

Transplantation and Human Rights in China

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Sponsors: Association of Students, College of
Social Sciences, Dept. of Geography, UH Falun
Gong Club, UH Amnesty International

Program in Human Rights
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Overview

- Background and demand history of using executed persons as organ sources in China
- Genocide?
- Surge in transplantation following Falun Gong crackdown
- Legal Developments
- Responses

Background and demand history of using executed persons as organ sources in China

Drivers of Past Organ Demand in China (and Patient Selection)

- Morbidity
- Capacity (# facilities, # surgeons)
- Revenue (foreign transplant tourism)
 - Civilian health care subsidies down since 1980: 36% \Rightarrow 17% (need profit centers)
 - 1985 Deng Xiaoping directive: army can make money to offset budget shortfall

Early Mentions of Organ/Execution Nexus

Baker M. Uproar over kidney sales. Herald. Dec. 13, **1988**. [Lexus/Nexus search]

Cheng IK et al. Comparison of the mortality and morbidity rate between proper and unconventional renal transplantation using organs from executed prisoners. Transplant Proceedings **1991** Oct; 23(5): 2533-6. [First in PubMed]

Zhang Z. [Organ Transplantation must be Voluntary, Open, and Transparent], *Yixue yu zhixue* [Medicine and Philosophy] **1996**; 17(3): 178-9.

[see Ikels C. Ethical issues in organ procurement in Chinese societies. China Journal 1998; July 38: 95-119.]

Cheng IK et al. *Transplant Proceedings* 1991 Oct; 23(5): 2533-6. “proper” vs. “unconventional” renal

1. Difficult to ensure proper consent from a condemned criminal unless properly monitored by human rights organizations.
2. Difficult if not impossible to ensure diagnosis of brain death.
3. Hong Kong patients pay > PRC Chinese: commercial exploitation danger.
4. Higher morbidity & mortality from PRC organs.
5. All responsible practitioners should inform patients, not encourage nor be directly involved in organizing such transplants for their patients.

Organ Supply in China

- Related donors - rare
 - Kidney from family: only 227 of 40,393 (0.6%) 1971-2001 China Pharmacy Net, 2002-12-05
<http://www.chinapharm.com.cn/html/xxhc/2002124105954.html>
- Brain-dead donors - very few
 - < 100 from 2003-2005 (Chen et al. 2006)
http://www.abstracts2view.com/wtc/view.php?nu=WTC06L_1100&terms=
- South China Morning Post (24 Oct 06):
> 99% from executed prisoners

Q: Is the pancreas transplant a living organ transplant? <http://en.zoukiishoku.com/list/qa7.htm>

A: There is no living pancreas transplant for foreign patients in China .

Q & A

Q: Are the organs for the pancreas transplant from brain death patients?

A: Our organs do not come from brain death victims because the state of the organ may not be good.

Huang Jiefu, V. Minister of Health (2005): 95%
(Congressional Exec. Commission Annual Report on China 2006)

First acknowledgment by senior official (liver transplant surgeon)

Harvesting of Organs From Executed Prisoners

In July 2005, Huang Jiefu, Vice Minister of Health, became the first senior official to acknowledge that the majority of organs used in transplants in China originate from executed prisoners.²²⁴ Other officials maintain that organ harvesting is limited to a few cases in which the express consent of the condemned convicts has been obtained, and pursuant to strict legal regulations.²²⁵ In 2006, new reports from overseas medical and legal experts condemned the government's continuing practice of harvesting organs from executed prisoners without their consent.²²⁶

Existing Chinese law legalizes the harvesting of organs from executed prisoners.

Caijing Magazine 11/2005: 95%+ organs from executed

3 April 06.

²²⁴"Organ Transplants: A Zone of Accelerated Regulation" [Qiguan yizhi: jiaokuai guizhi de didai], Caijing Magazine (Online), 28 November 05. The magazine reports that over 95 percent of organs transplanted in China come from executed prisoners.

²²⁵Health Official Denies Practice of Harvesting Organs From Executed Prisoners, 8 March

<http://www.cecc.gov/pages/annualRpt/annualRpt06/CECCannRpt2006.pdf>

Execution in China: by the numbers?

- Total executions a “state secret” – unique in the world
- 64-68 capital crimes (50% < nonviolent)
Revised Criminal Procedure Law of 1997
- Insufficient defendant representation and appeals (UN)
- But: Execution admitted primary organ source for at least 95% of transplants

Execution in China by the numbers?

- Estimate of sources:
 - Newspaper execution announcements (AI)
 - Number of organ transplants
- Executions >> Σ rest of the world

Amnesty Int'l average 1616 / year (2000-05)

Some statements of up to 10,000 per year

Judicial executions not only likely source . . .

Falun Gong / Falun Dafa

- Founder: Li Hongzhi (1992)
 - Qigong-Buddhist-Taoist synthesis
- Practitioners ca. 70 M (~ size of CCCP)
- Motto: Truth, Compassion, Forbearance
- CCCP Motto: Seeking truth from the facts

3,000 + in custody deaths of FG practitioners documented (12/26/06)



Gao Rongrong ten days after she was hospitalised in 2004

Human Cost

Gao Rongrong, who died in custody in June after being detained in Longshan Reeducation through Labour facility in Shenyang, Liaoning province. Officials had reportedly beaten her in 2004, including by using electro-shock batons on her face and neck, which caused severe blistering and eyesight problems, after she was discovered reading Falun Gong materials.

- **Suppression of Falun organized under 610 Office to “eradicate Falun Gong” by “defaming their reputations, bankrupting them financially and destroying them physically.”** 610 head, **Li Lanqing**, Great Hall of the People (1999).
- Arrests by April 2001 in Beijing: 830,000

Table 1

Victims of alleged torture

Victims	Percentage
Falun Gong practitioners	66
Uighurs	11
Sex workers	8
Tibetans	6
Human rights defenders	5
Political dissidents	2
Other (persons infected with HIV/AIDS and members of religious groups)	2

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF TORTURE AND DETENTION

**Report of the Special Rapporteur on torture and other cruel, inhuman or
degrading treatment or punishment, Manfred Nowak**

MISSION TO CHINA*

E/CN.4/2006/6/Add.6
10 March 2006

**Manfred Nowak: 66% of gov't torture cases with Falun
Gong victims (2% dissidents)**

Table 1

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Genocide?

Convention on the Prevention and Punishment of the Crime of Genocide

General Assembly Res. 260 A (III) of 9 December 1948, in force 12 January 1951

- ROC (Taiwan) signed 20 July 1949 (ratified 19 July 1951)
- ROC treaties rejected by PRC
- Convention on Genocide (re)ratified by PRC 19 April 1983

Criterion for Genocide - Article 2

- “In the present Convention, genocide means **any of the following acts** committed **with intent to destroy, in whole or in part**, a national, ethnical, racial or **religious group**, such as ...”

Falun Gong = religious group

FG is transnational, trans-ethnic, transracial, but **religious** (spiritual)

CCCP description: FG is an “evil cult”

Criterion for Genocide - Article 2

- (a) **Killing** members of the group
- (b) Causing **serious bodily or mental harm** to members of the group;
- (c) **Deliberately inflicting** on the group **conditions of life** calculated to bring about its **physical destruction in whole or in part**;
- (d) Imposing measures intended to **prevent births** within the group;
- (e) **Forcibly transferring children** of the group to another group.

Intent?

Li Lanqing - 610 Office Head (1999)

Suppression of Falun Gong called for under 610 Office by . . .

“. . . defaming their reputations, bankrupting them financially and destroying them physically.”

(610 Office head, **Li Lanqing**, Great Hall of the People (1999), reported by Li Baigen, former assistant director of the Beijing Municipal Planning Office, Matas/Kilgour, Report, 2007, p. 35)

Two Problems for 'Genocide' label

- Emergent Maximalist vs. Minimalist application of criteria has emerged
"any" in practice now requires nearly 'all' to trigger term – e.g. Darfur
- "Philosophical Genocide"
 - Accomplished either by forcing recantation or physical destruction
 - Contrast to ethnic genocide (where key characteristic not separable)

Genocides but without the label?

- Rwanda

Term avoided to not trigger obligation to intervene – UN, US State Department

- Sudan (Southern / Darfur)

UN declines term although nearly every marker met via state-abetted actors
(contrast: US State Department declares)

Genocide Watch: 8 Stages of Genocide

- **Classification** Yes (FG self-identifying)
- **Symbolization** No (no physical symbols)
- **Dehumanization** Yes
 ["hate propaganda in print and on hate radios is used to vilify the victim group... Genocidal societies lack constitutional protection for countervailing speech ..."]
- **Organization** Yes (610 Office)
- **Polarization** Yes
- **Preparation** Yes (610 Office)
 ["they are often segregated into ghettos, deported into concentration camps, ..."]
- **Extermination** Yes Philosophical / Physical
- **Denial** Yes

610 Office head Li Lanqing at anti-Falun Gong exhibit 7/2001 (Xinhua News Agency)

"He pointed out that this exhibition was organized very well. With its lively and vivid form it revealed the ugly nature of 'Falun Gong', which harms lives, tramples upon human rights, damages the rule of law, harms the society, betrayed the motherland, fabricates rumours to deceive people [of] the world, and it helps cadres and the masses understand the true nature of evil cults and it arouses the people's hatred towards 'Falun Gong', and make them value the stability and unity of the country."

⁷¹ "Li Lanqing Stresses Revealing "Falun Gong" at a Deeper Level to Ensure National Security" Xinhua News Agency 16 July 2001.

<http://www.legaldaily.com.cn/gb/content/2001-07/17/content_21031.htm>

U.S. House Resolution No. 188 unanimously passed in July 2002

- “Whereas the Government of the People's Republic of China has forbidden Falun Gong practitioners to practice their beliefs, **and has systematically attempted to eradicate the practice and those who follow it; ...**”
- “Whereas ... state-controlled media in the People's Republic of China has inundated the public in an **attempt to breed hatred and discrimination; ...**”
- “Whereas the **campaign of persecution** has been generated by the Government of the People's Republic of China, is **carried out by government officials and police at all levels**, and has permeated every segment of society and every level of government in the People's Republic of China ...”

Surge in transplantation following Falun Gong crackdown

Organ Supply in China from Falun Gong practitioners ?

- Surge in transplantation after eradication campaign began in July 1999
- Increases unaccounted by other estimates of sources
- Blood draws and examinations after FG arrests
- Calls to hospitals identify FG as sources

Organ Supply in China from Falun Gong practitioners ?

- Non-self-identifying arrestees
- Extrajudicial category of Falun Gong
 - no legal representation allowed
- Large number of nonjudicial deaths in detention confirmed

Li Huagui former FG prisoner on blood draws (Sept. 20, 2007)

- On May 14, 2001, when I was distributing flyers in Futian District of Shenzhen City, Guangdong Province, I was illegally arrested.
- In the labor camp, the practitioners were treated with no dignity at all. [...]
- All practitioners regardless of age had to work for more than 10 hours a day to make products, which were then exported to the United States, Africa, and southern Asia.

Li Huagui former FG prisoner on blood draws (Sept. 20, 2007)

- In the fall of 2001, the labor camp suddenly announced that it would conduct physical examinations for all Falun Gong practitioners.
- A few days later, they went to the tent where the practitioners were doing slave labor to make products, and examined them as well.
- Other inmates who were not Falun Gong practitioners were not examined.
- At that time, some practitioners objected to the physical exam. The guards said, "Don't you know it's good [to have the exams]? Others want it but can't have it!"

Li Huagui former FG prisoner on blood draws (Sept. 20, 2007)

- However, some practitioners were diagnosed with illnesses, but received no treatment. We didn't know what was going on at that time, although we did wonder why the guards, who never treated the practitioners as people, would care about our health.
- A few practitioners in Sanshui Women's Labor Camp said that the practitioners there had physical exams every year. Between early 2004 and early 2005, one middle-aged Falun Gong practitioner was forced to have her blood drawn three or four times.

Report 2006

REPORT INTO ALLEGATIONS OF ORGAN HARVESTING OF FALUN GONG PRACTITIONERS IN CHINA

by David Matas and David Kilgour

6 July 2006

Updated 2007

BLOODY HARVEST

Revised Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China

by David Matas and David Kilgour

31 January 2007

The report is also available at

<http://organharvestinvestigation.net>

David Matas, Esq.

&

**David Kilgour, former
MP, Canadian Secretary
of State, Asia-Pacific**

July, 2006, Appendices

**Rev. 1/2007,
Appendices**

**2006 – 18 lines of
evidence**

**2007 – 33 lines of
evidence**

**[http://investigation.go.save
inter.net/](http://investigation.go.saveinter.net/)**

Matas-Kilgour: 33 Lines of Inquiry (2007)

a) General Considerations

- 1) Human rights violations
- 2) Health financing
- 3) Army financing
- 4) Corruption

b) Considerations specific to organ harvesting

- 5) Technological development
- 6) Treatment of prisoners sentenced to death
- 7) Organ donations
- 8) Waiting times
- 9) Incriminating Information on Websites
- 10) Donor recipient interviews
- 11) The money to be made
- 12) Chinese transplant ethics
- 13) Foreign transplant ethics
- 14) Chinese transplant laws
- 15) Foreign transplant laws
- 16) Travel Advisories
- 17) Pharmaceuticals
- 18) Foreign state funding for care

C) Considerations specific to Falun Gong

- 19) A perceived threat
- 20) A policy of persecution
- 21) Incitement to hatred
- 22) Physical persecution
- 23) Massive arrests
- 24) Deaths
- 25) Unidentified
- 26) Blood testing and organ examination
- 27) Sources of past transplants
- 28) Sources of future transplants
- 29) Corpses with missing organs
- 30) Admissions

- 31) A confession
- 32) Corroborating studies
- 33) Government of China responses

Manfred Nowak, UN Special Rapportuer on Torture, Cruel, Inhuman and Degrading Treatment, called Chinese gov't response wholly insufficient.

Transplant Surge after July 1999

- Total before **1999** ca. **30,000** transplants total
- **1994-1999** ca. **18,500** transplants (6 years)
- **2000-2005** ca. **60,000** transplants (6 years) = **+41,500**

6-year Total +3.25 X previous period Increase +2.25 X

According to public reports, there were approximately 30,000 ⁴¹ transplants in total done in China before 1999 and 18,500 ^{42 41} in the six year period 1994 to 1999. Shi Bingyi, vice-chair of the China Medical Organ Transplant Association, says there were about 90,000 ⁴³ transplants in total up until 2005, leaving about 60,000 transplants in the six year period 2000 to 2005 since the persecution of Falun Gong began.

Matas-Kilgour (2007) , 41-2.

either of these categories in recent years. Presumably the identified sources of organ transplants which produced 18,500 organ transplants in the six year period 1994 to 1999 produced the same number of organs for transplants in the next six year period 2000 to 2005. That means that the source of 41,500 transplants for the six year period 2000 to 2005 is unexplained.

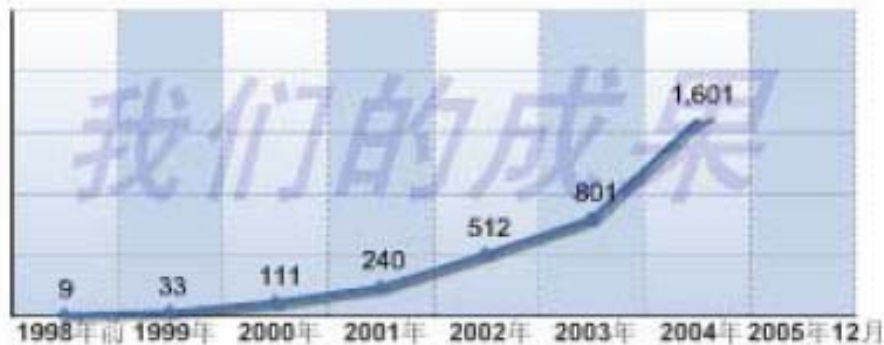
Matas, Kilgour (2007)

Where do the organs come from for all the transplants in China? The allegation of organ harvesting from Falun Gong practitioners provides an answer.

Again this sort of gap in the figures does not establish that the allegation of harvesting of organs from Falun Gong practitioners is true. But the converse, a full explanation of the source of all organ transplants, would disprove the allegation. If the source of all organ transplants could be traced either to willing donors or executed prisoners, then the allegation against the Falun Gong would be disproved. But such tracing is impossible.

Expansions after July 1999 crackdown

- 1998-April 2006: 22 Liver Centers => ca. 500



截至目前我们共完成肝移植手术**2248例**
去年术后患者一年平均生存率达**97%**

2,248

- 1998 to 2004 Orient Organ Transplant Center liver
9 => 1601 / yr total 6-yr total: 2248
- Kidney Centers 2001-2005: 106 => 368 (triple)

New Dedicated Transplant Facilities 2001-2002

- 2001 – Shanghai Clinical Medical Center for Organ Transplants
- **2002 – Oriental Organ Transplant Center in Tianjin (16 floors, 300 beds) – largest in Asia**
- April 2002 – People's Liberation Army Number 309 Hospital Organ Transplant Center
- October 2002 – People's Liberation Army Organ Transplant Research Institute
- Nov. 2002 – Beijing Organ Transplantation Center

Recordings/Transcripts Citing Falun Gong as Organ Sources

- **March 3, 2006:** Affiliated Hospital of Shanghai Jiaotong University. Dialed number: 01186-21-63240090
- **March 14, 2006:** The affiliated hospital of Zhengzhou (Henan Province) Medical University (2006-03-14--henan-yidafushu.wav) Number called: 01186-371-66913213
- **March 16, 2006:** Qianfoshan Liver Transplant Center in Shandong Province (x: 01186-531-82968900
- **May 22, 2006:** Minzu Hospital of Guangxi Autonomous Region (4.2006-05-2209-19-08—guangximinzuyiyaun.mp3). Number: 0118613607710447

Recordings/Transcripts Referencing Falun Gong as Organ Sources, cont'd

- **May 23, 2006: Jinzhou Intermediate People's Court** (13.1-jinzhou-mrenminfayuan1.mp3) Phone number called: 416-2526609
- **May 31, 2006: Kunming Higher People's Court** (14.kanshousuo--kunming--gaoyuan1.mp3) Phone number called: 011-86-871-4095538
- **June 8, 2006: Mishan City Detention Center, Heilongjiang Province** (1.2006-06-0822-15-14---heilongjiang-mijiang.mp3) (Time of the phone: 10:33:41 EST) Phone number called: 011-86-467-526-1117
- **[s.d.]: Intermediate People's Court of Qinhuangdao** (12.1-kanshousuo--qinhuangdao--mfayuan1.mp3) [s.n.]

Map of regions in China where detention or hospital personnel have made admissions to telephone investigators*



Most of the excerpted phone call texts are in an appendix. For illustration purposes, excerpts of three conversations follow:

The Face of International Transplant Tourism in China prior to Recent Reforms

Introduction to China International Transplantation Network Assistance Center



Viscera providers can be found immediately! Please contact us before the state of your illness gets worse. (In accordance with Chinese law, the viscera are provided by the state-owned hospitals.)

The Transplantation assistance center, which mainly focuses on the foreigners, was founded in 2003 in the Transplantation Institutes of the Hospital by the CITNAC. In this center, all the doctors and nurses are

fluent in English. Because they have studied abroad, they are familiar with international culture. Patients can receive their treatment without any worries. After the operation, the patient can still have further treatment in the TICU, or the ward for the senior officers, which provides special care and the most advanced medical equipment in China. Also, in this center, the Japanese staff can speak English as fluently as their mother tongue; the Chinese staff can also speak English. They provide a thorough service to all patients at any time.

“Viscera providers can be found immediately!” (4/21/07)

“ ... Fluent in English. Because they have studied abroad ...”

Location: 16-05/06, Sino-Korea Mansion, # 124 Hui Gong Street, Shenhe District, Shenyang, China
Tel: 86- 024-22514701 Office Open Hours : 8:00 Am - 17:00 Pm Mon - Fri

Contrast: Japanese lack of donors despite 70 M donor cards - only 14 brain-dead patients ...

Japanese Transplantation

Every year in Japan 2000 people die because of the liver disease and 13000 people die of renal decline. It is very difficult to find an organ donor and so perform the organ transplantation.

Now, there are about 13000 patients who want to receive an organ transplantation in Japan. Japan Organ Transplantation Network Center handed out approximately 70,000,000 voluntary organ donor cards in April 2001, but there were only 14 patients who were brain dead who donated organs for transplantation . There are many patients facing death because they cannot obtain the transplantation organs they need. Some patients have to go to other countries to a donor. The cost of a liver transplantation abroad is about 50,000,000-60,000,000 yen, and even then it is not certain an organ donor can be found ,even in the USA. It is the rigorous fact that it is difficult to find a donor for patients who need an organ transplantation . And many patients die whilst waiting.


The International Medical Treatment Assistance Network Center cooperates with many hospitals in order to save patients and supply the omnidirectional service.

China International Transplant Center

<http://en.zoukiishoku.com/list/facts.htm> 4/21/07

Facts of Chinese Transplantation

There are more than 35,000 kidney transplant operations that have been done in public hospitals in 29 cities, provinces and municipalities in China, and the number of kidney transplant operations is at least 5,000 every year across the country. So many transplantation operations are owing to the support of the Chinese government. The Supreme Democratic Court, Supreme Democratic Law-officer, Police, Judiciary, Department of Health and Civil Administration have enacted a law together to make sure that organ donations are supported by the government. This is unique in the world. Medical equipment and the nursing system in China are not



Procurement vertical integration:
Courts, police, judiciary, Departments
of Health and Civil Administration –
“This is unique in the world.”

Efficiency? Patient Narrative 2003-04

(Matas, Kilgour 2007, Appendix 5)

Trip 1: 4 kidneys from 4 sources – cross match + + + +

Trip 2: 4 kidneys from 4 sources – cross match + + + -

Case 3

Mr. H.X., Sex: male; in his mid-thirties, Blood type A, from Asia.

In 1999, he was found chronic renal insufficiency. In year 2000 he went to several hospitals in Taiwan waiting to have a kidney transplant.

About July/August 2003, he decided to go to mainland China to have a kidney transplant. At the time, a peritoneal dialysis care-giver introduced Mr. H.X. to go to visit a broker for transplantation in Mainland China. In September 2003, the broker informed him that a HLA 3 matched kidney was found for him, so he went to Mainland China for kidney transplant.

First Transplant Trip to China:

Accompanied by his wife, Mr. H.X. arrived in Shanghai. Shanghai No.1 People's Hospital (also called Affiliated Hospital of Shanghai Jiaotong University) arranged to have him picked-up and he was hospitalized right away.

Cont'd

He was found microlymphocytotoxicity cross-match positive, when the fresh kidney from the organ supplier was delivered to this hospital for him and an anti-body cross-match test was done. Mr. H.X. could not use this organ.

He continued to be hospitalized waiting for a matching organ for two weeks. During this period of time, fresh kidneys had been taken from the suppliers' bodies and transported to this hospital for a total of 4 times for him (including the one mentioned above). Every time, after the kidney arrived, an anti-body cross-matching test was performed. However, each time the test results was positive like the first time, so he could not use the organ even though it had already been taken out from the supplier's body.

Two weeks later, on October 1st, Mr. H.X. went back home due to commitment at his work place.

Second Transplant Trip to China:

Mr. H.X. decided he was not in hurry to do the transplant, and wanted to take some time to rest and recover himself physically. It was not until March 2004, He wanted to have the transplant again.

Cont'd – match on kidney source #8

He was notified again that a matching organ was found and was asked to go to Mainland China. Again he was hospitalized in Shanghai No.1 People's Hospital. He was told by a doctor that a HLA 5 matched organ was found for him. This time, the microlymphocytotoxicity cross-match test result was again positive after the matching kidney had been delivered to the hospital and the test was done. Mr. H.X.'s blood sampling had shown that his PRA Class 2 is more than 30% (when PRA Class 2 is too high, it can easily cause cross-match positive). The doctor in mainland China suggested him to receive plasmapheresis but the doctor in Taiwan recommended him not to receive plasmapheresis and just waited for a cross-match negative organ. Mr. H.X. continued to wait at the hospital. Two more matching-organ were found and brought in for his transplant operation on two separate occasions, but again these kidneys could not be used due to anti-body cross-match positive. It was not till late April when a HLA 4 matched kidney was found for him. This time the anti-body cross-match was negative. Mr. H.X. received the transplant operation on April 23, 2004.

Military hospital connections: Easier access to organs

- Military hospitals *not* under Ministry of Health
 - Many surgeries performed at military hospitals - also for transplant tourists
 - Military surgeons frequently practice also at a civilian hospital

Vice Minister of Health Huang Jiefu (Liver Transplant Surgeon), 2007

unethical organ retrieval will be punished. In addition, it must be clarified that transplant surgeons have absolutely no involvement with the process of execution.

**Liver Transplantation 2007 (February);
13:193-196**

Physician sorts & selects from execution pool

Mr. H.X.'s wife saw around 20-sheets of papers with relevant info of organ suppliers and their HLA info. The doctor picked a few from the list and put them in order. Once the organ arrived, a cross-match would be performed. If the test result was positive, the transplant operation had to be cancelled, and if it is negative, the operation would proceed.

The residents (doctors) told Mr. H.X. that the organ came from unwilling executed prisoner.

Note: Shanghai No.1 People's Hospital where Mr. H.X. had transplant is a civilian hospital, but the chief physician of the Transplant Department Jianming Tan was also director of the Organ Transplant Center of the Whole Army, the director of Urinary Department and also the deputy head of Fuzhou General Hospital of the Nanjing Military Area². It was said only military hospitals or doctors working at the army hospitals could easily obtain organs.

Selection of matching kidney determines order and timing of execution.

Commercial cadaveric renal transplant: an ethical rather than medical issue

2006

Sun C-Y, Lee C-C, Chang C-T, Hung C-C, Wu M-S. Commercial cadaveric renal transplant: an ethical rather than medical issue. Clin Transplant 2006; 20: 340–345. © Blackwell Munksgaard, 2006

Chiao-Yin Sun, Chin-Chan Lee, Chiz-Tzung Chang, Cheng-Chih Hung and Mai-Szu Wu

Table 1. Characteristics of patients

	Total	Taiwan	China	p value
<i>(A) Demographic data in both groups of patients</i>				
Number of patients	75	44	31	
Age (yr)	47.2 ± 10.5	45.1 ± 9.9	50.0 ± 10.9	<0.05 ^a
Age at transplantation	39.9 ± 11.3	35.6 ± 9.0	46.1 ± 11.4	<0.001 ^a
Durations of follow-up (yr)	7.2 ± 5.1	9.0 ± 5.6	4.5 ± 2.5	<0.001 ^a
Sex: male/female	40/35	22/22	18/13	
Dialysis before transplantation (HD/PD)	60/15	39/5	21/10	
Dialysis before transplantation (yr)	3.2 ± 2.4	2.9 ± 1.9	3.7 ± 2.9	NS
Donor cadaver/living	65/10	34/10	31/0	

N=75

- 44 Taiwan sources
- 31 PRC sources

Controlling for perioperative mortality, 10 year mortality did not significantly differ:

- * Taiwan = 91.1%
- * PRC = 88.9%

“the observation suggested that the poorer prognosis of recipients was not the reason to stop the controversial surgery. Ethics and humanity are major concerns to halt the unwelcome procedure”

- Legal regime not sufficient to protect “donors”

transplantation. On the other hand, the practice should be regulated in the side of transplant surgeons and recipients. Poor medical outcome is not a reason to stop the practice. The procedure was prohibited and illegal in government. The unwanted practice should also be regulated in a legislation on the part of surgeons and recipients.

Legal Developments

Provisional Regulations ... On the Use of Dead Bodies or Organs from Condemned Criminals 1984

最高人民法院
最高人民检察院
公安部 司法部
卫生部 民政部
关于利用死刑罪犯尸体
或尸体器官的暂行
规定

(1984年10月9日)

- Supreme Court
- Supreme Procuratorate
- Ministry of Public Security
- Ministry of Justice
- Ministry of Public Health
- Ministry of Civil Affairs


**Provisional Regulations of
The Supreme People's Court, The Supreme People's Procuratorate, Ministry of
Public Security, Ministry of Justice, Ministry of Public Health and Ministry of Civil
Affairs**

On the Use of Dead bodies or Organs from Condemned Criminals

October 9, 1984



Legal Developments - 1984 Regulation

- I. Those criminals who are sentenced to death and executed immediately must “be executed by means of shooting” in light of the relevant provision in the Criminal Law. When the execution is over, the dead bodies could be otherwise dealt with only after death is confirmed by the supervising procurator on the spot.
- II. The dead bodies or organs from the condemned criminals after execution or the remains can be collected by their family members.
- III. The dead bodies or organs of the following categories of the condemned criminals can be made use of:
 -  1) The uncollected dead bodies or the ones that the family members refuse to collect;
 - 2) Those condemned criminals who volunteer to give their dead bodies or organs to medical institutions;
 - 3) Upon approval of the family members

Legal Developments - 1984 Regulation

Documentation ?

When the condemned criminals volunteer to give their dead bodies to the medical institutions, there should be formal written certificates or records duly signed by the same, which should be kept in the People's Court for future reference.

Medical units contact within execution time limits

Procuratorate in charge of on-the-spot supervision. The units using the dead bodies should contact the People's Court on their own initiative, within the prescribed time limits of the execution of death penalty by the People's Court.

[future perfect]

<http://www.foreignaffairs.house.gov/archives/107/73452.pdf>

**STATEMENT OF WANG GUOQI, FORMER DOCTOR, CHINESE
PEOPLE'S LIBERATION ARMY HOSPITAL**

**1990-
2000**

The policeman escorting us told the prisoners that we were there to check their health conditions. Therefore, the prisoners did not know the purpose for their blood samples or that their organs might be up for sale. Out of the four samplings, one basic and sub-group blood match was found for the recipient, and the prisoner's kidneys were deemed fit for transplantation.

**Blood samples
taken – why
undisclosed**

Two days before execution, we received final confirmation from the Higher Court, and on the day of the execution we arrived at the execution site in plain clothes. In the morning, the donating prisoner had received a heparin shot to prevent blood clotting and ease the organ extraction process. When all military personnel and condemned prisoners would arrive at the site, the organ donating prisoner was brought forth for the first execution.

**Pre-execution
Heparin shot to
prevent clotting**

At the execution site, a colleague, Xing Tongyi, and I were responsible for carrying the stretcher. Once the handcuffed and leg ironed prisoner had been shot, a bailiff removed the leg irons. Xing Tongyi and I had 15 seconds to bring the executee to the waiting ambulance. Inside the ambulance, the best urologist surgeons removed both kidneys and rushed back to the waiting recipient at the hospital.

**Bullet, dragged
to ambulance
for extraction.**

Before removing the skin, we would cut off the ropes that bound the criminals' hands and remove their clothing. Each criminal had identification papers in his or her pocket that detailed the executee's name, age, profession, work unit, address and crime. Nowhere on these papers was there any mention of voluntary organ donation, and clearly the prisoners did not know how their bodies would be used after death.

**Court papers
(>100 x) - no
mention of
voluntary
donation**

Mobile Execution Vans: Lethal Injection prepared by physician



Revised Criminal Procedure Law 1997

64-68 capital crimes

- Inadequate representation
- Inadequate appeal process
(State Dept.; Amnesty; UN)

Amnesty International: Yunnan Province admitted to only 17 executions in 2002, but purchased 18 vans at \$60,000 each in 2003



Nov. 6, 2006

3. As a professional society, TTS cannot dictate to China that its practice regarding capital punishment is unethical.

Transplantation Society (Nov. 6, 2006)

It is a fundamental principle for The Transplantation Society that organs and tissues are given freely and without coercion. Because of the restrictions in liberty in a prison environment it is unlikely that prisoners are truly free to make independent decisions and thus an autonomous informed consent for donation cannot be obtained. Further, the financial incentive for recovering organs from executed prisoners may become an incentive to increase the number of such organs available for transplantation. Thus, The Transplantation Society is opposed to the recovery of organs and tissues from executed prisoners and from any other individual where an autonomous consent for the procurement is lacking.

4. Can members of The Transplantation Society carry out pre-clinical or clinical research projects in collaboration with groups from China or other countries where executed prisoners are used as organ or tissue sources?

Collaboration within clinical studies should only be considered if the study does not violate the Helsinki Declaration of the World Medical Association: Ethical Principles For Medical Research Involving Human Subjects and does not violate the Policy and Ethics Statement of The Transplantation Society for example through the involvement of recipients of organs or tissues from executed prisoners.

Collaboration with experimental studies should only be considered if no material derived from executed prisoners or recipients of organs or tissues from executed prisoners is used in the studies.

Accepts: Members from China signing membership statement; registering for meetings, . . .

Rejects: Collaborations involving executees

Transplantation Society (Nov. 6, 2006)

5. Should members of The Transplantation Society accept invitations to give scientific or educational lectures or to provide their expertise to support various transplant program activities in China?

Giving lectures or sharing expertise through visiting colleagues and transplant programs in China should provide an excellent opportunity for dialogue and for sharing our positions on standards of care, acceptable sources for organs and transplantation ethics. Care should be given to ensuring, as far as possible, that such participation facilitates development of Chinese transplantation programs towards The Transplantation Society standards of practice and does not promote the practice of transplantation of organs from executed prisoners.

6. Should members of The Transplantation Society accept clinical or pre-clinical trainees from transplant programs that use organs or tissues from executed prisoners?

Yes. To promote dialogue and to educate such trainees in appropriate and effective alternatives to the use of organs or tissues from executed prisoners, trainees may be accepted. Care should be taken to ensure, as far as possible, that it is their intention that their clinical career will comply with the standards of practice outlined in The Transplantation Society Policy & Ethics Statement (<http://www.transplantation-soc.org/policy.php>).

7. Should international registries accept data from patients transplanted with organs or tissues from executed prisoners?

Yes. The need for transparency and for assembling comprehensive demographic data on the international practice of transplantation dictates that these data should be accepted. The source of the organ or tissue should be clearly identified and recorded as procured from an executed prisoner. Such data should not be incorporated in the total analysis of outcomes of transplantation or other scientific registry studies.

Human Organ and Tissue Transplantation

From the Eighth Plenary Meeting of the Fifty-Seventh World Health Assembly in Geneva

World Health Assembly, 2004

- (5) to take measures to protect the poorest and vulnerable groups from “transplant tourism” and the sale of tissues and organs, including attention to the wider problem of international trafficking in human tissues and organs;

Human Organ Transplant Ordinance (1995) – Hong Kong

- Hong Kong ordinance (23 Feb. 1995) – but 70% living donors if small numbers
 - *to prohibit commercial dealings in human organs intended for transplanting*
 - to restrict the transplanting of human organs between persons who are not genetically related,
 - to regulate the importing of human organs intended for transplanting
 - for supplementary purposes connected with these matters.
- Sovereignty to PRC June 30, 1997
- Little impact in greater China (though cited by Huang, 2007)

July 1, 2006 – Interim Provisions on the Administration of Clinical Application of Human Transplant Techniques

New rule to regulate organ transplants

By Zhang Feng (China Daily)

Updated: 2006-05-05 06:32

From July 1 it will be mandatory for all organ transplant operations in China to be discussed with and approved by a medical science and ethics committee.

The measure is part of a new regulation that will play a vital role in banning the sale of organs and putting a stop to practices that violate the ethics and medical standards of organ transplants, officials said.



Mao Qun'an, spokesman of the Ministry of Health. [moh.gov.cn]

This is the first time a Chinese health authority has set up a special committee and taken measures to help regulate organ transplants, Mao Qun'an, spokesman of the Ministry of Health, said.

The ministry will set up a State-level committee of experts in management, medical treatment, nursing, pharmacy, law and ethics to guide the country's work, Mao said.

Medical institutes and hospitals at various levels will also be required to organize their own committees to approve all organ transplants.

A key task of the committee is to ensure that the organs used for transplants are voluntarily donated instead of being sold or randomly taken from people, Mao said in an exclusive interview with China Daily.



- Ethics Committees
- Regulative committee
- Management, Tx, nursing, Rx, law, ethics
- Hospital committees to ensure voluntary donation – yet 95% derive from executions or extra judicial sources
- Ban sales

New rule to regulate organ transplants

By Zhang Feng (China Daily)

Updated: 2006-05-05 06:32

CHINA
daily

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2006



截至目前我们共完成肝移植手术2248例
去年术后患者一年平均生存率达97%

2,248

No
regulation =
boom

1999-2004

- "But in the three months since the law took effect on July 1, organ transplant professionals say the rules do not have 'any effective influence on field operations.'" **South China Morning Post (10/24/06)**

New Reg. in July – But Fall, 2006

Belgian Senator's Investigation

- Patrik Vankrunkelsven – Flemish Labor Party called 2 Beijing hospitals (kidney)
 - Wait time: “only a few weeks”
 - Cost: 50,000 Euros
 - Register: Under Chinese name and address
- Told: “At the Chinese New Year in February we like our prisons to be emptied. After the New Year we startup again, but then of course the waiting time will be a bit longer.”

www.theepochtimes.com/news/6-12-2/48846.html

Organ Transplant Act “Law tightened on organ transplants” 3/23/07

- Strictly prohibits harvesting organs from Chinese citizens < 18 years old
- Reaffirms ban on trading
- Reaffirms “fully respect the will of donors and be conducted voluntarily”
- “Currently, China has no clear laws on human organ transplants.”
- New registry and allocation organization
- Public promotion of donation

“Transplant guidelines taking shape”

10/24/06 – Organ Transplant Act

South China Morning Post quotes drafter:

- “The guideline will specifically not mention the use of executed prisoners’ organs, even though it’s the main source of organs in China.”
 - “But China cannot find a replacement ... While the demand for organs is huge, the executed prisoners’ organs will not be specifically banned in this guideline or in the coming Human Organ Transplant Rule.”
- => Transplantation reinforces execution.

Declaration - 2nd Meeting of the Committee on Clinical Application of Human Organ Transplantation of China and National Summit of Clinical Application and Management of Human Organ Transplantation (14 Nov. 2006)

1. Adhere to regulations
2. Follow medical / ethical rules, respect human lives
3. No trans-border activities; no transactions
4. People of China first priority; foreigners after
5. Written consent; family consent if unable
6. Related living donors only

Comparison of Rules

	1984 Executives	July 2006	March 2007
Source	Voluntary	Voluntary	Voluntary
Source	Unclaimed Body		
Source	Donated By Family		
Sales	NA	Banned	Banned

PERSPECTIVES IN LIVER TRANSPLANTATION

**Jiefu Huang, MD, Vice Minister of Health –
Feb. 2007**

Ethical and Legislative Perspectives on Liver Transplantation in the People's Republic of China

Jiefu Huang, M.D.

Vice Minister of Health, People's Republic of China; Professor of Surgery, Peking Union Medical College, Beijing, China

No transplant physician involvement ?

up. The current system of organ donation depends on the goodwill of individuals and families to provide access to the dead. Now, apart from a small portion of traffic victims, most of the cadaveric organs come from executed prisoners. It should be clarified that, at present, the only prisoners who are subject to capital punishment in the PRC are convicted criminals. In ad-

Liver Transplantation in China

Jorge Rakela, M.D. and John J. Fung, Ph.D., M.D.

Rakela and Fung: Huang Explanation not convincing

viding more government oversight. He acknowledged that the majority of deceased donors are from executed prisoners. However the claim that "only prisoners who are subject to capital punishment in the PRC are convicted criminals", the reported judicial reforms in capital punishment, and the opaque consent process fall short in convincing the international community of the legitimacy of liver transplantation in the PRC. These shortcomings will continue to marginalize Chi-

Liver Transplantation 13:182, (February) 2007

Harry Wu

Every state, and not just China, needs to lay in its defences in order to prevent the harvesting of organs from the unwilling, the marginalized, the defenceless. Whatever one thinks of the allegations, and we reiterate we believe them to be true, China is remarkably undefended to prevent the sorts of activities here discussed from happening. Until the recent legislation was in force, many basic precautions to prevent the abuses here discussed from happening were not in place. That legislation does not fill the gap unless and until it is comprehensively implemented.

**Note for US: Ruben Navarro ? / Moving the goal posts of death ?
/ Payment ...?**

August 19, 2007: Reduction in # of Authorized Transplant Sites to 164

HEALTH

China OKs 164 hospitals to perform organ transplants

www.chinaview.cn

2007-08-19 15:46:57

  Print



Chinese Ministry of Health (MOH) has approved 164 hospitals on the mainland to perform organ transplant operations.(File Photo)

[Photo Gallery>>>](#)

perform organ transplant and the MOH will soon publicize the names of the hospitals on the Internet.

BEIJING, Aug. 19 (Xinhua) -- The Chinese Ministry of Health (MOH) has approved 164 hospitals on the mainland to perform organ transplant operations.

The MOH has organized experts to evaluate existing hospitals that perform organ transplants, and 87 hospitals have passed the experts' evaluation, Wang Yu, a department director of MOH, said.

At the same time, the MOH has designated 77 hospitals at provincial levels to perform organ transplants, Wang said.

By now, there are altogether 164 hospitals entitled to

Agreement between Chinese Medical Association and World Medical Association (5 October 2007)



“... organs of prisoners and other individuals in custody must not be used for transplantation except for members of their immediate family”

Agreement is not binding on government

CMA / WMA Agreement

WORLD MEDICAL ASSOCIATION

News Release
5 October 2007

CHINESE MEDICAL ASSOCIATION REACHES AGREEMENT WITH WORLD MEDICAL ASSOCIATION AGAINST TRANSPLANTATION OF PRISONERS' ORGANS

The Chinese Medical Association has agreed that organs of prisoners and other individuals in custody must not be used for transplantation, except for members of their immediate family, it was reported at today's meeting of the World Medical Association annual General Assembly in Copenhagen.

In a letter to the WMA, the Vice President and Secretary General of the Chinese Medical Association, Dr Wu Mingjiang, said:

'I would like to inform you that after discussions in the Chinese Medical Association, a consensus has been reached, that is, the Chinese Medical Association agrees to the World Medical Association Statement on Human Organ Donation and Transplantation, in which it states that organs of prisoners and other individuals in custody must not be used for transplantation, except for members of their immediate family.

'The Chinese Medical Association will, through its influence, further promote the strengthening of management of human organ transplantation and prevent possible violations of the regulations made by the Chinese Government. We also hope to work more closely with the WMA and exchange information and views on the management of human organ transplantation.'



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Association pledges prisoners' organ transplant restriction

08:25, October 09, 2007

Organs from prisoners will no longer be used for transplant except for members of their immediate family.

The Chinese Medical Association (CMA) made the promise at the annual General Assembly of the World Medical Association (WMA) in Copenhagen last Friday, the CMA said in a statement yesterday.

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- President Hu vows to remain committed to "one country, two systems" principle
- Week's special: Summer peak transportation of rails



Chen said the WMA's donation standard concerning organ transplants from executed prisoners was stricter than China's national Regulations on Human Organ Transplants, which took effect on May 1.

The existing regulations state that all donations should have the approval of the donors, but stop short of specifying the requirement for executed prisoners.

"The regulations already make it difficult to get organs from executed prisoners,"

This year, the percentage of organs transplanted from executed prisoners has witnessed a significant drop, Chen said. Instead, live donations from relatives and donations from other dead citizens have increased.

Source: China Daily

Possible Responses

Possible Responses

Status quo or increase opportunity cost?

- Legal sanctions (H.R. 2030, 2530 in 2001)
- Professional (transplant societies)
- Educational
- Reputational

Educational Institution responses

- Option 1: 'Constructive engagement' (The Transplant Society - reform via ethics)
- Option 2: Moratoria (do not feed capacity)
e.g. Training, Exchanges, Demonstrations, Supplies

Question: Is involvement with execution-sourced organs avoidable within the Chinese system should a practicing (or training) Chinese surgeon wish to avoid it?

Possible Responses, cont'd

- Research sanctions:
 - Cancel collaborations
 - Redirect funding streams
 - Journals reject data due to Human Subjects Protections violations (*Liver Transplantation*)
 - 'No Credit' for tenure and promotion

Possible Responses, cont'd

- Cut off 3rd party reimbursement - 'formal approval' by insurance companies

E.g., Israel: Lavee J, Harefuah, 2006, 145(10);749-752, 781)

Possible Responses, cont'd

- Patient Education / Follow-up
 - Dissuasion against using source
 - Post-Operative follow-up or refusal?

Some Examples

Institutional Response - Queensland Hospitals (12/5/2006)

Hospitals ban training Chinese surgeons

December 05, 2006 - [Prince Charles / Princess Alexandra Hospitals]

QUEENSLAND'S two major organ transplant hospitals have banned training Chinese surgeons because of concerns that China takes organs from executed prisoners.

Health Minister Stephen Robertson revealed the move in a letter tabled in parliament this week in response to a petition supporting the Falun Gong spiritual movement.

Falun Gong, which has about 100 million members worldwide, has accused the Chinese government of harvesting organs from thousands of members executed over the past seven years.

[...]

They also banned joint research programs into organ transplantation with China.

But Mr Robertson said the hospitals did undertake training of Chinese doctors in other areas of medicine.

Huang Jiefu & Legal (Harry Wu, 2001)

There is a measure that stands before this committee today that I believe is highly relevant to the US stance on the practice of organ harvesting in China. Today at Harvard University there is a Conference underway entitled "Health Care East and West." At least two of the Chinese doctors attending this conference are renowned in Chinese organ transplant journals as experts of organ transplantation. The first of these is Dr. Huang Jiefu, a liver transplant specialist at Sun Yatsen University First Affiliated Hospital in Guangzhou. This same hospital was highlighted in a series of articles in the South China Morning Post in March, 2000 for their sale of liver transplants using organs from executed prisoners for patients from Hong Kong. The other doctor, Dr. Wu Jieping, a leading kidney specialist, is

plantation. So now, the very same doctors that participate in human rights violations in China are participating in medical conferences in the United States to enlighten our doctors on their medical practices and also to benefit from our advances in medical care. When I discussed this with the honorable chairwoman of this Subcommittee, she proposed the resolution H.R. 2030 to prohibit issuance of a visa or admission to the United States of any physician who is a citizen of the People's Republic of China and who seeks to enter for the purpose of training in organ or bodily tissue transplantation. Many of you have already offered your support for this measure. I hope this resolution will pass through this body and through the United States Senate to confirm legislation that prevents US institutions from knowingly or unknowingly supporting Chinese doctors who participate in this egregious practice.

2001

107TH CONGRESS
1ST SESSION

H. R. 2030

To prohibit issuance of a visa, or admission to the United States, of any physician who is a citizen of the People's Republic of China and who seeks to enter for the purpose of training in organ or bodily tissue transplantation.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2001

Ms. ROS-LEHTINEN (for herself, Mr. SMITH of New Jersey, Mr. ROHR-ABACHER, Mr. BURTON of Indiana, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on the Judiciary

To prohibit issuance of a visa to any citizen of the People's Republic of China who participates in or otherwise supports the harvesting, transplantation, or trafficking of organs of executed Chinese prisoners, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2001

Ms. ROS-LEHTINEN (for herself, Mr. SMITH of New Jersey, Mr. TANCREDO, Ms. MCKINNEY, Mr. CHABOT, and Mr. BROWN of Ohio) introduced the following bill; which was referred to the Committee on the Judiciary

2

1 izen of the People's Republic of China who the Secretary
2 of State determines—

3 (1) participates in or otherwise supports the
4 harvesting, transplantation, or trafficking of organs
5 of executed Chinese prisoners; or

6 (2) seeks the visa for the purpose of training in
7 organ or bodily tissue transplantation.

Summary

Summary

Transplantation in China relies on an economy of execution (95%+) - and will continue in the foreseeable future

- Consent cannot be meaningfully spoken of
- Massive surge after 1999 coincided with FG persecution (and FG sources identified in use)
- Internal 'reforms' repeat claims of voluntary donation but do not realize this – hence reform $n+1$, still within an execution context
- Action options are available

Summary

- Recent reduction in transplant tourism
 - New agreement between Chinese Medical Association and World Medical Association to limit prisoner organ sourcing to family members
 - Initiative to establish brain death criterion
-
- **However: Reforms in the transplant system have not changed standing Government commitment to permanently eradicate Falun Gong in China**

Post-Script on the Olympics

Olympism is a philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind. Blending sport with culture and education, Olympism seeks to create a way of life based on the joy found in effort, the educational value of good example and respect for universal fundamental ethical principles.

Olympic Charter, Fundamental principles, § 2

(http://www.olympic.org/uk/organisation/missions/charter_uk.asp)

PRC policy re Falun Gong “. . . defaming their reputations, bankrupting them financially and destroying them physically.”

Post-Script on the Olympics

The ongoing treatment and status of Falun Gong in China, as the group most widely persecuted and unjustly vilified in recent decades, should be recognized as the indicator nearest the core of regress or progress in human rights in China.

Thank you