

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Li Weixum)
39/3-4, Charansaniwong Road)
Thunburi, Bangkok)
10600 THAILAND)
and Others Similarly Situated,)

Plaintiffs,)

v.)

BO Xilai, Minister of Commerce of the)
People’s Republic of China, and)
Formerly Governor of Liao Ning)
Province of the People’s Republic)
Of China)

Defendant)

Case Number:

Civil Tort Liability Claim

Jury Trial Requested

**CLASS ACTION
COMPLAINT**

Plaintiff Li Weixum, on behalf of herself and others in the designated class of injured parties similarly situated, complain and allege as follows:

I. PRELIMINARY STATEMENT

1. This is a civil action for a declaratory judgment and for compensatory and punitive damages for torts committed in violation of international law and the domestic Constitution and laws of the People’s Republic of China. This complaint is instituted pursuant to specific statutory authorization, namely the Alien Tort Claims Act (28 U.S.C. section 1350) and the Torture Victims Protection Act (106 Stat. 73 (1992)), as detailed below. Plaintiffs in this action

include three individually identified residents of the People's Republic of China, or refugees from that country now living in different nations around the world, including the United States, who were subjected to torture and other major human rights abuses as residents of China, as well as other past and current residents and citizens of the People's Republic of China, together with their immediately affected family members, and all others who are similarly situated or affected. Plaintiffs include the family members and personal representatives of an individual subjected to torture in a labor camp facility supervised by the Defendant, who was executed as a result of that torture. All these Plaintiffs are practitioners of the Falun Gong spiritual movement who, while residents of the People's Republic of China and thereby subject to the jurisdiction and authority of the Defendant in his capacities as Governor of Liao Ning Province and supervisor in charge of the Masanjia Forced Labor Camp located in Liao Ning Province, have suffered, and been threatened with, the most severe forms of persecution and abuse violating their fundamental human rights, at the hands of, and with the concurrence, support and supervision of the named Defendant acting under color of law, in concert with other officials at the highest levels of the national government of the People's Republic of China and its ruling Central Committee of the Chinese Communist Party. These violations include, but are not limited to torture, genocide, extrajudicial killing, arbitrary detention, and denial of the rights to freely exercise religious and spiritual beliefs, to speak freely, to associate, to assemble peacefully, and to express one's views freely.

2. This action is instituted against Defendant BO Xilai, presently serving, since February, 2004, as Minister of Commerce of the People's Republic of China, who served from February, 2001 to February, 2004 as Governor of Liao Ning Province. The Defendant, acting under color

of law, played a major role in seeking to suppress the Falun Gong spiritual movement through a consistent and thoroughgoing policy, and an extensively and brutally applied pattern and practice, of arbitrarily arresting, detaining, assaulting, torturing and sometimes executing Falun Gong practitioners, with the purpose of intimidating, punishing and coercing them so as to force them to relinquish their spiritual beliefs and practices, and their association with the Falun Gong movement. Specifically, acting as chief official of Liao Ning Province, and supervisor of the Masanjia Forced Labor Camp located in Liao Ning Province, with principal authority to control and secure the suppression and termination of the Falun Gong movement in Liao Ning Province of China, Defendant BO planned and carried out a sustained and deliberate set of policies and actions that resulted in the arbitrary and unlawful arrest, detention, persecution, and in some cases execution, of the Plaintiffs, and/or other members of the Plaintiffs' class. Defendant BO played a critical role in seeking the violent suppression of the Falun Gong movement and its members in China in general, and in Liao Ning Province in particular (which he supervised), through a determined policy of arbitrarily arresting, detaining, torturing and arbitrarily executing members of the Falun Gong movement who refused to renounce their practice of Falun Gong, and their association with the movement, or who demonstrated publicly against these acts of repression. The Masanjia Forced Labor Camp, which Defendant BO supervised during the period of his office as Governor of Liao Ning Province from February, 2001 through February, 2004, played a critical role in this process, as one of the primary facilities where the abusive practices that were a regular part of the campaign of persecution against Falun Gong, including torture and arbitrary execution, took place. During that period of time, as confirmed by annual reports on human rights issued by the U.S. Department of State, hundreds if not thousands of

Falun Gong practitioners were arbitrarily detained in Masanjia Forced Labor Camp, and other labor camps located in Liao Ning Province, with a substantial number being executed as a result of torture that was inflicted upon them as part of the campaign of intimidation and punishment that Defendant BO participated in and helped to supervise and carry out.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the claims brought by Plaintiffs by virtue of 28 U.S.C. section 1350, incorporating provisions of the Alien Tort Claims Act and the Torture Victims Protection Act, which provide for federal jurisdiction and a cause of action “for any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States,” as well as for acts of torture committed abroad against either U.S. citizens or citizens of other nations.

4. In this case, the actions of the Defendant and those with whom he conspired and supported, constituted violations of some of the most deeply held and universally acknowledged human rights that are enshrined in a number of widely ratified international treaties that the United States has ratified, as well as being firmly accepted parts of customary international law. These include the right to not be arbitrarily arrested, imprisoned and deprived of life; the right to not be subjected to torture and genocide; the right to hold and express views and beliefs freely and without interference; the right to liberty and security of the person; and the right to associate with others and to practice religious and spiritual beliefs without restriction. The exercise by the Plaintiffs of these internationally recognized human rights, enshrined in both treaties ratified by the U.S., and in customary international law, and universally recognized as part of the law of

nations, has been seriously and maliciously abridged by the policies and actions of the Defendant and his co-conspirators acting under color of law. Among the specific human rights treaty standards violated by the Defendant are those incorporated in the Convention Against Torture, the Covenant on Civil and Political Rights, the Genocide Convention, and the United Nations Charter. Many of these same standards also are embodied in customary international law as articulated in the Universal Declaration of Human Rights. Each of these standards, and how they have been violated by the actions of the Defendant and his co-conspirators to the detriment and injury of the Plaintiffs, is described and explained in the text of the complaint, below, beginning with paragraph 25. These violations of international law, together with injuries inflicted upon the alien Plaintiffs as a result of these violations, place this legal action within the parameters of the jurisdictional standards spelled out in 28 U.S.C. section 1350 embodying the provisions of the Alien Tort Claims Act and the Torture Victims Protection Act.

5. The fact that the Defendant is not a citizen nor permanent resident of the United States, but is in this country only as a temporary visitor, does not deprive the Court of jurisdiction, since the very nature of the Alien Tort Claims Act and Torture Victims Protection Act provisions authorizing this type of civil action in federal court recognizes that many defendants or potential defendants in these cases, as aliens 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. Nor is the Defendant eligible for either head of state or diplomatic immunity even though he is a cabinet officer of the PRC and is here in the U.S. as part of a governmental delegation dealing with trade issues.

6. Venue is properly vested in the Federal District Court for the District of Columbia

pursuant to the requirements of 28 U.S.C. sections 1391(b) and (d) as a location within the United States where the Defendant is personally located during his current visit to this country, and can be personally served with process regarding the initiation of this lawsuit pursuant to the requirements of Rule 4 (c)(1) and (e) of the Federal Rules of Civil Procedure.

III. PARTIES

A. Plaintiffs

7. Plaintiffs represent a designated class of Falun Gong practitioners who have resided in the past, or are currently residing, in the Peoples' Republic of China, and have been subjected to various forms of persecution and abuse, amounting to serious violations of their human rights, as a result of the policies and actions of the Defendant and other high-level government officials with whom he has conspired, acting under color of law, aimed at intimidating or punishing the Plaintiffs for their Falun Gong beliefs and practices, preventing them from engaging in these practices, and eliminating the Falun Gong as a spiritual movement.

8. Alphabetic designations have been used to substitute for the specific identities of the individually identified plaintiffs in order to protect them and their families, some of whom remain within the jurisdiction of China, from the most serious forms of reprisal, including arrest, torture and execution. For these Plaintiffs, a very real and substantial risk exists that the Government of China would seek to inflict punishment or coercion on the Plaintiffs and/or their families as a result of their filing this lawsuit and bringing public exposure and criticism to the government's policies and practices regarding the intimidation of Falun Gong practitioners, and the government's efforts to terminate the Falun Gong movement. For this reason, the identities

of the individual Plaintiffs have been withheld from this pleading to be served on the Defendant.

A Motion accompanies the complaint asking the Court to authorize withholding the specific identities of the individual Plaintiffs in the text of the complaint. Counsel for Plaintiffs would be pleased to provide the Court with any additional identifying information that may be needed regarding the Plaintiffs, including copies of the Plaintiffs' notarized and witnessed statements and affidavits, so long as the identities of the Plaintiffs are not made known to the Defendant, or made accessible in any other way to the Government of the Peoples' Republic of China, since this would place the Plaintiffs and their families at extreme risk for the most serious forms of reprisals, including arbitrary arrest, torture and execution.

9. Plaintiff Li Weixum is a 47-year old woman was born in the City of Jinzhou in Liao Ning Province who now resides in Thailand. She worked at a machine shop in Shenyang City in Liao Ning Province. She was detained two times in Shenyang City and once in Beijing for demonstrating support for Falun Gong practitioners. After the third arrest she was dismissed from her job and was publicly denounced and humiliated. She was arrested again in Shenyang City on January 13, 2002 for printing and distributing material in support of Falun Gong. She was beaten brutally by the police with boots and with a one-inch diameter steel pipe while suspended by handcuffs around her wrists till she bled. She was threatened with death, and told by one police officer that he was responsible for beating to death another Falun Gong detainee, and that her death would be called a "suicide." Another Falun Gong practitioner arrested with her had her face covered with plastic wrap till she fainted from lack of air, and when she regained consciousness the process was repeated over and over. This other practitioner was soaked with cold water and exposed to the winter air. A motorcycle helmet was place on her head and smoke

was blown in her face till she choked and vomited. At the end of the interrogation process Plaintiff D's arm and back had lost mobility, and she was covered with rashes. She was denied medical treatment and went into a coma. After finally being released on medical parole she escaped the country. But her family suffered severe retaliation for helping her escape. Several family members were arrested for helping a Falun Gong practitioner. Her brother was sentenced to 8 years in prison.

10. Plaintiff B, is a female who currently resides as a resident alien outside of China. She is bringing this complaint on behalf of herself and her parent, who currently resides in Liao Ning Province in China and has been incarcerated in the Masanjia Forced Labor Camp in that Province. Plaintiff B's Parent was arrested twice, first in 2000, and again in 2001. Her Parent was detained for extended periods in 2000 and 2001 in Masanjia Forced Labor Camp, a prison facility with a reputation for particular brutality. During her stays in Masanjia Labor Camp Plaintiff B's Parent was subjected to physical abuse, torture and highly degrading treatment and punishment, including arbitrary, long-term detention and deprivation of liberty and security of the person because of her spiritual beliefs and her association with the Falun Gong spiritual movement.

11. Plaintiff C is a 49 year-old woman who is a resident of Tieling City in Liao Ning Province. On August 29, 2002, while distributing Falun Gong literature she was arrested in Lhasa City, Tibet and sent to the Tiexi Detention Center in Tieling City, Liao Ning Province. She was hung up at the wrists from the ceiling with handcuffs for an extended period of time, till her wrists became swollen and bloody, and her arms and fingers became numb. She was beaten on the chest and abdomen with batons till her body was covered with black and blue marks from the

beatings. She was not allowed to go to the restroom for long periods of time. She was forced to do heavy labor even though she was weak from the torture. On March 11, 2003 she was sentenced to four years in prison for her support for Falun Gong. In the middle of June, 2003 she was transferred to Dabei Female Jail in Shenyang City, Liao Ning Province, a facility where Falun Gong practitioners have been severely persecuted. Since May 2002 over one thousand Falun Gong practitioners have been detained there, and more than ten practitioners have died as a result of the harsh treatment they received there. She and other practitioners at this facility were tied spread eagled to metal beds with their ankles and wrists cuffed at the corners of the beds, and also forced to remain in awkward physical positions for extended periods. To the best of our knowledge and belief she is still being detained in Dabei Female Jail in Liao Ning Province under these harsh and abusive conditions.

12. Plaintiff D is a 32 year-old male currently being detained in Benxi City Labor Camp in Liao Ning Province. He was arrested in October 2000 in Beijing for peacefully demonstrating in support of Falun Gong practitioners, and was detained in Liao Ning Province labor camps until April 2001 when he signed a statement indicating that he would renounce Falun Gong practice. He was re-arrested in January, 2002 when he sent an email message indicating that he signed this statement under torture, and has been detained ever since in the labor camps at Dandong and Ben-Xi City in Liao Ning Province.

13. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the individual plaintiffs identified above are joined in this complaint by other members of the class of adversely affected individuals whom they represent, namely past or present residents of Liao Ning Province of the Peoples' Republic of China, or individuals incarcerated and tortured in Masanjia Forced Labor

Camp during the periods that the Defendant exercised supervisory functions over Liao Ning Province and the Masanjia Forced Labor Camp facility in that jurisdiction. Members of the Plaintiff Class are practitioners or believers in the Falun Gong spiritual movement, who, because of those beliefs and associations have either been subjected to grave abuses of their internationally recognized human rights (including arbitrary arrest, imprisonment, torture, genocide, and deprivation of life, liberty, or security of the person), or have been threatened with such violations, through the actions of the Defendant and other high level government officials with whom he has conspired to carry out these acts and objectives.

14. Other members of the class of adversely affected individuals have been joined through this class action, pursuant to the requirements of Rule 23(a), because the class is too numerous to permit joinder of all members, there are questions of law and fact common to the class, the claims of the representative parties are typical of the claims of the class, and the representatives parties will fairly and adequately protect the interests of the class. Moreover, pursuant to the requirements of Rule 23(b) separate actions would create a risk of inconsistent adjudications affecting the interests of all members of the class, and the nature of the circumstances is such that there are common questions of law and fact that predominate over any questions affecting only individual members, making a class action the appropriate method for adjudicating the issues presented. In addition, the physical location and circumstances of many members of the class, namely their being located in China, and the fact that many of them currently are being held in arbitrary and unlawful detention in China, as well as the threat to their and their families' safety associated with identifying them as individual plaintiffs, make their joindure as individual and named plaintiffs impractical if not impossible.

B. Defendant

15. Defendant BO Xilai is a citizen and resident of the Peoples' Republic of China, and currently serves as Minister of Commerce of the People's Republic of China. From February, 2001, until February, 2004, when he was appointed to his current position, Defendant BO served as Governor of Liao Ning Province of the People's Republic of China, where the Masanjia Forced Labor Camp and other Labor Camps used to house Falun Gong practitioners are located, and where some of the most brutal human rights violations aimed at suppression and elimination of Falun Gong have taken place. Prior to that time, Defendant BO served as the Mayor of Dalian City in Liao Ning Province, and in September, 1999 he was appointed deputy secretary of the Chinese Communist Party Committee for Liao Ning Province. In those capacities he played a pivotal role in the campaign of persecution directed towards Falun Gong practitioners, most especially in his capacity as Governor of Liao Ning Province and principal official supervising the operation of the Masanjia Forced Labor Camp facility in that jurisdiction.

16. As Governor of Liao Ning Province, and in his previous positions as Major of Dalian City and Deputy Secretary of the Chinese Communist Party Committee for Liao Ning Province, key aspects of governmental operations were under the Defendant's supervision and control, including the operation of the detention facilities and labor camps, and the actions of police and prison officials. As Governor he exercised general and complete supervisory power and authority over all governmental policies and practices for Liao Ning Province, including law enforcement and prison management questions, and all policies and practices associated with the campaign of persecution against the Falun Gong spiritual movement and its practitioners. He had absolute power to set policy guidelines, design and implement programs, and supervise the

carrying out of the campaign of persecution against Falun Gong, including supervisory authority over the treatment of all Falun Gong practitioners imprisoned at Masanjia Forced Labor Camp, and other similar labor camps in the Province. He was directly and ultimately responsible for the abuses of arbitrary detention, torture and execution as a result of torture, that took place under his supervision in Liao Ning Province and at the Masanjia Forced Labor Camp and other similar labor camps within the jurisdiction. He improperly and illegally exercised the authority under his mandate to appoint, discipline and remove those government officials who did not comply with the directives of his office. The way the Defendant exercised his authority placed him in the position of violating the Constitution and national law of the PRC in pursuit of the campaign of repression against Falun Gong. He wielded his power to investigate and criminally indict any and all officials of government, whatever their capacity, who failed to comply with the directives of his office, so as to violate the Constitutional and legal standards of China that might interfere with the carrying out of the campaign of repression against members of the Falun Gong spiritual movement.

17. The Defendant, as Governor of Liao Ning Province, and as the highest level local official ultimately responsible for the supervision and operation of Masanjia Forced Labor Camp, directed the activities of any and all government officials, bureaus and units within the jurisdiction of Liao Ning Province who were engaged in the effort to control, suppress and eradicate Falun Gong in that jurisdiction. The decisions to arrest, prosecute, put on trial and indefinitely detain and torture Falun Gong practitioners in Liao Ning Province were made by Defendant BO and subject to his supervision and control. In carrying out these actions Defendant BO regularly abrogated the duties and responsibilities imposed under the Chinese

Constitution and statutory requirements, and violated the domestic laws of China.

III. GENERAL STATEMENT OF FACTS

18. The National Government of the People's Republic of China began a national policy and campaign to seek the termination of the spiritual practices of the Falun Gong movement on July 10, 1999, as part of the effort to subvert and prevent social and political dissent that was deemed contrary to the best interests of the ruling Communist Party and the Government of the People's Republic of China that was controlled by the Communist Party. This campaign of persecution against the Falun Gong was initiated at the highest levels of the Communist Party and Government, with the President, Jiang Zemin, issuing the initial order that banned the spiritual movement, declared it and its practitioners unlawful, and began the persecution through the establishment of the Falun Gong Control Office (the 6/10 Office). The Falun Gong spiritual movement was and is seen as a potential social and political threat by Communist Party and Governmental leaders because of the strong support that it has been able to generate among its adherents, and as a spiritual and social movement that could draw support away from the Communist Party as the principal ideological organization and supervising authority in the Peoples' Republic of China.

19. Since that time, on the national level it is estimated by the Falun Gong Organization itself that over 100,000 practitioners have been arbitrarily and unlawfully arrested and detained in prison facilities simply because of their beliefs, associations and activities related to the Falun Gong spiritual movement. It is estimated that more than 500 of these detainees have been sentenced to prison terms of up to 18 years, with 1,000 more improperly assigned to mental

hospitals to deal with their spiritual “addiction,” a practice of using involuntary medical treatment for political purposes unrelated to medical needs that is widely condemned by the international medical community, and that violates specific provisions of international human rights treaties. Over 20,000 are estimated by the Falun Gong movement to have been illegally sent to prison labor camps without trial. At least 361 deaths of detainees while in the custody of law enforcement or prison personnel through the infliction of torture are estimated to have taken place. The United States Department of State Annual Report on International Religious Freedom for 2001 confirms reports of over 100 such deaths of Falun Gong practitioners while in detention and subject to the authority of police and prison officials, people who were arrested and were being held and tortured solely because of their spiritual and social support for the Falun Gong movement.

20. Liao Ning and Heilongjiang Provinces are known to be two of the most repressive and abusive jurisdictions in China as regards their arrest and treatment of Falun Gong practitioners. Since President Jiang Zemin’s order banning the Falun Gong movement and calling for suppression of their practitioners issued on July 20, 1999, a significant number of Falun Gong practitioners have died from torture inflicted in labor camps and detention centers in Liao Ning Province and Heilongjiang Province. Many of these deaths and executions as a result of torture have been confirmed by the U.S. Department of State in its annual country reports on human rights, and its annual reports on international religious persecution. These are the two highest death tolls of Falun Gong detainees of any of the Provinces in China. Masanjia Labor Camp, located in Shenyang City, the capital of Liao Ning Province, is one of the most notorious prison labor camps in the country that is used to incarcerate and torture Falun Gong practitioners.

Four hundred and twenty seven Falun Gong practitioners were reported to be detained in this prison labor camp in June of 2000. The U.S. Department of State has confirmed that numerous major human rights violations, including torture and execution during and as a result of torture, regularly take place in connection with the treatment of Falun Gong practitioners at facilities such as the Masanjia and other similar forced labor camps in Liao Ning Province.

21. The extent and seriousness of the persecution and abuse that is targeted against Falun Gong practitioners at both the national level, and in local provinces such as Liao Ning, have been confirmed 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 the Falun Gong as tied to the Government of China’s effort “to control and regulate 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)

22. Consistent with the general description and documentation of the serious infringements of human rights that were carried out against Falun Gong practitioners throughout China, each of the Plaintiffs and their families suffered very concrete injuries and losses as a result of the actions of the Defendant, and actions by other officials supervised by the Defendant.

23. Specifically, Plaintiffs were subjected to arbitrary arrest and imprisonment and torture based on their Falun Gong beliefs and practices, and their support for other Falun Gong practitioners, as detailed in the specific causes of action that follow beginning with paragraph 25 of this complaint.

24. Plaintiff B’s Parent appears to have been one of those that the U.S. Department of State report on International Religious Freedom for 2001 noted had been arrested for distributing Falun Gong literature and sent to Masanjia Labor Camp in Liao Ning Province, where they were subjected to severe physical and psychological torture.

25. Plaintiff C was arrested, detained and tortured in detention facilities in Liao Ning Province under the control and authority of the Defendant.

**IV. SPECIFIC CAUSES OF ACTION CONSTITUTING
VIOLATIONS OF HUMAN RIGHTS STANDARDS
AND INTERNATIONAL LAW**

26. The following specific abuses, constituting torts involving the most serious forms of intentionally inflicted physical and mental suffering and injury, were inflicted upon the plaintiffs as a direct result of the actions of the Defendant and those with whom he acted in concert to carry out the officially sanctioned and mandated policy of persecuting, punishing and intimidating Falun Gong practitioners and repressing their spiritual movement. Each of these types and forms of abuse also constituted violations of international law embodied in treaties and in customary international practice, binding on both the United States and the Government of the Peoples' Republic of China as indicated and explained in each paragraph below, thereby bringing these torts within the terms of the Alien Tort Claims Act and the Torture Victims Protection Act, as indicated above in paragraphs 3 through 5 of this complaint. They were carried out by the Defendant and the other officials with whom he conspired, acting under color of law, with the specific intent and purpose of abridging and denying the Plaintiffs of their internationally protected human rights, and punishing, intimidating and coercing them for the exercise of those rights, in violation of international law. Each of the following causes of action should be considered to re-allege and incorporate by reference the allegations set forth above in this Complaint as if fully set forth in the body of each cause of action.

A. FIRST CAUSE OF ACTION: TORTURE

27. Plaintiffs re-allege and incorporate by reference the allegations set forth above in this Complaint, as if fully set forth herein.

28. The acts inflicted against Plaintiffs were inflicted by and/or at the instigation, under

the control and authority, or with the consent or acquiescence of a public official or other person acting in an official capacity or under color of law.

29. The acts and abuses herein described placed Plaintiffs in imminent fear of their lives, and caused them to suffer severe physical and mental pain and suffering. They were deliberately and intentionally inflicted for purposes that included intimidation and punishment, among others.

30. The Convention Against Torture, which came into effect internationally on June 26, 1987, and was ratified by the United States on October 21, 1994 and 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, 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. The infliction of torture was the first type of human rights violation that U.S. courts recognized as authorizing the granting of relief under the Alien Tort Claims Act, in the landmark case of *Filartega v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980). Torture also is prohibited absolutely under other international treaties and under 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 by the U.S. on June 8, 1992, and by the Government of the Peoples’ Republic of China on October 5, 1998. The Universal Declaration 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. The abusive practices imposed upon the Plaintiffs and other Falun Gong practitioners in detention, including beatings, prolonged periods of restraint

and denial of food, water and sleep, as well as the use of instruments of torture, and being forced to witness the torture of others, as described by Plaintiffs in paragraphs 9-11 and 18 through 27 of this complaint, constitute severe pain and suffering under the meaning of the Convention Against Torture and the other international instruments, and thereby constitute violations of international law under the terms of the Alien Tort Claims Act and the Torture Victims Protection Act, 28 U.S.C. section 1350.

31. As has been extensively documented by the U.S. Department of State in its Country Reports on Human Rights and its Reports on International Religious Persecution, China has engaged in a consistent and widespread pattern and practice of subjecting Falun Gong practitioners to torture while in detention. Plaintiffs A, B and C have provided specific examples of how they have been subjected to torture, and have suffered physical and psychological injuries as a result of these practices that the Defendant and other government officials with whom he has conspired have promoted and supported (see paragraphs 9-11 and 18-27).

B. SECOND CAUSE OF ACTION: GENOCIDE

32. Plaintiffs re-allege and incorporate by reference the allegations set forth above in this Complaint, as if fully set forth herein.

33. The acts inflicted against Plaintiffs were inflicted by and/or at the instigation, under the control and authority, or with the consent or acquiescence of a public official or other person acting in an official capacity or under color of law.

34. The acts and abuses herein described placed Plaintiffs in imminent fear of their lives, and caused them to suffer severe physical and mental pain and suffering. They were deliberately and intentionally inflicted for purposes that included intimidation and punishment, among others.

35. Genocide is prohibited under the Convention on the Prevention and Punishment of the Crime of Genocide (referred to as the Genocide Convention), which entered into force internationally on 12 January 1951, and was ratified by the U.S. on November 25, 1988, and by the Peoples' Republic of China on April 18 1983. Genocide is defined in the Convention as intentional actions taken "to destroy, in whole or in part, a national, ethnical, racial or religious group" through such means as "killing members of the group; causing serious bodily or mental harm to members of the group, and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...." (Article II)(a) through (c)) The actions of the Defendant and the other government officials with whom he conspired meet this definition because they consisted of an intentionally inflicted policy and practice, carried out under color of law, of inflicting serious bodily harm, and in a number of cases death while in detention, against members of a spiritual group aimed at punishing, intimidating and coercing them because of their religious and spiritual beliefs, associations and practices, with the ultimate aim of elimination of the Falun Gong spiritual movement and its practitioners.

C. THIRD CAUSE OF ACTION: DEPRIVATION OF THE RIGHT TO LIFE

36. Article 6 of the International Covenant on Civil and Political Rights, which came into force internationally on 23 March 1976, and was ratified by the United States on June 8, 1992, and by the Peoples' Republic of China on October 5, 1998, confirms that "Every human being has the inherent right to life" and that "No one shall be arbitrarily deprived of his life." This same principle is set out in Article 3 of the Universal Declaration of Human Rights, a United Nations' General Assembly Resolution unanimously adopted on 10 December 1948, and now interpreted as the clearest embodiment of the universal standards of human rights enshrined

in customary international law. As indicated above, an extraordinarily large number of Falun Gong practitioners, numbering over 100 in slightly over two years according to the U.S. Department of State, have died in detention under conditions that the U.S. Department of State has confirmed were likely linked to the infliction of torture. These executions through torture can be directly attributable to Defendant BO in his capacity as Governor of Liao Ning Province, and chief supervisory official in charge of the operation of the Masanjia Forced Labor Camp and other similar labor camps in his Province where many of these instances of torture and arbitrary execution as a result of torture took place during the period when Defendant BO exercised authority over the campaign of persecution in Liao Ning Province..

D. FOURTH CAUSE OF ACTION: THE RIGHT TO LIBERTY AND SECURITY OF THE PERSON, AND TO BE FREE OF ARBITRARY ARREST AND IMPRISONMENT

37. The right to liberty and security of the person is guaranteed by Article 3 of the Universal Declaration of Human Rights, and Article 9 of the Covenant on Civil and Political Rights. Article 9 of the Covenant also stipulates that “No one shall be subjected to arbitrary arrest or detention” or “deprived of his liberty” except according to lawful procedures. Also of special relevance to the tort damage complaint that has been brought before this Court by the Plaintiffs, Article 9 stipulates that “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right of compensation.” (Article 9(5)) The U.S. Department of State Report on International Religious Freedom for 2001 confirmed that, “During the period covered by this report ... there were many thousands of cases throughout the year of individuals receiving criminal, administrative, and extrajudicial punishment for practicing Falun Gong, admitting that they believed in Falun Gong, or simply refusing to denounce the organization or

its founder,” (p. 125) with “as many as 300 practitioners ... sentenced to prison terms of up to 18 years for their involvement in Falun Gong,” and “many thousands of individuals are serving sentences in reeducation-through-labor camps.” (p. 1313) The State Department report indicates that between 1998 and 1999, the Law Yearbook of China (an official publication) indicated a dramatic increase in arrests for “disturbing the social order,” from 76,500 to over 90,000, with the increase “primarily ... due to the Government’s crackdown, begun in mid-1999, on ... groups like Falun Gong...” (p. 129) The arbitrary arrests and detentions described by the Plaintiffs in this complaint and in their accompanying affidavits are indicative of the type of arbitrary administration of justice that has been imposed on Falun Gong practitioners, resulting in the arbitrary deprivation of liberty, and often serious injuries and deaths. Plaintiff A has cited two arrests of 49 and 55 days based purely on her practice or adherence to the principles of Falun Gong, and her subjection to imprisonment and torture while in detention without any judicial proceedings (paragraph 9 of the Complaint). Plaintiff B also cited two arrests of her mother with the first detention period of over 2 months, and the second still continuing for more than four months, again based solely on her spiritual beliefs, and accompanied by forced labor and sexual abuse. Plaintiff C indicates that he was arrested in a train, severely beaten to the point of losing consciousness, and later subjected to torture while in detention because he refused to deny or renounce his adherence to Falun Gong beliefs.

***F. SIXTH CAUSE OF ACTION: THE FREEDOM OF THOUGHT,
CONSCIENCE AND RELIGION, AND THE FREEDOM TO HOLD
OPINIONS WITHOUT INTERFERENCE AND TO ASSOCIATE FREELY.***

38. The right to “freedom of thought, conscience and religion,” and the right to hold opinions without interference and to associate with others freely, are enshrined in Articles 18, 19

and 20 of the Universal Declaration, and Articles 18, 19 and 22 of the International Covenant on Civil and Political Rights. As enumerated in the preceding sub-paragraphs, and in the U.S. Department of State Reports on International Religious Freedom and Country Reports on Human Rights, these internationally recognized rights and protections have been seriously infringed by the policy and practice banning the Falun Gong, and seeking the repression, punishment and intimidation of their practitioners in order to end the movement. This “harsh” and “unremitting campaign against Falun Gong” has included assigning “many thousands” to “re-education through labor camps” and other “facilities specifically established to ‘rehabilitate’ practitioners who refuse to recant their belief voluntarily.” (p. 129-131, State Dept. Report on International Religious Freedom for 2001). Each of the identified Plaintiffs in this case have indicated how their arrest, detention and punishment, including torture and sexual abuse, took place because of their adherence to Falun Gong beliefs or practices, and their refusal to give up these beliefs.

G. SEVENTH CAUSE OF ACTION: VIOLATIONS OF THE ABOVE-CITED RIGHTS AND PROTECTIONS AS EMBODIED IN CUSTOMARY INTERNATIONAL LAW

39. Each of the above-cited violations of international treaty-based law also involve the abridgement and violation of the same rights protections enumerated in sub-sections A through F (above) as embodied in customary international law. It is well established that the enumeration of these types of universally recognized rights and protections in specific treaties do not remove them from coverage by customary international law, but merely provide an additional treaty-based framework recognizing their internationally protected status. This distinction, and the additional coverage by international customary law, are important, since they provides a basis for requiring compliance with universally accepted human rights standards by all nations and governments, whether or not they have specifically ratified individual human rights treaties. For

example, in *Filartega v. Pena-Irilla*, 630 F.2d 876 (2d Cir. 1980), U.S. courts found it possible to apply the prohibitions against torture as a basis for an Alien Tort Claims Act complaint based on customary international law as well as the treaties embodying the same anti-torture standards.

V. PRAYER FOR RELIEF

39. Based on the above facts, jurisdictional claims and legal arguments, Plaintiffs, on behalf of themselves and others similarly situated, ask for judgment against the Defendant as follows:

1. For compensatory damages according to and consistent with the injuries described, the extent of which will be demonstrated according to evidence to be presented;

2. For punitive and exemplary damages according to and consistent with the extraordinary and gross nature of the Defendant's conduct and the injuries it produced, the extent of which will be demonstrated according to evidence to be presented;

3. For a declaratory judgment confirming the unlawful nature of the pattern and practice of gross violations of human rights that have taken place, and that the Defendant has played a material part in carrying out, in concert with other high-level officials in China, resulting in serious and permanent injury of the Plaintiffs;

4. For such other relief as the Court may deem suitable and necessary; and,

5. For reasonable attorneys' fees and costs associated with these proceedings, including service of process and providing proof of the tort actions committed and the injuries they have produced.

DEMAND FOR JURY TRIAL

Pursuant to the requirements of Rule 38(b) of the Federal Rules of Civil Procedure, a jury trial is demanded for this case.

Respectfully Submitted this 21st day of April, 2004 by:

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