

HUMAN RIGHTS LAW FOUNDATION

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To: Theresa McHenry
Director
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This criminal action is instituted against Zhou Yongkang who has served as the Minister of Public Security of the People's Republic of China ("China") since December of 2002 and as the former Secretary of the Chinese Communist Party (CCP) of the province of Sichuan from 1999 through 2002. In both of these capacities, Zhou Yongkang has planned, instigated, ordered, authorized, and incited police and other security forces across China to commit the abuses suffered by the complainants and others similarly situated persons that are described in this complaint, and had command or superior responsibility over, controlled or aided and abetted such forces in their commission of these abuses.

His acts have been carried out in the context of a nationwide campaign of persecution against Falun Gong practitioners in China involving numerous instances of torture and genocide. Police and other security forces throughout the People's Republic of China, have engaged in a widespread or systematic campaign, marked by a pattern and practice of violations, including, but not limited to, arbitrary detention, forced labor, cruel, inhuman and degrading treatment, torture and extra-judicial killing that includes the harvesting of the victims' organs without their consent for the purpose of for-profit transplants.

By virtue of the enclosed authorization (Exhibit 1), attached to Declaration of Terri E. Marsh, which declaration is hereinafter referred to as "Marsh Declaration"), we declare that we are the legal representative for the following organization and complainant:

1. Mid-USA Falun Dafa Association, a registered organization, represented by facilitator Yang Sen;
2. Complainants.

Dr. Charles Lee was born in the People's Republic of China and is a U.S. citizen. Since his arrest in China in January of 2003, he has been subjected to not only illegal arrests, but also ongoing torture based solely on his religion or belief, by public security officers as part of the ongoing and systematic effort to torture, persecute, and wipe out Falun Gong in China. Dr. Lee now lives in New Jersey and on behalf of himself and the class of similarly situated persons subjected to torture in China since January of 2003.

Jane Doe is a citizen of the People's Republic of China. She has resided in the city of Wuhan from 1999 through 2004, where she was sent to brainwashing classes repeatedly, and was tortured nearly to death several times based on her religion or belief, by public security officers as part of the ongoing and systematic effort to torture, persecute, and wipe out Falun Gong in China.

Huimin Wang resides as a permanent resident in Queens New York and as a refugee from China where she was tortured physically and mentally based on her religion or belief, by public security officers as part of the ongoing and systematic effort to torture, persecute, and wipe out Falun Gong in China.

On behalf of the above-named complainants and with their full and total endorsement, we hereby submit this action against Zhou Yongkang for redress for crimes against humanity, and, more particularly, torture.

I. JURISDICTION AND LEGAL BASES

Acts of torture taking place outside of the United States are made subject to fine and imprisonment under Title 18, Section 2340 which implements for the U.S. the absolute prohibition against acts of torture set out in the Convention against Torture. The definition of "torture" that is used for this statute, and for the Convention Against Torture on which it is based, covers any "act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering ... upon another person [under their] custody or physical control," for any reason.

Criminal jurisdiction over the acts of torture under 18 USC Section 2340 can be exercised in the U.S. if (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender or where the abuses took place. In this case, Defendant Zhou Yongkang will be present in the United States in September or October of 2006, as part of a visiting mission of Chinese officials to the U.S. The fact that he is a temporary visitors does not deprive United States courts of jurisdiction, since the very nature of Title 18 USC Section 2340 authorizing this type of criminal action in federal court recognizes that many defendants or potential defendants in these cases, as foreign nationals committing torts abroad that involve violations of international law, will be in the United States and subject to the jurisdiction of our federal courts only on a temporary basis. Moreover, the torture and genocide abuses covered by this complaint are not eligible, by law, for immunity protection. The Conventions against Torture and Genocide make clear that no immunity applies to these acts, no matter how high an

office the abuser holds. Nor does the Defendant qualify for any other recognized bases for immunity such as head of state or diplomatic immunity.

These acts are in clear violation of a number of international instruments such as the Convention Against Torture, which came into effect internationally on June 26, 1987, was ratified by the United States on October 21, 1994, implemented and given domestic effect by Congress through legislation adopted in 1994 and 1998, and ratified by the Government of China on October 4, 1998. It prohibits the intentional infliction of "severe pain or suffering, whether physical or mental" for any purpose, including, but not limited to, punishment, intimidation, or coercion. Torture is also prohibited absolutely under other international instruments, treaties, and customary international law, including Article 5 of the Universal Declaration of Human Rights, and Article 7 of the International Covenant on Civil and Political Rights. The latter treaty came into effect internationally on March 23, 1976 and was ratified respectively by the United States on June 8, 1992 and the Peoples' Republic of China on October 5, 1998. The Universal Declaration of Human Rights is not a treaty, but a unanimously adopted resolution of the General Assembly of the United Nations that is widely recognized as an embodiment of fundamental and universally accepted standards of customary international law.

These acts are also in violation of the Convention on the Prevention and Punishment of the Crime of Genocide, approved by the G.A. of the United Nations on Dec. 9, 1948, and ratified by on April 18, 1983, the Statutes of the International Courts for Yugoslavia and Rwanda, and that of the International Criminal Court once they are aimed at the eradication, in whole or in part, of a group of people based on their religious or spiritual beliefs.

II. STATEMENT OF FACTS

The decision to eradicate Falun Gong in China through persecution, torture and genocide was first articulated and set in motion by former Party Chief Jiang Zemin in his June 7, 1999 speech to the elite core of the Chinese Communist Party. This speech was sent to all provincial and city Communist Party offices, and served as the basis for the crackdown. Notwithstanding China's ratification of the Convention Against Torture on October 4, 1998, the most commonly used form of persecution perpetrated against practitioners of Falun Going in China is torture – the application of intense and ongoing physical and psychological torture, pain and humiliation geared to coerce the individual women and men who practice Falun Gong to publicly relinquish their beliefs and denounce the practice.

A. The Repression and Persecution of Falun Gong

Among the methods of torture used to force practitioners (especially women) to relinquish their belief or religion are: police beatings of female practitioners' breasts and genital areas and the rape and gang rape of female practitioners. In addition, police have stripped off their clothes and thrown them into prison cells filled with male prisoners who have then raped them. They have inserted electrical batons into

practitioners' vaginas to shock them. They have bundled four toothbrushes and inserted them into female practitioners' vaginas and rubbed and twisted the toothbrushes, and hooked female practitioner's private parts with iron implements.”¹ Adherents have also been sent to mental hospitals where they are injected with psychotropic drugs to force them to renounce their beliefs in Falun Gong.²

Many U.S. Department of State and United Nations Special Rapporteur reports have expressed their grave concern over acts of torture, the murder and disappearance of (especially female) practitioners of Falun Gong. See, for example, Report of the Special Rapporteur of the UN, on issues of violence against women (Office of the High Commissioner on Human Rights, 57th Session, document number E/CN.4/2001/73/Add.1), at ¶¶ 15-16, where the Special Rapporteur communicated her grave concern in regard to information received concerning the alleged use of violence against women in China and in particular the ill treatment of female Falun Gong practitioners (the vast majority of Falun Gong practitioners are women). This report details the methods of torture used against women adherents. See also, the Report of UN Special Rapporteur, Sir Nigel Rodley, E/CN.4/2001/66, January 2001, at ¶¶ 237, 238, and especially at ¶ 246 which states that “[p]ractitioners are said to be put under pressure to renounce their beliefs... [they] are subjected to public humiliation for their membership in Falun Gong.... [m]any are said to have suffered torture or ill treatment.”³

The impact of the torture on the children of Falun Gong practitioners has been addressed in several independent reports, including the report of the Global Mission to Rescue Persecuted Falun Gong Practitioners,⁴ as well as the United Nations reports of the Special Rapporteur on Violence against Women, the Special Rapporteur on Torture, and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography. For example, the Government of China was queried by the Special Rapporteur, Juan Miguel Petit, regarding the sale of children and especially the disappearance of a 4-year-old daughter of Falun Gong practitioners. The young girl was purportedly removed from her home on January 1, 2004 by four police officers from the Tongnan County, after both of her parents had been arrested because of their practice of Falun Gong. Even after her parents' release her whereabouts are not known. In view of her age and vulnerability, the letter expresses serious concern that like her parents, she has been subjected to torture or other forms of ill treatment, or of being trafficked.⁵

The extent and seriousness of the torture that is targeted against Falun Gong practitioners at both the national level, and in local provinces, have also been confirmed

¹ See, the Report of Ms. Radhika Coomaraswamy, the Special Rapporteur on Violence Against Women, (Office of the High Commissioner on Human Rights, 57th Session, document number E/CN.4/2001/73/Add.1).

² In April of 2004, the World Organization to Investigate Falun Gong investigated over 100 psychiatric hospitals in 15 provinces in China. 83% of the psychiatric hospitals that were questioned admitted that they have “accepted and treated” Falun gong practitioners and more than half of these hospitals also admitted that those practitioners had no mental problems and were admitted merely for the purpose of locking them up to force them to renounce their beliefs. WOIPFG, *Investigative Reports on the Persecution of Falun Gong* (Cambridge: June 2004), chapter IV.

³ The Report of the International Education Development (Commission on Human Rights, 61st Session, document number E/CN.4/2005/NGO/132, March 2005), at ¶ 3, summarizes several of these reports.

⁴ Available at www.tcen.org/Elizabeth/Children_Under_Persecution_En_III_Polished_cover_0201 (05-NEW.pdf) as

⁵ See, the Report of Special Rapporteur on the sale of children, Juan Miguel Petit (ECOSOC, document number, E/CN.4/2005/78/Add.3, 8 March 2005).

and extensively documented by the U.S. Government in its Country Reports on Human Rights Practices, and most especially in its Annual Reports on International Religious Freedom, as well as in reports issued by non-governmental human rights monitoring groups such as Amnesty International and Human Rights Watch. For example, the Annual Report on International Religious Freedom for 2001, issued by the U.S. Department of State in December, 2001, has numerous specific references to the major human rights abuses and violations being committed against Falun Gong practitioners. The report describes the crack down against Falun Gong as tied to the Jiang regime's efforts to control, regulate or eradicate religious groups to prevent the rise of groups or sources of authority outside the control of the Government and the Chinese Communist Party. (Page 122) It notes that "approximately 100 or more Falun Gong adherents have died in detention since 1999" (p.122); that many of their bodies reportedly bore signs of severe beatings and/or torture; that many thousands of individuals are serving sentences in reeducation-through-labor camps; that hundreds of its practitioner have been confined to mental hospitals; that there have been numerous credible reports of unrepentant Falun Gong practitioners being confined in psychiatric institutions; that police often used excessive force when detaining peaceful Falun Gong protesters, including some who were elderly or who were accompanied by small children; and that torture (including by electric shock and by having hands and feet shackled and linked with crossed steel chains) was widely reported (page 131). The State Department Report notes that in September 2000 the Secretary of State designated China a country of particular concern under the International Religious Freedom Act for particularly serious violations of religious freedom, including its treatment of Falun Gong practitioners. (p. 133).⁶ That was at the very beginning of the campaign of persecution. Many thousands have been arbitrarily detained and tortured since these earlier reports were issued 6 years ago, as is indicated by Annual Report on International Religious Freedom for 2006, issued by the U.S. Department of State in December, 2006, indicating that "tens of thousands of Falun Gong practitioners have been sent to labor camps without trial or sent to mental health institutions for re-education due to their affiliation with [Falun Gong]."

The widespread use of torture against Falun Gong practitioners detained unlawfully in labor camps and prisons has also been confirmed by several other independent reports. A particularly characteristic report is an Amnesty International report for 2001 that denounces "unfair trials," "acts of torture," and "imprisonment," as a result of which at least 93 adherents of Falun Gong died.

[S]ome of the deaths were the result of ill treatment that was imposed during forced feedings, most of them reportedly died due to torture. Many, maybe tens of thousands of the practitioners are believed to be in detention by the end of the year. Many were sent to "re-education" centers and some are detained in psychiatric

⁶ That practitioners are subjected to severe torture in prisons and labor camps is further corroborated by eye witness accounts of more than fifty Falun Gong practitioners who were tortured in prisons and labor camps in China based on their belief in Falun Gong. These witnesses now reside outside of China and are available to testify in person and submit additional eyewitness testimony in the form of affidavits or by phone. (A list of 40 of these eyewitnesses is attached hereto, as Exhibit A).

hospitals. See AI report, 2001, at p. 1, available at
<http://web.amnesty.org/web/ar2001.nsf/webasacountries/CHINA?Open>
 Document

B. The Role of the Police and Public Security System in the Persecution

Key officials in the law enforcement and public security system in China, including those named in this complaint, have played an extremely pivotal role in the persecution of Falun Gong by their arrest, interrogation, detention, and torture of Falun Gong practitioners. Those who have been arrested, detained, subjected to brainwashing and other forms of torture include the complainants and those similarly situated. As complainants indicate, the police and other security forces typically use excessive force in conducting arrests, as occurred frequently in the case of the complainants (see *supra* at pp. 3-5). Moreover, in many police precincts and detention centers, the police, as an additional form of intimidation and punishment, have encouraged other inmates to beat and sexually abuse Falun Gong practitioners in exchange for reductions in the inmates' sentences. Among the methods most typically used by police and security forces to terrorize practitioners and, in many instances, to extract information, confessions, and disavowals of belief in Falun Gong practices and principles are:

- Corporal punishment that often results in fainting and broken bones;
- Improper brutal force-feeding with feces, boiling water, high percentage saline solutions and other types of noxious liquids;
- Torture with 60,000 voltage electric batons, including to the most intimate body parts;
- Chaining in the most unnatural body positions, including being hanged in chained positions;
- Mass rape;
- Injection of psychiatric medication; and
- Sleep deprivation and brain washing with propaganda material. *Id.*

The abuses committed by police and security forces against practitioners of Falun Gong have also been widely reported in national or international media, by the United States and other governments, and by human rights, religious and other organizations. These include the significant number of reports of Falun Gong adherents who have died from torture inflicted in labor camps and detention centers, as well as those who have been subjected to extensive torture and other human rights violations.

Theo van Boven, the former Special Rapporteur of the United Nations on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has submitted several reports to China about Falun Gong adherents who have died in police custody and/or been subjected to torture and other crimes against humanity in and across China. These include :

1. **Liu Jie** (f) was reportedly arrested on 6 February 2003 and taken to the Second Detention Centre in Shuangcheng City, where she was allegedly subjected to ill-treatment. It is reported that on 17 February 2003, her family was informed of her death.

2. **Lan Hu** was reportedly arrested in January 2002 and detained in Jiujiang City Detention Centre for nearly a year. He was reportedly sentenced in December 2002 to 11 years in detention to be served at Nanchang City Prison, where he was allegedly forced to work for up to 15 hours a day. On 9 February 2003 his family was reportedly informed of his death and came to the prison where they reportedly found his body emaciated.

3. On 21 May 2003, the Special Rapporteur sent an urgent appeal concerning **Minli Wand** (f), a Falun Gong practitioner, who was reportedly arrested by officers of the Public Security Bureau on 12 May 2003 in Jilin City. She allegedly tried to escape her arrest by jumping out of a window. As a result, two of her ribs were reportedly broken. She was reportedly taken by the police to the City Hospital under strict and constant surveillance. A laryngotomy was reportedly forcefully performed on her allegedly in order to make her stop talking about Falun Gong. As a result, she had reportedly not been able to speak anymore.

4. On 11 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women concerning **Wei Xingyan**, a student, who was reportedly arrested on 11 May 2003 along with a dozen of other students and teachers from Chongqing University and China Southwest University of Political Science and Law for hanging banners and balloons commemorating 13 May, the anniversary of the introduction of Falun Gong. According to information received, on 13 May 2003, several policemen took her to a cell in Baihelin Detention Center of Shapingba District, and forced two female inmates to strip her. One of the uniformed policemen reportedly pushed her to the ground and raped her as the other inmates watched. As she engaged in a hunger strike to protest her treatment, police reportedly botched a violent force-feeding attempt, seriously injuring both her trachea.

This report is available at

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.2004.56.Add.1.En?Open](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2004.56.Add.1.En?Open) document

Substantial numbers of reports have been issued (including official U.S. Dept. of State reports) describing how Falun Gong adherents have died from torture inflicted in labor camps and detention centers, as well as the tragedy that took place at the Masanjia Forced Labor Camp, where female adherents were stripped naked and placed in a cell with a number of male inmates who were encouraged to abuse them sexually. See, for example, Report of the Special Rapporteur of the UN, in issues of violence against women (Commission on Human Rights, 57th Session, document number E/CN.4/2001/73/Add.1), at ¶ 16, where the Special Rapporteur communicated her grave concern in regard to information received concerning the alleged use of

violence against women in China and in particular the ill treatment of female Falun Gong practitioners (the vast majority of Falun Gong practitioners are women).⁷

See also, Excerpts of United Nations Special Rapporteur Reports, attached to this document as [Exhibit B](#).

The following excerpt from defense attorney Gao Zhisheng's third open letter to Hu Jintao and Wen Jiabao (available at <http://www.theepochtimes.com/tools/printer.asp?id=35876>) makes clear the role of key officials in the security system in China, including those named in this complaint in the persecution of Falun Gong by their arrest, interrogation, detention and torture:

At this moment, with a trembling heart and a trembling pen, I am writing down the tragic experiences of those who have been persecuted in the last six years. Among the true accounts of unbelievable brutality, among the records of the government's inhuman torture of its own people, the immoral acts that shocked my soul the most were the lewd yet routine practice of attacking women's genitals by 6-10 Office staff and the police. Almost every woman's genitals and breasts or every man's genitals have been sexually assaulted during the persecution in a most vulgar fashion. Almost all who have been persecuted, be they male or female, were first stripped naked before any torture. No language or words could describe or re-create our government's vulgarity and immorality in this respect. Who with a warm body could afford to stay silent when faced with such truths?

In the same letter, Gao tells of the plight of a:

Dalian practitioner, Chang Xuexia, [who] is a graceful and quiet girl. She lowered her head in shame while recounting her painful and humiliating experience in a labor camp:

"I was arrested for the first time for appealing for Falun Gong. I was illegally detained for 39 days in a rehabilitation center in Dalian. In January 2003, the authorities again tried to force me to renounce Falun Gong. They locked me in a small metal cage and brought in a variety of instruments of torture. Ms. Wang Yalin, the main persecutor of Falun Gong practitioners in the center, goaded several inmates to hang me by the wrists with my feet barely touching the floor. Wang ordered inmates to 'Fix her well, all of you!' "The swarm of inmates struck and kicked me from every side. I passed out. They dropped me on the floor and forcefully stepped on my face and arm to see if I was faking. When I woke up, I could not move my left arm, for my elbow was dislocated. Inmates who refused to torture me were transferred and their sentences extended. I was hung up again. This time inmates put Teacher's picture inside my underwear, and wrote blasphemous words against

⁷ See also, U.S. Department of State in its report on International Religious Freedom for 2001-2006.

Falun Dafa and Teacher on my face. They also beat me with a hard wooden plank. The bruises have not yet faded after a whole year. I still refused to renounce Falun Dafa. They stripped me naked, and several inmates began pinching my breasts, plucking my pubic hair, and stabbing my vagina. They used a brush that usually cleaned the water tank. They then put a basin under my lower body to see if I was bleeding. Since no blood came out, the inmates switched to a larger brush and repeatedly stabbed my vagina with it. I could not bear the excruciating pain any longer and succumbed to their demand of not doing the Falun Gong exercises in the camp. What I had suffered in the camp was not the most brutal. Another practitioner named Ms. Wang Lijun was tortured in the small metal cage three times. Inmates tied many knots on a thick rope and pulled it back and forth in a sawing motion across her vagina. Her entire lower body swelled up. The head police then ordered inmates to jab her swollen vagina with the thorny end of a broken mop stick. This torture caused Ms. Wang's vagina to bleed profusely. Her abdomen and vagina were so swollen that she could not pull up her pants, or sit, or urinate. Ms. Wang still could not sit upright two months after the sexual torture. Her legs were also disabled. I also witnessed these inmates applying this same torture on a virgin. The head police officer also put venomous bugs on female practitioners' bodies."

The public security system has not only played an active role in the arrest, interrogation, initial detention and direct torture of practitioners of Falun Gong, as is indicated above. The head of the public security system at each level participate in pre-arrest meetings with representatives from the People's Courts, the Prosecutors' Offices, and the Ministry of Justice to decide how to handle Falun Gong cases.⁸ Equally significant is the collaborative role they continue to play with other ministries, as for example, the Ministry of Civil Affairs, with whom "it acted to dissolve Falun Gong" See, Dangerous Meditations (Chapter III: Defiance and Response: A Chronology), available at <http://hrw.org/reports/2002/china/China0102-02.htm>

II. THE PARTIES

A The Complainants

Complainant Dr. Charles Lee was born in the People's Republic of China and is a U.S. citizen. He graduated from Sun Yat-Sen University of Medical Sciences in China in 1987. (June 2, 2006 Statement). He also holds a Master of Science in Physiology, and was certified by the U.S. Board of Medical Licensing in 1998. He was held captive as a political prisoner in Nanjing Prison in China from January 2003 to January 2006. During this time, he was tortured, endured degradation and was subjected to brainwashing solely

⁸ As indicated in Human Rights Law Foundation, Special Report: China's Crimes Against Falun Gong, the key officials of the Political and Judiciary Committee host a 'Joint Case Handling Meeting,' with the heads of the Public Security Bureau, the Prosecutor's Office, the People's Court and Ministry of Justice. At this meeting, the participants decide the charges to be brought if any, the appropriate form of detention and other conditions of a suspect's sentence, if any, prior to his arrest. See, "Examples of 'Joint Handling Meetings,'" available upon request.

due to his refusal to relinquish his belief in Falun Gong. *Id.* The CCP held a show trial, for which Mr. Lee was not allowed to defend himself or to present evidence showing his innocence. In prison, he was subjected to an intense program of brainwashing and torture as part of a forced process of conversion and transformation. He was placed in brainwashing classes everyday where he was always surrounded by a group of 10 to 15 abusers, including inmates and prison policemen, and subjected to constant insult and verbal assault replete with the slogans, rhetoric and dogma developed and promulgated by the Defendant about the Falun Gong religion as a form of mental abuse aimed at forcing him to renounce Falun Gong. *Id.* His belief in the existence of higher beings and a heaven was characterized as a type of mental imbalance, his belief in the Falun Gong tenets of “Truthfulness, Compassion and Forbearance” was attacked as “laughable, insane and poisonous”; they berated him for discussing the persecution in the US. They characterized his possession of U.S. citizenship as “anti-CCP” and “anti-China” actions; and they told him “we can make living worse than death.” *Id.* Torture played a major role in the process of forced conversion: Dr. Lee was forced to wear prison clothes; he was forced to stand up straight for many hours each day for many days in a row, sometimes for up to two weeks in a row; he was forced to sit up straight for many hours each day for many days in a row, sometimes for up to seven weeks in a row; he was forced to watch anti-Falun Gong brainwashing video programs that attacked his beliefs; he was forced to report his thoughts to the prison police; and he was forced to accept the unlawful verdict against him. As a result of refusing the torture and demands imposed on him, Mr. Lee was forced to attend military drills, and when he refused he was dragged across the grounds by four or five inmates continuously for hours. He conducted nine hunger strikes while imprisoned, one for up to 50 days, to protest the prison’s unlawful persecution against Falun Gong, but the prison authorities responded by subjecting him to further torture: they force-fed him four times and once left a big tube in his nose and stomach for up to 33 hours while his body was tied up; they repeatedly forced him to stand or sit up straight for long periods; they forbade him from reading, watching TV or talking to anybody day after day, causing his brain function to deteriorate; and they pressured him to relinquish his belief in Falun Gong by forbidding him to see his mother during the last two years of her life in which she was alone and dying from terminal leukemia. In January 2006, Mr. Lee was released, and he now lives in the U.S. with his wife, Yeongching Foo. As Mr. Lee’s testimonial makes clear, the torture and forced conversion techniques were carried out by members of the public security system in China as part of the systematic and concerted effort to torture, persecute and wipe out Falun Gong in China. *Id.*

Complainant Jane Doe resides in a district in the city of Wuhan. Since the onset of the persecution, she has been repeatedly harassed by security forces who have tried in various ways to force her to give up the practice of Falun Gong. In October of 1999, she was taken to a brainwashing class for 15 days. Because she refused to sign a letter relinquishing her belief in Falun Gong, she was taken from the brainwashing class to a “prison” facility and brainwashing center in the city of Wuhan, where she was detained for three months. In this center, and under the direction of police and prison officials, she was beaten by criminal inmates to such an extent that her legs could no longer support her body. A month after her release she was again sent to the same brainwashing center, this time for six months. A short while after her release, when -- even after six months of

severe torture, she still refused to relinquish her belief in Falun Gong -- she was sent (again without trial or due process) to a the same brainwashing center for eighteen months where she was subjected to very severe beatings, solitary confinement, and an array of other painful and degrading forms of physical torture. Again after her release, in November of 2003, because of her repeated refusal to renounce her belief in Falun Gong, she was sent again to the brainwashing center, where she was forced to watch media programs including those produced or aired by the Defendant as part of the mental abuse deployed to force her to give up her belief in Falun Gong. When Plaintiff objected to such sessions, she was subjected to severe torture, including being handcuffed to two beds, with each hand cuffed to a different bed, wherein her body was stretched in two diametrically opposite directions. She was then hung from the ceiling -- still handcuffed in that position for six days. Whenever they pulled the beds away from one another, she suffered severe pain and nausea. Her bones cracked and her nerves became badly injured. Public security officers took turns torturing her – each for two hours at a time. Throughout the tortuous process, they pressured her to sign a statement relinquishing her belief in Falun Gong. The more she refused, the more severely they retaliated. Her hands were disabled because of nerve damage from the hanging. She could not take off or put on her pants without assistance. Such assistance was not provided unless she cursed Mr. Li Hongzhi, the spiritual leader of Falun Gong. When she refused she was pushed out of the restroom without her pants. In her words (translated from Chinese) she could not imagine that persons could treat others person in this manner.

Complainant Huimin Wang lives in Queens, as a refugee from China where she was tortured physically and mentally based on her belief in the principles of Falun Gong. On December 31, 2003, she went to Beijing to appeal to the authorities to end the persecution of Falun Dafa. Plain clothed police immediately seized her and sent her to a Detention Center in the Dongshan District, Guangzhou City, where she was illegally sentenced to one year of “reeducation through labor.” She was detained in the Chatou Forced Labor Camp, where she suffered various types of tortures – including physical punishment, humiliation, and psychological torture. According to Ms. Wang, a key method of brainwashing and indoctrination in this camp was to compel practitioners to relinquish publicly their belief in the religious tenets of Falun Gong. Those who refused were beaten and tortured relentlessly. When Ms. Wang herself refused to sign the papers denouncing Falun Gong, she was punished severely by the police. She was detained in a solitary cell and assaulted daily. She was deprived of sleep and forced to sit on a small stool day and night so that her skin became festered. She was also forced to read books that defamed Falun Dafa and Li Hongzhi, the founder of Falun Dafa. When she refused to read, they read to her and forced her to listen. One especially hot summer in Guangzhou, she was forced to endure a torture drill of ongoing severe physical punishment under the hot sun. She collapsed often. Her hair turned yellow. She could not endure the pain, but still did not feel she could betray her deeply held spiritual belief. If she signed the paper renouncing Falun Gong Buddhist religion, it would signify the loss of her conscience. She suffered mental and physical pain for days on end, trying to endure the physical pain and suffering inflicted on her by security guards based on her refusal to sing the song. In time, based on her refusal to acquiesce, she was handcuffed

and sent to the Sanshui Male Forced Labor Camp where she was tortured and brainwashed even far more severely by public security personnel.

As indicated below, the unlawful arrests, detention and acts of torture were carried out by the police under the directives, orders and policies of the Defendant and other heads of the conspiracy to torture and wipe out Falun Gong in China.

B. The Defendant

Defendant Zhou Yongkang has served as Minister of the Ministry of Public Security of the People's Republic of China ("China") since December of 2002. As indicated by Article 9 of the Organic Law of the State Council of the PRC ("State Council Law"), as Minister of Public Security, Zhou Yongkang is individually in charge of the Ministry of Public Security, has full responsibility for its ongoing activities and work, and more particularly, directs the work of each of the MPS's departments and units. As is indicated by Article 2 of the State Council Law, all Ministers belong to the State Council, the governing body that approves, ratifies and endorses important policies of the People's Republic of China, including. See also, Article 10 of Organic Law of the State Council of the PRC ("State Council Law").' This document is available at <http://www.cecc.gov/pages/newLaws/scOrganicENG.php>.

As indicated in greater detail below, as Minister of the Ministry of Public Security, Defendant Zhou Yongkang is responsible for his role in the concerted effort to torture, persecute and wipe out Falun Gong in China, under U.S. and international theories of third party liability that include conspiracy and aiding and abetting.

IV. DEFENDANT RESPONSIBILITY

Defendant Zhou Yongkang has served as Minister of Public Security during the greater part of the period during which Chinese police and other security forces have engaged in these severe abuses against the named complainants and those similarly situated in China. Even if he did not himself carry out the specific acts of torture against the complainants with his own hands, his activities played such an integral role in the campaign of torture and persecution against Falun Gong that he must be held accountable under criminal theories of accomplice liability, and especially that of command responsibility, as well as principles of conspiracy and aiding and abetting.

A. The Concerted Effort

In May of 1999, Jiang Zemin and a few members of the Standing Committee of the Politburo of the Central Committee of the Chinese Communist Party (CCP) officially began the nation-wide campaign to purge China of adherents of Falun Gong. Initiated at the highest levels of the Communist Party, with the former President, Jiang Zemin, issuing the initial order that banned the spiritual practice and creed, the Chinese authorities declared Falun Gong and its adherents unlawful, and began the persecution, at first, through the production and dissemination of propaganda against them -- portraying practitioners of Falun Gong as a violent and fanatical threat to humankind

because of the strong support that the practice has been able to generate among its adherents and because it does not operate within Communist Party control, and then through a massive and systematic campaign of arbitrary arrests, long term detention and torture.⁹

By his exploitation of the Chinese Communist Party's organizing principle that the entire membership of the Party must be subordinated to the Central Committee of the CCP, the former party chief used the state machinery controlled by the CCP - the media, public security personnel, the judicial system, the National People's Congress, and diplomatic personnel – to launch the nationwide crackdown. The public security system, which is controlled by the CCP, has directly taken part in the abduction, arrest, and torture of Falun Gong practitioners. The news media in China has assisted Jiang's regime in spreading lies and smearing of Falun Gong in order to encourage and foment the abuses that have taken place. The state-security system has been exploited by Jiang Zemin personally in gathering and submitting information, fabricating lies, and falsifying intelligence. The judicial system has put on the “legal” appearance and the garb of “rule of law” to justify crimes committed by Jiang Zemin and CCP, by giving a legal imprimatur to these inherently unlawful acts.

I. The Initiation of the Persecution

In May of 1999, a memorandum by Jiang Zemin was circulated among the key CCP leadership, as is evidenced by its transmission from the Central Committee of the CCP to the Chinese Communist Party Committee of the Province of Hebei which transmitted it in turn to the Chinese Communist Party Committee of Lanford City of Hebei. These documents make clear that Jiang had decided to initiate a nationwide persecution of the Chinese citizens who practice Falun Gong, and had joined forces with the Chinese Communist Party Committees at Nation, Provincial and Municipal levels to set it in motion. A copy of this document is available upon request.

Soon thereafter, at a meeting with the Politburo of the Chinese Communist Party where on June 7, 1999, former party chief, Jiang Zemin delivered a speech, titled “Swiftly Handle and Solve the Falun Gong Problem” which describes in detail the initial plan to persecute Falun Gong, including its objectives and its key players.¹⁰ In this speech, Jiang Zemin announces 1) the formation of the “Leadership Team to Handle Falun Gong,” (aka Office 610) by the Central Committee of the Chinese Communist Party (“CCP”) with its mission of “handling” the “Falun Gong Problem;” 2) the CCP Central Committee’s agreement to have Li Lanqing direct the office with the support of vice director, Lou Gan, and key CCP leaders as team members; 3) the directive to the Central 610 Office leaders and membership to formulate a crackdown strategy and a

⁹ As the distinguished Princeton China expert, Dr. Perry Link observed in “the Anaconda in the Chandelier: Chinese Censorship Today,” (in *Scholars under Siege? Academic and Media Freedom in China* ed. Gang Lin (Washington DC: 2002) (Reprinted at www.uscc.gov/textonly/talinkhtm)): [I]n the 1980's the Party encouraged *qigong* as an expression of Chinese essence and a symbol of national pride. ... but in the 1990s, when some *qigong* masters decided to build their own organizations outside of Party control, the same Chinese-essence breath exercises overnight became an “evil cult” and a target for brutal repression.”

¹⁰ This document is available upon request.

fully mobilized 610 “army” of cadres ready and able to wipe out Falun Gong; and 4) his directive to all government organs and party committees at national and regional levels to form of a larger network with the Central Committee of the CCP, to provide additional support and assistance. In addition, the former party chief makes clear that the objectives of this concerted effort include the 1) “re-education” of Falun Gong’s religious followers initially through instruction and a mild form of re-education, and if necessary, stricter forms of discipline and punishment, 2) the exposure of the religion as a form of superstition and “evil cult,” and 3) the characterization of Chinese citizens who practice Falun Gong as a threat to the stability of the Chinese state.¹¹

The concerted effort to eliminate Falun Gong was set in motion when the Central Committee of the CCP established the Leadership Team, also known as the “Central Committee 610 Office,” on June 10, 1999. Within the next six months, the collaborative effort expanded to include key CCP leaders, the public security system, the legislative and judicial branches, and the media.

Within the month of July, 1999:

- The Chinese Communist Party privately began to enlist the support of key CCP leaders by launching an intra-Party study campaign to make clear to key party leaders that the elimination of Falun Gong is necessary insofar as the practice posed a threat to survival of the Marxist state. See Lizhi He’s “Recollection of a Speech by the Director of State Bureau of Religious Affairs on the State Policy of Religion, Chinascop February/March (2005), available at www.chinascop.org which documents the speech given to CCP insiders as early as August or September of 1999 by Ye Xiaowen, the Director of the State Bureau of Religious Affairs. See also, Human Rights Watch, “Defiance and Response: A Chronology,” at p. 2 (PDF version, online at <http://hrw.org/reports/2002/china/China0102-02.htm>) at p. 2.
- Public Security officers throughout China detained numerous Chinese citizens who practiced Falun Gong. Three days of massive protests in thirty cities followed. In Beijing especially, but also in other cities, police held protesters in sports stadium. *Id.*
- Key officials at the Ministry of Civil Affairs officers acted in concert with the Ministry of Public Security in July of 1999 to set in motion the public persecution and elimination of Falun Gong by banning the propagation of the religious practice of Falun Gong in any form and co-extensively, by prohibiting practitioners from exercising citizen rights of appeal and protest under the Chinese Constitution. See, Human Rights Watch observes in Human Rights Watch, “Defiance and Response: A Chronology,” at p. 2 (PDF version, online at

¹¹ The active role of 610 in the concerted effort is detailed below. Several lawsuits have been filed against the heads of the 610 Office, Li Lanqing and Lou Gan, with legal material documenting their crimes and continued participation in the persecution as 610 office heads and in other ways. This material is available upon request.

<http://hrw.org/reports/2002/china/China0102-02.htm>,¹² Five of the six reasons offered to justify the official ban of Falun Gong merely reiterate Jiang Zemin’s characterizations of Falun Gong as a threat to the stability of the P.R.C.¹³

- Key officials of the Ministry of Public Security, the State Press and the Publication Administration issued in concert with others a circular calling for the destruction of all publications related to Falun Gong, the investigation and punishment of “all units and individuals that have published, printed, copied, and distributed” such materials. *Id.* A few days later, several key government officials began to reiterate Jiang Zemin’s characterizations of Falun Gong by their display of characterizations of Falun Gong as a form of evil superstition (aka ‘evil cult’) and a national threat their websites. *Id.*¹⁴
- Key officials at the Ministry of Justice issued a notice requiring all law firms to seek approval for requests to represent or consult with practitioners of Falun Gong and required that any legal explanations provided to those seeking services be consistent with the central authority’s policies towards Falun Gong.¹⁵

Throughout August and September, key CCP and government leaders engineered a thoroughgoing media and publishing campaign to produce “evidence” of Falun Gong crimes so as to justify the upcoming massive arrests, detention, interrogation and persecution of Falun Gong, as well as to incite the police and other security forces to subject practitioners of Falun Gong to these unlawful practices, and to mobilize public support of the crackdown. *Id.* As part of this state sponsored effort, members of the CCP Office of Propaganda engineered a media and publishing campaign to create evidence of purported Falun Gong crimes so as to justify the upcoming unlawful persecutions, to orchestrate public opinion to support the crackdown, and to “cleanse” the Party and the nation of the practice of Falun Gong and its practitioners.¹⁶ By their widespread characterization of people who commit terrorist acts and other unspeakable crimes as Falun Gong practitioners in its news reports, documentaries and special interview shows, by forcing mentally ill persons who have perpetrated unconscionable crimes pose as practitioners on public state-run media, and by attributing unsolved mass murders to those who actually do practice Falun Gong, key officials of the Propaganda

¹² See, Decision of the Ministry of Civil Affairs of the People’s Republic of China Concerning the Banning of the Research Society of Falun Dafa, Chinese Law and Government, Volume 32, No. 5 (issue titled “The Battle Between the Chinese Government and the Falun Gong,” Ming Xia and Shiping Hua, eds.), September-October 1999, pp. 31-32.

¹³ One is plainly disingenuous - that Falun Gong failed to register “according to law.” As noted by Human Rights Watch, Falun Gong had tried three times to register as a social organization, though appropriate channels. All applications were denied. See, Human Rights Watch, *Dangerous Meditation*, “Laws and Regulations Used to Crackdown on Falun Gong” at p.1, available at http://hrw.org/reports/2002/china/China0102-02.htm#P331_49488.

¹⁴ The Communist Party set up the China Anti-Cult website a year later with the same characterizations of Falun Gong which at one place says, “Let’s call them terrorists, then anything goes.” This and other similar statements from the official website have been downloaded and are available upon request.

¹⁵ This notice violates the rights of citizens to legal counsel of their choosing under international law and is inconsistent with international standards that call on governments to ensure that lawyers are able to perform their professional functions within intimidating or improper interference.

¹⁶ See, Human Rights Watch, “Defiance and Response: A Chronology,” at p. 8. Document is available at <http://hrw.org/reports/2002/china/China0102-02.htm>.

Office and their cohorts produced the “evidence” of Falun Gong crimes needed to justify, encourage and incite the public, the police and other security forces in China to purge China of Falun Gong.

The role of propaganda in the Nazi Holocaust is illustrative of its role in the persecution of Falun Gong in China. As Joseph Goebbel noted in his 1934 Nuremberg Rally speech, “Germany could eliminate the Jewish “danger” in its culture only because the people perceived it as such.” (*Available at <http://www.calvin.edu/academic/cas/gpa/goeb59.htm>*)

Similarly, and as the Chinese Communist Party concedes on its China Anti Cult Association (CACA) website, the propaganda campaign is needed to justify the violent elimination of the purported ‘danger’ of Falun Gong:

“I say that we first define it as the terrorist. Then any measures are perfectly justified.” (Excerpted from Xinhua Net, a major Official CCP mouthpiece.

Available at <http://www.anticult.org/article.htm1?id=5431>), and at [LINK](#).

By October and November, key officials of the Standing Committee of the National People’s Congress (the legislature) in collaboration with officials of all judicial branches of government formally joined the concerted effort and took a series of steps to make prosecution of Falun Gong practitioners even easier.

In October of 1999, key officials at both the People’s Court and the Supreme People’s Procuratorate criminalized the religious belief in Falun Gong by their issuance of “Explanations....Concerning Laws Applicable to Handling Cases of Organizing and Employing Heretical Cult Organizations to Commit Crimes.” This document defined an “evil cult” as having the characteristics attributed to Falun Gong by the CCP-controlled media and other party and government entities, thereby making it possible for Falun Gong practitioners to be brought to trial under the anti-cult law of China’s criminal code. On October 27, the People’s Daily concluded that there was sufficient evidence to prove that Falun Gong was a cult, referencing the same characteristics attributed to Falun Gong by the media and other government entities.¹⁷

Now that the government leadership had published its views on Falun Gong as an evil cult rather than a Buddhist religion, they could ban the religious practice based on that reason alone and not merely because it had not registered, the reason they gave on July 22, 1999 when they initially banned the organization. Thus, on October 30, 1999, key officials of the Standing Committee of the National People’s Congress officially joined the concerted effort and issued its “Decision...on Banning Cult Organizations; and in November of 1999, Supreme People’s Court officials at the highest levels issued a circular that providing instructions to people’s courts for trying criminal cases brought under anti-cult and related laws. A week later, the one-day trials

¹⁷ See, “China Party Paper Says Falun Gong is ‘true cult,’” BBC Worldwide Monitoring, October 27, 1999, from Xinhua.

of Falun Gong practitioners in Haikou (Hainan Province) Intermediate People's Court initiated the trial and sentencing of Falun Gong practitioners^{[18](#)} -- trials that merely carried out verdicts and sentences decided ahead of time at CCP meetings organized and run by the CCP Political and Judiciary Committee, as indicated in January 14, 2000 Supreme People's Court and Supreme People's Procurorate "Proposals Concerning Issues Related to the Current Handling of Falun Gong Criminal Cases."^{[19](#)}

This is what renowned human rights attorney GAO Zhisheng said about the illegality of the legislation promulgated by the National Congress to ban Falun Gong and the sham trials that ensued, in his second open letter to China's National People's Congress (available at <http://www.theepochtimes.com/tools/printer.asp?id=39696>.

From the perspective of the existing laws, the sentence and punishment of Falun Gong practitioners completely violates the basic legal principles and modern practices of the rule of law:

1. In any country that adopts statutory law, the applicability of criminal law naturally circumscribes the time frame and the extent to which the regulation of the criminal laws can be applied (including the issue of people, events, and location). Theoretically, the "Criminal Law of the People's Republic of China" (hereafter as "Criminal Law") is no exception. It is a basic principle of our country's "Criminal Law" that its rules do not apply to the past, that is, the "Criminal Law" does not apply to behaviors that took place prior to the legislation of the "Criminal Law." On October 30, 1999, the promulgation by the Standing Committee of the National People's Congress of a "Decision to Eradicate Evil Cult Organizations and to Prevent and Punish Evil Cult Activities" (hereafter as "Decision") served only a matter of formality, making up something that is needed in the legislation of criminal punishment [regarding the said activities]. And thereafter, the majority of the criminal punishment of citizens who practice Falun Gong was directed toward their behavior prior to the promulgation of the "Decision." The sentencing of Huang Wei to re-education through labor in November of 1999 belongs squarely to this situation. This violation of basic principles of our country's "Criminal Law" has been public, sustained, and large scale. That is to say, the majority of the citizens have been thrown into prison in a situation where our country's basic legal principles are violated.

2. Whether a country adopts statutory or common law, criminal law can only regulate (or "attack," a word commonly used in our country) people's action,

^{[18](#)} See "Human Rights Watch," *supra* at note 17, pp. 4-5.

^{[19](#)} Section five especially makes clear that the prosecutorial and judicial branches must "exchange opinions and cooperate with each other in handling these cases ... agreement on facts, witnesses and charges shall be reached beforehand. Different opinions shall be submitted to the Political and Judicial Committee for coordination to ensure that disagreements are resolved before prosecution and trial." In addition, this circular makes clear that the criminal conduct of Falun Gong practitioners amounts to no more than the practice of their religious and spiritual beliefs. This document is available upon request.

but not the thoughts or identity of a certain group of people. This is a result of the coming of age of criminal laws around the world. The punishing of many citizens who practice Falun Gong has been due to their identity as Falun Gong practitioners; Huang Wei being sent to a labor camp is a clear example. This is a revolt against modern civilization and the rule of law. Its direct result is rendering universal legal standards arbitrary; causing substantial long term damage to the rule of law that has been affirmed and pursued by our country.

3. The "Decision" has not offered any legal definitions for proper judgments in trials regarding: Falun Gong practitioners; the behavior of Falun Gong practitioners; the relationship between Falun Gong practitioners and Falun Gong as an organization; the relationship between the Falun Gong organization and so called "evil cult organizations; what an evil cult organization is; and in what ways Falun Gong practitioners, the behavior of Falun Gong practitioners, and the Falun Gong organization belong to the category of evil cult crimes. As a result, the majority of the sentencing and punishment of Falun Gong practitioners are based on "using evil cult organizations to obstruct the exercising of state laws." And in the criminal charges, there is a lack of the necessary information about whether there is indeed any evil cult organization that could be used by the person charged with the crimes; whether the person did make use of any evil cult organization; when and where the person charged made use of an evil cult organization; whether the person charged did obstruct the exercising of state laws; and how the person obstructed the state laws. In the two times where Huang Wei was punished (even though [the reason offered] was for administrative purposes—[since no trial was involved]), the reason was simply for "using evil cult organizations to obstruct the exercising of state laws." In this situation, there is no guarantee whatsoever that the criminal punishment is based on concrete evidence and is accurate, leaving the citizens in a dangerous situation without any protection.

[...]

5. The conspiratorial promulgation of these detrimental phenomena on the part of the country and its local governments has directly led to the vicious behavior of legal workers. In Huang Wei's case, the legal workers' irresponsibility and their corrupt, un-professional conduct have reached an alarming level despised by any civilized society. More terrifying is that they did not consider their behavior shameful. Judges and courts of justice are guardians of legal values, and their professional code of ethics, expert knowledge, and civilized systems should function to raise their instinctual caution over possible deviations from legal values. This is a universal value standard of judges and courts of justice in all of humankind's civilized societies. But in Huang Wei's case, what we see is just the opposite. The judges and the courts of justice, while paying the role of "gate keepers," have not any sense of responsibility and morality in their treatment of state laws and legal principles. They attack, like dogs, anyone who attempts to uphold legal values. They have no respect for the sacredness of their profession, and are doing all they can to generate negative moral and social

effects in the state's exercise of power. This really pains me (I assume Chairman Wu Bangguo must feel the same.)”

2. *The Implementation 2000 -2006*

By 2000, there was a 610 Office from the CCP’s Central Committee all the way down to each local CCP party branch. This office used its delegated power to drive and coordinate a nationwide persecution of Falun Gong. In addition an Office 610 specializing in arrests and intelligence was set up as Bureau 26 of the Ministry of Public Security. Although it is an office of the Office 610, it works closely and collaboratively with the Ministry of Public Security where it is housed. See, Hao Fengjun, “The Office 610 that I Witnessed,” attached as Exhibit C, hereto. This office has never been mentioned in any formal legal document, government document or public document at the CCP’s Central Committee level because it operates in direct violation of current Chinese law. *Id.* However, a secret document regarding its operation has been provided to undersigned counsel by 610 defector Hao Fengjun, and is attached hereto as Exhibit D.

This well orchestrated collaborative effort is well illustrated in a news article by John Pomfret, *Torture is Breaking Falun Gong*, published in the Washington Post, Aug. 5, 2001 at A01, which details how the persecution comprises a highly organized and systematic campaign of not only widespread arrests and torture by police and security personnel, but also the more extensive use of brainwashing techniques and propaganda. First and foremost is the use of police brutality as a method for punishing and intimidating practitioners who refuse to renounce their beliefs. Second, is the more widespread and systematic use of compulsory brainwashing sessions (that include the viewing of brainwashing programs) to force practitioners of Falun Gong to abandon and denounce their beliefs. Third is an intense propaganda campaign geared to incite the police and other security personnel to carry out the arbitrary arrests, detention and torture.

Thus, as one government advisor quoted in the Pomfret article states, “as effective as the conversion and transformation techniques have been in ‘persuading’ members to quit practicing Falun Gong...[the] high-pressure propaganda campaign against the group, has also been critical.” *See Id.* at A01. Indeed, “[e]ach aspect of the campaign is critical. ... As Chinese society turned against Falun Gong, pressure on practitioners to abandon their beliefs increased, and it became easier for the government to use violence against those who did not,” and vice versa. *Id.*²⁰

It is also well illustrated by the Vice Premier of China, Li Lanqing, in a speech he delivered to an audience of party and government officials where he explains that the

²⁰ The government advisor continues by referencing the impact of the self-immolation propaganda campaign as follows. The self-immolation of five purported members in Tiananmen Square on Jan. 23 was a turning point. A 12 year old girl and her mother died, and the party made the incident the centerpiece of its campaign to discredit Falun Gong. By repeatedly broadcasting images of the girl’s burning body and interviews with the others saying they believed the self-immolation would lead to paradise, the government convinced many Chinese that Falun Gong was an “evil cult.”

success of the campaign waged against Falun Gong is based upon and due to the hard work and well orchestrated effort of police officers and security guards, judicial officers, journalists and other members of the media, scientists, academics, teachers, diplomats and many others. See, Speech of Li Lanqing, attached hereto, as Exhibit E.

The continuing and widespread campaign of torture designed to wipe out Falun Gong has been described in great detail by the many survivors who now reside outside of China as citizens, residents and refugees from China. See Sample Witness List, attached as Exhibit A. See also, *supra* at pp. 3-5, and the many examples of widespread torture by the police therein.

B. Command Responsibility.

Zhou Yongkang is responsible for the illegal detention, torture, extra judicial killing and other abuses committed by the public security system in China against practitioners of Falun Gong under principles of command responsibility.

The principle of command responsibility holding a superior responsible for the actions of subordinates is well accepted in international law as well as in the domestic law of several nations, including the United States. See, *In Re Yamashita*, 327 U.S. at 15 (1946)). US civil courts have used the doctrine of command responsibility in connection with peacetime abuses involving civilians as well as acts committed in wartime. See, *Doe v. Qi*, 349 F.Supp.2d 1258 (N.D.Cal. 2004) (citing *Hilao v. Estate of Marcos*, 103 F.3d 767, 777 (9th Cir. 1996) (hereinafter *Hilao III*)); see also *Paul v. Avril*, 901 F.Supp. 330, 335 (S.D.Fla.1994); see also *Ford v. Garcia* 289 F.3d 1283, 1288-89 (11th Cir. 2002); see also legislative history of TVPA in S.Rep. No. 102-249 at 9. See also, *Prosecutor v. Delalac*, IT-96-21-T at ¶¶ 377-8), and other criminal proceedings emanating out of the ethnic cleansing in former Yugoslavia. In *Delalic*, the ICTY Trial Chamber held that authority figures, whether military officials or civilians, may be held criminally accountable under the doctrine of command responsibility on the basis of their *de facto* or *de jure* positions as superiors, and their supervisory authority over those committing the actual abuses. *Id* at ¶¶ 197-98; *Prosecutor v. Kordic and Cerkez*, IT-95-14/2, Feb. 26, 2001 at ¶¶ 405-7.

The clearest way for an individual to incur criminal liability for the acts of subordinates is for him to order or promote the alleged abuses. The Soemu Toyoda Japanese World War II military tribunal set forth “the essential elements of command responsibility for atrocities of any commander as: 1 That offense, commonly recognized as atrocities, were committed by troops under his command; 2 The ordering of such atrocities.” Soemu Toyoda at 5005-06.

In the present case, the Defendant is responsible for the abuses that took place as a result of his supervisory activities in two distinct ways. As Articles 85 -89 of the Constitution of the People’s Republic of China makes clear, Zhou Yongkang serves on the State Counsel, the general governance body that oversees and directs policy-making and the carrying out of CCP policies by all government organs and instrumentalities in China. Article 86 makes clear that Zhou Yongkang has the additional responsibility to

supervise, manage and direct the public security system throughout China. In these high level capacities, he plays a major supervising and collaborative role in directing and supervising all the policies and practices carried out by all government organs and instrumentalities against Falun Gong in China, and an even more responsible role as the chief or sole commander of those directly responsible for the widespread arrest, torture and extra judicial killing of Falun Gong practitioners in police stations, detention and re-education centers and hospitals in China.

His direct participation in the persecution is especially well illustrated by the enclosed chain of command provided by Hao Fengjun, from the public security office (known as office 610) that has primary responsibility for carrying out the campaign of persecution of Falun Gong. In his sworn affidavit, he states that the police and security forces (including 110 and 610 security officers) who arrest, detain, brainwash and torture practitioners of Falun Gong take orders from the Public Security Bureau at provincial and/or municipal levels, which takes orders from the Ministry of Public Security at the national level, which in turn take direction from the Minister of the Ministry of Public Security, Zhou Yongkang. See Hao Fengjun affidavit attached as Exhibit F. As the chief executive officer in charge of the police forces and all police activities in, Zhou Yongkang has direct responsibility for the issuance of orders that resulted directly in the violations lodged by the complainants against him, and for the ongoing supervision and direction of all the public security systems perpetration of persecution atrocities.

Command responsibility also includes the notion of responsibility by omission, that is, a failure of a responsible official to prevent major abuses by his subordinates. Consequently, it is not necessary that the superior actually order his subordinates to commit the abuses. It is sufficient if he breaches his obligation to prevent or suppress major abuses by subordinates. For example, the Soemu Toyoda Japanese World War II military tribunal held that it is not necessary for the superior to issue specific commands of abuse in concrete cases, or to be directly involved in the acts of abuse himself. "In the absence of proof beyond a reasonable doubt of the issuance of orders, then the essential elements of command responsibility are:

1. . . that atrocities were actually committed; 2. [that the defendant had] [n]otice of the commission thereof. This notice may be either a. Actual, as in the case of an accused who sees their commission or who is informed thereof shortly thereafter; b. Constructive. That is the commission of such a great number of offenses within his command that a reasonable man could come to no other conclusion than that the accused must have known of the offense or of the existence of an understood and acknowledged authority over the offenders to issue orders to them not to commit illegal acts, and to punish offenders. 3. Power of command. That is, the accused must be proved to have had actual authority over the offenders to issue orders to them not to commit illegal acts, and to punish offenders. 4. Failure to take such appropriate measures as is within his power to control the troops under his command and to prevent acts,

which are violations of the laws of war. 5. Failure to punish offenders.
(at 5005-06.)

Even if it is assumed that the Defendant did not personally order or commit specific acts of torture or abuses against the complainants, he is nevertheless responsible for such acts where he had notice that these acts were taking place, he had actual authority over the offenders, and could have issued orders to them not to commit illegal acts, but he failed to take appropriate measures to control those participating in the torture, he failed to punish the offenders.

Zhou Yongkang failed to use his authority to stop the unlawful persecution of Falun Gong notwithstanding his duty to do so under sections (13) and (14) of Article 89 of the Chinese Constitution requiring that the Minister of Public Security together with other members of the State Council alter or annul inappropriate orders, directives and regulations of the MPS, and inappropriate decisions and orders issued by local organs or the bureaus of public security at regional levels. In addition, under section (17) of Article 89, Zhou Yongkang is additionally obliged as Public Security Minister to appoint, remove and train, appraise and reward and punish administrative officers of the public security administration at local and regional levels across China. As the highest level public security official in China and supervisor of all police activities, Defendant Zhou Yongkang is clearly responsible for establishing, supervising, ordering, and/or failing to exercise his authority to stop the security forces under his command from their direct and unlawful participation in the torture and other human rights abuses perpetrated against Falun Gong practitioners in China.

It would be disingenuous for Zhou to argue that he is unaware of these activities insofar he serves on the State Council, the policy making body of the government of China, and in light of the fact that these abuses have been widely reported not only by the US Department of State in their human rights reports, the UN Special Rapporteurs in their documentation of torture and other human rights abuses perpetrated against Falun Gong practitioners in China, by Amnesty International and Human Rights Watch in several of their special reports. They have also been reported widely by GAO Zhisheng, the lawyer representing many Falun Gong practitioners, who has not only published three open letters to President Hu Jintao and Premier Wen Jiabao regarding the arbitrary arrests, detention and torture perpetrated by the police again Chinese citizens who practice Falun Gong, but who also wrote an article that exposed Zhou Yongkang's crimes against Falun Gong.²¹ All of these factors provide compelling evidence of Zhou's knowledge of the abuses carried out by the police against practitioners of Falun Gong across China.

In addition, as indicated just below, Zhou Yongkang himself endorsed and encouraged the police to participate directly in the persecution of Falun Gong in and through his public speeches and announcements.

C. Zhou Yongkang Is Responsible Under Principles of Conspiracy and/or

²¹ This article is available upon request.

Aiding and Abetting.

The Defendant has been involved in the conspiratorial effort to wipe out Falun Gong by means of unlawful arrests, detention, and torture. Even if Zhou Yongkang is not criminally liable under a theory of command responsibility, he must be held accountable under criminal theories of conspiracy and aiding and abetting, third party liability.

1. The Agreement

Jiang Zemin's June 7, 1999 Speech to the Politburo makes clear that there was an agreement between Jiang Zemin and the Central Committee of the CCP to create an Office 610 to wipe out Falun Gong by objectives that include the a) forced conversion of Chinese citizens who practice Falun Gong by means of a mild form of "re-education," and if necessary, stricter forms of discipline; b) the characterization of the Buddhist religion as an evil cult and c) the characterization of its followers as a threat to public order and to the stability of the Chinese state.

That Lou Gan and Li Lanqing had agreed to direct the 610 office that had primary responsibility for carrying out the campaign of persecution against Falun Gong is also indicated by Jiang Zemin's June 7, 1999 speech to the Politburo. It is further corroborated by the speeches of Lou Gan and Li Lanqing. What follows are a few excerpts:

Excerpts of Speeches of Lou Gan

On December 2, 2000, Lou Gan said, [during 2000] "under the close cooperation of various political and law enforcement agencies... We have promptly handled and delivered a blow against the illegal activities of the Falun Gong cult and [We] have educated and transformed many Falun Gong criminal offenders....We need to continue to intensify the fight against Falun Gong and strike hard at their illegal activities. People's Daily, December 2, 2000 at p. 2, available at <http://www.zhoucun.gov.cn/dangjian/xinwen/2000/2000120202.htm>.

On January 21, 2001, News.east.com reported that Lou Gan ... emphasized that "Fighting Falun Gong is an important matter that is related to consolidating state power, maintaining social stability...." He continued, "The key to fighting the Falun Gong cult is to mobilize the people. The task of public security management requires the participation of many departments and a relatively comprehensive network of grassroots organizations. It has a unique advantage in organizing social forces, mobilizing people, and utilizing various methods to maintain social stability. The social public security management committees at all levels should fully display their advantage in comprehensive management and firmly fighting with the Falun Gong cult. Translated from

<http://news.eastday.com/epublish/gb/paper148/20010121/class014800018/hwz296660.html>

On April 10, 2002, according to the People's Daily by PD Online Staff Huang Ying, Lou Gan urged "governments at all levels to strengthen the "Strike-hard" Campaign [against Falun Gong]." He additionally said, "The CPC committees and governments at all levels must simultaneously continue the "Strike-hard" Campaign and tackle the tasks of rectification and taking precautionary measures to ensure the comprehensive improvement of social order, thus to establish an effective system for maintaining social security." See, "Official Calls for Severe Punishment of Evil Forces & Falun Gong," available at http://english.peopledaily.comcn/20020410_03826.shtml.

Li Lanqing

According to a report, posted on the Embassy of the People's Republic of China in Ireland, available at <http://www.chinaembassy.Ir>, on February 26, 2001, Vice Premier, Li Lanqing, called on Party organizations at various levels and the general public to carry on with the determined fight against the Falun Gong cult... The article also reports that the Vice Premier condemned the "cult" for deceiving people in the name of "truthfulness, kindness and tolerance," ... [by] its defiance of the law, its illegal demonstrations, and disturbing social order." A copy of the Vice Premier's speech is attached hereto as Exhibit E.

It is also clear from the analysis above, that several unnamed key leaders from such government organs as the Ministry of Justice, the Ministry of Civil Affairs, the Supreme People's Court, the People's Procurorate, and the Office of Propaganda have participated as parties in the conspiratorial persecution of Chinese citizens who practice Falun Gong. See *supra*, especially at pp. 12-16.

2. *Defendant Zhou is linked to the Agreement as a Co-Conspirator*

It is clear from the analyses above that the persecution comprises a highly organized and systematic campaign of widespread arrests and torture by police and security personnel, typical of the public security system's "Strike-Hard" campaign against Falun Gong.²² That the "Strike-Hard" campaign against Falun Gong continued after Zhou Yongkang became the Minister of the Ministry of Public Security in December of 2002 is equally clear. The continued participation of Falun Gong by the police in the persecution attests to this fact. It is more directly corroborated by the speeches of Zhou Yongkang. What follows are a few excerpts:

1. Zhou Yongkang was selected to replace Jia Chunwang as the new Minister of Public Security on December 9, 2002. During the transition, the police chief's duty to continue the Strike-Hard campaign against Falun Gong was emphasized in an APA and Rueters report. For example, in its December 9, 2002, "China Gets a New Public

²² The "Strike-Hard" Campaign was initiated in 2001 by the Central Political and Judicial Committee to utilize more severe methods of torture and brainwashing in conjunction with a broader based propaganda campaign to forcibly convert or if necessarily exterminate Chinese citizens who practice Falun Gong in China. It was continued after Defendant Zhou was selected to direct the Ministry of Public Security in December of 2003, and is one of the key policies comprising the conspiracy to persecute and wipe out Falun Gong in China.

Security Minister,” APA (Beijing edition) republished the People’s Daily Web site announcement of the appointment of Zhou YongKang to the post, which emphasized the Strike-Hard Campaign against Falun Gong as among the key achievements of former chief of police. See also, 2002 Reuters Limited, “China Reshuffles Police Chief, Head Prosecutor, and December 9, 2002 (“new head of the party’s organization department, He Guoqiang, praised Jia [former police chief] for his work in fighting the banned spiritual movement Falun Gong

2. On December 26, 2002, in “China’s Public Security Chief Urges Better Standards of Law Enforcement Work,” The British Broadcasting Corporation reported the remarks made by Zhou Yongkang at a video-linked teleconference. Among other things, Zhou Yongkang urged all public security organs across China to, “[i]n particular, strictly guard against and “Strike-Hard” at the trouble-making and undermining activities carried out by hostile forces in and outside this country [including] the cult organizations of Falun Gong.”

3. In a May 28, 2004 Zhongguo Xinwen She new agency reports Zhou Yongkang’s remarks to the ministerial affairs meeting convened by the Ministry of Public Security. Among other things, “he stressed that they must take effective steps further, strike hard at the unlawful and criminal activities … and pay close attention to the operation trend in the internal and external hostile forces, the violent terrorist forces, the ethnic splittist forces, the religious extremist forces and cult [xie jiao] organizations like Falun Gong, take tight precautions, and “Strike-Hard” at their disturbing and destructive activities.”

Indeed Zhou Yongkang’s active furtherance of the torture and persecution of Falun Gong is so evident in China, that renowned civil rights attorney GAO Zhisheng, has described Zhou Yongkang as “responsible for transforming Chinese policemen into mafia henchmen.” The interview, titled, “43rd Interview with GAO Zhisheng,” is available upon request.

In addition, Zhou Yongkang’s failure to perform his legal duty as chief of police and to annul all directives to persecute Falun Gong and to remove and punish those responsible, as is required by Article 89 of the People’s Republic of China, is also generally regarded as proof of an agreement to join a conspiracy, and thus adds further corroboration of his role in the conspiracy to torture and persecute Falun Gong. See, Le Fave, 2 Subst. Crim.L. Section 12.2 (2d. ed.) at note 33. See also, Le Fave, at section 6.2

3. *Defendant Zhou Was An Accomplice Who Aided and Abetted the Abuses*

Even if Zhou Yongkang was not directly involved himself in acts of torture and other abuses to wipe out Falun Gong, his behavior certainly rises to the level of an accomplice, who knowingly assisted in carrying out criminal objectives.

Under international law, courts have held that the essential elements of third party aiding and abetting liability are a “knowing practical assistance, encouragement, or oral support that has a substantial effect on the perpetration of the crime.” See,

Prosecutor v. Furundzija, Case No. IT-95-17/1-T (December 10 1998) at ¶ 235.²³ Similarly, *Presbyterian Church of Sudan v. Talisman*, 244 F. Supp. at 323-24 cites the *Furundzija* case as well as *Prosecutor v. Musema*, ICTR-96-13-T, Jan. 27, 2000 at ¶ 26, as a basis for applying the same legal standard. As the *Talisman* court further notes, the legal standard as articulated under *Furundzija* covers all actions that “substantially contribute” to the alleged abuse. *Prosecutor v. Furundzija* at ¶ 232.²⁴ The ICTY has additionally noted that participation in a crime is deemed substantial if the action in question “would most probably not have occurred in the same way had not someone acted in the role that the accused in fact assumed.” *Prosecutor v. Tadic* (Case No. IT-94-1-T), Opinion and Judgment, May 7, 1997, at ¶ 688. They held that “providing certain means to carry out crimes constitutes substantial assistance, even if the crimes could have been carried out in some other manner.” *Id.*

As noted by both *Tadic* and *Talisman*, the ICTY has found that it is not necessary for the accomplice to share the same degree of criminal intent as the principal. Rather it is sufficient that the accomplice knows that his or her actions will assist the perpetrator in the commission of the abuse. *Presbyterian Church of Sudan v. Talisman*, 244 F. Supp at 324 (*citing Prosecutor v. Furundzija* at ¶ 232). Such knowledge may be actual or constructive. *Id.* The United States Military Tribunal found, for example, that every person, whether government or military employee or civilian, who was employed in, present in, or residing in the Mauthausen concentration camp, was considered responsible for the criminal activities occurring in the camp without requiring a showing of actual participation or knowledge of specific abuses. *Id.* See also, *Prosecutor v. Tadic* (Case No. IT-94-1-T), Opinion and Judgment, May 7, 1997, at ¶ 677.

Under U.S. Federal law, Courts describe the essential elements of aiding and abetting in a very similar way requiring that though the crime was actually committed by someone other than the defendant, (1) the defendant participated in the charged crime as something he wished to bring about; (2) he associated himself with the criminal enterprise knowingly and voluntarily; and (3) he sought by his actions to make the criminal enterprise succeed. See, *United States v. Moye*, 2006 WL 2045802 (4th Cir. (Md.)) (July 2006).

Zhou Yongkang meets the standard for aiding and abetting under both international and U.S. criminal law.

As indicated above, Zhou has furthered the goals of the persecution of Falun Gong practitioners in China by the issuance and approval of orders requiring that the police continue to carry out the illegal arrests, torture and other abuses against practitioners of Falun Gong in China. His public endorsement of the “Strike-Hard” Campaign of his predecessor and his public approval of the goal and objectives of the persecution campaign do not permit a contrary conclusion.

²³ This circuit court decision summarizes well the elements of aiding and abetting in customary international law as reflected in several ICTY and ICTR trial and chamber decisions.

²⁴ The ICTR has similarly held that the *actus reus* of aiding and abetting is constituted by “all acts of assistance in the form of either physical or moral support” that “substantially contribute to the commission of the crime.” *Prosecutor v. Musema* (Case No. ICTR-96-13-T), Judgment, Jan 27, 2000, at ¶ 126.

His knowledge of its purpose is equally and patently clear. As indicated above, Zhou Yongkang has promoted the public security system's "Strike-Hard" campaign against Chinese citizens who practice Falun Gong, and encouraged and endorsed police officer participation in its arbitrary arrests, detention and torture. In addition, and as indicated above at p. 21, as the Minister of the Ministry of Public Security, Zhou Yongkang belongs to the State Council, the government body that approved, ratified and itself endorsed important policies of the People's Republic of China. Insofar as the campaign to persecute Falun Gong has been one of the key policies of China since its initiation in 1999, it strains credulity to argue that Zhao is not aware of all of the objectives therein.

That Zhou has assisted in these crimes in order to bring them about is equally clear from the fact that he has failed to comply with his responsibility under international and Chinese law to take reasonable measures to stop or prevent the pattern and practice of ongoing human rights violations against the Falun Gong practitioners by party officials in Guangdong. Instead, he has authorized, supported and suborned others to effectuate the harsh crackdown against the Falun Gong in Guangdong.

V. CONCLUSION AND REQUEST FOR GENERAL INVESTIGATION AND ACTION

For the reasons set forth above, Complainants submit the enclosed complaint and accompanying material to the United States Department of Justice for investigation and if appropriate, criminal prosecution of Defendant Zhou upon his arrival in the United States.

More particularly, we call upon the Department of Justice, Domestic Security Division to:

- take immediate steps to thoroughly investigate the criminal actions that have been described, and the actions of Zhou Yongkang in connection with the acts of torture that have been alleged, and if there is evidence in support of this criminal complaint, upon his arrival in the United States;
- swear out a warrant for Zhou Yongkang's arrest, and take him into custody so that he cannot leave this jurisdiction, and the jurisdiction of the United States, until his role in the alleged criminal violations of U.S. law can be assessed, and formal charges can be brought against him;
- inform U.S. customs and immigration authorities of the fact that Zhou Yongkang is unlawfully in the U.S., by virtue of his criminal and unlawful actions, and his participation in acts of torture (and violations of the international religious freedom act), making him subject to exclusion under U.S. laws; and,
- initiate criminal proceedings against Zhou Yongkang as quickly as possible under the federal laws requiring prosecution of individuals committing acts of torture in foreign countries, or inciting others to commit such major violations.

The complainants and the groups representing their interests remain available to assist the Department of Justice and related authorities in carrying out these important mandates under United States criminal law.

Respectfully submitted,

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