



## **Submission No 64**

### **Inquiry into Slavery, Slavery-like conditions and People Trafficking**

**Organisation:** Falun Dafa Association of NSW – Supplementary submission



FALUN DAFA  
ASSOCIATION OF NSW INC

紐省法輪大法協會

## REVISED Submission

# Inquiry into Slavery, Slavery-like conditions and People Trafficking

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**PARLIAMENTARY JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE**  
**Slavery, slavery-like conditions and people trafficking**  
**Public Hearing, Sydney – Monday, 22 April 2013**

**OPENING STATEMENT from the Falun Dafa Association of Australia**

The Falun Dafa Association of Australia appreciates the opportunity to submit this opening statement as supplementary material to the Public Hearing on 22 April 2013. We are committed to representing Falun Gong (Falun Dafa) practitioners in Australia. Falun Gong's traditional teachings are based on Truth, Compassion and Tolerance, with an estimated 100 million practitioners before 1999 around the world. Our aim is to ensure that government, media and the broader community have access to information about Falun Gong and receive timely updated details about human rights violations in China.

This submission focuses on organ trafficking-related offenses towards prisoners of conscience, in particular Falun Gong practitioners, and makes recommendations in the context of Australia's responsibility to curb such crimes, while protecting its citizens from becoming complicit to these violations. The submission also addresses the slavery-like conditions within China's labour camp system (Laogai) and makes recommendations to improve Australia's corporate social responsibility in regard to trade and international relations.

The following figures offer some indication of the scale of the persecution of Falun Gong.

- **United States Department of State Country 2008 Human Rights Report: China** states: "Foreign observers estimate that Falun Gong adherents constitute at least half of the 250,000 officially reported inmates in China's forced labour camps." <sup>1</sup>
- **CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA 2005 ANNUAL REPORT** indicates there were around 300 re-education-through-labour camps holding at least 250,00-300,000 people at that time.<sup>2</sup>
- **Author Jennifer Zeng, formerly of Beijing** and now living in Australia, writes that by the end of April 2001, there had been approximately 830,000 arrests in Beijing of Falun Gong adherents who had been identified.<sup>3</sup>
- **Award-winning investigative journalist and author Ethan Gutmann** has conducted extensive interviews with over 100 eye-witnesses from China, who included Uighur Muslims, Falun Gong adherents and other Chinese refugees. He concluded that at least **65,000 Falun Gong practitioners alone have been murdered** for organs since 1999.<sup>4</sup>

In the context of the current inquiry into slavery and slavery-like conditions, we focus mainly on the issue of organ trafficking. In relation to the terms of reference of this inquiry, we provide feedback on the recent amendments to the Criminal Code Act 1995. In addition, there will be further evidence submitted in response to other developments related to organ trafficking, particularly since our submission of September 2012.

**COMMENTS: CRIMINAL CODE ACT 1995 AMENDMENT – MARCH 2013**

The Criminal Code Act 1995 amendment of 7 March 2013, which includes offences of forced labour, forced marriage, organ trafficking and harbouring a victim, is a positive development. However, we note that the amendment:

- is limited to addressing organ transplant abuse only where the source of the organ is an Australian or the abuse occurs in Australia;

<sup>1</sup> <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119037.htm>

<sup>2</sup> [http://www.cecc.gov/pages/annualRpt/annualRpt05/2005\\_3c\\_labor.php?mode=print](http://www.cecc.gov/pages/annualRpt/annualRpt05/2005_3c_labor.php?mode=print)

<sup>3</sup> <http://debates.oireachtas.ie/FOH/2007/02/28/printall.asp>

<sup>4</sup> <http://www.theparliament.com/parliament-groups/alde/alde-article/newsarticle/china-accused-of-systematic-killing-for-human-organs/>

- currently does not make it a crime for Australians to travel overseas to receive an organ that they either know, or were reckless in not knowing, was trafficked;
- does not identify recipients of trafficked organs as guilty of an offence – unless they arranged for the victim to be brought to or to be taken from Australia;
- does not encompass a situation where the victim (the organ source) neither enters nor leaves Australia and was never in Australia, ie, international trafficking or transplant tourism.

Given the worldwide scale of organ trafficking, future amendments to the Criminal Code Act 1995 should address the above key issues and also include:

- offences of organ trafficking that apply to any person present in Australia who committed the offence outside of Australia, whatever the status of the accused in Australia and whatever the nationality or residence of the victim, ie, extraterritorial conduct.

In the context that the Chinese Ministry of Health regulations officially prohibit the selling of both living and deceased donor organs to foreigners, yet the practice continues:

- the Australian government should prohibit its citizens from contravening organ transplant laws of other countries and should work to achieve international consensus and agreement to that effect.

## **RELATED DEVELOPMENTS ADDRESSING ORGAN HARVESTING IN AUSTRALIA – 2012-2013**

### **1. Human Tissue Amendment (Trafficking in Human Organs) Bill 2013**

On 19 February 2013, member of the NSW Parliament David Shoebridge MLC initiated the Human Tissue Amendment Bill 2013, which aims to criminalise the practice of transplant tourism. Mr Shoebridge argues that one way of addressing this brutal trade is for countries such as Australia to impose legal prohibitions on its citizens and residents from receiving trafficked organs, wherever the transplant occurs. This would make it a crime for Australian citizens to receive organs sourced by illegal and unethical means. It is also believed that such a prohibition could serve to direct attention to the need to improve organ donation rates in NSW and Australia.

<http://davidshoebridge.org.au/2013/01/22/organ-trafficking-ban-consultation-paper/>

### **2. Australian Senate Motion – March 2013**

On 21 March 2013, the Australian Senate unanimously passed a motion calling for the government to support the actions of the Council of Europe and the United Nations in addressing the practice of organ trafficking. The Senate motion also called for the government to follow the example of the United States in implementing new visa requirements where applicants for non-migrant visas classified as DS-160 must specify if they have been involved in the “coercive transplantation of human organs or body tissue”.

<http://www.theepochtimes.com/n3/4763-australian-senate-unanimously-passes-motion-on-organ-harvesting/>

### **3. University of Sydney Honorary Revocation Issue – April 2013**

The University of Sydney awarded former international student Huang Jiefu an Honorary Professorship, according to recent media reports. Huang Jiefu was also the Vice-Minister for Health in China for 12 years and oversaw the program of organ removal from Chinese prisoners. There are now calls for this honorary professorship to be revoked.

<http://www.abc.net.au/news/2013-04-29/organ-harvesting-links-pressure-australian/4658818>

<http://www.smh.com.au/national/health/chinese-surgeon-should-not-keep-award-academics-say-20130429-2ip0f.html>

<http://www.bbc.co.uk/programmes/p017k033>

- 4. Testimony to the Joint Committee On Foreign Affairs, Defence And Trade – Nov 2012**  
Independent researcher and author Ethan Gutmann testified to the Federal Parliament Joint Committee On Foreign Affairs, Defence And Trade on 28 November 2012. He stated that up to 65,000 Falun Gong practitioners may have been killed for their organs since 1999, when the persecution of the spiritual group commenced. Mr Gutmann's extensive research has included interviews with over 100 people, including doctors from China and labour camp survivors. He is the author of *Losing the New China* and also a contributing author to the 2012 book *State Organs: Transplant Abuse in China*.

**GLOBAL PARLIAMENTARY HEARINGS ADDRESSING ORGAN TRAFFICKING IN CHINA 2012-2013**

- 1. 12 September 2012: US Congressional Hearing**  
<http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg75859/pdf/CHRG-112hhrg75859.pdf> full transcript  
<http://www.washingtontimes.com/news/2012/sep/18/chinas-illegal-organ-harvesting/>
- 2. 18 December 2012: Hearing before US Congressional Executive Commission on China**  
<http://cecc.gov/pages/roundtables/general/roundtable2/index.php>
- 3. 5 February 2013: Canadian Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development**  
<http://www.parl.gc.ca/HousePublications/Publication.aspx?Mode=1&DocId=5963650&Language=E>
- 4. 29 January 2013: European Parliament Hearing**  
<http://www.theparliament.com/parliament-groups/alde/alde-article/newsarticle/china-accused-of-systematic-killing-for-human-organs/>
- 5. 24 April 2013: Presentation to Scottish Parliament**  
[http://www.bobdoris.org/index.php?option=com\\_content&view=article&id=456:mmps-hear-compelling-evidence-of-forced-organ-harvesting-in-china&catid=1:pr&Itemid=3](http://www.bobdoris.org/index.php?option=com_content&view=article&id=456:mmps-hear-compelling-evidence-of-forced-organ-harvesting-in-china&catid=1:pr&Itemid=3)  
[http://www.david-kilgour.com/2013/David\\_Matas\\_24\\_April\\_2013.pdf](http://www.david-kilgour.com/2013/David_Matas_24_April_2013.pdf)
- 6. 29 April 2013: Presentation to UK Parliament Forum**  
<http://www.theepochtimes.com/n3/33049-stop-this-gruesome-organ-harvest/>

**UNITED NATIONS CONCLUSIONS:**

Since 2006, several UN special rapporteurs have asked the Chinese government for an explanation of the allegation of organ pillaging from live Falun Gong practitioners. They pointed out to the government that a full explanation would disprove the allegations, but the party-state has provided no meaningful answer, but has simply denied the charges.

The independent experts of the UN Committee Against Torture have also addressed the issue of organ harvesting from Falun Gong practitioners.

**November 2008 United Nations Convention against Torture** – On 21 Nov, a UN committee of independent experts stated that:

“Information [was] received that Falun Gong practitioners have been extensively subjected to torture and ill-treatment in prisons, and that some of them have been used for organ transplants.”

The committee then made the following recommendation, the most legally binding demand to date for the Chinese authorities to investigate and punish those responsible for forced organ harvesting from Falun Gong:

“The State party should immediately conduct or commission an independent investigation of the claims that some Falun Gong practitioners have been subjected to torture and used for organ transplants, and take measures, as appropriate, to ensure that those responsible for

the claims that some Falun Gong practitioners have been subjected to torture and used for organ transplants, and take measures, as appropriate, to ensure that those responsible for such abuses are prosecuted and punished.”<sup>5</sup>

A 2009 UN study called for an international pact to prevent organ trafficking.

[http://www.un.org/apps/news/story.asp?NewsID=32521&Cr=traffi#.UZG7fjdl\\_IV](http://www.un.org/apps/news/story.asp?NewsID=32521&Cr=traffi#.UZG7fjdl_IV)

## REVISED RECOMMENDATIONS

The following items consist of revised and additional recommendations to the Australian Parliament ([see page 10 of 28 September 2012 version of Submission](#)):

- 7) Make information available across the general public and ethnic communities for Australians seeking transplant tourism as, to the potential source of many organs in countries such as the People's Republic of China.<sup>6</sup>
- 8) Publicise and implement travel exit/entry documents that include questions on receipt of any organ transplant and its source. All Australian residents returning to the country after receiving an organ transplant, performed legally or illegally, in another country should be required to declare this fact on their return. Such a policy would permit transparency and protect public health.<sup>7</sup>
- 10) Bilateral diplomatic dialogue and all relevant exchanges, including medical and educational avenues between the government of Australia and the People's Republic of China, should note that: the use of organs from executed prisoners and the buying and selling of organs from the living and dead, is an unacceptable abrogation of Human Rights. The results of the discussion should be made transparent to the public domain in both countries.<sup>8</sup>
- 11) The Australian government should offer the Chinese authorities assistance in the developments of alternative, ethically acceptable, organ retrieval practice, while strongly reinforcing the responsibility of dedicated international organisations (eg. UN, WHO) to conduct independent investigations into the possibility of unethical organ harvesting from prisoners.<sup>9</sup>
- 12) The Australian government should promote the Principles of the Declaration of Istanbul and the World Health Assembly both domestically and abroad. While the Transplantation Society of Australia and New Zealand (TSANZ) has accepted the Definitions of the Declaration of Istanbul, Australia's states and territories legislations on tissue and organ procurement fail to address international trafficking and transplant tourism. It must be noted that several governments in the world now include reference to the Declaration in their transplant regulations.<sup>10</sup>

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<sup>5</sup> <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CHN.CO.4.pdf> (see page 10 )

<sup>6</sup> Note revised wording from the original submission recommendation in September 2012.

<sup>7</sup> Note revised wording from the original submission recommendation in September 2012.

<sup>8</sup> New Recommendation.

<sup>9</sup> New Recommendation.

<sup>10</sup> New Recommendation

- 13) Australian companies should be prohibited from undertaking organ transplant-related clinical research activity or benefitting from the sale of equipment or pharmaceuticals if the source of the organs is from executed prisoners or commercial organ donation.<sup>11</sup>

## **CONCLUDING REMARKS**

The Declaration of Istanbul,<sup>12</sup> ratified by TSANZ, clearly sets out the guidelines for transplant practices, namely: “All countries need a legal and professional framework to govern organ donation and transplantation activities, as well as a transparent regulatory oversight system that ensures donor and recipient safety, and the enforcement of standards and prohibitions on unethical practices.”

In this context, we seek to address the matter of “transplant tourism” from Australia and address the highly unethical nature of this practice, with the recommendations to criminalise the practice.

We note an article in the 2005 issue of the *Medical Journal of Australia* titled “Outcome of overseas commercial kidney transplantation: an Australian perspective”<sup>13</sup> provides limited data on the issue. It lists 16 patients who were seen at NSW East Coast Renal Services after receiving kidney transplants overseas. These included surgeries performed in India, Iraq, the Philippines and China. The data lists transplant operations performed between 1990 and 2004. Seven out of the 16 cases were in China. The article warned that overseas organ transplants carry significant risks of HIV, hepatitis and rejection.

In the context of slavery-like conditions, we also seek to address the role Australian companies may play in sourcing products from the vast labour-camp system in China. These grossly unethical labour practices employ prisoners of conscience in producing products for export.

Our recommendations therefore focus on highlighting the urgency of creating clear guidelines in Australia for addressing the crime of organ harvesting and related practices, ie:

- Establish a legislative instrument that will allow successful prosecution of both visitors to and residents within Australia who have committed the crimes of slavery, people trafficking, organ trafficking or forced labour offences outside of Australian jurisdiction,
- Ensure that official information about the significant risks of obtaining organs overseas is widely available to potential transplant patients,
- Ensure that corporations and/or companies that outsource products to China are made aware of the potential labour-practice abuses. At the same time, ensure accountability for selling products that were made in a labour camp. Ms Jennifer Zeng will share her personal experience at this hearing of making such products in China.

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<sup>11</sup> New Recommendation

<sup>12</sup> <http://www.declarationofistanbul.org/>

<sup>13</sup> <https://www.mja.com.au/journal/2005/182/5/outcome-overseas-commercial-kidney-transplantation-australian-perspective>