

The Chinese Government's State Violence against Women

I. Background and Introduction

While a lot of the world's human rights problems can be attributed to the lack of laws protecting people's rights, the worst menace comes from regimes that, on the surface enact all necessary legislations, but in practice knowingly violate the laws.

The violence that women have suffered under the Chinese government's rule in the past fifty years is undisputedly one of the most tragic stories of modern days. Various documents reveal that in the very first years of the Chinese communist rule, ten million lives perished in the so-called "crackdown on counter-revolution", and along with them countless women suffered humiliation and rape after their male relatives were killed. The massive rape of women in Tibet by Chinese soldiers is well known to the world. The Cultural Revolution in 1960's also brought atrocities to millions of women and their families.

The use of violence against women as a means to persecute those with an ideology or belief different from that of the government is especially cruel in China. The following are just a few examples reported by official publications. Ms. Zhang Zhixin was arrested in 1968 for writing a letter to the leader of the government and expressing different opinions. She was beaten, raped, gang raped, and treated as a sex slave to all of the male prisoners in the same jail, and eventually lost her sanity. The saddest part came on April 4, 1975, when she was executed. Her trachea was cut to "prevent her from shouting counter-revolution slogans." Ms. Li Jiulian, was executed in December 14, 1977; her breasts and vagina were cut from her body. Ms. Zhong Haiyuan, a high school student, was executed in April 30, 1978, but initially the executioners only wounded her, so as to ensure the freshness of her kidneys which were harvested from her body for transplantation.

Lack of legislation is certainly not the cause of the cruelty. China has enacted laws comparable to those of a democratic country to protect human rights and women's rights. China is also a party to CEDAW and even hosted the Fourth World Conference on Women in 1995.

These domestic legislations and international conventions, however, do not assure the well being of Chinese women. They are only shields for the Chinese government in the face of world criticism: China is a country ruled by law, we do everything according to the laws, and our laws meet international human rights standards. This has turned away numerous international critics.

In recent years, the world seems to be impressed by China's economic development. This, however, has brought no change to the plight of Chinese women. In a press conference in 1989, when a foreign journalist asked about the case of a college student who had participated in the 1989 student democratic movement and was later gang raped in custody, China's president Jiang Zemin answered: "She is a criminal and deserves the punishment."

Ten years later, the same president launched a persecution against 100 million Falun Gong practitioners. The massive scale of torture of female Falun Gong practitioners despite existing legislature that is supposed to protect their rights is the main topic of this communication.

II. International Recommendations and Chinese Legislation

1. Recommendations of the Special Rapporteur and international human rights documents

As we were unable to find any specific recommendations made by the Special Rapporteur to the Chinese government regarding the violence against female Falun Gong practitioners, in our report we will be focusing on more general recommendations that appear in Commission on Human Rights resolution 2001/49 – Elimination of violence against women and the Beijing Declaration and Platform for Action. It is important to mention, however, that we did find one mention of Falun Gong in the Special Rapporteur's reports. It appeared in "Communications to and from Governments" dated February 13, 2001 (E/CN.4/2001/73/Add.1). In her letter to the

Chinese government, the Special Rapporteur expressed her concern regarding reports of the torture of Falun Gong practitioners while in custody that were submitted to her. However, we were unable to find any record of a response on the part of the Chinese government or any later recommendations made to the government by the Special Rapporteur. There is no response included in the above document because “The Special Rapporteur recognizes that there has been insufficient time for the Government to respond to her letter of 19 January 2001” (para. 20, pg. 17). If the reason we were unable to find a response on the part of the Chinese government was because there was no response, this already violates Article 23 in resolution 2001/49 which requests that all governments cooperate with the Special Rapporteur, supply all information requested and respond to the Special Rapporteur’s communications.

A. Commission on Human Rights resolution 2001/49 – Elimination of Violence against Women.

This resolution for the Elimination of violence against women was passed without a vote in April, 2001, nearly two years after the persecution of Falun Gong practitioners began. While this resolution does not make any specific allusions to the plight of female Falun Gong practitioners, there are several recommendations and requests from governments that clearly apply to this situation. Throughout the remainder of this report we will be referring to the recommendations in the resolution and demonstrating the ways in which they have been complied with or violated.

B. Beijing Declaration and Platform for Action¹

While the previous resolution was adopted without a vote and thus has a low level of obligation, the Beijing Declaration and Platform for Action were formulated at a conference and finalized only after each country had an opportunity to look it over and submit their reservations and objections. In addition, the Chinese government played a very active role in the Fourth World Conference on Women and was not among the countries to express reservations regarding the declaration and platform for action. In fact, the elected president of the conference was Chen Muhua, Vice Chairperson of the Standing Committee of the National People's Congress of the People's Republic of China, and Jiang Zemin, President of the People's Republic of China, gave one of the opening speeches². In his speech, he said: “The Chinese Government and people are ready to make great efforts and cooperate closely with the UN and its agencies to ensure the success of the Conference.” The true success of the Conference would be the implementation of the Declaration. However, in its persecution of Falun Gong practitioners, the Chinese government under Jiang's rule has repeatedly violated numerous articles in both the Beijing Declaration and the Platform for Action. These violations directly contradict Article 10(a) in resolution 2001/49 which calls on governments to fully implement international humanitarian instruments that relate to violence against women. Below are some specific cases of abuse and the corresponding articles of the Beijing Declaration that they violate:

- 1) Wang Shaona, resident of Shekou District, Shenzhen City in Guangdong Province was subjected by the police to forced abortions on two separate occasions, within 6 months of each other (for the complete report, see Falun Gong Report³, pg. 73 case #3). These actions committed by a government body violate articles such as "Women have the right to the enjoyment of the highest attainable standard of physical and mental health" (Art. 89); "Reproductive health implies that people are able to have... the freedom to decide if, when and how often to [reproduce]" (Art. 94); "Actions to be taken by governments: Take all appropriate measures to eliminate harmful,

¹ All references and quotes from the Beijing Declaration and Platform for Action are taken from gopher://gopher.undp.org:70/00/unconfs/women/off/a--20.en.

² Jiang Zemin's speech at the Fourth World Conference on Women can be found at: <http://www.un.org/esa/gopher-data/conf/fwcw/conf/gov/950905171157.txt>

³ Cases taken from Falun Gong Report, published by Golden Lotus Press in Buford, GA in 2002.

medically unnecessary or coercive medical interventions" (Art. 106 (h)); and "the Fourth World Conference on Women reaffirms that reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing, and timing of their children" (Art. 223).

- 2) Jiang Zhongli, resident of Hengyang City in Hunan Province, who was detained for practicing Falun Gong, was frequently beaten by police while in detention even though she was pregnant. In February, 2000 the guards beat her so fiercely that she hemorrhaged and miscarried. (for the complete report see Falun Gong Report, pg. 75 case #2). This act does not only violate the articles mentioned in the previous case, but also violates Article 124, that calls on governments to "refrain from engaging in violence against women".
- 3) Dr. Chunyan Teng, an acupuncturist and resident of New York City, went to China and videotaped the abuses Falun Gong practitioners are subject to in mental institutions, information that she passed on to the international media for publication after leaving China. When she later returned to China to try and document more human rights violations, she was immediately arrested. She was charged with being a spy and exposing state secrets and since her arrest, she has been suffering the very abuses she documented. Dr. Teng's arrest by the Chinese police violates Article 228: "Women engaged in the defence of human rights must be protected. Governments have a duty to guarantee the full enjoyment of all rights set out in the Universal Declaration of Human Rights...by women working peacefully in a personal... capacity for the promotion and protection of human rights."

2. Chinese Legislation

Article 10(c) of resolution 2001/49 calls on governments "to enact, ..., reinforce or amend ...domestic legislation to punish and redress the wrongs done to women and girls subjected to any form of violence whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, to ensure that they conform with relevant international human rights instruments and humanitarian law, and to take action to investigate and punish persons who perpetrate acts of violence against women". The Chinese government has followed these guidelines to the extent that domestic legislation (both constitutional and criminal) does offer protection to victims of sexual abuse and seeks to punish the perpetrators of such abuse. However, the government has not followed its own legislation in its treatment of female Falun Gong practitioners and has de facto severely violated the above article in the resolution.

A. Constitution of the People's Republic of China⁴

Article 27 of the Constitution (pg. 37-38) contains two paragraphs that address women's rights:

1. Women enjoy equal rights with men in all respects.
2. The state protects marriage, the family, and the mother and child.

Thus, initially it seems that women are protected by the Constitution from violations such as: forced abortion, rape, physical abuse when pregnant, detention while nursing, forced divorce, etc. However, in reality, at least in its persecution of Falun Gong, the Chinese government has acted in contradiction of its own constitution.

Firstly, while the persecution of Falun Gong by the government is not limited to female practitioners, in many cases female practitioners are treated more harshly than their male counterparts. In particular, this applies to the sexual abuse that female practitioners are subject to, as well as the acts of violence perpetrated against pregnant and nursing mothers. In addition, as mentioned in the Special Rapporteur's communication to the Chinese government in her February 13th report, "the vast majority of Falun Gong practitioners are women" (E/CN.4/2001/73/Add.1,

⁴ References to the Chinese constitution are taken from The Constitution of the People's Republic of China, published by Foreign Languages Press in Peking in 1975.

para. 15, pg. 7). Thus, numerically, more women have suffered from the persecution of Falun Gong than men. The above examples clearly violate the paragraph in the Constitution ensuring equal rights between women and men.

Secondly, the Chinese security forces have violated the clause ensuring that the state protects marriage, family, mother and child in nearly every aspect imaginable. There have been reported incidences of forced divorce, forced abortion, raping of married women, abuse of pregnant and nursing mothers, children abandoned because both of their parents were arrested, etc. Below are some cases exemplifying these violations:

- 1) Zhu Xia, resident of Chengu City, Sichuan Province, was detained by police for practicing Falun Gong despite the fact that she was pregnant at the time of the arrest. She delivered her baby and was released from detention for several months, but was arrested again and sentenced to a labor camp when her son was barely one year old. This left her son parentless because her husband was already detained in another labor camp. (For the complete account, see Falun Gong Report pg. 76, case #4).
- 2) Wang Lixuan and her 8 month old son, Meng Hao from Nangou Village in Shandong Province were arrested and then tortured to death at a labor camp. (For the complete account, see Falun Gong Report pg 36 and pg 78 case # 1)
- 3) Lin Xinlan, resident of Shuangyang Town, Shandong Province. After she was detained several times and the police threatened to force her family to sell its house, her husband was coerced into signing a divorce agreement and her son was coerced into signing a statement stating that he wanted to terminate his relationship with this mother. (For the complete account, see Falun Gong Report, pg. 125 case #2).

B. The 1997 Criminal Code of the People's Republic of China⁵

The Criminal Code of the People's Republic of China contains both laws made to protect women from acts of violence in their every day lives as well as laws meant to protect women from acts of violence while in police custody. Nevertheless, while in custody, female Falun Gong practitioners have been subject to a wide array of violent acts at the hands of the police and others. Below are cases documenting such abuses and the articles of the Criminal Code and other legislation that pertain to them:

- 1) A female Falun Gong practitioner (name withheld to protect the victim) was stopped on the street by a plainclothes policeman while posting Falun Gong flyers. The policeman proceeded to beat the practitioner in public to the point that she lost consciousness and then dragged her under a bridge and raped her (For the complete account, see Falun Gong Report, pg. 81 case #1). The policeman's acts violate Article 234 (Inflicting injury), Article 236 (Rape), and Article 237 (Sexual molesting and humiliation), each of which carry a sentence that ranges from three years to life-imprisonment. However, at the end of this episode, he rode away on his bicycle.
- 2) In June 2000, 18 female practitioners at the Masanjia Labor Camp were stripped naked and thrown into prison cells with violent male criminals who were encouraged to rape and abuse them. (For the complete account, see Falun Gong Report, page 83). The guards' actions in this case, grossly violate Article 248 which carries a sentence of 3-10 years imprisonment.
- 3) Article 247 of the Criminal Code prohibits law-enforcement personnel from extorting a confession from a prisoner by torture. While policemen do not try to extort confessions from Falun Gong practitioners in custody, they do use torture as a means to try and extort statements renouncing Falun Gong. For example, Shi Yingchun, a resident of Huludao City

⁵ References and quotes of the Criminal Code are taken from pages 135-144 of The 1997 Criminal Code of the People's Republic of China, Chinese Law Series, Vol. 1, compiled by Wei Luo and published by William S. Hein & Co. in Buffalo, NY in 1998.

in Liaoning Province was shocked with an electric baton all over her body including on her breasts, because she refused to renounce Falun Gong. (For the complete account, see Falun Gong Report pg. 84 case #6.5).

- 4) Wang Shaona (See 1.B.1. above). The Chinese government's reason for subjecting women such as Wang to forced abortions is because China's own legislation discourages the arrest of pregnant women, as evident in Article 3 of "Regulations of the People's Republic of China on Arrest and Detention"⁶. So, in order to avoid arresting pregnant women, the police force them to have abortions so that they are no longer pregnant.

III. The "610 Office"⁷

One of the principal manifestations of the Chinese government's violation of its own legislation in its persecution of Falun Gong is the existence of the 610 Office. The 610 Office was formed on June 10 of 1999 following a letter written by Jiang Zemin that ordered the establishment of "a leadership group that will specialize in handling the 'Falun Gong' issue". In that same letter, he ordered all government bodies, including the judiciary branch, "to act in close coordination with the 610 office". This placed the 610 office the power above the law. Thus, the 610 office, headed by Luo Gan, has orchestrated the 3 year persecution of Falun Gong and has instructed police to act brutally towards practitioners in custody. For example, the 610 office has told police stations all over the nation that "there will be no punishment for torturing Falun Gong practitioners to death. Practitioners tortured to death will be recorded as suicide cases."

VI. Conclusion

The Chinese government's state violence against Falun Gong practitioners is no different from its crimes against Christian women, Buddhist women, Muslim women, and Chinese women in general in the past fifty years. The courageous and peaceful insistence of Falun Gong practitioners, however, has helped to expose the extent and severity of the state violence and highlighted the plight of Chinese women. It is apparent that the Chinese government needs to address many issues of its human rights abuses of female Falun Gong practitioners. We would respectfully recommend that the government first dissolve the 6-10 office. We would also like to encourage the Special Rapporteur to again request responses to her questions on reports of torture of Falun Gong practitioners in custody, along with the over 90 other cases that have not yet been responded to. Finally, we hope that the Special Rapporteur will ask China to explain why they do not ratify the Optional Protocol to CEDAW that would allow independent on site evaluations of the situation.

Every human rights activist knows that the hardest step in fighting state-perpetrated injustice is in exposing the crimes. Falun Gong practitioners, with their endurance and courage, have revealed to the world the massive state-run violence against women by the Chinese government. We can only hope the United Nation will take notice and act to help them, lest their hope and their sacrifice be in vain.

⁶ "Regulations of the People's Republic of China on Arrest and Detention" can be found at:

<http://product.chinawe.com/cgi-bin/lawdetail.pl?LawID=362>

⁷ Information on the 6-10 Office taken from: <http://www.faluninfo.net/devstories/610/overview.asp>