

The Scottish Parliament and Chinese organ transplant abuse

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by David Matas

Our panel has come from around the world to speak to you. We are from Beijing in China via Glasgow, Urumqi Xinjiang in China via London, Winnipeg in Canada, Chicago in the US via London, Ottawa in Canada and Marseilles in France.

It may seem odd for us all to come to the Scottish Parliament to address a human rights abuse in China. Scotland is not the only place to which we have come. Nor is it the first. Yet, we see Scotland as an important player in this issue.

Generally, when it comes to combatting a human rights abuse in a repressive country, outside is better than inside. Inside, the truth can not be told, except to a few. Inside, there is censorship and propaganda, internet blockage, denial and cover up.

I cannot go to China and tell the Chinese that their own people, following their own traditions, practitioners of the spiritually based set of exercises Falun Gong, are being killed for their organs. The Chinese Communist Party would not let me, not let anyone, tell the Chinese people in China that. But I can tell you that.

Inside human rights defenders become human rights victims. Those who know the truth and act on it put themselves at grave risk. Outside, we can express concerns about Chinese human rights violations and act on them in safety.

Some Facts

Falun Gong is a blending and updating of ancient Chinese spiritual and exercise traditions. It began in 1992 with the teachings of Li Hong Zhi and quickly spread throughout China with the encouragement of the Government officials who considered the exercises as beneficial to health and to the finances of the health system.

By 1999 Falun Gong practitioners were, according to a Government survey more numerous than the membership of the Communist Party. At this point, out of fear of losing its ideological supremacy and jealousy at its popularity, the Party banned Falun Gong. The Party began a prolonged, persistent, vitriolic national and international campaign of incitement to hatred against Falun Gong prompting their marginalization, depersonalization and dehumanization in the eyes of many Chinese nationals.

Those who did the exercises after 1999 were arrested and asked to denounce the practice and join in the persecution of their colleagues. Those who did not were tortured. Those who after torture refused to recant and join in the persecution of their colleagues disappeared. David Kilgour and I concluded that many of the disappeared were killed for their organs. While it would take me too far afield to go through all the evidence which led us to that conclusion, I will mention a few bits.

- Investigators made calls to hospitals throughout China, claiming to be relatives of patients needing transplants, asking if the hospitals had organs of Falun Gong 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 who were detained and who then got out of detention and out of China told us that they 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 since they had been tortured; but it would have been necessary for organ transplants.
- 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 declined to identify themselves. The result was a large Falun Gong prison population 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.

- China maintains what the Government of China euphemistically calls re-education through labour camps. These camps are both arbitrary detention slave labour camps and vast live organ donor banks. The United States Department of State's Country Reports for China report that foreign observers estimate that Falun Gong adherents constitute at least half of the inmates in the country's re-education through labour camps.
- China has two parallel power structures, a Communist Party structure and a state structure. The Party structure governs the state structure. Every state position up and down the system, in the centre and the regions, has a parallel Party position. It is the Party organ which instructs the parallel state organ.

The Party established an office for the repression of Falun Gong called the 610 office, named after the date of its establishment, the 10th day of the sixth month, June, of 1999. The 610 office is a Party office only, not a state office. The 610 office is the instrument of the Party instructing the police, the prisons, the labour camps, the prosecution and the courts on the repression of Falun Gong. Because persecution of the Falun Gong is Party directed, deflecting it, avoiding it, or combating it, is a political impossibility.

- 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.

- There is no other explanation for the transplant numbers than sourcing from Falun Gong. 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 statistically insignificant. 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 does acknowledge that the overwhelming proportion of organs for transplants in China comes from prisoners but asserts that the prisoners who are the sources of organs are all sentenced to death. 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 transplant volumes, except for a short blip in 2007, remained constant.

Research in reports published in June 2006, January 2007, and in the book *Bloody Harvest*, November 2009 all of which I co-authored with David Kilgour and in the book *State Organs* August 2012 I co-edited with Torsten Trey concluded that the bulk of prisoners who are sources of organs are mostly practitioners of Falun Gong, sentenced to nothing.

The Government of China accepts that sourcing of organs for transplants from prisoners is ethically wrong. The Government in March 2012 committed to ending the reliance on prisoners for organs in five years. The Government further indicated that this phasing out would start in this year, 2013.

A Government official, then Deputy Health Minister Huang Jieifu, went further, conceding in a mid November 2006 speech that "too often organs come from non consenting parties". The World Health Organization Guiding Principle 11 requires transparency of sources, open to scrutiny, while ensuring that personal anonymity of donors and recipients are protected. China does not respect this principle, so that claims of consent which sometimes are made, despite what Huang Jieifu said, are unverifiable. As well, because prison is a coercive environment, consent in such a context is not meaningful.

- 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 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. Standards and mechanisms to prevent the abuse need to be introduced.

B. Some law

There is more thought to being in Scotland than the fact that Scotland is not China, that in Scotland I can say what I cannot say in China. Scotland is an important player in its own right.

i) Health

Health is a devolved jurisdiction, within the jurisdiction of the Scottish Parliament. The Scottish Parliament has already engaged that jurisdiction for organ transplants by enacting the Human Tissue (Scotland) Act 2006. That Act requires consent for organ sourcing

(section 6). If an organ is removed without consent, then an offence is committed (section 16).

In its reserved domain, the Scottish Parliament can enact legislation with extra-territorial effect. The Parliament has done so with ban on female genital mutilation [the Prohibition of Female Genital Mutilation (Scotland) Act 2005]. If the Scottish Parliament can do that for FGM, it can also do that for organ transplant abuse.

The FGM legislation says, and I quote: "If an offence under this act is committed outside the United Kingdom, it may be treated as having been committed in any place in Scotland and proceedings may be taken accordingly." [Section 4(3)]. A provision like that could be added as an amendment to the Scottish Human Tissue Act.

MP Bob Doris lodged a motion in the Scottish Parliament in November 2012, with the support of 44 Members of the Scottish Parliament, stating:

"The Scottish Parliament

abhors what it understands is the practice of live organ harvesting in Chinese prisons;

is appalled by these most serious allegations that approximately 65,000 members of the banned Falun Gong spiritualist group have been killed by the CCP for their organs;

recognizes that political dissidents and members of minority groups, including the Uyghur and Tibetans, are also believed to be among the victims;

understands that organs are often harvested from live prisoners for sale on the black market;

applauds what it sees as the efforts by human rights activists, including Nobel Peace Prize nominee David Matas, co-author of *Bloody Harvest - The Killing of Falun Gong for their Organs*, to bring these atrocities to the attention of organisations such as

the UN;
understands that over 100,000 people have signed the petition to the UN on Doctors Against Forced Organ Harvesting petition, with over 14,000 of those signatures coming from the UK;
welcomes discussions by the UN Human Rights Council and the US Congress on this issue in September 2012, and urges the UN to investigate and put an end to these atrocities."

The Scottish Parliament Standing Orders allows a Member who is not a member of the Scottish Government to introduce a Member's Bill. The Bill must be supported by at least eighteen other Members representing at least half of the political groups. Given the fact that the Doris motion was supported by 44 Members, an amendment to the Human Tissue Act giving its organ transplant abuse provisions extraterritorial effect should be able to garner the necessary support. I urge the Members present to propose such an amendment.

ii) Education

Education is also a devolved jurisdiction, within the jurisdiction of the Scottish Parliament. Edinburgh University has a Confucius Institute. Funded by the Communist regime in China, the Confucius Institutes are touted as promoting Chinese language and culture, with hundreds of branches worldwide.

McMaster University in Hamilton, Ontario, Canada announced on February 7th that it decided to close its Confucius Institute. The University had hosted the Institute since 2008. The Institute requires six months notice for termination. McMaster has given that notice. The Institute will close on July 2013.

Hiring for Confucius Institutes is done by its headquarters in China, called Hanban.

Hanban's hiring policy excludes persons who practice Falun Gong. McMaster University determined that this policy violates its principles of equality.

Sonia Zhao was an employee of the Confucius Institute at McMaster University and a Falun Gong practitioner. When she was in China before joining the Institute, Zhao had to sign a statement promising not to practice Falun Gong. She made a complaint against McMaster University to the Ontario Human Rights Tribunal which is now in the process of settlement negotiations.

The University of Edinburgh should do what McMaster University has done, close its Confucius Institute because of its discriminatory hiring policy. If the University does not do it itself, then the Scottish Parliament should do it for the University. Neither the Scottish Parliament nor the Scottish Government nor the University should tolerate the anti-Falun Gong discriminatory hiring policy in which the Confucius Institute engages.

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