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This action is instituted against Defendants physicians, hospital administrators and staff, who committed these offenses under color of law in China, and who knowingly and willfully participated in and/or aided and abetted the practice of illegal removal of body organs from Falun Gong practitioners and other detainees, and who personally and financially benefiting from this practice.

To:

United States Attorney
United States Attorneys Office
for Massachusetts
at 1 Court House Way
Boston, MA

By virtue of authorization, we declare that we are the legal representative for the following organization and complainants:

1. China Falun Dafa Association, a registered organization, represented by facilitator Hao Ye.
2. The class of Falun Gong practitioners whose organs were harvested without their voluntary consent while illegally detained in labor camps, prisons and hospitals across China, as well as family members filing on behalf of deceased practitioners whose organs were removed from their bodies without their voluntary consent in the People's Republic of China (referred to herein as "China").
3. The China Falun Dafa Association represents the legal interests of all Falun Gong practitioners in China in this matter.
4. In the name of the above-named complainants, we hereby submit this action against Defendants for redress for crimes against humanity, and, more particularly, torture.

INTRODUCTION

5. Complainants are Falun prisoners and detainees in China whose body organs were harvested without their voluntary consent while in detention, as well as family members filing on behalf of deceased prisoners or detainees whose organs were removed from their bodies without their voluntary consent in the People's Republic of China (referred to herein

as “China”).

6 Plaintiffs and Plaintiffs’ family members experienced, at the hands of the Defendants, grave physical and mental suffering and torture, risk of death, and, in some cases, execution, in connection with unlawful organ harvesting procedures committed without their voluntary consent, amounting to violations of some of the most universally recognized standards of international law, including prohibitions against torture, extra-judicial killing and genocide.

7. Defendants are physicians and other medical personnel, hospital administrators and staff, who committed these offenses under color of law in China, and who knowingly and willfully participated in and/or aided and abetted the practice of illegal removal of body organs from Falun Gong practitioners and other detainees, and who personally and financially benefiting from this practice.

8. Complainants claims are actionable under 18 USC Section 2340 because the alleged offenders are present in the United States, and because their injuries resulted from violations of specific, universal, and obligatory prohibitions of torture under standards of international law as embodied in a number of treaty obligations binding on the United States and China, and implemented domestically by a number of statutes including Title 18 USC Section 2340.

JURISDICTION

9. *Acts of Torture* taking place outside of the United States are made subject to fine and imprisonment under Title 18, Section 2340. 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.”

10. There is jurisdiction over the activity of torture under 18 USC Section 2340, more particularly, 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.

11. In this case. Defendants are present in Boston Massachusetts from July 23 – 27, 2006. They will remain in the Boston area for a few days to attend Organ Transplant Conference sponsored by the World Transplant Congress. The fact that they are temporary visitors does not deprive the United States 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 torture 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

PARTIES

Defendants

12. Defendant Zhonghua Klaus Chen is Deputy Committee Director of the Chinese Medical Association Organ Transplant Division and Head of the Institute in Huazhong University of Science and Technology's Tongji Medical School. Zhonghua Klaus Chen became a British citizen in 1997, but has since returned to China. He has conducted heart, liver and kidney transplants in China and researches transplant immunology there. Zhonghua Klaus Chen also served as the head of the "Brain-Death Coordination Team" in Wuhan City Tongji Hospital, which focuses on the study of brain death prognosis and examinations.

13. Defendant Tongyu Zhu is Director of Organ Transplant Research Center at Shanghai Zhongshan Hospital, which had facilitated 1,000 kidney transplants as of February 2005.

14. Defendants "Others as Yet Unnamed" are other physicians and medical personnel, detention center administrators and staff, and hospital administrators and staff, who knowingly and willfully participated in and/or aided and abetted the unlawful practice of organ harvesting from Falun Gong practitioners in China without their voluntary consent, to the Defendants' personal and financial benefit.

COMPLAINANTS

15. Complainant Le Ye is the Director of the Chinese Falun Dafa Association, a position he has held since the 1997 or thereabout. In this position, and by legal agreement, Mr. Ye represents all of the practitioners who practice Falun Gong in China, including those whose organs were removed without their voluntary consent, as well as Falun Gong practitioners in China whose family members' organs have been removed without their voluntary consent.

16. Complainants also comprise the designated class of Falun Gong practitioners whose organs were removed without their voluntary consent while in illegal detention in China, as well as Falun Gong practitioners whose family members' organs have been removed without their voluntary consent.

STATEMENT OF FACTS

17. Defendants have carried out and personally and financially benefited from participating in a well-documented commercial trade in human body organs unlawfully taken from prisoners' bodies in China without voluntary consent, violating specific and

universally accepted human rights norms prohibiting torture and extra-judicial killings.

18. A number of the harvested organs were taken from the bodies of Falun Gong practitioners, as part of a broader effort to punish and humiliate them for their spiritual beliefs, associations and practices, and to eradicate Falun Gong practitioners from China, violating specific, universally accepted and well-established prohibitions against torture and genocide.

19. As corroboration of Plaintiffs' claims, Chinese officials have admitted that organs of executed prisoners are sold to foreigners for transplants on a regular basis. The United States Department of State ("State Department") has confirmed these practices, condemning them as an "egregious human rights violation" and a gross perversion of international medical ethics norms. Additionally, the State Department reports have confirmed that organs often are harvested from still-living prisoners in China, and that prisoner executions are scheduled to meet demands for particular organs. In response to the growing illegal sale of human organs in China in recent years, in April 2006, 81 U.S. Members of Congress co-signed a letter to President Bush relaying "serious concerns" about the practice of organ harvesting of Falun Gong prisoners in China. See State Department Country Report on Human Rights Practices for China, 2005; and Hearing Before the Subcommittee on International Operations and Human Rights, in 2001 titled "Sale of Human Organs in China."

20. As further corroboration of Plaintiffs' claims, Canadian Member of Parliament and former Secretary of State (Asia-Pacific), David Kilgour, and conducted an independent investigation of the practice of organ harvesting, and has publicly condemned the organ harvesting of prisoners and detainees in China, in particular the "large scale organ seizures from Falun Gong practitioners." The study he conducted with Canadian human rights Attorney David Matas confirmed the seriousness and widespread nature of the organ harvesting problem. (Report is attached hereto).

21. Moreover, several independent Human Rights groups in the U.S. have researched and condemned the practice of harvesting prisoners' organs without voluntary consent in China. For example, Human Rights Watch carried out a large scale investigation of organ procurement from executed prisoners in China, tracing the proportional connection of prisoner executions to the growing commercial trade of human organs in China, and condemning the practice as involving unacceptable human rights abuses and violations of universally approved medical ethics standards. Amnesty International has also condemned the illegal sale of prisoners' organs in China, and suggested in a May 2006 report that an estimated 99% of the organs transplanted in China are taken from prisoners' bodies on an involuntary basis.

Defendants Committed Acts in Violation of Chinese Law and Under the Color of Official Authority

22. Defendants participated in the trade of Plaintiffs' organs in violation of Chinese law regarding organ transplants implemented in 1984, Article 3 of China's Provisional Regulations on the Use of Executed Prisoners' Corpses or Organs. This law

established that a corpse may only be transplanted if no one claims the body, the family refuses to bury it, the prisoner voluntarily donates the body, or the prisoner's family consents to donating the corpse's organs after death. Contrary to this law, Plaintiffs' families were not given the right to claim prisoners' bodies before the organs were removed, and no documentation exists to demonstrate that prisoners voluntarily donated their organs. Furthermore, human rights groups have noted that consent provided while imprisoned and/or expecting execution cannot be considered "free and informed" due to the high element of coercion in these conditions.

Defendants Violated Medical Ethics

23. Defendants' actions violated several widely recognized and well-established medical ethics standards, including the Declaration of Geneva, the World Medical Association Standards of Conduct, and the International Code of Medical Ethics, which provide that physicians shall only act in the interests of their patients' medical care. Defendants directly violated these standards in supporting the practice of illegal harvesting of organs without consent, a practice that causes severe physical harm and/or death. Defendants also violated the United Nations' "Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel and, Inhumane or Degrading Treatment or Punishment," which provides that it is a contravention of medical ethics for health personnel to be involved in a professional relationship with prisoners or detainees for any other purpose than to evaluate, protect or improve their physical or mental health. As Human Rights Watch report noted, medical practitioners involved in the illegal harvesting of prisoners' organs violate international medical ethics standards that hold that physicians' sole duty shall be to promote life and health, and physicians shall not in any way participate in execution processes.

Defendants Knowingly and Willfully Directly Participated In and/or Aided and Abetted Harvesting of Plaintiffs' Organs

24. Defendants Physicians Zhonghua Klaus Chen and Tongyu Zhu have participated in directly and/or aided and abetted the surgical removal of the organs of the class of complainants by providing management and oversight, as well as unique and specialized medical training and skills, to the illegal commercial trade of human organs in China. Defendants understood that the harvested organs came from prisoners without voluntary consent, and that Falun Gong practitioners in particular are detained and used as sources for organ harvesting, as this information is common-place knowledge in the medical industry and highly publicized in mainstream media. Moreover, these Defendants personally and financially benefited from this practice through lucrative medical organ transplantation procedures.

25. Defendants "As Yet Unnamed," including additional physicians and other medical personnel, detention center administrators and hospital administrators and staff, also directly participated in/and or aided and abetted the offenses by providing logistical oversight and/or carrying out the tasks necessary to unlawfully procure organs from prisoners' bodies in China for the purposes of commercial organ transplant. Defendants

understood that the organs were harvested from prisoners without voluntary consent, and that Falun Gong practitioners in particular are detained and used as sources for organ harvesting, as this information is common-place knowledge in the medical industry and highly publicized in mainstream media.

Torture

26. Defendants' support of the illegal harvesting of prisoners' organs amounts to acts of torture and genocide against Falun Gong practitioners and other detainees subjected to this practice. The vast majority of human organs in the illegal Chinese organ trade are harvested from prisoners, including Falun Gong practitioners, on an involuntary basis. As an indicator of the proportion of Falun Gong prisoners in Chinese detention centers, the State Department's 2005 International Religious Freedom Report noted that "at least half of the 250,000 officially recorded inmates in the country's reeducation-through-labor camps are Falun Gong adherents," and hundreds if not thousands of these are reliably reported by the State Department to have been executed as a result of torture.

27. The targeting of Falun Gong prisoners for illegal organ harvesting has been conducted in the context of a broader national campaign of persecution and torture committed against members of the Falun Gong spiritual movement. The Former President of China, Jiang Zemin, banned the Falun Gong spiritual movement in 1999, declaring the practice unlawful, and initiating persecution through the establishment of the Falun Gong Control Office (the 610 Office). A May 2006 Congressional Research Service Report noted that since 1999, over 30,000 Falun Gong practitioners have been detained and questioned. Expanding on this report, the State Department's 2005 International Religious Freedom Report cited the systematic campaign involving "the arrest, detention and imprisonment" of Falun Gong practitioners, and noted that practitioners who refused to recant their beliefs faced "harsh treatment in prisons and reeducation-through-labor camps." The State Department reports also acknowledge "credible reports of deaths due to torture and abuse." Previous State Department reports confirmed hundreds of deaths of Falun Gong practitioners while in detention and subject to the authority of police and prison officials, resulting largely from torture abuses.

LEGAL BASES

Under U.S. Law

28. *Acts of Torture* taking place outside of the United States are made subject to fine and imprisonment under Title 18, Section 2340. 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."

29. The torture of Falun Gong adherents in China that the Defendants have participated in and contributed to in a major way is especially severe, as is indicated *infra*, at 33-37.

Under International Law

30. 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.

31. Nonetheless, in China, the most commonly used form of persecution 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. Many United Nations Special Rapporteur reports have expressed their grave concern over acts of torture, the murders, and disappearances of practitioners of Falun Gong. See, for example, Report of the Special Rapporteur of the United Nations, in issues of violence against women (Commission 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.”¹

CRIMINAL RESPONSIBILITIES OF THE ACCUSED

32. The Defendants are responsible as principal participants in the criminal conduct alleged herein by their participation in the surgical removal of organs from Falun Gong practitioners without their voluntary consent, and/or as an aider and abetter who have assisted in these surgical procedures as a hospital administrator under a theory of command

¹ 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.

responsibility and/or as an aider and abetter who has knowingly and willfully provided assistance fully aware of the nature of his conduct, if not the particular laws that he has violated therein.

34. Defendant Zhonghua Klaus Chen is Deputy Committee Director of the Chinese Medical Association Organ Transplant Division and Head of the Institute in Huazhong University of Science and Technology's Tongji Medical School. Zhonghua Klaus Chen became a British citizen in 1997, but has since returned to China. He has conducted heart, liver and kidney transplants in China and researches transplant immunology there. As indicated at page 26 of the July 6, 2006, Davis Matas and David Kilgour report (PDF version attached hereto), the Tongji Medical School hospital staff has admitted that they remove organs from practitioners of Falun Gong. For example, an official at this hospital two weeks later told the caller that "it's not a problem," for his institution when the caller said, "...we hope the kidney suppliers are alive. (We're) looking for live organ transplants from prisoners, for example, using living bodies from prisoners who practice Falun Gong, Is it possible?"

33. Defendant Tongyu Zhu is Director of Organ Transplant Research Center at Shanghai Zhongshan Hospital, which had facilitated 1,000 kidney transplants as of February 2005. An official at the Shanghai Zhongshan Hospital also admitted that the hospital removes organs from practitioners of Falun Gong, as is indicated by the recording of a telephone interview (also cited in the report or??)

A: Hi greetings.

B: He greetings. Is this Shanghai Zhonghan Hospital?

A: Yes

B: I want to inquire –

A: Please wait.

B: OK

C: Hi greetings.

B: Hi greetings. Are you a doctor? Can you do surgery?

C: Yes.

B: So how long do I have to wait?

C: About a week, about a week, it'd be ok.

B. Is there the kind of organs that come from Falun Gong? I heard that they're very good.

C: All of ours are of that type.

B: I see. All of them are Falun Gong.

C: Kidneys can be used within 24 hours, but we control it within 10 hours.

B: Do you get them from out of town? Or do you have them locally?

C: We have both

B: I see. So you have both out of town and local.

C: Yes.

34. Defendants "Others as Yet Unnamed" are other physicians and medical personnel, detention center administrators and staff, and hospital administrators and staff, who knowingly and willfully participated in and/or aided and abetted the unlawful practice of

organ harvesting from Falun Gong practitioners in China without their voluntary consent, to the Defendants' personal and financial benefit.

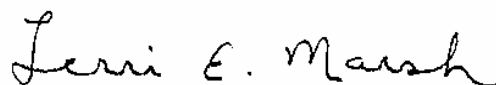
35. The Defendants have failed to comply with their responsibility under US law, international law and Chinese law to take reasonable measures to stop or prevent the pattern and practice of the removal of organs from Falun Gong practitioners without their voluntary consent. Instead, they have ordered, planned, authorized, supported and participated in the ongoing and widespread harvesting of organs against Falun Gong and others in China.

Wherefore, we call upon the United States Attorney's Office for Massachusetts at Boston to:

- Take immediate steps to thoroughly investigate the criminal actions that have been described, and the actions of the Defendants in connection with the acts of torture that have been alleged;
- Swear out a warrant for each Defendants arrest, and take them into custody so that they cannot leave this jurisdiction, and the jurisdiction of the United States, until their role in the alleged criminal violations of U.S. law can be assessed, and formal charges can be brought against them;
- Inform U.S. customs and immigration authorities of the fact that the Defendants are unlawfully in the U.S., by virtue of their criminal and unlawful actions, and their 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 the Defendants as quickly as possible under the federal laws requiring prosecution of individuals directly committing acts of torture in foreign countries, or inciting others to commit such major violations (copies of the text of relevant federal statute attached hereto)

The complainants and the groups representing their interests remain available to assist the U.S. Attorney's Office in carrying out these important mandates under United States criminal law.

Respectfully submitted,



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