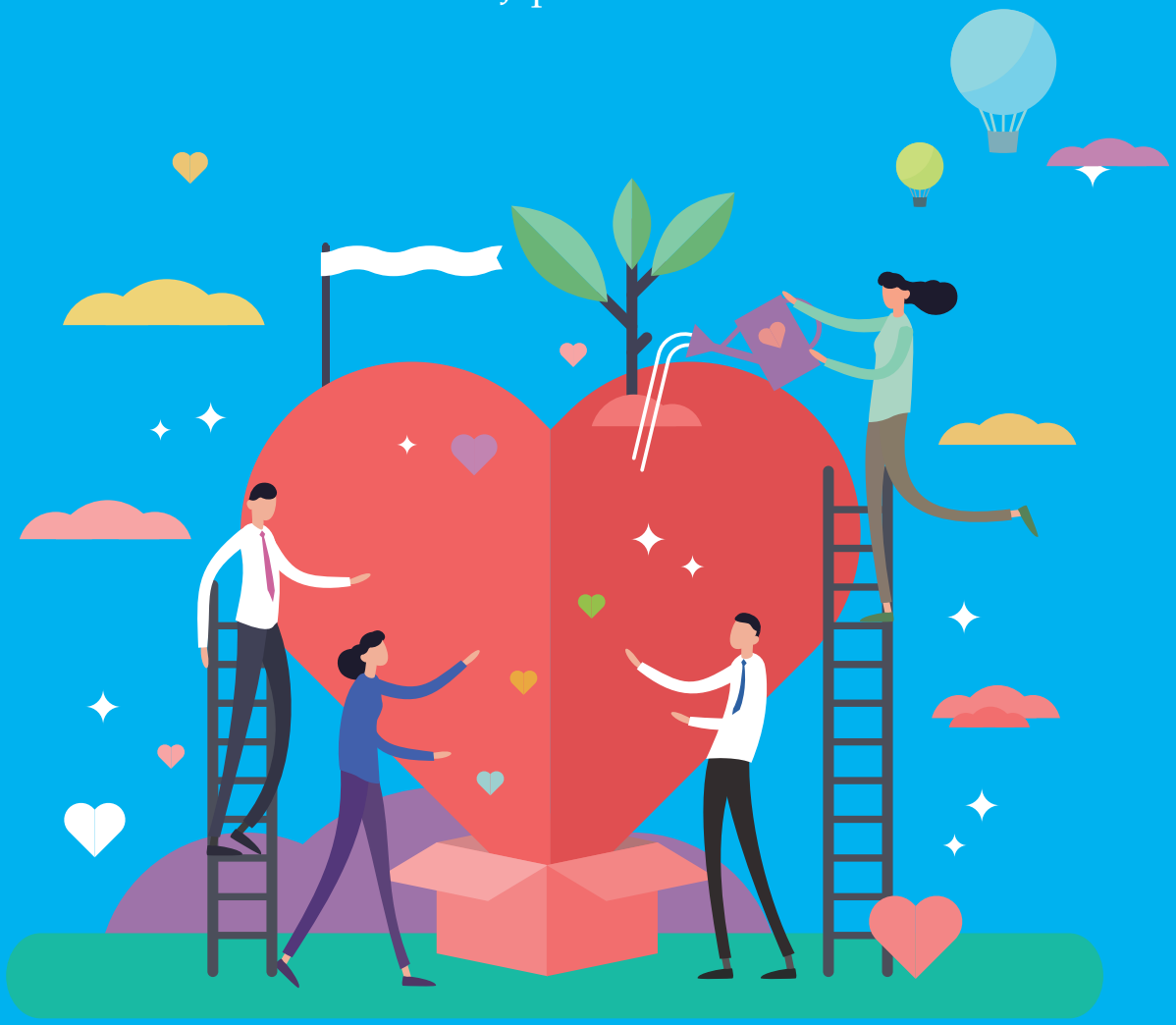
Asia Symposium on Combating Organ Trafficking and Transplant Tourism

—Marking the Eleventh Anniversary of *Declaration of Istanbul*

Nov. 30, 2019
Sanjo Conference Hall, University of Tokyo
Japan



Organizers:
Transplant Tourism Research Association (TTRA)
SMG Network
Taiwan Association for International Care of Organ Transplants (TAICOT)
Korea Association for Ethical Organ Transplants (KAEOT)
SSK (Social Science Korea) Human Rights Forum
Korean Bar Association

Declaration of Tokyo
on organ transplant abuse in China

(January 20, 2020)

Bearing in mind the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (1997, ETS No. 164) and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (2002, ETS No. 186);

Considering that the aim of the Council of Europe Convention against Trafficking in Human Organs is to prevent and combat trafficking in human organs by criminalising certain acts, to protect the rights of victims as well as to facilitate national and international co-operation on action against trafficking in human organs;

Whereas the organ transplant system in China does not comply with the World Health Organisation's requirements for transparency and traceability in organ procurement pathways;

Whereas in 2006, Canadian researchers David Matas, human rights attorney, and David Kilgour, former Canadian Secretary of State for Asia-Pacific, conducted an independent investigation into allegations of organ harvesting from Falun Gong prisoners in China, and concluded that Falun Gong practitioners are killed for their organs;

Whereas in 2019, the China Tribunal, an international, independent tribunal, that established in London and chaired by Sir Geoffrey Nice QC, who worked at the International Criminal Tribunal for the Former Yugoslavia – the ICTY – and led the prosecution of Slobodan Milosevic. joining Sir Geoffrey, has concluded that the killing of detainees in China for organ transplants is continuing, and victims include imprisoned followers of the Falun Gong movement and commission of crimes against humanity against the Falun Gong and Uyghurs has been proved beyond reasonable doubt;

Whereas the UN Committee Against Torture and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

punishment have expressed concern over the allegations of organ harvesting from prisoners, and have called on the Government of the People's Republic of China to increase the accountability and transparency of the organ transplant system and punish those responsible for abuses;

Whereas the Government of the People's Republic of China has failed to account adequately for the sources of organs when information has been requested by the former United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, and by Canadian researchers David Matas and David Kilgour;

Whereas the killing of religious or political prisoners for the purpose of selling their organs for transplant is an egregious and intolerable violation of the fundamental right to life;

Determined to contribute in a significant manner to the eradication of the trafficking in human organs and organ harvesting through the introduction of new offences supplementing the existing international legal instruments in the field of trafficking in human beings for the purpose of the removal of organs;

Recognising that, to combat the global threat posed by the trafficking in human organs, close international co-operation should be encouraged;

We hereby declared as follows:

1. Urge the party-state in China to: cease the repression, imprisonment and mistreatment of Falun Gong practitioners; cease organ-harvesting from all prisoners; remove its military from the organ transplant business; establish and regulate a legitimate organ donor system (Every organ transplant donor should consent to the donation in writing. These consents should be available for inspection by international human rights officials); open all detention centers and camps, for international investigation;
2. Urge medical professionals actively discourage their patients from going to China for transplant surgery;
3. Urge all governments not to issue visas to Chinese MDs seeking training in organ or body tissue transplantation;
4. Urge Asia, USA and EU's MDs not to travel to China to give training in transplant surgery;
5. Urge all medical journals reject Chinese research paper on organ

transplantation experience;

6. Urge Asia, USA and EU enact extraterritorial legislation, penalizing participation in organ transplants without consent;
7. Urge Asia, US and EU governments bar entry to any person known to be participating in organ trafficking or organ harvesting;
8. Urge each country or jurisdiction develop legislation and regulations to govern the recovery of organs from deceased and living donors and implement the practice of transplantation, consistent with international standards;
9. Urge each country or jurisdiction provide equitable access to transplantation services for patients adequately collect, analyse and exchange information related to illicitly obtained human organs in co-operation with all relevant authorities provide information to and strengthen training of healthcare professionals and relevant officials;
10. Urge each country or jurisdiction promote awareness-raising campaigns about the unlawfulness and dangers of trafficking in human organs;
11. Invite Asia legal professionals, MDs and experts in the field of medical ethics to set up the "Asia Advisory Committee on Organ Transplant Abuse in China" to strive to achieve goals above.

Transplant Tourism Research Association (TTRA, Japan)
http://www.stop-oh.org/
SMG Network http://smgnet.org/
Taiwan Association for International Care of Organ Transplants (TAICOT, Taiwan) https://www.organcare.org.tw/
Korea Association for Ethical Organ Transplants (KAEOT, Korea)
http://www.kaeot.org
Korea University International Centre for Human Rights (SSK Human Rights Forum, Korea) http://sskhumanrights.org/about/
http://sskhumanrights.org/
Korean Bar Association http://koreanbar.or.kr/eng/pages/main/main.asp

Asia Symposium on Combating Organ Trafficking and Transplant Tourism—
Marking the Eleventh Anniversary of 2008 *Declaration of Istanbul*

Date: Nov. 30, 2019 (Sat.)
Venue: Sanjo Conference Hall, Hongo Campus, University of Tokyo, Japan

Time	Program
8:40-9:20	Registration
9:20-9:25	**Opening Remarks**
9:25-9:55 (30 min)	**Session 1: Advances in Combating Organ Trafficking and Transplant Tourism during the Past Eleven Years since 2008 Declaration of Istanbul** The Istanbul Declaration for the Prevention of Organ Trafficking and Organ Transplant Tourism (David Matas, awarded Canadian human rights lawyer; appointed member of the Order of Canada; candidate for the 2010 Nobel Peace Prize)
9:55-12:00 (125 min)	**Session 2: The Current Situation of Combating Organ Trafficking and Transplant Tourism in Asia: Japan, Taiwan and Korea** Moderator: Dr. Daniel Fu-Chang Tsai, Physician and Bioethicist; Director, Center for Biomedical Ethics at National Taiwan University, Taiwan • Japan Japan's Transplant Tourism as Observed from the Perspective of a Japanese Surgeon (Dr. Ogawa Yoshihide, Honorary Professor of University of the Ryukyus; transplant surgeon) • Taiwan Analysis of Taiwan's Transplant Tourism before and after Amending *the Human Organ Transplant Act* in 2015 (Dr. Shi-wei Huang, Director, Dept. of Urology, National Taiwan University Hospital Yunlin Branch)

	• Korea Transplant Tourism: A Fundamental Analysis of Current Situation in Korea (Prof. Hee Chul Han, College of Medicine, Korea University) • Japan Transplant Tourism: An Analysis of Japan Situation (Mr. Nomura Hataru, senior journalist)
12:00-12:50	Lunch
12:50-13:40 (50 min)	**Session 3: Ethical Issues in Organ Trafficking and Transplant Tourism** Moderator: Prof. Hee Chul Han, College of Medicine, Korea University • Taiwan Health Professionals' Responsibilities and Barriers to Combating Transplant Tourism through Policy and Legal Reform in Taiwan (Dr. Daniel Fu-Chang Tsai) • Korea Ethical and Legal Aspect in Health Care Policy for Organ Trafficking, Transplant Tourism, and Commercial Transplantation (Research Prof. Dong Hyun Lee, College of Medicine, Yonsei University)
13:40-15:30 (110 min)	**Session 4: International and National Legislation on Organ Trafficking and Transplant Tourism** Moderator: Theresa Chu, Legal Consultant, Taiwan Association for International Care of Organ Transplants (TAICOT) • Canada Canadian Legislation on Organ Trafficking and Transplant Tourism (David Matas) • Korea *Organ Transplant Act* in Korea – Overview, Cases and Suggestion for Amendment in Compliance with Declaration of Istanbul (2018) (Judge Song Kim, Suwon District Court) • Taiwan

	Legal Implications of Organ Trafficking and Transplant Tourism (Theresa Chu)
15:30-15:40	Break
15:40-16:20	**Panel Discussion** Moderator: Mr. Xiao-guang Zhang (Vice Chairperson, TTRA)
16:20-16:25	**Concluding Remarks**
16:25-	**Media Interview**

Organizers

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http://kaeot.org/kor/main/main.html

SSK (Social Science Korea) Human Rights Forum
http://sskhumanrights.org/about/

Korean Bar Association
http://koreanbar.or.kr/eng/pages/main/main.asp

Sponsors

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http://cbme.ntu.edu.tw/

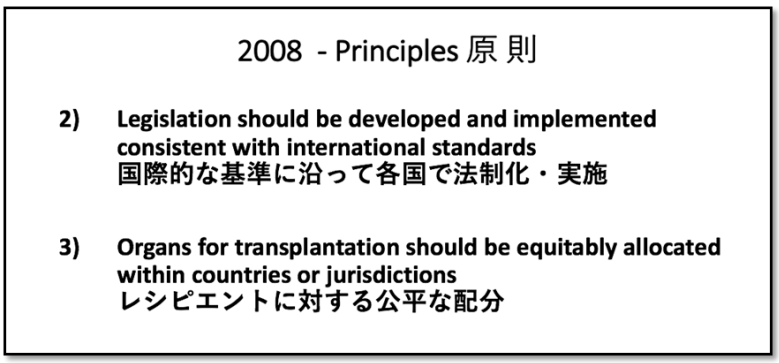
TV Chosun *Investigative Report 7*
http://naver.me/F72o57e1

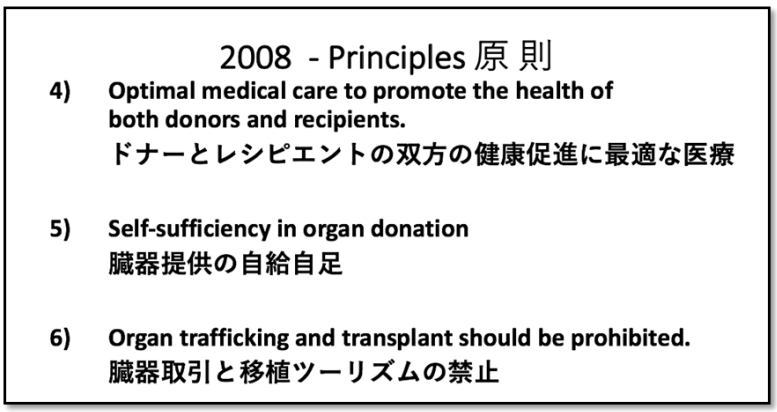
Index

The Istanbul Declaration for the Prevention of Organ Trafficking and Organ Transplant Tourism

David Matas

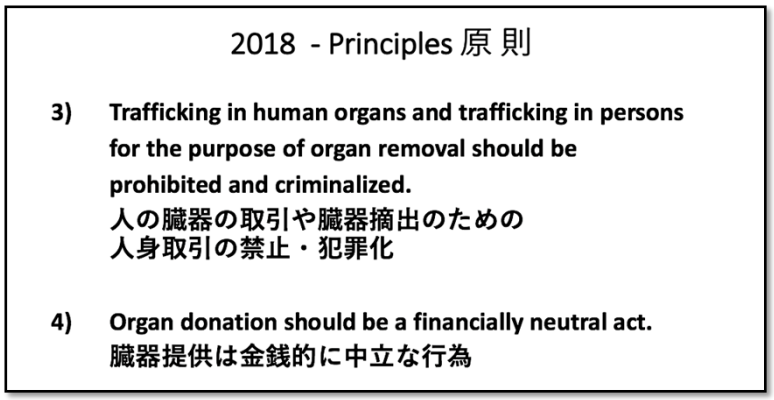
The declaration starts from 2008 and it was a declaration from a meeting of transplant professionals held in Istanbul, Turkey. It started from a concern about transplant tourism and the declaration annunciated 6 principles to improve transplantation and donation practices. There was a revised declaration that was developed in Madrid in July 2018 with 11 principles.

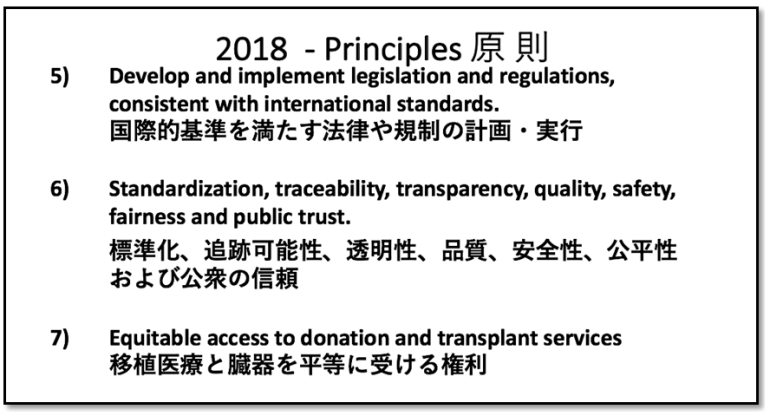


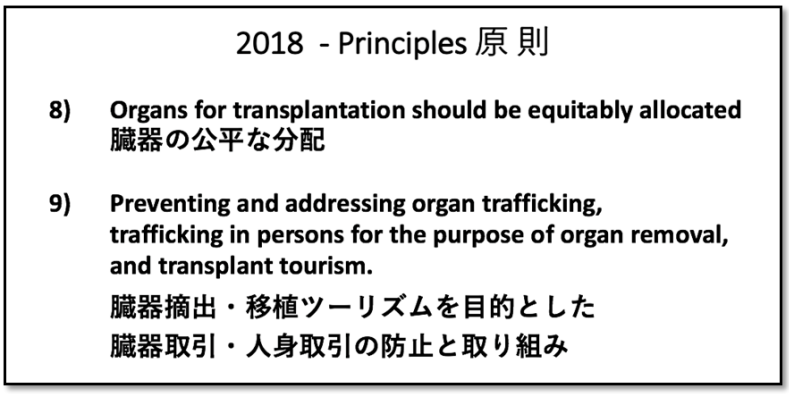


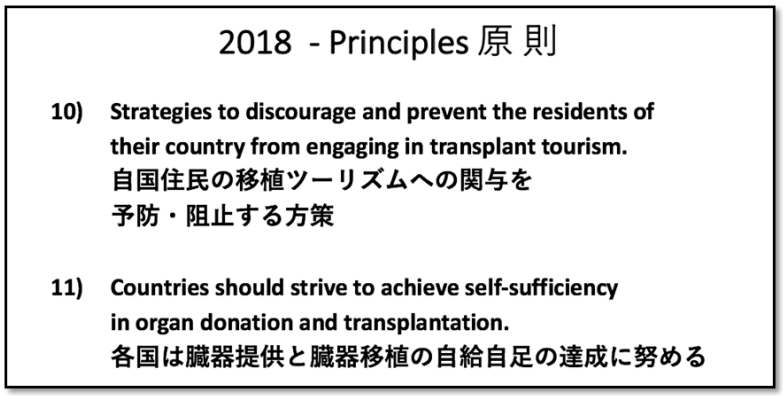
Now the declaration in both its forms is generic only, it doesn't refer to any particular

country. That's stated in the 2008 declaration preamble and it's also stated in the 2018 preamble, saying that it's addressing the problem of patients who travel abroad to purchase organs from poor and vulnerable people. It stands against practices that have harmed poor and powerless persons around the world.









Now there's no reference in either form of this declaration to the mass killing in China of prisoners of conscience for their organs even in generic terms. This is so even though mass killing has been reported almost two years before the first version of the declaration.

The failure of the declaration to address even generically the mass killing of prisoners of conscience for their organs raises several questions. One is, why is transplant profession ignoring this abuse? Second, what if anything in terms of ethical standard has the transplant profession done to confront this abuse? Third, is the declaration any use in confronting this abuse, even though formerly it deals with other forms of abuse? And fourth, how should the declaration be changed to address this abuse directly?

So first of all, in terms of explanation for ignoring the abuse, obviously in the declaration itself there's no explanation. But, one can figure out explanations that are available.

One is the lack of consensus within the transplant profession about what to say, those familiar with the profession would know that there's a debate in the profession about what to do and how to react to this evidence in China of mass killing of prisoners of conscience for their organs.

The debate is really centered around engagement versus ostracism. Should the profession attempt through engagement to reform the Chinese system or should the profession insist

on an investigation - the stopping of killing of innocent for their organs and bringing the perpetrators to justice before there is engagement?

Some of the transplant profession take the view that assessing the evidence and going through the research is really not their responsibility. Others came to another conclusion that there should be a reading of the research and reacting to it.

Another explanation for the silence is a different sort of problem. Exploiting impoverished donors and reacting to the problem of exploiting impoverished donors is a different sort of issue from reacting to the mass killing of the innocent for their organs. There's also the unfortunate reality that some professions have compromised professional relationship with China whether through training or changes or joint publications or cooperation in research. The mass killing of prisoners of conscience in China for their organs is for these professionals an inconvenient truth.

It throws into question their past and continuing Chinese relationships. The engaging of the variety of a phase of technique to avoid facing the consequences of this truth, and one consequence is the avoidance in the Istanbul declaration itself.

Now, in terms of what actually has been done by the transplant profession although the Istanbul declaration doesn't actually deal with this issue. There is something related that the transplantation society has done. The transplantation society is an NGO of transplant professionals.

In November 2006, shortly after the first report came out about organ transplant abuse in China through the killing of prisoners of conscience, the transplantation society developed an ethic statement about engaging with Chinese transplant professionals. This ethic statement said in a preamble that the profession must consider the reality that almost all organs are likely to be obtained from executed prisoners.

Now, I had said that there's a debate within the profession about how to engage the research, but what the profession could not ignore was that the government of China itself said almost all organs from transplants were coming from prisoners. Now the government of China did not say that almost all organs from transplant were coming from prisoners of conscience, rather what they said was that almost all organs from transplants were coming from a different sort of prisoner. Common criminals, sentenced to death who, so the government of China said, donated their organ to transplant in order to atone for their crimes.

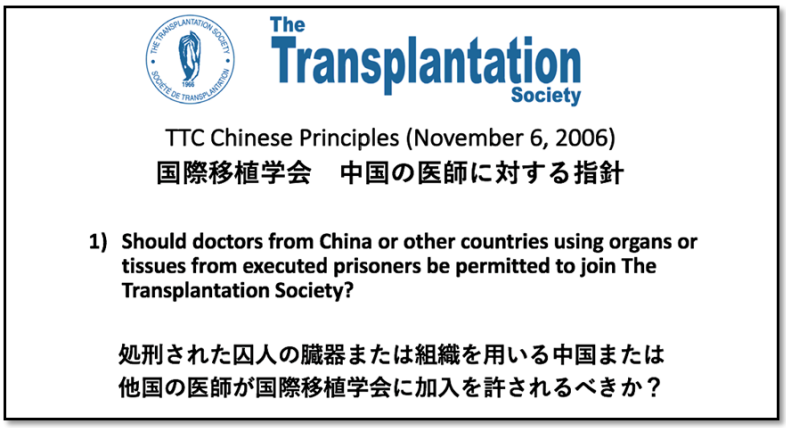
Now this is effectually inaccurate, some of the organs for transplants are coming from

prisoners sentenced to death, but it was even when the Chinese government said that they were almost all coming from prisoners sentenced to death only a minority of the sourcing of organs. They were almost all prisoners, but the majority of these organs from prisoners were innocent prisoners of conscience rather than prisoners sentenced to death.

In any case the transplantation society decided to deal with what the communist party had admitted, and they took the position understandably that sourcing organs from prisoners sentenced to death was not truly voluntary because prisons are environments where prisoners are not free to do what they want.

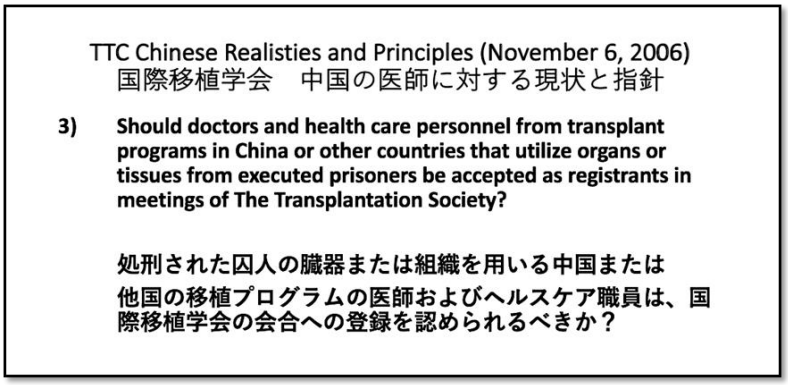
And they acknowledge that the sourcing was involuntary, although a different sort of voluntariness. Because if you're sourcing organs from prisoners sentenced to death, it's a different sort of situation from sourcing organs from prisoners of conscience. Sourcing organs from prisoners sentenced to death is an ethical violation; sourcing organs from prisoners of conscience killed through organ extraction is more, it's murder, it's torture, it's a crime against humanity, and arguably genocide.

And the reaction to an ethical violation has to be different from a reaction to these sorts of crimes. Now, the society recommended 7 principles to deal with the situation. And in this text, I go through these principles and indicate how they might be varied to deal with the particular problem I'm addressing here- the killing of prisoners of conscience for their organs.



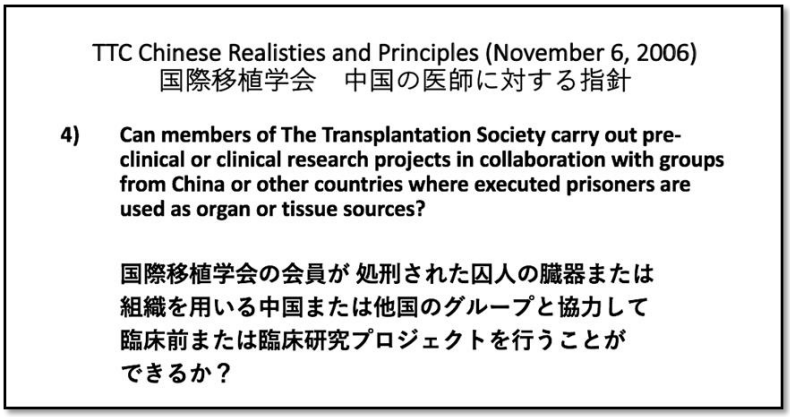
So, the first principle of the transplantation society was that people or doctors agreeing to conduct clinical practices according to society policy should be permitted to become members of the society. And, my own view is that a mere signature that they are going to respect the society principles is not enough. The society should be dissatisfied beyond the reasonable doubt that these people have not been involved in an organ transplant abuse. And not just take a signature at face value.

Second principle the society recommended is that presentation of studies involving samples from organs or tissues of executed prisoners should not be accepted. And that principle is fine as long as it includes prisoners of conscience.



Third principle is that doctors and health care personnel from transplant programs in China that use organs from executed prisoners should be accepted as registrants in meetings of the transplantation society. My view is that if we include in that category in our policy organs from prisoners of conscience that the person should not be accepted through registration and meetings of the society.

The society justified this notion of acceptance through registration on the basis that the Chinese professionals engage in sourcing organs from prisoners could somehow be educated away from doing that. And somehow, they just were suffering from a misunderstanding about what's proper. And one might argue that it's true if you're sourcing organs from prisoners sentenced to death, but it's impossible to argue that if you're sourcing organs from prisoners of conscience. It's naïve to think that this is just an issue of ignorance on perhaps the Chinese transplant professionals.

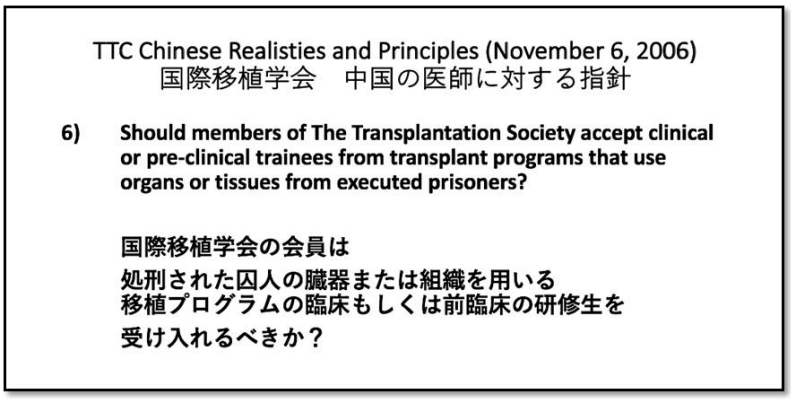


Fourth principle of the transplantation society was that the collaboration with clinical studies should not be considered if the study involves recipients or organs or tissues from executed prisoners. Well that principle is fine but of course it needs to include prisoners of conscience. But the issue is the extent to which it's applied. Because what other researchers have found through research is that there are many papers published emanating from China, where the sourcing of organs is not identified or not identified properly. And there should be a need for more than simple dishonesty to circumvent the policy. It needs again here to be establishing beyond a reasonable doubt that the sourcing of organs is proper.

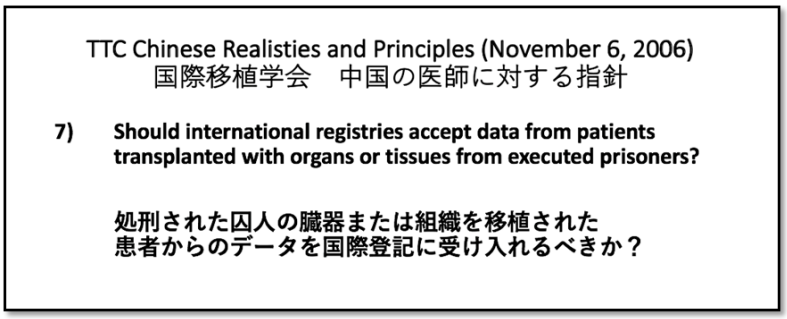
Fifth principle is that the transplantation society member should accept an invitation to give scientific or educational lectures to provide their expertise to support transplant activities in China as long as it does not promote the practice of transplantation of organs from executed prisoners.

This is something, is a principle if you put in prisoners of conscience, a principle which I disagree. The Chinese government is actively involved in building Chinese Potemkin villages or recent stats in order to beguile the international community, and then uses the engagement with international community. It's a formal propaganda to show that the transplant practices are perfectly okay.

And the transplant profession should have nothing to do with this form of propaganda, these displays. If we want to be having an impact on the evolution or an evolutional way from transplant abuse in China, the way to do that is to exact the price for that transplant abuse, and the price for transplant professionals would be an ostracism, staying away rather than getting involved with them.



Six principle of the transplantation society was that the members of the society should accept trainees from transplant programs that use organs or tissues from executed prisoners, provided that it's made clear that the intention would be not to use the training from prisoners, but if we rephrase that to include prisoners of conscience that recommendation has to change. One doesn't train killers to kill better on the basis that they promise not to kill again. So there just shouldn't be any of that training.



The seventh principle was that the international registries should accept data from patients transplanted with organs from executed prisoners, provided that the source of the organs or tissues is clearly identified. But if we replace that recommendation or add two of the phrases that prisoners of conscience killed for their organs, the recommendation become nonsensical because the Chinese government is not going to clearly identify those sources, so it's a meaningless recommendation.

So the next question I want to address is how do we use the present Istanbul Declaration given the situation we're dealing with. Now in this context the 2008 declaration and the 2018 declaration are very different.
The 2008 declaration refers to organ trafficking but no mention of the trafficking in person

for the purpose of organ removal. The 2018 declaration mentions both and defines each. This distinction has become important because the evolution of international law in the area. There is an international convention on transnational crime and a protocol against trafficking persons to this convention, and that protocol obligates states parties to prohibit trafficking in persons for the purpose of organ removal but does not refer to organ trafficking.

The question then arose whether the convention encompasses organ trafficking or not. The question becomes important in the China context because China is a state party to the convention and the protocol. Now there was a 2009 study by the Council of Europe and the United Nations that said that the two concepts are often frequently confused. And there needs to be an agreed definition of trafficking in organs. And there was in fact as results of that recommendation, another treaty developed. The Council of Europe convention against trafficking in human organs, developed in 2015, which provided that definition.

Now the UN protocol and the Council of Europe convention, they're different in year and also different in signatory. So the UN protocol has hundred and seventy-five states parties. The Council of Europe convention has only nine states parties. The convention allows for observer states to sign the convention without any approval of Council of Europe and Japan is an observer state and could sign the convention but hasn't done so.

This distinction became important for Doctors Against Forced Organ Harvesting (DAFOH) and the NGO TAICOT, which is one of the sponsors of this symposium. The NGO Doctors Against Forced Organ Harvesting (DAFOH) settled a petition calling on the government of China to end the forced organ harvesting from Falun Gong prisoners. And that petition got nearly 1.5 million signatures. I and some others we went to the office of High Commissioner for Human Rights (OHCHR) to present that petition. And the office of High Commissioner for Human Rights goes to the UN office on Drugs and Crime (UNODC) in Vienna, which is the UN bureaucracy for ministering the protocol that I was just talking about. Obviously thinking that this topic, organ harvesting in China, fell within the domain of the protocol. We then set up a meeting in Vienna, went to Vienna, and at the last minute the people with whom we were supposed to meet canceled the meeting saying they were too busy without saying that the issue fell outside the amble of the protocol. We asked the superior, same thing, too busy, not saying it fell outside the amble of the protocol. We then pressed the matter further then eventually somebody sent us an email saying that organ trafficking doesn't fall within the protocol and therefore there's no point in the meeting.

And it's not just this email we got about cancelling the meeting that said that there's lots

of other statements from the UN office on Drugs and Crime (UNODC) that says that there's a Global Report on Trafficking in Persons in 2012, they would state that organ trafficking is not classified as human trafficking. There's an assessment, a tool kit, that the UN office on Drugs and Crime produced in 2015 that says that trafficking in persons does not encompass the term trafficking in organs.

Now I don't necessarily agree with that interpretation, because recruiting a person for organ removal can happen in a number of different contexts. What we see in China is that prisoners of conscience, primarily practitioners of Falun Gong, Uyghurs, are swept off the street and taken into arbitrary detention for brain wash and recantation expression of support to the communist party of China. And that is certainly one purpose, but it's not the only purpose. Those who refuse to come are put into the forced labor and then killed for their organs. The slavian organ extraction are also purposes.

One can argue conceptually that organ transplant abuse does fall within the protocol. We're not going to get anywhere with the UN office on Drugs and Crime (UNODC), but they don't have the final word on what the protocol means. The final word falls on the states parties. Now the states parties are by coincidence they meet once every five years, but they're meeting next year in April, in Japan, in Kyoto. This might be an opportunity to get the states parties to address this issue.

Now the Istanbul declaration is valuable here because it stands against both trafficking in persons for the purpose of organ removal and trafficking in organs with all distinctions. One of the eleven principles in the 2018 version of the declaration is that trafficking in human organs and trafficking in persons for the purpose for organ removal should be prohibited and criminalized.

Now a state doesn't need to sign the Council of Europe convention against trafficking in human organs to enact that prohibition and five jurisdictions have done so including Taiwan. Nonetheless, joining the international regime to prohibit organ trafficking is going to be more effective in combating the abuse than acting alone.

Finally let me say a word about what a revise that declaration would look like. The trouble with the present declaration when viewed through the prism of transplant abuse in China in the form that actually occurred is that the declaration does not squarely address the issue. That it has another paradigm in mind that selling by poor people of their organs to rich people and not the killing of prisoners of conscience for their organs.

As a result, the precaution one will need to combat the abuse are not addressed. If the declaration did address it, it could at least incorporate the seven points the transplantation

society put out with the variations I suggested. But there are other matters which could be addressed as well, such as patient counseling, mandatory reporting, provision of medical records to patients about to go abroad, provision of drug prescriptions and so on.

The problem of combating mass murdered prisoners of conscience through organs extraction is sufficiently distinct and grave to deserve separate consideration and recommendations. A third version of the Istanbul declaration should do exactly that.

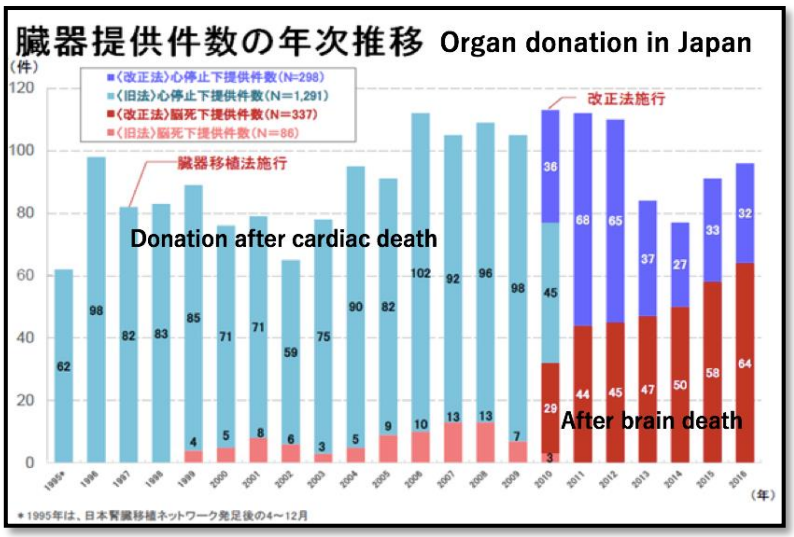
Japan's Transplant Tourism as Observed from the Perspective of a Japanese Surgeon

Yoshihide Ogawa, MD, PhD 小川由英

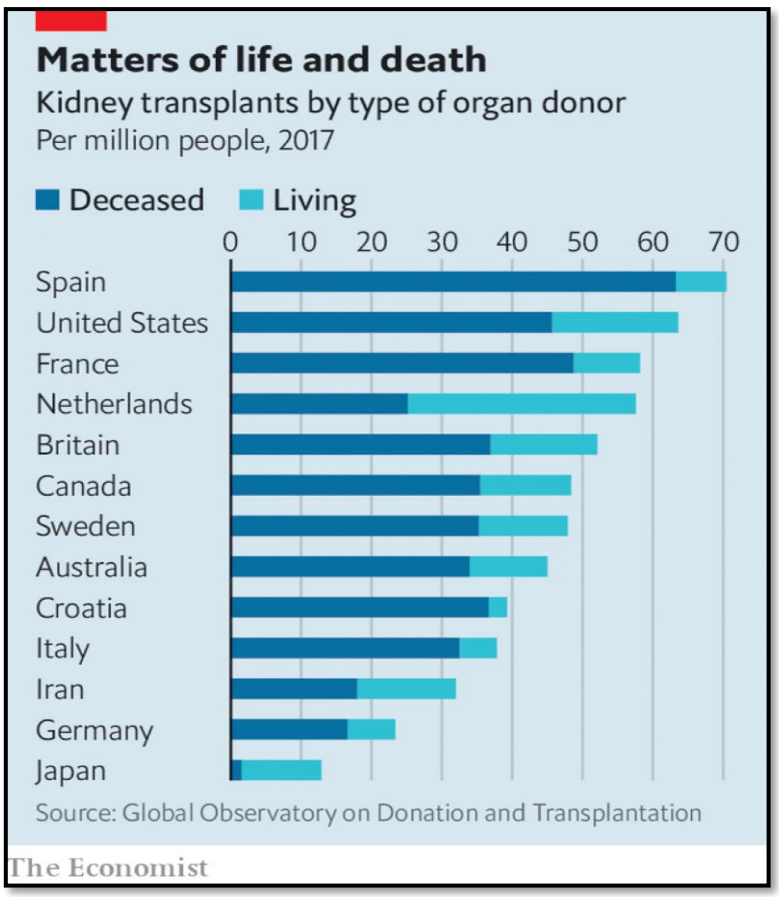
Mr. Chairman, ladies and gentlemen. Thank you very much for giving me the opportunity to speak. I am a surgeon and not good at talking about this kind of topic and only have superficial knowledge about transplant tourism. In Japan, heart transplantation abroad is the main issue that attracts the most attention.

Let me introduce myself first. I previously worked as a professor at the University of the Ryukyus, Japan, for 15 years, and carried out about 100 kidney transplants during that time. I was trained as a clinical fellow at the Transplant Center, Medical College of Virginia, from 1976 to 1978. I obtained a license to practice medicine in the United States after one year of training. The Transplant Center where I worked was established in 1960 by Dr. David Hume, who had worked at MGH with Dr. J. Murray (awarded the 1990 Nobel Prize in Medicine).

In those days, only Imuran and steroids were available as immunosuppressants, so I learned that many transplant patients could not survive opportunistic infection and intestinal bleeding at that time. When I moved to the University of the Ryukyus in Japan, we enjoyed a chance to use Cyclosporine and Tacrolimus, so the clinical results of transplant patients became much better. Twenty years after I returned from the US, the Law for Organ Transplantation was enacted in Japan. Ten years after that, the law was revised. The first kidney transplantation was performed in Japan by Prof. Kusunoki in 1956. Dr. Inoh also carried out clinical kidney transplantation at Tokyo University in 1965. Around that time, it was common practice to use therapeutic kidneys for clinical transplant without any ethical problems, in particular, to use restored kidneys with renal aneurysm. From 1981 to 1995, Japan imported donor kidneys from the US, and, in the beginning, 160 kidneys were imported from the US over three years. With the advent of Cyclosporine, the supply of donor kidneys from the US decreased markedly because US transplant physicians enjoyed a sharp increase in the number of transplantations with Cyclosporine, and there were no extra donor kidneys available to export, but it continued up until 1995. Prof. Beltzer of Wisconsin University also sent 10 kidneys to Dr. Mannami of Uwajima, Shikoku. So, Japan had an official history of importing organs from the US (organ trade).



This figure indicates the number of organ donations per year in Japan. At the beginning, all organ donations took place after cardiac death. After the enacting of the Japanese Transplantation Law, there were some cases of donation after brain death, and brain death cases have increased in number after the law was revised.



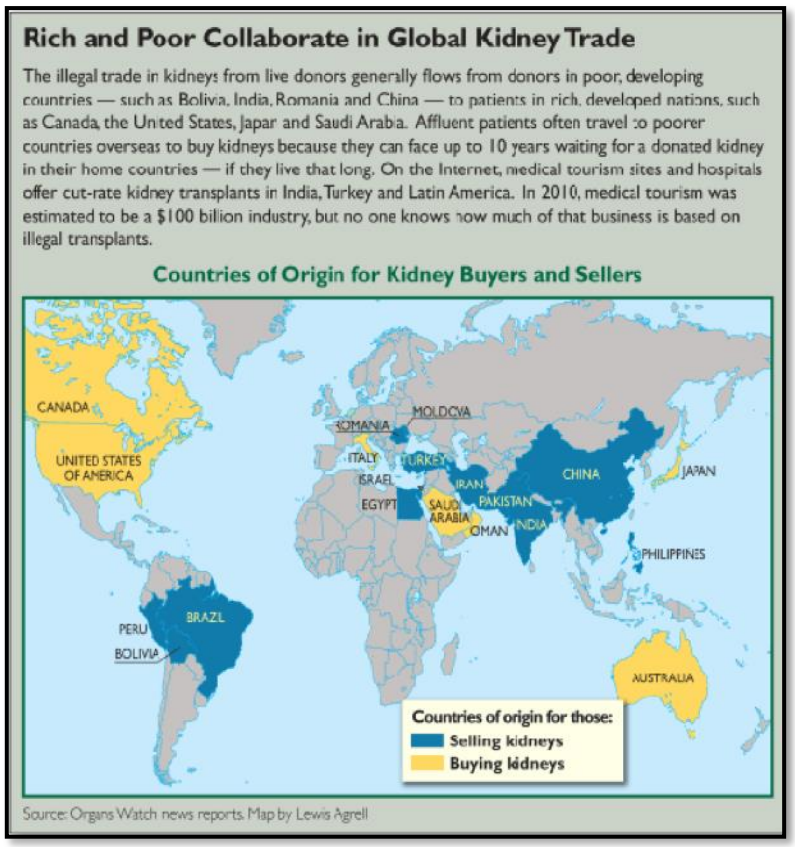
However, organ donation rate in Japan has notoriously been the worst in the world. As shown here, the deceased organ donation rate in Japan is one per million people,

compared to 60 to 70 per million in Spain. It is extremely low in comparison with Western nations.

Therefore, the waiting time for a kidney transplant is very long in Japan, i.e., 15 years. Waiting for a heart transplant is more than two years. Since the transplant law was revised, the number of heart transplants has gradually increased. About 50 cases of heart transplantation are taking place per year in Japan.

Most liver transplants in Japan are from living donors. Living-related liver transplants account for 400 to 500 cases per year and deceased donor transplants account for 60 to 70 cases in Japan.

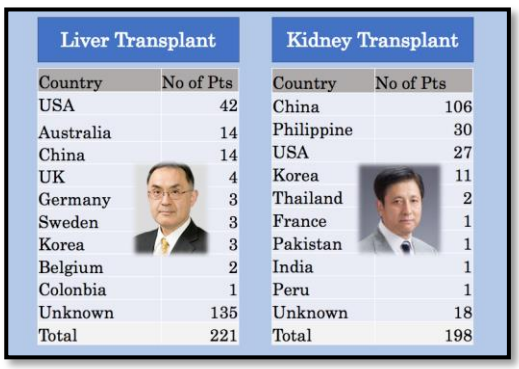
There are 330,000 dialysis patients in Japan, and regarding kidney transplantation, there are about 1,600 to 1,700 kidney transplants per year. Living-related kidney transplantation is most common, while at least 12,000 dialysis patients are waiting for kidney transplantation in Japan.



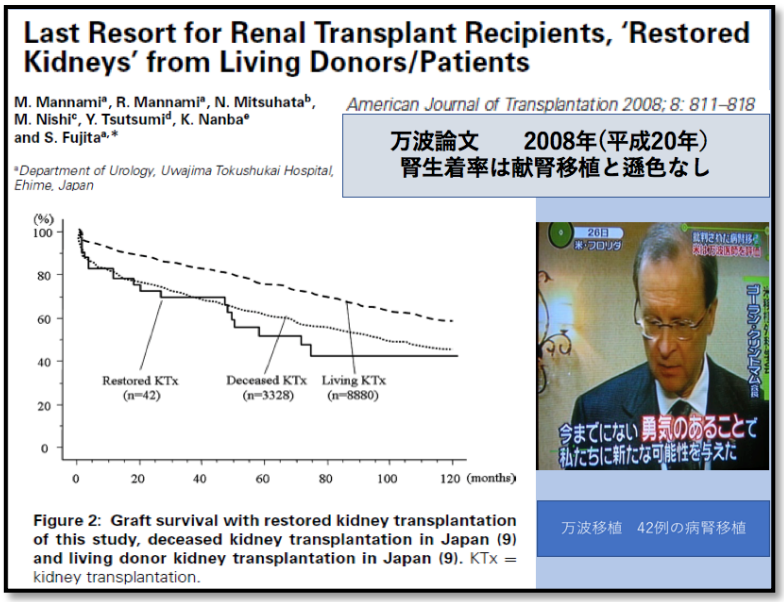
My knowledge of transplant tourism is not so deep. On this map, the blue indicates nations which supply donor organs, and the yellow indicates nations which send organ recipients, including Japan.

I do not have clear evidence for the following data, but it is said that 80% of transplant recipients coming from abroad to China are Arabian. Also, about 1000 patients per year come from Korea for transplants. At present there are only a few patients from Japan seeking transplants in China. It would be less than 10 patients per year from Japan.

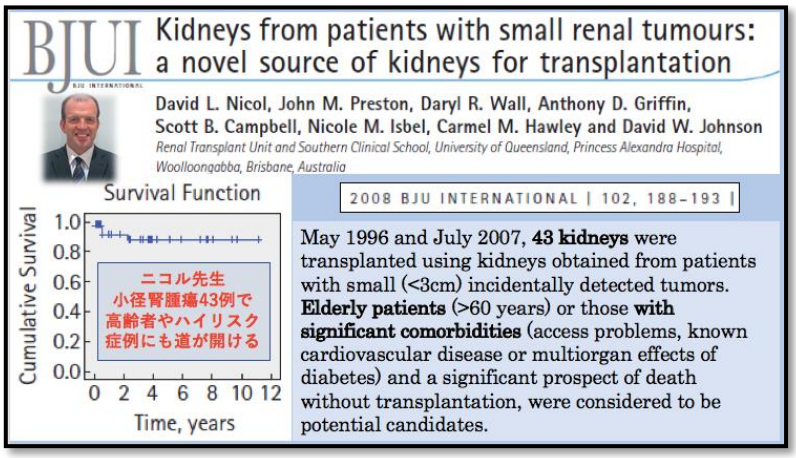
The Japanese Ministry of Health, Labour and Welfare investigated the number of transplants done abroad from 1984 to 2000 over 20 years and revealed that there were about 500 cases of transplant tourism. Most heart transplant patients went to the US, accounting for 85 cases travelling to the US, and to Germany (9 cases) and the UK (7 cases). Regarding liver transplantation, over 200 patients travelled abroad for transplants during that period. About half of the destination countries they went to were “unknown”. The US was the most popular (42 cases), followed by Australia (14 cases) and China (14 cases). Regarding kidney transplants performed abroad, most patients went to China (106 cases), then the Philippines (30 cases) and the US (27cases). The number of heart transplants performed abroad has been precisely reported annually in Japan. It hardly reached 10 cases a year.



Liver Transplant		Kidney Transplant	
Country	No of Pts	Country	No of Pts
USA	42	China	106
Australia	14	Philippine	30
China	14	USA	27
UK	4	Korea	11
Germany	3	Thailand	2
Sweden	3	France	1
Korea	3	Pakistan	1
Belgium	2	India	1
Colonbia	1	Peru	1
Unknown	135	Unknown	18
Total	221	Total	198



To stop transplant tourism from Japan and to increase organ donations, Dr. Mannami and associates carried out restored kidney transplants using therapeutic kidneys. The survival rate was very close to that of deceased donor kidney transplantation, and it was praised and received awards for being a brave and wonderful method at an academic conference in the United States.

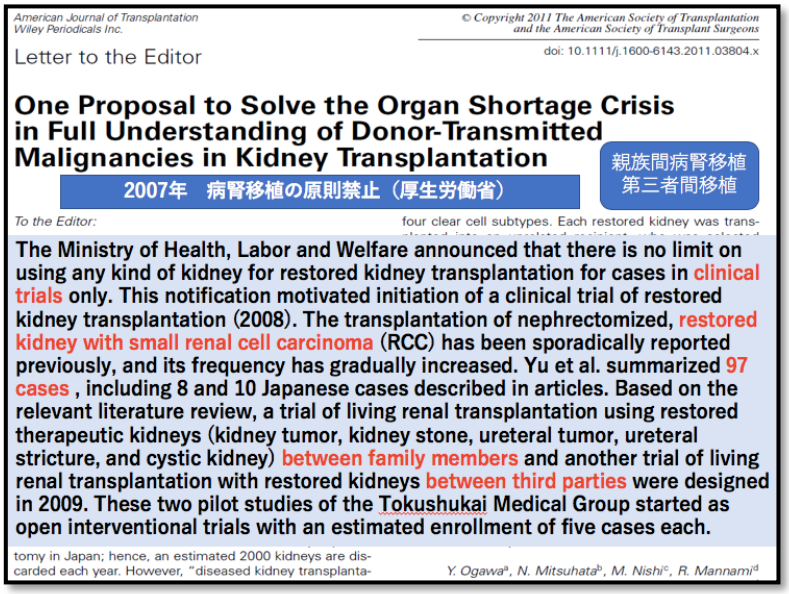


In Australia, Dr. Nichol carried out 43 transplantations using kidneys with small renal cell carcinoma. He concluded that the procedure could pave the way for elderly and high-risk patients. There are more than 100 cases of kidney transplantations using kidneys with small renal cell carcinoma all over the world.

Rstored kidney Tx with Nx kidney for small RCC (111 cases)

1982	Stubenbord	Cornell Medical Center	1
1998	Weiss	Wisconsin University	1
2000	Lasaponara	UOA Urologia, Italy	1
2005/2009	Buell/Meng	Cincinati University/UCSF	14
2006	Neipp	Hannover University	1
2007	Whitson	UCSF	1
2007	Ghafari	Urmia University, Iran	1
2007	Dainys	Vilnius University, Lithuania	1
2008	Mannami	Uwajima Tokushukai Hospital	8
2008/2010	Nicol/Brook	Princess Alexandra /Queen Elizabeth Hospital	31
2010	Bycroft + Nicol	Royal Free Hospital, London	1
2011/2013	Perez/Masquera	Barcelona Hospital, Spain	7
2012	He	Sir Charles Gaidner Hospital	19
2012	Hijiosa	La Paz Hospital, Spain	1
2012	Valenmte	Padova University, Italy	3
2012	Ali	Imperial College, UK	2
2013	Our series	Tokushukai Group	13+5

In Japan, respectively 8 and 18 cases using kidneys with small renal cell carcinoma were reported, all related to Dr. Mannami.



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Letter to the Editor

One Proposal to Solve the Organ Shortage Crisis in Full Understanding of Donor-Transmitted Malignancies in Kidney Transplantation

2007年　病腎移植の原則禁止（厚生労働省）

親族間病腎移植
第三者間移植

To the Editor:

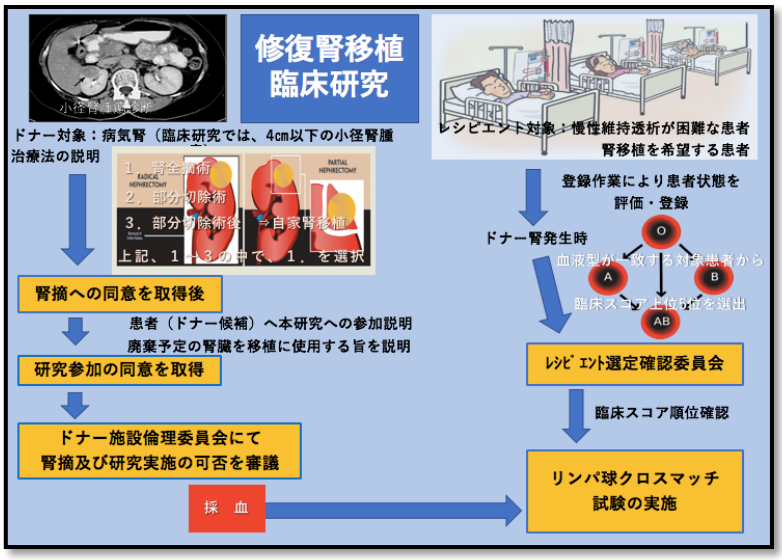
four clear cell subtypes. Each restored kidney was trans-

The Ministry of Health, Labor and Welfare announced that there is no limit on using any kind of kidney for restored kidney transplantation for cases in clinical trials only. This notification motivated initiation of a clinical trial of restored kidney transplantation (2008). The transplantation of nephrectomized, restored kidney with small renal cell carcinoma (RCC) has been sporadically reported previously, and its frequency has gradually increased. Yu et al. summarized 97 cases , including 8 and 10 Japanese cases described in articles. Based on the relevant literature review, a trial of living renal transplantation using restored therapeutic kidneys (kidney tumor, kidney stone, ureteral tumor, ureteral stricture, and cystic kidney) between family members and another trial of living renal transplantation with restored kidneys between third parties were designed in 2009. These two pilot studies of the Tokushukai Medical Group started as open interventional trials with an estimated enrollment of five cases each.

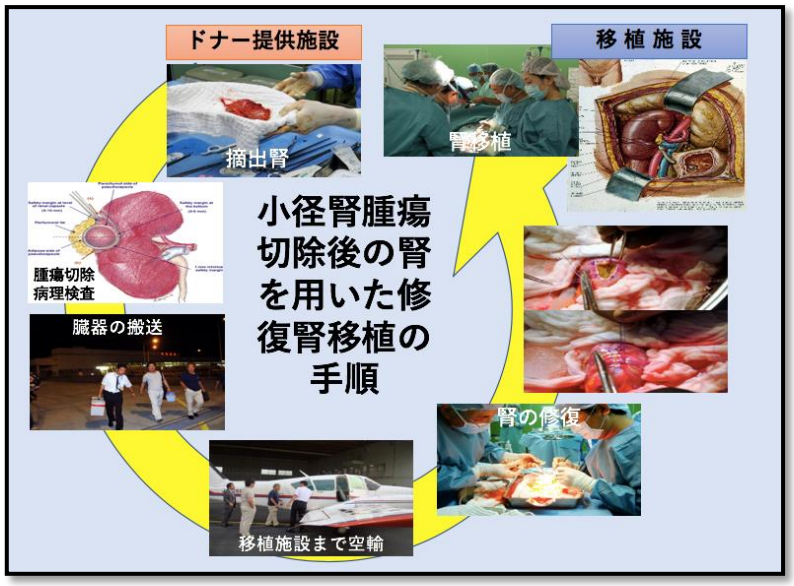
tomy in Japan; hence, an estimated 2000 kidneys are dis-
carded each year. However, "diseased kidney transplanta-

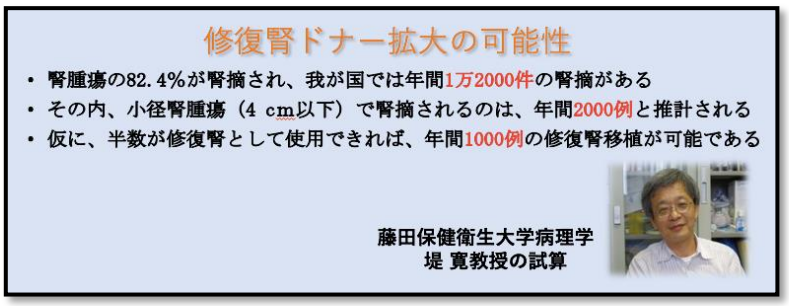
Y. Ogawa[a], N. Mitsuhata[b], M. Nishi[c], R. Mannami[d]

In 2007, the Ministry of Health, Labour and Welfare in Japan banned transplantation using therapeutic kidneys (kidney tumor, kidney stone, ureteral tumor, ureteral stricture, and cystic kidney) without any reasonable explanations or alternative methods, but they could perform kidney transplants as clinical trials, using therapeutic kidneys.

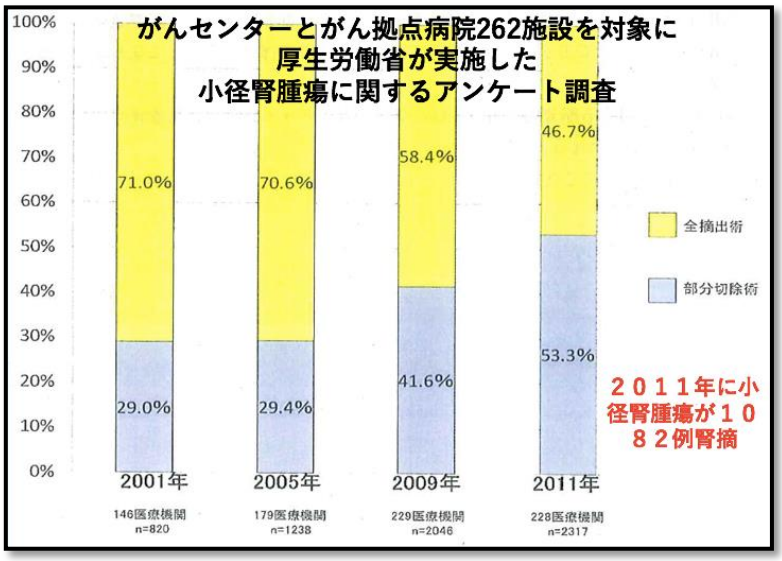


Therefore, the Tokushukai Medical Group launched two clinical trials of kidney transplantation using therapeutic kidneys between relatives and between third parties. The procedure of restored kidney transplantation includes removing a therapeutic kidney from a consenting donor and transplanting the restored kidney into a registered recipient.

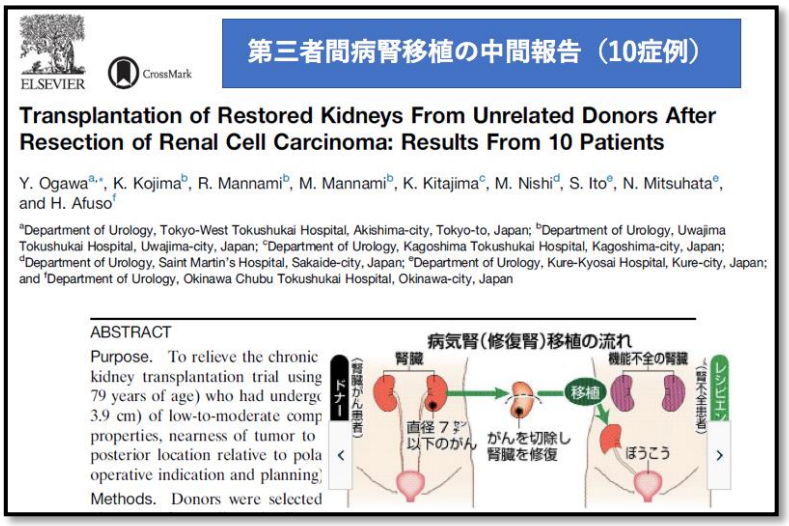




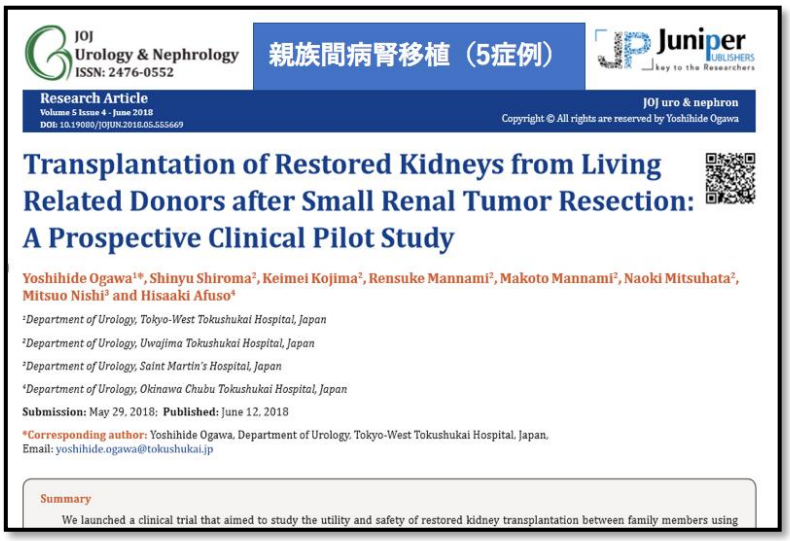
Prof. Tsutsumi collated the number of nephrectomized kidneys with renal cell carcinoma from his experience as a pathologist: 12,000 kidneys with renal cell cancer were removed per year in Japan. About 2,000 kidneys were removed because of small renal cell carcinoma. So, he suggested, assuming half of those kidneys could be used, that kidney transplantation could be increased by about 1,000 cases per year in Japan.



The Japanese Ministry of Health, Labour and Welfare conducted a questionnaire survey among cancer centres and specialized cancer hospitals. The results revealed that those hospitals remove about 1,082 kidneys with small renal cell carcinoma, which could be usable for kidney transplantation.



The Tokushukai Medical Group carried out restored kidney transplants using therapeutic kidneys in 18 cases during the clinical trials. This slide indicates the interim report of 10 cases between third parties. No serious complications occurred after transplantation.



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親族間病腎移植（5症例）

Juniper Publishers
key to the Researchers

Research Article
Volume 5 Issue 4 - June 2018
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Transplantation of Restored Kidneys from Living Related Donors after Small Renal Tumor Resection: A Prospective Clinical Pilot Study

Yoshihide Ogawa[1*], Shinyu Shiroma[2], Keimei Kojima[2], Rensuke Mannami[2], Makoto Mannami[2], Naoki Mitsuhata[2], Mitsuo Nishi[3] and Hisaaki Afuso[4]

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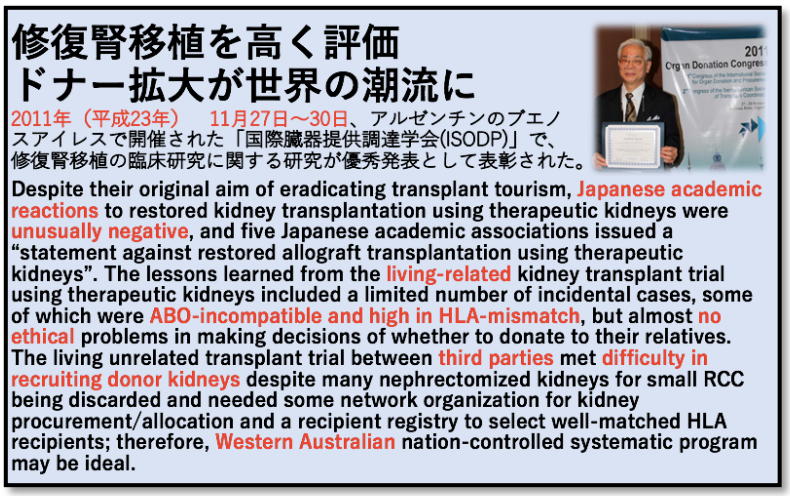
Summary

We launched a clinical trial that aimed to study the utility and safety of restored kidney transplantation between family members using

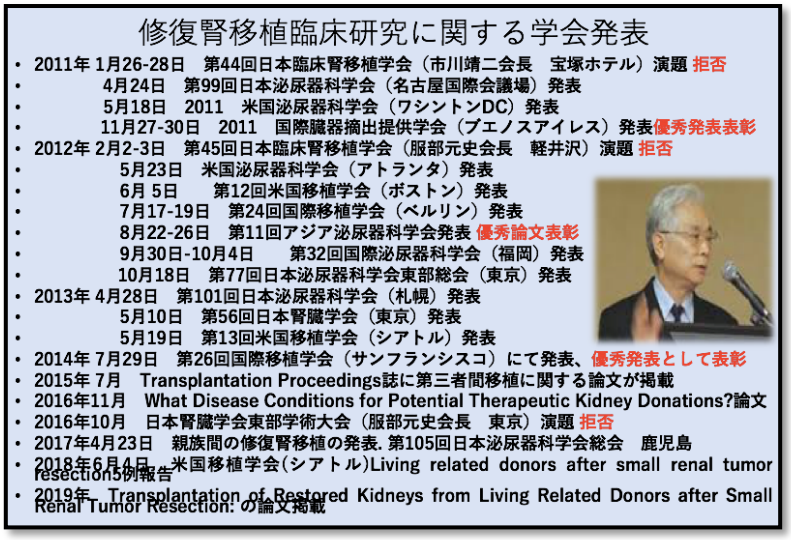
This slide indicates 5 transplant cases between relatives – most of them are between a husband and wife. There are some problems to overcome, ABO-incompatibility and HLA-mismatch, but the results were not so bad. Their reports were awarded best presentation at some academic conferences.



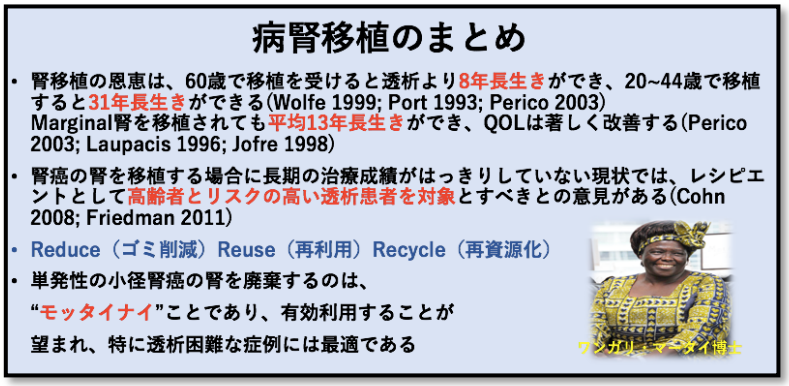
修復腎移植を高く評価
ドナー拡大が世界の潮流に

2011年（平成23年）　11月27日～30日、アルゼンチンのブエノスアイレスで開催された「国際臓器提供調達学会(ISODP)」で、修復腎移植の臨床研究に関する研究が優秀発表として表彰された。

Despite their original aim of eradicating transplant tourism, Japanese academic reactions to restored kidney transplantation using therapeutic kidneys were unusually negative, and five Japanese academic associations issued a "statement against restored allograft transplantation using therapeutic kidneys". The lessons learned from the living-related kidney transplant trial using therapeutic kidneys included a limited number of incidental cases, some of which were ABO-incompatible and high in HLA-mismatch, but almost no ethical problems in making decisions of whether to donate to their relatives. The living unrelated transplant trial between third parties met difficulty in recruiting donor kidneys despite many nephrectomized kidneys for small RCC being discarded and needed some network organization for kidney procurement/allocation and a recipient registry to select well-matched HLA recipients; therefore, Western Australian nation-controlled systematic program may be ideal.



This shows the presentation of clinical results at an academic conference abroad. While almost all their presentations in Japan have been rejected because of bias and misunderstandings about the procedure among Japanese academics, the authors have been awarded best presentation several times abroad. One of the reasons why they have been praised abroad is that Francis Delmonico, the top figure in the Transplantation Society, was very supportive of these trials. He visited China to instruct transplants as a WHO representative, and had several discussions about transplant abuse with Pope Francis.



In summary, using kidneys with small renal cell carcinoma could prolong survival for 8 more years in recipients compared with dialysis patients, or even 30 more years if the recipient is young. It has good indications for the elderly and high-risk dialysis patients. It is too wasteful to throw therapeutic kidneys away. So, while carrying out clinical trials, the Tokushukai Medical Group applied to the Japanese government for restored kidney transplantation to be accepted as an Advanced Medical Treatment, so that any medical facilities can practice the procedure. It took 10 years, and it was finally accepted as an Advanced Medical Treatment and announced in the official gazette in February 2019.

While I was presenting a paper at an academic conference in San Francisco, Falun Gong [organ harvesting] issues were emerging. I was interviewed on TV regarding the Chinese transplant issue. Surprisingly, Chinese American people (China Organ Harvest Research Center based in New York) presented five papers regarding transplant tourism in China at the Transplant meeting in Seattle in 2018. They estimated 72,540 transplants occurred in China in one year. This is double the number of transplantations in the US. The academic conference for the first time allowed them to present five papers at that time.

Hidden Mass Murder in China's Organ Transplant Industry

- Short Waiting Times
- Abundant Organ Supplies
- Unidentified Organ Sources
- Rapid Growth of China's Transplant Industry since 2000？
- Annie Witness appeared & publicly exposed the forced organ harvesting
- A Decade-long Investigation
- Continued Growth after International Attention in 2006

They claimed that the waiting time for transplants is very short and that transplants are scheduled ahead of time. The organ sources are uncertain, but a lot are supplied. According to them, Falun Gong practitioners are targeted, who number about 100 million in China, and 10% of them (10 million) are incarcerated in prisons to be potential donors.

民衆法廷の判決を言い渡す勅選弁護士のジェフリー・ニース（Geoffrey Nice）卿。ルース・イングラム（Ruth Ingram）

中国が以前から無実の人間の臓器摘出に加担している点は反論の余地がなく、また、どのような立場にせよ中国と取引を行っている者は、「犯罪国家」と取引していることを認識するべきだ。

移植医の教育に携わり、犯罪国家を育てた　英国とオーストラリアへの批判

The same thing is happening to Uyghurs. About 10,000 are incarcerated in detention camps as potential donors, ready for removal of their organs.

There were 33 cases of transplantation abroad reported by UCLA, USA. The recipients returned to the US about a month after the transplant operation. Half of them got an infection after the procedure. Almost 90% survived for a year, so the results are not bad compared with conventional transplants.

ESRD pts traveled abroad for transplant: a single center experience

Tour Destination	No Cases
China	34
Philippine	2
Vietnam	2
Pakistan	4
Kazakhstan	1
Cambodia	1

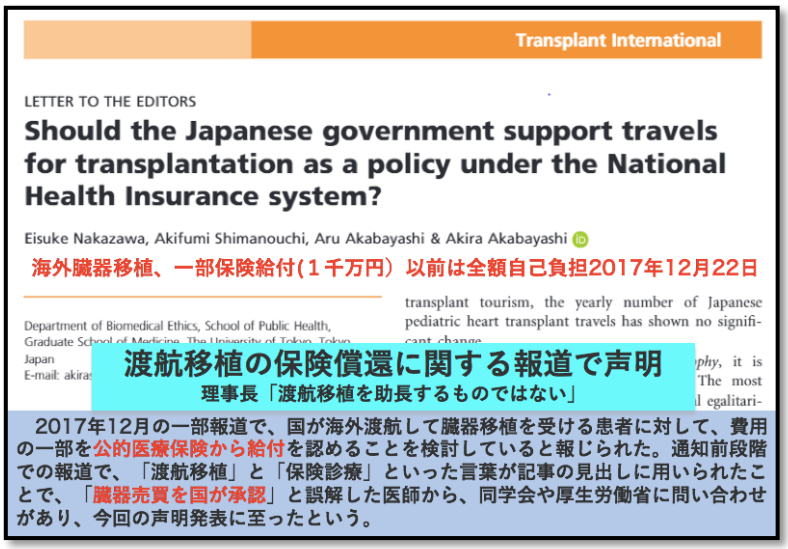
What about Japanese cases? These data are based on a single centre experience regarding kidney transplants abroad up to 2019. Thirty-four patients were operated on in China, and other patients travelled to the Philippines, Vietnam, Pakistan, Kazakhstan, and Cambodia. In a very fast-track case, one went to China and received a transplant within 3 days. Waiting for three months is a story of the past. Recently, the recipients come back to Japan in a very short time: about one week to one month.

Kidney transplant tourism: a single center experience

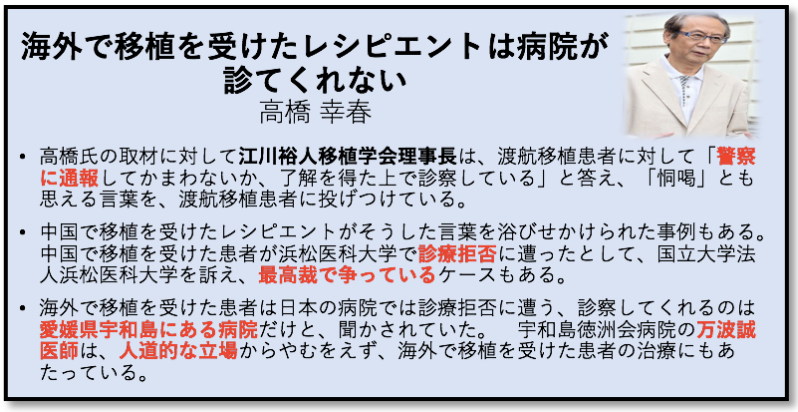
- Pre-operation waiting: 3 days – 3 months
- Back to Japan post-operation: 1 week – 1 month
- Infectious complication (CMV,PCP): 50%
- Urinoma: 3 cases, DM30%, HBP 80%
- No function post-operation: 1 case
- Death within 3 months post-operation: 1 case
- 1-year kidney survival: 90%
- 渡航移植患者の帰国後診療拒否は応召義務違反か?

About 50% of recipients suffered from infectious complications, such as cytomegalovirus (CMV) infection, or pneumocystis pneumonia. The most troublesome case is leaking of urine due to ureteral fistula. The [Chinese] surgeons may not be good at anastomosing the ureter. About 30% of recipients suffer from diabetes and 80% from high blood pressure as complications after the transplant.

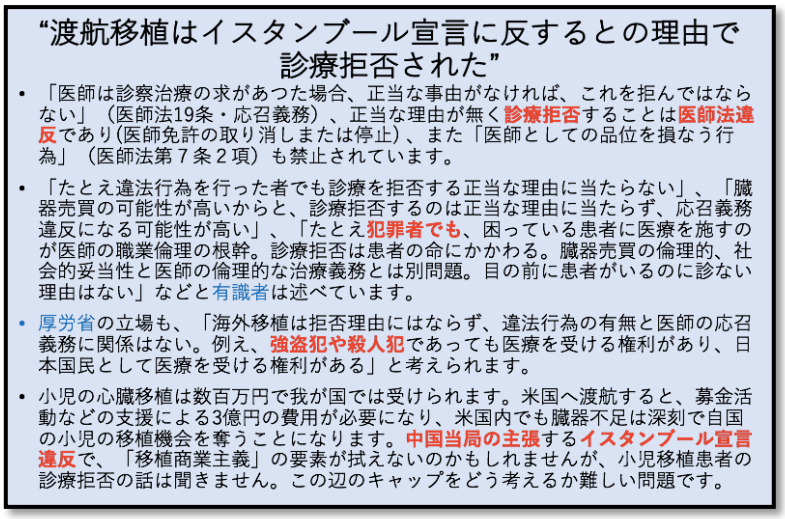
The most troublesome case is leaking from the anastomosed ureter. In such a case we must open the wound and re-anastomose the ureter. It took 1 year and 6 months to repair the complicated ureter fistula in a special case. Quite a difficult case.



Then, what is the Japanese Ministry of Health, Labour and Welfare doing about transplant tourism? They decided to support a partial reimbursement of the fee for transplantation abroad in 2017. I understand this is a controversial issue, but the heart recipient had to pay a fee of up to JP¥ 300 million out of their own pocket, so they had a financial problem.



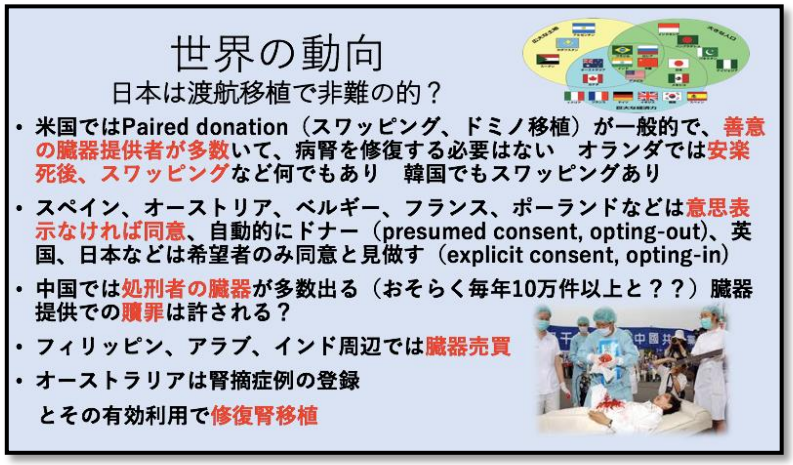
What happens to the recipients after transplantation abroad in Japan? Many transplant recipients abroad are refused by physicians after they come back to Japan. According to the Head of the Japan Society for Transplantation, his personal policy is to ask the recipient if it is okay to report him/her to the police before seeing him/her. There is another patient who is currently suing in the Supreme Court of Japan a hospital which refused to see him. It is said generally that Dr. Mannami in Shikoku Island is the only doctor who sees and takes care of those patients throughout Japan.



Would it be acceptable to refuse those patients? Refusal of medical treatment is against the Medical Law in Japan. Even among well-learned people, it is regarded that doctors must attend to criminal patients. The Ministry of Health, Labour and Welfare requires us doctors treat criminals even if they are robbers or murderers. We must operate on them if indicated. I myself and many physicians have an experience of attending to robbers/murderers. Doctors are obliged to see them and save their lives.

In contrast to transplant patient refusal in Japan, Japanese cardiologists are willing to see children after receiving heart transplants in the US (Japanese people donate 300 million

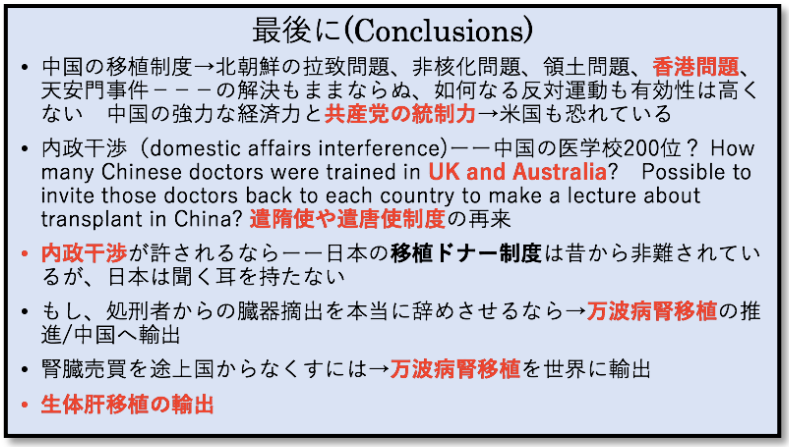
yen for them); that is criticized by China as being against the Declaration of Istanbul because of the "self-sufficiency" violation in the US.



What about the world trends for managing the organ shortfall? Unlike Japan, in other countries including Korea and Western countries, kidney transplantations from living donors outside of the relatives are taking place. It is called "donor swap", and donors on the list are selected based on histocompatibility in order to utilize donor-recipient pairs and to minimize ABO-incompatibility cases.

Spain and other Western nations adopted an "opting out" system, i.e. unless someone clearly states that they would not like to donate their organs, they are regarded as potential donors. Japan adopts an "opting in" system – only those who wish to be donors are regarded as such. So, Japan is under extremely difficult conditions in terms of organ donation because of the present way of thinking among Japanese people.

In China, many organs are obtained from death row prisoners. In the Philippines, Arab nations, and India, buying and selling organs is still taking place from poor people. In Australia, under their proper system, restored kidney transplants using therapeutic kidneys have been well organized.



Lastly, as you see from the Hong Kong issue now, the communist party is as tough as ever. Their education in China has been quite firm for a long time, so I think their conduct is far from what we would consider common sense.

The Chinese would say you are interfering in domestic affairs. Chinese doctors were trained in the UK and Australia. I think they should invite back those doctors from China and re-educate them. However, their experiences in transplantation are now well developed due to the numbers of transplants that they have carried out, and I guess even Japanese doctors will have to go to China in the future to learn their technical skills as during historical dynasties.

Talking about interference in domestic affairs, the Japanese organ donation system has been criticized a lot from abroad. However, the Japanese government doesn't listen to those criticisms. In general, Japanese people tend to regard those who need organs as someone who gets sick by doing something wrong. There are only a few Japanese willing to donate voluntarily.

What can we do to stop transplant abuse in China? I have two suggestions. Introduce restored kidney transplants using therapeutic kidneys to China. If they can remove kidneys with small renal cell carcinoma, they can use them for transplants and don't necessarily have to kill death row prisoners. The other is to encourage liver transplants from living donors, i.e., taking a partial liver from a death row prisoner if consented. This partial liver transplant is very common in Japan.

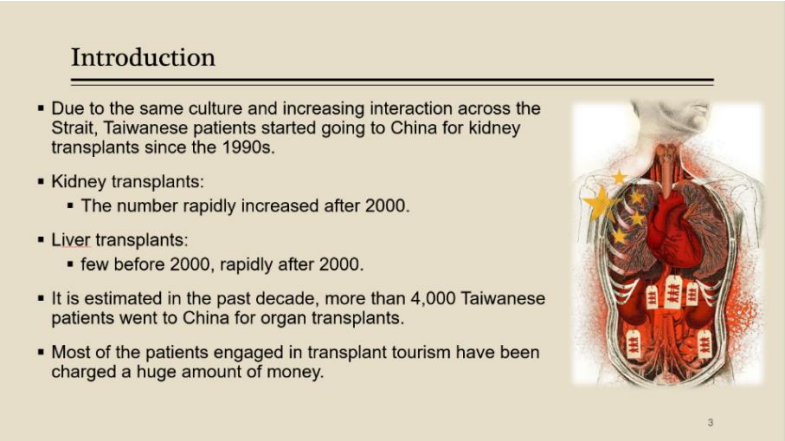
As a surgeon, I would like to recommend these two strategies to Chinese transplant surgeons.

Thank you for your attention.

Analysis of Taiwan's Transplant Tourism Before and After Amending *Human Organ Transplant Act* in 2015

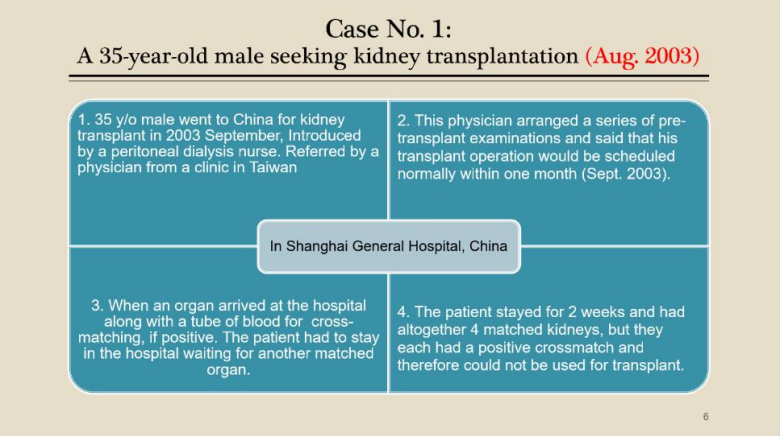
Shi-wei Huang, MD PhD

Hi everyone! I am here mainly to introduce the situation of Taiwanese people going to China for organ transplants. I will present three overseas cases, and then introduce Taiwan's laws and regulations on overseas transplantation and the statistics. Finally, I will discuss China's transplantation and its reform.



Due to the same ancestry and culture as well as increasing cross-strait interaction, Taiwanese people started going to China for kidney transplants since the 1990s. After 2000, the number of overseas transplant recipients increased rapidly. Liver transplants were rare before 2000, but after 2000, the number of overseas liver transplants increased very fast. During the past 20 years, more than 4,000 Taiwanese patients went to China for organ transplants. Most transplant tourists are charged a large amount of money.

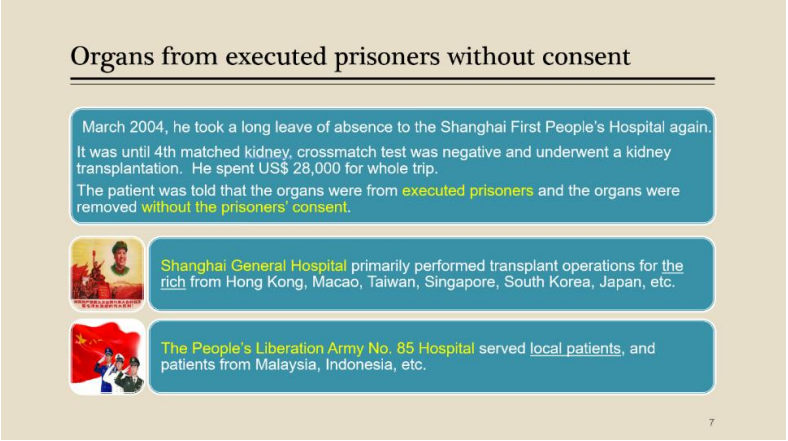
I would like to share some cases. For Taiwanese patients, the stories are different before and after 2007.



The first case is a 35-year-old male going to Shanghai First People's Hospital (also known as Shanghai General Hospital) for kidney transplant in 2003. The second case is a 40-year-old female going to Taiping People's Hospital for kidney transplant in 2001.

The male patient went to China for kidney transplant in Sept. 2003. He was introduced by a peritoneal dialysis nurse and referred by a nephrologist in Taiwan.

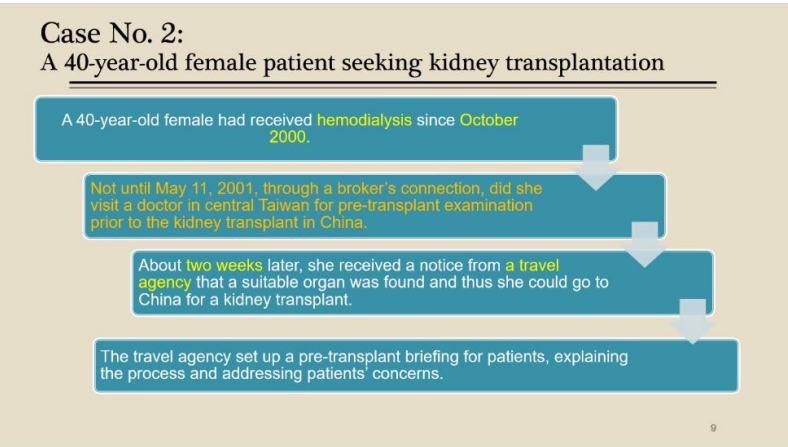
His pre-operation evaluation was done in Taiwan and his medical record was sent to the hospital in China for matching. He was then notified that a suitable kidney was found with HLA 3 matched. Accompanied by his wife, he went to Shanghai First People's Hospital. On the day of operation, the kidney was sent to the hospital, along with a tube of blood for cross-matching. However, the crossmatch was positive; the kidney was not compatible and could not be used. If used, hyperacute rejection may happen during the operation. The operation was stopped, and he was told to wait for the other organs. In the next 2 weeks, 3 other matched kidneys were sent to the hospital, but they each had a positive crossmatch. Since the patient only had a vacation three weeks long, he then came back to Taiwan.



In March 2004, he took a long leave of absence from his company and again went to the Shanghai First People's Hospital. His Taiwanese doctor told him that a suitable kidney

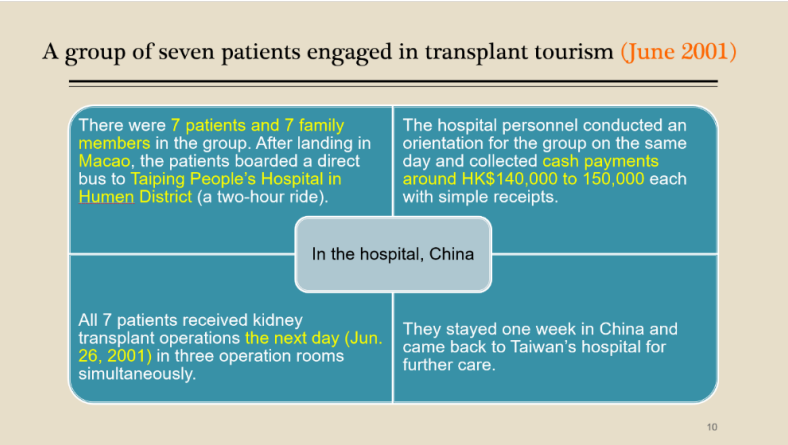
with HLA 5 matched was found. But once again the kidney arrived only to find a positive crossmatch. His Chinese doctor suggested he receive plasmapheresis. However, his Taiwanese doctor suggested he continue waiting, since there were plenty of organs in China. He waited until the fourth kidney to have a negative crossmatch. On April 23, 2004, the patient had a kidney transplant. After the operation, he was admitted to an isolation ward at Shanghai First People's Hospital for a week before he was transferred to People's Liberation Army (PLA) No. 85 Hospital and stayed there for 8 days. He returned to Taiwan on May 8, 2004. His doctor said the kidney was obtained from an executed prisoner without consent.

Although the Shanghai General Hospital is not a military hospital, its transplant sector staff were from the Fuzhou General Hospital of Nanjing Military District. The patient's wife indicated that when they were about to lose faith during the wait, they saw the doctor holding several sheets (20 some sheets) with donor data and HLA matching results. The doctor comforted her that many were appropriate for her husband, and their wait would not be in vain. At that time, the patient's wife saw surgeons all in military uniforms carry ice buckets to get organs.

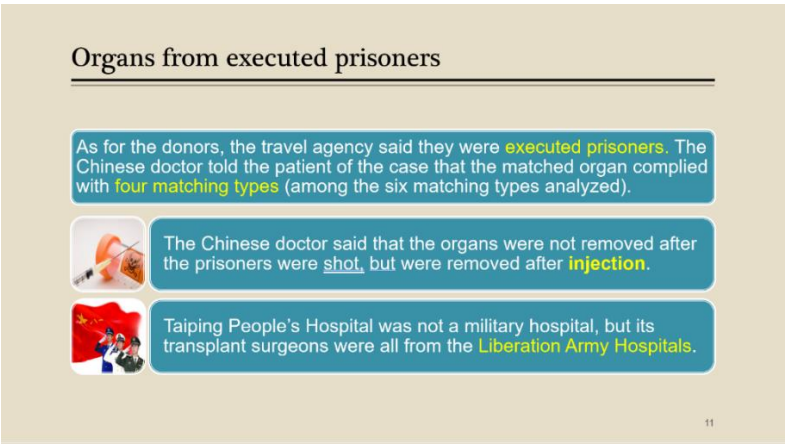


The second case was a 40-year-old female who started having hemodialysis in October

2000. She was often advised to go to China for kidney transplant after the dialysis. Through a broker's connection, on May 11, 2001 she visited a doctor in mid-Taiwan for preparatory examinations prior to the kidney transplant in China. After about two weeks, she was notified by a travel agency that a suitable organ was found, and she could go to China for kidney transplant. Before the tour, the travel agency set up a briefing on kidney transplantation in China. The briefing mainly explained the process and addressed patients' concerns.

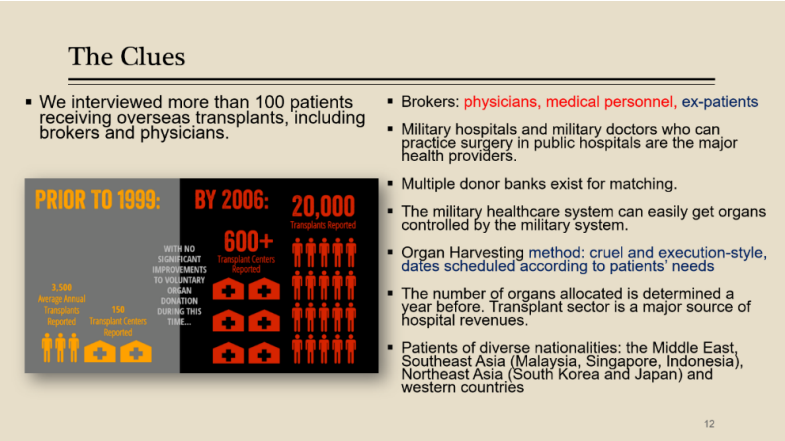


When they arrived at the hospital on June 25, the hospital personnel conducted an orientation on the same day and collected cash payments about HK$140,000 to 150,000 from each patient with simple receipts. All 7 patients received kidney transplant operations the next day in 3 operation rooms simultaneously. They stayed in the hospital for 7 days and left the hospital together on July 3. They took the same rout back to Taiwan and went to the same Taiwanese hospital on the same day for further care.



As for the donors, the travel agency mentioned they were executed prisoners. The Chinese doctor told the female patient in the case that the matched organ complied with four matching types. What was special was that the Chinese doctor told them the organs were not removed after the prisoners were shot, but after injection. Likewise, Taiping People's

Hospital was not a military hospital, yet their transplant surgeons were all from the Liberation Army Hospitals.



We had interviewed more than 100 patients of overseas transplant, brokers and physicians. In Taiwan, the brokers were mainly physicians, medical personnel, other patients or their family members. We have found some clues from the interviews.

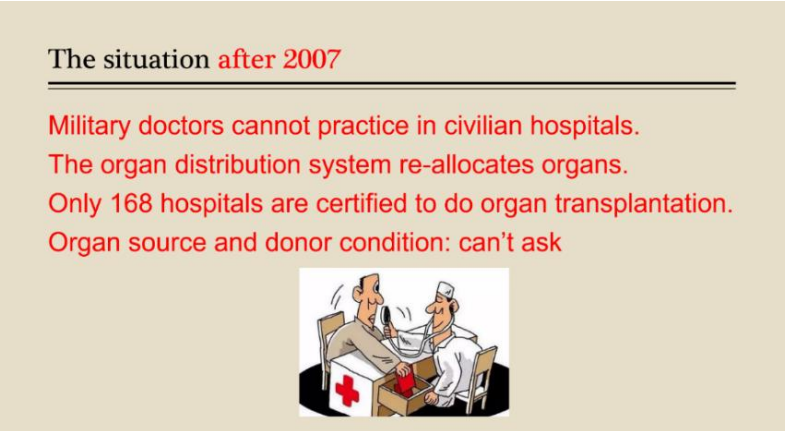
Before 2007, military hospitals and military doctors who could perform surgery in the public hospitals were the major health providers for Taiwanese. The military healthcare system could easily get organs and the transplantation system was governed by the military system. In China, there were multiple donor banks for matching. We just sent them patient data; they could find suitable organs in one or two weeks. It means at least HLA 3 matching and without any infectious disease. Then they would arrange an operation in about 2 weeks. We once believed that organ banks were made up with organs from executed prisoners. The dispute in Taiwan before 2007 was not the organ source, but the method of procurement. We knew that the process of harvesting organs was cruel; Chinese doctors scheduled the execution date according to the patient's needs.

The number of organs allocated to a hospital was determined a year before. For example, doctors would know how many organs they could obtain next year by the end of this year, and they made huge profit from performing transplants with the allocated organs.

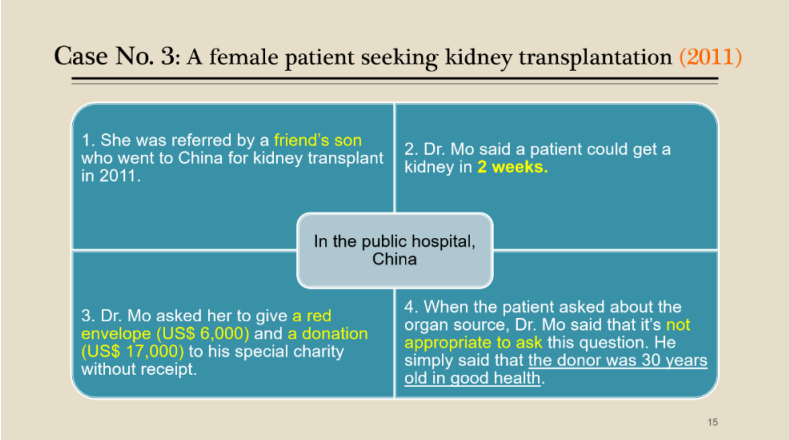
Besides, patients not only came from Taiwan. According to their statement, there were also patients from the Middle East, Japan, Korea, Southeast Asia (Malaysia, Singapore and Indonesia), and other western countries.

However, the problem is: Are these organ banks really made up with executed prisoners' organs? In China, there are two types of execution for death penalty. One is immediate execution; the other allows a suspension for two years. Immediate execution must be done within one week after the order is received. Therefore, prisoners on death row cannot be the organ pool of standing organ supply. A two-year suspension means execution is only carried out if the prisoner commits another crime while in custody. In addition, we found that the transplant surgery for most patients is often scheduled one to three weeks after a donor is found, and the date can even be adjusted. These situations cannot comply with China's criminal law.

So where were the organs from? I believed that they were most likely from Falun Gong practitioners.

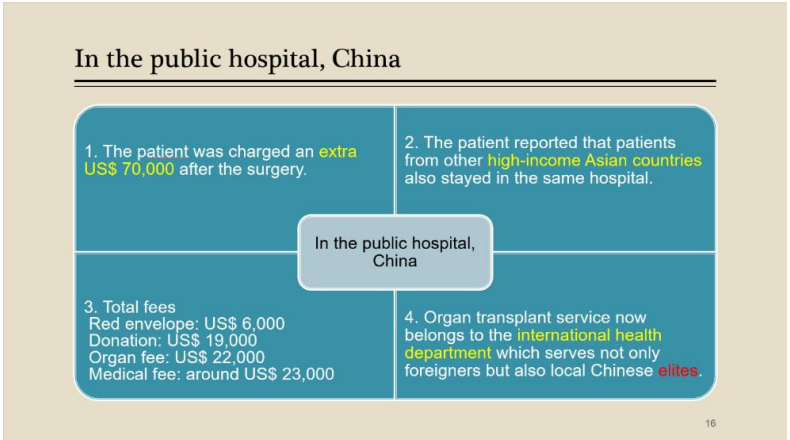


After 2007, there are some changes. Military doctors cannot practice in civilian hospitals. The organ distribution system re-allocates organs. Besides, the organ sources became something that could not be asked.



Let me share another case after 2007. Ms. Lee was an end-stage renal disease patient. She went to China for kidney transplant in 2011. A friend, whose son had a successful kidney transplant in early 2011 in China, recommended her Dr. Mo of Tianjin First Central Hospital. At the end of April 2011 with the help of this friend, Lee contacted Dr. Mo, who asked her to go in mid-May. On May 11, 2011 (Wed.) accompanied by her family, Lee was admitted to the hospital for kidney transplant. The next day, the physician said there was a suitable organ and the surgery was scheduled on Friday evening, May 13. But then on Friday afternoon she was told that the organ was not good, a new one must be found, and the operation had to be postponed.

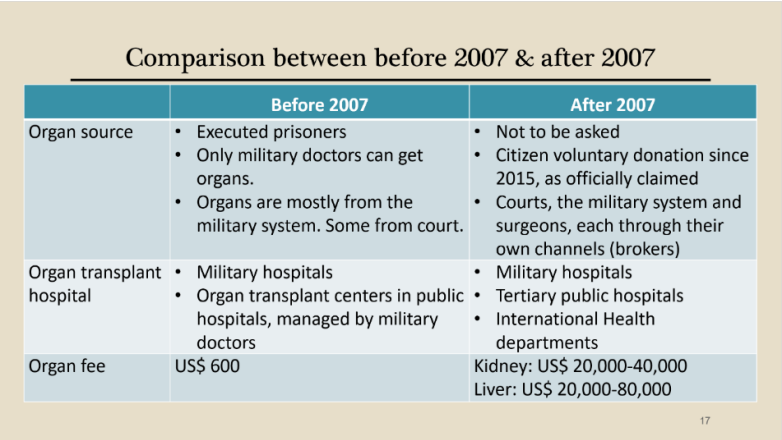
Lee was concerned if the delay was because she didn't offer a red envelope. On Monday morning, May 16, Lee gave the doctor a red envelope of US$ 6,000. The next day, May 17 (Tues.), an assistant informed her that a suitable organ was available, and she had to donate 100,000 RMB. She received a transplant surgery the next day on May 18, Wednesday afternoon. The surgery went smoothly. When she asked about the organ source, the doctor said she could not ask about it. She was simply told that the donor was a male, about 30 years old with good organ quality.



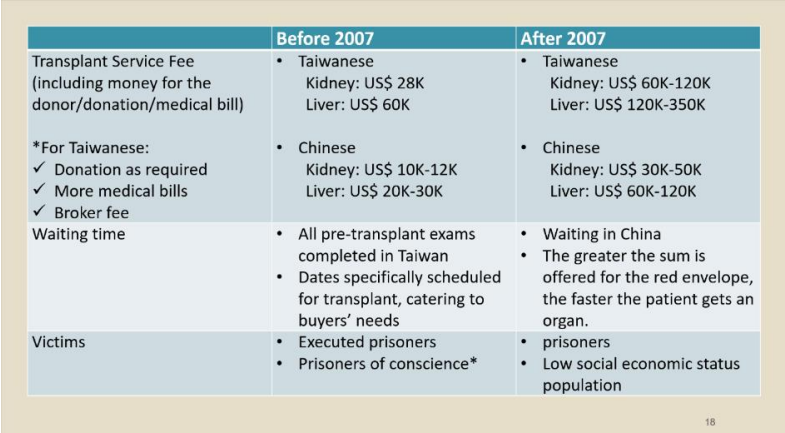
As to the cost, the total fee was about US$ 70,000, including US$ 23,000 medical expenses, US$ 22,000 organ fee, and US$ 19,000 for donation and the additional

US$6,000 for the doctor's red envelope.

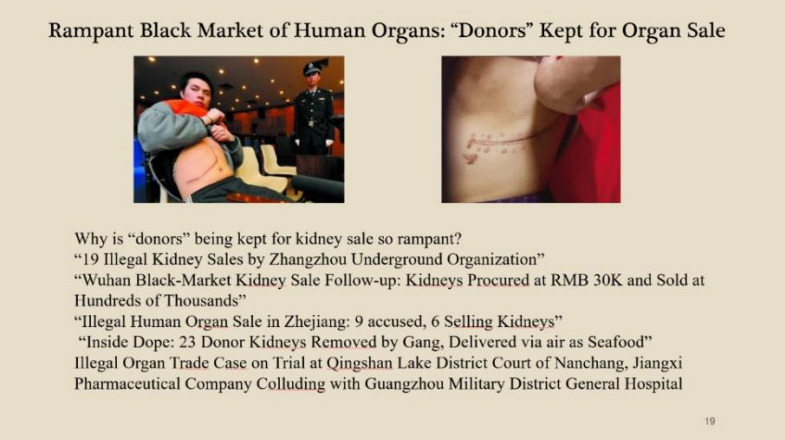
Lee said that there were patients from the Middle East, Singapore, Japan, Korea, and native Chinese waiting for kidney transplants at the same time. At that time, a Taiwanese was still waiting for a suitable kidney transplant after one month. She asked if a red envelop was offered to the doctor, the patient replied US$ 2,000 was offered in the envelop. Lee said it was too little.



Before 2007, organs were mostly from the military system and only military doctors could get organs. Organ fee was about US$ 600 only. After 2007, one cannot ask about organ sources, and organ price quickly rose from US$ 20,000 in 2007 to US$ 40,000 recently.



Regarding expenses, before 2006, Taiwanese only paid US$ 28,000 for a kidney transplant, but after 2007 the price quickly jumped to US$ 120,000 in recent years. The waiting time is also short if you can pay more money, especially for the red envelop. Before 2006, victims were limited to prisoners, but since 2007, populations with low socio-economic status have also become victim groups as organ prices keep rising fast.

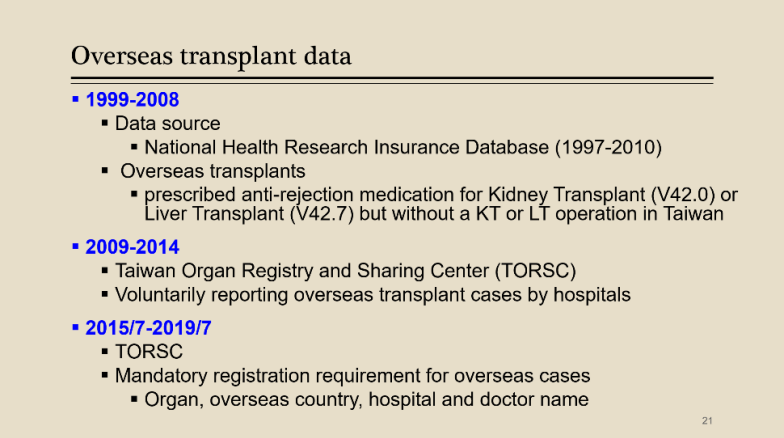


After 2007, many reports on the black market of human organs started to appear in China's newspapers. These organ trafficking and organ trade incidents involved not only gangs in China but also licensed transplant surgeons and hospitals because of huge profit.

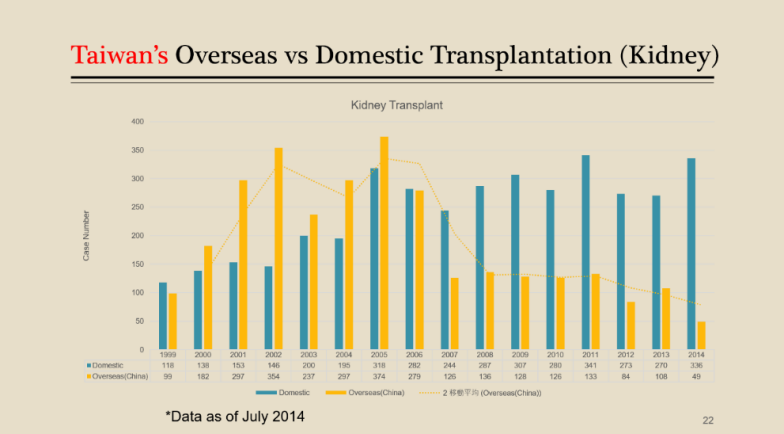
Regarding Taiwan's laws and regulations:
Before2006, there was no regulation for overseas transplant.
In 2006, China was accused of using organs from Falun Gong practitioners.
Since then the public, media, and NGOs have pressured the Taiwanese government to prohibit transplant tourism.

So, in 2006, the Taiwanese government enacted a new regulation to prohibit medical personnel from getting involved in any form of organ brokering and asked hospitals to carry out voluntary registration of overseas transplant cases.

In July 2015, Taiwan passed new amendments to the *Human Organ Transplantation Act*, including mandatory registration for overseas transplants and criminalizing transplant tourism and organ trafficking.

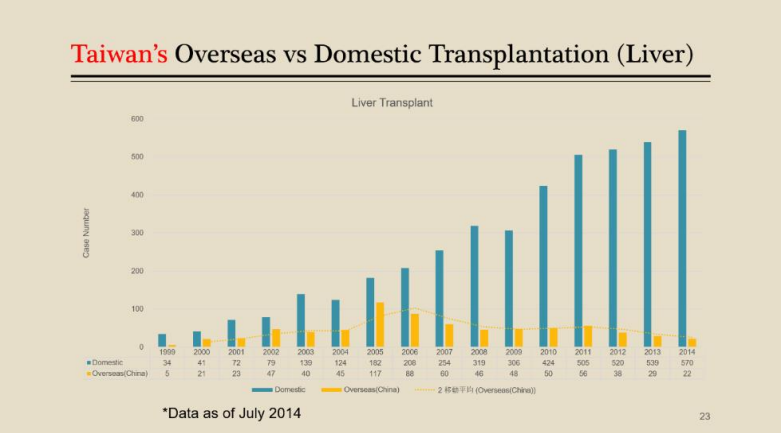


We tried to calculate the numbers of overseas transplants. Our data are divided into three parts. Between 1999-2008, we used National Health Research Insurance Database to find out overseas transplant cases. We defined overseas transplant patients as prescription of anti-rejection medication for a diagnosis of organ transplantation but without a transplant operation performed in Taiwan. Between 2009-2014, we used data from Taiwan Organ Registry and Sharing Center (TORSC) since hospitals began registering overseas transplant cases. From July 2015 to July 2019, the overseas transplant data were more complete, including names of overseas hospitals and transplant surgeons.

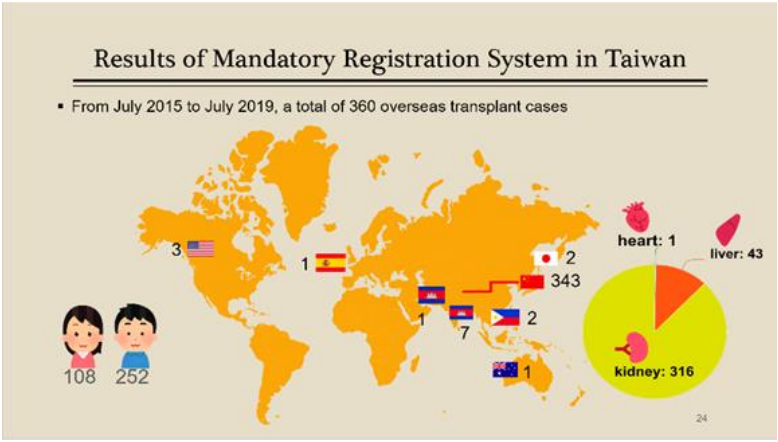


This chart shows the numbers of kidney transplants. Domestic cases are blue bars and overseas cases are orange bars.

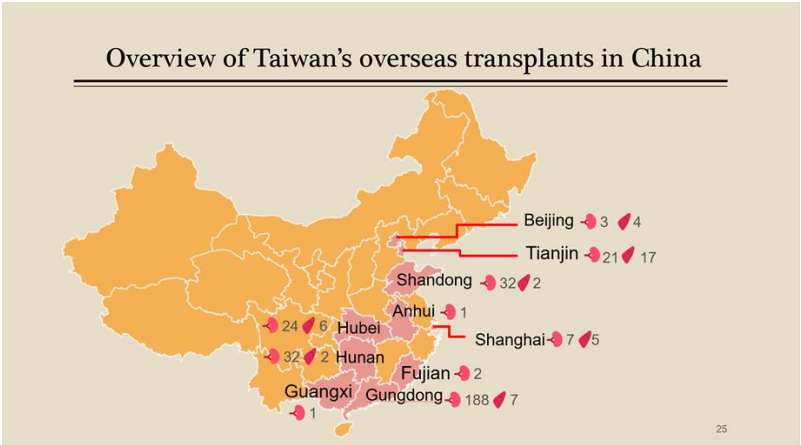
The number of patients receiving KT overseas has increased since 2000 and first peaked in 2002 (n = 354). The decrease in 2003 was due to the SARS epidemic in Southeast Asia. After a second peak in 2005 (n = 374), overseas KT decreased in 2007 and its number remains around 100-150 a year.



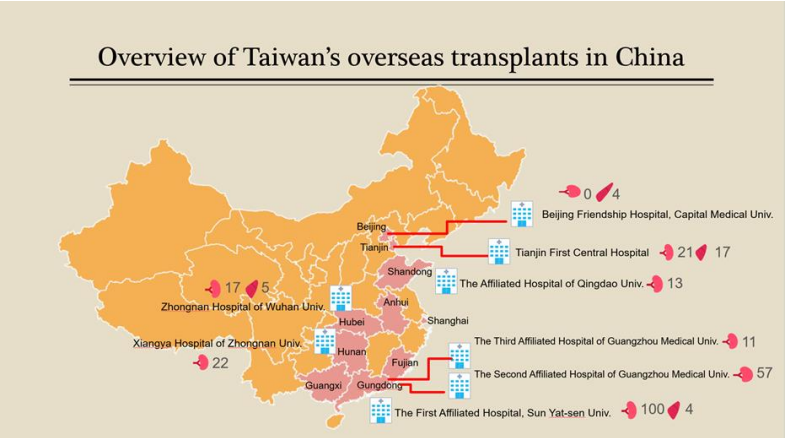
This chart shows the numbers of liver transplants. The number of overseas LT started increasing in 2000, peaked in 2005 at 117, and then decreased. As the overseas cases decreased, domestic liver transplant cases increased fast and donors mainly came from living relatives.



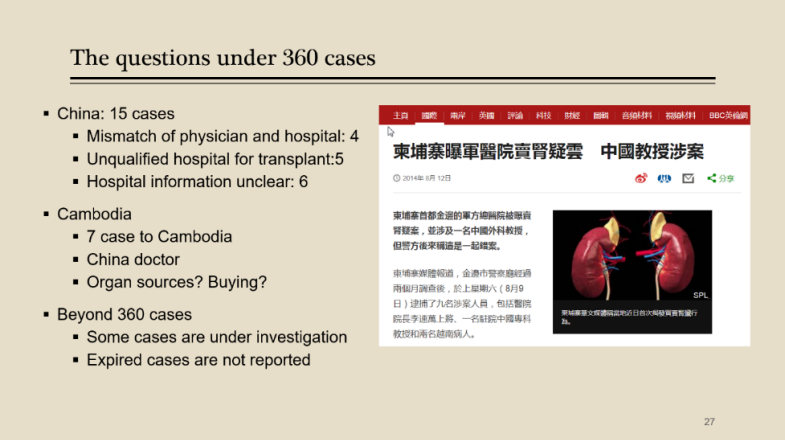
From July 2015 to July 2019, 360 overseas transplant cases complete registration. More than two-thirds of the patients are male. 343 of the 360 cases (about 95%) are to China and 7 cases to Cambodia. 316 cases are kidney transplants and 43 cases are liver transplants.



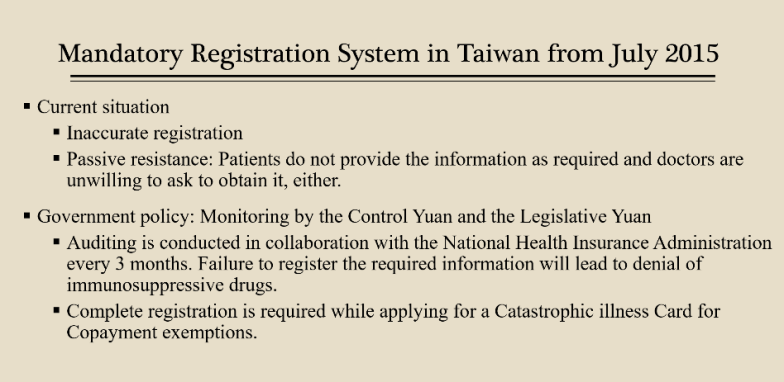
Among all Taiwan's overseas transplants in China, more than half of them take place in the Guangdong province, followed by Tianjin City, as well as Hunan, Hubei, and Shandong provinces.



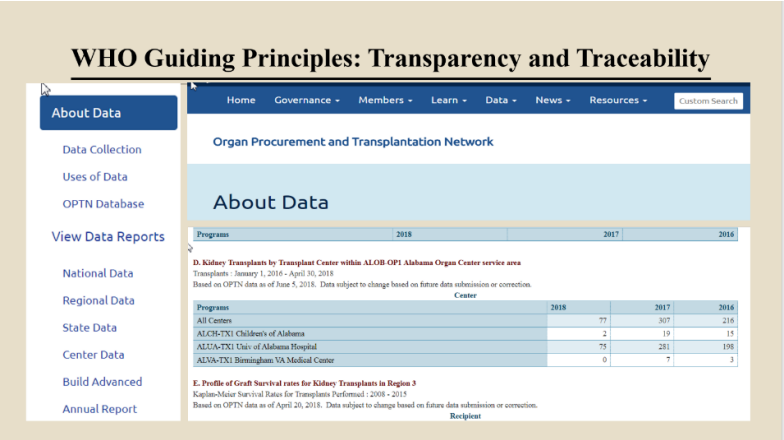
This map shows the main hospitals Taiwanese people go for transplants. Regarding kidney transplant, Affiliated Hospital of Sun Yat-sen Univ., Affiliated Hospital of Guangzhou Medical Univ., Xiangya Hospital of Zhongnan Univ. and Tianjin First Central Hospital are the main hospitals. Regarding liver transplant, Taiwanese people most often go to Tianjin First Central Hospital.



Among the 360 cases, we found some questions. Five patients went to unqualified hospitals for transplant; in 4 cases, the transplant surgeons did not belong to the transplant hospital; in 6 cases, the hospital information was unclear, and we were not certain about the hospital names. Besides, in 7 cases, the patients went to Cambodia for transplants and the surgeons were from China. This incident was reported in Cambodia in 2014: A Chinese professor got involved in the organ trafficking by a Cambodian military hospital. China seems to have exported its so-called Chinese transplant model to its neighbor.



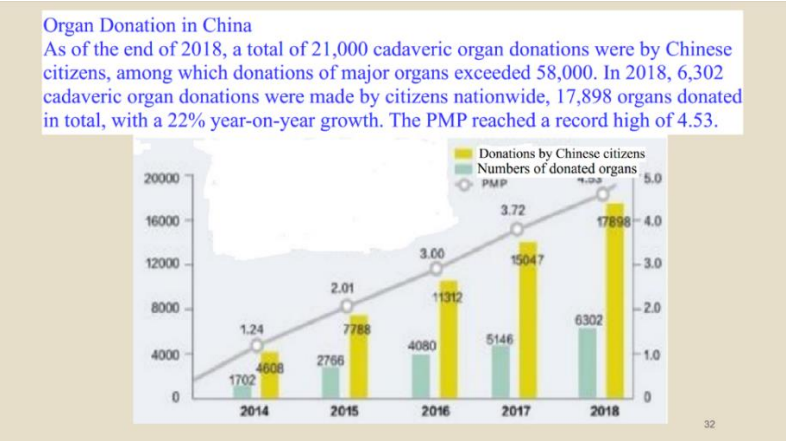
After the amended Act was passed, its implementation did not go smoothly at first. Doctors and patients showed passive resistance. Then, the government issued new orders, all connected to national health insurance. First, auditing is done in collaboration with the National Health Insurance Administration every 3 months. If an overseas transplant patient fails to register the required information, he/she would be denied anti-rejection drugs. Second, application for copayment exemptions of a Catastrophic Illness Card also requires the patient to register complete information.



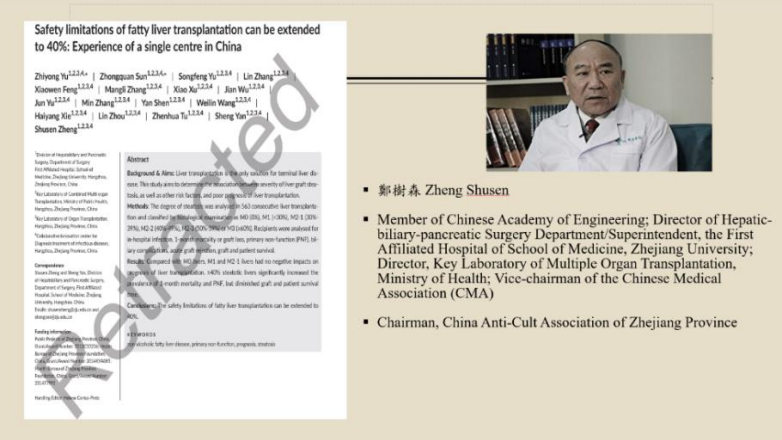
Since the main transplant tourism destination country for Taiwanese patients is China, let's look at China's system. China announced that it would reform its transplant system and stopped using organs from executed prisoners as of 2015. China claimed that its transplant system would conform to the WHO Guiding Principles of transparency and traceability by then.

What is transparency and traceability? The United Network of Organ Sharing (UNOS) of the United States is a good example for these principles. On the UNOS website, we can find non-sensitive data of transplant recipients and donors. We can find these data and annual transplant numbers at the hospital, state, and national levels. All the information is publicly accessible; anyone may examine it to verify the accuracy.

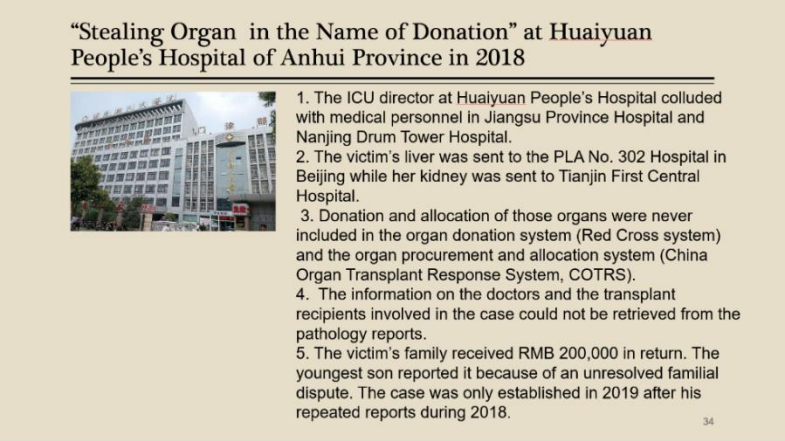
How about China's system? None of the above data is accessible on the website of China's organ allocation and transplantation system. The public is denied access to basic, non-sensitive information, and the international community thus has no way to verify and scrutinize. On China's website, you can only see a national figure, up to 2019 September 20, 25,716 cases donate73,445 vital organs. We find only a national figure, neither provincial nor hospital level data.



We tried to find China's transplantation and donation numbers but only found a national figure. Why didn't China publish data at hospital and provincial levels? Because the numbers do not add up. If we add data from every hospital or every province, it will far exceed the national figure. Let me give you two examples.



The first example is the retraction of an article published by China's well-known liver transplant surgeon, Zheng Shusen (鄭樹森). In his article, Zheng claimed that 563 liver transplants using cardiac death donations were performed from 2010 to 2014 in his hospital. The study was eventually retracted because Zheng failed to provide evidence to support the claim. Later, Huang Jiefu (黃潔夫) said, in their donation system, only 116 liver transplants were performed in Zheng's hospital and the article was fake. However, 563 is more than fourfold of 116. Which is true?

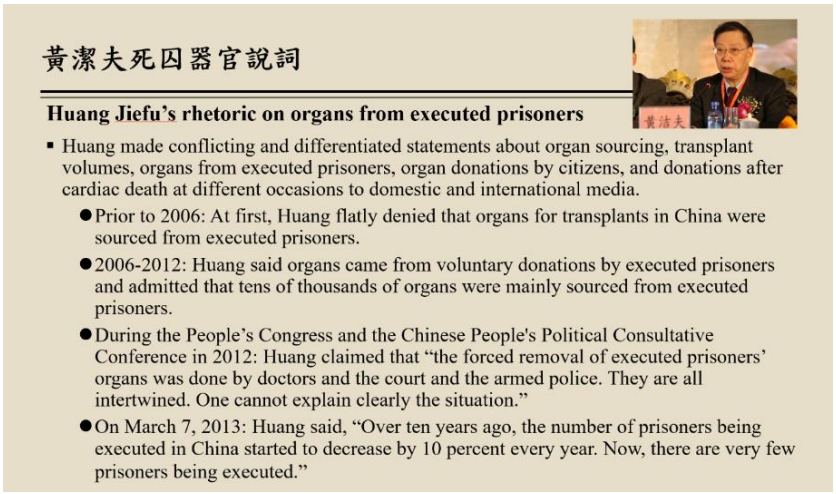


The Second example is an incident in Huaiyuan People's Hospital of Anhui Province in 2018. It made the news entitled "Stealing Organ in the Name of Donation."

In this incident, the ICU director conspired with medical personnel of other qualified transplant hospitals. They deceived the family into donating the victim's organs and gave 200,000 RMB in return. It was then reported by donor's son because of unresolved family dispute. China said the donation and allocation of those organs never entered the organ donation system. The victim's liver was sent to the PLA No. 302 Hospital in Beijing while her kidney was sent to Tianjin First Central Hospital. No information about the transplant surgeons and the transplant recipients could be found since the records disappeared. This incident involved 4 qualified transplant centers. How many underground transplant

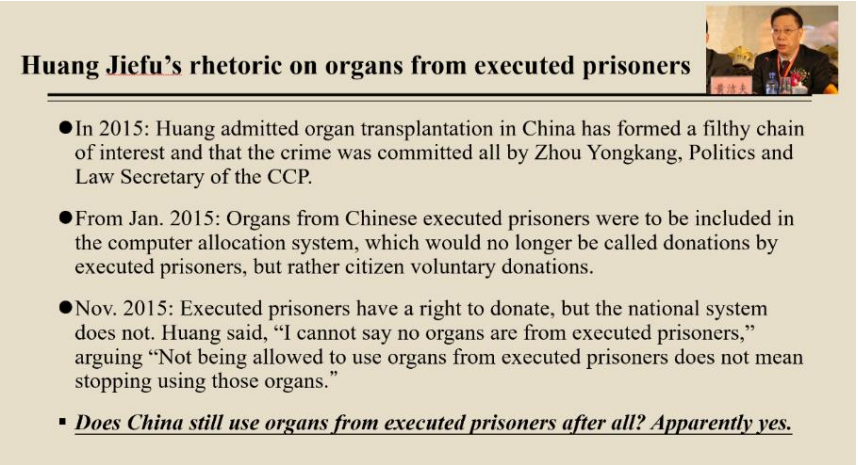
surgeries have been done in China?

Since little information about transplantation is open to the public in China, the medical community can only have that little information and trust what the Chinese government says. But can we trust the Chinese government?



Let's see Huang Jiefu's rhetoric on organs from executed prisoners.
Huang made conflicting and differentiated statements about China's organ transplantation at different occasions to domestic and international media.

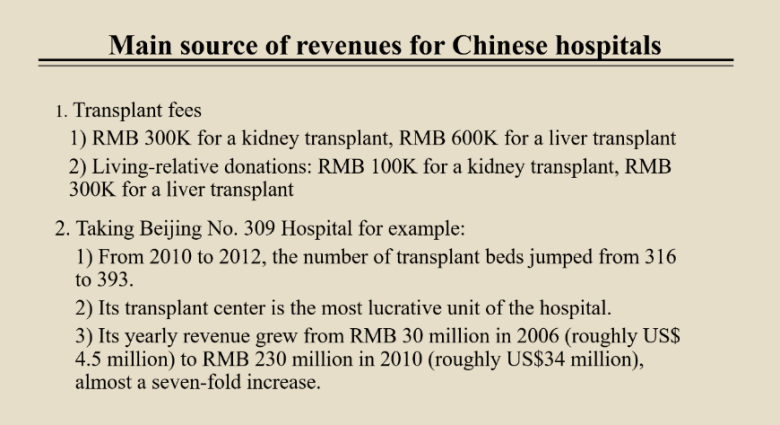
He had 7 different statements about organs from executed prisoners. Before 2006, he said it was a lie. During 2006 and 2012, he said organs from executed prisoners were removed with their informed consent. During 2012 and 2015, he said organs from executed prisoners were removed without their consent.



In 2015, he admitted organ transplantation in China has formed a filthy chain of interest and that the crime was committed all by Zhou Yongkang (周永康), Politics and Law Secretary of the CCP.

In Jan. 2015, he said if executed prisoners' organs were incorporated in the computer allocation system, then they were citizen donations, not executed prisoners' donations. In Nov. 2015, he said organs from executed prisoners were not allowed, but that didn't mean China stopped using them.

Does China still use organs from executed prisoners after all? Apparently yes.



Nowadays, organ transplantation is still the major source of revenue for hospitals in China. From 2007 onwards, the prices have continued to rise. For Chinese, a kidney transplant costs 300,000 RMB (US$ 50,000). If it is a related living donation, a kidney transplant (including recipient and donor expenses) only costs 100,000 RMB (US$ 16,000). The difference of 200,000 RMB also becomes a clear incentive for organ brokerage, organ sale, and organ theft.

Regarding hospital revenue, the Beijing 309 Hospital claimed that its transplant department is the most lucrative source of revenue. Their revenue had a seven-fold increase from 30 million RMB (roughly US$4.5 million) in 2006 to 230 million RMB (roughly US$34 million) in 2010.

Anti-Rejection Therapy: Induction Therapy

	China	Taiwan	globally
Induction therapy for transplant	Simulect Zenapax Xinipie	Simulect	Simulect
Transplant numbers (2015)	9,660 cases Liver transplant: 2,620 *cases* *Kidney transplant 7,040* cases	991 cases Liver transplants: 607 Kidney transplants: 309 Cardiac transplants: 75	98,393 cases Kindey: 84,347 Liver: 27,759 Heart: 7,023
2015 market	Simulect (280 million RMB=US$ 43.1 million) Zenapax (not available) Xinipie (not available)	NT$ 40 million=US$ 1.33 million	US$ 112 million
Retail price (40 mg)	19,000 RMB (US$ 2,923)	NT$120,000 (US$ 4,000)	US$ 3,644 (USA price)
Estimated patient numbers for using Simulect	About 18,500 (192% of transplantation)	About 400 (40% of transplantation)	About 38,400 (39% of transplantation)

When we look at anti-rejection medication in China, besides brand drugs, there are quite a large number of domestic generic drugs. It is very common in China that hospital doctors and sales representatives from pharmaceutical companies sell drugs to patients under the table, bypassing hospital pharmacies, or that patients may buy drugs in pharmacies not affiliated with hospitals, especially domestic generic drugs. Therefore, the actual use of anti-rejection agents cannot be counted from the data provided by hospital pharmacies, which is the basis for marketing research companies.

However, what matters more is the induction therapy before an organ transplant. In China, three brand drugs are used for induction therapy: Simulect (Norvatis), Zenapax (Roche), and Chinese brand Xinipie (CPGJ). The indications for the induction therapy are mainly kidney transplants, liver transplants and cardiac transplants.

As shown in the table, the number of patients using Simulect in China reaches as high as 18,500 in 2015, which is 192% of that receiving kidney transplants and liver transplants. In contrast, both in Taiwan and globally, only about 40% of the patients receiving liver/kidney/cardiac transplants take Simulect. Furthermore, the volumes of the other two drugs for the induction therapy in China are not counted, with Zenapax and Xinipie only sold in China and cheaper than Simulect.

Organ Donation System

	China	Taiwan	Hong-kong
Population	13 billion	23 million	7.34 million
Deceased donation system	Informed consent	Informed consent	Informed consent
Numbers signing donation card	258,794 (2017/12/22)	368,085 (2017/12/22)	278,047 (2017/12/15)
Deceased organ system	Cardiac death (no brain death)	Brain death	Brain death
Deceased donation (2016)	4,080 donors 3,257 liver 7,224 kidney	102 kidney 206 liver	36 liver 66 kidney
Donation rate (million population)	2.78	4.48	4.9
Donation rate for vital organ (donation numbers/numbers signing donation card)	1.395%	0.028%	0.0129%

Another issue is the organ donation system in China. Let's look at the other two societies also of Chinese ancestry, Taiwan and Hong Kong. Taiwan, Hong Kong and China all adopt informed consent when it comes to deceased organ donation. Here are the numbers of people signing donation cards in Taiwan, Hong Kong and China. Each number reflects the attitude the entire society holds toward organ donation. However, within only 2 years, the number of vital organ donation in China reaches as high as 3,612, while the numbers in Taiwan and Hong Kong are 103 and 36 respectively. The proportion is unbelievable.

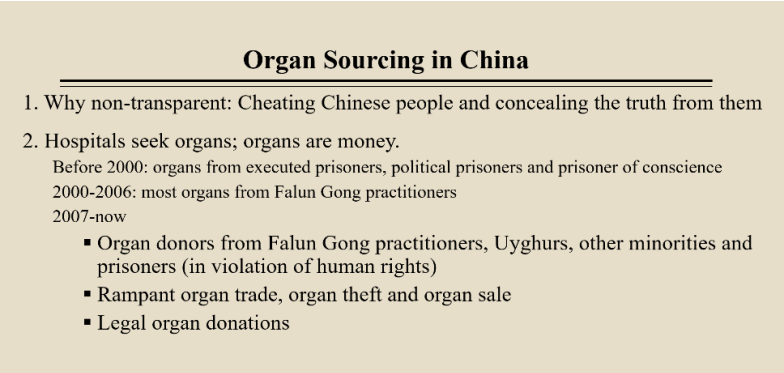
Another important detail worth noticing is that 20% of the deceased organ donations in China come from children, among which 90% is allocated to adults. With this specific detail and the lack of transparency and traceability in its nationwide organ donation system, China's claim that Chinese organ donations solely come from voluntary donors can only raise even more suspicion and doubt.

Organ Transplantation in China

1. Non-transparent, under-the-table
2. Huang Jiefu's conflicting statements
3. Organ transplantation is a highly lucrative industry;
   hospital revenues keep increasing.
4. Actual transplant numbers: real numbers and report numbers?
5. Waiting time: 1-2 weeks for liver transplant and kidney transplant
6. Unreliable organ donation system: citizen voluntary donations?

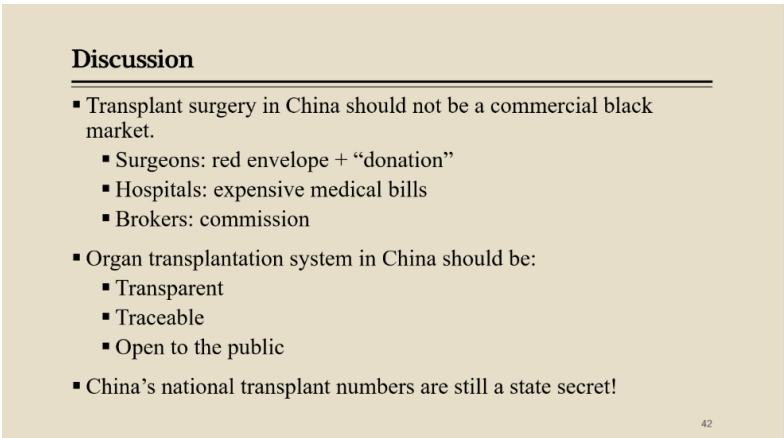
What are the characteristics of China's organ transplantation now? It is still characterized by non-transparency and under-the-table deals. The truth about the organ transplant numbers, organ sources and organ allocation remain elusive even today. Moreover, the Chinese authorities keep shifting statements and changing claims. Organ transplantation is a highly lucrative industry; hospital revenues keep growing as the prices and fees of transplant surgeries continue to rise. The waiting time is still 1-2 weeks for Chinese and

foreigners. China's organ donation and allocation system is unreliable due to lack of transparency.



Why can't China make their system transparent? Because the Chinese government wants to deceive and conceal the truth from Chinese people.
Nowadays, organ still means huge money in China. China's hospitals and doctors have their own different channels to find organs.

During 2000 and 2006, organs were mainly from Falun Gong practitioners and the organs cost nearly nothing for transplant hospitals.
After 2007, organs not only come from Falun Gong practitioners; organs from Uyghurs, other minority groups and other prisoners have also increased. Besides organ trade, organ theft and sale has been rampant in China.



For China to truly become a major country in terms of ethical and legal organ transplantation, China's transplant surgery should not be a commercial black market with large profit.

Moreover, its organ transplantation system needs to be made completely transparent, publicly accessible, and subject to the monitoring of Chinese citizens and the international community. Until full transparency is achieved in China, the international community has

adequate reasons to believe that the organ sources in China's organ donation and transplantation system remain questionable and unethical.

Transplant Tourism:
A Fundamental Analysis of Current Situation in Korea

Prof. Hee Chul Han 韓熙哲
heehan@korea.ac.kr

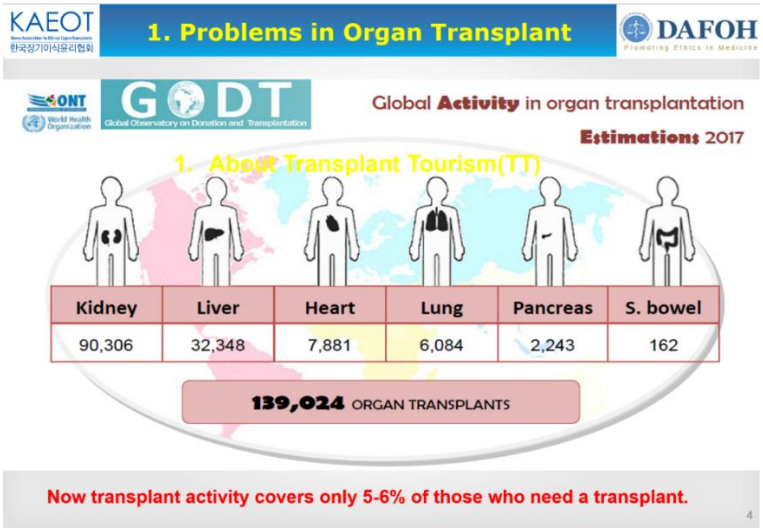
Good morning ladies and gentlemen. It is great honor for me to present my work today. Before starting my presentation, I would like to deeply appreciate TTRA for arranging this meaningful symposium to stop transplant abuse in this world.

Today's my talk is entitled as the fundamental analysis of current situation in Korea and I hope that this will be an important step for legislation against illegal transplant tourism in Korea.

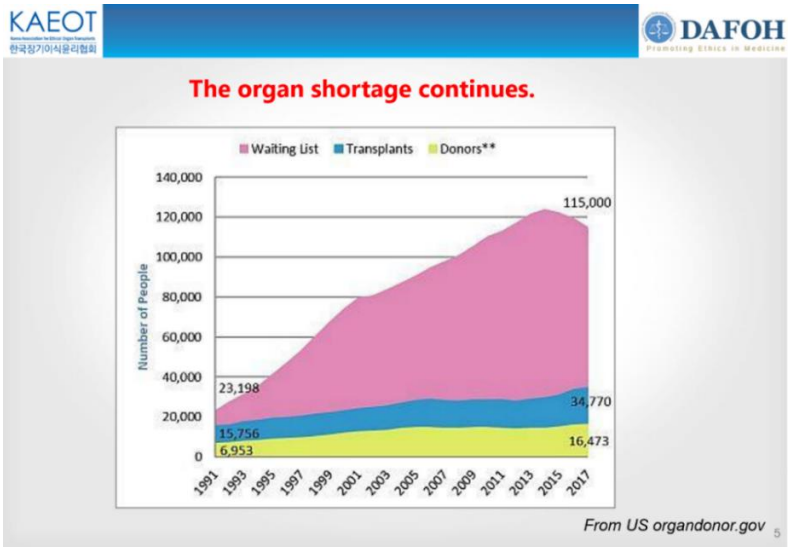
As for me, I joined KAEOT in 2016 and DAFOH in 2017. Since then I have been working to share the ethical value of respect for life with KAEOT.

As you can see, we can say "No" if we do not want to do something. But if you cannot say "No," there will be a problem and I think that this is the same situation with the transplant abuse in China according to various reports, such as *Bloody Harvest*.

So, my talk will contain the following subjects.

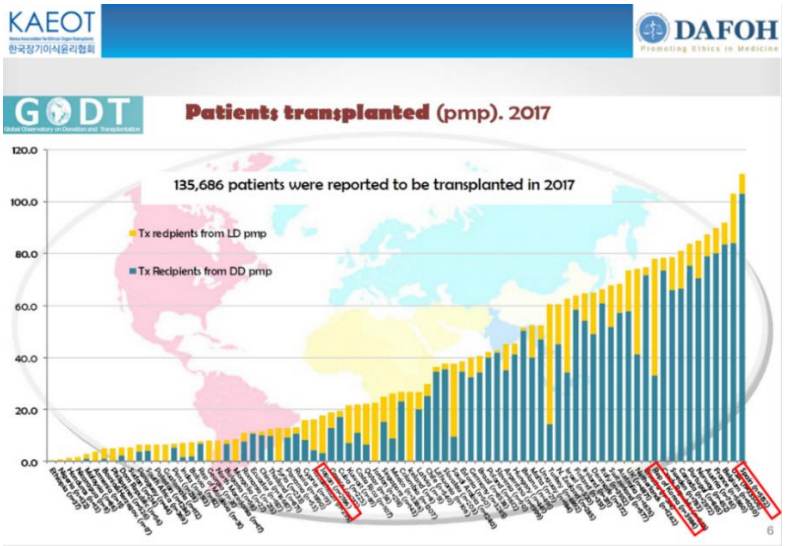


First, I want to talk about the problems in organ transplant. It is well known that one organ donor can save up to 8 lives, offer people a second chance at life, and help recipients immediately. Organ donation must be an act of true altruism and philanthropy if it is done by his/her free will. According to the GODT (Global Observatory on Donation and Transplantation) report, global activity in organ transplantation in 2017 is estimated as over 130 thousand. But do you know that this enormous number of organ transplants still covers only 5 to 6 percent of those who need a transplant?



It means that the organ shortage continues in transplantation, as shown in this figure from the Division of Transplantation (DoT) within the US Department of Health and Human Services. As you can see, the big pink area showing how many people need organs and the small green area showing how many people have donated organs.

That is why we encourage the donation from deceased donors and the opt-out system seems better to facilitate organ transplantation.

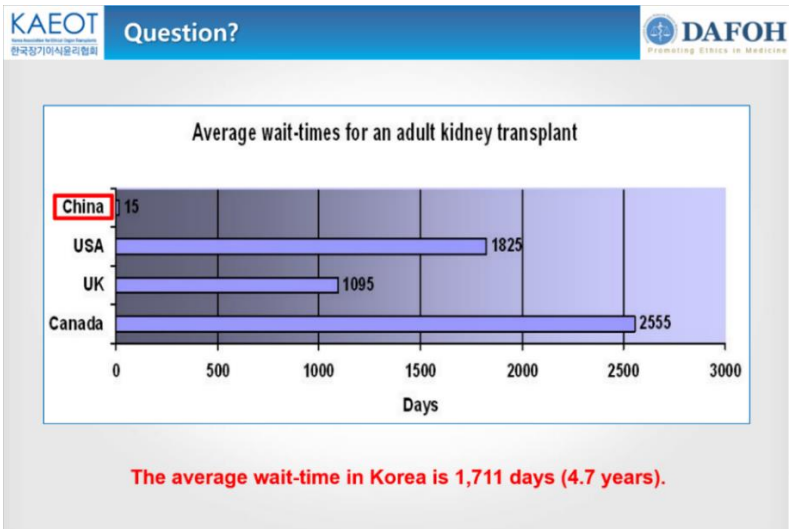


As you can see in this figure, the No. 1 country for transplantation is Spain; most of its transplantation comes from deceased donors. Korea and Japan are highlighted here. But in Korea, less than half of its transplantation comes from deceased donors because in Korean culture people traditionally wishes to keep bodies intact as initially given by their parents.

Conclusively, because of the unbalance between big demand and small supply for organs, possible unethical issues of organ transplantation like organ trafficking, transplant commercialism and transplant tourism occur.

In 2008, eleven years ago, the Declaration of Istanbul on organ trafficking and transplant tourism was announced to address the possible unethical issues of organ transplantation.

Secondly, I want to briefly review the important reports on the transplant abuse in China. In 2006, CIPFG (Coalition to Investigate the Persecution of Falun Gong in China) sent David Matas and David Kilgour a letter, asking them to investigate allegations that state institutions and employees of the government of China have been harvesting organs from live Falun Gong practitioners.

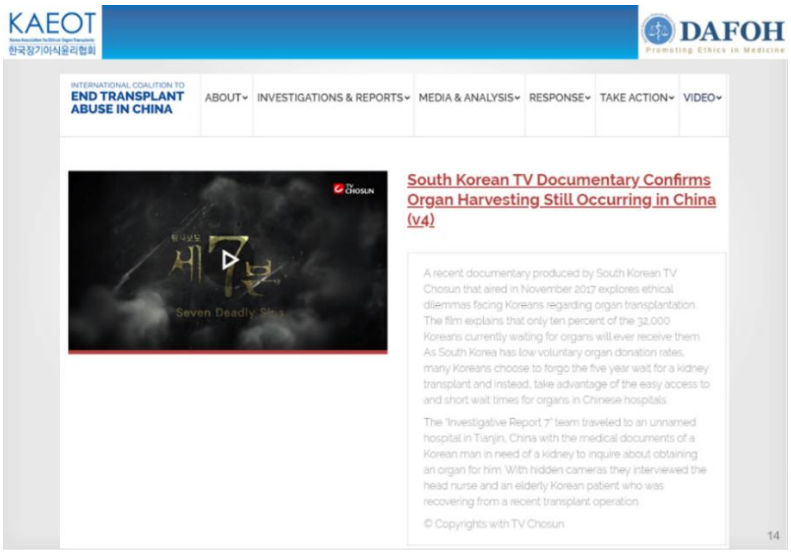


The initial question was why the wait-time for organ transplant was so short in China compared to the other countries. For example, the average wait-time in Korea is 4.7 years, 1,711 days, compared to 2 weeks in China.

As we all know, from that time on, respected David Matas, David Kilgour and Ethan Gutmann published a series of reports, accusing China of transplant abuse.

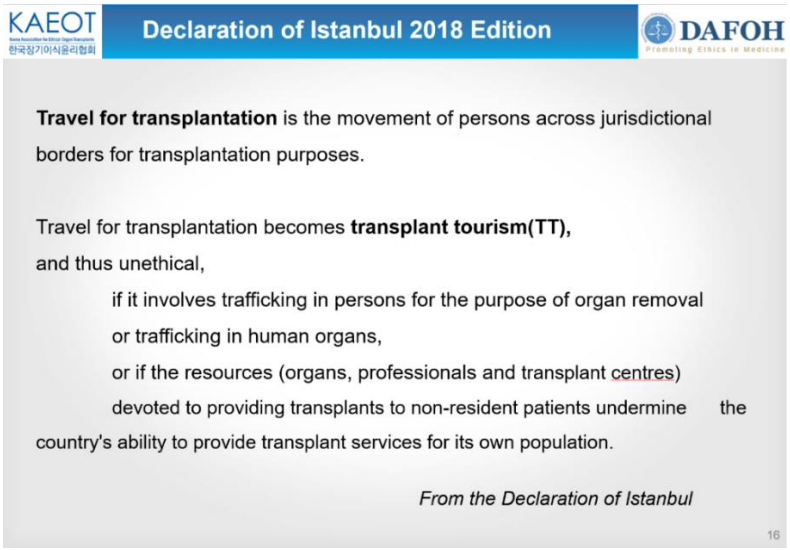
That Director Leon Lee's documentary, *Human Harvest*, won the prestigious Peabody A ward among others in 2014 and helps make people know the fact around the world.

In 2017, the brave Korean *TV Chosun* documentary, *Kill to Live*, confirmed that organ harvesting is still occurring in China and explored ethical dilemmas facing Koreans regarding organ transplantation.



This documentary is available from the websites of DAFOH and ETAC.

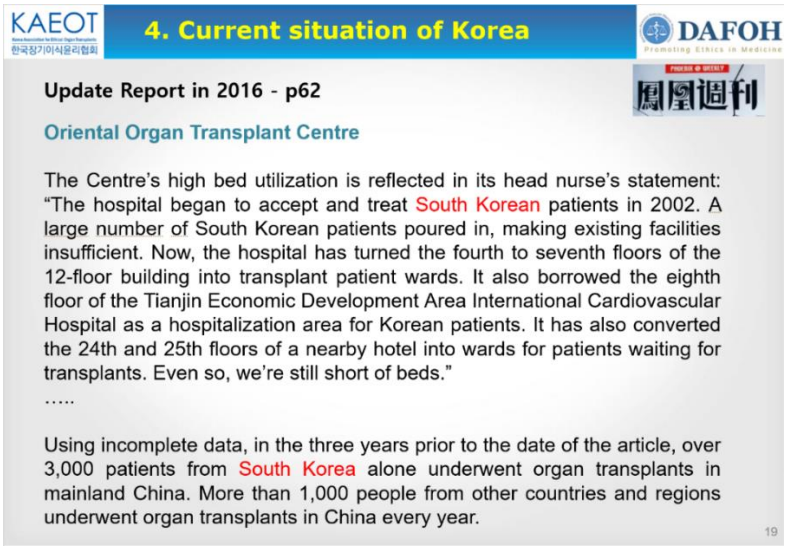
After many activities against the transplant abuse in China, the 2018 edition of the Declaration of Istanbul was announced, and it strengthened global efforts to combat organ trafficking and transplant tourism.



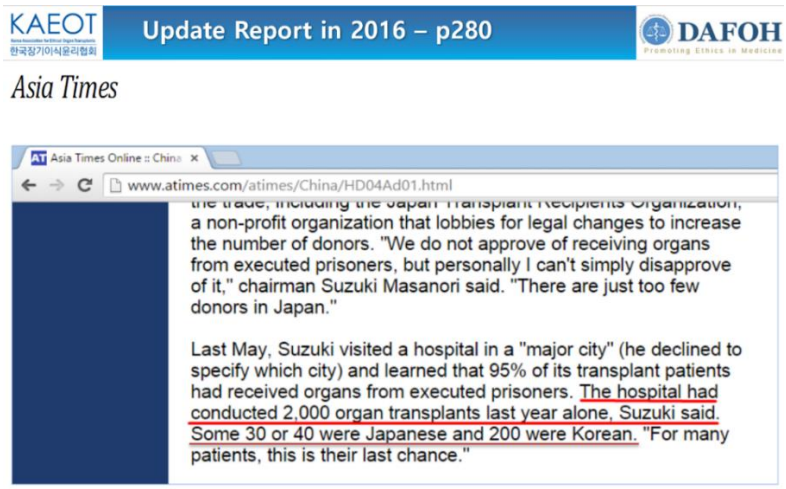
It provided updated definitions of key terms for organ trafficking and transplant tourism and a more clearly structured and succinctly worded set of principles.

Third, I want to talk about the international efforts to stop the transplant abuse in China. There are so many organizations working together to stop it and here is a short list of organizations from many countries including international organizations WHO, DAFOH, ETAC and Asian organizations of Taiwan, Japan and Korea.

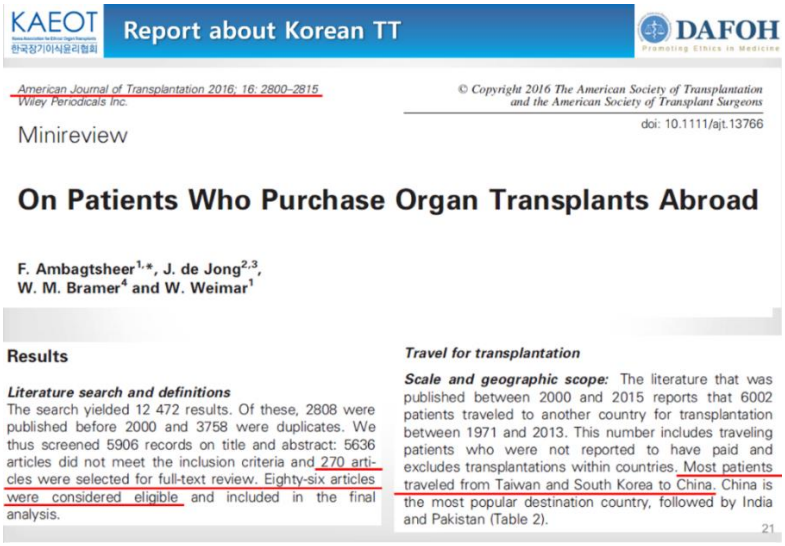
And here we can see many activities to combat organ trafficking and transplant tourism from the website of ETAC. The activities include legislation, parliamentary and congressional resolutions, hearing & briefings, debates & motions and position statements. Here is the list of the legislation efforts made in many countries up to now.



Now, I want to talk about the current situation of Korea.
South Korea was cited 19 times in the Update Report by Matas, Kilgour and Gutmann in 2016.



And that many Korean patients traveled to China for organ transplants was reported in *Asian Times*.



KAEOT 한국장기이식윤리협회 Report about Korean TT DAFOH Promoting Ethics in Medicine

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Minireview

On Patients Who Purchase Organ Transplants Abroad

F. Ambagtsheer[1,*], J. de Jong[2,3], W. M. Bramer[4] and W. Weimar[1]

Results

Literature search and definitions

The search yielded 12 472 results. Of these, 2808 were published before 2000 and 3758 were duplicates. We thus screened 5906 records on title and abstract: 5636 articles did not meet the inclusion criteria and 270 articles were selected for full-text review. Eighty-six articles were considered eligible and included in the final analysis.

Travel for transplantation

Scale and geographic scope: The literature that was published between 2000 and 2015 reports that 6002 patients traveled to another country for transplantation between 1971 and 2013. This number includes traveling patients who were not reported to have paid and excludes transplantations within countries. Most patients traveled from Taiwan and South Korea to China. China is the most popular destination country, followed by India and Pakistan (Table 2).

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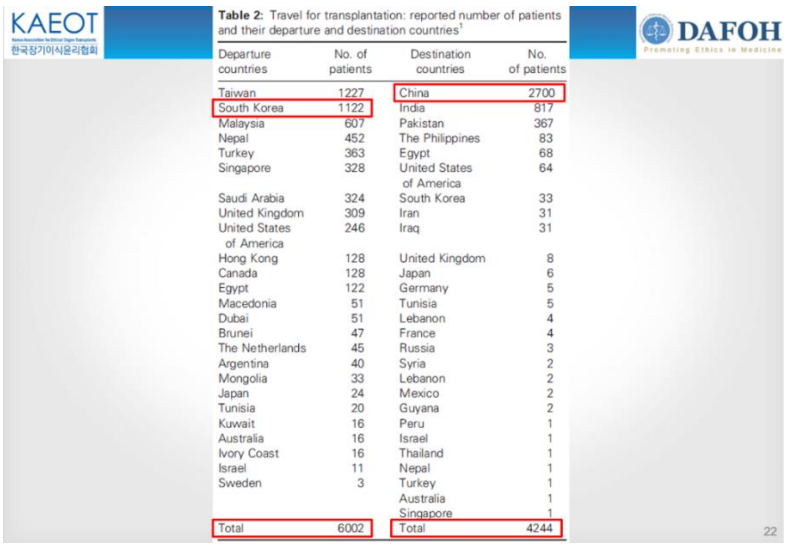
An article published in *American Journal of Transplantation* in 2016 reviewed and analyzed which country was the most popular destination country for transplant tourists.



KAEOT 한국장기이식윤리협회 DAFOH Promoting Ethics in Medicine

Table 2: Travel for transplantation: reported number of patients and their departure and destination countries[1]

Departure countries	No. of patients	Destination countries	No. of patients
Taiwan	1227	China	2700
South Korea	1122	India	817
Malaysia	607	Pakistan	367
Nepal	452	The Philippines	83
Turkey	363	Egypt	68
Singapore	328	United States of America	64
Saudi Arabia	324	South Korea	33
United Kingdom	309	Iran	31
United States of America	246	Iraq	31
Hong Kong	128	United Kingdom	8
Canada	128	Japan	6
Egypt	122	Germany	5
Macedonia	51	Tunisia	5
Dubai	51	Lebanon	4
Brunei	47	France	4
The Netherlands	45	Russia	3
Argentina	40	Syria	2
Mongolia	33	Lebanon	2
Japan	24	Mexico	2
Tunisia	20	Guyana	2
Kuwait	16	Peru	1
Australia	16	Israel	1
Ivory Coast	16	Thailand	1
Israel	11	Nepal	1
Sweden	3	Turkey	1
		Australia	1
		Singapore	1
Total	6002	Total	4244

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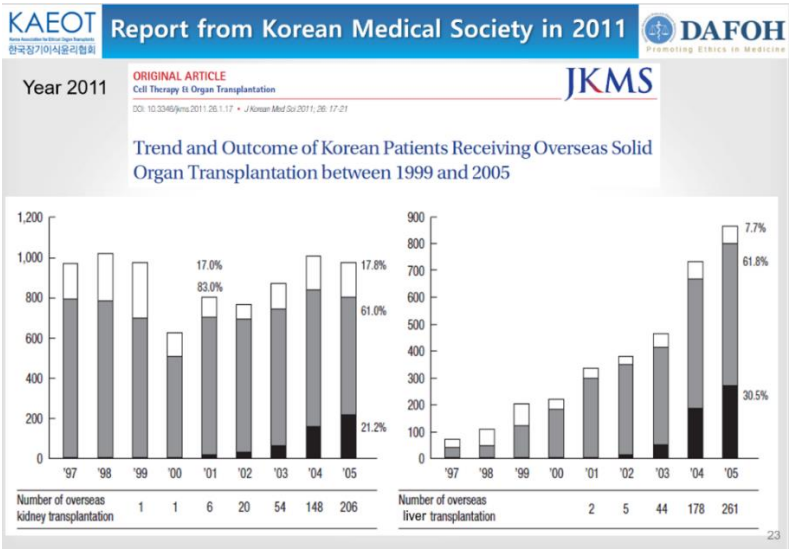
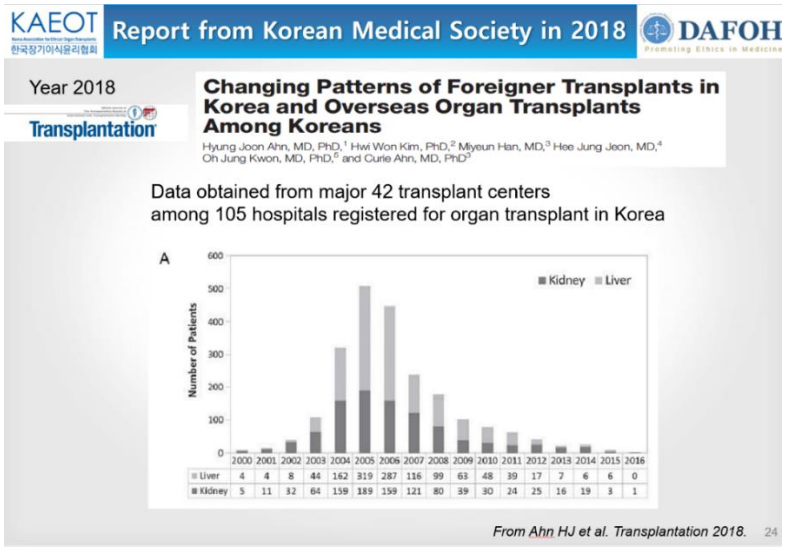
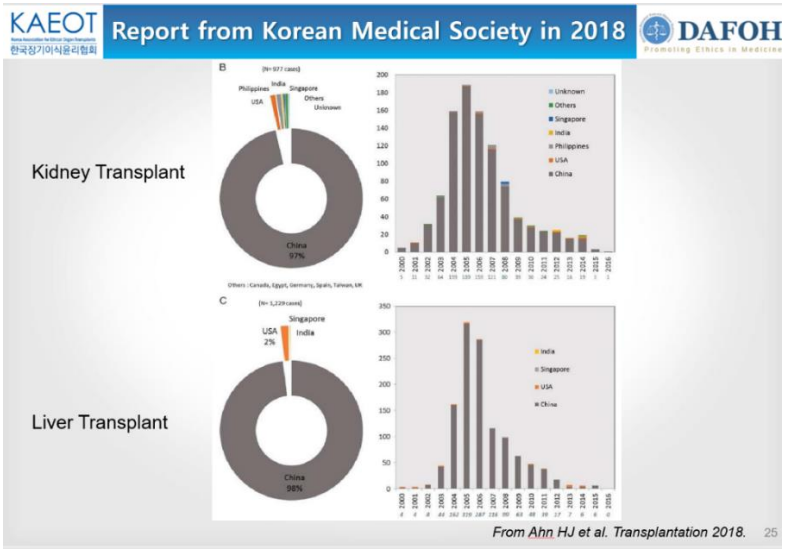
And it revealed that Taiwan and Korea were the top 2 countries for transplant tourism and China was the most popular destination country. I think that this kind of activities indirectly fuels organ trafficking in China although they did not intend to do that.



In 2011, there was a Korean report about the trend and outcome of Korean patients receiving overseas solid organ transplantation between 1999 and 2005. You can see there was apparent increase in overseas organ transplantation presented in the black bars. According to that report, the overseas organ transplantation reached about 30 percent of all organ transplants of Korea in 2005.

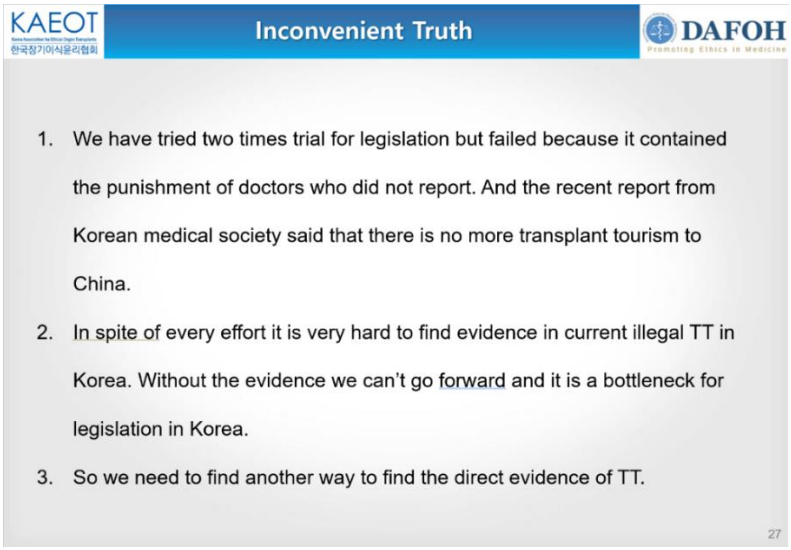


The other article published in 2018 said that the number of patients receiving overseas organ transplants decreased rapidly and almost dropped to zero in 2016.



The article also mentioned that most overseas organ transplants were done in China. The pitfall of this article was that the data it used were not from national and mandatory surveys but obtained from major transplant centers in Korea.

In addition, the article confessed that many overseas transplants were performed without any kind of reporting or screening, which resulted in lack of professional awareness and understanding of transplant tourism (TT), and hence difficulty in prioritizing and developing solutions to organ trafficking. So frankly speaking, we still do not know how many Korean patients are involved in transplant tourism to China until now.

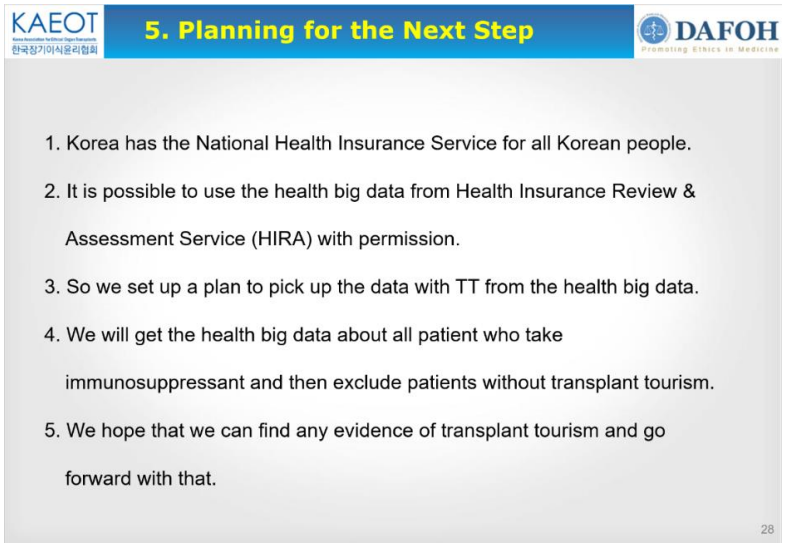


So, we have the inconvenient truth as follows:

1. We have tried two times trial for legislation but failed because it contained the punishment of doctors who did not report. And the recent report from the Korean Medical Society said that there is no more transplant tourism to China, as shown in the previous slide.

2. Despite every effort, it is very hard to find evidence of current illegal TT in Korea. Without the evidence we can't go forward, and it is a bottleneck for legislation in Korea.

3. So, we need to find another way to find the direct evidence of TT.



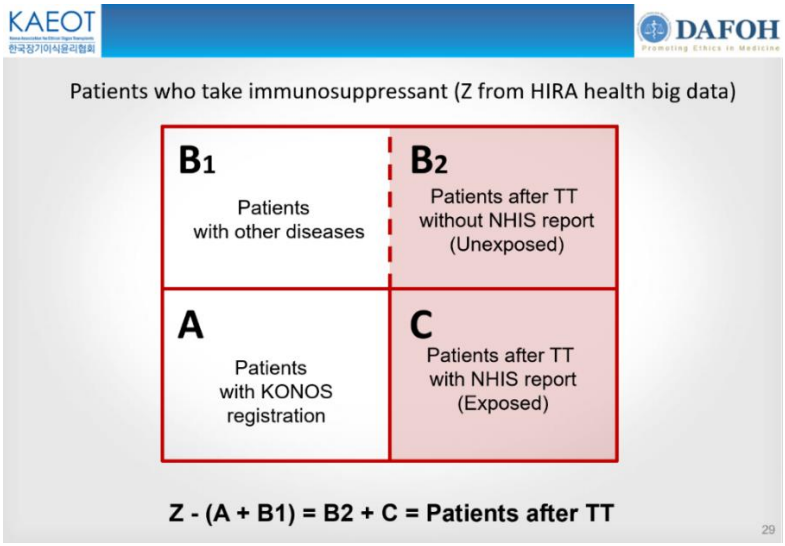
Lastly, I want to talk about the planning for the next step.

Here is the logic we have now to estimate the exact number of patients who got overseas transplants in Korea.

1. Korea has the National Health Insurance Service for all Korean people.

2. It is possible to use the health big data from Health Insurance Review & Assessment

Service (HIRA) with permission.
3. So we set up a plan to pick up the data with TT from the health big data.
4. That is how we will get the health big data about all the patients who take immunosuppressant and then exclude the patients without transplant tourism to find any evidence of transplant tourism.



To make it easy to understand, this slide shows our logic with diagram.
All patients who take immunosuppressant from HIRA health big data will be population Z.

First, we can exclude A, the patients who registered in KONOS, because all patients who received legal organ transplants in hospitals registered for organ transplantation in Korea must register at KONOS (Korean Network for Organ Sharing).
Second, we can exclude B1, the patients who take the immunosuppressant for diseases other than organ transplant, e.g. SLE and rheumatoid arthritis, etc.
But in B group, we need to differentiate B2, the patients who may be unexposed and disguised within the B1 category after TT, by analyzing the prescription patterns.
Then we hope that we can estimate the Korean patients (B2+C) who underwent TT in China.

I feel sad that we have to do this to clarify the fact about TT in Korea, but we should do this to go forward.

This is the last slide which shows activities of KAEOT (Korea Association for Ethical Organ Transplants). We have worked hard to come here, and I would like to thank all the members of KAEOT including President Dr. Seung Won Lee. And I promise that we will go forward.

Thank you for your listening.

Why Do the Japanese Government and Media Keep Silence?

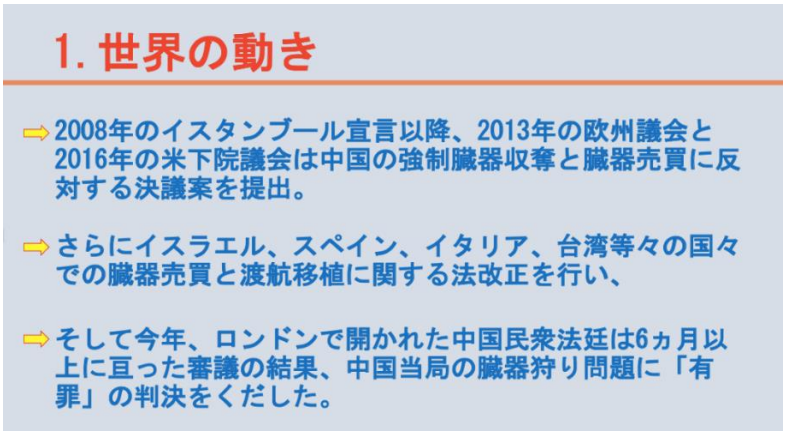
Hataru Nomura 野村旗守

We have heard about the international law and medical perspective from the specialists in Taiwan, Canada and Korea. Since I am not an expert in these fields, I would like to address the issue with a broader approach, from a political point of view. Why are the Japanese government and media ignoring the organ transplant, namely, the forced organ harvesting in China? For example, Mr. Matas has visited Japan three times a year since 2008 and spoken about the importance of addressing this issue and its cruelty, but this has not been widely known to Japan. Mr. Matas said it was weird. Since I am familiar with Japanese media, I would like to talk about why this is the case in Japan from the perspective of media and dig out the problems that cause this situation.

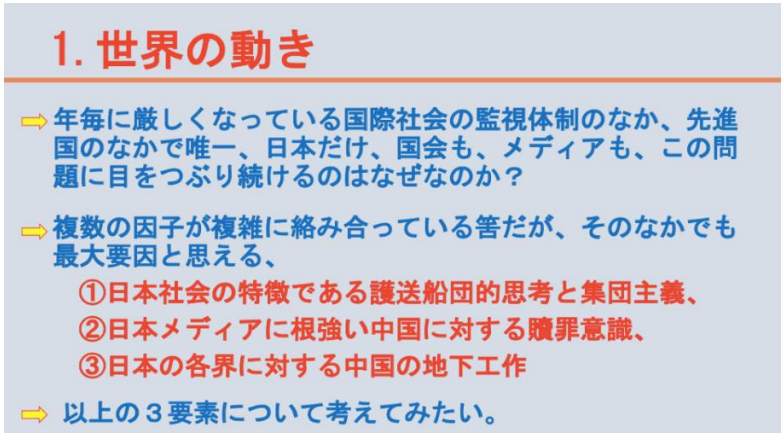
For the first time, Mr. Yamada, a member of the House of Councilors, raised a question about organ harvesting in China this month (Nov. 2019). We formed the Stop Medical Genocide (SMG) Network in 2016 and has petitioned the Diet? to raise this issue, but there was no response. However, there was some movement this month (Nov. 2019).

I believe it is because Hong Kong Human Rights and Democracy Act was enacted in the United States, Japan also thought that they had to do something. It is a sad reality that the Japanese government tends to butter up Washington and then Beijing. Since the US Congress took up this act, the Japanese government thought that they should do the same, which I would say is the Japanese habit of following suit, following America. It is typical of the Japanese society and its government.

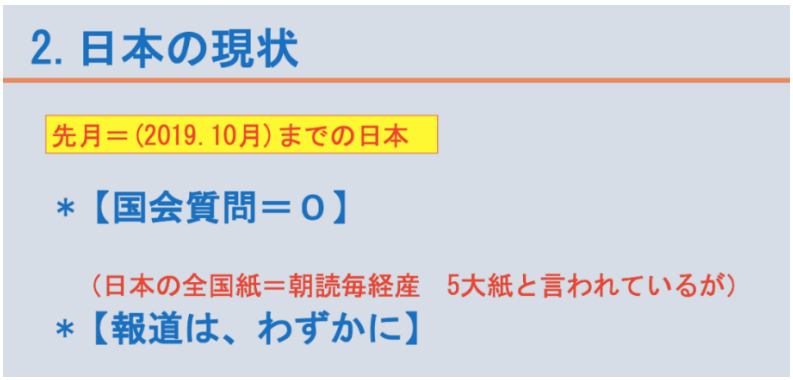
Today, firstly I would like to briefly talk about the international movement after 2008 when Istanbul Declaration was created. After the introduction, I will explain the situation in Japan, and what has been done so far, why they keep silence, and why neither politics nor media have ever said anything about this. Some of you might know the reasons, but since half of us here are from China, Taiwan and Korea, I would like to talk about this today.



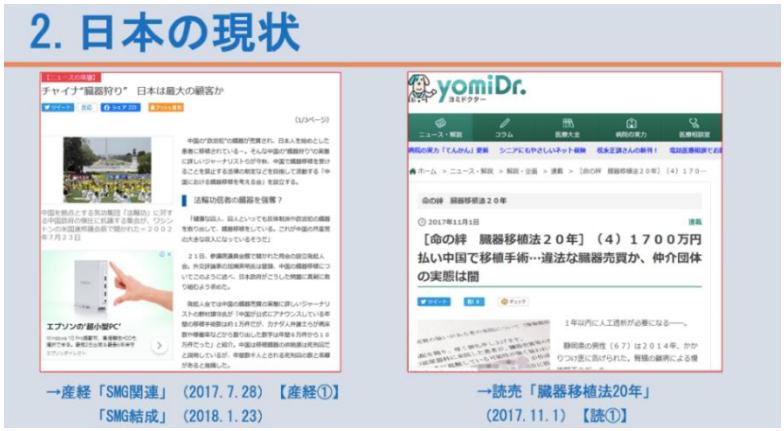
After Istanbul Declaration was created in 2008, the resolution condemning China's organ harvesting was passed at European Parliament and the lower house in the U.S. in 2013 and 2016. After that, the bill was passed in Taiwan, Israel, Spain and Italy, and recently it was about to be submitted to the Congress in Belgium and Canada. They have created the law that prohibits people from going to the countries with no well-established laws on organ transplantation. However, Japan did not take any action. In UK, Independent Tribunal (China Tribunal) made judgement that organ harvesting was the state-sanctioned crime against humanity. This is not legally binding, but no Japanese media reported this at all, even though many authorities in international laws made this judgement. Before Mr. Yamada raised the question, Japanese media and government did not make any statement. I think there are three major problems behind this situation.

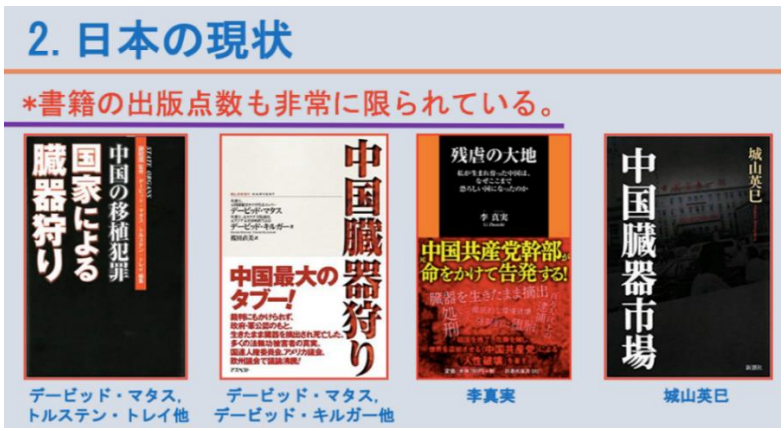


Firstly, collectivism is the characteristic of the Japanese society. They don't want to stand out in the crowd. I named it "convoy system mentality." This way of thinking, culture and custom in the Japanese society would be one of the reasons. Secondly, there is a sense of guilt, namely too much guilt mentality about the past war. Third, there is invisible underground Chinese Communist Party infiltration throughout various fields in Japan, which has surfaced recently. I would like to address these issues.

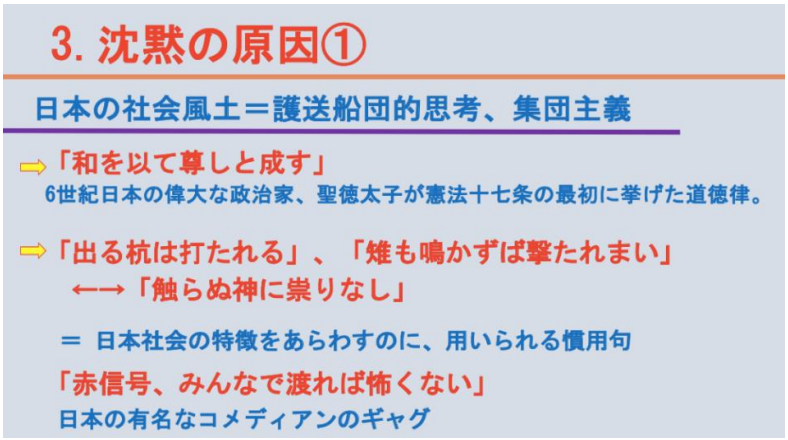


Up until October, there were no questions raised in the Diet. No questions about organ harvesting in China. We have five nation-wide major newspaper companies in Japan. Few newspapers have reported and only a little if they do. Sankei and Yomiuri have mentioned in their series only a little, and the reporting about us is only online or few conservative magazines that boldly criticize China. Some books on organ harvesting have been published but most of them are translation and books written by foreigners. We have only one book "Chinese organ market" written by Mr. Shiroyama.





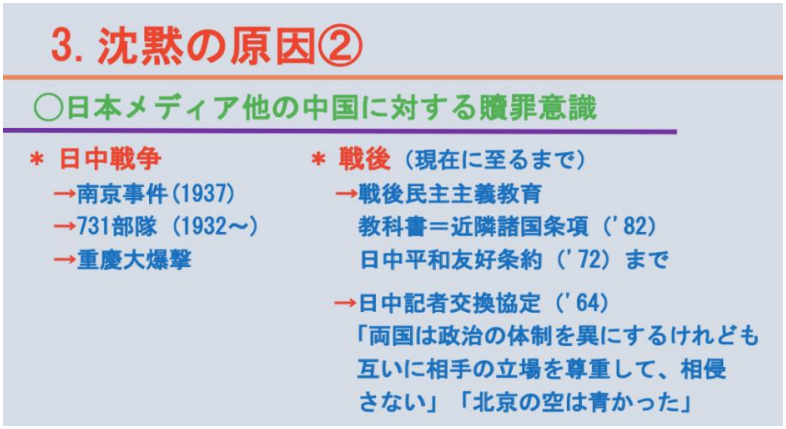
Why don’t Japanese media report this important state-sanctioned crime? The US lower house stated in 2016 that “it is a blasphemy to the history of journalism if the major media do not report about this important act.” However, Japanese media have never tried to act.



As I said, one of the reasons for the silence is the characteristic of the Japanese society, convoy system mentality, and the idiom, “harmony is the greatest virtue.” Japanese try to go along with harmony. That is a strength of the Japanese society, but also a major weakness. They dislike being outstanding and stop themselves from acting, as “harmony is the greatest virtue.” Politicians and media hold off from addressing this issue, and they are waiting for others to do first. They tend to follow suit.

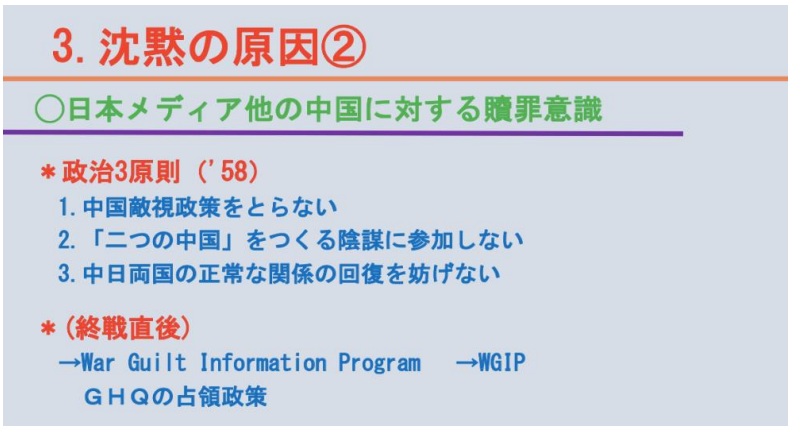
In addition, there are sayings like “the nail that sticks out gets hammered,” and “avoiding unnecessary talk can prevent disaster falling on one” or “let sleeping dogs lie.” These explain exactly the characteristic of the Japanese society. People from Taiwan, Korea and Canada might wonder why Japanese are silent, but this is the situation in Japan. A famous Japanese comedian said, “if everyone runs the red light together, there's nothing to be afraid of”, so if everyone does something, everyone will follow.

For example, we have the abduction issue between Japan and North Korea. In 2001, then Prime Minister Junichiro Koizumi went to North Korea and talked with Kim Jong Il and Kim acknowledged the abduction. At that time the Japanese media including newspapers, TVs and magazines all reported that North Korea had abducted Japanese. Before that, not only one or two, or ten or twenty cases, they had known the facts but did not report this issue at all. However, one trigger can make things change and media reporting were flooding. A Diet members’ group is ‘formed, and they took actions. If there is a trigger, everyone can run the red light together. Japan is a collective society, and we keep silence and don’t act if no one pulls the trigger.



In addition, the second reason for the silence among Japanese, which is obvious in media and academia, is war guilt mentality toward China. Nanjing Incident and 731-unit human experiment during the war were exaggerated by China by 10~30 times and they attacked the Japanese historical view. History has been taught from the perspective of post war democracy and our textbooks comply with the neighboring country clause (China and Korea).

As per the neighboring country clause, from 1982, we don't write things that neighboring countries do not like in our textbooks. It was a lie, but such things were created. We had Sino-Japanese Journalist Exchange Agreement in 1964 and it was abolished by the Japan-China Treaty of Peace and Friendship in 1972, but journalists of both countries respect each other and do not violate each other's positions. When Beijing reported the sky was blue, Japan did the same even though there were Japanese correspondents (who could see the sky color) in China. In short, Japan does not report anything that China does not like. We have abolished this practice by the Japan-China Treaty of Peace and Friendship in 1972, but we still have the customs in the Japanese media and politics.



In 1958, three Japan-China political principles were agreed. Japan does not have a hostile policy against China, and not join in any conspiracy to create "two Chinas", and does not interfere with normalization of Sino-Japanese relations. These were unilaterally imposed

by China. Japan has a guilt feeling toward China as 1958 was only 10 years after the WWII. It was the treaty China pressed Japan to sign. This custom remains in Japan. The WGIP (War Guilt Information Program) and GHQ (General Headquarters) occupation in Japan after the war was to instill war guilt information into the Japanese. We are not able to get out of it.

Third, there is a rich Chinse businessman, Guo Wengui, who made a fortune by collaborating with a top official from the Ministry of State Security. His close friend, the No. 2 figure in the ministry was arrested due to the internal struggle, so he went into exile in the U.S. He has all the information behind Zhongnanhai, and ran away to the U.S. He had high-level classified information. He recently announced that what he had said was all false, but I think he was persuaded by China to do so. I cannot believe what he said was a lie. He said that the Chinese Communist Party's underground activities of global strategy can be categorized into 4 different colors.

First color is gold, they conquer the world with gold, red, blue and green. First is gold, namely, money trap. They trap influential people by money. Therefore, most business executives including Keidanren (Japanese Business Federation), Keizai Doyu-kai (Japan Association of Corporate Executive) do not criticize China. They earn big money in China, so they cannot say anything. Some part of the world is in the debt trap through China's Belt and Road project, so they cannot go against China. Huge loan and economic benefit are provided to some countries, so they are under China's control. This is their gold, money trap.

Second, red trap is a woman, namely, honey trap. It is widely known that former Prime Minister Ryutaro Hashimoto had a relationship with a female spy, and he made rules that benefited China. Furthermore, there were some media reports that some actors of Chinese opera approached first ladies.

Moreover, they have blue cyber trap, though it has not surfaced. Professional cyber groups

intrude the internet and steal all the private information. They break the security net and steal classified or private information. This is the blue cyber trap.

In recent cases, the Public Security Intelligence Agency was allegedly intruded by Chinese hackers. There is no evidence, but I believe this is true. There was a case that an agent of the Public Security Intelligence Agency was arrested in China. This is a blue cyber trap.

Last is green. This is a medical trap. China invites VIPs from various countries and let them receive organ transplants. I heard that one who is close to a major member of the Liberal Democratic Party went to China and received the operation in 2009. I am saying this because he told me he paid JP¥10,000 for his travel to China.

Actually, the organ harvesting in China was not known to the public in 2009, so no one would think organ transplant was a murder. We hear organ transplant in China is easy, its medical standard is high, and it is very safe. People go on organ transplant tours and recommend them to other people. The major LDP member I just mentioned is in a powerful position, so I suspect many politicians and well-established big names were corrupt due to this organ transplant business. In some cases, it would involve their families, wives and children. They could be in the medical trap.

I would like to stop here. Thank you for listening.

Health Professionals' Responsibilities and Barriers to Addressing Organ Trafficking—Battling Transplantation Tourism through Policy and Legal Reform in Taiwan

Daniel Fu-Chang Tsai MD, PhD

My topic is about ethics of organ trafficking, and I would like to share with you the health professional's responsibility and barrier to addressing organ trafficking from the perspective of Taiwan's experience.

Transplant tourism is defined as the practice of traveling outside one's own country to obtain organ transplantation which often involves trade and trafficking. Transplant tourism accounts for almost 10% of organ transplants annually around the world. But this practice clearly is discouraged by many international guidelines and codes of ethical practice, because it will exploit the poor and vulnerable for their organs.

- **First Organ** (Renal) Transplantation in Asia, 27 May **1968**, National Taiwan University Hospital
- **1987** Organ transplantation Act

Transplantation in Taiwan begins with our first case of renal transplantation in 1968, which is also the first such case in Asia. But it was much later, in 1987, that Taiwan finally legislated the *Human Organ Transplant Act* (hereinafter, the Act). The Act stipulates many requirements to be met.

I think there are a few reasons why I need to share Taiwan's experience. First, we share similar concerns. In Taiwan, we have the world's highest prevalence and incidence rates of renal dialysis. We also have high rates of end stage renal diseases and hepatitis B carrier. The first leads to renal failure, while the second leads to cirrhosis of liver, even hepatoma, and later you will need a transplantation.

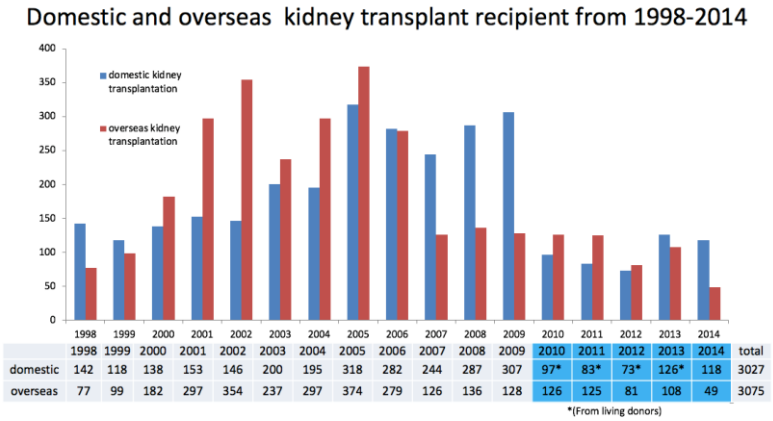
However, the organ shortage and disparity are quite high because we have a low organ donation rate. This is quite similar among the Asian countries in comparison to the European or American countries.

Therefore, transplant tourism began in the early 90s and grew rapidly because of the

increasing socio-economic interaction across the Taiwan Strait.

After 2000, a few reasons contributed to the increasing overseas transplants, including improved surgical techniques and transplantation outcome in China, and active brokering activity both in Taiwan and China. And more and more executed prisoners were used for organ transplants in China, which they admitted in 2006.

For example, according to the data, in 2006 Taiwan had 400 overseas kidney transplants and 222 overseas liver transplants, but only 2 (out of 400) and 3 (out of 222) were done outside of China. Most Taiwanese people going abroad for transplantation went to China.

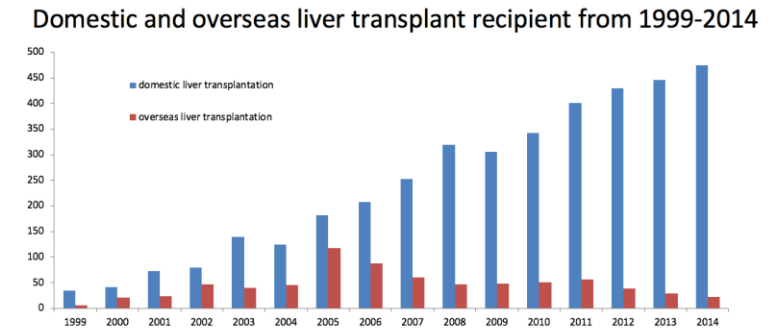


	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	total
domestic	142	118	138	153	146	200	195	318	282	244	287	307	97*	83*	73*	126*	118	3027
overseas	77	99	182	297	354	237	297	374	279	126	136	128	126	125	81	108	49	3075

*(From living donors)

Here is the research I collaborated with Dr. Shi-wei Huang, who presented this morning. We can see that the blue bar is the domestic kidney transplantation, and the red bar is the overseas kidney transplantation. The red bar is quite high in 2002: The number of recipients going outside of Taiwan to get organs is almost more than 2 folds than that of patients getting organs in Taiwan.

Then after 2007, there were a few issues. We see that this trend decreases in overseas transplantation but remains. These are the figures calculated from our big data, mentioned by Professor Han earlier. If you have a national health insurance database, you may do research on the database and produce such an outcome.



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	total
domestic	34	41	72	79	139	124	182	208	254	319	306	343*	401*	430*	446*	475*	3852
overseas	5	21	23	47	40	45	117	88	60	46	48	50	56	38	29	22	735

*(From living donors)

This bar chart is for liver transplantation. Since liver transplantation is more complicated and involves more advanced surgical techniques, it has a higher mortality rate. We can see that the domestic liver transplantation increases through years, and overseas liver transplantation decreases after 2005.

Transplant Tourism from Taiwan to China

- Decreased overseas transplant from Taiwan to China 2010 to 2014
  - KT 126, 125, 81, 108, 49
  - LT 50, 56, 38, 29, 22

  (Taiwan Organ Registry and Sharing Center, TORSC)
- Possible Reason:
  - **increased awareness of the ethical-legal controversies**
  - **Escalated expense of organ trafficking**
  - **Improved living donation**

When calculating data from 2010 to 2014, we see that overseas kidney transplantation and overseas liver transplantation clearly decrease, falling between 20 and 50.

A possible reason is that Taiwanese people are more aware of the ethical-legal controversies overseas transplantation entails, and that the expense for organ trafficking also escalates because of the legal and ethical constraints. Now Taiwanese people are more open to living organ donation, so the improved living donation rate also helps to close the disparity.

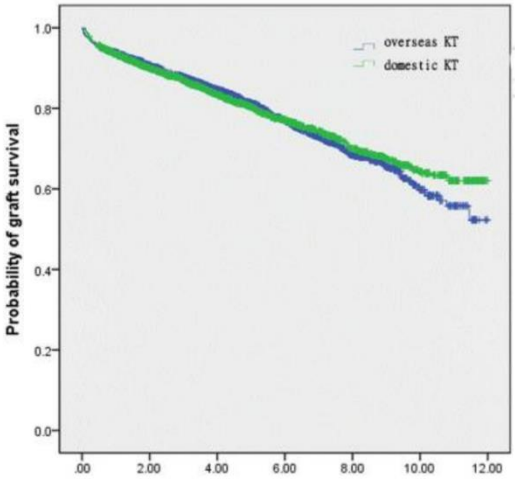
years after transplantation

Years since transplantation		3m	1	2	3	4	5	6	7	8	9	10	11
Domestic	No. at risk	2229	2039	1745	1501	1231	950	768	587	448	320	201	107
	No. failure	20	48	31	23	17	14	15	12	13	6	6	2
Overseas	No. at risk	2367	2367	2252	2091	1654	1311	1024	799	493	269	122	49
	No. failure	37	64	39	44	46	32	37	32	24	11	8	4

years after transplantation

Years since transplantation		3m	1	2	3	4	5	6	7	8	9	10	11
Domestic	No. at risk	1585	1400	1078	818	626	472	348	250	152	89	45	15
	No. failure	73	106	41	28	26	10	8	1	1	0	2	1
Overseas	No. at risk	524	420	316	256	213	144	87	61	45	27	13	2
	No. failure	16	93	61	23	17	11	4	4	0	0	0	0

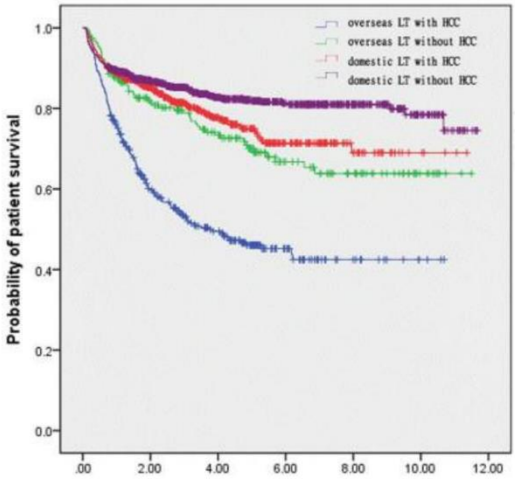
B



years after transplantation

Years since transplantation		3m	1	2	3	4	5	6	7	8	9	10	11
Domestic	No. at risk	2190	1968	1650	1388	1110	834	662	492	360	248	155	77
	No. failure	59	87	68	53	53	35	31	21	24	11	10	4
Overseas	No. at risk	2329	2208	2016	1847	1556	1208	924	697	420	220	92	35
	No. failure	75	73	71	66	60	55	57	45	35	12	13	4

D



years after transplantation

Years since transplantation		3m	1	2	3	4	5	6	7	8	9	10	11
Overseas	No. at risk	335	254	180	139	112	71	37	19	13	6	3	0
with HCC	No. failure	11	85	50	19	9	7	1	2	0	0	0	0
Overseas	No. at risk	189	166	36	117	101	73	50	42	32	21	10	2
withuot HCC	No. failure	5	19	11	4	8	4	3	2	0	0	0	0
Domestic	No. at risk	637	549	382	267	191	132	84	59	28	13	5	2
with HCC	No. failure	24	50	19	15	11	6	6	0	1	0	0	0
Domestic	No. at risk	948	851	696	551	435	340	264	191	124	76	40	13
without HCC	No. failure	49	56	122	13	15	4	2	1	0	0	2	1

These are the outcome we calculate from many comorbidities. We can see that the green line is the five-year-survival rate of the domestic kidney transplantation. After five years, the kidney transplantation can still have a survival rate of more than 80%. But for the overseas kidney transplantation, it decreases to less than 80%. On the right-hand side, you can see the overseas liver transplantation survival after the surgery is much lower compared to that of the domestic liver transplantation.

Besides these data, we also tried to find other characteristics of this population. The overseas group is male predominant; the patients are elder and have more comorbidities, meaning that probably they are not surgically indicated according to the domestic criteria, but they still seek survival. Patients in the group have more comorbidities and shorter pre-operative dialysis in kidney transplantation. We also find more hepatocellular carcinoma cases in or even after liver transplantation.

The outcomes of overseas transplants were inferior to those of domestic transplants. This is one of the reasons we try to persuade our patients not to attempt overseas transplantation because the odds are against them.

PLOS ONE

RESEARCH ARTICLE

The outcomes and controversies of transplant tourism—Lessons of an 11-year retrospective cohort study from Taiwan

Daniel Fu-Chang Tsai[1☯‡], Shi-Wei Huang[2☯‡], Soren Holm[3], Yi-Ping Lin[4], Yu-Kang Chang[5,6], Chih-Cheng Hsu[5,7*]

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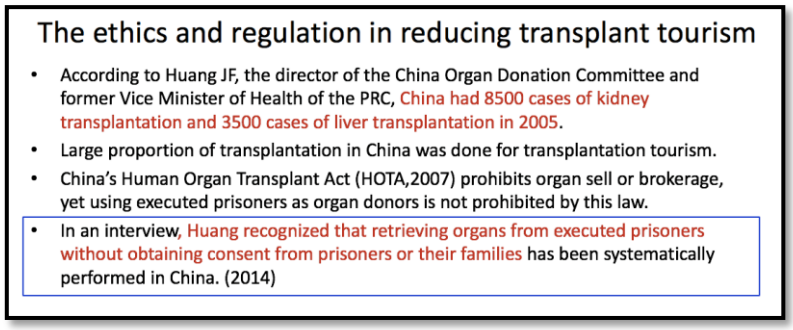
Check for updates

You are welcome to find this paper from this open-access journal PLOS ONE. It described how we used the big data to obtain the result.

Other Asian countries travel to China for transplantation

- **South Korea**: 462 patients received KT and 504 patients received LT from China between 2001 and 2006. (Kwon)
- **Malaysia**: 801 cases of KT tourism to China which accounted for a half of Malaysia's total KT between 2002 and 2011. (Ghazali)
- **Israel**: 752 cases of overseas KT between 2001 and 2007 and most of them went to China. (Lavee)
- **Saudi Arabia**: there were 650 overseas KT but only 350 domestic KT in 2006.

As to other countries in Asia, during past decades, there are data from different regions. This one is from South Korea between 2001 to 2006. There were 462 kidney transplants, and 504 liver transplants. Malaysia had more than 800 cases in about 9 years. Israel also had this problem before. From 2001 to 2007, there were 752 cases going to China. The situation in Saudi Arabia was worse. In 2006 alone, they had more than 650 overseas kidney transplants, but only 350 domestic ones.



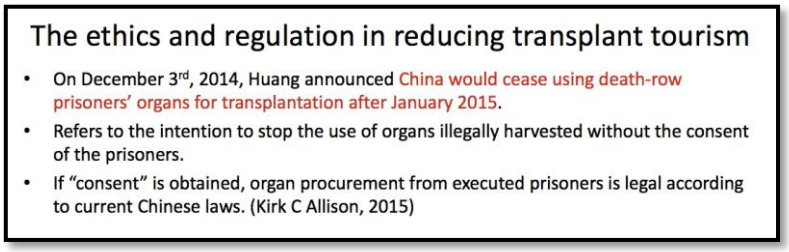
The ethics and regulation in reducing transplant tourism

- According to Huang JF, the director of the China Organ Donation Committee and former Vice Minister of Health of the PRC, China had 8500 cases of kidney transplantation and 3500 cases of liver transplantation in 2005.
- Large proportion of transplantation in China was done for transplantation tourism.
- China's Human Organ Transplant Act (HOTA,2007) prohibits organ sell or brokerage, yet using executed prisoners as organ donors is not prohibited by this law.
- In an interview, Huang recognized that retrieving organs from executed prisoners without obtaining consent from prisoners or their families has been systematically performed in China. (2014)

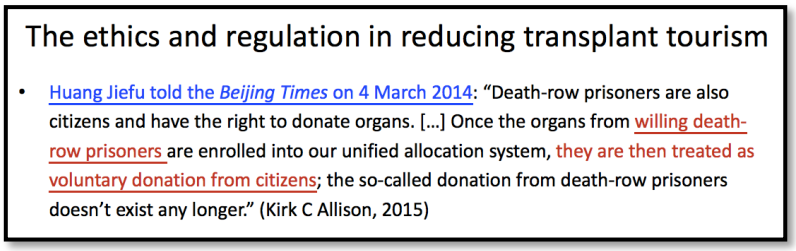
These are some reports and data we gathered from this landscape. Former Vice Minister of Health of the PRC, Huang J.F., as mentioned earlier this morning, said that China had 8,500 cases of kidney transplants, and 3,500 cases of liver transplants in one year. A large proportion of transplants in China were done for transplant tourists.

And an act, established in 2007, prohibits organ sale or brokerage, but does not prohibit using executed prisoners as organ donors.

In an interview, Huang recognized that retrieving organs from executed prisoners without obtaining consent from prisoners or their families has been systematically performed in China (2014).



On December 3rd, 2014, Huang announced that China would cease using death-row prisoners' organs for transplantation after January 2015. When the academic community heard the news, we thought at that time, "Okay, this is something." If a government officially announced this, it should mean some determination, and we expected some reform would come through, following this announcement. But Huang's statement refers to the intention to stop using organs illegally harvested from executed prisoners without their consent. If "consent" is obtained, organ procurement from executed prisoners is legal according to current Chinese laws. Therefore, if consented, it is legal.

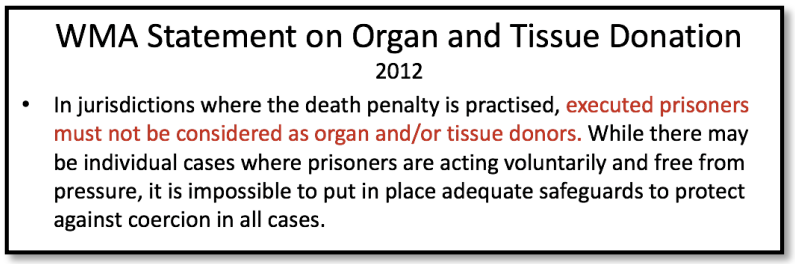


Later, Huang told the *Beijing Times* on March 4th, 2014: Death-row prisoners are also citizens and have the right to donate organs. […] Once the organs from willing death-row prisoners are enrolled to our unified allocation system, they are then treated as voluntary donation from citizens."

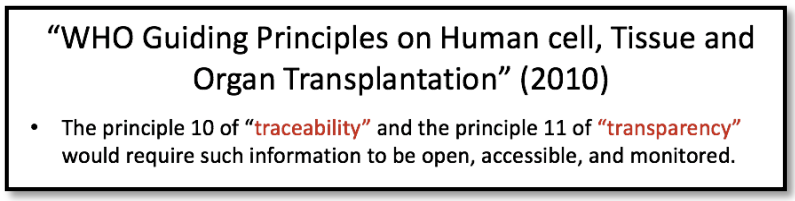
They are no more prisoners. You suddenly see the definition changed. They annulled the donation from death-row prisoners. As long as you can obtain the consent of a prisoner, the prisoner will become a citizen voluntarily donating organ, not a prisoner any longer.

This is quite controversial. We see lots of ethical literature criticizing this definition and

distinction. But if we refer to some important guidelines regarding transplantation, for example, the Declaration of Istanbul (2008), it clearly says that "these practices should include a ban on all types of advertising (including electronic and print media), soliciting, or brokering for the purpose of transplant commercialism, organ trafficking, or transplant tourism." If the process of transplantation involves any financial transaction, it will violate this guideline.



And this has been more specifically defined in the World Medical Association Statement on Organ and Tissue Donation in 2012, "In jurisdictions where the death penalty is practiced…." The WMA, I believe that their position is against death penalty just like many human rights groups or associations. But it says that if this is allowed by the law of a country, "executed prisoners must not be considered as organ and/or tissue donors. While there may be individual cases where prisoners are acting voluntarily and free from pressure, it is impossible to put in place adequate safeguards to protect against coercion in all cases." Although we may have genuine, altruistic donors on a death-row, the system cannot adequately protect prisoners from coercion in all cases. Therefore, the WMA is against having executed prisoners as organ and/or tissue donors.



Furthermore, among the WHO Guiding Principles, the principle 10 of "traceability" and the principle 11 of "transparency" require such information to be open, accessible, and monitored. We need to have these data that are verifiable.

And the *Council of Europe Convention against Trafficking in Human Organs* in 2014:

- Obligates ratifying states to criminalize trafficking in human organs;
- Ensures anyone guilty of aiding and abetting organ trade can be punished;
- Has an unprecedented focus on support for victims: Victims may be the donors, the recipients, or both. They have a right to compensation.

Some countries, such as Israel and Spain, legislate their laws to more directly criminalize transplant tourism.

Israel passed a law in 2008 banning the sale, purchase, and brokerage of organs both in Israel and abroad. From the previous data we see that Israel, before 2007, had many overseas cases, not only to China but probably also to Turkey and other Eastern European countries. The law in Israel is quite strict.

Spain also enacted a law in 2009 that "punishes organ trafficking and advertising, incriminates the person who knew the illegality yet consented to receive the transplanted organ, and combats criminal organizations." The sanction would be imposed not only on the broker but also the recipient.

The Philippines, in their policy in 2007, prohibited foreigners from travelling to the country for transplantation, which quickly led to a remarkable decrease in such cases. We know that the stories in the Philippines or India are different. They are not taking organs from executed prisoners; it is the poor in these countries who willingly or unwillingly sell their organs. In another part of Asia transplant tourism happens in a different way but is just as controversial.

Now, how have we battled transplant tourism through policy and legal reform in Taiwan in the past 15 years? In a committee discussion in 2006, the Ministry of Health of Taiwan, after analyzing and discussing this issue, announced an ethical guideline to punish any doctor or hospital involved in the brokerage of transplant tourism. However, there were no effective ways to prevent agents from brokering commercial transactions. The guideline prohibits medical personnel because it was announced by the Ministry of Health. They can only control and govern medical doctors or personnel.

「衛生署醫學倫理委員會第十五次會議」

The Medical Ethics Committee of the Ministry of Health

the 15th meeting April.12.2006

提案四：有關醫師或其他醫事人員仲介民眾赴境外進行器官移植乙案，提請討論。

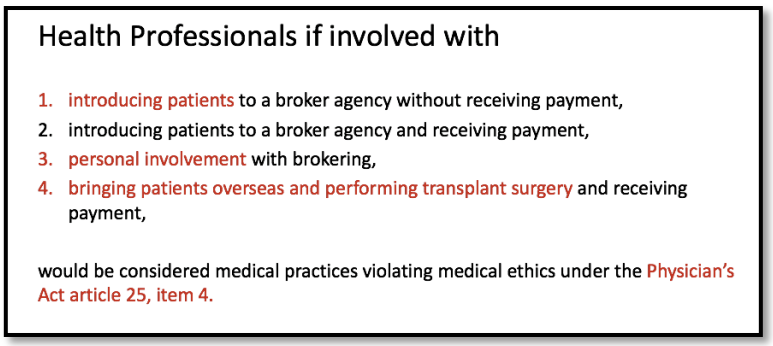
決議：醫師或其他醫事人員若有下列行為，應依違反醫師法第25條第4款「執行業務違背醫學倫理」移付懲戒：

一、介紹病人到仲介機構，但未收取費用。

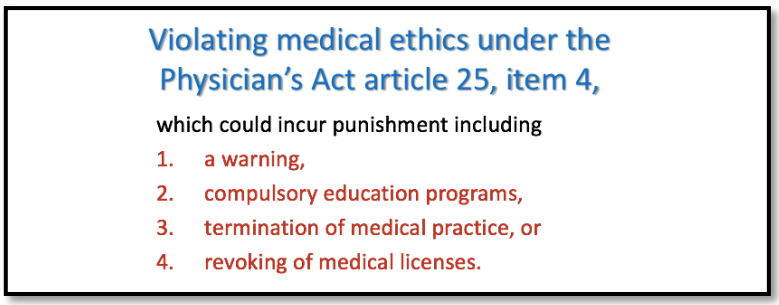
二、介紹病人到仲介機構，且有收取費用。

三、直接進行仲介行為。

四、親自帶病人赴境外進行器官移植且收取酬勞者。



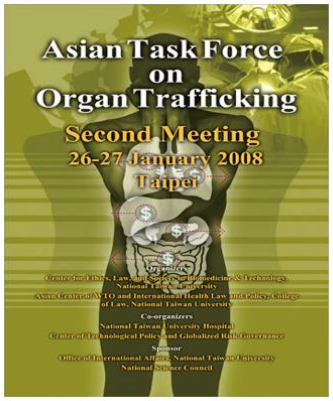
The guideline says:
Firstly, if you introduce a patient to a broker agency without receiving payment;
if you introduce patients to a broker agency and receive payment;
if you are personally involved as the broker or even the surgeon,
bringing patients overseas and performing transplant surgery and receiving payment,
you would be considered performing medical practices in violation of medical ethics under Item 4, Article 25 of the *Physicians Act*.



With this guideline, *Physicians Act* in Taiwan is moralized, or the ethics of Taiwan's *Physicians Act* is medicalized. You may say it both ways. If you violate this provision, there would be some punishments, including warning, compulsory education and termination of medical practice, the most severe punishment being revocation of medical licenses.

ASIAN TASK FORCE ON ORGAN TRAFFICKING: Battling Organ Trafficking Across Border in Asia

July 21-22, 2007 ;
Jan 26-27, 2008
Taipei, Taiwan

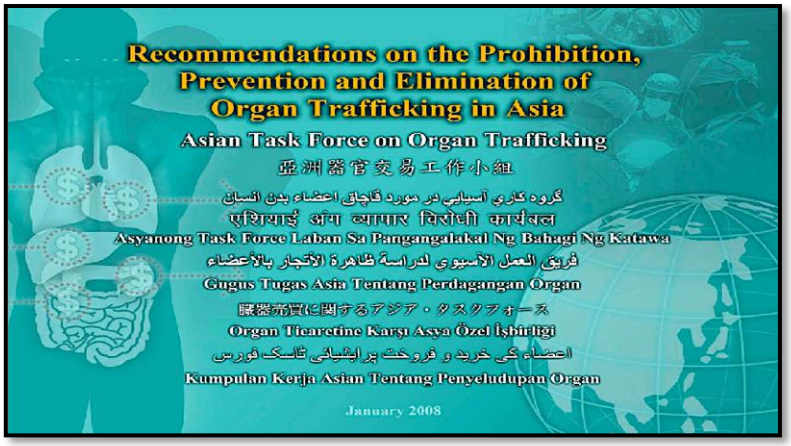


The Center I am now chairing (NTU Center for Biomedical Ethics), we started this discussion more than 50 years ago. And then in 2007 and 2008, we held two summits, called "Asian Task Force on Organ Trafficking: Battling Organ Trafficking across Border in Asia." (http://cbme.ntu.edu.tw/?p=770)

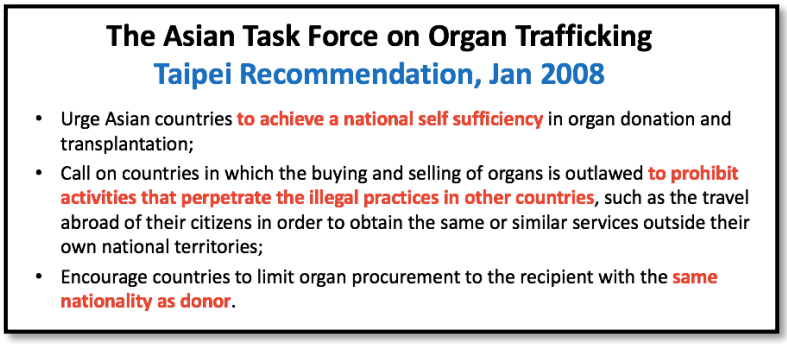
July 21-22, 2007

It is more like an experts' group. Many ethicists and law professors have joined.

Jan 26-27, 2008



After the two events, we published one recommendation on prohibition, prevention, and elimination of organ trafficking.



The Task Force laid out some innovative and important recommendations, including:

- Urging Asian countries to achieve national self-sufficiency. I think organ shortage in an aging society is pervasive in every country. It is rarely likely that any country can export organs to other countries to meet their demands. National self-sufficiency is important.
- Calling on countries, which the buying and selling of organs is outlawed to prohibit activities that perpetrate the illegal practices in other countries.
- Encouraging countries to limit organ procurement to the recipient with the same nationality as donor.

The next effort was the amendments to the *Human Organ Transplant Act* in 2015. This was nearly 30 years after the Act was legislated in 1986.

Major amendments to the Act include:

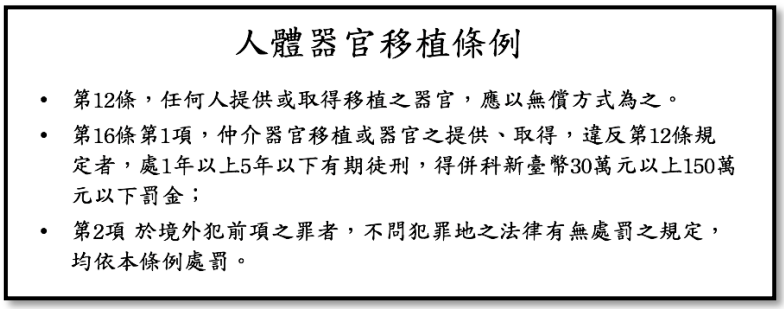
compulsory registration;

punishment to patients receiving illegal organ transplants and medical practitioners with major violation;

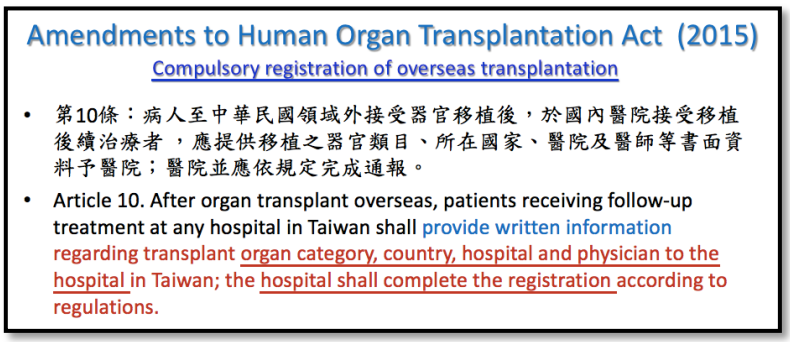
mandatory choice/required request;

paired exchange.

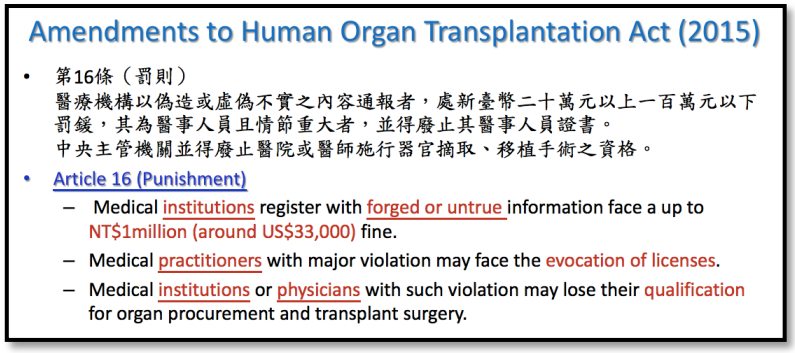
For adequate implementation, the government and hospitals must inquire more information about patients. The Act peculiarly stipulates that living organ donation is only allowed between close relatives, which prohibits organ donation between strangers.



The Act stipulates that anyone involved in brokering organ transplantation or the provision and procurement of organs be sentenced to a sentence from 1 to 5 years, as well as penalized with a fine from NT$300,000 (around US$10,000) to NT$1.5 million (around US$50,000).



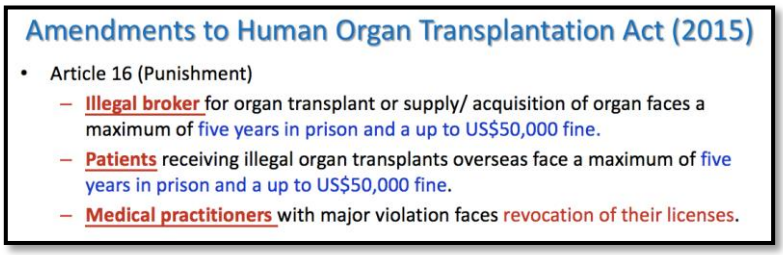
Article 10 of the amended *Human Organ Transplant Act* (2015) requires compulsory registration of overseas transplantation. With this requirement, you can get the whole picture of the actual situation. Patients are required to provide the hospital certain information in writing, such as organ category, country, hospital and physician, and the hospital shall complete the registration according to regulations. Both the patient and hospital must report an overseas transplant.



Next, if you do not report or forge the report, you will be fined NT$1 million (around US$33,000). Medical professionals with major violation may face revocation of their licenses. Medical institutions or physicians that are implicated will face some punishments as well. It is written clearly in this Act.

Compulsory registration promotes transparency of transplant tourism and has a deterrent effect. If one fails to report, one needs to complete it and will probably be punished.

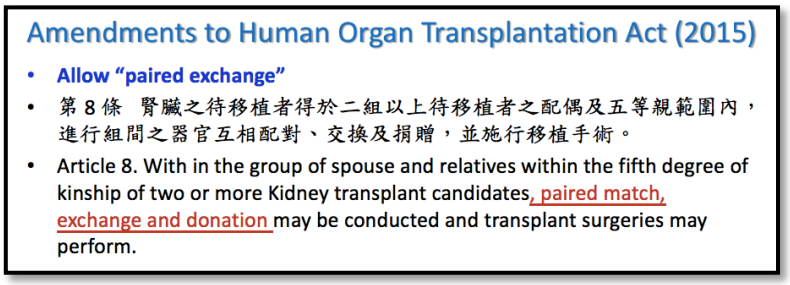
This is Article 16 stipulating the punishments.



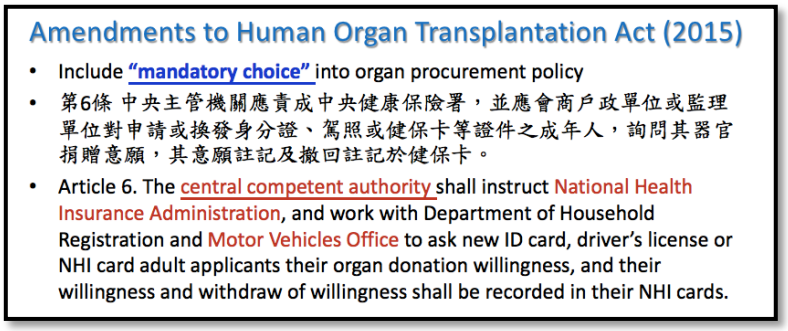
An illegal broker may face a prison term up to five years or a fine up to US$50,000. For

agents and brokers, this provision is a more severe criminal charge.

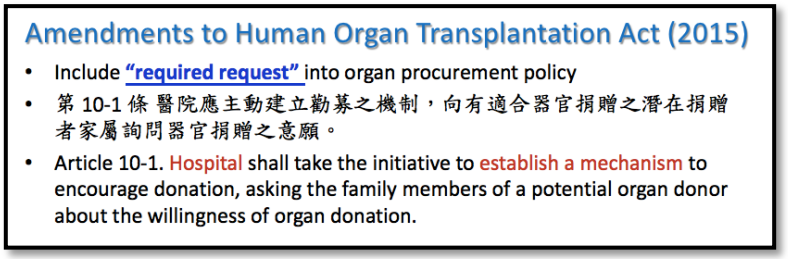
For patients, although you are fighting for your own survival, you will have to face such punishment for buying organs. For medical practitioners with major violation, they will lose their medical licenses.



Allowing "paired exchange" is one way to increase potential donors, for example, between mismatched couples, and then we may extend the donor pool to strangers.



As to mandatory choice, the government inquires one's willingness to donate organs while offering health insurance, license renewal, or the motor vehicle license issuance.



For hospitals, some mechanism must be established, informing patients of their rights to organ donation and allowing them to express their intention so that it can be registered in the health insurance IC card.

Investigation by Control Yuan in 2018

國人於境外接受器官移植及醫院通報、登錄情形：

表2、104-107年於境外接受器官移植之人數

單位：人

年度	美國	日本	中國	其他	合計
104	1	1	28	1	31
105	0	0	48	1	49
106	0	0	46	3	49
107	0	0	25	3	28

說明：1、資料來源：衛福部107年8月6日衛部醫字第1071665080號函附件。
2、資料擷取自「器官捐贈移植登錄系統」術後追蹤，統計自104年7月1日起至107年7月24日止。

What has happened after the Act's amendment? The Control Yuan initiated an investigation to answer the question. One of the Control Yuan members, a steadfast advocate of human rights as well, requested the Ministry of Health and Welfare to provide the data. Within 2015-2019, only 150 cases were reported.

「境外移植、國內治療」之病人在器官登錄系統登錄之內容概述

依衛福部107年8月6日查復資料：

1. 國內醫院自104年7月至107年5月止，計通報137例境外移植案例，若不論通報資料之正確性，經查有同時通報「移植醫院」及「主治醫師姓名」之情形者，僅約30例，亦即其他約78%之通報內容有欠完整。
2. 至於未完整通報資料中，有單獨漏未通報境外醫院名稱或醫師姓名者，更有兩者均未通報之情形。

Are these data truthful or sufficient? Further investigation found that nearly 80% of those reported cases are incomplete and do not have sufficient information.

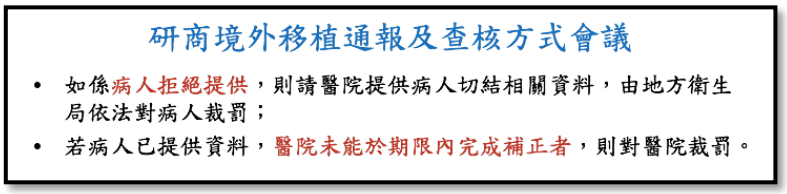
研商境外移植通報及查核方式會議

衛福部於107年7月9日召開「研商境外移植通報及查核方式會議」，會議決議：

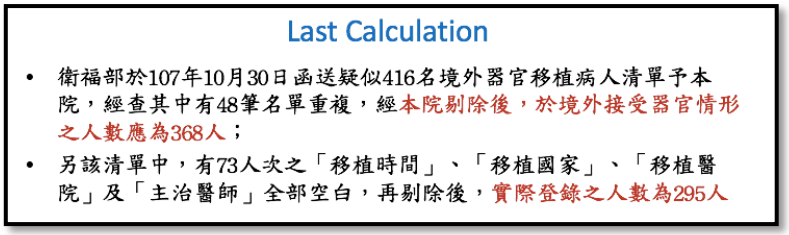
- 請健保署研議，對於未能配合法令提供境外移植資料致違反人體器官移植條例之病人，不予給付健保相關醫療費用之可行性，以提升通報率及通報資料之完整性。
- 另為明確醫院、醫師或病人違反境外移植通報義務，並界定處罰對象，依會議決議，由登錄中心每季依據健保署所提供之就醫資料進行勾稽，將疑似境外移植未登錄案例移請地方衛生局進行查處，限期於3個月內補正登錄資料；

I would like to mention that the Taiwanese government called a meeting in July 2018 to discuss what had happened after three years of the amendment. The meeting concluded that if the government cannot get clear information from the patient, for those patients who fail to provide complete information, the government can decide not to provide immunosuppressant treatment compensation any more. The patient will have to be on their own and pay for their own treatment. Then, the Transplantation Registry Center must

investigate these data since they know these cases all along. They may request data from the health insurance database.



If patients refuse to provide information, or if doctors or institutions do not register or report enough information, they can both be punished. This is reaffirming what has been announced in the law: compulsory registration.



More data were reported after three months of further investigation. Finally, it turned out that it is not only 150 cases, but 368 cases. Dividing the number by four years, it is nearly 80-90 cases per year. I think it is no better than what we had before the legal reform.

It seems that some legal efforts and professional efforts have been made, but it is a complex ethical dilemma. For transplant tourists, they are fighting for their own survival. In renal cases, they might have the chance for dialysis, but for liver cases, there is very little or no chance for liver dialysis. They are facing the possibility of death. People may fight for their own survival at the price of violating the law, receiving prison term, and financial punishment. But for doctors, they may think they are helping. “Why does the government want to punish me?”

I would like to draw some brief conclusion here:

Compulsory registration for overseas transplantation should be important so that we may know the facts, understand the reality, and consider what we can do from this.

Sanction and punishment over organ trade and organ brokering for all parties involved is necessary. For doctors, this is an issue of professional ethics. For brokers, they are exploiting the poor and vulnerable. And for patients, this is an illegal transaction causing human lives. The unethical and illegal parts are quite clear.

International and national legislation to criminalize and prevent organ trafficking is important. With this conference, I think within the Asian region, probably we can start a joint effort.

There should be effective national organ procurement and donation policy. When you take away some opportunities from patients, you should provide better ones, like organ procurement or organ donation. They have a better survival, better chance to wait and get an organ. We should try to improve organ donation rate.

We should continue efforts to stop using organs from executed prisoners in China. I think this is not only China's problem. It is also an issue concerning us neighboring countries because we all have patients going there. And this issue is also our national ethical, moral regulation.

Thank you for the kind attention.

Ethical and Legal Aspect in Health Care Policy for Organ Trafficking and Transplant Tourism

Dong-Hyun Lee, Ph.D. 李東炫

Contents

- Significance of The Declaration of Istanbul
- Medical Ethics Issues in Organ Trafficking and Transplant Tourism
- Reflection through an Ethical Approach
- The Future Direction of Health Care Policy

Significance of The Declaration of Istanbul

The significance of the Declaration of Istanbul in ethical and legal aspects can be elaborated as follows.

From the ethical perspective, the Declaration of Istanbul is the declaration on the dignity of human life. In addition, it includes information about the obligations of the doctor to the patient and the justification of the means to the purpose.

From the legal perspective, the Declaration of Istanbul is the declaration about the matter of safety for human life. Human life cannot be threatened by money or any other means. Therefore, if a human life is forced to end, it is not just a matter of a country, but a matter of policy and system that should be operated from a global perspective.

In particular, the Declaration of Istanbul defines various aspects of respect for life in relation to the four principles of medical ethics, which should be applied through equity, justice and respect for human dignity.

Regarding the four principles of medical ethics, the Declaration of Istanbul states that organ transplantation should be agreed with informed consent, should be the best choice for patients, and equal human dignity for donors and recipients should be ensured. It also declares that organs should be distributed fairly within a country and that there is a need to actively address all illegal matters through social consensus.

An important issue in relation to organ trafficking is the conflict over human dignity. As mentioned earlier, Donor and Recipient have equal rights and value.

From this point of view, the Declaration sets out the following as legal and ethical principles:

1. Honesty in all professional interactions

2. Compassion and respect for human dignity and rights
3. Respect the law and recognize a responsibility
4. Support medical care for all people

Medical Ethics Issues in Organ Trafficking and Transplant Tourism

There are four principles of medical ethics, and the first is autonomy. The principle of autonomy is to identify whether an individual has been coerced or threatened in decision-making. Relevant concepts are comprehension and spontaneity.

The ethical situation, which is an important issue in organ trafficking, is that autonomy does not apply to donors for a variety of reasons (coercive situation, economic problems, bondage and threat).

The next point to consider as an ethical issue is non-maleficence and beneficence. Health care providers should do their best to the benefit of their patients. But the main issue shouldn't just be the benefit of the patient. Health care providers should be concerned about the health and well-being of everyone in terms of public health as well as the interests of patients.

The end of commercial transplantation is the death of donors. This should not be overlooked. Since the principle of non-maleficence and beneficence applies only to patients, it is too narrowly interpreted that the health care provider just looks to the non-maleficence of the patient or the patient's care giver (family).

The last point to consider as an ethical issue is justice. The principle of justice discussed in medical ethics is not just about legal justice. The principle of the justice in medical ethics entails that everyone should be treated and protected with equality, with the fairness of the process and the opportunities for organ transplantation.

Reflection through an Ethical Approach

As mentioned earlier, the Declaration of Istanbul and Medical Ethics Issues should focus on ethical discussions as follows.

Organ Trafficking, Transplant Tourism and Commercial Transplantation all contradict with the principles of medical ethics. They are not simply a problem in one country and require active intervention from health care providers.

The basics of the ethical approach in this regard are as follows.

First, Organ Trafficking, Transplant Tourism and Commercial Transplantation undermine human dignity. Organ trafficking is not just a matter of buying and selling, but

an ethical issue of life and death. Second, it also hinders the fair distribution of health care resources as defined by the state. Finally, all human beings have equal rights and dignity for life and death. This should not be compromised.

Nevertheless, the problem is created by the perception that this is not my death or my problem. The Declaration of Istanbul declared that Commercial Transplantation is not a problem in any one country. The Declaration emphasized the cooperation between countries, the cooperation between various institutions and experts, and the need for information sharing.

Thus, from a global citizen's point of view, it can be considered ethically that commercial transplantation is no different from some sort of racism. I shared this story with Judge Kim Song. She will present in the next session of this symposium.

Let’s suppose that a commercial transplantation takes place in two regions within a country. In one region, some people’s organs are forcefully extracted just because they are prisoners or poor people. Can you tolerate it? This just so happens in our neighborhood called Earth.

The ultimate ethical direction of this discussion is therefore The Perspective of Health for All.

- The patient should think that someone dies for him/her to live.
- The health care providers must stop thinking only for the benefit of his/her patients.
- Health care providers should participate in active education and promotion to address unethical situations.
- Policy makers should also play the same role as health care providers.

This effort ultimately resolves all medical discrimination and ensures that everyone has equal rights to health.

The Future Direction of Health Care Policy

Lastly, I want to talk about how to take a policy direction on the various ethical issues discussed above.

The first step is to recognize the unethical situation. There is a need to inform the public of the status quo and record in detail the donor's rights and issues that are being violated. Of course, this education must also include the importance and value of voluntary organ donation.

In Korea, KAEOT has actively promoted related education including case studies, but we

need to persistent in raising awareness among the public.

The change of perception is the same as mentioned above. We must change the mindsets that “It’s none of my business”, “Even if someone else dies, my patient’s life is top priority,” and “It is a personal problem.”
Regarding the social system, the top priority is the preparation of social system. The reporting system and legal revisions are necessary to improve education, current status, and awareness.

Taking Korea as an example, the first thing to do is to establish a reporting system. The question, however, is whether a voluntary reporting system can operate smoothly. Therefore, in the case of Korea, it may be easier to amend the law to identify illegality through the registration data in the Korean Network for Organ Sharing (KONOS) and the data of the Health Insurance Review & Assessment Service (HIRA) at the national level.

Lastly, I suggest the directions for ethical consideration about improving the reporting system and amending the law as follows.

Why is there a reporting system? Is it just for grasping the present situation?

If the Republic of Korea limits insurance coverage to patients as in the case of Israel, voluntary reporting like what Taiwan does would never happen.

Ultimately, however, if the law must be amended, the purpose of the amendment is to eradicate illegality. If so, to what extent should the illegality be punished to eradicate it? That is probably the ultimate problem.

The last thing I would like to emphasize is to think about the fundamental problem of organ transplantation. If the shortage of human organs persists, the problem of commercial transplantation will continue. Therefore, how to solve the problem of organ shortage also needs to be constantly considered.

There may be a question about why this is an ethical issue. The reason why this concern is an ethical issue is that replacing human organs means replacing them with xenotransplantation or mechanical devices as the current technologies permit. Those technologies might cause ethical issues because of animal protection or consideration for the future of humankind.

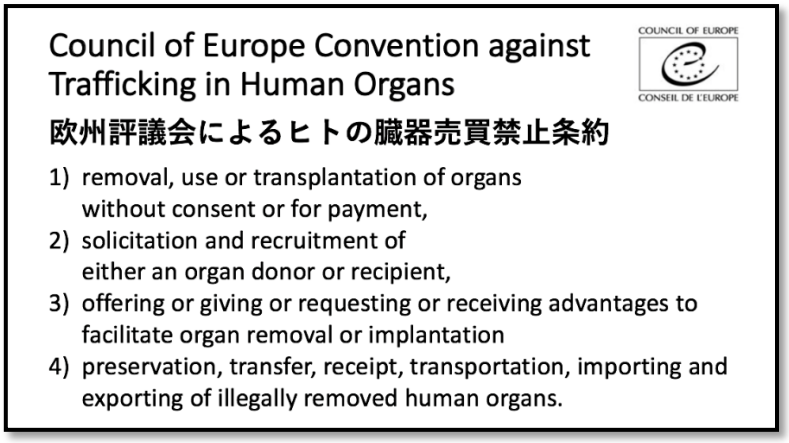
The Declaration of Istanbul has already greatly raised our awareness of various issues and ethical concerns. The next ethical concern is how to cope with unethical practices.

Today, I talked about the ethical issues in Organ Trafficking and Transplant Tourism, and I will continue to think about clear answers and solutions to them. The most important component for the future direction is equal rights and dignity for all human beings.

Legislation against Complicity in Transplant Abuse Abroad

David Matas

I talked earlier about the Council of Europe Convention against Trafficking in Human Organs. I want to say a bit more about that because when we're talking about country legislation, a lot of countries get involved in legislation because of this Council of Europe Convention.



Now, in terms of the Convention itself, what it does is it requires states parties to enact offenses against removal, use or transplantation of organs without consent or for payment. That's the first obligation.

Secondly, to enact defense against solicitations and recruitment of either an organ donor or a recipient. Third, to enact defenses against offering or giving or requesting or receiving advantages to facilitate organ removal or implantation. Fourth, to enact offenses against preservation, transfer, receipt, transportation, importing and exporting of illegally removed human organs.

Now, in fact, if you look at the Convention, that's a summary. It goes into elaborate detail. As I mentioned earlier, there was some concern that the whole offense of organ trafficking is supposed to traffic the person for the removal of organs had not been adequately defined so the Convention attempted to define it. Now, if you are a state party to the Convention, you must enact offenses to apply to citizens and permanent residents whether they commit the crime in the territory of the state party or outside the territory of the state party. If the crime is committed outside, the perpetrator is still prosecutable. The Convention does not obligate states to legislate offenses against visitors but doesn't prohibit it either.

The Convention began open for signature March 2015. There are 9 ratifying states. They are Albania, Croatia, the Czech Republic, Latia, Malta, Moldova, Montenegro, Norway and Portugal. Every ratifying state has to enact or already have implementing legislation and the result is those nine countries would have had legislation either enacted or already in place to conform to the requirements of the Convention, setting out those offenses and applying them to permanent residents and nationals whether the offenses were committed in those countries or outside.

Now in addition to those nine countries that have this legislation, there's also extraterritorial legislation dealing with these in Belgium, Italy, Israel, Spain and Taiwan, five countries. Now, in terms of criminal law, different countries have different jurisdictional foundations for the criminal law. There are two basic types of jurisdictional foundation. One is nationality jurisdiction and the other is territorial jurisdiction.

Canada has territorial jurisdiction, meaning that if you commit a crime in Canada regardless of your nationality, you're prosecutable in Canada. If you commit a crime outside of Canada, again regardless of your nationality, you're not prosecutable in Canada, even if you're a Canadian citizen in return.

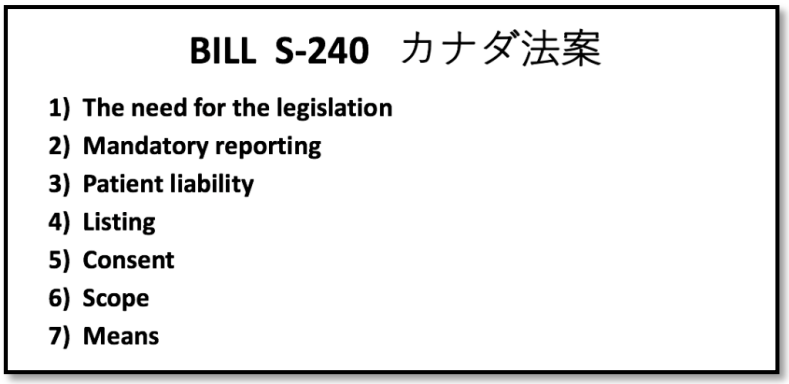
There are some exceptions to this basic territorial jurisdiction, but those exceptions have to be legislated. And if they're not legislated, there is no jurisdiction.

For countries with nationality jurisdiction, it's the reverse. If you're a national of a country and you've committed a crime contrary to the criminal law of that country, anywhere in the world you're prosecutable in that country simply because you're a national of that country.

On the contrary, if you're not a national of that country, and you commit a crime, even in the territory of that country, you're not prosecutable in that country unless there's specific legislation to the contrary.

Now, France, for instance, has nationality jurisdiction. They don't have territorial jurisdiction so there isn't need in France for extraterritorial legislation. That[’s] just giving the courts jurisdiction over French nationals who commit an offense abroad in violation of criminal law. What we've got right now in terms of countries with actual legislation is fourteen. That's fourteen countries out of 192 countries. So, it's not very many.

What we're caught is a huge international gap in the legal systems to deal with the problem of organ trafficking and we're now playing catch-up to deal with it.



Obviously, **one thing** that should be done is **legislation** to prohibit and remedy the abuse. One of the reasons David Kilgour and I came to the conclusion that we did that this organ transplant abuse with prisoner-of-conscience victims, primarily practitioners of Falun Gong, was happening in China, was that there's nothing in law, nothing in ethics, either in China or abroad to prevent it. It was a crime without a punishment for which a huge amount of money could be made. It became as a follow-up necessary to advocate that something to be done should be done to prevent this abuse in remedy.

As I and my colleague had gone about doing that, we've come across a number of obstacles and issues. In principle, it shouldn't seem that problematic to enact legislation to prohibit complicity in killing of innocents for their organs, no matter where in the world it happens. But once we got into the nitty-gritty of advocating this legislation, there are a number of questions that were asked and a number of issues that were raised. All these questions have answers and all these issues can be addressed but it certainly slowed up and complicated the enactment of this legislation. What I want to do is point out what these issues are and point out what needs to be done to address them, because as we continue to go about advocating this type of legislation, we are inevitably going to come up against these issues and we need answers to them.

What is the need of the legislation itself? Because most countries have something about organ transplant abuse and their laws. The question is why do they need something more. Part of the answer is in countries with territorial jurisdiction. They need extraterritorial

jurisdiction. Another answer is that many of these laws deal with the concept of human trafficking for the purpose of organ removal. You've heard there's this issue that organ trafficking is different. We need to make sure that laws don't just cover human trafficking for the purpose of organ removal but also cover organ trafficking.

A second issue that arises is **mandatory reporting**. This has been a big issue and in fact, this is the issue that causes the problem in Canada because the Senate in its bill required reporting of transplantation by health professionals, transplant tourism by health professionals to health administrators. The House of Commons stripped that requirement of mandatory reporting for the bill that it did pass and that's why there's a divergence between the two bills that requires reconciliation.

Practically, what will probably happen is that the Senate will pass the bill without mandatory reporting just to get the bill passed. But mandatory reporting really is important.

Now, mandatory reporting can happen in two different ways. One is just statistical reporting, and the other is named individual reporting. There is a mandatory of the sort in Taiwan. And Israel also has a kind of mandatory reporting, the inspectors can go on to the hospitals and see in the hospital records what happen.

Most other places they don't have mandatory reporting for internal transplant abuse. And there is a reluctance to deal with in terms of transplant tourism. The concern is in some cases breach between doctor-patient confidentiality. And there's also concern that with mandatory reporting of individuals, the patients may be, especially if they know they've done something wrong, may be reluctant to seek treatment. And it will be work adverse to the health of patients to have mandatory reporting.

Now, when I came to Canada the transplant professionals that they made submissions to the Senate. They said they were fine with mandatory reporting for statistical purposes. And normally that's not controversial but they were reluctant to support mandatory reporting for individuals because of these two factors—breach of doctor-patient confidentiality and the adverse effect on treatment it might have on patients.

Now, I wouldn't dismiss out of hand the value of mandatory reporting for statistical purposes. There are many different reasons why this issue of organ trafficking and transplant abuse and killing of prisoners of conscience for their organs in China hasn't got the global attraction and attention it has, but part of the reason is we just don't know very easily to speak of the problem.

I can go around and talk to the doctors in hospitals and I get anecdotal information: Yes, I've had patients that go to China. But you can't go to a database and see country by country how many people have gone to China for transplants year by year. It doesn't exist. Before report came out, China was fairly open about what was going on and then became a lot more secretive later. At that time, it said 20% of the transplantation in China was from transplant tourists. I mean, it's hard to know China's statistics, exactly what's going on, but it's unlikely it would have been less. It may have been more. But now they don't produce those percentages at all.

So we get caught in this vicious circle: we don't know as much as we should about the problem in China because we don't do that much about it. We don't do that much about it because we don't know what's going on. The way to break out of that circle I would say at least is mandatory reporting for statistical purposes.

When it comes to mandatory reporting with individual patients, I would still suggest that would be worthwhile. I realize the situation varies from country to country, but in Canada there's this huge list of mandatory reporting requirements. There's mandatory reporting for child abuse, child neglect, long-term care and retirement home's abuse, long-term care and retirement home's neglect, sexual abuse of patients, gunshot wounds, health facility's incapacity, health facility's incompetence, health facility's sexual abuse, occupational health and safety reporting or requirements, preferential accesses to healthcare, healthcare fraud and privacy breaches. And those are all situations where patients are victims. There's also mandatory reporting, many of these where patients were not victims, for impaired driving, which could lead to a patient losing their driver's license; birth, stillbirth; death, communicable diseases, diseases of public health significance; conditions of pilots that's likely to constitute a hazard to aviation safety. Obviously, when you're reporting a pilot for that, it may discourage the pilot from seeking treatment, but they do it anyways.

Conditions of air traffic controllers that's likely cause hazards to aviation safety. Maritime certificate holders of conditions that's likely to constitute a hazard to maritime safety. Railway workers all occupying a position that's critical to railway safety have a condition that's likely to pose a threat to safe railway operations.

If you look through that list, what you see is there is balancing of public safety, public health against the health of the patient. It may well be that if you're the poor pilot, the pilot is less likely to seek treatment. But the public safety's view, at least in Canada, is that the safety of the passengers is more important than the impairment of health of the pilot. So, the balance works in favor.

For organ transplantation, you need anti-rejection drugs for the rest of your life after the transplantation, so the disincentive to medical treatment, I would say, is relatively small for organ transplant patients. Or there might be some, there might be attempts trying to get anti-rejection drugs through the internet rather [than] through the medical system. But unbalance means what we're losing is the ability to impact on organ transplant abuse through the killing of innocents for their organs. That would have a greater priority. That would be my view about mandatory reporting. But it's definitely an issue that arises and one has to deal with.

A third question that arises is the **patient liability**. It's easy enough to say criminalize brokers or intermediaries. One can even talk about criminalizing doctors who act in an untoward way. But there's a hesitation to criminalize patients because they may be operating under stress or not thinking clearly. There's a couple of events to that.

What Israel has done is they have enacted a probation against patients, but the penalty clause doesn't apply to patients. So that's one answer. If you look at the Council of Europe Convention, the question is why are there so few signatories to that Convention? Probably this is the explanation. Many countries are reluctant to impose liability on patients. And if you sign the Convention, you're obligated to do so.

In my view, the issue of patient liability can be dealt with through prosecutorial discretion and doesn't need immunity from prosecution. And if you look at the laws that talk about the organ transplant abuse internally as opposed to extraterritorially, there's no patient immunity. I mean, if you're a patient complicit in the killing of someone in Japan for their organ, you will be prosecuted. Why should it be different if you go abroad and engage in the same act? So that's the third issue.

A fourth issue is **listing**. Should the law list the names or require the listing of names and with other consequences of the people involved in organ transplant abuse? This obligation of listing wasn't found under the present Canadian legislation but was found in the previous bills that I mentioned. The legislation proposal wasn't just a list [of] names but to freeze funds and impose immigration bans. The list of people couldn't enter Canada and any funds they had in Canada would be frozen. Then the issue arises if you go onto legislation, should you impose this requirement of listing, freezing the funds and immigration ban?

The Canadian legislation in its present form does impose immigration ban but not the freezing of funds or listing. To a certain extent, in Canada and five other countries, that question has been obviated by other legislation. It's called Magnitsky type legislation. Magnitsky was a human rights lawyer, who was acting in Russia, acting for a client, Bill

Browder, who had some assets and were seized by corrupt Kremlin officials. And so Magnitsky was trying to get these assets back for Browder. He was in Russia arrested and beaten to death. And Browder, after seeing what happened to his lawyer, started proposing legislations around the world, which is named after his former lawyer, that basically requires the listing of serious human rights violators plus immigration ban plus freezing of assets.

Five other countries besides Canada have enacted this legislation. One of them is the United States, one of them is the UK, the other three are the three Baltic countries. Now, all six of those countries have listed many people under this legislation. None of them are Chinese involved in organ transplant abuse. In Canada, we've proposed a list of people to be listed under this legislation, of people involved in the persecution of Falun Gong. Other countries could enact or should enact either this type of legislation, which is generic and applies to all human rights abuses in all countries or include at least for organ trafficking as Canada did in its earlier bills, a listing requirement so that perpetrators could be listed.

A fifth issue that arises in this legislation is the issue of **consent**. There's a lot of debate. Obviously, what the legislation says is that you cannot source organs from persons without their consent. And there's a lot of debate about what exactly constitutes consent, whether it has to be informed, the extent to which it has to be voluntary, the extent to which it has to be informed.

It's obviously it's not relevant to the killing of prisoners of conscience for their organs because no matter how you define consent, they are not consenting. But nonetheless, it's worthwhile to inform yourself of this debate because it will arise and potentially hold up the legislation if you don't have answers to it.

A sixth issue is the issue of **scope**. The Council of Europe legislation or the Convention in the legislation that follows from it, applies only to citizens and permanent residents by obligation. It cannot apply to visitors. Whether it should apply to visitors was a big issue for the Council of Europe. In the Convention negotiations, they were divided almost evenly, I think, eighteen were for and twenty were against, so they kept it out of the Convention. But it could’ve applied to visitors.

Part of the problem with visitors is that they are not there for very long. In fact, there have been some attempts in countries, I think in Denmark and Sweden, even without this Convention, without specific legislation, simply relying on the fact that the country had legislation with extraterritorial jurisdiction. There was some attempt to prosecute Chinese perpetrators of organ transplant abuse. I think there was one prosecution launched in

Sweden against Lu Gong and another one in Denmark with a head of the 6-10 office. But they left and that was the end of the prosecution.

There has to be something specific that would allow for arrest and continued detention pending the prosecution. If there's an immigration ban, in theory, these people wouldn't get into the country. But if they do, there should be an opportunity to prosecute them.

These crimes are not prosecuted in China because these crimes are being perpetrated by state entities. There's no independent prosecutorial and judicial and investigative system. The whole legal system is run by the Communist Party and as well as the persecution of these minorities as well as organ transplant abuse. The Communist Party is not going to tell the legal system to prosecute itself.

What you need is some form of outside China jurisdiction to deal with the crime. So, you need in this context a legislation that deals with visitors to make the law completely effective.

The seventh and last question that one raises in relation to this legislation is: Is the law necessary or effective to combat transplant tourism or professional ethics efficient? I believe ethics are important and are useful intermediate stuff but they're not enough, I mean, partly because some of the perpetrators are not bound by professional ethics. If you are talking about brokers or advertisers or intermediators, they aren't necessarily part of a group that has a professional ethics that would deal with this. So, we really do need a legislation.

So, by way of conclusion, I would say that when we go about the efforts to enact a legislation against organ trafficking in Japan, Canada or anywhere, we inevitably will have to confront some if not all of these issues. And promotion of legislation in this area requires anticipation of these issues and answers to the questions on these issues, which will inevitably be asked.

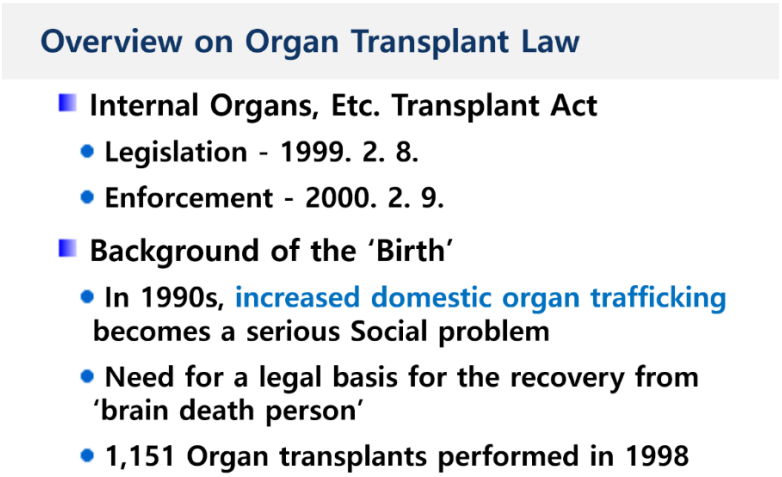
Organ Transplant Law in Korea— Overview, Cases and Suggestion for Amendment in Compliance with Declaration of Istanbul (2018)

Judge Song Kim
Suwon District Court, Korea

First of all, I'd like to express my appreciation to the hosts of today's symposium, which, I believe, will greatly help address Korea's Transplant Tourism (TT) problem as well as that in Japan and Taiwan. My topic is "Organ Transplant Law in Korea" from the perspective of the 2018 Declaration of Istanbul.

Table of Content

First, I'm going to briefly introduce Korean Organ Transplant Law. This is to show the initial purpose of the Law, and how we have only focused on "increasing supply of organs" since the legislation.
Second, the Criminal Cases on Organ Trafficking. Here we can see some characteristics of Transplant Tourism especially in China.
Third, the Problem of Current Law.
Fourth, 3 Amendment Bills Already Submitted in the Korea National Assembly.
And lastly, I will put together the above discussion and make suggestions for the Amendment.

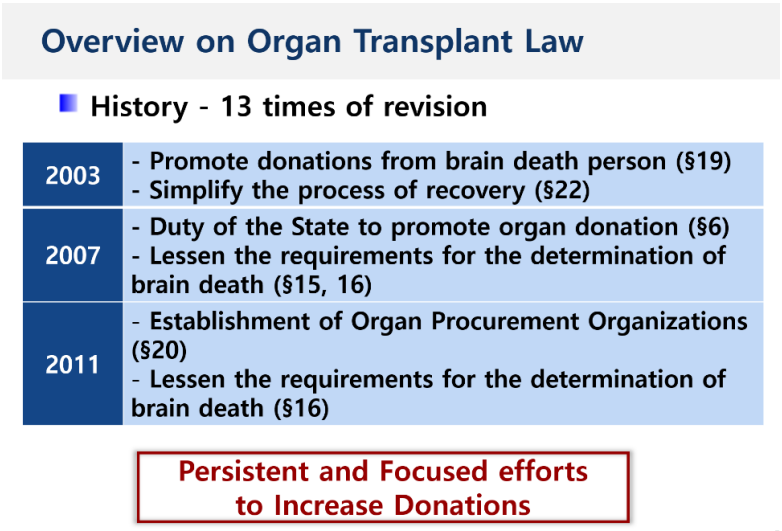


The Full title of the Law is Internal Organs, Etc. Transplant Act. It was enforced in Febr uary 2000. In the 1990s, increased domestic organ trafficking became a serious social problem.

With medical technology advances, the demand for organs increased dramatically and physicians called for the legal basis of recovery from a "brain death person." The Korean Society of Transplantation (KST) reported that 1,151 organ transplants were performed in Korea in 1998.

This social phenomenon pressed the lawmakers to make a new, comprehensive law regulating organ transplantation. One of the official reasons for legislation is "to combat organ trafficking." Now let's look at the main contents. The basic idea of the Law is "humanitarian spirit." It helped establish the National Organ Transplant Management Agency, which manages all the transplants performed in Korea. It prescribes strict requirements for the consent to donate organs as voluntary donation.

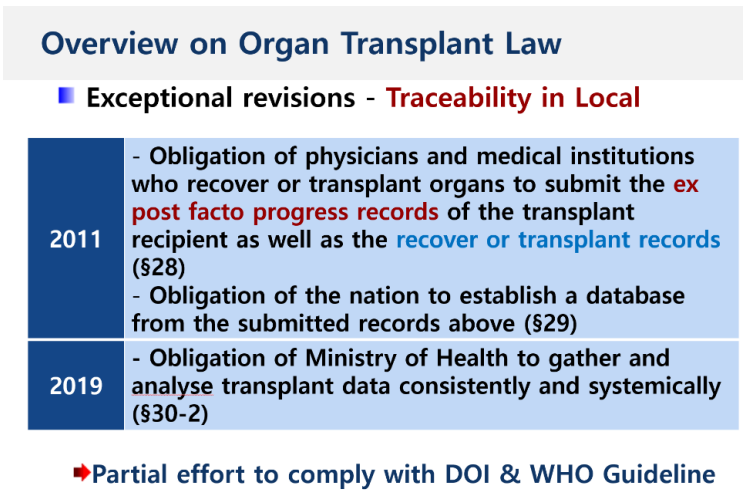
And surely, it has a provision to prohibit and criminalize organ trafficking. If a Korean national buys or sells an organ, it constitutes a violation of this provision whether the organ trafficking takes place in or outside Korea.



Organ Transplant Law has been amended several times. Here I picked out actual significant changes among them.

In 2003, promoting donations, simplifying the process of recovery from a brain death person. And in 2007's amendment, the Government has the duty to promote organ donation nationally and locally. In 2011, the Law provided the legal basis for establishing Organ Procurement Organizations. Korea Organ Donation Agency (KODA) was set up following this provision and has been very actively promoting organ donation nationwide.

The obvious direction in the Law is persistent and focused efforts to increase donations.

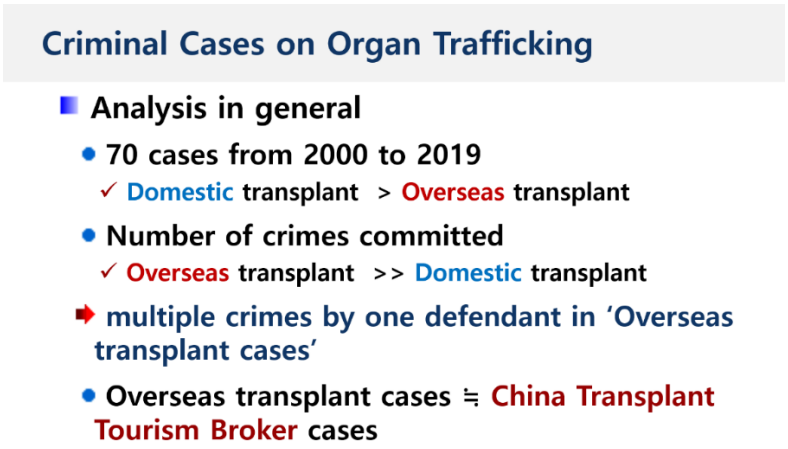


There are also some exceptional revisions, which are made in pursuit of "traceability" though locally.

In 2011, the Law imposed the obligation to submit the ex post facto progress records of the transplant recipient on the physicians and medical institutions who recover or transplant organs. Before that, the physicians only had to submit the recovery or transplant record. Now the Law also requires the post progress record after the transplant be submitted. It seems that WHO's updated guidelines in 2010 as well as Declaration of Istanbul in 2008 stimulated this provision.

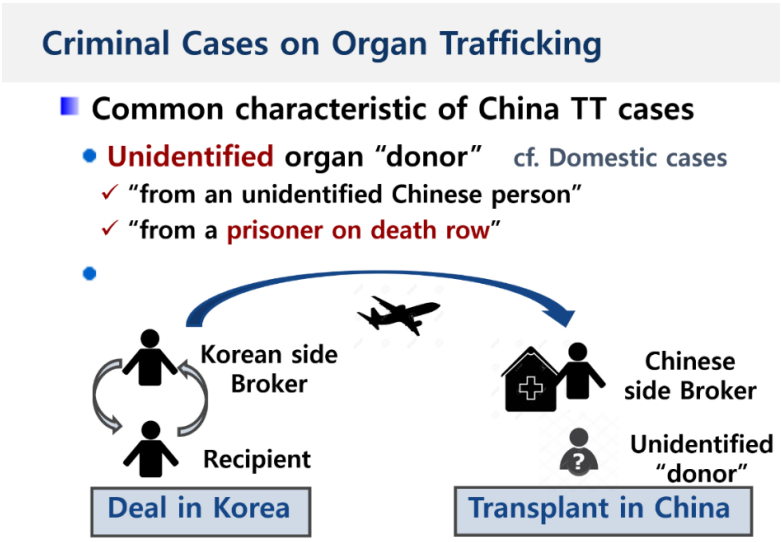
However, this provision limits the person responsible for the submission only to the physicians involved in recovery or transplant of organs and does not include the physician who gives the post-transplant treatment to the recipient. It means that in case a patient gets a transplant in hospital A and then moves to another hospital B, physicians of B don't have to report the post progress record.

So, the "traceability provision" is just a partial effort to meet the international standard. Considering that this provision does not work at all to curb the international organ trafficking and transplant tourism, it does not take the essence of those international standards.



Next, we move on to the criminal cases. In the Korean Judiciary Database, 70 cases are found from 2000 to 2019. Most of them are "broker" cases, and some are "buyer" cases. There are more domestic transplant cases than overseas ones.

However, if you look at the number of crimes committed, the overseas transplant crimes are much more than the domestic ones. This is because usually in overseas cases, one defendant is convicted of multiple crimes. Almost all the overseas cases are broker cases of transplant tourism (TT) in China.



What's the typical feature of the China Transplant Tourism Case? The first is that the organ "donor" is not identified. Every single domestic case and the other overseas cases have donor's or seller's name in the written judgement, but China TT cases do not. In the "criminal fact," the judgement uses expressions such as "from an unidentified Chinese person," or "from a prisoner on death row."

Next, if we look at the structure of the transaction, the deal is settled in Korea between the buyer and the Korean broker, thus the crime is already committed in Korea. Korean law criminalizes the agreement itself. And then they fly to China together, where the Chinese broker takes care of the buyer and helps the buyer get an organ from an unidentified Chinese person.

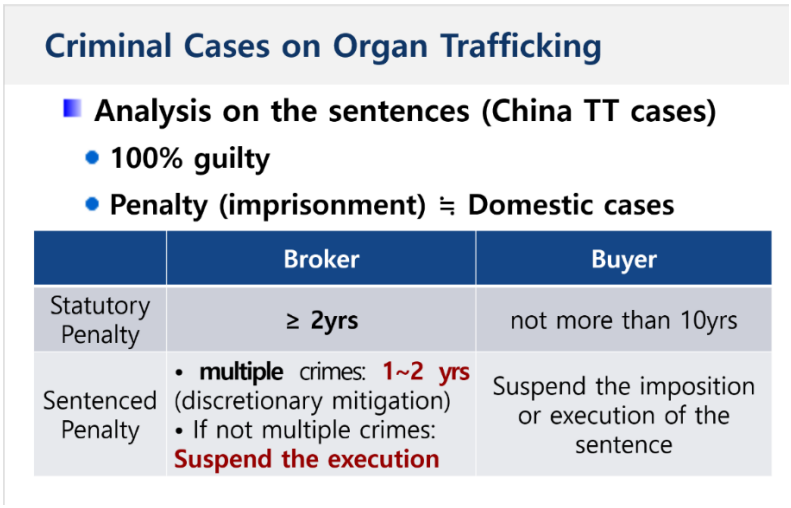
Then, is China TT crime still going on?

Up to 2018, there were consistent accusations on brokers, and the last crime found in the cases was committed on Nov. 12, 2013. By the way, most of the China TT cases are

prosecuted several years after the crime, even 14 years after the crime.

I presume because China TT crimes are committed secretly, and no Korean victim reports to the police, it is rarely revealed until one of the recipients suffers from side effects and blames the broker. So, the fact that the latest crime is committed in 2013 does not mean this type of crime has stopped since then.
Of course, only a small portion of the cases are brought to the Court.

Is China TT crime still going on? Possible.



Next, I analyzed the sentences of the China TT cases.

In all the cases, defendants were proved to be guilty. In this respect, domestic cases are the same. In my assumption, for this kind of secret crime without a certain 'victim', prosecutors can prosecute the case only when they get clear evidence like a financial transaction record. Then how long are the organ trafficking criminals imprisoned? By the law, the minimum imprisonment for broker is 2 years.

Looking at actual cases, brokers who committed multiple crimes were sentenced from 1 to 2 years of imprisonment. With the discretionary mitigation being applied, a one-year sentence becomes the minimum term. However, if not multiple crimes, all the judgement suspended the execution of imprisonment for the broker.

In one case, the defendant had been twice indicted for China TT brokering before, each time the defendant was given a suspended sentence and then again committed the third crime. This time he was again sentenced to suspension of the execution of imprisonment. As for the organ buyer, the buyer can be imprisoned for 1 month to 10 years.

And there is no case where the organ buyer was sentenced to actual imprisonment. All the judgements suspended the execution, and even the imposition of the sentence.

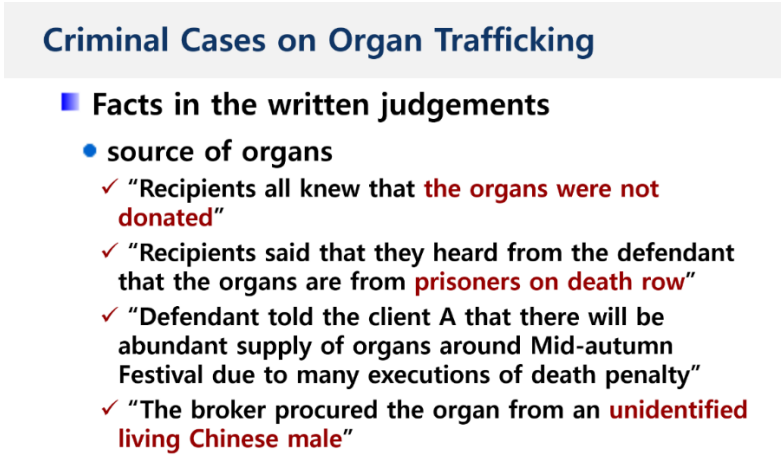
Here I introduce an actual case, the biggest case in Korea ever.

The defendant brokered 80 deals between Chinese hospitals and Korean patients from 2006 to 2011. The total payment from the patients was over 4 million dollars. Guess how long was he imprisoned? 2 years, the minimum prison term of the Law.

The judgement extenuated the penalty stating the following reasons:
"Defendant committed crimes not only to gain his own profit but also to aid the patients who were suffering." "Health condition of some patients improved."

I think these are the intrinsic attributes of organ trafficking crime. The recipient gains life. It's the same for the other crimes. The thief gains money. Where is the organ supplier as a human being in this case?

Is this logic in accord with "humanitarian spirit," the basic idea of the Organ Transplant Law? I don't think so.



Next, let's look at the facts of the case in detail. These facts are all proved without reasonable doubt through evidence.

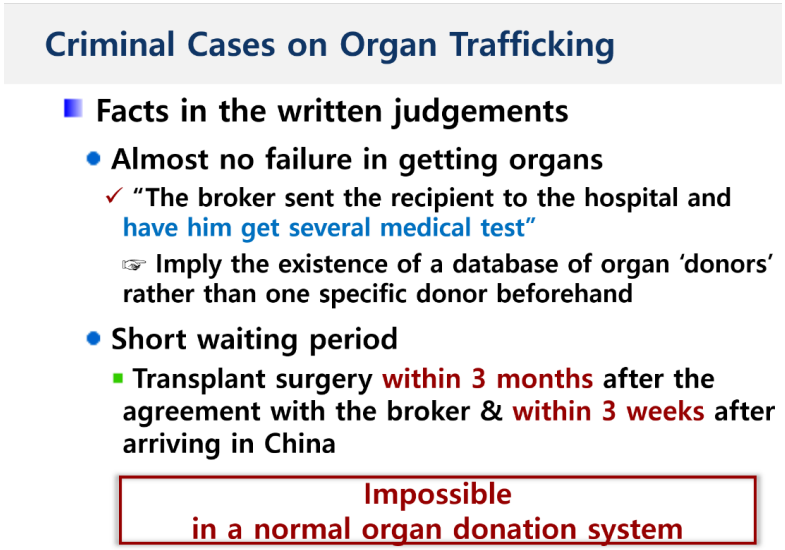
Source of organs:

"Recipients all knew that the organs were not donated"

"Recipients said that they heard from the defendant that the organs were from prisoners on death row"

"Defendant told client A that there would be abundant supply of organs around Mid-autumn Festival due to many executions of death penalty."

"The broker procured the organ from an unidentified living Chinese male."



And one noteworthy detail is that there is almost no failure in China TT, only 1 case among more than 100 deals.

In some cases, we can find that the organ buyer gets medical tests after entering the Chinese hospital. The Chinese hospital seems to have a database of organ 'donors' rather

than one specific donor beforehand so that it can find the matched organ according to the Korean recipient's medical test results.

In comparison with this, there are 4 cases where the transplants were performed in India, Hong Kong, or Singapore, rather than mainland China. The defendants brokered deals between Korean buyers and Korean sellers. The buyer and seller flew to India, and got medical tests in the hospital, but in 2 cases the seller's liver was so big for the buyer that the organ transaction was cancelled.

One more characteristic of China TT cases is the short waiting period. In all cases, the transplant surgery was performed within 3 months from the time the broker first proposed a deal to the patient, and within 3 weeks after the patient arriving in China. Given that the hospital begins to seek the donor in the database only after the patient gets medical tests, this means it takes less than 3 weeks to find a suitable organ 'donor.' I think it is impossible in a normal organ donation system in any country.

Some defendants are convicted with other accompanying crimes: counterfeit of documents and fraud against insurance company.

In such cases, "Defendant lets the recipient use a 'Chinese name' to get the kidney from an unidentified Chinese person. Then, he counterfeited the 'proof of surgery' with the recipient's Korean name for submission to the insurance company. Thus, he aided the recipient's fraud against the insurance company."

The Korean recipient uses a Chinese name probably because the Chinese government announced to prohibit transplants for foreigners in China.

Criminal Cases on Organ Trafficking

- **Comment**
  - China TT crimes are very suspicious
  - ➡ high possibility that organs are gained from very vulnerable groups ready to supply their organs
  - Systemized, professional, commercialized organ trafficking system
  - No difference in sentence from domestic cases where there are agreements between recipients and identified 'donors'?

Need for Sentencing Guideline like other crimes

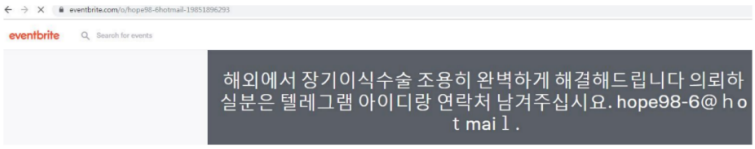
From the case analysis, I could find that China transplant tourism arouses suspicions. Where are those organs from?

It just seems that organs are obtained from very vulnerable groups ready to supply their organs within short periods of time. And the crime is related with a systemized, professional, commercialized organ trafficking system. This is obviously distinguishable from the domestic cases. However there seems no difference in sentences between domestic and China cases. Korea has the Sentencing Guidelines for many crimes, but not yet for organ trafficking.

Later we need to set up the guideline in consideration of the special aspects of transplant tourism.

Problem of Current Organ Transplant Law

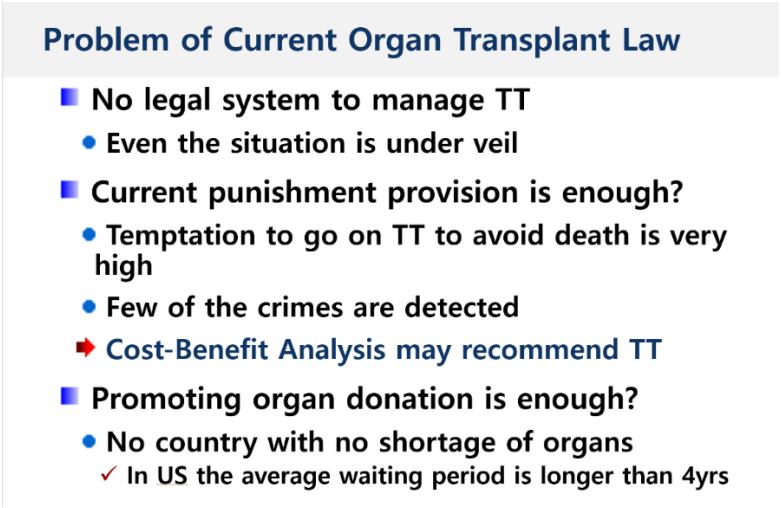
- **Changed trend of organ trafficking**
  - TT is the dominant form since mid 2000's
    - ✓ China TT : 30% of the total Liver transplants in 2005
  - TT is committed more secretly than before



- ✓ 2019. 5. uploaded post: "We settle the Overseas Transplant secretly and perfectly. Send your telegram ID and phone number to this email address"

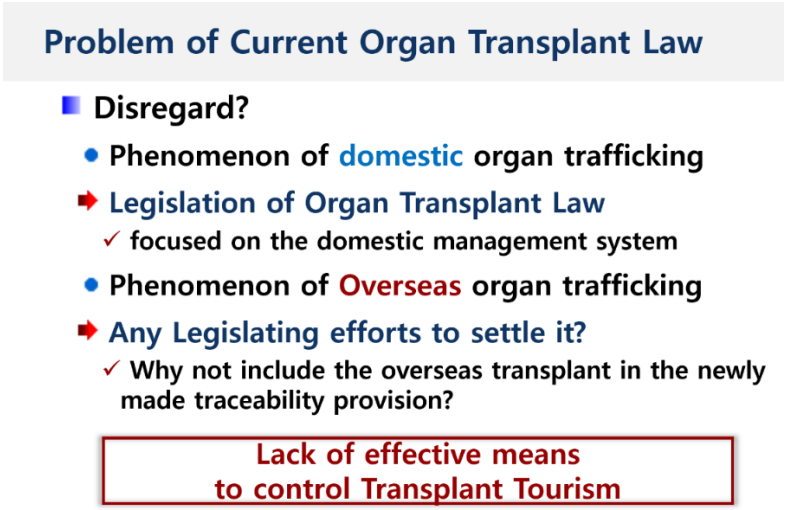
Now we can spot the problems of the current Law. The trend of organ trafficking by Koreans has changed. Among the organ trafficking cases brought to the court, transplant tourism is now the dominant form.

The Korean Society for Transplantation (KST) reported that 30% of the total liver transplants for Koreans were performed in China in 2005. And nowadays these crimes have become more secretive than before. Like this post on the internet, “We settle the Overseas Transplant secretly and perfectly.”



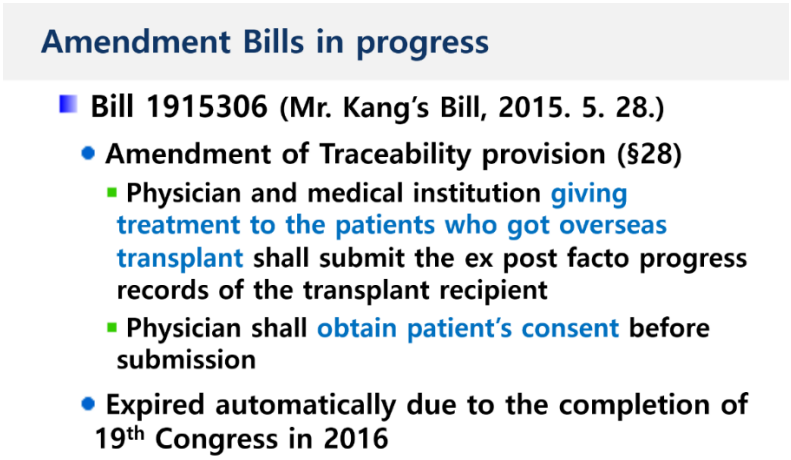
However, there is no legal system to manage transplant tourism. We even don’t know how many Koreans go abroad to get organs, and how many Koreans succeed or fail in transplants. Then, does the punishment provision resolve all problems? I don’t think so. Because temptation to go on TT to avoid death is too high. Moreover, the crime is rarely detected. After a cost-benefit analysis, the patient might choose TT rather than being innocent.

Then, is only promoting organ donation enough? It’s not likely. Every country faces the challenge of organ shortage. Thus, if China has an abundant supply of organs and if there is no effective prohibition to prevent TT, people will go abroad to get organs even if organ donation increases.



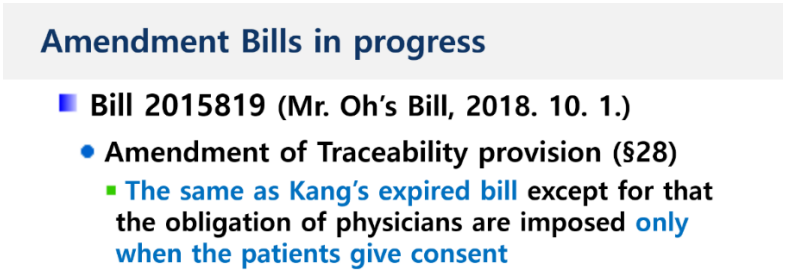
In 2000, the phenomenon of domestic organ trafficking stimulated the legislation of Organ Transplant Law. Then, what about the phenomenon of overseas organ trafficking? There is no change in the Law.
Even when the traceability provision was incorporated, overseas transplant tourism was still out of sight for the lawmakers.

Thus, there is no effective means to control transplant tourism. This is the problem.

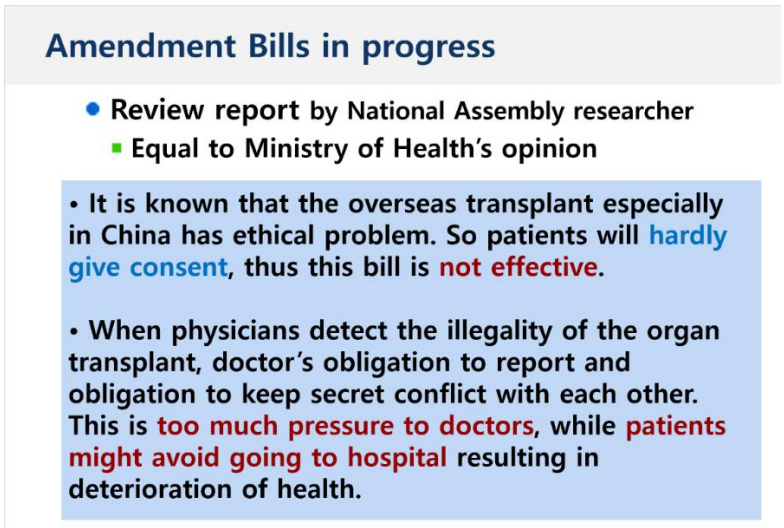


Fortunately, for the recent 4 years there have been some attempts to tackle the problem. The first bill was submitted by Assemblyman Mr. Kang in 2015. I mentioned the newly amended traceability provision in 2011. And the bill suggested to expand the application scope of the provision to include overseas transplants. Thus, physicians giving treatment to the patients receiving overseas transplants should submit the post-transplant progress records of the patients. It's just like Taiwan's new law.

But one difference is that the physician should obtain the patient's consent before submission. Anyway, this bill is not valid anymore. It has expired.



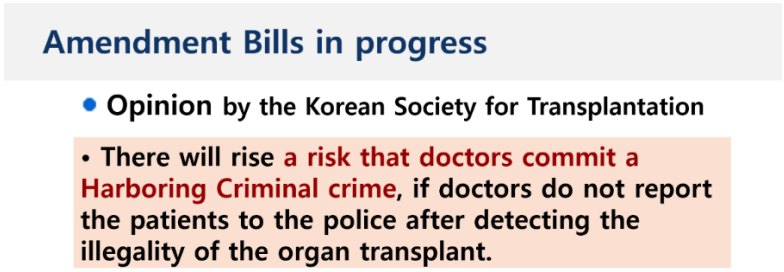
The second bill was submitted by Assemblyman Mr. Oh. The basic concept is the same as that of Mr. Kang's version, expansion of traceability. But in this Bill, the patient's consent is a condition to force the physicians to report. The 'weaker' bill than the previous one.



About this 2nd bill, there is a review report by the Assembly researcher, which adopted the opinion of the Government. The review report says:

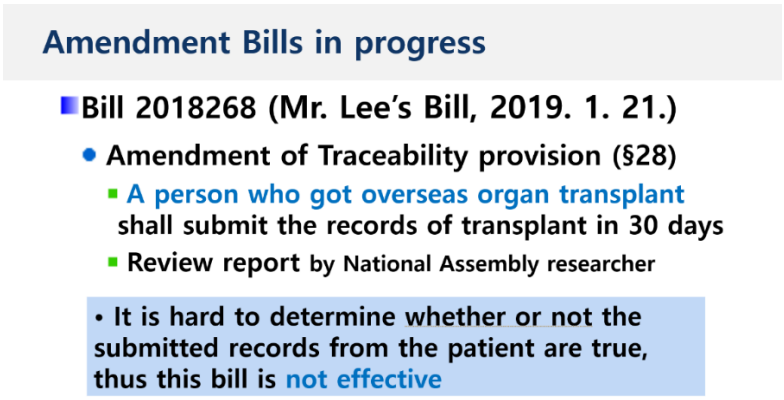
• It is known that the overseas transplant, especially in China, has ethical problems. So, patients will hardly give consent, thus this bill is not effective.

• When physicians detect the illegality of the organ transplant, doctor's obligation to report and obligation to keep secrecy are in conflict with each other. This is too much pressure for doctors, while patients might avoid going to the hospital, which results in deterioration of health.



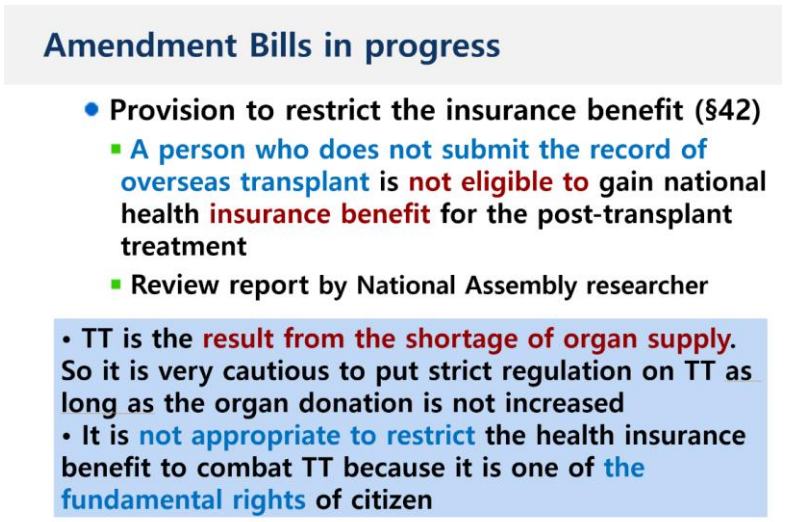
We also can see the opinion of the Korean Society of Transplantation in the report. It says, "Physicians will risk committing the crime of Harboring Criminals, if they do not report the patient to the police after detecting the illegality of the organ transplant."

Personally, I don't think doctor's negligence to report crime constitutes Harboring Criminals Crime in Korea, though.



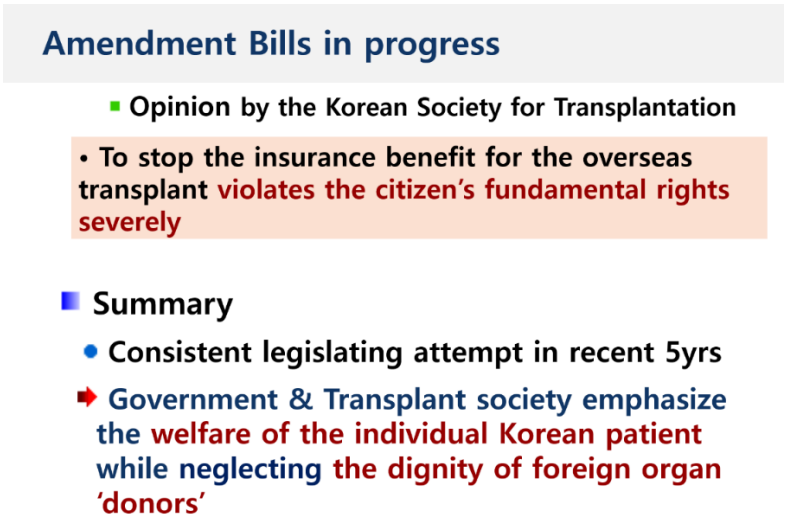
The last bill is submitted by Assemblyman Mr. Lee. It also suggests expanding the scope of traceability provision.

However, not like the previous ones, it puts obligation to report on the patients, not on physicians or medical institutes. The review report says that it's not effective. This time it questions the veracity of the records patients submit.



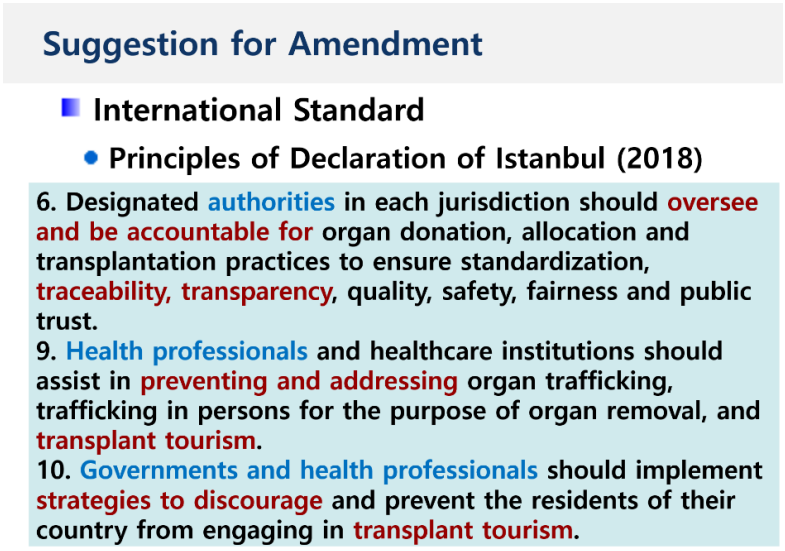
Another provision the third Bill proposed is to restrict the national insurance benefit for those who neglect the reporting obligation.

A person who does not submit the record of overseas transplant is not eligible to gain national health insurance benefit for the post-transplant treatment. Let's see what the review report said about this.
It said that:
• TT is the result from the shortage of organ supply. So, it is very cautious to put strict regulation on TT as long as the organ donation is not increased.
• It is not appropriate to restrict the health insurance benefit just to combat the organ trafficking because it is one of the fundamental rights of citizen to get health insurance benefit.

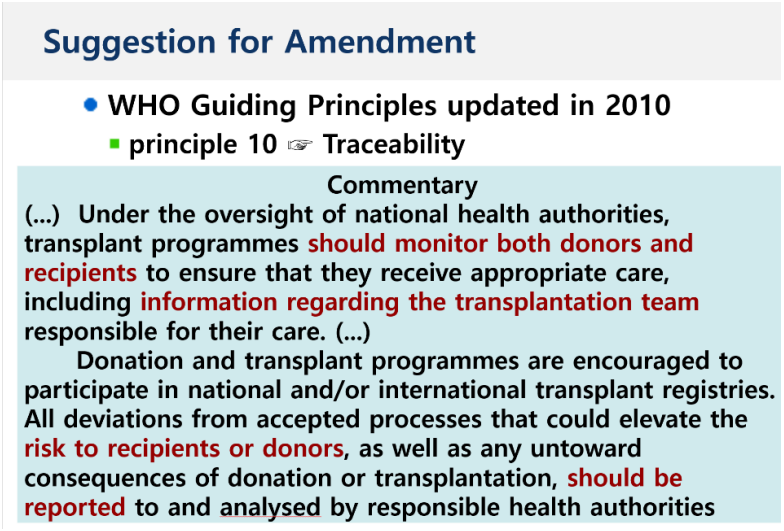


And the Koran Society of Transplantation expressed similar opinions: “To stop the insurance benefit for the overseas transplant violates the citizen’s fundamental rights severely.” From the perspective of a legal professional, I don’t understand this idea.

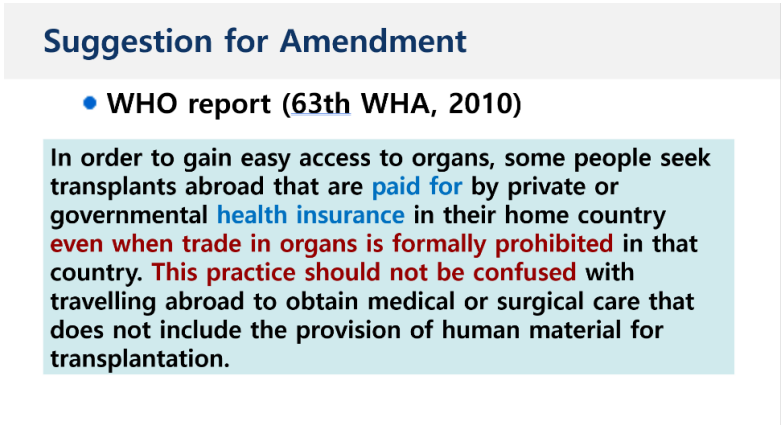
Summary:
The Korean Government and Society of Transplantation emphasize the welfare of the individual Korean patient, but it seems that they don’t care about the dignity of foreign organ donors. Mr. Oh’s and Lee’s bills are valid until May 2020.



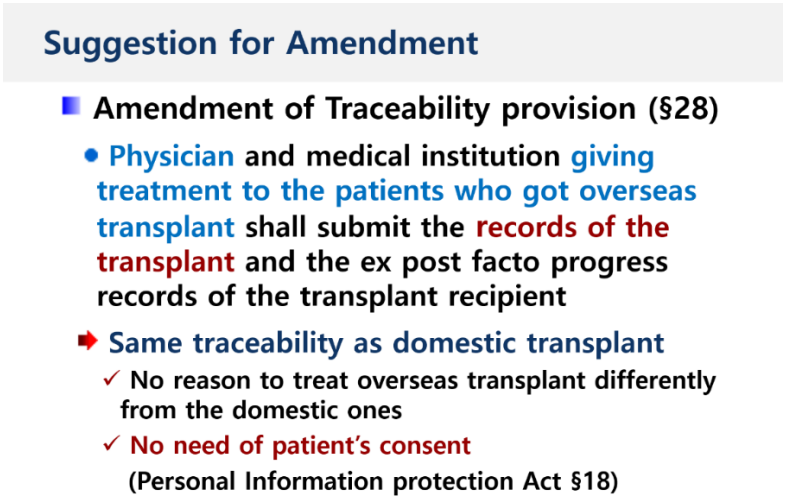
The last part is the suggestion for Amendment. Let’s briefly review the international standards: Principles of Declaration of Istanbul 2018.
Governments should ensure traceability in organ donation and transplantation.
Health professionals should assist in preventing and addressing TT and they should implement strategies to discourage transplant tourism with the government.



WHO's organ transplant guiding principles updated in 2010. WHO set up a new principle of traceability. It seems that Korea's Organ Transplant Law adopted the traceability provision due to this principle.



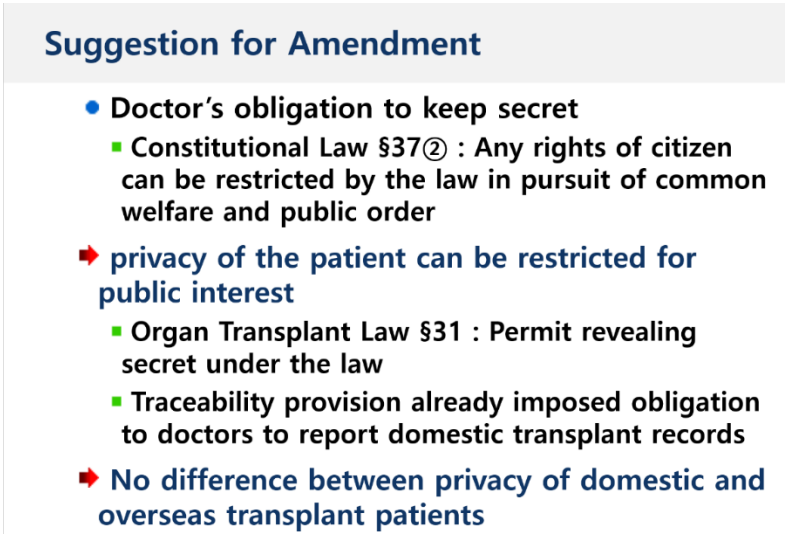
With the update of the guiding principles, WHO pointed out the phenomenon of international organ trafficking and transplant tourism in its report as follows:
"In order to gain easy access to organs, some people seek transplants abroad that are paid for by private or governmental health insurance in their home country even when trade in organs is formally prohibited in that country. This practice should not be confused with travelling abroad to obtain medical or surgical care that does not include the provision of human material for transplantation."



So first, we need the traceability provision for all transplants including overseas transplants, just as the amendments to bills attempted to achieve. One important thing is that we don't need the consent of the patients.

The concept of 'Consent' when collecting personal information is from Personal Information Protection Act. But this Act allows collecting personal information if another law allows it. Thus, when we apply the traceability provision, we do not need the consent of patients.

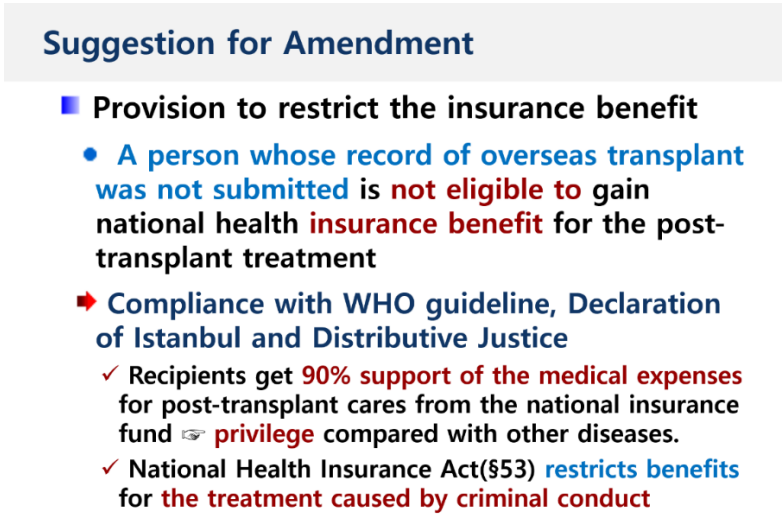
The current traceability provision for domestic transplant recipients does not require consent from them. Then why treat overseas transplants differently from domestic ones?



Then, does this collide with doctor's obligation to keep secrecy as the Society of Transplantation says?

No, our Constitutional Law says that any rights of citizen can be restricted by the law in pursuit of common welfare and public order. That's of course, because the legal system coordinates the various interests, sometimes conflicting ones among many people. So, the privacy of the patient can be restricted for public interest. And the Organ Transplant Law itself permits revealing the secret only if there is permitting provision.

From the perspective of the privacy, too, there is no difference between privacy of domestic and overseas transplant patients. Some might say that the latter has a fear of detection. But a criminal's fear of detection is not a right worthy of protection by law.



The second suggestion is to restrict the insurance benefit, similar to Mr. Lee's bill. A person whose overseas transplant record was not submitted by physicians is not eligible to gain national health insurance benefit for the post-transplant treatment. This discourages the transplant tourism, which thus complies with the Declaration of Istanbul and WHO guidelines. And this also accords with distributive justice.

Recipients get 90% support of the medical expenses for the post-transplant care from the national insurance fund. For common diseases covered by National insurance, the benefit ratio is usually around 70%. The 90% ratio for transplant recipients is an especially high privilege. Moreover, National Health Insurance Act restricts benefits for the treatment caused by criminal conduct.

Concerning these, treating the illegal overseas transplant recipients as equally as the domestic transplant recipients who get transplant under the strict legal system is not justice. National Health Insurance Act gives privileges to the transplant recipients with the premise that the transplant is legal.

Conclusion

In this research, I feel Korean authorities and the Society of Transplantation don't have enough will to combat organ trafficking, especially TT. I think this is neglect of moral hazard and, neglect of violation of law on purpose, and it will finally bring about the failure of the Organ Transplant Law. As time passes without controlling overseas transplants, people will think that "Organ trafficking is ok. It's my right to buy organs outside the country."

Like in some legal cases, if the transaction occurs between Koreans in another country's hospital, what's the use of this Law? The message the neglect sends to people is "you may buy organs, sell organs, as long as outside the country." The humanitarian spirit will vanish. And the root of this neglect is actually the discrimination between Koreans and unknown foreigners. It encourages inhumanity.

Finally, some people might think that "It can save my family member facing death. Kill a foreigner? That's not a big deal."

It's time to change.

Thank you for listening.

Legal Implications of Organ Trafficking and Transplant Tourism

Theresa Chu

The most important ethical and legal issues in the field of human organ transplantation legislation in recent years are organ trafficking, organ tourism and forced organ harvesting. The first reason is very simple: global organ shortage. The second reason is that the development of internet tools facilitates people around the world to quickly connect and communicate, which in turn globalizes organ trade. The third reason is the big transplant market arising from forced organ harvesting. The demand of global organ shortage is met by means of harvesting Chinese living prisoners' organs for organ transplant.

Transplant tourism in Asian countries, like China, the Philippines, Cambodia and India, is rampant. Today we need to work with more countries to combat and prevent organ trafficking and organ tourism.

After David Matas and David Kilgour released their investigative report on organ harvesting of Falun Gong practitioners in China, the international community began to develop more laws, guidelines and principles in combating these crimes.

To my best knowledge, before 2014 there was no customary international law in regulating these issues. There was a lack of customary international law to deal with the organ trafficking and transplant tourism issues.

Actually, before the Council of Europe Convention against Trafficking in Human Organs, the international community basically follows the Declaration of Istanbul, the guidelines set up by The Transplantation Society (TTS) and the International Society of Nephrology (ISN). Also, there are some resolutions on preventing and combating the organ trafficking and transplant tourism. But we lack universally accepted international norms to obligate the states. It is believed the crime of organ harvesting in China prompts the international community to develop international conventions which urge national legislation to combat organ trafficking and organ tourism, such as the Council of Europe Convention against Trafficking in Human Organs. This Convention encompasses ethical standards, principles and guidelines universally accepted today.

The pivotal principles in the Declaration of Istanbul (2018 edition) in the context we are discussing here are Principles 3, 4, and 5. International legislation tends to punish and criminalize the transplant tourism, trafficking in human organs and trafficking in persons for the purpose of organ removal. And according to Article 5 of the Convention: "Each

country or jurisdiction should develop and implement legislation and regulations to govern the recovery of organs from deceased and living donors and the practice of transplantation, consistent with the international standards."

What are the international standards? The international standards are traceability, transparency, quality, safety, fairness and public trust. However, the most serious violation, the organ harvesting, became a neglected issue in both 2008 and 2018 editions of the Declaration.

Travel for transplantation is not totally banned. Travel for transplantation and transplant tourism are different. What is the difference? According to the 2018 edition of the Declaration, travel for transplantation becomes transplant tourism if it involves organ trafficking and transplant commercialism. In other words, patients are allowed to travel to another country which has a transparent system for organ transplantation. But if you purchase and buy an organ in a foreign jurisdiction, your behavior would constitute transplant tourism.

The 2018 edition of the Declaration defined trafficking in persons for the purpose of organ removal. Comparing the two editions, you will find the trafficking in person for the purpose of organ removal is a very important point in the 2018 edition.

The second paragraph of the Convention states: "The aim of the Convention is to prevent and combat trafficking in human organs by criminalising certain acts; to protect the rights of victims as well as to facilitate national and international co-operation on action against trafficking in human organs." The practice of today's conference is totally consistent with the goal of this Convention-- we get together to exchange our knowledge and information, to raise awareness of organ trafficking and organ tourism issues. Here we also urge Japan and Korea to pass or revise their laws and regulations to criminalize organ trafficking and organ tourism.

The State Party of the Convention has to ensure the existence of a transparent domestic system for the transplantation of human organs. However, China has no such transparent system open to the international society. China's organ transplant is still questionable, and also the sources of organs are still not traceable. China's opaque organ transplantation not only violates professional ethics but also the international criminal law.

Article 2, paragraph 1 of the Convention reads: "This Convention applies to the trafficking in human organs for purposes of transplantation or other purposes, and to other forms of illicit removal and of illicit implantation."

In the second paragraph of Article 2, the Convention specifies some types of actions specified in Articles 5, 7, 8 and 9 of this Convention, which should be criminalized.
What action should be criminalized? Illicit removal of human organs, use of illicitly removed organs for purposes of implantation or other purposes than implantation. Article 6- Implantation of organs outside of the domestic transplantation system or in breach of essential principles of national transplant law. We can see the most important part of this Convention is to set up a legal firewall for preventing European people from going to China or the other countries where organs sold are not traceable. However, David Matas just raised an important issue—to prosecute a perpetrator, who illegally removes organs when entering Europe. This issue is not resolved in the Convention.

China Tribunal is a tribunal set up in London for the purpose of investigating the cases of alleged forced organ harvesting, especially sourcing living organs from Falun Gong practitioners in China. In June 2019, the Tribunal extensively reviewed evidence in several hearings and issued a summary judgement concluding that the awful organ harvesting continues to exist today. It is crimes against humanity.

The latest amendments to Taiwan's Human Organ Transplantation Act took effect on July 1st 2015, four years ago. Basically, because people in Taiwan and China speak the same language and are of the same race. Since forced organ harvesting atrocities were known and resulted in large numbers of illegal organ supplies in China, the issue caught Taiwanese people's attention and our NGO (TAICOT) sought to understand how Taiwanese patients obtained organs to undergo organ transplantation overseas.

We also learnt Taiwan high officials travelled to China to get organs and we at TAICOT decided to advocate for amending the Act to include prohibition of organ tourism. In addition, it was found that some medical doctors and patients in Taiwan involved as brokers in the organ tourism in China. Those were important factors for us to advocate the amendments to Taiwan's Human Organ Transplantation Act.

We did encounter many difficulties in having Taiwan legislators amend the Act to include transplant tourism. First of all, there are politically sensitive issues. We came to learn that the legal circle in Taiwan didn't object to amending the Act to include clauses of human rights nature. But from the medical community, some interested parties were not happy about adding the prohibition clause of organ tourism, although it is a legal trend to do so in the international community. The most difficult part was to wade through the troubled waters of different political positions—discrepancies between pro-China legislators and the other legislators.

Even though we encountered some difficulties, we also gained some important support from Taiwan's legal circle. I especially want to mention the public statement made by Taipei Bar Association. Taipei Bar Association is the biggest lawyer association in Taiwan. Its statement openly urged all the governments and parliaments to work on amending the human organ transplantation laws to combat the atrocities of organ harvesting in China. This public statement helped urge legislators in Taiwan to amend the Act.

The amendments to the Act on transplant tourism actually take three precedents as legal reference—Declaration of Istanbul (2008), Israel's Organ Transplant Act (2008) and Span's amended criminal law (2010) on organ tourism.

We hosted an international conference "International Legislation Trend on Overseas Organ Transplant" sponsored by Taiwanese health authority in Taipei in 2012. In this conference, TAICOT invited several foreign medical doctors and experts, for example, the Israeli doctor who helped amend Israel's Organ Transplant Act (2008), and the Malaysian surgeon who told the story of his patient ordering a heart for organ transplant in China.

We began to find legislators who supported amending the Act to include the prohibition clause of organ tourism since 2013.

Article 5 of Israel's Organ Transplant Act (2008) stated: "Nothing in the provisions of this Act shall prohibit organ transplantation conducted outside Israel, including the contribution of an Israeli entity to funding such transplantation, provided both the following conditions are met:

(1) The organ removal and transplant are carried out under the laws of the foreign country;
(2) The provisions of this Act with regard to the trade in organs are met.

If the above (1) and (2) are not satisfied, the foreign organ transplant is prohibited

Article 6 of the Israel Act: "No organ shall be brought into or taken out of Israel for the purpose of transplant into a human being other than in accordance with the directives laid down by the Minister of Health in consultation with the Minister of Foreign Affairs." In this clause, Article 6 specifies if organs are brought into or taken out from Israel, you have to meet the domestic standards and domestic law's requirements.

Article 36 Penalties includes the imprisonment sentences. The types prohibited include receiving rewards for an organ removal or giving a payment for an organ transplanted or

designated for transplant into another person. Those types are criminalized. The third is brokering. Since 11 years ago, Israel has already had these regulations to prohibit organ tourism.

Spain amended its criminal law in 2010 to combat organ tourism. A case is worthy of notice. A Spanish citizen, Oscar Garay, went to China for organ transplant (a liver transplant). Before he went to China, he had already known that China is a country where organ sources are questionable but still he bought an organ from China. He knowingly went to China to buy a liver. A Spanish lawyer had a chance to meet with and told Oscar Garay the organ source issue in China before he went to China. He didn't really take it seriously. Later Spain passed the amendment to the criminal law which forbids transplant tourism. But Oscar Garay in 2013 gave an interview in which he told the audiences he had a way to help get organs from China. Later in 2013 he was sued. He was charged with the offence of facilitating and promoting organ trade and organ tourism.

WHO WILL BE PUNISHED for organ tourism under Spanish revised criminal law? Those who facilitate and promote the illegal transplants will be prosecuted. In other words, patients also would be penalized for any violation of the Spanish criminal law. The broker agency or legal person will also be criminalized if they are brokering organ transplant outside the jurisdiction.

The milestone clause in Taiwan's amended Act in 2015 is the mandatory registration requirement or mandatory reporting requirement. Taiwanese health authority didn't want to include the prohibition clause of organ tourism and initially only agreed to collect information from patients to know how many Taiwanese go to China for organ transplant. Therefore, the authority added the mandatory reporting clause, which required patients who undergo organ transplantation in a foreign jurisdiction have to report to a Taiwanese hospital when asked about post-transplant therapy. The mandatory reporting requirement applies to both patients and medical doctors who give the post-transplant follow-up treatment.

What should they report? Section 4 of the Article 10 requires: "Patients who have received an organ transplant outside the R.O.C. and are going to receive post-transplant follow-up treatment in a domestic hospital shall provide the hospital with the following information in writing: category of the organ transplanted, name of the country in which they received the transplant, name of the hospital where the transplant took place, and name of the physician who performed the transplant; the hospital may report the case according to the provisions in the previous paragraph." Article 16, Paragraph 1, Item 2 reads: "Violating the provision in Paragraph 3 or 4 of Article 10 in the mandatory

reporting requirement." So the hospital physicians or patients shall be fined for violating the requirement. In the past four years, only two hospitals are fined.

But finally, the Taiwan congress passed both the mandatory requirement and prohibition clause of organ tourism in the Act.

Article 16 (prohibition on organ tourism):

1. Persons who broker organ transplants or the provision and acquisition of organs and are found to be in violation of the provisions in Article 12 shall be subject to imprisonment of at least one year and up to five years, in addition to a fine between NT$300,000 and NT$1,500,000.

2. R.O.C. nationals committing the aforesaid offence outside R.O.C. territory shall be dealt with according to the provisions in this Act, regardless of whether the offense is punishable or not under the law of the area where the crime is committed.

3. For medical personnel found to be in serious violation of the provision in Paragraph 1, their professional certificates may be revoked.

The statistics and data of Taiwanese overseas organ transplants that we received from Taiwan health authority are around 361 cases. The majority of patients in those cases went to China for organ transplants.

Who are the donors/organ sources that Taiwanese patients received from in China? Who are the donors? The US congress and European parliament respectively passed the resolutions in 2016 and 2013 to express concern about Party state-sanctioned organ harvesting from non-consenting prisoners of conscience in the People's Republic of China, including from large numbers of Falun Gong practitioners and members of other religious and ethnic minority groups. The two resolutions confirmed that the allegation of forced organ harvesting in China was proved to be true and condemned such an unprecedented evil atrocity on this planet.

Another question is: Did Taiwanese patients purchase organs from China hospitals? Most of the Chinese hospitals which Taiwanese went for organ transplantation in China are suspected to have committed the crime of forced organ harvesting in the investigation reports of The World Organization to Investigate the Persecution of Falun Gong (WOIPFG).

Taiwan has Human Trafficking Prevention Act in place to penalize forced organ harvesting and organ trafficking. Taiwan has neither organ trafficking nor organ

harvesting cases because Taiwan has a complete, strict and transparent system to regulate human organ transplantation.

My conclusion today is what we discussed here involves not only legal issues but human consciousness issues. Humanity is a virtue associated with basic ethics of altruism derived from the human condition. It also symbolizes human love and compassion towards each other. Humanity differs from mere justice in that there is a level of altruism towards individuals included in humanity, more so than the fairness found in justice.

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