

Evidence statement on organ transplant abuse in China

by David Matas

I am a lawyer in Winnipeg, Manitoba, Canada. My clients are primarily refugee claimants seeking protection in Canada. I have been engaged in this work for almost all of my professional career.

Because my clients flee human rights violations, I have become familiar with the human rights situation in many countries, including China. I try, as best I can, not only to assist my clients in obtaining protection, but also to combat the human rights violations which caused them to flee. In addition to tribunal and court work for individual clients, I have become involved in research, writing, and advocacy in the broader human rights scene.

A woman with the pseudonym Annie made a public statement in Washington DC in March 2006 that her ex-husband had been harvesting corneas of Falun Gong practitioners in Sujiatun Hospital in Shenyang City in Liaoning province from 2003 to 2005. Other doctors had been harvesting other organs. The Falun Gong practitioners were killed through the organ extraction and their bodies were cremated. The Chinese government denied what Annie said.

A Washington based NGO, the Coalition to Investigate Persecution against the Falun Gong, asked me and David Kilgour to investigate whether what Annie said was true. It is common for me to be asked to assist in human rights work. This request though was unusual though because of the difficulties it posed.

I knew that Falun Gong was a set of exercises with a spiritual foundation, started in 1992 with the teachings of Li Hong Zhi. I knew that it was initially encouraged by the Communist Party but then repressed in 1999 after it got too popular. That repression though did not mean that they were being persecuted in this particular way, being killed for their organs.

The Coalition who asked us to do the research did not give us any data, money or instructions. Annie's story presented a conundrum. How was it possible to know whether what Annie was saying was true or not? The question was not just, how do we prove what Annie said if it is true? The question was also, how do we disprove what Annie said if it is not true?

What Annie was saying meant that there were no victims to interview because the victims were all killed. There were no bodies to autopsy because the bodies were cremated. There was no crime scene to visit, since the crime scene, an operating theatre, would have been cleaned up immediately afterwards. There were no accessible records, since what records there are belong to Chinese hospitals and prisons, labour camps and detention centres, none of which are publicly available. The sole witnesses available were perpetrators who were unlikely publicly to confess to crimes that they had committed.

The question whether what Annie said was true was difficult enough that it was unlikely to get much of a response either from human rights NGOs or inter-governmental organizations or the media. Human rights NGOs, though they have some research capacity, are for the most part campaign organizations. They look for the easily verifiable, not just because it makes research easier, but also because it makes campaigning easier. Inter-governmental organizations have little internal research capacity and tend to rely on the work of NGOs. As for the media, they cater to readers, listeners and viewers with short attention spans. If a story can not be told quickly and simply, it normally can not be told at all.

Addressing a claim of human rights violations with little or no evidence is a situation to which I am quite accustomed. That is my daily work as a refugee lawyer. Refugee claimants come to my office with stories of horror, the clothes on their backs and little else. They of course have this advantage that they are witnesses to what happened to

them. Yet, they are often faced with sceptical refugee judges who suspect that they are economic migrants making up stories in order to move from a poor country to a rich country.

Are the stories these clients tell true or not true? Answering that sort of question is not that different from assessing the truth of the story Annie told.

Often when victims or their representatives come to me for general assistance to combat a human rights situation abroad, I can send them off to the media or the local Member of Parliament or a human rights NGO or a UN human rights mechanism. I realized though that, for what Annie said, that would not do. If something was going to be done, David Kilgour and I were going to have to do it ourselves.

But the question was what was that something to be? I began constructing imaginary evidentiary trails, trails that would either prove or disprove all the allegations. In doing so, I followed four principles.

One was never to rely on rumour or hearsay. If someone told me what someone else told him or her, I put the information to one side.

Second, I refused to rely on information from perpetrators. In the course of our work, some perpetrators did come forward to offer testimony, subject to various conditions. I turned all such offers aside, partly because I wanted to have nothing to do with perpetrators and partly because I have in the past found in other contexts perpetrator information to be self-exonerating and unreliable.

Third, I insisted that all information I saw anyone else could see. No one, after our work was done, had to rely on our conclusions. Anyone who wanted to do so could look at the information we considered and come to his or her own conclusions.

Fourth, I determined not to draw conclusions either one way or the other based on one bit of evidence only. Rather I intended to have regard to all the evidence before coming to any conclusion.

The conclusion was that Falun Gong practitioners have been and are being killed for their organs. The basis of this conclusion is set out in books, articles and internet posted research. Some of the evidence on which the conclusion is based is this:

- Investigators made calls to hospitals throughout China, claiming to be relatives of patients needing transplants, asking if the hospitals had organs of Falun Gong practitioners for sale on the basis that, since Falun Gong through their exercises are healthy, the organs would be healthy. We obtained on tape, transcribed and translated admissions throughout China.

- Falun Gong practitioners and non-Falun Gong practitioners alike who were detained and who then got out of detention and out of China told that

- 1) Falun Gong practitioners were systematically blood tested and organ examined while in detention. Other detainees were not. The blood testing and organ examination could not have been for the health of the Falun Gong practitioners since they had been tortured; but it would have been necessary for organ transplants.

- 2) Falun Gong practitioners who came from all over the country to Tiananmen Square in Beijing to appeal or protest were systematically arrested. Those who revealed their identities to their captors would be shipped back to their home localities. Their immediate environment would be implicated in their Falun Gong activities and penalized.

To avoid harm to people in their locality, many detained Falun Gong practitioners declined

to identify themselves. The result was a large Falun Gong practitioner population in detention whose identities the authorities did not know. As well, no one who knew them knew where they were. This population is a remarkably undefended group of people, even by Chinese standards. This population provided a ready source for harvested organs.

3) The Party has engaged in a prolonged, persistent, vitriolic national and international campaign of incitement to hatred against Falun Gong. The campaign has prompted their marginalization, depersonalization and dehumanization in the eyes of many Chinese nationals. To their jailors, Falun Gong are not human beings entitled to respect for their human rights and dignity.

- Patients we interviewed who went to China for transplants told that

1) Waiting times for transplants of organs in China are days and weeks. Everywhere else in the world waiting times are months and years. A short waiting time for a deceased donor transplant means that someone is being killed for that transplant.

2) There is a heavy militarization of transplantation in China. Hospitals with a ready supply of available organs are often military hospitals. Even in civilian hospitals, the doctors performing operations are often military personnel. The military have a common culture with prison guards and readier access to prisoners as organ sources than civilian hospitals and civilian personnel do.

In China, the military is a conglomerate business and the sale of organs is a prime source of funds. Military hospital web sites used to boast this fact before we started quoting them. Though they have since taken down the boasts, we archived this information so that independent researchers can still see them.

3) There is an inordinate secrecy surrounding transplantation in China. The names of doctors are not identified. Patients are not allowed to bring their own doctors with them. Before our 2006 report came out, Chinese doctors used to provide letters to patients indicating the treatment given and counselled. The letters ceased after the publication of our report.

- The standards and mechanisms which should be in place to prevent the abuse are not in place, neither in China nor abroad. International organ transplant abuse ideally should be treated like international child sex tourism, an offence everywhere with extraterritorial effect. However, so far that is not the case.

On the one hand, we have organ transplant abuse which is possible without legal consequences. On the other hand, we have huge money to be made from this abuse, as well as desperate patients in need of transplants. This combination is a recipe for victimization of the vulnerable.

- There is no other explanation for the transplant numbers than sourcing from Falun Gong practitioners. Chinese Government official figures for transplants are substantially below the real numbers we can tabulate by adding up reported volumes of individual hospitals. Even if we limit ourselves to official figures, China is the second largest transplant country in the world by volume after the US.

Yet, until 2010 China did not have a deceased donation system and even today that system produces donations which are relatively small. Until 2013, China did not have an organ distribution system. The organ distribution in place today is limited to the relatively small donated organs, and does not distribute organs from prisoners. The living donor sources are limited in law to relatives of donors and officially discouraged because live donors suffer health complications from giving up an organ.

The Government of China at first took the position that all organs came from donations, even though at the time they did not have a donation system. They then acknowledged that the overwhelming proportion of organs for transplants in China came from prisoners but asserted that the prisoners who are the sources of organs are all sentenced to death. Falun Gong practitioners have been given short sentences for disrupting social order or sentenced to nothing.

Yet, the number of prisoners sentenced to death and then executed that would be necessary to supply the volume of transplants in China is far greater than even the most exaggerated death penalty statistics and estimates. Moreover, in recent years, death penalty volumes have gone down, but official transplant volumes, except for a short blip in 2007, remained constant or went up. The Government of China has refused to provide death penalty statistics on the basis that they are state secrets.

The UN rapporteur on torture, the UN rapporteur on religious intolerance and the UN Committee on Torture all have asked China to explain the discrepancy between its volume of transplants and its volume of sources. There is no other explanation than prisoners of conscience.

.....