

## **Intent and evidence for genocide**

### **A case study: the killing of Falun Gong for their organs**

*(Remarks prepared for a global conference on genocide, San Francisco State University, San Francisco, California, 30 June 2012)*

by David Matas

#### **A. Introduction**

##### **i) Background**

Falun Gong blends and updates Chinese exercise and spiritual traditions. The practice started in 1992 with the teachings of Li Hong Zhi. With the then encouragement, because of its health benefits, of the Communist Party and State, the practice grew in 1999 to a number greater than the membership of the Communist Party.

At that point the Party, out of jealousy at the popularity of Falun Gong and fear for the Party's own ideological supremacy, banned the practice. The Party set up an office on June 10, 1999, called the 610 office after the date of the ban, to instruct state mechanisms - the police, prisons, the prosecution and the courts - to enforce the ban.

The banning led to widespread protests. Falun Gong were arrested and asked to denounce the practice. Those who did not were tortured. Those who still refused to recant after torture disappeared.

What happened to the disappeared? David Kilgour and I, in two reports published in 2006 and 2007, and a book published in 2009, under the title *Bloody Harvest*<sup>1</sup> concluded that Falun Gong practitioners were killed in large numbers for their organs to be used in transplants.

##### **ii) The questions**

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<sup>1</sup> Seraphim Editions, Hamilton

The evidence we gathered raises two questions relating to the law of genocide. One question is whether the circumstances of the killing of Falun Gong for their organs, even if accepted as established, manifests an intent to destroy a group in whole or in part, an element of the offense of genocide. A second question is whether the evidence we accumulated, even if it does establish the killing of Falun Gong for their organs, is sufficient to justify a criminal investigation into genocide.

These two questions are inter-related. One can not establish genocide without establishing all the elements of the offence. The strength of the evidence about genocide is as strong as its weakest link.

There is, in addition, an overall evidentiary question. Does the beginning of a criminal investigation into the crime of genocide itself have any particular evidentiary standard? If so, what is it, and does the evidence of the killing of Falun Gong for their organs meet that standard?

The definition of the crime of genocide used in this paper is the one found in the Statute of the International Criminal Court<sup>2</sup>. That definition is, in all relevant respects, identical to that in the Genocide Convention. The paper relies on the Court Statute for evidentiary standards as well.

Genocide is limited to an intent to destroy listed groups. One of the types of the groups on the list is religious groups. The Falun Gong would fit within that description. There are a number of determinations in different jurisdictions to that effect.

For instance in the Canadian case of *Yang*, a Falun Gong practitioner made a refugee protection claim which the Refugee Protection Division of the Immigration and Refugee

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<sup>2</sup> Article 6

Board dismissed in part on the basis that Falun Gong was not a religion. The Federal Court overturned this decision. Mr. Justice Dubé ruled that the Board should have found Falun Gong to be a religion<sup>3</sup>.

In the US case of *Zhang*, both an Immigration Judge and the Board of Immigration Appeal denied to a Falun Gong practitioner Hongke Zhang withholding of deportation to torture. They reasoned that Zhang would be safe as long as he practised Falun Gong in private. The US Court of Appeals Ninth Circuit reversed, reasoning that Falun Gong is a religion and that requiring the practice of religion in private is contrary to principles of religious freedom<sup>4</sup>.

In the Hong Kong case of *Chu*, a number of Falun Gong practitioners from Taiwan challenged a decision by Immigration officials to deny them entry to Hong Kong. The Court of First Instance and Court of Appeal both rejected the challenge. In the course of so doing, the Court of First Instance considered whether the denial of entry was religious discrimination in violation of the Hong Kong Basic Law and concluded, as part of that consideration, that Falun Gong is a religion<sup>5</sup>.

## **B. Intent**

### **i) The defense**

When a person is charged with genocide, the standard defense is, it was not me, I was not there, I did not do it. If the evidence is so overwhelming that this defense is not available, the next line of defense is, I was forced, I did not want to do it, I was operating under duress. If the evidence does not allow even for that defense, then the accused will say, I

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<sup>3</sup> *Yang v. Canada (Minister of Citizenship and Immigration)*, 2001 FCT 1052

<sup>4</sup> *Zhang v. Ashcroft* (2004) 388 F.3d 713 paragraph 30

<sup>5</sup> *Chu and others v. Director of Immigration* [2007] HKCFI 267 paragraph 58

had no idea what was happening; I knew what I did, but I had no idea what others were doing; I was unaware of any pattern or plan or system in what I was doing.

These sorts of defences are all potentially open to those charged with complicity in genocide for the killing of Falun Gong for their organs. The Government of China accepts that the bulk of organs for transplants come from prisoners; they state though that the prisoners are sentenced to death and then executed. Those who claim ignorance may assert that the people they are killing for their organs are prisoners sentenced to death who, to boot, consented to the sourcing before their deaths.

People along the chain of killing can all say, I know only what I did. Guards can say, I handed a detainee in jail over to hospital authorities; I did not know whether he was a practitioner of Falun Gong and I did not know what happened to him.

People extracting organs from prisoners can and do say, I knew that the source of organs was a prisoner, but my understanding was that the person was a prisoner sentenced to death. The organ sourcing was nothing other than the implementation of the sentence. There was no indication on the body of the person wheeled into the organ extraction room that the source was a Falun Gong practitioner sentenced to nothing.

Those up the chain of command in the party could say, we knew that prisoners sentenced to death were being used for organ sourcing. As for others, we had no idea.

## **ii) Knowledge**

The nature of the problem is described by Tom Treasure, a transplant surgeon writing in the *Journal of the Royal Society of Medicine*<sup>6</sup>. He writes about transplants generally:

"The designated retrieval team, usually trainee surgeons or so called 'research' or

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<sup>6</sup> Volume 100 March 2007 *J R Soc Med* 2007;100:119-121

transplant fellows, go where they are sent. It is nearly always at the dead of night, when the operating theatres are free and road and air routes are clear, and it is always under extreme time pressure to maximize the quality of the organs. Meanwhile the transplant teams call recipients on waiting lists and set up urgent transplant operations, in several different hospitals - all against the clock. The time pressure, the geographical dispersion, the complexity of the matching of multiple organs, the need to respect confidentiality and the anonymity of donor and recipient, and the sheer logistics of it all, means that no member of the medical staff has an overview of the whole process. Nor would they be expected to in China. This is what makes it plausible that it [organ harvesting of Falun Gong practitioners] could happen and that doctors themselves could be largely unaware of it, or at least sufficiently distant to turn a blind eye and a deaf ear."

This sort of argument was raised by defendant Karl Gebhardt in the Doctors Trial as part of the Nuremberg Military Trials. The Doctors Trial was conducted by a US military court in the US occupied zone of Germany in Nuremberg after the International Military Tribunals were completed.

Gebhardt was the personal physician for Himmler charged with crimes against humanity for his participation in Nazi medical experiments. In his defense his lawyers argued that subjects on whom he was experimenting faced execution. Though the experimental subjects did not give explicit consent, they gave tacit consent, his lawyers argued, "being certain that they could not escape execution in any other way".

There was also, so his lawyers pleaded, presumed consent because the consent of the victim "could be expected normally". Rationally and objectively, the victims would have agreed to the experiments to avoid the certainty of their eventual execution.

Gebhardt did not himself select the experimental subjects. Even if there was no actual or presumed consent, his lawyers asserted that Gebhardt should not be held criminally responsible if he erroneously assumed the consent of the experimental subjects. An action can not be considered intentional if it was done on an erroneous assumption of justificatory facts.

The Nuremberg Military Tribunal rejected these arguments. The Tribunal noted that many of the experiment subjects who otherwise faced execution had not gone through any semblance of a trial. The Tribunal wrote:

"That fact could have been known to Gebhardt had he made the slightest inquiry of them concerning their status."

Moreover, so the Tribunal reasoned, even if the experiment subjects had been sentenced to death, the law

"does not under any circumstances countenance the infliction of death or other punishment by maiming or torture."

Gebhardt was found guilty of crimes against humanity and sentenced to death in August 1947. He was executed in June 1948.

One can say the same of those complicit in organ harvesting of Falun Gong practitioners. The official Government of China line may well be that the sources of organs are prisoners sentenced to death. Many people know from personal experience that this is not so - those who blood test Falun Gong practitioners in prison, those who select Falun Gong practitioners for transplant, those who transport them to the roving organ sourcing hospital vans.

But even those at the other end of the procedures who may not see with their own eyes that the body in front of them is the body of a Falun Gong practitioner could learn that this may well be so if they made the slightest inquiry about who the person was. If David Kilgour and I could learn that organ sourcing comes from Falun Gong simply by having investigators

who are strangers to the system phone the hospitals and doctors and ask, surely the people inside the system could do so.

In criminal law, the intent necessary for conviction exists where there is wilful blindness. When it comes to organ harvesting of Falun Gong, the evidence is so pervasive and so easily accessible that those in the system who claim they do not know have been wilfully blind.

### **iii) Incitement**

The crime of genocide can be inflicted by incitement only<sup>7</sup>. Participation in hands on killing is not essential to conviction. And when it comes to incitement, the number of Chinese Communist Party and Chinese state official participants in the crime are a legion. Anti-Falun Gong incitement is standard Chinese government, Communist party propaganda. Many associated with the Chinese State or Chinese Communist Party are implicated in this propaganda.

Julius Streicher was convicted by the International Military Nuremberg after World War II, for crimes against humanity. He was sentenced to death and hanged. His crime was incitement to hatred against Jews while the Holocaust was happening, though he knew it was happening. The Nuremberg Tribunal wrote of Streicher:

"With knowledge of the extermination of the Jews in the Occupied Eastern Territory, this defendant continued to write and publish his propaganda of death ... Streicher's incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds in connection with war crimes, as defined by the Charter, and constitutes a crime against humanity<sup>8</sup>."

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<sup>7</sup> Statute of the International Criminal Court Article 25(3)(e).

<sup>8</sup> Judgment of the International Military Tribunal for the Trial of the German Major War Criminals, Nuremberg, 30th September and 1st October, 1946. London: HMSO, Cmd.

Inside China there may be some people engaged in anti-Falun Gong propaganda who do not know about the evidence of killing of Falun Gong for their organs because of Chinese government censorship and internet blockage. However, that is certainly not true of Chinese officials abroad.

Every Chinese embassy around the world participates in this incitement. Despite their denials, they have to know about the evidence of killing of Falun Gong for their organs. There are constant media stories. The evidence is a click of a mouse away on the internet. Any claim of ignorance would mean that they have wilfully been turning blind eyes to the obvious, not a defense in law.

The events which this Conference address may seem far away. However, when it comes to the killing of Falun Gong for their organs, we are talking about events now, events here, in San Francisco, even in San Francisco State University.

A newspaper reported yesterday, June 29, about the case of Dafang Wang<sup>9</sup>. She was beaten June 10 in San Francisco while holding a banner protesting with others the persecution of Falun Gong, including the killing of Falun Gong for their organs. The newspaper reported

"Chinatown locals told her that the people who attacked and hit Falun Gong practitioners on the streets were bribed by the Chinese Consulate to slander Falun Gong and cause a scene."

In April 2008, I was scheduled to speak at this University. The organizers of this event

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6964, Reprinted 1966, pp. 100-102

<sup>9</sup> Vicky Jiang "In the 'land of blue skies' Falun Gong practitioner suffers hate crime" Epoch Times, June 29, 2012



bought a display ad in the San Francisco Chronicle advertising the event, an ad the Chinese consulate in San Francisco could not miss. Shortly before the event, the University cancelled the venue.

The organizers rescheduled the event to a nearby hotel. The University put up signs saying the event, not just the venue, had been cancelled. The organizers had to place volunteers at the University to redirect people to the hotel.

The Chinese government funds Confucius institutes around the world at universities, nominally to fund Chinese studies, but practically as a form of leverage to bring universities round to its way of thinking. The use to which the Chinese government puts these Confucius institutes was litigated in Israel. Tel Aviv University, which has a Confucius institute, stopped, at the request of the Chinese embassy, an exhibit of art created and mounted by Falun Gong practitioners. The Tel Aviv District Court in October 2009 ordered the art exhibit reinstated.

For the 2008 San Francisco State University event, I do not know if the Chinese consulate in San Francisco leaned on the university. But I do know that the consulate would have considered itself derelict in its duty if it had not done so and that the university has a Confucius Institute.

The Government of China can not have it both ways. If officials actively seeks to censor talks and protests about the killing of Falun Gong for their organs, these officials can not then claim that they know nothing about the abuse. Censorship is an admission of knowledge and itself a form of complicity in the crime.

#### **iv) Command responsibility**

The issue of intent, in part, revolves around the manner in which the killing of Falun Gong

for their organs developed. The repression of Falun Gong, its banning, is as plain as can be. Many official Chinese websites say something nasty about Falun Gong.

Moreover, the extensive torture of Falun Gong is well documented. Many Falun Gong who are tortured and then recant live to tell the tale. There are as well documented deaths of those who died from torture, over 3,000. Death through torture, when it numbers in the thousands, and is inflicted by those seeking forced conversion, is an attempt to destroy the group in whole or in part.

However, the killing of Falun Gong for their organs is different. It is opportunistic and monetary. The perpetrators take advantage of the fact that there is a large population of dehumanized individuals stuck in re-education through labour camps because they refuse to recant, even after torture, but have survived torture. Hospitals need the money to keep their doors open. Doctors, guards, all in the system, welcome the flood of funds transplants bring in.

For individuals involved in the killing of Falun Gong for their organs, whether it be prison guards who provide Falun Gong prisoners for harvesting, or any person in the chain of medical professionals engaged in sourcing or transplanting, the issue whether genocide is committed is factual, circumstantial, evidentiary. There is a larger intent question, though the intent of the leadership of the Communist Party of China.

There is no known directive ordering the killing of Falun Gong for their organs. However, the practice is so widespread and systematic, and, since the publication of our reports and book, so widely publicized, that it is impossible to say that the leadership of the Party has not known about evidence of the abuse. Those who claim they never knew have been wilfully blind.

The statute sets out the principle of command responsibility for civilian as well as military superiors<sup>10</sup>. If the superior knew of a crime or consciously disregarded information that subordinates were committing the crime and did nothing to stop it, the superior himself becomes responsible for the crime.

The leadership of the Communist Party in China has not taken all reasonable and necessary measures within their power to prevent or repress the killing of Falun Gong for their organs. The leadership has not even submitted the matter to the competent authorities for investigation and possible prosecution. With those failures and the killing of Falun Gong for their organs, the leadership becomes criminally responsible.

On November 30 1999, the 610 office called more than 3,000 officials to the Great Hall of the People in the capital to discuss the campaign against Falun Gong, which was then not going well. Demonstrations were continuing to occur at Tiananmen Square. The head of the 610 office, Li Lanqing, announced the government's new policy on the movement: "defame their reputations, bankrupt them financially and destroy them physically."<sup>11</sup>

A call to destroy Falun Gong physically is a call to genocide. It is not admittedly a call to genocide through sourcing their organs. Nonetheless, when that sourcing occurs, in the context of a call for physical destruction, the two should be linked. Organ sourcing is the means. Physical destruction is the intent.

### **C) Evidence**

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<sup>10</sup> Article 28(b).

<sup>11</sup> This information comes from an interview with Li Baigen who attended the meeting. He was then assistant director of the Beijing Municipal Planning office. He is now resident in the United States. The US Department of State Country Report for China for 1999 refers to the meeting, but not the quote.

**i) Establishing the killing of Falun Gong for their organs**

The claim of the killing Falun Gong for their organs presented to David Kilgour and myself, when we began our work, an evidentiary conundrum. The claim, by its very nature, is difficult either to prove or disprove. The best evidence for proving any claim is eye witness evidence. Yet for this sort of act, eye witness evidence would be unlikely.

The people present at the scene of organ harvesting of Falun Gong practitioners would be either perpetrators or victims. There would be no bystanders. The victims would be first murdered and then cremated. There would be no body to be found, no autopsy to be conducted. There would be no surviving victims to tell what happened to them.

Perpetrators would be unlikely to confess to what would be, if they occurred, crimes against humanity. As well, perpetrator confessions, when they do occur, are typically self exonerating and unreliable.

The scene of the crime would leave no traces. Once an organ harvesting is completed, the operating room in which it takes place looks like any other empty operating room.

The clampdown on human rights reporting in China makes assessment difficult. The Chinese government represses human rights reporters and defenders. There is no freedom of expression. Those reporting on human rights violations from within China are often jailed and sometimes charged with communicating state secrets. In this context, the silence of media or international non-governmental organizations on organ harvesting of unwilling Falun Gong practitioners tells us nothing.

The International Committee of the Red Cross (ICRC) is not allowed to visit prisoners in China. Nor is any other organization concerned with human rights of prisoners. That also cuts off a potential source of evidence.

David Kilgour and I sought to visit China for our investigation. We asked in writing for a meeting with the embassy to discuss terms of entry, so that we could interview people in confidence and safety. Our request for a meeting was accepted. But the person who met with David Kilgour was interested only in denying the allegations and not in arranging for our visit.

Our conclusion is that there has been and continues today to be large scale organ seizures from unwilling Falun Gong practitioners. We have concluded that the government of China and its agencies in numerous parts of the country, in particular hospitals but also detention centres and 'people's courts', since 1999 have put to death a large but unknown number of Falun Gong prisoners of conscience. Their vital organs, including kidneys, livers, corneas and hearts, were seized involuntarily for sale at high prices, sometimes to foreigners, who normally face long waits for voluntary donations of such organs in their home countries.

Our conclusion came not from any one single item of evidence, but rather the piecing together of all the evidence we have considered. Each portion of the evidence we have considered is, in itself, verifiable and, in most cases, incontestable. Put together, they paint a damning whole picture. It is their combination that has convinced us.

## **ii) The genocide threshold**

Even if the evidence justifies the conclusion David Kilgour and I reached, does it justify an investigation into the crime of genocide? The statute of the International Criminal Court requires the Prosecutor to initiate an investigation of genocide unless the Prosecutor determines that there is no reasonable basis to proceed under the Court Statute<sup>12</sup>. The Court statute further requires that the prosecutor request from the Court authorization for an investigation of genocide if the prosecutor concludes that there is "a reasonable basis" to

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<sup>12</sup> Article 53(1)

proceed with the investigation<sup>13</sup>. Similarly, the Court statute provides that, if the Court considers that there is "a reasonable basis" to proceed with an investigation of genocide, it must authorize the commencement of the investigation<sup>14</sup>.

The Court statute goes further, adding that the Court must issue a warrant of arrest of a person if the Court is satisfied that there are "reasonable grounds to believe" that the person has committed genocide and the arrest of the person appears necessary<sup>15</sup>. Where there is no arrest warrant, but only a summons, the test is the same.

The Court statute provides that, as an alternative to seeking a warrant of arrest, the Prosecutor may submit an application requesting that the Court issue a summons for the person to appear. If the Court is satisfied that there are reasonable grounds to believe that the person committed the crime alleged and that a summons is sufficient to ensure the person's appearance, it must issue the summons<sup>16</sup>.

A person is not to be convicted of a crime of genocide unless there is proof beyond a reasonable doubt<sup>17</sup>. However, the threshold for investigation, arrest and summons is a good deal lower, only a reasonable basis or reasonable grounds to proceed. Whether or not there is evidence to date of the crime of genocide for the killing of Falun Gong for their organs beyond the reasonable doubt, there is certainly a reasonable basis to conclude or reasonable grounds to believe that such a crime has been committed. And that is all that is necessary to engage the international genocide standard.

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<sup>13</sup> Article 15(3)

<sup>14</sup> Article 15(4).

<sup>15</sup> Article 58(1)

<sup>16</sup> Article 58(7).

<sup>17</sup> Article 66(2)

The killing of Falun Gong for their organs is not subject to the jurisdiction of the International Criminal Court because China is not a state party to the Rome Treaty and has a veto over the possibility of Security Council referral to the Court about China. The possibility of prosecution in foreign states of accused present in those states through the exercise of universal jurisdiction remains. The evidence is there to justify the assumption of universal jurisdiction by any state for the charge of genocide for the killing of Falun Gong for their organs.

#### **D. The value of genocide prosecutions**

##### **i) The issue**

The issue being addressed here is not whether Falun Gong are being killed en masse for their organs, but whether, even if we accept that those killings are taking place, those killings amount to genocide. That issue, to some, may seem pointless to discuss.

The killing of Falun Gong for their organs is a crime against humanity, whether it is a genocide or not. What difference does it make whether someone is guilty of crimes against humanity or genocide?

Perpetrators should be brought to justice. However, there is no one way that they should be brought to justice. Justice is not an all or nothing event.

Often an act a perpetrator commits can be described legally in a variety of ways. Justice is done not only with the closest fit, the best description, but with any result which recognizes a wrong was done and attaches a consequence to the wrong.

For technical, procedural, evidentiary reasons, one recourse to justice may be unavailable. In that context, another recourse should be sought rather than abandon the attempt to

realize justice altogether.

## **ii) The response**

All the same, a close fit, a verdict which fits the crime, is an ideal. Justice provides deterrence. Accurate justice provides an accurate deterrent. Justice gives a lesson for the public, for history. Accurate justice gives an accurate lesson. So, ideally, if genocide was committed, then the verdict should be genocide.

For the perpetrators, too, characterization may well matter. Genocide is a particularly serious offence. A conviction for crimes against humanity alone would likely bring a less serious penalty than convictions for both crimes against humanity genocide.

If genocide was indeed committed, that truth should be told, inside the justice system and outside. We abandon the value of the crime of genocide if we apply only other included offences.

Genocide is a hate motivated crime. The issue whether to prosecute for genocide or crimes against humanity is, writ large, the issue of whether to prosecute for a hate motivated crime or just the underlying act. For all the reasons why, when a hate motivated crime is committed, that hate motivation should not be overlooked in favour of prosecution for the underlying act, genocide, when such a crime is committed, should not be ignored, in favour of prosecution for crimes against humanity.

Although genocide has happened all too often, prosecution for genocide is relatively rare. Avoiding prosecution for genocide in favour of an underlying offence where a conviction is easier to get means that the jurisprudence on genocide rests underdeveloped. Prosecution for genocide sets precedents which can be used world wide.



## **E. Recent developments**

Almost all of what I have just said could have been said for the last few years. There have been developments in the last few months which though give added weight to the evidence already presented.

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."<sup>18</sup>

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

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<sup>18</sup> Reference ID, 07Shanghai771, December 4, 2007, paragraph 25, released by Wikileaks

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 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."<sup>19</sup>

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.

A source told The Epoch Times that

"Wang gave U.S. officials confidential documents containing critical information about top Communist officials' involvement in the persecution of Falun Gong. The source said Wang provided details about organ harvesting from living Falun Gong practitioners in China's network of military hospitals, prisons, mental hospitals, and labor camps"<sup>20</sup>.

The implication from those two statements is that Wang told US officials about the

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<sup>19</sup> Cheng Jing "Wen Jiabao Pushes for Redressing Falun Gong, Source Says" Epoch Times April 9, 2012.

<sup>20</sup> Liu Feng "Wang Lijun Told U.S. Officials of Organ Harvest" June 20, 2012

involvement of top Communist officials in the killing of Falun Gong for their organs. That information from the source, if accurate, adds to the weight of evidence giving reasonable grounds to believe or a reasonable basis for concluding that the offence of genocide was committed.

There is more than enough evidence to justify the opening of an investigation against both Bo Xilai and Wang Lijun for genocide through the killing of Falun Gong for their organs. The Government of China should do just that.

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David Matas is an international human rights lawyer based in Winnipeg, Manitoba, Canada.