

Strategies for ending organ transplant abuse in China

(Remarks for a parallel forum, American Transplant Congress, Boston, Massachusetts, 3 June 2012)

by David Matas

David Kilgour and I came to the conclusion in July 2006 that Falun Gong were being killed for their organs. Because I am a human rights advocate and activist, as well as a researcher and writer, I tried to do everything I could to attempt to end the abuse the two of us had identified.

Initially my approach was scattered. Over time the strategy became more specific and targeted.

I want to go through that strategic evolution and conclude with a suggestion about the best strategy today. Before I do that, I want to say a few words of background.

Falun Gong is a blending and updating of ancient Chinese spiritual and exercise traditions. It began in 1992 with the teachings of Li Hongzhi. Chinese authorities first encouraged the practice of Falun Gong as beneficial to health. It grew from a standing start in 1992 to between 70 and 100 million practitioners in 1999 at the Government's own estimate. At that point, some leaders in the Communist Party and then Party leader and state President Jiang Zemin in particular became jealous of its popularity, considered its spiritualism a rebuke of Communist atheist ideology, and feared that its mass support posed a threat to the supremacy of the Communist Party. Jiang Zemin led the Party and then the state to ban the practice.

Practitioners were arrested and asked to recant their beliefs in writing. If they did so, they were released. If they did not, they were tortured. If they recanted after torture, they were then released. If they did not recant after torture, they disappeared into the vast Chinese detention system.

Falun Gong practitioners became two thirds of the torture victims in China and half of the detainees in the Chinese gulag, its re-education through labour camps. The number of arbitrarily detained Falun Gong was in the hundreds of thousands.

Organ transplant in China began in the 1980's with organs extracted from prisoners sentenced to death and then executed. The law did not require the consent either of the prisoner or the family, as long as the family did not claim the body.

When China shifted from socialism to capitalism, the state withdrew money from the hospital system. Many hospitals, to keep their doors open, began selling organs to transplant tourists for huge sums. The demand quickly outstripped the supply of prisoners sentenced to death, as many death sentences and executions as there were. So the hospitals shifted to another source, the vast number of Falun Gong practitioners arbitrarily detained in the Chinese gulag who had refused to recant even after torture.

When David Kilgour and I first came out with our report, we received many invitations to speak about the report at public fora. However, over time, to keep the issue and the campaign to end the abuse alive, we had to rely on our own efforts.

I started putting in abstracts to conferences on ethics, human rights education, legal education, international law, transplant medicine, and health. If an abstract was accepted, I would prepare a talk or a poster and go to the conference to make a presentation.

David Kilgour and I made submissions to parliamentary fora, national assemblies, and congresses. We have done so for instance in Ireland, the European Union, France, Mexico, Japan, Australia, Hong Kong, the United States.

We have also updated our research and publications with a second report January 2007 and a book in November 2009. Torsten Trey and I are providing a further update, a collection of essays scheduled to be published in July this year under the title "State Organs".

This campaign, which has now gone on for six years, has seen a number of changes both in China and abroad. Most notably, there has been a marked decrease in transplant tourism into China.

However, transplant volumes have remained constant despite a significant decrease in the death penalty. As well, an abuse once limited to prisoners sentenced to death and Falun Gong has now spread to other prisoners of conscience, Tibetans and Uighurs. So the changes have meant that the abuse we identified has increased over time.

Strategically, there seemed to me to be three ways of ending the killing of Falun Gong for their organs. One was to end the persecution of Falun Gong. A second was to end the re-education through labour camps, which are vast forced organ donor banks. The third is to end the killing of prisoners for their organs. End the killing of all prisoners for their organs and the killing of Falun Gong prisoners for their organs would inevitably end.

All three are worth pursuing and I have indeed as best as I could pursued all three. However the most strategic seemed to be the third, pursuing an end to the killing of prisoners for their organs. When we or others protested to Chinese officials about the persecution of Falun Gong, the answer came back slandering Falun Gong. Calls to end the re-education through labour camps were met with the hollow response that under the Chinese criminal law arbitrary detention is illegal, ignoring the fact that there is no mechanism in China to enforce that law or any law against the Communist party or the state.

Urging the end though to the killing of prisoners for their organs was different. The Chinese government was at least prepared to acknowledge that what this was wrong, albeit not to the extent of admitting they were killing prisoners of conscience for their organs. Their admissions rather were that the victims were all prisoners sentenced to death.

Chinese authorities were though prepared to accept that the abuse should end and did take some small symbolic steps to end it, albeit with no real impact on volumes. For instance, the Chinese government set up an organ donor system. The gesture was symbolic only because the number of donations was tiny. Nonetheless the Chinese government willingness to admit wrongdoing and initiate change gave pursuit of this strategy more promise than the others.

In particular, since the first version of our report came out

- The Government of China has banned the sale of organs. On July 1st, 2006, a law banning the sale of organs came into effect¹.
- Civilian hospitals engaged in transplants must now be registered with the Ministry of Health. Unregistered civilian hospitals can not be engaged in transplants.
- Chinese patients are now given priority access to organ transplants, taking precedence over foreigners. The Ministry of Health of the Government of China announced that change on June 26, 2007².

¹ Article 27, Clinical Application of Human Organ Transplant Technology Management Interim Provisions

² Jim Warren *China moving rapidly to change transplant system* Transplant News, September 2007

- The Government of China has committed to enacting a law to legalize organ harvesting from the brain dead. The original proposal for the law change about organ transplants which took effect on July 1, 2006 included a provision to that effect.

The initially scattered global advocacy effort David Kilgour and I pursued distilled not only strategic goals but also strategic partners. Amongst human rights NGOs the International Society for Human Rights headquartered in Frankfurt Germany and Human Rights without Frontiers, headquartered in Brussels, Belgium, as well as the Amnesty International Sections in Switzerland and New Zealand have been particularly helpful. Amongst intergovernmental human rights experts, I have to commend in particular the UN rapporteur on torture Manfred Nowak, the UN rapporteur on religious intolerance, Asma Jahangir and the UN Committee against Torture member Nora Sveass.

Amongst parliamentarians, Senator Patrik Vankrunkelsven in Belgium, Valérie Boyer in France and Borys Wrzesnewskyj in Canada each introduced legislation to attempt to counter abusive transplant tourism. Ethicist Steven Jensen of the University of St. Thomas in Houston Texas was the guiding light for a conference and a book on the ethics of organ transplantation.

Across the global spectrum, the most receptive community as a group, by far, was the transplant profession. This perhaps was predictable, since it was their profession which is being abused. As well, they have forms of influence, through peer pressure, that others did not have. In addition, their knowledge of the science of transplantation and the people involved, both their own patients who were transplanted abroad and professionals in China mean that many of them knew that this abuse could be and was happening.

The forthcoming book of essays which Torsten Trey and are editing is both a statement of the commitment of the transplant profession to ending this abuse and an attempt at further mobilization. There is a session like this in the works for the Transplantation Congress in Berlin in July. I as well will have a poster presentation there, about clinical testing of anti-rejection drugs in China.

My strategic considerations were based on what I thought to be the a fixed Chinese reality. The Chinese government responses I saw to Falun Gong, to re-education through labour camps, to killing of prisoners for their organs remained pretty much constant during the six years I have been on this file.

However, almost overnight all that has changed. We are in the midst of tectonic shifts in the China power plates. The foundations on which the persecution of Falun Gong have rested have trembled and shaken. It is unclear whether the edifice built on those foundations can remain standing.

At the apex of the Chinese Communist Party power structure is its standing committee. That committee turns over every five years. Since the banning of Falun Gong in 1999 it has changed twice, in 2002 and 2007. There is a third change set for the fall of this year. The 2002 and 2007 changes kept in place the hard liners who had banned the Falun Gong in 1999. But now their control of the standing committee is in play and fast disappearing. Moreover, the organ harvesting story appears to have played a key role in this change.

On February 2nd this year, Wang Lijun, the deputy mayor and police chief in Chongqing, was demoted. Four days later he visited the American consulate in Chengdu for a full day. When he left, the Chinese security police arrested him.

On March 15, Bo Xilai lost his position as Communist Party General Secretary of Chongqing.

On April 10th, he was suspended from the Politburo and placed under a Party disciplinary investigation. That same day the Party announced that Gu Kailai, the wife of Bo, was being investigated criminally for the murder of British businessman Neil Heywood.

A woman using the pseudonym Annie then in Washington DC told the Epoch Times in a story published in its March 17, 2006 edition that her ex-husband harvested corneas of Falun Gong practitioners in Sujiatun hospital between 2003 and 2005. Annie said other doctors at the same hospital harvested other organs of these victims, that Falun Gong were killed during the harvesting and that their bodies were cremated.

Annie's interview led to a controversy about whether or not she was telling the truth. The Government of China, as one might expect, denied what she said. The Coalition to Investigate the Persecution of the Falun Gong, a Washington DC based NGO, asked David Kilgour and me to investigate her claims which we agreed to do.

Sujiatun is a district in the city Shenyang. Shenyang is a city in the province Liao Ning.

Bo Xilai is a princeling. His father was vice premier of China. He was appointed Mayor of Dalian City in Liao Ning Province from 1993 to 2001. He was appointed Deputy Secretary of the Chinese Communist Party for Liao Ning Province in 2000. From February 2001 to February 2004 he was Governor of Liao Ning Province.

While he was in Liao Ning, Bo developed a reputation as a brutal leader of the persecution of Falun Gong. The period that Annie's husband worked in Sujiatun hospital and the period that Bo Xilai was Governor of the province in which the hospital was located overlapped.

Bo in February 2004 went to Beijing where he became Minister of Commerce. While Minister of Commerce, Bo Xilai travelled around the world to promote international trade with China

and investment into China. His travelling gave victims the opportunity to serve him with lawsuits for his role in the persecution of Falun Gong in Liao Ning Province. Lawsuits commenced against him in thirteen different countries, including the one in which I am involved.

The American Consulate in Shanghai wrote in December 2007 to the State Department in Washington:

"Gu [Nanjing's Professor Gu] noted that Bo had been angling for promotion to Vice Premier. However, Premier Wen had argued against the promotion, citing the numerous lawsuits brought against Bo in Australia, Spain, Canada, England, the United States, and elsewhere by Falungong members. Wen successfully argued Bo's significant negative international exposure made him an inappropriate candidate to represent China at an even higher international level."³

Bo became a member of the Politburo and went from Minister of Commerce in Beijing to Communist Party head of Chongqing in November 2007.

In coming to the conclusion that we did that Falun Gong were being killed for their organs, David Kilgour and I relied on a wide variety of evidentiary trails. One was phone calls to hospitals of investigators pretending to be relatives of patients asking if the hospitals had organs of Falun Gong for sale, on the supposition that the organs would be healthy because of the Falun Gong exercise regime. The calls were taped, transcribed and translated.

In the latest version of our work, Chapter seven of the book *Bloody Harvest*, we set out excerpts from fifteen such calls made around China. One of those was to the First Criminal Bureau of the Jinzhou Intermediate People's Court (23 May 2006), the place that Wan Lijun headed. Here is an excerpt from that call:

"Investigator: ... since 2001, we have been obtaining kidneys from courts and

³ Reference ID, 07Shanghai771, December 4, 2007, paragraph 25, released by Wikileaks

detention centers, from sources who are young and healthy and practice Falun Gong... we don't know if your court is still able to provide kidneys from such sources. Official: That depends on your situation and we also have to discuss it with our superiors. If everything is in good terms, we might be able to provide it."

From 2003 to 2008, Wang Lijun was the head of the Jinzhou City Public Security Bureau On-site Psychological Research Center (OSPRC), Liao Ning province. He conducted research on a lingering injection execution method which would allow organ removal for transplants before the person died from the injection. He conducted further research to prevent patients who received organs of injected prisoners from suffering adverse effects from the injection drugs.

In September 2006, Wang Lijun received the Guanghua Science and Technology Foundation Innovation Special Contribution Award for his research and testing of this lethal injection method. In his acceptance speech, he talked about "thousands" of on-site organ transplant cases from injected prisoners in which he and his staff participated. He said "to see someone being killed and to see this person's organs being translated to several other person's bodies is profoundly stirring", a remark that would have worthy of Josef Mengele.

Wang worked under Bo in Liao Ning province in 2003 and 2004. In 2008, shortly after Bo was moved from Beijing to Chongqing, Bo brought Wang from Liao Ning province. Wang held various positions in public security in Chongqing and in 2011 became deputy mayor of the city under Bo.

Senior positions in the Communist Party have a retirement age of 68. This time round seven of the nine current members of the Standing Committee are 68 or over. So this fall there is scheduled to be a massive turnover in the Party leadership.

From a human rights perspective, the most important member of the Standing Committee is the person allocated with the responsibility of heading the Party's committee on legal and political affairs. It is this person primarily responsible for repression and freedom, rule of law and its violation.

The 610 office, the office responsible for the repression of Falun Gong (named after the date of its establishment, the 10th day of the sixth month, June, of 1999) is a Party office, not a state office. The 610 office is the instrument of the Party instructing the police, the prisons, the prosecution and the courts on the repression of Falun Gong. The 610 office falls under the jurisdiction of the Party's legal and political affairs committee.

The current head of the legal and political affairs committee is Zhou Yongkang. Zhou Yongkang was born December 1942. He will be 70 this December. So he is one of the seven slated for retirement with the planned fall turnover of the standing committee. Before he was purged, the person expected to replace him was Politburo member and Chongqing Party secretary Bo Xilai.

Chinese Premier Wen Jiabao, at a closed Communist Party meeting in Zhongnanhai on March 14, is reported to have addressed organ harvesting and Bo Xilai's involvement. A source attributes to Wen these remarks:

"Without anaesthetic, the live harvesting of human organs and selling them for money - is this something that a human could do? Things like this have happened for many years. We are about to retire, but it is still not resolved. Now that the Wang Lijun incident is known by the entire world, use this to punish Bo Xilai. Resolving the Falun Gong issue should be a natural choice."⁴

⁴ Cheng Jing "Wen Jiabao Pushes for Redressing Falun Gong, Source Says" Epoch Times April 9, 2012.

The Party announced the next day that Bo lost his position as Communist Party General Secretary of Chongqing.

What happens in China behind closed doors at Communist Party meetings is, by its very nature, not a matter of verifiable public record. What could be seen though by anyone at this time was the lifting of censorship on the killing of Falun Gong for their organs. In late March 2012, search results about organ transplants on the officially sanctioned Chinese search engine Baidu showed information about the work David Kilgour and I did, *Bloody Harvest* and the involvement of Wang Lijun in organ harvesting.

It is hard to let a genie just a little way out of the bottle. Knowledge spreads, even in a society subject to censorship. Selective leaks and references to organ transplant abuse are bound to have an effect beyond the power struggle itself, to have a real impact on the abuse.

The converse is also true. Organ transplant abuse is having a real impact on the power struggle in China.

This history suggests to me some lessons. The Chinese Communist Party is not a monolith. While the range of policy debate is far more limited than in a democracy, there is some. Moreover, there is no tolerated opposition outside of the Party. The full range of permissible discourse is found within the Party.

There is no one within the Party who adopts and promotes human rights the way we would like. The true Chinese human rights activists are all either in exile or in jail. Within the Party there is no white knight. The Party goes from shades of grey to deepest black. When dealing with China we have to give help to those who are pushing the Party towards human rights and stay away from those who are using human rights violations to build up

their own records.

Wen Jiabao and Bo Xilai are not just two individuals. They represent factions and strands of opinion within the Party. What separates them becomes potentially an element in play in the power struggle between those factions.

The issue is not whether Wen or Bo succeeds as an individual. Bo is now marginalized. However, there are others who have similar views to his. Factionalism and the power struggle in China will not end with the reconstitution of the current standing committee.

For the last five years, during the time of this outgoing standing committee, Chinese discourse on Falun Gong and organ transplant abuse was frozen. Now, persecution of Falun Gong and organ transplant abuse have become part of the power struggle in China. One side seeks impunity. The other uses violations to discredit their opponents.

However, a power struggle is always more than just that. There are competing values at stake. The side of Bo Xilai is afraid and jealous of a popular, moral, spiritual belief system. The side of Premier Wen Jiabao appreciates the link of Falun Gong to ancient Chinese traditions and values its morality.

In this Chinese debate, we should not be silent bystanders. While internal power struggles are normally matters only of internal concern, the persecution of Falun Gong and organ transplant abuse concern all humanity. They are crimes against humanity; crimes against us. We should take advantage of the opportunity this power struggle offers to support the side advocating an end to the persecution of Falun Gong, and an end to organ transplant abuse.

Wang is now in detention and almost certainly will be prosecuted. Bo is under house arrest

and may well be prosecuted. We should be advocating that they both be prosecuted for organ transplant abuse. In the case of Wang, the evidence is overwhelming, and comes from his own mouth.

The killing of prisoners of conscience for their organs is an international crime. Bringing to justice criminals against humanity concerns the whole international community and not just the state where the crimes were committed. We who are not Chinese, we who are outside of China have both a right and a duty to call for these prosecutions.

With China, in the absence of an open society and real news, there tends to be a lot of speculation about what is happening and will happen. China is a giant rumour mill.

In all this speculation about what will happen, we must not lose sight of what should happen. If we are numerous enough, forceful enough, persuasive enough, our views about what should happen will impact on what will happen.

Those lawsuits around the world against Bo Xilai should tell us something. They ran aground on the doctrine of sovereign immunity. That is not though a defense in China itself.

There may be a tendency for the Chinese authorities to minimize the ideological rift within the party, to contain the crisis which has developed by punishing both Bo Xilai and Wang Lijun for peripheral matters, rather than central ones.

If the wife of Bo, Gu Kailai, really did murder British businessman Neil Heywood and if Bo himself helped her subsequently to cover up that murder, both should be held to account for their crimes. Yet, doing only that is not enough.

German journalist Kurt Tucholsky attributed to an unidentified French diplomat this

statement: "The death of one person is a tragedy. The death of thousands is a statistic." It may be easier to focus on the death of one person we know than the death of thousands of Falun Gong practitioners whom we do not know. Yet, the murder of thousands, objectively, has to be a greater crime than the murder of one person.

For the Communist Party, the murder of Neil Heywood may be a convenient diversion, a manner of marginalizing Bo Xilai without changing the fundamentals which gave him power to inflict widespread abuses. While Bo Xilai should indeed be held to account for coverup of his wife's murder of the British businessman Neil Heywood, if Bo is guilty of that coverup, to leave Bo's iniquity at that would be an injustice to all his other victims, an injustice to humanity.

Similarly, while Wang Lijun may have acted treasonously, in Chinese terms, by attempting a defection to the US, to convict and punish him only for that would be to ignore the many far graver crimes of an international dimension for which there is compelling evidence. The murder of Neil Heywood, if indeed he was murdered, and the attempted defection of Wang Lijun were isolated individual acts. It would be all too convenient for the Communist Party to focus on these acts to the exclusion of the widespread crimes Bo and Wang inflicted with others on Falun Gong and other innocent victims.

In China today, there is more than power at stake. There is also justice. In the decisions whether to seek justice, we all have an interest. We must press that interest now.

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