

ENDING A CRIME AGAINST HUMANITY IN CHINA

Notes for Hon. David Kilgour, J.D.

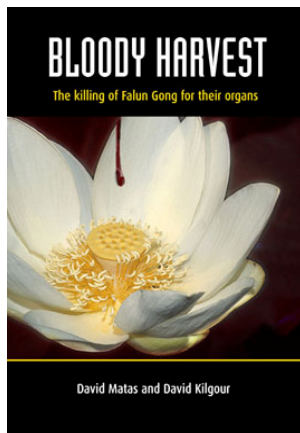
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China's 5000-year-old civilization deserves the respect of the entire world. This talk is about governance and violence committed by the current party-state since 1949 on those deemed its opponents, which has most recently resulted in large scale pillaging of organs from Falun Gong practitioners for commercial transplantation purposes. No Falun Gong "donors" survive transplantation operations anywhere in China because both kidneys and all other vital organs are invariably seized and their bodies are then cremated.

David Matas and I located 52 kinds of direct and circumstantial proof about this commerce occurring since 2001. For the period 2000–2005 alone, we concluded that for 41,500 transplants the only plausible explanation for sourcing was Falun Gong. We arrived at this figure by deducting from the government figure of 60,000 transplantations over the six-year period, which appears accurate, the best estimate available about executed convicts (18,550) for the same years.



The major conclusion of our book is that there “continues today to be large-scale organ seizures from unwilling Falun Gong (...) Their vital organs... 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 revised report is accessible in 18 languages on the Internet (www.david-kilgour.com)

State Organs

In the 2012 book, *State Organs*, researcher/writer Ethan Gutmann's best estimate is that about 65,000 Falun Gong were killed for their organs during the years 2000-2008, selected from about 1.2 million practitioners he considers were interned in China's forced labour system (Laogai). The camps were adapted by Mao in the 1950s for China from ones in Stalin's Soviet Union and Hitler's Third Reich. A police signature is sufficient to send anyone to them for up to three years. As Mark Mackinnon of Canada's Globe and Mail put it recently, “No charges, no lawyers, no appeals” (<http://www.theglobeandmail.com/news/world/the-china-diaries/china-at-the-crossroads-of-renewal-and-breakdown/article10579845/>). In 2007, a U.S. government report estimated that at least half of the inmates in 340 camps were Falun Gong. Absolutist governance and 'anything is permitted' economics created the conditions for organ trafficking to occur and continue today.

Falun Gong (or Falun Dafa) is a spiritual discipline which seeks to improve health and ethics. It contains features of traditional systems, like Chinese Qigong, Buddhism and Daoism (Taoism), combined with a set of gentle exercises. Because it grew astonishingly rapidly in popularity from its inception in 1992, the Party saw it as a threat despite its

non-political nature, labeled it a cult, and commenced persecution against its practitioners from mid-1999 on.

After 1980, the post-Mao Party began withdrawing funds from the health system across China, requiring it to make up the shortfall from service charges to mostly uninsured patients. Selling the organs of executed convicts became a new source of income for surgeons, the military and other participants. After 1999, Falun Gong prisoners of conscience became a vast live organ bank for wealthy Chinese patients and 'organ tourists' from abroad, the former often preferring that the "donors" were Falun Gong, being normally healthy persons.

Matas and I visited about a dozen countries to interview Falun Gong practitioners sent to China's forced labour camps, who later managed to leave the camps and the country. Practitioners told us of working in appalling conditions in camps for up to sixteen hours daily with no pay and little food, crowded sleeping conditions and torture. They made a range of export products as subcontractors to multinational companies. This is both gross corporate irresponsibility and a violation of WTO rules; it shrieks for an effective response by all trading partners of China. Each government should ban forced labour exports by enacting legislation which places an onus on importers in each country to prove their goods are not made by slaves.

Constructive Engagement

The responsible international community should nonetheless engage as constructively as feasible with the new government in Beijing, while pressing it to end organ pillaging.

Democracy with very Chinese characteristics is probably closer than many sino-cynics think. The values of democratic societies are universal, including equality for all citizens, the rule of law and independent judges, multiparty democracy, corporate social responsibility and the need for manufacturing jobs everywhere. The people of China should know that democrats everywhere stand with them, not their government, just as we did with central/east Europeans during the Cold War and with South Africans during the lead up to the release of Nelson Mandela from prison and his election as president of a democratic nation.

Foreign Investors in China

Selling services, goods and natural resources to virtually any country is in my view acceptable (subject to security considerations), but investing in ones without full reciprocity for foreign investors and governments without respect for their own citizens is inevitably problematic. No responsible government should permit the sale of any of its businesses to state-owned companies (SOEs) from countries without the rule of law.

Much goes wrong for foreign investors in China. For example, McDonald's opened its first restaurant in Beijing a number of years ago under what it thought was a twenty-year lease. Two years later, it was told to get out because a large domestic developer wanted to build over its location. What hope of fair treatment is there for most foreigners if McDonald's is abused?

A Canadian family I knew invested their life savings and those of friends in a pharmaceutical firm not far from Beijing about a dozen years ago. The mayor of the adjacent city had run the business before it was privatized, but wanted it back. He evidently pulled enough levers under the table that the plant was soon padlocked. The Canadians lost every penny of their investment; the respective embassies in Ottawa and Beijing said they could do nothing to help.

Sino-Forest Inc. was delisted from the Toronto Stock Exchange last year; approximately 50 Chinese companies have been delisted by the SEC in the U.S. Investors and consumers alike in and outside China are fed up with toxic toys, poisonous food, theft of intellectual property and other business frauds. Only recently, thousands of dead pigs floated down the river near Shanghai, which provides its drinking water.



Sanitation workers (L) collect a dead pig from Shanghai's main waterway on March 11, 2013. Over 6,000 dead pigs have been found floating in Shanghai's main waterway, and residents have expressed fears over possible contamination of drinking water. (Peter Parks/AFP/Getty Images)

'Ponzi Capitalism'

Canada's international affairs columnist Jonathan Manthorpe wrote in the Vancouver Sun a couple of years ago that what prevails in China are variations of a Ponzi scheme: "A local government, without a functioning system for raising tax revenue—and... riddled with corruption...sells development land to garner cash... (First getting rid of (farmers) living on the land)...And, this being China...the municipality has the power to instruct the banks to lend the development company the money for the sale. So the local government gets its cash, the municipally owned company gets to build a speculative residential or industrial complex, and all seems well."



Clive Ansley

If anyone in Australia thinks that a bilateral investor protection treaty will prevent similar problems, consider the experience of Clive Ansley of Canada. He practised law in Shanghai for thirteen years and observes, "There is a ...saying amongst Chinese lawyers and judges who truly believe in the rule of law..." Those who hear the case do not make the judgment; those who make the judgement have not heard the case." Another factor which caused Ansley to leave China was an edict that went out to all judges across the country, telling them that foreigners were not to win in China's 'courts' in future.



Anzac Cove, Gallipoli, (Daily Telegraph)

Having visited Gallipoli in Turkey a few years ago, I know the brave and determined nature of Australians and New Zealanders. Last weekend, I noticed on the window of a Melbourne clothing store a quotation from Thucydides, “The secret of freedom is courage.” When some Australians claim that your governments are afraid to stand up to the party-state in China on organ trafficking out of fear of losing export markets, I cannot agree.

The late Vaclav Havel was threatened that his country would lose exports to China if he invited the Dalai Lama to Prague. The visit took place and nothing appears to have been lost. When Prime Minister Harper stood up to Beijing after 2008, similar threats were made. Bombardier Inc announced one of its biggest contracts ever in China not long after Harper spoke about Canadian values in the world. In short, bluster aside, the Party in Beijing appears to respect those who stand up for universal values.



Dalai Lama and Aung San Suu Kyi



The late Vaclav Havel

International Initiatives re Organ Pillaging

United Nations

Since 2006, several UN Special Rapporteurs have asked China’s government for an explanation of the allegations about organ pillaging from live Falun Gong practitioners. They pointed out to the government that a full explanation would disprove the claims, but in response the government has provided no meaningful answer.

The following are two points made by the Rapporteurs, requiring answers:

- “Organ harvesting has been inflicted on a large number of unwilling Falun Gong practitioners at a wide variety of locations for the purpose of making available organs for transplant operations. The practitioners were given injections to induce heart failure, and therefore were killed in the course of the organ harvesting operations or immediately thereafter.”

- “It is reported that employees of several transplant centres have indicated that they have used organs from live Falun Gong practitioners for transplants. Officials from several detention facilities have indicated that courts have been involved in administering the use of organs from Falun Gong detainees.”

Beijing replied with a categorical denial. The rapporteurs, however, later persisted: “New reports were received about harvesting of organs from death row prisoners and Falun Gong practitioners”¹ and “information received that Falun Gong practitioners have been extensively subjected to torture and ill-treatment in prisons and that some of them have been used for organ transplants.”

In 2008, the U.N. Committee against Torture recommended that Chinese authorities investigate and punish those responsible for forced organ pillaging from Falun Gong.

European Parliament



Hearing at European Parliament on pillaging, 29 Jan 2013

In September 2006, The European Parliament conducted a hearing and adopted a resolution condemning the detention and torture of Falun Gong practitioners, and expressing concern over reports of organ harvesting; the issue was also raised by direction of the EU troika leadership through the Finnish Foreign Minister meeting bilaterally with China's Foreign Minister at the EU-China summit that year in Helsinki.

In December, 2009, the European Parliament Human Rights Subcommittee held hearings on organ transplant abuse in China. Its resolution of 19 May 2010² "Action plan on organ donation and transplantation (20092015)" states in part:

"Notes the report of David Matas and David Kilgour about the killing of members of Falun Gong for their organs, and asks the Commission to present a report on these allegations, along with other such cases, to the European Parliament and to the Council;"³

On December 6, 2012 organ pillaging in China was among the main topics in a hearing in European Parliament on Human Rights in China. David Matas testified.

Australia

In 2006, your Queensland health ministry ended training programs for Chinese doctors in organ transplant techniques at the Prince Charles and Princess Alexandra hospitals,

¹ <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm> (document number: A/HRC/10/44/Add.5).

² 2009/2104(INI)

³ Paragraph 39.

as well as banning joint research programs with China on organ transplantation. In New South Wales, MP David Shoebridge has proposed that it be illegal for residents to receive trafficked organs.

Taiwan

In 2007, Hou Sheng-mao, then Director of its Department of Health, reported requesting Taiwanese doctors not recommend to their patients to travel to China for transplants. The Taipei bar association recently passed a resolution, condemning 'organ tourism' in China.

Canada and Belgium

In 2006, Two Belgian senators introduced into the Belgium Parliament-a law which addresses organ transplant tourism. Former Canadian MP Boris Wrzesnewskij introduced into our House of Commons extraterritorial legislation banning "transplant tourism" in 2008. Both would penalize any transplant patient who receives an organ without consent of the donor where the patient knew or ought to have known of the absence of consent



Israel in 2008 passed, at the urging of Dr. Lavee and other transplantation specialists, a law banning the sale and brokerage of organs and ending funding through the health insurance system of transplants in China for Israeli nationals. It also offered a number of interesting initiatives to encourage nationals to donate organs, including giving priority for transplants to persons who signed donor cards. After the bill was enacted, 'organ tourism' by Israelis to China ceased immediately.

France

Parliamentarian Valérie Boyer and other members of the National Assembly proposed a law in 2010 which sets out certificate and reporting requirements similar to Canada's proposed law. It would require every French resident who undergoes an organ

transplant abroad to acquire within 30 days a certificate stating that organ was donated without payment. The recipient must provide the certificate to the French Biomedical Agency before returning to France.



Valérie Boyer



Dr. Jay Lavee

United States



US Congressional Committee in hearing



Rep. Chris Smith

On Oct. 3, 2012, 106 Members of Congress wrote to then Secretary of State Clinton, urging her to release information on organ pillaging in China from Falun Gong practitioners and other religious and political prisoners, and for the release of any information it might have that former Chongqing deputy mayor Wang Lijun is believed to have provided during his brief sanctuary in a U.S. consulate in February. Wang and Bo Xilai, both now in prison, were actively involved in organ pillaging.



Wang (right)



Bo Xilai

The State Department finally acknowledged in its 2011 Human Rights Report, released in May 2012, that “Overseas and domestic media and advocacy groups continued to report instances of organ harvesting, particularly from Falun Gong practitioners and Uighurs.”

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

From June 2011, the online U.S. non-immigrant visa application, Form DS-160, requires the following information from the applicant: “Have you ever been directly involved in the coercive transplantation of human organs or bodily tissue?”

NGOs and Medical Organizations

Various NGOs and medical organizations have issued statements urging the investigation and measures to stop the forced organ pillaging from prisoners of conscience, particularly Falun Gong. Examples:

- In 2007, the Transplantation Society introduced new policy on interactions with China, against using the organs from prisoners.
https://www.dafoh.org/TTS_policy_on_Interactions.php
- The policy of the WMA (World Medical Association) now includes a paragraph that organ donation from prisoners is not acceptable in countries where the death penalty is practiced. This is a new policy.
- The NGO Doctors Against Forced Organ Harvesting (DAFOH) seeks to promote ethical standards in medicine and to end forced organ pillaging across China. In 2012, DAFOH initiated several petitions in Europe, Australia and U.S. (including the so-called White-House-Petition) calling for an end of organ pillaging in China and further investigation through the UNHRC. Within 3 months, the petitions garnered 250,000+ signatures.



Prof. Maria Fiatarone Singh and I spoke to some legislators in Parliament House and to Falun Gong practitioners outside on March 20.



David Matas

Recent Individual initiatives

- In July 2012, Dr. Torsten Trey and David Matas published a volume on organ transplant abuse in China, including the killing of Falun Gong prisoners of conscience. The book, *State Organs*, is a collection of essays by leading medical professionals and other commentators which consolidates evidence of these abuses, discusses their ethical implications, and provides insight on how to combat these violations.
- On December 2, 2012, three medical doctors, Arthur Caplan, Alejandro Centurion and Jianchao Xu, initiated a petition calling upon the Obama administration to investigate and help stop forced organ harvesting from Falun Gong in China. The petition is posted within the “We the People” section of the White House website. The petition is available at: <http://wh.gov/5Jmn>.

Unfortunately, these and other initiatives have not yet ended the trafficking in organs from involuntary “donors” across China.

China



Recently removed Vice Minister of Health HUANG, Jiefu

The government of China now accepts that sourcing of organs from prisoners is improper. Former Vice Health Minister Huang Jie in 2009 said that executed prisoners “are definitely not a proper source for organ transplants.” In 2005, he admitted that over 95% of the organs transplanted in China came from executed prisoners. The party-state had denied using prisoners’ organs prior to this admission. Huang has admitted to doing 100 liver transplants yearly himself.

In 2006, a World Medical Association resolution demanded that China stop using prisoners as organ donors, and in 2007 the Chinese Medical Association agreed to do so. In 2010, at a transplant conference in Madrid, Huang stated that between 1997 and 2008 China had performed more than 100,000 transplantations, with over 90% of the organs being from executed prisoners.

In February of 2012, Huang again stated that the practice of organ harvesting from prisoners continues in China today, but that the government wants to phase it out by 2015 and build up a national donation scheme. This will be very difficult to achieve in part because many Chinese are unwilling to donate their organs.

Before the party-state might abolish organ harvesting from executed prisoners, tens of thousands more will be killed for their organs. Since Matas and I began our voluntary work, the number of convicted persons sentenced to death and then executed has decreased, but the number of transplants, after a slight decline, rose to earlier levels. Since the only other substantial sources of organs for transplants in China, apart from Falun Gong, are prisoners sentenced to death, a decrease of sourcing from that population means an increase in sourcing from Falun Gong.

In the past, the death penalty was administered by gunshot, but lethal injection is now the most common practice because organs are preserved. Most executions in China take place in mobile buses, which are often parked next to hospitals.

Corporate Social Responsibility

Some pharmaceutical companies, such as Novartis and Pfizer, have voluntarily pulled away from trials of anti-rejection drugs in China because of ethical concerns. There is, however, need for binding national regulation. Arne Schwarz in *State Organs* and David Matas in a speech detailed a wide range of trials of anti-rejection drugs done in China. Some were conducted in hospitals from which our telephone investigators obtained admissions that they were selling organs of Falun Gong.

Recommendations

Matas and I would encourage Australian legislators and all parliaments to consider our recommendations, including, urging the party-state in China to:

- cease the repression of Falun Gong;
- cease organ-pillaging from all prisoners;
- remove its military from the organ transplant business;
- establish and regulate a legitimate organ donor system;
- open all detention centres, including forced labour camps, for international investigation; and
- free Gao Zhisheng and many other prisoners of conscience.

Implement the following measures until organ pillaging from prisoners ceases:

- MDs from outside China should not travel there to give training in transplant surgery;
- contributions submitted to medical journals about experience with transplants in China should be rejected; and
- pharmaceutical companies everywhere should be barred by their national governments from exporting to China any drugs used solely in transplant surgery.

Conclusion

Australia, Canada and other responsible governments should enact measures to combat international organ transplant abuses: extraterritorial legislation, mandatory reporting of transplant tourism, health insurance systems not paying for transplant abroad, barring entry of those involved in trafficking organs.

To those in Australia who in effect excuse what is happening in China today, saying that only a small number of Australians are still going there for organ transplants, would they say the same if fellow citizens were going to Pol Pot's killing fields in Cambodia for transplants a generation ago?

Many of us in and beyond China ought now to raise our voices and seek greater impact, not only because it is necessary for tens of millions of Falun Gong practitioners and their families, who have been torn apart across the entire country, but also because it is good for both China and the international community as a whole. We all want a China that enjoys the rule of law, dignity for all and democratic governance.

Thank you.