



10 OCTOBER 2019

ORGAN TRANSPLANTS AND HUMAN RIGHTS ABUSES IN CHINA

PROFESSOR SIR GEOFFREY NICE & PROFESSOR MARTIN ELLIOTT

We humans – we *people* – commit mass atrocities of limitless wickedness against other *people* in the course of international armed conflicts, civil wars and persecutions of people by their own governments. These atrocities are sometimes judged criminal by *formal* courts.

In tonight's talk Martin Elliott, former Gresham Professor of Physic, and I (Geoffrey Nice), sometime Gresham Professor of Law, will discuss how an *informal* People's Tribunal judged mass atrocity killings committed by the People's Republic of China (PRC) of thousands of its people – most notably imprisoned peaceful, harmless, forbearing practitioners of Falun Gong - cutting open their bodies, sometimes before clinical death, to extract their organs – livers, hearts, kidneys etc – for commercial transplantation into other people.

The process is known as 'Forced Organ Harvesting'.

All kinds of mass atrocities are accompanied by other grave wrongs, committed by people in power in the states involved in the killings, by other states with self-interests to serve, by international organisations such as the UN and even – material for our discussion – by international associations of professionals, medics in this instance. These wrongs? Lying about the truth of how and why the mass atrocities were committed; obscuring the truth; declining to face up to the truth.

These grave wrongs, just like the atrocities themselves, are committed by people: people running the criminal governments, people running the other governments, officials of the UN and other bodies.

These wrongs *themselves* do immense harm. First by freeing those around the world who should stop the atrocities from doing what they should. Second by depriving we people - who *claim* we would like to see less of such mass atrocities - of learning from how and why terrible atrocities happen. Third, by denying all victim people who survive, and the bereaved people of those killed, of the immense benefit of knowing before the natural ends of *their* lives why and how their loved ones were killed.

Occasionally, we people *have* been able to mitigate *these* wrongs by the operation of Peoples' Tribunals that do *informally* what formal courts can never do so long as governmental and international bodies avoid acknowledging 'inconvenient truths'.

Peoples' Tribunals have something of a history: The Comfort Women Tribunal – so called – pronounced in 2000 on the criminality of the Emperor of Japan himself and others for the brutal sexual slavery of women from several nations forced to serve the sexual appetites of Japanese military in WWII. No other body had dared to investigate these crimes in any formal way.

Lord Russell's Tribunal of 1962 – the first Peoples' Tribunal in time – assessed the criminality of the USA in the Vietnam war and is the only body to have done that in an evidence-based way, flawed though that tribunal was.



A Tribunal has reported quite recently on the massacre of about one million Communists in Indonesia in 1965 where Western Powers were heavily implicated in the killings – and where no official or formal inquiry has ever been held.

In 2013 the Iran Tribunal delivered its Judgment about the massacre in the late 1980s by the Iranian regime of opponents – no one would suggest formally investigating these events with Iran the catalyst of war it is thought to be.

There have been many others around the world, all having some and different effects.

Evidence-based allegations about forced organ harvesting in the PRC have been public since at the latest 2002. But investigations in Congressional Committees in the USA, in Parliamentary committees in Australia and elsewhere have always failed to find - or perhaps *avoided* finding – that the facts were established, and that China had been committing international criminal offences.

And so an NGO now called ETAC (The International Coalition to End Transplant Abuse in China) – convinced of the truth of these allegations and with much evidence to hand - sought to defeat what it saw as wilful ‘agnosticism’ of people with power around the world, including several ‘agnostic’ politicians of the governing party in the UK. A suggestion to me that a written opinion about the accuracy of the allegations and whether crimes were established seemed unlikely to serve any purpose. Whatever the opinion said it would get nowhere, not even into a newspaper let alone on to a dusty government shelf.

Had they thought of a People’s Tribunal? No and they weren’t keen. Why put their own certainty at risk by having an independent body – as People’s Tribunals have to be - pronounce negatively on what they believed. But with time they could see the possible value, despite the risk.

I provided a model and they appointed the panel. The principle was to have non- experts not even the lawyers – in the event there happened to be four from different jurisdictions but not operating as lawyers. The Tribunal read all the written material presented by the NGO, heard witnesses in London in public with proceedings streamed for public view. Witnesses came from around the world in person or by the equivalent of Skype. There was a pause for further evidence, including evidence called for by the Tribunal, to be available and a further evidence hearing. At the end of that second hearing an interim finding was delivered. Later in June 2019 a 60-page Summary Judgment was read out at a public hearing. The PRC and the few non-Chinese doctors who supported the PRC were repeatedly invited to participate in all hearings but failed to respond or help. The final full Judgment (to the same effect but with all references etc checked and double checked as necessary for a document of record) will be presented soon.

Every word read by the Tribunal can be read from the website (www.chinatribunal.com) and every witness heard can be seen on video. If anyone wishes to challenge the findings made, they will need first to review all the evidence and the analysis.

Answering difficult questions is a standard activity of people throughout their lives. Being fair in the process is not necessarily difficult: Hear witnesses in person wherever possible; regard hearsay – second degree/second hand – evidence with caution; and treat written material with the same care you would any work of scholarship or piece of investigative journalism, checking whatever you can for accuracy. We borrowed one principle of many legal systems, namely, *not* to allow experts to express opinions on the *final* issues – they had to remain for the panel and experts could only be of value so far.

We recognised that the risk of the terrible Human Rights record of the PRC could be prejudicial so we looked at (self-contained) ‘silos’ of evidence relating to specific issues – telephone calls to hospitals where offers of a liver in 2 weeks were or similar made; imprisoned Falun Gong practitioners being regularly tested for medical condition of their organs; statistical analysis of hospital capacity for transplant operations in the PRC– as if the evidence actually related to a country like New Zealand or Canada or the Republic of Ireland with a good Human Rights record. What would this silo of evidence show for such a country? Of what could we be sure/certain – proved



beyond reasonable doubt and unanimous? These conclusions, conservative as inevitably all were (and all can be found in the Summary Judgment) were added together to reach the conclusion – which was that the acts had been and were being performed as were mass detention and torture on a massive scale and the crimes established amounted to Crimes against Humanity.

Tribunal members acted as if jurors and, like jurors everywhere, found ourselves assessing factual witnesses, handling expertise (especially statistical) making conclusion from many strands of evidence.

For a time we ceased to be part of the near universal cadre of those of us who are for ever saying of every distant anonymous disappointing body of other people: ‘THEY won’t do this or that’; ‘THEY won’t tell us the truth’; ‘THEY lie to us’ and we became a tiny group of people saying, ‘On this we can reach a judgment – and here it is’

MARTIN ELLIOTT

You have heard from Sir Geoffrey that People’s Tribunals are formed of citizens willing to make decisions about important issues with which national or international bodies have not (adequately) dealt. I was asked to join this Tribunal as such a citizen. You might reasonably ask; “Why did I accept?”

I did so because the allegations to be investigated were so horrific, and so similar in scale, to the major horrors of the 20th Century that I felt a moral responsibility to become involved. I simply could not stand by. I also accepted because of a clear secondary role within the Tribunal. Alone amongst the members, I had both detailed technical knowledge and practical experience of organ transplantation. My job today is to outline to you some of the knowledge with which the China Tribunal had to come to terms. The detailed evidence can be read on www.chinatribunal.com.

Organ Transplantation

The ability to transplant an organ from one human being to another may be considered a scientific and social triumph. It has been hailed as such in many societies and has been used as an indicator of the development of a state and even a measure of its status. In many ways, organ transplantation represents the apotheosis of human generosity; one human thinking of another and, in mental preparation for death, having the generosity of spirit to offer one or more of their organs (after their own death) potentially to save, or at least improve, the life of another, to them unknown, person.

An organ transplant is a surgical operation in which a failing or damaged organ is removed and replaced with a healthy one from another individual. Following improved understanding of immunology and tissue rejection, (and its suppression), solid organ transplantation has evolved considerably over the last 70 years, and procedures and drug regimens have been developed to permit transplantation of many organs. Most people will be familiar with kidney, liver, corneal, heart and lung transplantation, but over recent years the range of organs which can be transplanted has expanded to include bowel, pancreas, uterus and even the face.

Integral to any form of transplantation is the principle of **consent**; of the organ donor and his/her family, and of the recipient. The family of the donor is important, the family can over-ride the donor’s pre-mortem wishes. Because the members of that family have to live on after the donor’s death, and so live with any decisions they make or support. Throughout most of the world, governance structures have evolved to ensure that transplantation is conducted against a set of strong ethical principles. Organ donation laws vary somewhat from country to country but are largely covered by the concepts of ‘opt in’ or ‘opt out’. To opt in means that an individual may add their name to a voluntary organ donor list, usually maintained nationally. Opt-out systems mean that an individual will automatically be deemed a potential organ donor unless they opt out of the system by registering their wishes in advance. In both systems the family of the donor has a say in whether organs can be used after death. The entire process is built on sound, well-established ethical foundations and considerable trust.¹

¹ *Virtual Mentor*. 2012;14(3):264-268.



In most countries of the world, organs for transplantation are removed from people who are brain dead (DBD, donation after brain death). More recently, donation after circulatory death (DCD) has become possible because of advances in organ preservation, and this has resulted in an increase in the number of available donor organs². Live donation of blood, bone marrow, a kidney, part of a liver and part of a lung is possible without sacrificing the donor, who can return to a normal life.

A patient determined to be brain dead is legally and clinically dead. The three findings essential to define brain death are coma, the absence of brainstem reflexes, and apnoea. A detailed evaluation for brain death³ should be considered in patients who have suffered a massive, irreversible brain injury of identifiable cause, including trauma. Throughout the world, there is adherence to the 'dead donor rule', which stipulates that organ removal must not be the cause of death. Such organ removal can in no way be considered mutually beneficially to both parties and is thus both unethical and criminal. China has no legislation for declaring death on circulatory or brain criteria.

Without consent, organ donation has the potential to become coercive, exploiting either the poor (by trading in organs such as a kidney) or by violating the human rights of individuals as in the case of executed prisoners, extracting their organs either without any consent or under conditions of *forced* consent, contrary to Article 3 of the Universal Declaration of Human Rights.

It has been argued that a trade in organs which ensures that the seller is fully informed of all the consequences of donation is a mutually beneficial transaction between consenting adults. The donor lives and is marginally better off, trading a risk to life for short term gain. This practice continues, especially in relatively unregulated markets such as Egypt, India and Turkey, amongst others.

Tissue Matching

Your body has systems within it to identify and reject tissue which it identifies as non-self. To minimise the chances of rejection it is necessary to perform as close as possible tissue type matching between donor and recipient. This usually comprises matching ABO blood type and something called human leukocyte antigen (HLA) compatibility, most recently performed using DNA analysis. There must also be matching of donor to recipient size in most cases, and it is important to ensure the absence of other disease (for example infection or malignancy) in the donor. After transplantation, the recipient's rejection response to the transplanted organ must be suppressed by anti-rejection drug therapy for life.

Tissue matching requires blood tests; a topic of great significance in evidence presented to the Tribunal. Many of the witnesses, and much of the written evidence, reported blood testing and assessment of organ function, for example by ultrasound examination, during detention. Such tests would be necessary to match potential donors to recipients.

Transplantation Infrastructure

Transplantation at national and international level (at scale) requires a significant infrastructure. This starts with a database which matches the relevant characteristics of a donor with those of potential recipients. The databases are at a minimum national and often (e.g. UNOS in the USA or Eurotransplant in Europe) across continents. Demand for organ replacement far exceeds supply. Waiting times for organs are long and deaths of potential recipients occur whilst waiting for an organ to become available.

The shortage of available organs in relation to the demand means that there exists in most countries a formal organ allocation (prioritisation) system, which varies according to organ.⁴ By definition, this means that there is

² Smith M, Dominguez-Gil B, Greer DM, Manara AR, Souter, MJ Organ Donation after Circulatory Death; current status and future potential. *Intensive Care Med* (2019) 45:310–321

³ The details of testing are beyond the scope of this lecture.

⁴ By way of example for UK regulations and system see: <https://www.odt.nhs.uk/transplantation/tools-policies-and-guidance/policies-and-guidance>. Details are beyond the scope of this Judgment.



an effective waiting list on which recipients must queue before being offered an organ. This is usually referred to as the transplant list.

When a potential donor is identified, the database is searched at a central administrative office for suitable recipients, after which a series of logistic questions have to be answered. Is there a donor team available to retrieve the organs? Is there a recipient surgical team available in the transplant centre? Are there ICU beds? Can the recipient get quickly to the hospital? And many more questions, detailed by protocol and checklist.

Organs are usually retrieved from donors at the hospital in which the donor is being cared for. Most countries have an integrated system for organ retrieval, underpinned by strong ethical principles and robust quality and clinical governance support systems, that respect both the donor and his or her family's wishes.⁵ A single donor may provide organs for several recipients, for example a single patient could donate heart, small bowel, pancreas, two kidneys, and 2 parts of a liver, and two lungs. Thus, several patients who would otherwise die might live because of one altruistic act of donation. Skilled teams of transplant surgeons, physicians, nurses and technicians are required. An effective transport and organ distribution system is necessary. Transplantation is a highly integrated process requiring a broad range of expertise. To maintain clear ethical separation, the retrieval (donor) team is maintained as a separate entity from the recipient (transplant) team. The system is built on trust, and proper governance structures are in place to underpin that trust.

Organ Extraction

Some of the technical issues which required explanation to the tribunal related to the practical aspects of the retrieval of organs from the donor. In the current era, in most countries, organs are removed in a multi-organ retrieval procedure from a confirmed brain-dead donor. Teams of surgeons, often from different centres, converge on the hospital in which the donor is being supported. When all is in place, and after a plethora of checks, the donor is brought to the operating room and monitored as if undergoing a formal, elective major operation. Clearly, it is important that the organs are in their optimum state when extracted; donor care is of great importance. I will talk you through an operation to remove heart, liver and kidneys to outline the principles, but remember that the operation might also include harvest of lungs, small bowel, pancreas and other organs.

The retrieving surgeons check all the details of the patient (including up to the minute assessment of organ function) and report back to the recipient hospitals and transport teams to coordinate timings. A long midline incision from neck to pubis and a transverse incision across the abdomen give access to all the organs.

Each team dissects the large blood vessels supplying and draining their target organ and, after giving heparin to stop blood clotting in the vessels and organs, each team inserts cannulae into the feeding and draining vessels. The purpose of these is to deliver an organ-specific cold solution to flush the organs of donor blood and leave them in a state suitable for transportation and preserving them in optimal condition. Once everyone is ready and each organ cannulated, the cardiac team take the main stage and put a large clamp across the aorta and flush the heart with cold cardioplegia (fluid designed to stop the heart and minimise metabolic activity). The inferior vena cava is divided and the cardioplegia flowing through the heart is vented out. The heart stops and can be excised and thence placed into sterile bags and then in ice for transport. Simultaneously the liver and kidney team perfuse their organs and the perfusate is also vented through the IVC.

The time from stopping the heart to removal of the organ and making it cold is the warm ischemic time, usually measured in minutes. The organs are then packed in ice and transported via car or plane to the recipient hospital where they are inserted. The time between removal and insertion with restoration of blood flow is the cold ischemic time; preferably not longer than 4 hours. Removal of organs after circulatory death is more complex and beyond the scope of this lecture.

It is clear to you all, I am sure, that to remove organs in this way and to transplant them is a high-level skill. It requires trained surgeons, nurses and anaesthetists, among others, acting ethically. It is inconceivable to carry out such surgery without awareness of the state of the donor. It is unethical, and indeed criminal, to operate without

⁵ For more information see: <https://www.odt.nhs.uk/retrieval/retrieval-process>



consent. Removal of vital organs is un-survivable. If the donor is brain dead this is not an issue, but if the donor was not brain dead or has not given consent, then it is murder. Forced organ harvesting.

When the organs arrive at the recipient's hospital ready for transplant, the donor details are cross-checked with the records and with the recipient's details and the 'quality' of the organ assessed. A poor-quality organ will still be turned down. Consent is confirmed, and relevant data are entered into databases and the patient's record for audit and future management of the recipient. The coordinating transplant authorities are informed of the details.

Why did the Tribunal need to know such detail? Because we heard evidence, both of and from surgeons who had been forced to remove organs from prisoners who were almost certainly alive. There was an obsession in many of the reports we read with the warm ischemic time. As I have indicated this should always be short with the technique I have described, but it takes on extra importance if the mode of death is uncontrolled. This is what we heard in evidence from the surgeon who did it organs being taken from a 'live' prisoner shot at in the right chest to avoid the heart, when other prisoners were executed at the same time by shots to the head. The organs had to be removed as fast as possible...hence the obsession with warm ischemic time.

Data

I have already said that databases must exist to match donor and recipient. The data are also necessary for the follow up of transplanted patients. It is important to know about the precision of tissue matching, any other donor issues such as size mismatch, infection or malignancy discovered at post-mortem, all of which may affect the fate of the recipient. For obvious ethical reasons, there must be a clear audit trail of organ usage and distribution.

In the UK and most other countries, the anonymised data are also available for public scrutiny and for research purposes. Countries publish these data to International registries of transplantation and as National reports of activity. In the UK such reports are published on line and quarterly by NHS Blood and Transplant (<https://www.organdonation.nhs.uk/helping-you-to-decide/about-organ-donation/statistics-about-organ-donation/>).

In China, the situation has been different. There was no deceased organ donation system in the conventional sense until 2010, and this existed only as a pilot program until 2014. In the early days of transplantation in China⁶, organs were thought and indeed said to be obtained solely from executed prisoners. Indeed, formal legislation was passed in 1984 (perhaps appropriately) to allow this. For decades China treated transplantation statistics as a state secret, in the same way it did data about executions. Data about the number of executions were collated by external groups such as Amnesty or the Dui Hua Foundation. In 2002 there were around 12,000 executions in China (https://duihua.org.wp/?page_id=9270). International pressure, particularly over the use of executed prisoners as organ donors, prompted a gradual reduction in executions and by 2013 the estimated number of executions had fallen to 2400. At a time when there was no comprehensive voluntary organ system and when Chinese officials were claiming 10,000 transplants per year. A large gap between the number of official donors and the number of transplants. Despite performing around 120,000 organ transplants from 1977 to 2009, according to Allison et. al⁷, Chinese officials admitted to only 130 being voluntary by end 2009. Where did the donors come from if not from executed death-row prisoners and not from volunteer donors?

What we do know is that there was a period of rapid growth in China's organ transplant sector starting in 2000. There was manifest by large numbers of new hospitals offering transplantation, a state commitment to its expansion and the recruitment and training of many transplant teams. No formal regulations existed until July 2006, when interim regulations banning the sale of organs and setting standards for organ transplantation, were

⁶ The first transplant in China was performed in 1978. The donor was an executed prisoner, the recipient a CCP official.

⁷ Allison KC, Caplan A, Shapiro ME, Els C, Paul NW, Li H. Historical development and current status of organ procurement from death-row prisoners in China. BMC Med Ethics. 2015;16:85.



issued by the Ministry of Health⁸. This was one week after witnesses emerged reporting the use of prisoners of conscience as organ donors. Organ trafficking was declared illegal by an amendment to the Criminal Law in 2011. Yet from evidence discussed below, it is clear that such trafficking still occurs, and at scale.

It is impossible accurately to determine the number of transplants performed in China. None of the official transplant registries are publicly accessible and what data are provided by spokespeople for the Chinese transplant services are sparse in detail and difficult independently to corroborate. With rare exceptions, gathering data on transplant activities in China has required manual collection from what official sources do exist, including state-run publications, official websites (many now archived as they were rapidly taken down once it was known there were investigations) and clinical publications (scientific papers). The Tribunal read and heard evidence of many Chinese speaking individuals resident outside China making phone calls at different times over more than a decade to hospitals, transplant physicians, hospital administrators and organ brokers in China, pretending to be needing a transplant and asking about cost, availability and source of donor organs. These calls were recorded, and transcripts can be seen at www.chinatribunal.com.

The calls are important. Given the lack of transparency from Chinese authorities, obtaining data by these sources offered the only rational way of estimating numbers. By triangulating data from individual hospitals, transplant units, surgeons' own data and publications, it proved possible for the researchers to define a *probable* range of number of transplants between 60-90,000 per year in China in 2016. In that year, the official number of deceased donors listed⁹ on the official Chinese (COTRS) registry was 4080¹⁰, and the number of (deceased) kidney transplants was 7224 and livers, 3257. The mismatch between 4000 official donors and a derived minimum of 60,000 transplants is at the centre of this case. Even if we add a highly unlikely heart and two lungs from each donor, that only takes us to 22,000 transplants. Even if we double that for any live transplants (one kidney or part of a liver) that still leaves us well short of the derived minimum number of transplants performed. That gap can only be accounted for by an alternative donor organ pool.

I have already indicated that there are more people needing organs than donor organs available. Patients have to wait for a suitable organ to become available, and many sadly die waiting. The average waiting time (adult) for a liver in the UK is currently 135 days. Much longer in the USA. In China, hospitals quote waiting times in a matter of days. For example, Shanghai Changzheng Hospital's website quoted a wait for a liver of one week. The waiting time for a deceased kidney donor in the UK is currently 2.5 to 3 years. In China the wait is advertised by hospitals as a matter of days. The only way such waiting times are possible is if there is a readily available population of tissue matched donors.

It is this population at risk that was the concern of the China Tribunal.

GN: This is, perhaps, a 'hard' talk. Hard in the sense that it is hard to hear unremittingly bad things about us people. People always capable of doing unimaginably evil things to each other when circumstances collide and leaders give orders; never to be told the truth about atrocities committed in conflict (over and above the inevitable obfuscation of truth that comes with victors in conflict writing slanted histories as spoils of war); the public's interest in truth-telling about mass atrocities always being subject to political interests of other kinds; unreality of ever imagining that we people would attempt, as people, to sanction the PRC by, say, a boycott of goods as we might if these things were happening in France, Belgium or the Netherlands; thus the revelation that there is no single humanity and that human rights are not in any sense universal as we never really to want for fellow people across the globe what we might want more for ourselves or immediate neighbours across the channel.

⁸ [人体器官移植技术临床应用管理暂行规定 \[Interim Provisions on Administration of Clinical Application of Human Organ Transplantation Technology\]](http://www.moh.gov.cn/mohyzs/s3585/200804/18344.shtml). Beijing: Ministry of Health; 2006; Available from: <http://www.moh.gov.cn/mohyzs/s3585/200804/18344.shtml>

⁹ Presented by Huang Jiefu at the Vatican in February 2017.

¹⁰ There is significant doubt over the validity of this figure, as we heard in evidence.



This last lesson fits conveniently with the end of globalisation being near, as desired by Trump and other leaders who favour the licence to do as you please within nation state borders unrestrained by outside norms or international intervention.

Progress of the Summary Judgment delivered in June 2019 to date has been reasonably successful in broadcasting knowledge of the allegations made for 17 years even if known to only a few. Hamid Sabi, Counsel to the Inquiry, was able to speak for the 90 seconds permitted to NGOs at the UN HRC 2 weeks ago and that attracted attention; however as a side event – as they are called – began the representatives of the PRC were at the door of the room attempting to block it. We learnt from other diplomat discussions how much influence the PRC has now that it funds the Human Rights Council – and so some diplomats seemed keener to find a reason to *dis*believe our Judgment than the reverse. But maybe some country will eventually go even further than the USA – that does almost acknowledge as facts what has been alleged – and announce that crimes have been committed for us all to see what nations or international bodies or activists can then achieve.

Although this a subject of global interest, for us in the UK reactions worth considering.

The UK government has been asked many times about these allegations before our work started and has always been agnostic on grounds the evidence is insufficient to prove what is suggested. Yet the government declined all invitations by the Tribunal to provide any analysis of the insufficiency of the evidence but has now stepped down in its negative approach to the lesser double negative of the evidence not being irrebuttable.

On the night of delivery of the Summary Judgment in June BBC's 'flagship' Newsnight programme had prepared a substantial film about the Tribunal and its conclusions. Blocked for no good reason late in the afternoon and never broadcast.

In two very good BBC programmes – a three-part serial 'China a New World Order' on BBC 1 and Mark Mardell's Radio 4 World at One series on the 70th 'birthday' of the PRC there has been plenty of reference to human rights abuses but no single reference to organ harvesting, not just no reference to our Judgment but nothing said of the 17 years of evidenced and effectively unchallenged allegations made around the world. A moment of levity to make a point for those who can remember Basil Fawlty in the episode of Fawlty Towers where his hotel has German guests and he warns his staff 'Don't mention the war!' It is as if he said then - we are now being told something similar - 'Mention the war as much as you like but don't mention the Jews'. We are being rationed about the level of wickedness we can attribute to the PRC. Why? Jeremy Hunt said in the first of the three-part series

'When we look at what happens to the Uighurs this is obviously completely against our values we raise these issues with the Chinese government when we see them and we also understand that if we talk too loudly and publicly about our Human Rights concerns we will lose access to senior people in the Chinese government and then we won't be able to do any good at all. I think very few countries have any leverage at all when it comes to what happens inside China and the Chinese Government is absolutely clear that this is not a matter for outside countries.'

In standard philosophical utilitarian terms a reasonable argument? But contrast it with a 'hypothetical' about the unmentionable comparable of WWII. What would we say now of any suppression of known truths of similar gravity then of the Holocaust if suppression was in the interests of, say, world trade not the saving of human lives?

But let's go back to the forming of the Tribunal to see whether the principles applied are in tune with the world around us. We learnt from other Tribunal sand tried not to make the mistakes they may have made. Unlike Lord Russell's Tribunal into Vietnam we did not form a panel of 30 odd left-leaning intellectuals writers and politicians – Russell included including SIMONE De Beauvoir, Jean Paul Sartre, Tariq Ali plus Lawrence Daley General Secretary of the Mineworkers Union – rather we wanted members who knew nothing of the allegations (five of the seven had never heard of them when we started work, the other two had heard only a little). In one Tribunal I had been involved with the 'judges' included those with definite predisposition in favour of the conclusion sought by the a 'prosecutor' and thus harmed the integrity. Other tribunals have been composed entirely lawyers.



Why? No need for them and although our Tribunal has four from different jurisdictions not working as lawyers, I would have happily done without altogether had non-lawyers been more used to volunteering for this sort of work. I would have been happy not to be a member but to act at most as a legal adviser to alert a panel of non-experts of any kind to the odd things of procedure that we decided to apply. Experts – lawyers, Human Rights specialists, UN specialists - always come with preconceptions that may sully the clarity of their thought. We had two people with expertise essential to checking we did not go off the rails – Martin to ensure we understood medically expert material and the professor of China who could help us from stumbling too badly as we crossed a great cultural divide.

Whether this serves as a model for any future tribunal is uncertain but maybe we did reflect the age in which we live in our ‘we can reach a judgment moment’.

The Summary Judgment of the China Tribunal can be seen and read here;

www.chinatribunal.com

**You will be able to read the evidence presented to the tribunal
and watch the oral evidence from public hearings.**

We encourage you to do so.

Those who provided evidence often did so at personal risk.

© Professor Sir Geoffrey Nice & Professor Martin Elliott, 2019