resources of hundreds of thousands of human organs available to harvest.

The United States has long criminalized and prosecuted a wide variety of conspiracies.¹⁷⁰ One available federal law directly applies to Americans who conspire with the Chinese organ industry. Federal Code Section 18 U.S.C. § 956 specifically prohibits conspiring to kidnap, kill, or maim a person in another country, whether or not an individual is ultimately injured and regardless of whether the United States government lacks the jurisdiction to prosecute the underlying killing or maiming.¹⁷¹ Because victims of the Chinese organ industry must be either maimed or killed in order to retrieve their organs, the federal government can prosecute individuals who conspire with the human organ harvesters.¹⁷²

169. *Krulewitch v. United States*, 336 U.S. 440, 448–49 (1949) (Jackson, J., concurring).

170. Conspiracy has origins in a 1305 statute, which “prohibited confederacies for the false and malicious procurement of indictments.” *Developments in the Law: Criminal Conspiracy*, *supra* note 28, at 922–23. The conspiracy law that exists today, criminalizing agreements to commit any crime, was created hundreds of years later in the seventeenth century. *Id.*

171. See 18 U.S.C. § 956(a)(1):

Whoever, within the jurisdiction of the United States, conspires with one or more other persons, *regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming* if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

(emphasis added).

172. The Chinese government makes it appear as if the enormous numbers of available organs come from voluntary donors. While there might be a small number of truly “voluntary” donations, the Chinese government has reclassified all executed prisoners to be “voluntarily” donating their organs, as well as engaged in purchasing organs from families as a way of claiming the donations are voluntary. Matthew P. Robertson, Raymond L. Hinde & Jacob Lavee, *Analysis of Official Deceased Organ Donation Data Casts Doubt on the Credibility of China’s Organ Transplant Reform*, 20 BMC MED. ETHICS 1, 18 (2019):

A. Elements

With roots dating back to the 1917 Espionage Act,¹⁷³ 18 U.S.C. § 956 previously criminalized conspiring to damage or destroy property owned or used by a foreign government or an internal organization.¹⁷⁴ The statute was greatly expanded as part of the Antiterrorism and Effective Death Penalty Act (“AEDPA”) of 1996 to include conspiring to commit murder, kidnapping, maiming, or injury abroad.¹⁷⁵ The expansion directly targeted individuals located in the United States who plotted to commit or assist in committing crimes in other countries.¹⁷⁶

Although expanded with the passage of AEDPA, the statute has been interpreted to apply to non-terror related offenses. In 2014, defendant Chhun challenged the application of 18 U.S.C. § 956 to his conspiracy to kill others overseas (in Cambodia) because his plan “is not terrorism and does not relate to the safety or security of Americans or American interests.”¹⁷⁷ However, the Ninth Circuit analyzed the plain meaning of the statute and found that it did apply to Chhun’s actions and that the text was unambiguous.¹⁷⁸

The current voluntary system appears to operate alongside the continued use of nonvoluntary donors (most plausibly prisoners) who are misclassified as “voluntary.” Thus, rather than the solely prisoner-based organ transplant system of years past, or the untarnished voluntary system promised by officials, the available evidence indicates in our view that China has a complex hybrid transplant program: voluntary donations, incentivized by large cash payments, are apparently used alongside nonvoluntary donors who are marked down as citizen donors.

173. The language in 18 U.S.C. § 956, which criminalizes “conspir[ing] . . . to damage or destroy specific property situated within a foreign country and belonging to a foreign government,” derives from the Espionage Act of 1917, ch. 30, 40 Stat. 217, 219 (1917) (codified as amended at 18 U.S.C. § 956).

174. Act of June 25, 1948, ch. 645, § 956, 62 Stat. 683, 744–45 (current version at 18 U.S.C. § 956). *See generally* United States v. Johnson, 952 F.2d 565, 575 (1st Cir. 1991); United States v. Elliot, 266 F.Supp. 318, 321 (S. D. N. Y. 1976). These cases both refer to a version of 18 U.S.C. § 956 that existed prior to 1996.

175. Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, 1294–95 (1996).

176. OFF. OF PRESS SEC’Y, FACT SHEET: OMNIBUS COUNTERTERRORISM ACT OF 1995 (1995), <https://clintonwhitehouse6.archives.gov/1995/02/1995-02-10-fact-sheet-on-omnibus-counterterrorism-act-of.html> [<https://perma.cc/3CAP-MR9Y>] (The Antiterrorism and Effective Death Penalty Act of 1996 grew out of the proposed Omnibus Counterterrorism Act of 1995. The AEDPA of 1996 grew out of the proposed Omnibus Counterterrorism Act of 1995, which gained traction after the Oklahoma City bombing.). *See* Neil A. Lewis, *Terror in Oklahoma; Anti-Terrorism Bill: Blast Turns a Snail Into a Race Horse*, N.Y. TIMES (Feb. 10, 1995), <https://www.nytimes.com/1995/04/21/us/terror-oklahoma-congress-anti-terrorism-bill-blast-turns-snail-into-race-horse.html> [<https://perma.cc/57KC-97EF>].

177. United States v. Chhun, 744 F.3d 1110, 1115 (9th Cir. 2014) (internal quotations omitted).

178. *Id.* at 1116.

In upholding the application of the statute to conspiracies that do not involve terrorism, the Ninth Circuit found that “the fact that a statute can be applied to situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth.”¹⁷⁹ The Court ruled that the statute applies to the entire range of conspiracies to kill persons overseas, including conspiracies not specifically contemplated by Congress during deliberations.¹⁸⁰

Proof of the following elements is necessary in order to convict a defendant for violation of 18 U.S.C. § 956:

1. Defendant agrees with at least one person to kill, kidnap, or maim;
2. The defendant willfully joined the agreement;
3. One of the conspirators commits an overt act in furtherance of the conspiracy; and
4. When the agreement was made, at least one of the conspirators was within the United States.¹⁸¹

American participants in the Chinese organ industry commit each element of this offense.¹⁸²

1. Defendant Agrees With at Least One Person to Kidnap, Kill, or Maim

The first element requires that the defendant agrees with at least one other person to kidnap, kill, or maim another.¹⁸³ “The agreement

179. *Id.*

180. *Id.*

181. *United States v. Diaz*, 90 F.4th 335, 342 (5th Cir. 2024):

To obtain a conviction for a conspiracy under 18 U.S.C. § 956(a)(1), the Government must prove four elements: “(1) the defendant agreed with at least one person to commit murder; (2) the defendant willfully joined the agreement with the intent to further its purpose; (3) during the existence of the conspiracy, one of the conspirators committed at least one overt act in furtherance of the object of the conspiracy; and (4) at least one of the conspirators was within the jurisdiction of the United States when the agreement was made.”

(quoting *United States v. Wharton*, 320 F.3d 526, 537–38 (5th Cir. 2003)); *see also* *United States v. Castellon*, 636 F. App’x 204, 206 (5th Cir. 2016) (specifying that the overt act in element (3) must occur in the United States); 18 U.S.C. § 956(a)(1) (imposing punishment where a conspirator “commits an act within the jurisdiction of the United States to effect any object of the conspiracy”).

182. *See infra* Part II.A.1–3.

represents the actualization of the intent contemplated by the act-intent maxim. It is the 'act' which expresses in concrete form the threat to society of an intent shared by two or more persons."¹⁸⁴ The actus reus of the agreement can be proven by direct evidence, such as a confession or testimony,¹⁸⁵ or by circumstantial evidence.¹⁸⁶ Without proof of an agreement, no conspiracy exists.

In addition to proving there was an agreement, this element requires proof of the objective of the agreement. The agreement must be to kidnap, kill, or maim, but the statute does not define these crimes.¹⁸⁷ Additionally, the statute does not specify whether the actions must only be illegal under American law, or if the laws of the foreign country should be considered.¹⁸⁸ Although objectives of the conspiracy—the kidnapping, killing, or maiming—must occur in another country, federal courts have applied American law to the underlying crimes.¹⁸⁹

In the 2014 conviction of defendant Chhun, the United States Court of Appeals for the Ninth Circuit interpreted the homicide element of 18 U.S.C. § 956 and stated that under the "United States' maritime and

183. *Diaz*, 90 F.4th at 342.

184. Goldstein, *supra* note 166, at 409.

185. While direct evidence can be used, it is often very difficult to use such evidence given the nature of a conspiracy. See *Developments in the Law: Criminal Conspiracy*, *supra* note 28, at 933:

Conspiracy is by nature a clandestine offense. It is improbable that the parties will enter into their illegal agreement openly; it is not necessary, in fact, that all the parties ever have direct contact with one another, or know one another's identity, or even communicate verbally their intention to agree. It is therefore unlikely that the prosecution will be able to prove the formation of the agreement by direct evidence, and the jury must usually infer its existence from the clear co-operation among the parties.

186. Goldstein, *supra* note 166, at 411:

More important, however, jurors are also told that the existence of a conspiracy may be inferred from the unfolding of events over an extended period of time and that, though evidence like unexplained meetings of defendants is insufficient in and of itself, such evidence must be used if the crime is ever to be discovered. Judicial folklore is also shared. Conspirators, juries are advised, do not shout their plans from the roof-tops. Nor do they cast them in written form or announce them in the presence of witnesses.

187. See 18 U.S.C. § 956.

188. *Id.*

189. See *United States v. Wharton*, 320 F.3d 526, 529 (5th Cir. 2003) (applying 18 U.S.C. § 956 to convict for conspiracy to murder someone in Haiti); *United States v. Castellon*, 636 F. App'x 204, 204–05 (5th Cir. 2016) (applying 18 U.S.C. § 956 to convict for conspiracy to murder someone in Mexico); *United States v. Diaz*, 90 F.4th 335, 339 (5th Cir. 2024) (applying 18 U.S.C. § 956 to convict for conspiracy to murder someone in Mexico).

territorial jurisdiction, ‘murder’ is defined as ‘the unlawful killing of a human being with malice aforethought.’¹⁹⁰ The Ninth Circuit did not consider the laws of Cambodia, where the killings occurred, but instead, the court applied United States law.¹⁹¹ “In this case, the district court defined ‘[t]o kill with malice aforethought’ in its tenth jury instruction as ‘to kill deliberately and intentionally.’”¹⁹² Similarly, federal law definitions of the crimes of maiming¹⁹³ and kidnapping¹⁹⁴ must apply to the conspiracy statute, not the law of the country in which the crime is carried out.¹⁹⁵

190. *United States v. Chhun*, 744 F.3d 1110, 1117 (9th Cir. 2014) (citing 18 U.S.C. § 1111).

191. *Id.* at 1114, 1116.

192. *Id.* at 1117.

193. 18 U.S.C. § 114 (defining the crime of maiming):

Whoever, within the special maritime and territorial jurisdiction of the United States, and with intent to torture (as defined in section 2340), maim, or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person; or Whoever, within the special maritime and territorial jurisdiction of the United States, and with like intent, throws or pours upon another person, any scalding water, corrosive acid, or caustic substance—Shall be fined under this title or imprisoned not more than twenty years, or both.

194. 18 U.S.C. § 1201(a)(1)–(5) (defining the crime of kidnapping):

Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense; (2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States; (3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49; (4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or (5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties, shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

195. *See* 18 U.S.C. § 956(a)(1):

Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, *to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States* shall, if any

In upholding the conviction of defendant Chhun, the Ninth Circuit found sufficient evidence of mens rea of “intent to murder” because the defendant Chhun wrote to his co-conspirators “that his enemies ‘are luck[]y to survive at this moment, but however they can not escape from our volcano. We have to send them to . . . hell in the near future.’”¹⁹⁶ Defendant Chhun’s intention to send them to hell, combined with his handwritten plan to shoot any prisoners,¹⁹⁷ proved his mens rea to kill¹⁹⁸ under the American Common Law definition of murder.

Obtaining a human organ requires that another person either be maimed¹⁹⁹ or deceased. Even for voluntary donations of organs, the donor is essentially “maimed” for life, as maiming includes permanent damage to the donor by removal of that person’s organ.²⁰⁰ Anyone needing a replacement organ would likely be aware of the shortage of available human organs, as well as the necessity of another human being to be the source of a replacement organ.²⁰¹

of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

(emphasis added).

196. *Chhun*, 744 F.3d at 1118.

197. *Id.* (“The government also points to a handwritten military plan for Operation Volcano that instructed its reader to ‘look for surviving enem[ies] very carefully . . . [and] take prisoners or shoot to kill on the spot.’ Richard Kim, a CFF military commander, testified that Chhun sent this document to him.”).

198. *Id.* at 1115 (“The [trial] court sentenced Chhun to life in prison, noting in particular that Chhun had the intent to kill and also that at least two innocent people were in fact killed.”). These people were killed in Cambodia after Chhun conspired while in the United States to achieve his ultimate goal of overthrowing the Cambodian government. *Id.*

199. A person’s body is maimed if a healthy organ is removed, whether he or she consented. Similar to having one’s ears pierced, one’s body is still maimed by the action of having holes punctured into one’s ears—even though one’s consented to the piercing. *Cf.* Mich. Non-Standard Jury Instructions Crim. § 5:23 (2021) (Jury Instruction definition of maiming: “The defendant committed the assault with intent to maim or disfigure by [cutting out or maiming the tongue, putting out or destroying an eye, cutting or tearing off an ear, cutting or slitting or mutilating the nose or lips, or cutting off or disabling a limb, organ or member].”).

200. See *Kidney Transplant, Future Consequences of Donation*, UCLA HEALTH, <https://www.uclahealth.org/medical-services/transplants/kidney-transplant/living-donor-transplant/how-become-kidney-donor/future-consequences-donation> [https://perma.cc/4DPJ-Y63U] (last visited Jan. 11, 2025).

201. See Aksel Braanen Sterri et al., *Ethical Solutions to the Problem of Organ Shortage*, 31 CAMBRIDGE Q. OF HEALTHCARE ETHICS 3, 297, 297 (2022). This article describes the global problem that is kidney failure. In the United States alone, over 100,000 people are on the waiting list to receive a new organ. *Id.* In Europe, there are even more people on the waiting list for a new organ than in The United States. *Id.* The pervasiveness of this problem throughout the world shows that those on the waiting list are aware of the organ shortage that exists. *Id.*

Worldwide, no legal market to purchase human organs exists except for Iranian citizens.²⁰² Ethicists debate the possibility of a commercial kidney market.²⁰³ Support stems from the lack of available kidneys compared to the need,²⁰⁴ as well as the fact that most people have a second kidney.²⁰⁵ Objections to a commercial kidney market include exploitation of the poor and the fact that prisoner donations are inherently coercive.²⁰⁶ “The vast majority of the world transplant community opposes payments to organ donors, whether legal or illegal.”²⁰⁷ Yet even if such a market existed for kidneys, a market for other organs, such as hearts, would necessitate dead donors.

Huge underground illegal organ businesses thrive in many parts of the world. This illegal trade involves both human trafficking,²⁰⁸ as well as

202. Tannaz Moeindarbari et al., *Kidneys for Sale: Empirical Evidence From Iran*, 35 TRANSPLANT INT’L 1, 1 (2022) (Worldwide, only Iran allows the sale of human kidneys, but only for purchase and use by Iranian Citizens.).

203. Corydon Ireland, *Ethicists, Philosophers Discuss Selling of Human Organs*, HARV. GAZETTE (Feb. 14, 2008), <https://news.harvard.edu/gazette/story/2008/02/ethicists-philosophers-discuss-selling-of-human-organs/> [<https://perma.cc/3JRR-9Y3V>].

204. See Jenny Jarvie, *Inmates Could Trade an Organ for an Early Out*, L.A. TIMES (Mar. 9, 2007, 12:00 AM), <https://www.latimes.com/archives/la-xpm-2007-mar-09-na-organs9-story.html> [<https://perma.cc/FXM8-FUT3>].

205. *Living with One Kidney*, PENN. MED., <https://www.pennmedicine.org/for-patients-and-visitors/find-a-program-or-service/transplant-institute/living-donor-kidney-transplant/living-with-one-kidney> [<https://perma.cc/GG6A-WL9H>] (last visited Jan. 11, 2025).

206. Lawrence, O. Gostin, *Prisoners Shouldn’t Be Allowed to Donate Their Organs*, N.Y. TIMES (Apr. 26, 2013, 1:18 PM), <https://www.nytimes.com/roomfordebate/2013/04/25/should-prisoners-be-allowed-to-donate-their-organs/prisoners-shouldnt-be-allowed-to-donate-their-organs> [<https://perma.cc/WZ7S-2A6S>] (“Despite rules stating that organ donations should not affect prisoners’ conditions, many will believe otherwise. Free consent is not truly possible under coercive conditions. Beyond the inherently coercive environment, many prisoners are mentally ill, impoverished, uneducated, or very young, rendering them incapable of giving informed consent. While incarcerated, they often experience despair and loneliness, exacerbating their emotional distress. As a confined population, prisoners are at risk be ‘educated,’ persuaded, or even enticed by wardens or the state to donate their organs.”).

207. Alvin E. Roth, et. al., *Criminal, Legal, and Ethical Kidney Donation and Transplantation: A Conceptual Frame to Enable Innovation*, 35 TRANSPLANT INT’L 1, 1 (2022).

208. See *Senior Nigerian Politician Jailed Over Illegal UK Organ-Harvesting Plot*, WIREDGOV. (Mar. 23, 2023, 2:07 PM), https://www.wiredgov.net/wg/news.nsf/articles/senior%2Bnigerian%2Bpolitician%2Bconvicted%2Bover%2Billegal%2Bbuk%2Borganharvesting%2Bplot%2B23032023160500?open=&utm_source=chatgpt.com [<https://perma.cc/8ALW-T8SH>]. For a recent example, see a 2023 criminal conviction in UK: “Ike and Beatrice Ekweremadu, conspired with Dr. Obeta to identify individuals in Nigeria whose kidneys might be harvested for [their daughter’s] benefit. The victim in this case was recruited in Lagos, Nigeria. At the time, he was selling telephone parts in public markets. In February 2022, the victim was transported to London and was kept under the direction and financial control of the defendants. The conspirators’ plan was for the victim to provide a kidney to Sonia Ekweremadu in exchange for the suggested amount of either £2,400 or £7,000 (these two figures were uncovered in the investigation and prosecution case review) and the promise of work in the UK.” *Id.*

exploiting²⁰⁹ destitute individuals in their own countries.²¹⁰ Whether or not desperate people can be described as “voluntarily” selling their organs, their bodies are maimed in the process, even more so when the “donor” is misled by someone and tricked into consenting.²¹¹ Whatever the morality of truly voluntary markets, the Chinese organ industry remains morally and legally unacceptable because overwhelming evidence demonstrates that organs are involuntarily removed by maiming and/or killing the donors.²¹²

Participants in the Chinese organ industry agree to kidnap, kill, and maim.²¹³ First, as demonstrated in Part II of this Article, China currently holds Falun Gong and Uyghur Muslims in detention camps, which qualifies as kidnapping under U.S. federal law.²¹⁴ Second, these individuals are either maimed when their organs are removed, or they are killed in order for their organs to be harvested.²¹⁵ Anyone involved with the Chinese organ industry satisfies this first element.

2. Defendant Willfully Joined the Agreement

The defendant must willingly join the agreement. In other words, the defendant must share the objectives of the agreement and must be aware that there is another person with whom the agreement is made.²¹⁶ However, “a conspirator need not know the identity of his cohorts, but must be aware of, or consciously indifferent to, their number.”²¹⁷ Individuals participating in the Chinese organ industry are aware that there are others conspiring with them in order to successfully locate and transplant the organ.

209. For a discussion of the impact of war on the exploitation of organ removal victims, see Thomas Martial, *Harvesting Vulnerability: The Challenges of Organ Trafficking in Armed Conflicts*, 105 INT’L REV. RED CROSS 674, 675–76 (2023).

210. *Inhumane Trade of Human Organs*, PHIL. DAILY INQUIRER (July 23, 2024), <https://opinion.inquirer.net/175379/inhumane-trade-of-human-organs> [<https://perma.cc/KJW2-XAS5>]; see Cai Nebe & Ben Shemang, *Illegal Organ Traffickers in Asia Prey on World’s Poor*, GLOB. MEDIUM F. (Sept. 18, 2024), <https://www.dw.com/en/illegal-organ-traffickers-in-africa-prey-on-worlds-poor/a-70242247> [<https://perma.cc/6GPL-SV9U>] (discussing organ harvesting in African countries).

211. See Alison C. Weightman, *Respecting Living Kidney Donor Autonomy: An Argument for Liberalizing Living Kidney Donor Acceptance Criteria*, 41 MONASH BIOETHICS R. 156, 164 (2023).

212. See *supra* Part I.

213. See Vijay Kranti, *World Governments and WHO Must Wake Up to Stop China from Inhuman Harvesting of Human Organs for Transplant Business*, CENT. TIBETAN ADMIN. (Dec. 19, 2022) <https://tibet.net/world-governments-and-who-must-wake-up-to-stop-china-from-inhuman-harvesting-of-human-organs-for-transplant-business> [<https://perma.cc/WPJ8-DH3L>].

214. See *supra* Part I.

215. See Anne Zimmerman, *Forced Organ Harvesting: Expanding the Dead Donor Rule*, 9 VOICES IN BIOETHICS 1, 2 (2023).

216. *Developments in the Law: Criminal Conspiracy*, *supra* note 28, at 926.

217. *Id.* at 928.

The worldwide transplant community, including those in America, are fully aware of the history and current practices of the Chinese organ industry.²¹⁸ It is widely known that “access to a supply of organs has been one of the reasons the PRC has been able to become so formidable in the skills required for transplant surgery and thus to rise . . . in the estimation of transplant surgeons elsewhere in the world.”²¹⁹ Because the medical community, in particular, is fully aware of the source of these organs, agreeing to participate in the Chinese organ industry demonstrates willfully joining the agreement to kill or maim victims overseas.²²⁰

218. *Stopping the Crime Hearing*, *supra* note 3, at 1–2 (statement of Hon. Chris Smith, Rep. from N.J., Chair, Cong.-Exec. Comm’n on China). See Jacqui Wise, *Transplantation: Researchers Urge Retraction of 400 Papers Amid Fears That Organs Were From Chinese Prisoners*, 364 BMJ 1596, 1596 (2019). Michael Nguyen, *Forced Organ Harvesting: A Decades-long Injustice in Need of International Accountability and Action*, MARKKULA CTR. FOR APPLIED ETHICS (May 2, 2024), <https://www.scu.edu/ethics/healthcare-ethics-blog/forced-organ-harvesting-a-decades-long-injustice-in-need-of-international-accountability-and-action/> [<https://perma.cc/GY83-4JV>]; *A Cohort of Organisations Spotlight the ‘Forgotten Genocide’ of Uyghurs by China*, INT’L BAR ASS’N (Jan. 23, 2025) <https://www.ibanet.org/A-cohort-of-organisations-spotlight-the-forgotten-genocide-of-Uyghurs-by-China> [<https://perma.cc/UV7P-RU7T>].

219. Sir Geoffrey Nice QC et al., *supra* note 27, at 153.

220. *AAPS Position Statement on Forced Organ Harvesting*, ASSOC. OF AM. PHYSICIANS & SURGEONS (July 4, 2023), <https://aapsonline.org/aaps-position-statement-on-forced-organ-harvesting/> [<https://perma.cc/LKC5-NEWF>]:

The Association of American Physicians and Surgeons, a national organization of physicians and surgeons in all specialties, founded in 1943, issues the following statement: *There is overwhelming evidence that by the authority of the Chinese Communist Party, which holds absolute power in China, members of the Chinese Communist Party have arrested Falun Gong practitioners, Uyghurs, Christians and others in China, incarcerated them, done medical testing without consent for the purpose of matching their organs with transplant recipients, and removed their organs for transplantation, killing them in the process of doing so, engaging in “transplant tourism” for money.* Chinese nationals who are physicians and students, coerced or indoctrinated, approved by the Chinese Communist Party to leave the country, have been admitted to US colleges, universities and medical schools and internship/residency programs, where they are taught science, absorb medical knowledge, and learn to perform procedures: The Association of American Physicians and Surgeons condemns imprisonment for religious practices, dissent, and ethnic background. The Association of American Physicians and Surgeons condemns any and all forms of forced organ harvesting. The United States government and American physicians should refuse to condone, enable, facilitate, or participate in forced organ harvesting, as by: Educating or Training personnel from a totalitarian country like communist China, or any other country, in skills that might be used for forced organ harvesting or referring patients to programs that use forced organ harvesting or participating in their care.

(emphasis added); Am. Pub. Health Ass’n, *supra* note 85:

American participants, including doctors, might claim that they cannot control whether the Chinese surgeons they train use those skills to maim or kill others. “The law of conspiracy is intended . . . to make it easier to impose criminal punishment on members of groups that plot forbidden activity.”²²¹ Willful blindness does not shield Americans from culpability so long as they have joined the agreement to enable the doctors in China to harvest humans.

Criminal acts done in furtherance of a conspiracy may be sufficiently dependent upon the encouragement and material support of the group as a whole to warrant treating each member as a causal agent to each act. Under this view, which of the conspirators committed the substantive offense would be less significant in determining the defendant’s liability than the fact that the crime was performed as part of a larger division of labor to which the defendant had also contributed his efforts.²²²

This theory indicates that the hand that cuts into the body of the innocent Falun Gong or Uyghur victim was trained by the American hand, and the doctor in China carries out the maiming and killing by extracting the victim’s organs with skills learned from the American co-conspirator.

In 1961, the United States Supreme Court explained the enhanced dangers presented by conspiracies that enable the benign activity of one to develop into a powerful crime by others.²²³ “Group association for criminal

While the Chinese government states that it stopped harvesting organs from executed death-row prisoners in 2015 and now relies entirely on voluntary donations, emerging evidence indicates that China performs far more transplants than officially reported, there remains a large gap of organs that cannot be accounted for by voluntary donations, and unethical organ procurement continues on a large scale from prisoners of conscience in extrajudicial killings. In response, the European Parliament and the U.S. Congress passed resolutions condemning these killings, and several countries have strengthened legislation against organ trafficking and illicit transplant tourism. Academic and professional organizations embargoed research from China on ethics grounds. However, Chinese officials’ subsequent promises of reform and claimed progress have led to a renewal of international collaboration with the Chinese transplant system. Because the latest evidence suggests that systemic abuses persist, the international community risks becoming complicit in these state-driven crimes against humanity through collaboration and trade. APHA recommends adoption of stronger measures by governments, medical bodies, and professional organizations to uphold established ethics standards.

221. Philip E. Johnson, *The Unnecessary Crime of Conspiracy*, 61 CAL L. R. 1137, 1139 (1973).

222. *Developments in the Law: Criminal Conspiracy*, *supra* note 28, at 998–99.

223. *Callanan v. United States*, 364 U.S. 587, 593 (1961).

purposes often, if not normally, makes possible the attainment of ends more complex than those which one criminal could accomplish.”²²⁴ American conspirators, by sharing expertise in a variety of areas, empower the Chinese organ industry to thrive and expand.²²⁵

3. One of the Conspirators Commits an Overt Act in Furtherance of the Conspiracy

The overt act element can be any action taken by a coconspirator, no matter how small, that is in furtherance of the conspiracy.²²⁶ The overt act “may be a completely innocent one which indicates little or nothing of the kind of injury to society which the conspiracy seeks to bring about.”²²⁷ Actions that help fund, recruit, or simply facilitate the conspiracy each qualify as overt acts.²²⁸ Federal courts have found preparatory actions to satisfy the requirement, including maintaining a website, recruiting others, soliciting donations, purchasing supplies, supplying training, and any other action in furtherance of the conspiracy.²²⁹

Other convictions under 18 U.S.C. § 956 that satisfied the “overt act” requirement included firearms training in Los Angeles and obtaining a passport for travel overseas.²³⁰ Making a telephone call from Kentucky to a co-conspirator, applying for a passport to travel overseas to kill the victim, and attending a meeting in North Carolina all satisfied the overt act requirement for the defendants who killed a victim in the Philippines.²³¹ In another case, wiring money to Haiti and traveling from Louisiana to Haiti constituted an overt act under this definition.²³² This element works in conjunction with the fourth one, requiring that at least one of conspirators be physically located within the United States.

224. *Id.*

225. *See infra* Part III.

226. Goldstein, *supra* note 166, at 406.

227. *Id.*

228. *Developments in the Law: Criminal Conspiracy*, *supra* note 28, at 946:

A noncriminal and relatively minor act is held to satisfy the requirement if it is in furtherance of the conspiracy. An act committed by any one of the conspirators is sufficient both as to all present members of the conspiracy and as to persons subsequently joining the agreement. The act, however, cannot be part of the formation of the agreement, nor can it take place after termination of the conspiracy.

229. *See generally* United States v. Syed Talha Ahsan, No. 3:06-CR-00194-JCH, Indictment (D. Conn. 2006), available at <https://www.ice.gov/doclib/news/releases/2012/121009newhaven2.pdf> [<https://perma.cc/S6G7-82VG>].

230. United States v. Kabir, 51 F. 4th 820, 826 (9th Cir. 2022).

231. United States v. Hunter, 32 F.4th 22, 26–27 (2d Cir. 2022).

232. United States v. Wharton, 320 F.3d 526, 537–38 (5th Cir. 2003).

4. When the Agreement was Made, at Least One of the Conspirators Was Within the United States

The presence of any member of the conspiracy in the United States at the time the agreement was made enables prosecution of every co-conspirator.²³³ Circumstantial evidence of location is sufficient for conviction.²³⁴ The identity of the person in the United States need not even be proven, as long as the conspiracy involves membership in a group, such as a gang, that includes members located in the United States.²³⁵

The statute has been applied to a wide variety of conspiracies,²³⁶ including one in which a defendant conspired to travel to Afghanistan and kill American soldiers.²³⁷ A group of men in Minnesota were convicted of conspiracy to travel to Somalia to wage jihad and kill the “Ethiopian [i]nvaders.”²³⁸ Another group was convicted for training in the United States to fight in Iraq with the goal of killing American personnel overseas.²³⁹

Criminal organizations who plan international murders from the United States have been prosecuted under 18 U.S.C. § 956. Gang members who conspired in Texas to kill their rivals in Mexico were prosecuted under this statute, despite the fact that the individuals murdered were bystanders mistaken for the intended victims of the gang murder.²⁴⁰ Similarly, gang members in Chicago were prosecuted when they conspired and arranged to pay for a murder in Mexico.²⁴¹

There have been convictions for conspiring to kill others in the Philippines as part of a hitman operation.²⁴² A Louisiana based conspiracy to commit insurance fraud by killing a victim in Haiti also resulted in conviction.²⁴³ At least one of the conspirators was located in the United States when the criminal agreement was made.²⁴⁴ The following sample

233. *See* 18 U.S.C. § 956(a)(1).

234. *United States v. Diaz*, 90 F.4th 335, 343 (5th Cir. 2024).

235. *Id.* at 342–43.

236. *United States v. Johnson*, 952 F.2d 565, 570–71 (1st Cir. 1991) (This was not for conspiracy to kill, but for conspiracy to damage property in a foreign country. Under an earlier rendition of the law, defendants had been convicted of violating 18 U.S.C. § 956 for conspiring to damage overseas property by developing explosives to send to the Provisional Irish Republican Army in its attacks against British targets in Northern Ireland.).

237. *United States v. Kabir*, 51 F. 4th 820, 823–24 (9th Cir. 2022).

238. *United States v. Omar*, 786 F.3d 1104, 1107 (8th Cir. 2015).

239. *United States v. Amawi*, 695 F.3d 457, 465–66 (6th Cir. 2012).

240. *United States v. Diaz*, 90 F.4th 335, 339–43 (5th Cir. 2024).

241. *United States v. Sanchez*, 820 F.3d 899, 900 (7th Cir. 2016).

242. *United States v. Stillwell*, 986 F.3d 196, 198 (2d Cir. 2021); *see also Samia v. United States*, 143 S. Ct. 2004, 2010–11 (2023); *United States v. Hunter*, 32 F.4th 22, 26–27 (2d Cir. 2022).

243. *United States v. Wharton*, 320 F.3d 256, 530–31 (5th Cir. 2003).

244. *Id.* at 529–30.

prosecution demonstrates the application of 18 U.S.C. § 956 to a non-fiction description of a conspiracy to kill overseas.

A. Sample Prosecution: Daniel Asa Rose & Cousin Larry

“Then there’s the ethical question All the docs in the family are opposed to ‘shopping for body parts,’ as they put it, maybe even from a prisoner. What’s your position on that anyway?”

“My position? Here’s my position: This nonprisoner needs a kidney. Execute someone of my blood type!”

“But seriously-”

“I’m dead serious.”

And he is.²⁴⁵

Author Daniel Asa Rose recounts this conversation between himself and his Cousin Larry as they discuss their conspiracy to have a human killed in order to harvest his kidney in the nonfiction book, *Larry’s Kidney*.²⁴⁶ Promoted by the Boston Globe as “[o]ne of the funniest, most touching and bizarre nonfiction books I’ve read,”²⁴⁷ Daniel Asa Rose describes his successful trip to China to accomplish this very goal: buying the organ of a criminal killed to order.²⁴⁸ Similar to selecting a lobster from

245. See ROSE, *supra* note 24, at 34.

246. *Id.*

247. *Id.* (Boston Globe as noted on the front of the book).

248. See *id.* at 98-99, 187; see also *id.* at 253:

10:17 p.m. Get verbal confirmation that thirty-two thousand American dollars are winging their way to China. . . .

10:22 p.m. Do we know where our donor is? Is he having his final dinner?

10:23 p.m. We receive a fax with written confirmation that money is in transit. Show this to Cherry [hospital official arranging the transplant.] . . .

10:26 p.m. Do we know where our donor is? Is he is being walked from his final holding cell?

10:35 p.m. “Everything clicking like clockwork,” Cherry reports. “Organ on its way.” “The donor, too, or just the kidney,” I ask. Cherry and the [other hospital employee] exchange a giggle. “Just the kidney, really,” Cherry says. . . .

10:53 p.m. In the elevator going back up, I ask Cherry: “What’d you mean before when you said, ‘Just the kidney, really?’” “I mean donor is brain-dead,

the tank for dinner,²⁴⁹ Rose gleefully recounts the arrival of the “dusty” ambulance containing the still-living but unconscious victim who is placed in the “side by side” room²⁵⁰ so that the victim can be killed, one of his kidneys removed, and then transplanted into Larry.²⁵¹

While the author expresses some minimal hope that the victim deserved to be killed as a “bad-bad criminal,”²⁵² he barely flinches when he discovers the very real possibility that the individual killed was instead a practitioner of the Falun Gong—one of the groups whose members are killed and whose organs are harvested for sale to wealthy buyers.²⁵³

freshly executed, but still alive on life support. Body with kidney coming in ambulance.” I stop eating peanuts mid-munch. “I just saw an ambulance pull in when I went out for money,” I say. “Could that have been him?”

See also Robertson & Lavee, *supra* note 31, at 1804.

249. *Id.* at 197. Throughout the book *Larry’s Kidney*, author Rose repeatedly refers to the individual being killed so that Larry can buy the kidney by using animal metaphors—perhaps as a way to dehumanize the victim or perhaps as a way to justify his participation in a murder conspiracy. For example: “‘Oh yes,’ Jade says cheerfully. ‘In my judgment he kill prisoner in two weeks.’ That’s putting it a bit starkly, but it damages my mood only slightly. It’s the equivalent of seeing a baby calf frolicking in a field and realizing it’s this evening’s veal piccata.” Another example: “[T]he dead horse has indeed come to the live horse – but only because the Chinese government has put the dead horse to death”. *Id.*

250. *Id.* at 256 (“10:56 p.m. Downstairs, the donor’s body is being wheeled through the lobby, elevated to the top floor, where it’s placed in an operating room next to the one where Larry will be. ‘Two rooms side by side,’ Cherry informs me amiably. ‘One to remove, one to receive.’”).

251. *Id.*:

I mean donor is brain-dead, freshly executed, but still alive on life support. Body with kidney coming in ambulance. I stop eating peanuts mid-munch. “I just saw an ambulance pull in when I went out for money,” I say. “Could that have been him?” “Doubtful,” she says thoughtfully. “He come in regional ambulance, probably dusty.” “This one was dusty.” “Okay, that is him.”

See Robertson & Lavee, *supra* note 31, at 1804.

252. *Id.* at 198.

253. *Id.* at 80 (“Well, I’m suspending all ethical considerations because he’s my cousin.”); see also *id.* at 98–99:

“Okay, thank you. Can you also give me an idea of where the kidneys come from? Because we hear all kinds of things in the West about prisoners and religious sects and—” Cherry [the hospital employee] cuts me off with a general answer about the conditions of the kidneys, which, she assures me, will be top-notch. Dr. X is renowned for this sort of transplant. Medical colleagues all over the Third World send him their relatives do. “Am I answer all your question?” she asks pleasantly. “Need more to pump my info?” “Well the other main thing I need to know is, it is legal?” I demand. “Hard to say that, because Chinese people don’t really know laws. But if doctors can get, is okay.”

Throughout the book, Rose repeatedly discusses his fear of violating vague Chinese laws, which he neither researches nor names, that prohibit the sale of organs to Americans.²⁵⁴ While it is therefore impossible to determine the legality (in China)²⁵⁵ of the purchase of the organ from the Chinese doctor who performs the transplant, *Larry's Kidney* is the author's unabashed description of what would, under U.S. law, amount to a federal crime.²⁵⁶ Instead of flitting around on a press tour promoting his confession,²⁵⁷ the author and his cousin should, if 18 U.S.C. § 856 applied

ETHAN GUTMANN, *THE SLAUGHTER* (2014); DAVID MATAS & DAVID KILGOUR, *BLOODY HARVEST: ORGAN HARVESTING OF FALUN GONG PRACTITIONERS IN CHINA* (George Down ed., 2009).

254. See ROSE, *supra* note 24, at 4–5 (Conversation between author Rose and his cousin Larry):

“They’ve made it somewhat illegal.” “They’ve made what somewhat illegal?” “Certain select transplants.” “What are you talking about?” I say. “You’re telling me—” “Not for everyone! Most of the world can still go to China for transplants exactly like I said. Everything I just told you is correct down to the last letter of the law. It’s just that the Chinese have made it illegal for certain select persons to get a transplant there.” “Which persons?” “Western persons.” . . . “We’re Western persons.” “Dan, we’re smart Western persons. In the most populous country on earth, don’t you think we’re intelligent enough to find some people with loopholes?”

255. Jonathan Watts, *China Introduces New Rules to Deter Human Organ Trade*, 369 LANCET 1917, 1917 (2007) (Not only because Larry’s Kidney is ill-researched, but also because of Chinese law and practice differing on this point.).

256. See ROSE, *supra* note 24, at 4–5, 80.

257. Daniel Asa Rose: *About the Author*, AMAZON PRIME, <https://www.amazon.com/stores/author/B001H6V35M/about> [<https://perma.cc/EGQ4-NZEB>] (last visited Jan. 6, 2025):

UPDATE! “LARRY’S KIDNEY” has been listed as one of the TOP BOOKS OF THE YEAR by Publishers Weekly, and has been optioned to be a major motion picture. Since the summer, Daniel has appeared on NPR, CNN, The New York Times Op Ed Page, and over 35 radio programs. In addition, he has read from the book in Albuquerque, Boston, New York, Detroit, Denver, San Diego, San Francisco, Houston, Miami, Tampa, Portland (Oregon), Saint Louis, and Providence. Thanks to all who turned out! . . .

DANIEL ASA ROSE is the author, most recently, of the world’s first (dark) comedy about medical tourism. “LARRY’S KIDNEY: Being the True Story of How I Found Myself in China With my Black Sheep Cousin and his Mail-Order Bride, Skirting the Law to Get Him a Transplant . . . and Save His Life” (Morrow, ISBN 978-0061708701) is being called “a satisfying, hysterical page-turner that will captivate fans of travel writing and family narratives, with special interest for anyone who’s helped a love one through serious illness” (Publishers Weekly starred review); “a side-splitting tour de force that will resonate with readers concerned about the plight of American patients who may be relegated for years to an organ transplant waiting list” (Library Journal); “skillful, funny, fascinating” (The New York Observer);

and there were a prosecution, be sitting in federal prison serving a life sentence for their participation in conspiracy to murder.

I do know that Larry has been a bit troubled, off and on, by the idea of my announcing our mission to the world this way [by writing a book]. It breaks the second of his cardinal rules, which is: Never admit to a crime. No matter what, never admit to a crime. When I explain that we didn't commit a crime, exactly, there's a Mona Lisa silence on the end of the line²⁵⁸

Except it could be argued that Rose and Cousin Larry did in fact commit a federal crime. Rose and his cousin Larry conspired to commit a murder overseas.²⁵⁹ Rose and his cousin Larry violated 18 U.S.C. § 956: conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.²⁶⁰

In the opinion of the author, Rose, the need to harvest humans for their organs outweighs any moral or legal concern for those killed.²⁶¹ He repeatedly mentions his worry about being arrested for breaking Chinese law,²⁶² while minimizing, ignoring, or justifying concerns that another person will be killed to meet Larry's need for a kidney.²⁶³ Such callous and

and "one of the funniest, most touching and bizarre nonfiction books I've read. A remarkably talented writer and a great book" (Boston Globe).

258. ROSE, *supra* note 24, at 300.

259. *See, e.g.*, United States v. Diaz, 90 F.4th 335, 340–41 (5th Cir. 2024); Samia v. United States, 143 S. Ct. 2004, 2011 (2023); United States v. Hunter, 32 F.4th 22, 27 (2d Cir. 2022); United States v. Stillwell, 986 F.3d 196, 198 (2d Cir. 2021); United States v. Sanchez, 820 F.3d 899, 900 (7th Cir. 2016); United States v. Omar, 786 F.3d 1104, 1107–08 (8th Cir. 2015); United States v. Chhun, 744 F.3d 1110, 1114–15 (9th Cir. 2014); United States v. Mehanna, 735 F.3d 32, 41–42 (1st Cir. 2013); United States v. Amawi, 695 F.3d 457, 465 (6th Cir. 2012); United States v. Mustafa, 406 F. App'x 526 (2d Cir. 2011); United States v. Wharton, 320 F.3d 256, 531 (5th Cir. 2003); United States v. Johnson, 952 F.2d 565, 571 (1st Cir. 1991).

260. *See* 18 U.S.C. § 956.

261. *See* ROSE, *supra* note 24, at 229. In one revealing passage, author Rose describes the fact that he never even considered the idea of being tested as a possible donor for his cousin. This is evidenced in the following conversation between himself and the woman he cruelly describes as Larry's "mail-order bride," despite the fact Larry declines to marry her after all: "'Why you no give kidney?' 'What?' 'Why you no give kidney to Larry?' Suddenly I feel ridiculous . . . 'It's doubtful our DNA—' 'See you phony? You not even take test to try.' She's right. I've never even considered offering my own.'" *Id.*

262. *See id.* at 99 (Conversation between Author Rose and hospital employee Cherry: "'Well the other main thing I need to know is, is it legal?'" I demand. 'Hard to say that, because Chinese people don't really know laws. But if doctors can get, is okay.'"); *see also id.* at 149 (Conversation between author and Cousin Larry: "'Not only that, but they're [the Philippine government] are illegalizing kidney transplants for foreigners, just like here [China], but punishable by twenty years in jail and a forty-eight-thousand-dollar-fine'").

263. *See id.* at 187 (Conversation between the transplant doctor and author Rose: "'Your country give us many problems . . . so many bad words, rumors about what we

selfish attitudes enable the communist Chinese government to reap huge financial gains from its human harvest.²⁶⁴

In *Larry's Kidney*, Rose confesses²⁶⁵ to each element of 18 U.S.C. § 956. The first element, the intent to kill, is baldly stated by Cousin Larry and Rose throughout the book.²⁶⁶ The acknowledgment that a live kidney would be provided in China by killing an unknown victim demonstrates that Cousin Larry and Rose intended to accomplish the unlawful killing of a human being with malice aforethought.²⁶⁷ Rose confirms that the surgeon, not a police officer, prison guard, or government official, will be killing the victim.²⁶⁸ Rose relates that a victim will be killed “to order” during a conversation with his translator:

doing. They call us murderer! Say we kill students for kidneys! Members of Falun Gong outlaw sect. We never kill these person. Only murderer-criminals who deserve be killed!’”).

264. See Wesley J. Smith, *Falun Gong Member Whose Organs are Harvested Proves China's Guilt*, NAT'L REV. (Sept. 11, 2014, 3:24 PM), https://www.nationalreview.com/corner/falun-gong-member-whose-organs-were-harvested-proves-chinas-guilt/?utm_source=recirc-desktop&utm_medium=homepage&utm_campaign=right-rail&utm_content=corner&utm_term=third [https://perma.cc/Z9VP-5HCJ] (“[W]e certainly don't see mass demonstrations and angry calls for divestiture as those that are ongoing against Israel. Are these relatively mild responses, or nonresponses—given the depravity of the conduct—merely a case of ‘follow the money,’ or just the ‘wrong’ villain?”); see *Larry's Kidney: Being the True Story of How I Found Myself in China with My Black Sheep Cousin and His Mail-Order Bride, Skirting the Law to Get Him a Transplant—and Save His Life*, GOOD READS, <https://www.goodreads.com/book/show/5094000-larry-s-kidney> [https://perma.cc/8QPH-VTD3] (last visited Jan. 10, 2025); *Larry's Kidney: Being the True Story of How I Found Myself in China with My Black Sheep Cousin and His Mail-Order Bride, Skirting the Law to Get Him a Transplant—and Save His Life*, AMAZON PRIME, <https://www.amazon.com/Larrys-Kidney-Mail-Order-Skirting-Transplant/dp/0061708704> [https://perma.cc/5KZF-BVRY] (last visited Jan. 10, 2025):

Larry's Kidney is Daniel Asa Rose's wild-and-crazy memoir about his trip to Beijing, China, to help his black-sheep cousin Larry receive an illegal kidney transplant, collect a mail-order bride, and stop a hit-man from killing their uncle. An O. Henry Prize winner, a two-time recipient of PEN Fiction Awards, and a 2006 National Endowment for the Arts Literary Fellow, Rose has written “a surprisingly fun, and moving, book with resonance” —*Chicago Tribune*.

265. *Editor's Note*: The Author is asserting that Daniel Asa Rose's actions, when analyzed under 18 U.S.C. § 956, an American law, constitute conspiracy. In the book *Larry's Kidney*, Daniel Asa Rose was not knowingly confessing to the crime as such.

266. See ROSE, *supra* note 24, at 197.

267. See *id.*

268. *Id.* at 85:

Antonia tells me she's learned that kidney transplants have indeed been drastically reduced because of the Restriction, but that if I can promise confidentiality, there's a surgeon out in the city of Shi a few hours west of Beijing who may still have access to some. “How can he skirt the law? Will it be a healthy organ?” “My understanding is that this Dr. X is so highly placed,

“So the surgeon definitely means what he says?” I ask Jade. “We can count on him?”

“Oh, yes,” Jade says cheerfully. “In my judgement he kill prisoner in two weeks.”

That’s putting it a bit starkly, but it damages my mood only slightly. . . . I’m in a triumphant mood that nothing can wreck. Yes, the triumph has a twist to it: a bit of heartlessness mixed in with my high spirits, knowing that someone else has to die for Larry to live.²⁶⁹

Demonstrating the intent to kill,²⁷⁰ Rose states that he is suspending all ethical considerations as to whether “political dissidents or religious radicals” *would be killed* to provide his cousin with a kidney.²⁷¹ He agreed with Cousin Larry to achieve the purpose of the conspiracy: the murder of another person for his or her kidney.²⁷²

The agreement element for the conspiracy to kill a person overseas does not require that a specific, named individual be targeted at the time of the creation of the conspiracy.²⁷³ Instead, the only requirement is the intention to kill any person, even if no individual has been identified as the victim until the killing occurs.²⁷⁴ Although Cousin Larry and Rose were

if he wants an organ—which will be immaculately screened—he knows how to make the authorities look the other way.”

269. *Id.* at 198.

270. *See id.* at 80:

“It is illegal, for sure? That’s one of the points we’ve been unclear about.” “Because the law is more fluid in China than you’re used to at home, it’s not as black and white . . . But yes, it is indeed illegal, since they passed a Restriction a while back. Apparently the feeling was that the West was making such a fuss about China’s transplant business—questioning whether organs came from political dissidents or religious radicals—that China said, ‘All right then, you can’t have any.’ And that was that. But here people don’t have the same general attitude against it that there is in the West. It’s not frowned upon ethically the way it is in much of your United States.” “Well, I’m suspending all ethical considerations because he’s my cousin.”

271. *Id.* at 9 (“Morally, what he’s suggesting is murky. C’mon, are we just another couple of arrogant First Worlders who think they can snatch an organ from the Third?”).

272. *See* 18 U.S.C. § 956(a)(1) (Conspiracy to kill or maim); Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104–132, § 704, 110 Stat. 1214, 1294–1295 (1996) (On April 4, 1996, 18 U.S.C. § 956 was expanded to cover conspiracies within the United States to kill, kidnap, or maim persons overseas.).

273. *United States v. Amawi*, 695 F.3d 457, 477 (6th Cir. 2012).

274. *See id.*; *United States v. Chhun*, 744 F.3d 1110, 1114–15 (9th Cir. 2014):

unaware of the identity of the specific person who would be killed in order for Cousin Larry to receive the kidney of the deceased, they nonetheless agreed to have someone killed.²⁷⁵

The second required element is evidence that the defendant willfully joined the conspiracy with the intent to further its purpose.²⁷⁶ Throughout his book, Rose describes his willingness to find a kidney for Cousin Larry. During their conspiracy discussions, Cousin Larry and Rose deliberate as to the country in which they could most likely achieve their goal.²⁷⁷ Rose and Cousin Larry focus on China as the optimum location, based primarily on the ease of locating a matching organ from someone who would be killed to order.²⁷⁸ When it takes time for a matching victim to

Operation Volcano began on November 24, 2000. CFF soldiers attacked government buildings protected by government forces in Phnom Penh. Throughout the day, CFF soldiers and government soldiers exchanged gunfire. Finally, the government sent in tanks, and the CFF forces retreated. Several CFF soldiers were killed in the gunfire that day. Additionally, one civilian bystander was killed. After this failed overthrow, Chhun returned to the United States and resumed his life as a tax preparer. . . . The court sentenced Chhun to life in prison, noting in particular that Chhun had the intent to kill and also that at least two innocent people were in fact killed.

275. See 18 U.S.C. § 956(a)(1) (They broke the law even if they only agreed to maim. However, the overwhelming evidence in Larry's Kidney is that the conspiracy was to have someone killed.).

276. *Amawi*, 695 F.3d 457; see ROSE, *supra* note 24, at 79:

I'm Daniel from Massachusetts. I apologize in advance if this isn't the proper place to say this or if I'm abusing your hospitality, but I'll just be direct: I'm in Beijing on a mission of mercy. My cousin, Larry, whom I referenced before, is dying of end-stage renal disease and I've come to Beijing looking for a kidney. I realize it's a controversial subject, and the last thing I want is to offend anyone, but we can't afford to dillydally.

See also *id.* at 304 ("Thanks also . . . to Larry himself, for giving me the opportunity to help. Couldn't have done it without you, cuz.").

277. ROSE, *supra* note 24, at 120–21:

"Okay," I say recalculating. "That doesn't change the basic equation. It was still a good move for you to come to China, assuming the kidney comes in around eighty-five [thousand dollars]. Let's do the numbers again. How much does a kidney transplant cost in the US.?" "Two-fifty, vicinity. But insurance covers it at home." "But you have to wait ten years at home, which you aren't willing to do. Plus, you mostly get a cadaver kidney at home, and here you get a live one. So it's worth it to pay out of pocket here, right?" . . . "That seems logical, yes."

See also *id.* at 255.

278. See ROSE, *supra* note 24, at 5 ("Most of the world can still go to China for transplants exactly like I said."); *id.* at 4 ("I've been researching the Internet from under the blankets, and it turns out China does more kidney transplants than any other nation. And I won't have to wait on a list seven to ten more years for a cadaver, as my overcautious

be located, Cousin Larry expresses his frustration to Rose that no one has yet been killed.²⁷⁹

Throughout the book, Rose repeatedly discusses his participation in the conspiracy to have a victim killed in China. His only concern about the legality of the killing is whether or not Chinese law prohibits *Americans* from organ buying.²⁸⁰ Otherwise, he fully agrees to furthering the purpose of the conspiracy: killing another to harvest the victim's kidney.²⁸¹

The third necessary element is "that after the conspiracy was initiated, at least one of the conspirators [must have] committed at least one overt act in furtherance of the object of the conspiracy."²⁸² Both Rose and Larry commit an overt act while in the United States²⁸³ when they purchase airplane tickets²⁸⁴ for travel to China.

The evidence of an agreement between Cousin Larry and Rose is similar to evidence introduced in other prosecutions of conspiracy under 18 U.S.C. § 956. The purchase of the airplane ticket sufficiently constitutes an overt act, in accordance with other cases in which convictions under 18 U.S.C. § 956 were upheld.²⁸⁵ For example, the Ninth Circuit found that boarding an airplane in the United States for a flight to Cambodia satisfied the overt act element of the offense and accordingly found defendants guilty of conspiring while in the United States to kill others in Cambodia.²⁸⁶

American doctors are telling me to—we could get a live one fairly quickly, if we make the right connections.”); *id.* at 240 (“‘My position? Here’s my position: This nonprisoner needs a kidney. Execute someone of my blood type!’ ‘But seriously’ ‘I’m dead serious.’ And he is.”).

279. *See id.* at 34.

280. *Id.* at 99.

281. *See id.* at 75.

282. *United States v. Amawi*, 695 F.3d 457, 494 (6th Cir. 2012) (internal quotations omitted).

283. *See 14. Conspiracy Within the U.S. to Murder, Kidnap, Or Maim Persons or To Damage Certain Property Overseas (18 U.S.C. 956)*, U.S. DEP’T OF JUST. ARCHIVES, <https://www.justice.gov/archives/jm/criminal-resource-manual-14-conspiracy-within-us-murder-kidnap-or-maim-persons-or-damage> [<https://perma.cc/JPY9-9WLB>] (last visited Jan. 6, 2025) (“Section 956 requires that one overt act in furtherance of the conspiracy be committed within the United States.”).

284. *United States v. Chhun*, 744 F.3d 1110, 1122 n.10 (9th Cir. 2014). In the Chhun case, boarding the plane constituted the overt act. “Moreover, Overt Act Number 7 is an example of an overt act in furtherance of the conspiracy that occurred within the United States, contrary to Chhun’s contention that there was none. Chhun boarded the plane in the United States on May 31, 2000, exactly five years before he was indicted. Boarding a plane with his co-conspirators to travel to the site of the intended overthrow was an overt act committed within the United States within the statutory period.” *Id.* *See United States v. Tawab*, 984 F.2d 1533, 1534 (9th Cir. 1993) (per curiam) (holding that an indictment returned on February 15, 1991 was not barred by a five-year limitation statute where the offense occurred on February 15, 1986 because “there is one overt act that occurred within the statutory period within the United States that supports a conspiracy charge.”).

285. *Id.*

286. *Id.*

The fourth element requires that “at least one of the conspirators was within the jurisdiction of the United States when the agreement was made.”²⁸⁷ Both Rose and his cousin Larry are in the United States when they make the agreement.²⁸⁸ The conspiracy begins with a telephone conversation between the two while Cousin Larry is in Florida and Rose is biking in a posh resort in the Colorado Rockies.²⁸⁹ Cousin Larry calls Rose asking him to travel to China and help Cousin Larry find someone who will sell them the organ of a person killed who matches Cousin Larry’s blood type.²⁹⁰

Thus, Rose conspires to have whoever would match his cousin’s physical needs killed, regardless of whether or not the donation was voluntary, and despite clear indications that individuals persecuted for their religious and/or political beliefs were targeted for killing.²⁹¹ In that regard, he joyfully joins in with the Chinese government and others who profit massively from this form of contract murder.²⁹²

287. *Amawi*, 695 F.3d at 494.

288. *See ROSE*, *supra* note 24, at 3, 8.

289. *See id.* at 3–4:

But solution number two is surprisingly doable. I’ve been researching the Internet from under the blankets, and it turns out China does more kidney transplants than any other nation. And I won’t have to wait on a list seven to ten more years for a cadaver kidney as my overcautious American doctors are telling me to—we could get a live one fairly quickly, if we make the right connections.

290. *See id.* at 34.

291. *See id.* at 198 (“And we’re sure it’s a real criminal and not someone who voted against the mah-jongg commissioner or something.”); *see also id.* (“This completes my good humor. I’m in a triumphant mood that nothing can wreck. Yes, the triumph has a twist to it: a pit of heartlessness mixed in with my high spirits, knowing that someone else is to die for Larry to live.”).

292. In the book, Rose acts joyfully at the arrival of the body—not yet dead—that will be killed to get Larry his kidney. *See id.* at 256:

“I just saw an ambulance pull in when I went out for money,” I say. “Could that have been him?” “Doubtful,” she [the hospital administrator] says thoughtfully. “He comes in regional ambulance, probable dusty.” “This one was dusty.” “Okay, that is him.” 10:53 p.m. Now we know where our donor is. The dead horse has indeed come to the live horse—but only because the Chinese government has put the dead horse to death. . . . 10:56 Downstairs, the donor’s body is being wheeled through the lobby, elevated to the top floor, where it’s placed in an operating room next to the one where Larry will be. “Two rooms side by side,” Cherry informs me amiably. “One to remove, one to receive.”

Rose agrees that he will keep the kidney source a secret, further conspiring with the Chinese doctor. *Id.* at 194 (“‘Yes, first thing is silence.’ [said Chinese doctor]. ‘If asked, Dan here will find a way to disguise all the pertinent facts,’ Larry says. ‘Disguise very important,’ Dr. X says. ‘Sometimes matter of life and death.’ ‘Dan’s very strong in that department.’ Larry says.”). Rose acts gleefully when he finds out there will be a killing ordered soon. *Id.* at 196.

Based on the *Larry's Kidney* description, it seems sufficient to prosecute Rose and his cousin Larry for violation of 18 U.S.C. § 956. There is evidence that: (1) there was an agreement to engage in criminal activity in that they intended the unlawful killing of a human being with malice aforethought in order for the kidney retrieval; (2) Rose and Cousin Larry willfully joined the agreement; (3) they committed an overt act taken to implement the agreement, in that they bought tickets and flew to China after deliberating as to the most likely country to achieve their goal; and (4) they were both in the United States when they conspired to travel to China and buy the organ of a victim. Finally, the conspiracy is a continuing one as Rose continues to make money through sales of his book, profiting from his criminal behavior.²⁹³

Larry's Kidney demonstrates that Americans are conspiring to kill victims in China in order to buy their organs. But that is not the only way that Americans are complicit. As federal statute 18 U.S.C. § 956 provides for prosecution of conspiracy, any American conspiring with the harvesting of humans by the CCP should be criminally charged with conspiracy to murder. American accomplices include not only the buyers of the organ, but others who assist with and profit from the Chinese organ industry.

III. AMERICAN ACCOMPLICES

“He said in America you have to wait for a kidney that’s been sitting in a jar two weeks. Here I get one fresh out of the donor, pop it in with five minutes’ notice.”²⁹⁴

“When get order from the high court, perhaps one week, two weeks,” Dr. X says . . . “Usually many months, but since you special friends, I insist to get it done sooner. Shhh, secret . . .” Two weeks? How did we just blast past the Badminton Boys [other foreigners waiting for organs] from the Middle East? I contain my excitement. I contain my guilt. But what can I tell you—I’m an American: How I channel my guilt is ask for more. “If it can be done any sooner, we’d appreciate it.” “Sooner the better,” Dr. X says.

Rose also specifically mentions joy as he conspires for the kidney. *Id.* at 196:

“Can you believe it?” I explode once our taxi is safely speeding off. “We’re on our way to a healthy kidney!” “Where! Now!?” Jade asks. “No, right now we’re taking what is called a joyride.” I explain from the front passenger seat. “We’re celebrating the meeting with Dr. X by driving – anywhere, fast – doesn’t even matter where. Wheel!”

293. See generally *Larry's Kidney*, HARPERCOLLINS PUBLISHERS, <https://www.harpercollins.com/products/larrys-kidney-daniel-asa-rose?variant=32206618099746> [https://perma.cc/C6MU-AQ9J] (*Larry's Kidney* continues to be sold on multiple platforms including Amazon, Barnes & Nobles, Target, and Walmart).

294. See ROSE, *supra* note 24, at 148.

Cousin Larry gleefully relates this information from the Chinese doctor to his co-conspirator and cousin, Daniel Rose.²⁹⁵ But of course, the “donor” does not do so voluntarily, and the kidney is fresh, because the “donor” will be killed on Cousin Larry’s behalf.²⁹⁶

The Chinese organ industry was not able to reach the pinnacle of successful and sophisticated transplant surgeries on its own.²⁹⁷ Instead, it took the skill, training and ingenuity of American doctors, scientists, and technology to conspire with the killers in order for the Chinese government to succeed.²⁹⁸ Anyone involved in conspiring to kill the victims who did not give informed consent to the organ harvesting in China should be prosecuted under 18 U.S.C. § 956.

A. Doctors & Medical Professionals

It is axiomatic that to be found guilty of conspiracy, a defendant must be found to have had knowledge of, and an intent to further, the objectives of the conspiracy. To obtain a guilty verdict against a defendant charged with conspiracy, however, the government need not show that the defendant concurred in every detail of the underlying objective of the conspiracy; nor need it prove that she appreciated the full extent of the illegal enterprise. All that is required is a showing “that [the defendant] appreciated ‘the essential nature of the plan,’ and freely determined to associate herself with it.”²⁹⁹

295. *See id.* at 148.

296. Rose and his cousin discuss the execution of a prisoner for organ harvesting. *See id.* at 34 (“Then there’s the ethical question . . . All the docs in the family are opposed to ‘shopping for body parts,’ as they put it, maybe even from a prisoner. What’s your position on that anyway?” ‘My position? Here’s my position: This nonprisoner needs a kidney. Execute someone of my blood type!’ ‘But seriously—’ ‘I’m dead serious.’ And he is.”). The transplant doctor suggests to Rose that the prisoner is being killed for the purposes of the transplant. *Id.* at 196 (“When get order from the high court, perhaps one week, two weeks,’ Dr. X says . . . ‘Usually many months, but since you special friends, I insist to get it done sooner. Shhh, secret . . .’”). A hospital official describes a recently executed prisoner kept on life support and transported to the hospital for the transplant procedure. *Id.* at 253 (“I mean donor is brain-dead, freshly executed, but still alive on life support. Body with kidney coming in ambulance.”). A hospital official deflects Rose’s questions about the source of the kidney. *Id.* at 98 (“Can you also give me an idea of where the kidney’s come from? Because we hear all kinds of things in the West about prisoners and religious sects and—’ Cherry cuts me off with a general answer about the conditions of the kidneys, which she assures me, will be top-notch.”).

297. *See Rhodes & Schiano, supra* note 38, at 4.

298. *Id.*

299. *United States v. Johnson*, 952 F.2d 565, 581 (1st Cir. 1991) (internal citations omitted).

Forced organ harvesting is not only trafficking of human bodies. It is also an unacceptable disgrace to medical professionals who are the acting culprits in China and the inactive, complicit observers outside of China.³⁰⁰

Americans who agree to train, enable, assist, or who sell products to the Chinese organ industry have an intent to further the objectives of that conspiracy.³⁰¹ For conviction against any of the co-conspirators outlined in this Section, the United States government does not need to demonstrate that the potential defendants concurred in every detail of the underlying objective of the conspiracy.³⁰² The government does not even need to show that these American co-conspirators appreciated the full extent of the illegal enterprise.³⁰³ To prosecute, all that must be shown is that the Americans knew about the essential nature of the illegal organ harvesting and freely chose to become involved.³⁰⁴

Whether or not doctors or other medical professionals in the United States should be prosecuted for their involvement in the Chinese organ industry depends upon whether they appreciated the essential nature of the plan—that individuals in China were killed to order.³⁰⁵ If the doctors understood that all organs were taken against the will of the “donors,” and those doctors freely determined to associate with that plan, then there is a strong argument for criminal culpability.³⁰⁶

It is irrefutable that the United States medical transplant community has long been aware that the Chinese government kills individuals in order to remove the organs of the victims and transplant those organs into paying customers.³⁰⁷ Articles in major newspapers began appearing during the early 1990s.³⁰⁸ A 1994 Washington Post article³⁰⁹ offered an eyewitness

300. *Special Report: Forced Organ Harvesting From Living People in China*, *supra* note 41, at 9.

301. *See id.* at 48

302. *See e.g.*, *United States v. Ath*, 951 F.3d 179, 186 (4th Cir. 2020).

303. *United States v. Cushing*, 10 F.4th 1055, 1066 (10th Cir. 2021).

304. *Id.*

305. *See id.*

306. *See id.*

307. *See* Lena H. Sun, *Chinese Executioners: A Punishing Schedule*, WASH. POST (Mar. 26, 1994) <https://www.washingtonpost.com/archive/politics/1994/03/27/chinas-executioners-a-punishing-schedule/094999ac-f8b8-470a-993b-f1b7e14b74ef/> [<https://perma.cc/YP24-4UJN>]; Sharif et al., *supra* note 23; Am. Pub. Health Ass’n, *supra* note 85. *Cf.* Sir Geoffrey Nice QC et al., *supra* note 27, ¶ 80 (implying that other countries were aware of the Chinese organ harvesting practice).

308. *See, e.g.*, Sun, *supra* note 307; Sun, *supra* note 47.

309. Sun, *supra* note 47:

Minutes after the 19-year-old soldier had been executed, authorities moved his still-warm body into a waiting ambulance to remove some of his internal organs. The ambulance then sped off with the organs. The body, left behind, was immediately cremated, recalled a Chinese official who was present. “I

view of the Chinese organ industry. Worldwide, transplant doctors have known for over thirty years that the Chinese government kills prisoners and harvests their organs.³¹⁰ In 2015, researchers stated that despite alleged reforms, “[o]rgans from executed prisoners are still being used for transplantation in China.”³¹¹ Any doctor knowingly participating in transplant surgeries in China or training doctors to perform transplants in China is fully aware of the controversy and yet willingly conspires with the killers.

As reports and testimony have shed light on the source of the organs, there has been controversy among American surgeons regarding their participation. In an article published in the *American Journal of Bioethics* in 2010,³¹² doctors from Mount Sinai School of Medicine in New York described their decision to refuse to participate in the Chinese organ industry “a dozen years” earlier, which dates their personal knowledge of the forced organ “donor” controversy to 1998.³¹³ At that time, these doctors received an extremely lucrative offer for an all-expenses paid trip to fly to China and teach surgeons how to perform a transplant from an adult donor into a child recipient.³¹⁴

After reviewing the ethical situation concerning the Chinese organ industry, the doctors declined the offer because “[they] were convinced that the transplant organ would be taken without consent from an executed Chinese prisoner.”³¹⁵ Rather than ignoring the moral dilemma inherent in

don’t think they got his consent,” he said. One of the biggest controversies surrounding executions in China centers on the removal of organs from prisoners who were executed. China’s ambassador to the United Nations in Geneva, Jin Yongjian, told the U.N. Committee Against Torture last April that organs from executed prisoners have been used for transplant operations “only in rare instances” and with the consent of the individual. But according to Chinese sources, the official Chinese press and human rights groups, the practice is widespread and often takes place without the prior knowledge or consent of the executed prisoners or their relatives.

310. *Cf. id.*; Sir Geoffrey Nice QC et al., *supra* note 27; see also Harold Hillman, *Harvesting Organs From Recently Executed Prisoners*, 323 *BMJ* 1252, 1254 (2001).

311. See Kirk et al., *supra* note 78, at 91.

312. Rhodes & Schiano, *supra* note 38, at 3.

313. See *id.* at 3:

About a dozen years ago, a young girl with kidney failure needed a kidney transplant to survive. No one in her family was willing to donate a kidney to a female child, and, given the waiting time for a transplant organ, she was not expected to get one from the deceased donor list in time to save her. The family was wealthy and well connected at home in China. . . . After consulting with doctors in China, they offered to pay all the expenses for a transplant from our program to go to China and perform the surgery.

(emphasis added).

314. *Id.* at 4.

315. *Id.*

the offer, the medical team sought ethical guidance.³¹⁶ Even though they were unable to find any professional opinions on the subject, the team refused to participate, concerned that using prisoner organs would corrupt the Chinese judicial process by incentivizing executions.³¹⁷

Other American medical professionals made different choices concerning participation in the Chinese organ industry.³¹⁸ This Section suggests categories of possible American co-conspirators: those who train the killers in China, those who care for the organ recipient's medical needs once the patient returns to the United States, and the hospitals that have alliances with those in China who are harvesting humans.

American doctors who train Chinese surgeons to perform transplant surgeries, with the full knowledge that the “donors” are killed on demand,³¹⁹ participate in an agreement to kill persons in a foreign country, a clear violation of 18 U.S.C. § 956. The doctors who previously trained Chinese transplant surgeons and who continue to profit from their involvement in the Chinese transplant industry are therefore involved in a continuing criminal conspiracy and are eligible for criminal prosecution.³²⁰ “American institutions are documented to have trained 344 of China’s transplant doctors.”³²¹ Whether these doctors train the Chinese surgeons in

316. *Id.*

317. *Id.* (Unable to locate an organ donor, the child ultimately died of kidney failure.).

318. *See infra* Part III.A.

319. *Cf.* Matthew P. Robertson, *Organ Procurement and Extrajudicial Execution in China: a Review of the Evidence*, VICTIMS OF COMMUNISM MEM’L FOUND. 1, 31 (2020):

Chinese media document multiple instances of rapid re-transplantation after rejection. In the case of the well-known actor Fu Biao, the hospital performed his first liver transplant seven days after he was diagnosed with liver cancer.¹⁷⁶ He received a second liver transplant within one month due to rejection of the first. The second operation was performed by Shen Zhongyang, the senior surgeon at Tianjin First Central Hospital. The First Affiliated Hospital of China Medical University, referred to above, advertised on its website guaranteed re-transplantation within a week in case of failure.

320. *See Hyde v. United States*, 225 U.S. 347, 368–70 (1912):

Having joined in an unlawful scheme, having constituted agents for its performance, scheme and agency to be continuous until full fruition be secured, until he does some act to disavow or defeat the purpose [the defendant] is in no situation to claim the delay of the law. As the offense has not been terminated or accomplished he is still offending. . . . [He is] offending as certainly . . . as at the first moment of his confederation, and consciously through every moment of its existence.

See also United States v. Kissell & Harned, 218 U.S. 601 (1910).

321. Nine Shea & Katrina Lantos Swett, *China’s Forced Organ Harvesting Demands U.S. Response*, REALCLEAR POL. (Sept. 1, 2022), https://www.realclearpolitics.com/articles/2022/09/01/chinas_forced_organ_harvesting_demands_a_us_response_148131.html [<https://perma.cc/ZQV8-3R6G>] (citing *List of Chinese Transplant Doctors Who Studied or Conducted Research in the United States*, WORLD ORG. TO INVESTIGATE PERSECUTION

China or in the United States to harvest organs from nonconsenting victims, they have violated 18 U.S.C. § 956 if the agreement was made while at least one of the doctors was in the United States, and if an overt act was made in furtherance of the conspiracy.

For example, esteemed American surgeon John J. Fung, M.D. PhD is the Professor of Surgery of the University of Chicago.³²² From 2024 to 2026, Dr. Fung served as the President of the Transplantation Society, “a non-profit NGO providing global leadership in transplantation,” whose “core mission includes the development of the science and clinical practice, scientific communication, continuing education and guidance on the ethical practice.”³²³ Yet Dr. Fung has long trained Chinese transplant surgeons and has described his participation in Chinese transplants.³²⁴

In a 2013 interview with the German magazine *Der Spiegel*, Dr. Fung discussed his assistance in liver transplant surgeries in China.³²⁵ At the time, there were virtually no voluntary donations of livers in China, and there was no organ registry.³²⁶ “From 1977 to 2009, a total of 130 deceased organ donations were reported, which is in clear contrast to the approximately 120,000 total organs reported as transplanted in China during this same time period.”³²⁷ Prior to 2005, China did not even claim to have a voluntary organ donation system or a cadaver donation system.³²⁸

The German article reported that “[w]hen asked, Fung said he has been engaged in the training of Chinese transplant surgeons for 20 years. He says, in two cases he had assisted in a liver transplant surgery. He says nothing on the source of the transplanted organs.”³²⁹ As the liver transplant

FALUN GONG (June 4, 2022), <https://www.upholdjustice.org/node/547> [<https://perma.cc/4K7H-X3TS>].

322. Markus Grill & Martina Keller, *Money Transfer in the Hotel*, DER SPIEGEL (Nov. 2013, 1:00 PM), <https://www.spiegel.de/wissenschaft/gelduebergabe-im-hotel-a-d4bc3ae1-0002-0001-0000-000122579530> [<https://perma.cc/WQ5M-2VV4>].

323. THE TRANSPLANTATION SOCIETY, <https://tts.org/index.php> [<https://perma.cc/VGV4-4KFS>] (last visited Jan. 6, 2025).

324. See Grill & Keller, *supra* note 322.

325. *Id.*

326. *Id.*

327. Kirk et al., *supra* note 78.

328. See *id.*

The main reason was the lack of a cadaver organ donation system before 2010 and people had nowhere to donate, as recently admitted by Huang Jiefu. . . . In December 2005, Huang admitted for the first time that organ sourcing from executed prisoners for transplantation was widespread with up to ninety five percent of the organ transplants in China deriving from executions.

329. See Von Markus Grill & Martina Keller, *China Wants to Say Goodbye to the Practice of Transplanting Organs from Executed Prisoners. But the trade in Kidneys, Livers, and Lungs is Still Flourishing*, SPIEGEL ONLINE (Nov. 11, 2013), <https://www.spiegel.de/wissenschaft/gelduebergabe-im-hotel-a-d4bc3ae1-0002-0001-0000-000122579530?context=issue> [<https://perma.cc/H4WA-4MGX>] (“Fung teilt auf Anfrage mit, er engagiere

occurred in China, there is a strong possibility that the victims were killed for their organs, as no voluntary donation program existed in China during this time period.³³⁰

Additionally, agreeing to train Chinese surgeons to perform transplants on individuals in China demonstrates a possible violation of 18 U.S.C. § 956. Dr. Fung personally trained at least one doctor who performs transplants in China.³³¹ Dr. Wu Wenhan, Chief Physician, Professor of Peking University First Hospital, was trained by Dr. Fung “to learn liver transplantation, intestinal transplantation and pancreatic transplantation technologies and clinical procedures, performing studies on transplant rejection at cellular level, also involving large amount of clinical surgery in organ transplantation in that Institute.”³³² As head of the Transplant Society, Dr. Fung also recommended Dr. Zang Yunjin, who has performed thousands of transplants in his positions as Chief Physician, Professor, Deputy Director, Institute of Liver Transplantation General Hospital of Chinese People’s Armed Police Forces and Director, Shandong Province Branch of Oriental Organ Transplant Center.³³³ Based on these facts, the United States government should investigate Dr. Fung for possible violations of 18 U.S.C. § 956.

B. Hospitals & Consultants

The list of hospitals and consultant groups that may be involved with human harvesting by the Chinese Community Party includes luminaries of the American Medical community such as Johns Hopkins and

sich seit 20 Jahren in der Ausbildung chinesischer Transplanteure. In zwei Fällen habe er in China zu Demonstrationszwecken bei einer Lebertransplantation assistiert. Zur Quelle der transplantierten Organe äußert er sich nicht.”) (translated to English: “When contacted, Fung stated that he has been involved in training Chinese transplant surgeons for 20 years. He has assisted in two demonstration liver transplants in China. He declined to comment on the source of the transplanted organs.”).

330. See *Special Report: Forced Organ Harvesting From Living People in China*, *supra* note 41, at 16:

China did not have a public organ donation program before 2013 when it launched the China Organ Transplant Response System (COTRS), a computerized organ allocation system, which critics have described as a whitewashing mechanism to blur the traceability of donor organs. China started its public organ donation program around the same time. In 2009, Prof. Chen Zhonghua from the Tongji Hospital, China, described the situation of voluntary organ donors in China. He stated that “only about 130 people on the mainland have signed up to donate their organs since 2003.”

331. See Grill & Keller, *supra* note 322.

332. *List of Transplant Doctors Who Studied or Conducted Research in the United States*, *supra* note 321; *id.* at n.3.

333. *List of Transplant Doctors Who Studied or Conducted Research in the United States*, *supra* note 321.

the Mayo Clinic.³³⁴ For example, Johns Hopkins Medicine International Global Collaborative Health Care Consulting provides training and other services for the exact Chinese hospital that happens to advertise two-week turnarounds on heart orders.³³⁵ As noted earlier in this Article, such order fulfillment most likely requires killing on demand.³³⁶

The agreement between Nanjing Drum Tower Hospital and the Johns Hopkins consulting group details the training of the Chinese doctors by the Americans.³³⁷ As Nanjing Drum Tower Hospital features a Transplant Center, and Johns Hopkins highlights this collaboration as “[b]ringing [b]est [p]ractices in [p]hysician [t]raining to China,”³³⁸ individuals working for Johns Hopkins and conspiring with the CCP should be investigated for conspiring to kill people in China by participating in Chinese transplant surgery training.

The Johns Hopkins website features a quote from Guangshu Han M.D., President of the Nanjing Drum Tower Hospital:

We at Drum Tower Hospital have benefited much from this collaboration in the past three years. The special model of residency training at Drum Tower Hospital has basically taken shape. This training model not only integrates the competency-based training at Johns Hopkins, but also meets the requirements of residency training in China.³³⁹

The program includes sending Chinese doctors for training in the United States, and the agreement includes specialties of surgery, medicine, and obstetrics.³⁴⁰ Chinese doctors learning organ transplanting through the surgery residency system of Johns Hopkins may use the skills learned to kill for the Chinese organ industry.³⁴¹

334. Cf. Shea & Lantos Swett, *supra* note 321 (“As brandished on their websites, Harvard, Stanford, the University of Pittsburgh, and many other others provide China with fellowships, academic exchanges, conferences, and joint research projects.”).

335. Cf. *id.*

336. See *supra* Part I.

337. *Nanjing Drum Tower Hospital: Bringing Best Practices in Physician Training to China*, JOHNS HOPKINS MED., <https://www.hopkinsmedicine.org/international/health-care-consulting/asia-pacific/nanjing-drum-tower-hospital> [<https://perma.cc/AF7B-A2U8>] (last visited Jan. 2, 2025).

338. *Id.*; see also *List of Transplant Doctors Who Studied of Conducted Research in the United States*, *supra* note 321.

339. *Nanjing Drum Tower Hospital: Bringing Best Practices in Physician Training to China*, *supra* note 337.

340. *Id.*

341. See *id.* (Statement from Guangshu Han M.D., President, Nanjing Drum Tower Hospital) (“We at Drum Tower Hospital have benefited much from this collaboration in the past three years. . . . This training model not only integrates the competency-based training at Johns Hopkins, but also meets the requirements of residency training in China.”) This shows that the Chinese surgeons that come from this program will be highly trained, and

Johns Hopkins is not the only American consultant in China. In 2014, as China was harvesting organs of Falun Gong prisoners, the University of Pittsburgh Medical Center (UPMC) announced their partnership with the Xiangya Hospital in China:

UPMC's informal relationship with Xiangya dates back nearly a decade, with physicians from both institutions and the University of Pittsburgh collaborating on patient care and research. "Xiangya has a long history of innovation in medical care and a reputation for advanced clinical programs, including organ transplantation," noted Bruno Gridelli, M.D., medical and scientific director of UPMC's International and Commercial Services Division.³⁴²

The UPMC announcement details their responsibility for every division of the Xiangya Hospital, including organ transplants. "UPMC will serve as the exclusive advisor on the management of the International Medical Center and will participate in both medical and administrative oversight of *all services*."³⁴³ All individuals located in the United States and participating in such oversight are likely conspiring to commit murder overseas as there are still virtually no voluntary donations of organs in China.³⁴⁴

C. Medical Equipment & Technology

I expected western transplant surgeons, pharmaceutical companies, politicians and journalists to denounce and oppose this crime against humanity and was shocked that it was widely ignored or disputed, and even indirectly supported by collaborations with the unethical Chinese transplant system. . . . It reminded me of the medical atrocities in Nazi Germany.³⁴⁵

Plentiful evidence exists that shows that the Chinese organ industry is dependent upon medical equipment, technology, and other support from sources in the United States.³⁴⁶ "From pharmaceuticals to medical products

may use this training to conduct surgeries such as organ transplantation. As such, these surgeons may end up using their training to participate in the Chinese organ industry.

342. Wendy Zellner, *Xiangya Hospital Partners with UPMC to Create World-Class Medical Center in China*, UPMC (July 21, 2015), <https://inside.upmc.com/upmc-and-xiangya-hospital-open-international-medical-center-in-china/> [https://perma.cc/A9QF-2PCE].

343. *Id.*

344. *Id.*; A. Sharif et al., *supra* note 23.

345. *Doctors Against Forced Organ Harvesting*, *supra* note 81.

346. See Shelley DuBois, *Chinaco, Nashville Hospital Company's Chinese Venture, has Historic Significance*, TENNESSEAN (Jan. 18, 2014, 11:15 PM), <https://www.tennessean.com/story/money/industries/health-care/2014/01/19/chinaco->

to consumer health, China remains among the world's most attractive markets, and by far, the fastest-growing of all the large emerging ones,' according to a 2012 report from McKinsey & Co."³⁴⁷ Much of the market includes products designed to facilitate organ transplants, technology to facilitate data collection to find the most profitable individual to kill, and research opportunities for medical devices on those individuals without the need for informed consent.³⁴⁸ The activities of any American company that develops products, technology, or research opportunities for the Chinese organ industry constitute conduct that may implicate a violation of 18 U.S.C. § 956.

For example, in 1997, ABC News described the participation of American company, W.R. Grace, "which, through a joint business venture with the Chinese army, equipped and helped to run a kidney dialysis center, where, in addition to routine dialysis, transplant patients are kept going while they await surgery upstairs."³⁴⁹ Although the corporation claimed that its kidney dialysis business had been sold and denied knowledge of the Chinese organ business, "a former top Grace executive who regularly visited the hospital in China told Primetime that he was well aware of what was going on there."³⁵⁰ If this executive meant that he knew the Chinese government was killing people and selling their organs, then he also conspired to commit murder overseas.

In order to develop a world-class transplant industry, China needs the most advanced technological ability to match buyers to victims killed for their organs.³⁵¹ According to Maya Mitalipova of the Massachusetts

nashville-hospital-companys-chinese-venture-has-historic-significance/4603157/
[<https://perma.cc/434X-6Z4B>].

347. *Id.* There is sufficient evidence to argue that this continues well into today. See *China Country Commercial Guide*, INT'L TRADE ADMIN. (Sept. 25, 2025) <https://www.trade.gov/country-commercial-guides/china-selling-factors-and-techniques> [<https://perma.cc/Q5KJ-M9PV>].

348. *See id.*

349. Ross et al., *supra* note 44.

350. *Id.*

351. Bing-Yi Shi, Zhi-Jia Liu & Tao Yu, *Development of the organ donation and transplantation system in China*, 7 CHINESE MED. J. 760, 764 (2020):

We will make efforts to climb to the peak of the science and technology in organ transplantation, thereby actively promoting international cooperation of "The Belt and Road" organ donation and transplantation, presenting the image of a responsible political power to the international community, and making our due contribution to the construction of the "human destiny community."

U.S. Dep't of State, *2021 Report on International Religious Freedom: China (Includes Tibet, Xinjiang, Hong Kong, and Macau): Xinjiang* 1, 125 (2021) [hereinafter *International Religious Freedom*]:

In March, Reuters reported the Internet Protocol Video Market (IPVM), which researches surveillance technology, published a report stating the

Institute of Technology (MIT), the “Chinese government is building the world’s largest DNA database by acquiring DNA sequencing data from companies within China and across the globe, including from the USA. A number of biotech companies are assisting the Chinese police in building this database. They include U.S.-based Thermo Fisher Scientific”³⁵² The database enriches the Chinese organ industry by ensuring a biologically suitable match between the customer and murder victim.³⁵³

Thermo Fisher’s involvement in forced organ harvesting in Xinjiang is undeniable. But while it has vowed to stop selling sequencing machines to the region and to stop providing technical support to maintain them, the company is very successfully selling HLA kits and other custom-made DNA profiling products for organ transplantation, as high as in the 10 million range.³⁵⁴

The actions of Thermo Fisher personnel, including Vice President and Secretary Julia Chen, who have restricted sales of some items to one Chinese province, raises suspicion that the company’s continued sales may support a claim prosecutable under federal law.³⁵⁵ These actions should, at minimum, be the subject of further investigation.

I remain concerned that the continued sale of these products throughout the rest of China will continue to enable the CCP’s techno totalitarian surveillance state, said

government enlisted a number of technology companies to develop cameras capable of identifying specific characteristics of ethnic minorities using facial recognition software, including eyebrow size, skin tone, hair color, and hair style. The report stated, “It’s the first time we’ve ever seen public security camera networks that are tracking people by these sensitive categories explicitly at this scale.” IPVM and human rights groups said using such criteria would make it easier for authorities to comb different databases for specific individuals, or members of a particular ethnic group such as Uyghurs. In May, the BBC reported authorities were also combining facial recognition technologies with artificial intelligence to assess individuals’ emotional states in an effort to implement predictive policing. Citing an anonymous software engineer who had worked on this technology, the report stated authorities deployed cameras to detect “minute changes in facial expressions and skin pores.” The software engineer said, “The Chinese government uses Uyghurs as test subjects for various experiments just like rats are used in laboratories.”

352. *Stopping the Crime Hearing*, *supra* note 3, at 11.

353. *Id.* While this Article alleges that the DNA is used to demonstrate that China is harvesting humans, no one has specifically admitted to such a crime.

354. *Id.*

355. Andrew Silver, *Thermo Fisher Halts Forensic Tech Sales in Tibet*, REUTERS (Jan. 5, 2024, 3:47 AM), <https://www.reuters.com/technology/thermo-fisher-halts-forensic-tech-sales-tibet-2024-01-05/> [<https://perma.cc/WC7S-JPUS>].

Rep. Mike Gallagher, chair of the Select Committee on the Chinese Communist Party. Thermo Fisher needs to immediately stop the sale of all DNA collection kits to all of China.³⁵⁶

Profiting from the Chinese organ industry demonstrates the agreement to participate in the killing of the victims overseas. While profit is not an element of the federal statute, the overwhelming evidence that profit motivates these crimes supports the finding of an agreement as well as demonstrates mens rea. On-going profit further proves the actus reus of the statute. These are continuing conspiracies that warrant investigation.

D. Brokers & Advertisers

From his modest ranch home in the hills of Sun Valley, California . . . James Cohan, 66, sells organ transplant brokering services to the desperate. His customers face certain death if their diseased organs aren't quickly swapped out. They find him on the Internet; his stated fee—\$140,000 for a kidney and \$290,000 for a heart, liver or lung—includes hospital and surgeon charges, and flights and accommodation for a fellow traveler, such as a nurse or spouse.³⁵⁷

People who recruit buyers, in addition to translators, newspapers, and platforms advertising organs for sale should be prosecuted for their involvement in the conspiracy to murder people in China.³⁵⁸ Accomplices to human harvesting include brokers who connect consumers with the killers. In 1997, ABC News profiled Chinese organ harvesting of prisoners in a report for the show Primetime Live, entitled Blood Money:

356. Didi Tang & The Associated Press, *A US Biotech has Halted Sales of DNA Kits in Tibet—and Lawmakers are Mulling over Export Controls on China*, FORTUNE (Jan. 5, 2024, 3:35 PM), <https://fortune.com/well/2024/01/05/us-company-biotech-thermo-fisher-halt-sale-dna-kits-tibet-lawmakers-china/> [<https://perma.cc/LV9S-3EDQ>].

357. *Desperate Arrangements*, FORBES (July 16, 2012, 5:52 PM), <https://www.forbes.com/global/2007/0129/060.html> [<https://perma.cc/DXJ6-DJCU>] Brokers don't even try to hide the fact that the organs may come from the unwilling: "The Shanghai-based New Life Global Medical Service Ltd. is typical. It distances itself from illegal activities by offering to 'coordinate' kidney, liver and lung transplants. But its Web site still manages to convey what is going on behind the scenes: 'If you are simply seeking political correctness or media value, please look no further. Our service do not involve organ donation. We do not have detail regarding source of organs.'" *Id.*

358. Wesley J. Smith, *Biological Colonialism Kills*, INT'L REV. (June 11, 2012, 8:00 AM), <https://www.nationalreview.com/2012/06/biological-colonialism-kills-wesley-j-smith/> [<https://perma.cc/Q8PF-NYCN>]. Indeed, one reviewer of *Larry's Kidney* noted the involvement of such brokers: "In all likelihood, the person from whom Larry's new kidney was extracted was killed in order to provide Larry's life-giving kidney, and the broker received a big payday." *Id.*

ABC News' Chief Investigative Correspondent Brian Ross and producer Rhonda Schwartz first exposed the illegal black market sale of kidneys from executed Chinese prisoners in a hidden camera investigation broadcast on ABC's Prime Time Live in 1997. In that report, a Chinese doctor was caught on camera accepting a cash payment of \$5,000 in exchange for helping to arrange a kidney transplant from a prisoner at a Chinese military hospital. The story also included rare, never-before-seen footage of Chinese prisoners executed by a firing squad.³⁵⁹

This investigation exposed the involvement of at least one Chinese doctor in the organ transplant industry. This involvement continues to this day. The ABC News undercover investigation resulted in prosecution of the doctors for illegally selling body parts.³⁶⁰ However, as the sale was negotiated in New York, they should have also been charged with conspiracy to murder overseas.

An investigation by Forbes found American brokers with international connections operating in the United States and connecting customers with the Chinese organ industry.³⁶¹ Albeit the connections involve a complicated web. The Forbes investigation profiled several organ brokers located in the United States, including James Cohan.³⁶² With his marketing strategy and exorbitant promises,³⁶³ Cohen potentially risked accusations of consumer fraud, however none were made. "Nor, it must be noted, did the U.S. authorities subsequently charge Cohan with fraud or any

359. *China's New Year's Resolution: No More Harvesting Executed Prisoner's Organs*, ABC NEWS (Jan. 1, 2015 10:46 AM), <https://abcnews.go.com/International/chinas-years-resolution-harvesting-executed-prisoners-organs/story?id=27947524> [<https://perma.cc/77XC-57EY>]; *Suspect in Organ-Selling Plots is a Former Official*, CHI. TRIB. (Feb. 28, 1998), <https://www.chicagotribune.com/1998/02/28/suspect-in-organ-selling-plot-is-a-former-official/> [<https://perma.cc/NC82-AAUQ>].

360. *Wang v. United States*, No. 01 Civ. 1326 (HB), 1, 6 (S.D.N.Y. 2001).

361. *Id.*

362. *Desperate Arrangements*, *supra* note 357:

From his modest ranch home in the hills of Sun Valley, California, filled with didgeridoos picked up in Australia and German shepherd puppies, James Cohan, 66, sells organ transplant brokering services to the desperate. His customers face certain death if their diseased organs aren't quickly swapped out. They find him on the Internet; his stated fee—\$140,000 for a kidney and \$290,000 for a heart, liver or lung—includes hospital and surgeon charges, and flights and accommodation for a fellow traveler, such as a nurse or spouse.

363. *Id.* ("Cohan's sales pitch: The quality of the organ is more important than the choice of the doctor performing the transplant, and I know how to get you a fresh organ—quickly—if you've got the money. 'If you keep putting a broken engine into your car, you're going to keep on having the same problem, no matter how good the mechanic is,' he says.").

other illegality—they couldn’t find a victim.”³⁶⁴ By focusing on a fraud investigation, the United States government either ignored or forgot the victims in China who were killed for their organs. Whether or not Cohan committed fraud, he likely conspired to commit murder under 18 U.S.C. § 956 and should be investigated accordingly.

E. Customers

First time, I asked the doctor, “Where, where can I get a kidney?” And they said, “From a prisoner.” That prisoner’s kidney is now in her body, and even though it saved her life, the experience has left Ms. Yoonuch full of regret and willing to talk with Primetime, breaking the circle of silence that has surrounded what goes on at the Nanfang military hospital.³⁶⁵

Customers from all over the world travel to buy the organs of those murdered by the Chinese organ industry.³⁶⁶ If the agreement to buy the organ occurs in the United States and any of the conspirators commit an overt act, these customers can be prosecuted under federal law.³⁶⁷

Despite violating federal law, Americans participating in these contract killings not only fail to hide their complicity, but, like Rose and Cousin Larry, they discuss their actions freely. “Dying of liver cancer, with less than a year to live, Eric DeLeon flew to Shanghai and paid \$110,000 for a transplant.”³⁶⁸ DeLeon made the agreement to buy the organ while he lived in the United States, and his overt acts included searching for the best bargain³⁶⁹ as well as mortgaging his home to pay for the transplant.³⁷⁰

DeLeon detailed his transplant journey, conduct that would satisfy the elements of a conspiracy to commit murder overseas, on a blog he maintained until his death a year later. “DeLeon researched overseas

364. *Id.*

365. Ross et al., *supra* note 44, at 6 (The company had been recently sold at the time of the broadcast and denied knowledge of the broadcast.).

366. Thompson, *supra* note 53, at 55.

367. *See* United States v. Cushing, 10 F.4th 1055, 1066 (10th Cir. 2021).

368. Vanessa Hua, *Patients Seeking Transplants Turn to China/Rights Activists Fear Organs are Taken from Executed Prisoners*, SFGATE (Apr. 17, 2006),

<https://www.sfgate.com/health/article/Patients-seeking-transplants-turn-to-China-2537166.php> [<https://perma.cc/6YH3-SQVX>]. DeLeon died in 2008, but his blog remains on the internet. *See Transplant Tales: To China and Back Blog*, BLOGSPOT, <https://newfilter.blogspot.com/> [<https://perma.cc/54Z3-9L3T>] (last visited July 20, 2025).

369. Anderson Cooper 360 Degrees, *supra* note 24 (“Online [Eric] found Web sites offering transplants in China. Many advertised kidney, liver and other transplant surgeries for as much as \$200,000.”).

370. *Chinese Prisoners and Organ Donors*, HEALTHLAW PROF BLOG (June 16, 2006), https://lawprofessors.typepad.com/healthlawprof_blog/2006/06/chinese_prisone.html [<https://perma.cc/VX97-7JA6>].

transplant centers on the Web, chose Yeson International Healthcare in bustling Shanghai and began a blog. The liver he received last month came from a 20-year-old, doctors told him.”³⁷¹ The broker Deleon utilized assisted other American customers:

Daniel Farley of Sebastopol also received a liver transplant at Yeson in Shanghai, a booming commercial and cultural center in China. He grappled with the knowledge that the organs could have come from an executed prisoner. “I’m a fairly liberal guy, and it’s not the greatest thing to think about,” said Farley. “But when you’re faced with a certainty—and (the donors) have a certainty—it’s easier to take. Either someone was sentenced to die or it was their time.”³⁷²

Farley assuages his guilt of participating in the Chinese organ industry by pretending to believe that the victim who provided his liver would have been killed even if he had not placed an order. In reality, it may have only been the victim’s “time” because the victim provided a match for customer Farley.³⁷³

Prosecuting conspirators for their involvement in having victims killed in China would send a strong deterrent message to other Americans, especially those attracted to Chinese organs because of the bargain price. The author, Rose, demonstrates the strong financial pull of participating in the Chinese organ market when he cost-compares the United States insurance payments for a lawful domestic transplant with the savings offered by buying the kidney of a victim in China killed to order.³⁷⁴

CONCLUSION

Organ harvesting is an awful thing. This should just stop . . . We have to stop the CCP [the Chinese Communist Party]—you know, these are innocent people’s organs—we

371. Hua, *supra* note 368.

372. *Human Organs for Sale*, THE DENVER POST (Apr. 25, 2006, 1:02 PM), <https://www.denverpost.com/2006/04/25/human-organs-for-sale/> [<https://perma.cc/U9Q9-7JYV>].

373. See Sharif et al., *supra* note 23, at 2248:

Second, it also appears implausible that every prisoner deemed healthy enough to donate viable organs is coincidentally scheduled for execution on the exact day a matching recipient is available. This second paradox is of greatest concern, as it raises the question as to whether the organ procurement follows the execution or if the death sentence follows the demand for organs procured from a pool of prescreened prisoners.

374. See ROSE, *supra* note 24, at 121.

really have to stop it. I am just so frustrated. We've known about this issue for the last 30 years and we really have to do something more than just the hearing here.³⁷⁵

The frustration emanating from Congresswoman Michelle Steel during the 2024 Congressional Hearing rings hollow when federal law exists that could stop American participation in the Chinese organ industry, but the federal government fails to prosecute co-conspirators for these murders. This lack of action raises the issue of whether or not the United States government wants to do anything. Despite having both the legal authority and power to enforce federal law against American participation in the organ industry of the CCP, the United States government acquiesces to genocide.³⁷⁶

Limited attempts to shut down the Chinese organ industry have failed.³⁷⁷ The CCP is emboldened as their organ industry thrives. Similar to the cheap labor that produces “fast fashion,”³⁷⁸ body parts selling succeeds because wealthy customers exist and have no fear of any repercussions for conspiring to kill others.³⁷⁹

375. *Stopping the Crime Hearing*, *supra* note 3.

376. *International Religious Freedom*, *supra* note 351:

On January 19, the then Secretary of State publicly announced a determination that since at least March 2017, the government has committed crimes against humanity and genocide against Uyghurs, who are predominantly Muslim, and members of other ethnic and religious minority groups in Xinjiang. . . . While speaking of the PRC's treatment of Uyghurs, [the Secretary of State] said, ‘We’ve been clear, and I’ve been clear, that I see it as genocide, [and] other egregious abuses of human rights, and we’ll continue to make that clear.’

377. *Fast Fashion and Uyghur Genocide: Interim Findings*, SELECT COMM. ON THE CHINESE COMMUNIST PARTY (June 23, 2023), <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/fast-fashion-and-the-uyghur-genocide-interim-findings.pdf> [<https://perma.cc/6SFU-ZJ4Q>]:

Although our investigation remains ongoing, we have learned that Temu is responsible for millions of shipments that are sent to the United States each year through a network of tens of thousands of sellers on its online marketplace. However, Temu does not have any system to ensure compliance with the Uyghur Forced Labor Prevention Act (UFLPA). This all but guarantees that shipments from Temu containing products made with forced labor are entering the United States on a regular basis, in violation of the UFLPA. Both Temu and Shein rely heavily on the de minimis exception to ship packages directly to U.S. consumers, allowing them to provide less robust data to CBP, avoid import duties, and minimize the likelihood that the packages will be screened for UFLPA compliance.

378. *Id.*

379. See Ali Iqbal & Aliya Khan, *Killing Prisoners for Transplants: Forced Organ Harvesting in China*, CONVERSATION (July 28, 2022), <https://theconversation.com/killing-prisoners-for-transplants-forced-organ-harvesting-in-china-161999> [<https://perma.cc/8UTK->

Prosecuting the American co-conspirators of human harvests does that “something more.” “The threat of damaged reputations and stunted careers can be a powerful motivator for medical professionals to reject unethical practices, but this pressure has not been sufficiently brought to bear on China’s transplant sector.”³⁸⁰ The United States should prosecute anyone within its borders who participates in the genocide³⁸¹ currently being committed by the CCP.

Criminal law steadfastly prohibits the killing of the innocent, even to save another’s life. While *Larry’s Kidney* barely even attempts to justify the organ trade based on affection between the cousins,³⁸² even the most heart wrenching case in which a beloved family member—perhaps a young child—will die if no organ is found still does not justify the killing of another innocent person. Criminal law has never equated desperation with justification to kill.

One of the most chilling aspects of human harvesting by the Chinese government is the callousness with which it is treated in the United States. Towards the end of his confession that he calls a “humor” book, author Rose recounts a conversation in which an American academic living in Beijing explained that the Chinese communist government likely knew everything about his quest to locate the kidney for Larry.³⁸³ Horrified that he might have been spied upon throughout his trip, Larry questions the academic for more details:

“And you’re sure it was a murderer, right, the donor?” I ask. “It wasn’t one of those religious guys the state’s outlawed?” . . .

“Let’s not even go there, shall we? Because in truth, we’ve no way of knowing for sure. I doubt very much whether even Dr. X has a way of knowing for sure. I mean, China in its wisdom killed ten thousand prisoners the last year they reported, with very little lag time between verdict and execution, and the number is now officially a state secret, zealously guarded.”

U7E2] (“[A] limited supply of donor organs, paired with a massive demand for transplants, has fueled the global organ trafficking industry which exploits poor, underprivileged and persecuted members of society as a source of organs to be purchased by wealthy transplant tourists.”); *see also* Press Release, Congressman Dunn Blocks Illegal Chinese Organ Harvesting, U.S. Congressman Neal Dunn Representing Fla’s 2nd Dist. (Mar. 17, 2025), <https://dunn.house.gov/2025/3/congressman-dunn-blocks-illegal-chinese-organ-harvesting> [<https://perma.cc/L3AD-LYC7>] (explaining the Block Organ Transplant Purchases from China Act’s aim is to “ensure that [the United States] [is] not participating in illegal Chinese organ harvesting”).

380. *Stopping the Crime Hearing*, *supra* note 3, at 39.

381. U.S. Dep’t of State, *supra* note 376.

382. *See* ROSE, *supra* note 24, at 8.

383. *See id.* at 287–88.

He glances at my face.

“But listen, we don’t know anything for sure! . . . The point is, you did what you had to do. Don’t second-guess yourself. Did you kill an innocent man? Possibly. Did you jump the queue, along with everyone else? Of course you did. Is it ruthless business? Without a doubt.”

I clear my throat. “I killed an innocent man?”³⁸⁴

Yes. He did. He should be prosecuted under federal law. And every other American conspiring to harvest humans should be prosecuted too because our legal system must confront the crimes we pretend are too far removed to matter.

384. *See id.* at 288.