

Combating organ transplant abuse in a changing China

by David Matas

(Remarks to a University of Toronto forum, 29 September 2012, Sidney Smith Hall, Toronto, Ontario)

The power struggle in China over the composition of the new ruling elite, the Standing Committee of the Communist Party, revolves around characters who are central to organ transplant abuse in China. To what extent will this organ transplant abuse factor into the power struggle? Does the power struggle itself give an opening to combat this organ transplant abuse?

A. Sourcing organs from prisoners

Organ transplant began in China in the early 1980s with organs sourced from prisoners sentenced to death. Human Rights Watch, in August 1994, came out with a report, *Organ Procurement and Judicial Execution in China*, which concluded that organs for transplants were being sourced from prisoners sentenced to death without their consent.

Chinese doctor Wang Guoqi on June 27, 2001 testified before the Subcommittee on International Operations and Human Rights of the US Congress that he personally participated in the transplants of corneas and skin grafts sourced from prisoners sentenced to death¹. Doctor Wang testified that

- security officers and court units were given cash for prisoners;
- there were no receipts or record of the transaction;
- the money exchange took place at court;
- though he worked only on skin grafts and cornea transplants, the huge profits from the process led other departments of the hospital where he worked to extract other organs from prisoners for transplant;
- the high prices for organs meant primarily wealthy people or high-ranking officials were

¹ http://commdocs.house.gov/committees/intlrel/hfa73452.000/hfa73452_of.htm

the customers;

- the transplant unit where he worked put in an order to the Security police for the number of bodies they wanted;
- the transplant team, to find a donor-recipient match, went to prison to collect blood samples from prisoners;
- a policeman escorting the transplant team told the prisoners that the team was there to check their health conditions;
- in the morning of the organ extraction, the prisoner intended for organ extraction received a heparin shot to prevent blood clotting;
- the hospital transplant unit would pick up the prisoners from the local crematorium;
- the transplant professionals would arrive in ambulances in plain clothes with all official license plates on the vehicles replaced with civilian ones;
- the papers in the pockets of the prisoners identifying them showed no mention of voluntary organ donation;
- the prisoners were taken to the ambulance and their organs extracted;
- whatever remained after organs and skin were removed was passed over to crematorium workers;
- though most of the prisoners from whom he extracted organs were executed by bullet immediately prior at the crematorium, some were shot but not dead;
- he was required to submit a pledge that he would never expose the practices of procuring organs and the process by which the organs and skin were preserved and sold.

Doctor Wang left China in the spring of 2000.

Foreign Ministry spokeswoman Zhang Qiyue told reporters in Beijing almost immediately after Doctor Wang testified that

"Any clear-sighted person can see that this is a vicious slander against China by very peculiar individuals ... Some people will churn out sensational lies denigrating China to achieve their personal goals. ... It is China's policy to strictly forbid any sales of

human organs"².

This position was held until 2005 when for the first time Chinese officials admitted publicly that they indeed harvested organs from prisoners. In July of 2005 Huang Jiefu, Chinese Deputy Minister of Health, indicated as high as 95% of organs derive from execution³. Speaking at a conference of surgeons in the southern city of Guangzhou in mid November 2006, he said: "Apart from a small portion of traffic victims, most of the organs from cadavers are from executed prisoners"⁴. In October 2008, he said "In China, more than 90% of transplanted organs are obtained from executed prisoners"⁵. In March 2010, he stated that: "... over 90% of grafts from deceased donors are from executed prisoners"⁶.

B. Sourcing organs from Falun Gong

Bloody Harvest, authored by David Kilgour and me, published in report form first in July 2006 and second in January 2007, and in book form November 2009, and *State Organs*, a book edited by Torsten Trey and me, published in August this year, concluded that since 2001 the bulk of the prisoners who have been the source of organs for transplants have been prisoners of conscience, practitioners of the spiritually based set of exercises Falun Gong, banned in China in 1999 because of its widespread popularity and the resulting Communist Party fear for its ideological supremacy. This report followed much the same

² "China denies taking organs from executed" June 28, 2001 10:12 a.m. MDT

³ The Congressional Executive Commission on China Annual Report 2006, p. 59, note 224, p.201: "Organ Transplants: A Zone of Accelerated Regulation" *Caijing Magazine* (Online), 28 November 05.

⁴ http://news3.xinhuanet.com/english/2006-11/16/content_5335427.htm

⁵ <http://press.thelancet.com/chinaorgan.pdf>

⁶ "Tomorrow's Organ Transplantation Program in China". Presentation delivered at the Madrid Conference on Organ Donation and Transplantation, Madrid 2010, by Prof. Huang Jiefu, Vice Minister of Health, P.R.C.

methodology as the Human Rights Watch report, although we excluded some evidence on which Human Rights Watch was prepared to rely, hearsay evidence.

Some of the evidence on which our conclusions were based was

- interviews with Falun Gong practitioners who got out of detention and out China. They said to us that, like Doctor Wang's prisoners, they were blood tested and told it was for their health. Yet, health was obviously not a concern since they were tortured to recant their Falun Gong beliefs.
- interviews with transplant tourist patients who informed us of the secrecy surrounding their transplant operations, the quick and easy availability of organs, and the heavy involvement of military personnel.
- transplant volume data which had no other explanation than Falun Gong sourcing. The volume of transplants once the persecution of Falun Gong began far exceeded even the highest death penalty estimates.
- telephone calls to transplant hospitals from callers pretending to be relatives of patients needing transplants and asking for organs of Falun Gong practitioners on the basis that the organs would be healthy. Hospitals throughout China asserted in taped, transcribed and translated calls that they had Falun Gong organs for sale.
- the absence of precautions which should be in place to prevent the abuse.

The response from the Government of China to the work David Kilgour and I did was similar to their reaction to the testimony of Doctor Wang⁷. Both the response to the testimony of Doctor Wang and to the first version of our report

- were almost immediate, without any investigation of what either Doctor Wang or David Kilgour and I had said;
- asserted that China banned the sale of organs, relying on Chinese law rather than on what

⁷ Response to the so called "China's organ harvesting report" 2006/07/06 at <http://ca.china-embassy.org/eng/xbwz/xw/t261810.htm>

was actually happening;

- accused all of us of being driven by ulterior personal motives.

Despite all that, in the November 2006 speech I just cited where Deputy Health Minister Huang Jiefu admitted that organs were being sourced from prisoners, he further acknowledged that "too often organs come from non-consenting parties and are sold for high fees to foreigners". He further asserted that "Under the table business must be banned." He added, in a statement to China Daily in August 2009 that "Transplants should not be a privilege for the rich," and that prisoners are "definitely not a proper source for organ transplants"⁸.

Assertions from Chinese Foreign Ministry officials made at the time of the testimony of Doctor Wang or the release of the first version of the report David Kilgour and I wrote were not credible. An assertion though by the Deputy Minister of Health that the sale of organs extracted from prisoners was happening and should stop had to be taken more seriously. The sale of organs extracted from prisoners has not stopped, even today. Why not?

C. The politics of transplant abuse

Deputy Minister Huang Jiefu himself had an answer. I and others had pressed the World Medical Association to expel the Chinese Medical Association because of organ transplant abuse in China. Dr. Wonchat Subhachaturas, President of the World Medical Association, in a letter dated July 18th, 2011, to Dr. Torsten Trey, Executive Director of Doctors against Forced Organ Harvesting, wrote:

"[Deputy Health Minister] Prof. Huang ... said that he would not get the necessary political support to change the practice of harvesting organs from executed prisoners immediately."

⁸ Tania Branigan, "Executed prisoners are main source of Chinese organ donations" The Guardian, 26 August 2009

The use of the word "immediately" is a euphemism. Deputy Minister Huang had been advocating an end to the practice at least since August 2009, at that point, almost than two years earlier. Why in the intervening years had the abuse not stopped?

And what did politics have to do with it? Organ transplants are done by medical practitioners, not politicians. One could maybe understand Deputy Minister Huang's pleading economics, that too much money was being made from transplant abuse to stop it. But instead, he pleaded politics.

To understand the politics of organ transplant, it is necessary to understand the politics of repression of Falun Gong. The political dynamic preventing the end to organ transplant abuse was explained in a cryptic nutshell by Chinese Premier Wen Jiabao in March this year. According to a source, the Premier, at a closed Communist Party meeting in Zhongnanhai on March 14, 2012, stated:

"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."⁹

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

So, the Chinese Premier Wen urged using the Wang Lijun incident to punish Bo Xilai. Live harvesting of organs for money, he was asserting, is tied up with the Falun Gong issue. Resolve the Falun Gong issue, that is to say end the banning of Falun Gong, and the killing

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

of people for their organs, according to Premier Wen, would end.

This statement of the Premier needs unpacking. What does organ transplant abuse have to do with the ban on Falun Gong? A lot, if you conclude, as David Kilgour and I have, that Falun Gong are being killed for their organs.

What is the Wang Lijun incident? On February 6th this year, Wang Lijun, then deputy mayor and police chief in Chongqing, visited the American consulate in Chengdu for a full day. When he left, the Chinese security police arrested him. He went on trial for his attempted defection secretly on Monday of this week and publicly on Tuesday. He pleaded no contest.

What is the connection between organ transplant abuse and Bo Xilai? That takes a bit of explaining.

Although this is a simplification, the civilian power struggle in China revolves around three factions - the hardliners, the reformers, and the harmonizers. The leader of the hardliners used to be President Jiang Zemin. He led the banning of Falun Gong in 1999. His successor in the current Standing Committee is Zhou Yongkang, the Party head of Chinese security and also of repression of Falun Gong. The man designated to replace Zhou Yongkang in the Standing Committee this fall was Bo Xilai.

The position of premier has sporadically been held by a line of reformers - Zhao Ziyang from 1980 to 1987, Zhu Rongji from 1998 to 2003, and Wen Jiabao from 2003 to the present. Before President Jiang Zemin began his campaign to ban Falun Gong, Premier Zhu Rongji was encouraging the practice of Falun Gong as beneficial to health.

The harmonizers, exemplified by the current President Hu Jintao and his vice-president and

designated successor Xi Jinping, are not trying to keep everybody happy, just the various factions within the Party. They attempt to avoid confrontations and paper over differences.

Bo Xilai was not just tough on Falun Gong. He and his assistant the Wang Lijun were central to the killing of Falun Gong for their organs.

The investigation David Kilgour and I did was triggered by a statement by a woman using the pseudonym Annie. She told the Epoch Times in Washington D.C. 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.

The details of the story Annie told about the work of her husband were not that different from the details of the story Doctor Wang told this Congress about his own work, a story which, as you can see, was initially vehemently denied by the Government of China and then years later admitted. The only substantial difference in the two stories, Annie's and Doctor Wang's, was a difference in the type of prisoner from whom organs were extracted.

Sujiatun, where Annie's husband worked, is a district in the city Shenyang. Shenyang is a city in the province Liao Ning.

Bo Xilai 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, for the years 2003 and 2004.

From 2003 to 2008, Wang Lijun was the head of the Jinzhou City Public Security Bureau On-site Psychological Research Centre (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.

One of the calls the investigative callers made which we used for the reports and book David Kilgour and I authored was placed to the First Criminal Bureau of the Jinzhou Intermediate People's Court. The call, dated 23 May 2006, had this exchange:

"Investigator: Starting from 2001, we always [got] kidneys from young and healthy people who practise Falun Gong from detention centres and courts... I wonder if you still have such organs in your court right now?"

Official: That depends on your qualifications... If you have good qualifications, we may still provide some...

Investigator: Are we supposed to get them, or will you prepare for them?"

Official: According to past experience, it is you that will come here to get them."

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 Lijun worked directly under Bo Xilai in Liao Ning province in 2003 and 2004. Bo in February 2004 went to Beijing where he became Minister of Commerce. While Minister of Commerce, Bo 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 one in Canada in which I am acting as counsel.

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."

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 2008, shortly after Bo was moved from Beijing to Chongqing, Bo brought Wang Lijun from Liao Ning province. Wang held various positions in public security in Chongqing and in 2011 became deputy mayor of the city under Bo. Wang attempted his defection from that position in February this year.

Superficially, the attempted defection of Wang Lijun related only to the murder of British national Neil Heywood by Gu Kailai, the wife of Bo Xilai. However, as the remarks of Premier Wen Jiabao at the March Communist Party meeting indicated, there was more

going on than that.

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. There appeared to be an active attempt to discredit the Bo faction through disclosure of organ transplant abuse in which Bo was complicit.

The focus on the murder of Neil Heywood looks to be the work of President Hu Jintao and Vice President Xi Jinping to minimize the scope of the dispute between the factions. The banning of Falun Gong and their killing for their organs are issues too big for the Party to handle easily.

President Hu and his successor Xi then, in the grab for places in the new Communist Party Standing Committee were prepared to sacrifice Bo, but wanted to take Falun Gong and organ transplant abuse off the table. I suggest that those of us who are interested in ending organ transplant abuse in China should make every effort to prevent that from happening.

D. Five proposals

i) Release of information

I have five initiatives to suggest. One is for the Government of Canada to ask the Department of State to release whatever information Wang Lijun gave to the American consulate in Chengdu about organ harvesting. Wang Lijun stayed in the American

consulate for 36 hours. He must have disclosed a lot more than the Neil Heywood incident during those 36 hours. The United States should have no interest in keeping that information secret.

ii) Extraterritorial legislation

Parliament should propose and enact legislation to combat international organ transplant abuse. Legislative initiatives in this area will highlight the importance of ending this abuse and strengthen the position of those in China who are themselves seeking to end it.

Parliament has passed legislation giving extraterritorial reach to Canadian prohibitions against child sex trafficking. That sort of legislation should be enacted for organ trafficking. The legislation should encompass brokers as well as purchasers and sellers. Former Canadian Member of Parliament Borys Wrzesnewskyj has proposed such legislation¹⁰.

Belgium

Two Belgian senators Patrik Vankrunkelsven and Jeannine Leduc introduced into the Belgian Parliament on November 30, 2006 a law which addresses organ transplant tourism¹¹. The law inserts a provision into an existing law on organ transplants¹².

The insertion prohibits the undergoing of transplants outside the European Union in three circumstances. The first is that there is evidence indicating that the source of the organ is a living person who has not consented. The second is that there is evidence indicating that the source of the organ is a prisoner sentenced to death. The third is that the amount paid for the transplant is so large that it creates a presumption that the organ was sold for profit.

¹⁰ http://parl.gc.ca/content/hoc/Bills/392/Private/C-500/C-500_1/C-500_1.PDF

¹¹ SÉNAT DE BELGIQUE SESSION DE 2006 2007, December 13, 2006

¹² la loi du 13 juin 1986 sur le prélèvement et la transplantation d'organes

A person who undergoes a transplant in violation of this prohibition is subject to a fine of between 500 and 5,000 Euros. The penalty can be avoided if the person who underwent the transplant can prove that the organ was not harvested from a living person who has not consented or a prisoner sentenced to death and that the organ was not sold for profit. The law gives the government the authority to establish a list of medical institutions outside the European Union to which a person can go for a transplant without the necessity of proving these matters.

The authors of proposed legislation appended a commentary which explains that the law provides that whoever undergoes an organ transplant outside of the European Union must personally assure him or herself that the organ was donated willingly and did not come from a prisoner sentenced to death, who is presumed not to be able to decide without constraint. Also, anyone who pays a large sum must assume that this payment is not a simple reimbursement for costs incurred. If the organ recipient can not prove the opposite, the recipient subject is subject to punishment.

The government can establish a list of medical institutions for which these negative presumptions do not apply. If the patient receives a transplant in one of the listed institutions, he or she does not have to discharge a burden of proof and is therefore not liable to punishment.

It follows that, if the patient must undergo an organ transplant outside of the European Union, it would be preferable that the patient goes to a medical institution on the list. Otherwise, the patient must be especially vigilant and verify the source of the organ received.

The background note stated that the proposed law was aimed at preventing Belgians from

being tempted by the sale of organs in violation of ethical standards. The authors of the proposed legislation wrote that if the countries from which patients now go systematically to China instituted a ban, the encouragement for the sale of organs would end.

iii) Compulsory reporting

Third, Parliament should enact legislation requiring mandatory reporting of transplant tourism. Patients who have had transplants abroad need aftercare in Canada. Health professionals in Canada will inevitably know of transplants abroad. Compulsory reporting would work hand in hand with extraterritorial legislation against organ trafficking, enhancing its enforcement.

Mandatory reporting by health professionals is nothing new in Canada. Provinces have it for domestic abuse or gunshot wounds.

The law proposed by former Canadian Member of Parliament Borys Wrzesnewskyj sets up a certification procedure. Anyone who has a transplant must within 30 days after the transplant obtain a certificate establishing that the organ was donated and that no money was paid for it and provide that certificate to a designated authority. A Canadian citizen or a permanent resident who has a transplant outside Canada must provide the certificate to the designated Canadian authority at the latest upon return to Canada.

The proposed law sets up reporting requirements. Doctors and nurses must report to the designated Canadian authority the identity of any person examined who has had an organ transplant.

France

French Parliamentarian Valérie Boyer on 19 October 2010 along with several other members of the National Assembly proposed a law which sets out certificate and reporting

requirements similar to the Canadian proposed law. The proposed law requires every French citizen and habitual resident who undergoes an organ transplant abroad to acquire at the latest 30 days after the transplant a certificate stating that organ was donated without payment. The organ recipient must provide the certificate to the French Biomedical Agency before returning to France.

The proposed legislation requires every doctor to report to the Biomedical Agency the identity of every person the doctor examined who underwent a transplant. The proposed law in turn requires the Biomedical Agency to report to the Public Department any person who there are reasonable grounds to believe was involved in a financial transaction to obtain an organ.

iv) Drug approval

Pharmaceutical companies should not conduct clinical trials of anti-rejection drugs in China where the sources of organs are prisoners. Precautions need to be put in place to prevent that from happening.

Arne Schwartz in an essay in the book *State Organs* and I in a speech I gave in Philadelphia¹³ detailed a wide range of pharmaceutical trials of anti-rejection drugs in China. Some of these trials were conducted in hospitals from which our telephone investigators obtained admissions that the hospitals were selling organs of Falun Gong practitioners.

Some pharmaceutical companies, Novartis and Pfizer, to their credit, have voluntarily pulled away from these Chinese trials because of ethical concerns. Nonetheless there is still room for regulation in this area.

¹³ "Anti-rejection Drug Trials and Sales in China" American Transplant Congress, Philadelphia, April 30, 2011 at https://dafoh.org/Matas_speech.php

Barbara Sabourin, Director General, The Therapeutic Products Directorate, Health Products and Food Branch, Health Canada, Government of Canada, in a letter sent to me and David Kilgour dated August 9, 2012, wrote:

"If Health Canada has concerns regarding adherence with the recognized standards ... the sponsor will be asked to provide satisfactory evidence to establish that the data from the foreign trial were obtained while meeting ... recognized standards or their equivalents....The practice of obtaining organs for transplantation from executed prisoners is an unacceptable abrogation of human rights ..."

That sort of statement is welcome and should be enacted in regulatory form.

v) Health insurance

The Canadian health insurance system should not pay for transplant abroad where the transplants occur in circumstances which would violate Canadian legal standards. Canadian law needs to say that

Israel

Israel passed a law banning the sale and brokerage of organs¹⁴. The law as well ended funding through the health insurance system of transplants in China for Israeli nationals. Jay Lavee in his contribution to the book *State Organs* explains the enactment of this law as a reaction transplant abuse in China.

The Israeli Organ Transplant Law 2008 states

"This chapter does not forbid performance of organ transplantation outside Israel, including reimbursement of such transplant, as long as both of the following are maintained:

¹⁴ Shahar Ilan, With top rabbis' blessing, Knesset approves organ donation, Haaretz 24/03/2008

1. Organ procurement and transplantation have been performed according to local laws;

2. All the provisions of this law against the trade in organs have been respected."¹⁵

It further states under the heading "Penalties", which are potentially three years in prison and a fine:

"The above penalties will apply whether organ procurement or transplantation has been performed in Israel or anywhere outside Israel"¹⁶.

Conclusion

No time is a bad time to set in place the safeguards to prevent organ transplant abuse in China. Now though is a particularly opportune time because the political issue which sustained and amplified the abuse, the banning of Falun Gong, is now in play as part of the rush for spots in the new Standing Committee of the Communist Party of China. The Canadian Parliament and Government should take advantage of the opening to press the agenda of prevention of organ transplant abuse.

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¹⁵ Clause 5

¹⁶ Clause 36(B)