

## **Mounting Evidence of Falun Gong Practitioners used as Organ Sources in China and Related Ethical Responsibilities**

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The systematic government persecution of nonviolent Falun Gong practitioners in China since July 1999 has constituted the greatest concentration of human rights violations against a single cultural group in China since the cultural revolution. It is a program of suppression separated from conventional judicial processes or appeals.<sup>1</sup> Such persecution should cease immediately.

Additionally, there is accumulating convincing evidence of the use of Falun Gong practitioners as involuntary sources for organ transplantation in China. This implies a scope of human rights violations involving institutional medicine not documented since the 1940s. Many recipients of such organs are foreign patients from Malaysia, Japan, Europe and United States.

The 6 July 2006 "Report into allegations of Organ Harvesting of Falun Gong Practitioners in China" by attorney David Matas and Canadian former Asia-Pacific Secretary of State David Kilgour<sup>2</sup> confirms with high likelihood sourcing of Falun Gong organs. Evidence includes interviews and telephone inquiries to specifically identified medical institutions and doctors in China. These interviews identify organs from Falun Gong practitioners as being of high quality, in supply, and usually accessible in a short period of time. This extends concern regarding a system of transplantation already sourced from executed of prisoners.

Between 2000 and 2005 the source of some 41,500 organs remains ambiguous. Family donors or nonfamily brain-dead donors account for less than 1% of donation in China. A national voluntary donor program is undeveloped.<sup>3</sup> Kidney transplants nearly tripled in the same period.<sup>4</sup> Liver transplants increased nationwide from about 135 in 1998 to over 4000 in 2005. Various advertised ranged widely from about \$24,000 (200,000 yuan) for Chinese to \$98,000 or more U.S. dollars for foreigners.<sup>5</sup>

Various transplantation websites have promised a liver within an average of one week,<sup>6</sup> a month, or guaranteed by two.<sup>7</sup> A kidney is promised within two weeks, with a second in one week<sup>8</sup> should the first prove "unsuitable." This time frame requires a large pool of donors pretyped for blood group and HLA matching. Systematic blood-testing of arrested Falun Gong practitioners is known.<sup>9</sup> Given a 12-24 hour window for kidney transplantation, and a 12 hour window for liver, scheduled matching cannot be assured on a random-death basis. Heart or whole liver transplantation requires donor death, either prior to or directly by taking the organs.

Recorded telephone inquiries to transplant cites and even detention centers<sup>10</sup> repeatedly identify Falun Gong practitioners as “live”, “healthy” and consistently available as sources of organs. Physicians have indicated selecting live prisoners to ensure compatibility.<sup>11</sup>

While reform of the transplantation system has been promised in a new “temporary” regulation taking effect on 1 July 2006, the regulation has not been published verbatim for scrutiny. It reportedly requires that a local hospital ethics committee approve transplants and confirm legal sources. However, there is no indication of less reliance on execution in the transplantation system of China, and certainly no less persecution of Falun Gong.

Given the prominence of the transplantation institutions reflected in the inquiries, it cannot be claimed that such human rights abuses are isolated rogue occasions, unknown or incidental to China’s “unique” system of organ procurement.<sup>12</sup> Concern applies both to civilian hospitals ultimately accountable to the Ministry of Health and to military hospitals which are not.

Given a transplantation system relying on executed prisoners generally,<sup>13</sup> and strong evidence of Falun Gong practitioners as sources in particular, the following ethical principles and policy implications apply:

1. An organ transplantation system relying on execution, to which China admits, cannot embody non-coercive informed consent.<sup>14</sup> An option between immediate execution or execution at an arbitrary future time, when blood group type and HLA matches a prospective recipient, makes free, uncoerced, informed consent impossible – if sought at all.
2. The advent of ‘organ transplantation tourism’ as a source of foreign medical income, and the confluence execution-related organ sourcing and high organ demand increases the likelihood of execution for marginal offenses. Capital offenses in China range from murder, to economic corruption, to nebulous anti-state activity – as leveled against Falun Gong practitioners.
3. What, then, are the human rights responsibilities of the international medical and research community?
  - a. Professional associations, such as The Transplantation Society, should place a moratorium on research support and collaboration with transplantation in China given that such collaboration tacitly facilitates the continuance of a gross violation of human rights.
  - b. Academic journals and educational venues, such as the World Transplant Congress, must reject papers and presentations relying on data derived from practices violating standards described in Helsinki Declaration of the World Medical Association Ethical Principles Regarding Medical Research Involving Human Subjects<sup>15</sup> and international instruments.
    - i. The Helsinki Declaration states: “Concern for the interests of the subject must always prevail over the interests of science and society.”

- ii. It is unethical to publish research data generated by unethical research processes. Data derived from a transplantation system violating the canons of informed consent clearly falls within this category. This applies to papers based on transplantation data involving procedures where organs are obtained by illicit means. An ethical review of past publications is in order.
  - iii. It is unethical for tenure or review committees to consider publications or presentations derived from such data as a basis for advancement – despite any technical merit.
  - iv. While there is a *scientific, professional, and even personal cost* to ethical and moral consistency, the human rights cost of its generation and underlying practices, and the tendency of after-the-fact legitimization of such data by rationalization and use, is much higher.
    - 1. The publication of unethically generated data, or results based on this data, is also unethical, as it violates the canons of consent. Doing so creates additional demand and allowances for such data, here irrespective of the deaths of nonvoluntary donors.
  - c. Academic institutions should review and suspend research collaborations involving transplantation, and transplantation data sourced from the Peoples Republic of China. This also applies to practice collaborations<sup>16</sup> or demonstration procedures.
    - i. While not all transplant surgeons within the Chinese system approve of state practices, the practices in this area are pervasively in violation of fundamental human rights and canons of medical ethics.<sup>17</sup>
  - d. There is an ethical obligation for funding agencies and foundations to direct or redirect funding to projects with licit sources of data.
7. Given the evidence at hand, international transplant patients who obtain organs in China do so at the cost of benefiting from, and tacitly supporting, the continuance of an ongoing lethal violation of human dignity and human rights. Prospective patients should be informed of this fact and actively discouraged from pursuing this avenue of treatment.



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<sup>1</sup> The suppression of Falun Gong was organized under the so-called “610 Office” whose charge is to “eradicate Falun Gong.” The formula reportedly of 610 Office head Li Lanqing in a mass meeting in the Great Hall of the People in 1999 comprises “defaming their reputations, bankrupting them financially and destroying them physically.” Reported by Li Biagen, assistant director of the Beijing Municipal Planning Office. In Matas and Kilgour *Report* (note 2), p. 9. China is a signatory to the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (ratified 12/12/1986) but excuses itself from Article 20 (investigation of alleged violations) and Art. 30 paragraph 1, arbitration between states.

<sup>2</sup> David Matas and David Kilgour : [Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China](http://www.david-kilgour.com/2006/Kilgour-Matas-organ-harvesting-rpt-July6-eng.pdf) (6 July 2006) < <http://www.david-kilgour.com/2006/Kilgour-Matas-organ-harvesting-rpt-July6-eng.pdf>>. Hereafter *Report*. [Appendices 1-14](http://www.david-kilgour.com/2006/FINAL_appendices_20060706_short.pdf) (6 July 2006) <[http://www.david-kilgour.com/2006/FINAL\\_appendices\\_20060706\\_short.pdf](http://www.david-kilgour.com/2006/FINAL_appendices_20060706_short.pdf)> [Chinese embassy response](http://www.david-kilgour.com/2006/KilgourMatasReply.doc) (6 July 2006) < <http://www.david-kilgour.com/2006/KilgourMatasReply.doc> > [Response of David Kilgour and David Matas to the Chinese Government Statement](http://www.david-kilgour.com/2006/KilgourMatasReply.doc). (7 July 2006) <<http://www.david-kilgour.com/2006/KilgourMatasReply.doc> >.

<sup>3</sup> In Matas and Kilgour *Report*, pp. 16-18. (sourced)

<sup>4</sup> In Matas and Kilgour *Report*, p. 18. (sourced)

<sup>5</sup> In Matas and Kilgour *Report*, p. 32. Pricing at the China International Transplant Center had ranged from \$98,000 to \$130,000. The cost table is now expunged at <http://en.zoukiishoku.com/list/cost.htm> but available archived at <http://web.archive.org/web/20050206035351/http://en.zoukiishoku.com/list/cost.htm>.

<sup>6</sup> On advertisement of the Changzhen Hospital in Shanghai. See Matas and Kilgour, *Report*, p.28. (sourced)

<sup>7</sup> China International Transplant Center – The Volunteers. <http://en.zoukiishoku.com/list/volunteer.htm>

<sup>8</sup> China International Transplant Center – The Volunteers. <http://en.zoukiishoku.com/list/volunteer.htm>

<sup>9</sup> See Matas and Kilgour *Report*, pp. 18-19.

<sup>10</sup> See Matas and Kilgour *Report*, pp. 25-27.

<sup>11</sup> An interview with a physician at Nanning City Minzu Hospital in Guangxi Autonomous Region (22 May 2006) with a Dr. Lu indicates physicians select the prisoners to be used for organ sources at the point of demand. See Matas and Kilgour *Appendix 14*, p. 3-4.

<sup>12</sup>“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.” China International Transplant Center – Facts about Translation in China. <http://en.zoukiishoku.com/list/facts.htm>.

<sup>13</sup> The total number of executions in China carries the status of state secret. One official mentioned up to 10,000 cases resulting in “immediate executions.” Various estimates range from the low thousands to 10,000 per year. For a general overview of human rights violations in China (2005): *Country Reports on Human Rights Practices. China (includes Tibet, Hong Kong and Macau)*. United States State Department. <http://www.state.gov/g/drl/rls/hrrpt/2005/61605.htm>. Persecution of Falun Gong and organ sourcing are discussed.

<sup>14</sup> The UN GA Res. 59/156 of 20 December 2004, entitled “Preventing, combating and punishing trafficking in human organs” resulting report to the General Secretary states: “34. To be able to give valid consent, the competent donor must be thoroughly informed about the purpose and nature of the removal, as well as its consequences and risks. In addition, the consent must be voluntary, free from coercion and undue pressure.” p. 8.

<<http://daccessdds.un.org/doc/UNDOC/GEN/V06/513/17/PDF/V0651317.pdf?OpenElement>>

<sup>15</sup> <http://ohsr.od.nih.gov/guidelines/helsinki.html>

<sup>16</sup> The option of a foreign patient’s physician performing the procedure in China is found in China International Transplant Center – The Volunteers. <http://en.zoukiishoku.com/list/volunteer.htm>.

<sup>17</sup> See for example the *Universal Declaration on Bioethics and Human Rights* (adopted by acclamation, 33<sup>rd</sup> Session of the General Conference of UNESCO, 19 October 2005).