

*Committee on International Relations*

**OPEN HEARING OF THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

*U.S. House of Representatives*

**Dana Rohrabacher, California, Chairman**

**Room 2172 of the Rayburn House Office Building**

**Friday, September 29, 2006 , 10:30 a.m.**

**Subject: Falun Gong: Organ Harvesting and China's Ongoing War on Human Rights**

**Submitted Testimony**

**Falun Gong, Organ Harvesting in China, and the Human Rights Case for an Independent Congressional Investigation**

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Chairman Rohrabacher, ranking member Delahunt, Congresswoman McCollum and esteemed Committee members, thank you for your attention to this issue and for the privilege of presenting testimony. In my remarks I am speaking for myself rather than for my institution, and, secondly, my concern is general as I am not a Falun Gong practitioner.

Since July 1999 the systematic persecution of nonviolent Falun Gong practitioners constitutes the single greatest concentration of human rights violations in China against a specific group since the cultural revolution. A program of ideological eradication has been systematically pursued under a double strategy: Publicly with high visibility in terms of state propaganda, but hermetically in actions of detainment and sanction outside conventional judicial processes.<sup>1</sup> Nonetheless events and practices have been recounted in affidavits, structurally inferred from publicly available information, forensically, and through telephone inquiries.

While the People's Republic of China repudiated the *International Covenant of Civil and Political Rights* signed by Taiwan, it ratified the *International Covenant of Economic, Social and Cultural Rights*. This includes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" and the right to take part in cultural life<sup>2</sup> "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."<sup>3</sup>

Notably on 4 October 1988 China also ratified the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, but rejected the Committee Against Torture's

power of inquiry (Article 20). Manfred Nowak, the China mission Special Rapporteur regarding civil and political rights, including the issue of torture and detention, concluded in 2005:

The combination of deprivation of liberty as a sanction for the peaceful exercise of freedom of expression, assembly and religion, with measures of re-education through coercion, humiliation and punishment aimed at admission of guilt and altering the personality of detainees up to the point of breaking their will, constitutes a form of inhuman or degrading treatment or punishment, which is incompatible with the core values of any democratic society based upon a culture of human rights.<sup>4</sup>

Mr. Nowak notes that Falun Gong practitioners comprise 66% of victims of alleged torture in China.<sup>5</sup> Those who defend practitioners are sanctioned as is the case of Attorney Gao Zhisheng whose third open letter in 2005 protesting the treatment of Falun Gong practitioners (among others) resulted in closure of his law firm and loss of his law license. He has recently been in detention since 15 August 2006.

The systematic program of ideological eradication of Falun Gong coincided with an inexplicable increase in whole organ transplantation, and international organ transplant tourism to China. This raises the question of the organ source. In July of 2005 Huang Jiefu, Vice Minister of Health, indicated as high as 95% of organs derive from execution.<sup>6</sup> Under the 1997 Criminal Law capital crime offenses were expanded from 27 in 1979 to 68, with over half for nonviolent crime.<sup>7</sup>

While the number of executions is a state secret, Liu Renwen of the Chinese Academy of Social Sciences Law Institute estimated 8,000 executions in 2005.<sup>8</sup> Regional claims of low rates are contradicted by strong circumstantial evidence: Amnesty International reports that Yunnan Province admitted to 17 executions in 2002 but purchased 18 mobile execution vans in 2003 at about \$60,000 each.<sup>9</sup> Such mobile vehicles have been cited as providing a smooth transition from execution to organ extraction<sup>10</sup> with physician involved in both phases.

Coordination of execution by gunshot followed by organ extraction without consent has also been cited in Congressional testimony by Dr. Wang Guoqi, far beyond the latitude of Article 3 of China's *Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs* (1984).<sup>11</sup> While the World Medical Association's *Resolution on Physician's Conduct Concerning Human Organ Transplantation* of 1994 enjoins "severe discipline" for physicians involved in the nonconsensual extraction of organs from executed prisoners,<sup>12</sup> on 22 May 2006 the Council of the World Medical Association called on China to cease using executed prisoners as sources for organ transplantation carte blanche.<sup>13</sup>

Coordination across the state bureaucracy between execution and transplantation is clear. The website of the China International Transplant Center states openly:

So many **transplantation** operations are owing to the support of the Chinese government. The Supreme Demotic Court, Supreme Demotic 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.<sup>14</sup>

In this sense, the confluence of the Falun Gong persecution and organ sourcing is a variation on a larger theme noted in popular press<sup>15</sup> and before Congress.<sup>16</sup> While a new ‘temporary’ regulation to curb the blatant selling of organs came into force on 1 July 2006,<sup>17</sup> transplant tourism at high prices continues. A BBC story on Wednesday of this week reported “organ sales thriving in China”<sup>18</sup> while officials state nonconsensual organ removal a fabrication.<sup>19</sup> Yet consent “free of undue pressure”<sup>20</sup> is difficult to conceive in a context of impending execution with little recourse to substantive appeal – aside from the reported extrajudicial tissue typing and selection of Falun Gong detainees.

Concerning Falun Gong practitioners as nonvoluntary victims, the most compelling evidence has been compiled by David Kilgour and David Matas in the *Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China* of 6 July 2006. Using Chinese information, the source of some 41,500 organs between between 2000 and 2005 remains ambiguous and unaccounted for. Systematic blood-testing of arrested Falun Gong practitioners is known.<sup>21</sup> The report assesses overlapping evidence pointing with high likelihood to organ sourcing from Falun Gong practitioners.

In my meeting with practitioners in June 2006<sup>1</sup> evidence included transcripts of queries to identified hospitals on organ availability. Falun Gong sources were characterized as being of high quality and often available in as short a time as a week, in some cases with a guarantee of a backup organ. My statement on 24 July 2006 titled “Mounting Evidence of Falun Gong Practitioners used as Organ Sources in China and Related Ethical Responsibilities,”<sup>22</sup> made several points:

The short time frame of an on-demand system requires a large pool of donors pretyped for blood group and HLA matching. It is consistent with execution timing. Given a 12-24 hour window for kidney tissue, and a 12 hour window for liver, matching for transplant tourists cannot be assured on a random-death basis. Queried physicians indicated selecting live prisoners to ensure quality and compatibility.<sup>23</sup> The coordination of transplantation can take place only through communication, in particular in an on-demand context.

Given the seriousness of the matter, it is fitting for this Committee to initiate an independent investigation from which, on the basis of evidence, whether confirmatory or exculpatory, clear policy can be articulated, and appropriate pressure exercised. The current level of evidence calls for this step.

Thank you for the opportunity to present this testimony to the subcommittee.

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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 during 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> Article 12 (1) and Article 15 (1)(a), respectively. According to the *Congressional Executive Commission on China Annual Report 2006* in 2005 alone 4.62 million pieces of Falun Gong publications were seized. <http://www.cecc.gov/pages/annualRpt/annualRpt06/CECCannRpt2006.pdf> (accessed 9/29/06).

<sup>3</sup> *International Covenant of Economic, Social and Cultural Rights* [http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm) (accessed 9/27/06).

<sup>4</sup> *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, on his Mission to China (20 November to 2 December 2005)*. E/CN.4/2006/6/Add.6, p.2.

<sup>5</sup> Percentages: Falun Gong 66; Uighurs [a Muslim separatist minority] 11; sex workers 8; Tibetans 6; Human rights defenders 5; political dissenters 2; others (HIV/AIDS infected; religious groups) 2. See Table 1: Victims of alleged torture. E/CN.4/2006/6/Add.6, p.13.

<sup>6</sup> *Congressional Executive Commission on China Annual Report 2006*, p. 59; note 224, p.201: “Organ Transplants: A Zone of Accelerated Regulation” [Qiguan yizhi: jiakuai guizhi de didai], *Caijing Magazine* (Online), 28 November 05, reporting that over 95 percent of organs transplanted in China come from executed prisoners.

<sup>7</sup> Circa 65% of capital offenses were for nonviolent crime. *Congressional Executive Commission on China Annual Report 2006*, note 210, p. 200.

<sup>8</sup> *Congressional Executive Commission on China Annual Report 2006*, note 212, p. 200.

<sup>9</sup> Amnesty International. “People’s Republic of China. Executed ‘according to law’? The Death Penalty in China.” 22 March 2004. <http://web.amnesty.org/library/Index/engasa170032004> (accessed 9/28/06). Also “Death, Yunnan style.” *Beijing Today*. 7 March 2003. <http://bjtoday.ynet.com/article.jsp?oid=2173725> (accessed 09/28/06)

<sup>10</sup> Calum MacLeod, “China makes ultimate punishment mobile,” *USA Today*, 15 June 2006, 8A [with photo].

<sup>11</sup> Organs for sale: China’s growing trade and ultimate violation of prisoners’ rights: hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, One Hundred Seventh Congress, first session, June 27, 2001. 57-61. [http://wwwc.house.gov/international\\_relations/107/73452.pdf](http://wwwc.house.gov/international_relations/107/73452.pdf) (accessed 9/27/06).

<sup>12</sup> World Medical Association Resolution on Physician’s Conduct Concerning Human Organ Transplantation (1994). Adopted by the 46th WMA General Assembly. Stockholm, Sweden, September 1994 <http://www1.umn.edu/humanrts/instree/physicianconduct.html> (accessed 9/28/06).

<sup>13</sup> World Medical Association. “World Medical Association demands China stops using prisoners for organ transplants.” 22 May 2006. [http://www.wma.net/e/press/2006\\_4.htm](http://www.wma.net/e/press/2006_4.htm) (accessed 9/28/06).

<sup>14</sup> “Facts of Chinese Transplantation.” China International Transplant Center. <http://en.zoukiishoku.com/list/facts.htm> (accessed 9/28/06).

<sup>15</sup> See Erik Baard, Rebecca Cooney. “China’s Execution, Inc.” *The Village Voice*. 8 May 2001. 36, 38-40.

<sup>16</sup> *Organs for sale: China’s growing trade and ultimate violation of prisoners’ rights: hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, One Hundred Seventh Congress, first session, June 27, 2001.*

[http://wwwc.house.gov/international\\_relations/107/73452.pdf](http://wwwc.house.gov/international_relations/107/73452.pdf) (accessed 9/27/06).

<sup>17</sup> Zhen Feng, “New rule to regulate organ transplantations,” *China Daily*, 05/05/06, p. 1. [http://www.chinadaily.com.cn/china/2006-05/05/content\\_582847.htm](http://www.chinadaily.com.cn/china/2006-05/05/content_582847.htm) (accessed 9/28/06).

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<sup>18</sup> “Organ sales ‘thriving’ in China.” *BBC News*. 9/27/06. <http://news.bbc.co.uk/1/hi/world/asia-pacific/5386720.stm> (accessed 9/28/06).

<sup>19</sup> “China bans transplant organ sales.” *BBC News*. 3/28/06. <http://news.bbc.co.uk/1/hi/world/asia-pacific/5386720.stm> (accessed 9/28/06).

<sup>20</sup> Take for example United Nations General Assembly Resolution 59/156 of 20 December 2004, *Preventing, combating and punishing trafficking in human organs*: "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."

<sup>21</sup> See Matas and Kilgour *Report*, pp. 18-19.

<sup>22</sup> Kirk C. Allison, “Mounting Evidence of Falun Gong Practitioners used as Organ Sources in China and Related Ethical Responsibilities,” reprinted in the *Epoch Times*, 8/7/06. <http://www.theepochtimes.com/news/26-8-7/44706.html> (accessed 9/28/06). Chinese translation: <http://www.dajiyuan.com/b5/6/8/9/n1415652.htm> (accessed 9/28/06).

<sup>23</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.