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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Jane Doe I,) Civil Action No. **C 02 0672 CW EMC**
Jane Doe II,)
Helene Petit,) **AFFIDAVIT OF PAUL MARSHALL**
Martin)
Larsson,)
Leeshai)
Lemish, and)
Roland Odar)

Plaintiffs,)

v.)

LIU QI, and DOES 1-5, inclusive)

Defendants.)

I, Paul Marshall, declare as follows:

1. My name is Paul Marshall; I am 53 years old and a resident of Washington, DC. Currently I am a Senior Fellow in the Center for Religious Freedom at Freedom House, which is America's oldest general human rights organization, founded by in 1941 by Eleanor Roosevelt and Wendell Wilkie. Amongst my duties at Freedom House is being the General Editor of its World Survey of Religious Freedom, which I edit under the direction of a multi-religious board of distinguished scholars and human rights professionals. I also research and write reports on religious freedom in selected countries and in recent years have worked on China.

2. I have a B.Sc. from the University of Manchester, an M.Sc from the University of Western Ontario, an M.Phil from the Institute for Christian Studies, Toronto and an M.A. and Ph.D. in political theory from York University, with further studies in international human rights law at the International Institute of Human Rights at the University of Strasbourg and in political theory and theology at Oxford University. I am the recipient of numerous awards and research grants including from the Canada Council, Humanities and Social Science Research Council of Canada, the Canadian Federation for the Humanities, and the Human Sciences Research Council of South Africa.

3. Since 1980 I have been a professor of political science, specializing in issues of human rights and, in particular, in religious freedom. From 1980 to 1998 I was a professor of political theory at the Institute for Christian Studies in Toronto, which is part of the Toronto School of Theology, which is, in turn, affiliated with the University of Toronto. I have also been an Adjunct Member of the Graduate Program in Philosophy, Rutgers University, of the Advanced Degree Faculty, Toronto School of Theology, of the Faculteit der Rechtsgeleerdheid (Law), Vrije Universiteit, Amsterdam and a Visiting Professor at the Faculteit der Wijsbegeerte (Philosophy), Vrije Universiteit, Satya Wacana University, Salatiga, Indonesia, the European University for the Humanities, Minsk, Belarus, and Catholic University, Washington, DC

4. Internationally, I have lectured at the Chinese Academy of Social Sciences, Beijing and in Canada, the United Kingdom, Israel, Cyprus, Austria, Belarus, the Netherlands, Switzerland, Lebanon, Korea, Australia, South Africa, Malaysia, the Philippines, Indonesia and Sudan. My writings have been translated into Russian, German, Dutch, Spanish, Japanese, Malay, Korean, Chinese and Arabic.

5. I give frequent popular lectures and media appearances, including on ABC Evening News, CBS Evening News, CNN, PBS, Fox News, BBC, the Canadian Broadcasting Corporation, Australian Broadcasting Corporation, and South African Broadcasting Corporation. My work has been published in or the subject of articles in *The New York Times*, *Wall Street Journal*, *San Diego Union-Tribune*, *Los Angeles Times*, *Washington Times*, *Boston Globe*, *Dallas Morning News*, *New Republic*, *Weekly Standard*, *Globe and Mail*, *Reader's Digest* and several hundred other newspapers and magazines.

6. In the last two years I have lectured at Harvard University, the Claremont-McKenna Colleges, the University of Miami, Florida Atlantic University, Yale University, American University, the University of Wisconsin, the University of Oklahoma, the University of Denver, the University of Leeds, and many other colleges and universities.

7. I have also given invited expert testimony to U.S. government bodies including the Helsinki Commission, the U.S. House of Representatives International Affairs Committee and the Advisory Committee to the U.S. Secretary of State on Religious Freedom Abroad. In February 2002 I was an invited to testify to the House International Affairs Committee's hearing on religious freedom in China and Vietnam, and in March 2002 was an invited witness testifying on religious freedom in China to the Joint Congress-Executive Committee on Human Rights in China. I have been certified as an expert witness in U.S. Immigration Court and have lectured at training session for INS Asylum Bureaus in New York, Los Angeles and Arlington, VA, including on conditions of religious freedom in China. The INS is currently using a video of my presentations in Los Angeles.

I meet frequently with the U.S. State Department, the Commission on International Religious Freedom, and Representatives, Senators and their staff to brief them and be briefed on issues of religious freedom.

8. The Center for Religious Freedom, where I work, and which includes my colleague Nina Shea (who is also a Commissioner appointed by Congress to the International Commission on Religious Freedom, and has been a Member of the U.S. Delegation to the United Nations Human Rights Commission meetings in Geneva, Switzerland) is in frequent contact with sources in China and with outside experts. I led a mission to China in 1997 to report on religious freedom, and wrote a report that was covered by national press and television. Amongst my books that deal with religious freedom in China are *Their Blood Cries Out* (1997, Korean translation 2000), and *Religious Freedom in the World: A Global Survey* (2000).

I.

RELIGIOUS FREEDOM IS A CORE HUMAN VALUE AND NORM

9. While I am not a legal expert, I believe that it is widely acknowledged that there is a national and international consensus in favor of the right to freedom of religion and belief.

10. The Universal Declaration of Human Rights (UDHR) states succinctly and emphatically that the right to freedom of religion and belief is protected by customary international law. Article 18 of the UDHR, which itself is widely considered to be an authoritative source of and for the customary norms of international human rights law, declares:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

11. Religious freedom also is provided for in the International Covenant on Civil and Political Rights, the Helsinki Accords, the European Convention for the Protection of Human Rights and

Fundamental Freedoms, and the U.N. Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

12. Equally important is the creation in 1986 by the U.N. Commission on Human Rights of the office of the Special Rapporteur on Religious Intolerance, now called the Special Rapporteur on Freedom of Religion or Belief. Since his appointment in 1993, Special Rapporteur Abdelfattah Amor has issued reports on a variety of countries, including Sudan, the Federal Republic of Yugoslavia, Pakistan, Iran, Vietnam, India, Australia, Greece, Germany, and the United States. His work provides substantial and continuing evidence of the commitment of the international community to promoting religious freedom.

13. The right to freedom of belief and religion has always been a core value here in the United States. It is well known that the United States has a longstanding commitment to religious liberty. America's founders made religious freedom the first freedom of the Constitution.

14. A commitment to the inviolable and universal dignity of the human person is also at the core of U.S. human rights policy abroad, including the policy of advocating religious freedom. By its adoption of the International Religious Freedom Act. (Pub. L. 105 - 292, Oct. 27, 1998, 112 Stat. 27887), the U.S. Congress has both acknowledged and underscored the international status and significance of this core human right norm. More particularly, and in numerous relevant sections, the Act states that "Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments". 22 U.S.C § 6401(a)(2)

15. The Commission on International Religious Freedom, established to help implement the Act, has commented extensively on religious persecution, including China's persecution of the Falun Gong. Its ongoing reports and recommendations underscore not only the centrality of this core norm and value here and abroad, but also and no less importantly, the many ways in which China has violated this customary and, for all civilized nations, inviolable human right norm.

II

CHINA'S VIOLATION OF THIS CUSTOMARY HUMAN RIGHTS NORM

16. To a greater or lesser extent, China has repressed religion throughout the fifty years of Communist Party rule. Its aim has been to make religion serve the interests of the communist state until it disappears from Chinese society. This remains the dominant view. State religious policy, as explained by Chinese president Jiang Zemin in March 1996 is to "actively guide religion so that it can be adapted to socialist society." Ye Xiaowen, the hard-liner heading the Religious Affairs Bureau (RAB), in 1996, also urged the "handling" of religious matters according to the dictates of Lenin and declared that "we will gradually weaken the influence of religion."

17. In the 1950s, Mao Zedong sought to control religion through government-controlled religious groups and the total suppression of uncooperative religious leaders through brutal labor camp terms, murder or exile. In the Cultural Revolution of the sixties and seventies, Mao closed all places of worship and tried to extinguish religion altogether. Since Mao's death in 1976, the government has tolerated some religious expression, but only within government-registered organizations. The Constitution, in Article 36, guarantees freedom of religious belief but contains qualifications to the right, stating that it protects only religious activities that are "normal," without defining the term.

18. The collapse of Soviet Communism and the Tiananmen Square democracy demonstrations in June 1989 shook the leaders in Beijing profoundly. In 1991, the government issued Document 6, which called for a crackdown against unregistered religious groups and reaffirmed its goal of creating a "materialistic," "scientific," and atheistic society. Repression against underground religious groups rose again in 1994 after Beijing issued decrees 144 and 145, mandating the registration of religious groups.

19. This campaign to "eradicate" unregistered groups intensified during the late 1990s. Unregistered Catholic, Protestant, Tibetan Buddhist, and Muslim groups report that many of their followers endure arrests, fines, imprisonment, and severe economic discrimination, and that some

of their leaders have even been tortured and killed.

20. Clerics, pastors, monks, imams, and other religious leaders cannot preach outside of their own area and the government must approve them and their venue. Religious services and members are subject to monitoring. Sermons must stick to approved topics under penalty of arrest. Children are barred by law from being educated in religion and from attending public worship services.

21. Many unregistered places of worship have been shut down or bulldozed in recent years. The *Far Eastern Economic Review* reported that in the first half of 1996, "police have destroyed at least fifteen thousand unregistered temples, churches, and tombs." In 1999, the government demolished over a dozen Catholic churches in the Fujian area, including some, like St. Joseph's Church, which were of distinguished architecture, and in 1998 a Qing dynasty mosque near Chengdu's Muslim quarter. The popular Catholic shrine to the Blessed Mother Mary in Donglu, Hebei Province, was demolished by military forces in 1996 and the traditional annual pilgrimage -- which drew tens of thousands in 1995 -- banned.

22. Beijing controls the five "authorized" religions (Protestantism, Catholicism, Buddhism, Islam, and Taoism) by the RAB, controlled by the United Front Work Department, itself controlled by the Central Committee of the Communist Party. In turn Party officials by law must be atheists. The RAB registers and controls all religious groups through the Three-Self Patriotic movement and the China Christian Council for Protestants, the Catholic Patriotic Association and Bishops Conference for Catholics, and similar patriotic associations for Buddhists, Muslims, and Taoists. The Falun Gong movement is banned outright.

23. After issuing decrees 144 and 145 in 1994, government authorities pressured groups to register. In July 1995, Ye Xiaowen was appointed to direct the RAB and the government began its "Strike Hard" campaign against unregistered groups.

24. Protestants leaders have been arrested and tortured for holding prayer meetings, preaching,

and distributing Bibles without state approval. Over thirty Roman Catholic priests and bishops are currently imprisoned or under house arrest for celebrating Mass and administering the sacraments without official authorization. Three-year's "reeducation" in labor camps is the norm for such prisoners. Like political and other prisoners, religious prisoners are held in deplorable conditions, with many forced to work as veritable slaves in labor camps.

III

CHINA'S RELIGIOUS PERSECUTION OF FALUN GONG

25. These trends have been reinforced by the public appearance of Falun Gong, which has become a particular focus of the Government's repression. By the later 1990's, millions of people were practicing Falun Gong in China and studying the teachings of its founder, Li Hongzhi. Practitioners came from all walks of life- including army officers and government officials. This aroused the concern of the Chinese government who began to investigate the group and repress its members, demanding that they leave the organization,

26. The Chinese Government's actions prompted a peaceful public demonstration by Falun Gong members in Beijing in April 1999. The Chinese Government responded in July by, through the Ministry of Public Security, labeling Falun Gong an unlawful organization, and intensifying its crackdown on the group. Thousands of practitioners were arrested and beaten, homes were ransacked; books and tapes were shredded and burned. The government engaged in systematic attempts to demonize Li Hongzhi and his followers. Communication with the outside world was also severely limited, as foreign reporters were restricted from interviewing Falun Gong practitioners.

27. On October 9, 1999, the Supreme People's Court issued guidelines that encouraged authorities to punish Falun Gong practitioners severely under existing laws. Then, on October 30, a hastily crafted law, ostensibly designed to protect society from "heretical cults," was passed

through the Standing Committee of the National People's Congress. The Chinese Government has utilized these laws in carrying out the campaign of repression that followed.

28. China's new tactic of labeling religious groups as so-called "cults" has intensified the repression of non-approved religion. With the introduction of the October 30, 1999 laws regulating "heretical cults," religious offences can now be classified as threatening national security and punishable by life sentences or even death.

29. A year later, in the face of continued demonstrations and passive resistance, the government said in the Communist party's official newspaper, the *People's Daily*, "the fight against Falun Gong will be a long-lasting, complicated, and acute struggle." This editorial also said that the government would crack down on the group with a "firm hand."

30. Current Government practices against Falun Gong include arrest and detention without trial, confining normal and healthy individuals to mental hospitals, destroying books and tapes, including public book burnings, severe abuse of women in custody, including forced abortions, adding mind controlling/nerve damaging drugs to practitioner's food, force-feeding practitioners on hunger-strikes using a tube shoved down the esophagus, humiliating practitioners by parading them around town, with their arms tied and signs around their necks, dismissing people from their jobs, levying heavy fines and confiscating property, and frequently torture, even to the point of death in many cases.

31. Human rights organizations estimate that tens of thousands of Falun gong members are in detention in China, and that several hundred have died in government detention in the last two years. The global survey, *Religious Freedom in the World*, lists Falun Gong as one of the world's most persecuted groups. The current crackdown is the largest since the aftermath of the Tiananmen Square demonstrations in 1989, and perhaps the largest since the Cultural Revolution in the 1960's and 1970's.

32. Chinese government documents, revealed in February 2002, further illustrate the scope of

the crackdown on Falun Gong. The Center for Religious Freedom had these official documents authenticated by renowned expert and exiled former Chinese government journalist, Su Xiaokang. The seven documents, issued between April 1999 and October 2001, detail the goals and actions of China's national, provincial and local security officials in repressing religion. They show that China's government, at the highest levels, aims to repress religious expression outside its control, and is using more determined, systematic and harsher criminal penalties in this effort. They list Falun Gong and other religious groups as "evil cults." Measures recommended to be taken against it include surveillance, the deployment of special undercover agents, the gathering of "criminal evidence," "complete demolition" of its organizational system, interrogation, and arrest, as well as the confiscation of homes in which meetings are held.

33. In 2002, Falun Gong members have suffered perhaps their worst repression ever. There are credible reports that police have been ordered to "shoot on sight" anyone posting or handing out written materials for Falun Gong. After practitioners showed cable TV programs with facts about Falun Gong on March 5, 2002 in the city of Changchun, Chinese President Jiang Zemin issued a "Kill Without Mercy" order. On March 15, 2002, Amnesty International issued an Urgent Action request for "Falun Gong practitioners in Changchun City," saying, "Amnesty International believes they are at serious risk of torture or ill-treatment...police 'stop and search' checkpoints have reportedly been established across the city..." Consequently, 5000 or more practitioners in the Changchun area have since been arrested, and several practitioners have reportedly "jumped" or "fallen" from tall buildings when pursued by police, and police have secretly cremated the bodies of numerous practitioners tortured to death by police. Latest reports indicate that more than 100 have died in Changchun in this spasm of violence by authorities in the past three weeks."

34. Nor has the systematic violation of religious freedom and belief subsided in China. The persecution of Catholics, Protestants, Tibetan Buddhist, Muslim and practitioners of Falun Gong is

an ever present fact of life in China. In spite of international treaties and covenants, China continues to arrest and torture persons of strong religious and spiritual faith, in direct violation of "universally accepted norms of the international human rights." See Restatement (Third) of Foreign Relations Law of the United States, section 701. (1987).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this _____ day of _____, 2002, in _____,

_____.

[State]

Paul Marshall