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9 UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11

12 JANE DOE I, et al.,

13 Plaintiffs,

14 v.

15 LIU QI, et al.,

16 Defendants.

17 PLAINTIFF A, et al.,

18 Plaintiffs,

19 v.

20 XIA DEREN, et al.,

21 Defendants.  
22

No. C 02 0672 CW (EMC)

No. C 02 0695 CW (EMC)

NOTICE OF FILING  
OF ORIGINAL STATEMENT  
BY THE CHINESE GOVERNMENT

23 Attached hereto is the original Statement By the  
24 Chinese Government. A facsimile copy of the Statement of  
25 the Chinese Government was filed as Exhibit A to the Notice  
26 of Filing of Statement By the Chinese Government, which was  
27 sent for filing with this Court on September 26, 2002.  
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NOTICE OF FILING OF ORIGINAL STATEMENT BY THE CHINESE GOV'T, C 02-0672 & 02 0695 CW(EMC)

1 Respectfully submitted,

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11 Dated: October 2, 2002

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(Translation)

(2002) Bu Mei Da No. 2034

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America in China and has the honor to inform the latter of the following:

Enclosed herewith is a copy of the Statement of the Government of the People's Republic of China on "Falun Gong" Unwarranted Lawsuits. The Ministry of Foreign Affairs respectfully requires the US Department of State to forward the Statement to relevant courts in the U.S.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration.

(Seal)

Beijing, \_\_ September 2002

Embassy of the United State of America in China,  
BEIJING



(Translation)

**Statement of the Government of the People's Republic of China  
On "Falun Gong" Unwarranted Lawsuits**

Since July 2001, elements of the "Falun Gong" cult have filed a number of unwarranted lawsuits at US courts against Chinese public officers visiting the United States, maliciously accusing the Chinese Government and those officials of persecuting "Falun Gong" practitioners. "Falun Gong" elements also threaten to initiate more such proceedings. The Chinese Government has on many occasions elaborated on its principled position on the issue of "Falun Gong", and on 1 July 2002 presented a statement to the US Department of State. To clarify the truth of the matter once again and safeguard China's state sovereignty, the Chinese Government hereby states as follows:

1. **"Falun Gong" is not a "religious belief" or "spiritual movement". It is an evil cult that seriously endangers the Chinese society and people.**

Li Hongzhi, originally named Li Lai, is the "Founder" of the "Falun Gong" cult. Born on 7 July 1952 in Gongzhuling City (formerly known as Gongzhuling Town of Huaide County) in China's Jilin Province, he was a secondary school graduate. Since May 1992, he put together the so-called "Falun Dafa" and began propagating its heretical fallacies, and set up his "Falun Gong" organization.

"Falun Gong" is of the same nature and features as other cults which have appeared in the US, Europe, Japan and other places, that is, the worship of cult founders, mental and spiritual control, fabrication of heretical fallacies, illegally amassing wealth and, above all, endangering society and humanity.

The crimes and other illegal activities perpetrated by "Falun Gong" have brought extremely grave damages to the Chinese society and people. Under "Falun Gong" fallacies, its practitioners are asked to reject life as a normal human being, refuse medical attention, abandon families and society, and act only on orders or instructions of "Supreme Law of Falun

Gong". Up to now, "Falun Gong" has claimed the lives of more than 1,700 of its followers as a result of their obsessed practice of the cult, refusal to take medical treatment or medication, suicide or self-injury. And over 650 "Falun Gong" practitioners have become mentally deranged, and tens of thousands of families were deprived of harmony and happiness.

"Falun Gong" has seriously disrupted the law and order, endangering social stability. It incites followers to act against society and law. It has instigated and deceived its followers into harassing and assaulting people who have different views with them. It has organized many illegal mass gatherings, disrupting and blocking the traffic and provoking and stirring up troubles. Moreover, "Falun Gong" elements have committed offences of stealing state secrets, sabotaging broadcasting, television and other public facilities, intentionally attacking the national satellite facilities and jamming the broadcasting of satellite programs. As "Falun Gong" is turning openly radical and violent, it instigates and misleads followers to murder innocent people on the ground of "saving them" or attempt self-immolation for the sake of "ascending to Heaven". "Falun Gong" has also plotted and committed train derauling or suicide bombings, posing a serious threat to public security.

**2. The Chinese Government handles the issue of "Falun Gong" in accordance with law to protect human rights, and the alleged tortures and persecutions are simply non-existent.**

The "Falun Gong" cult is an unregistered and illegal organization. On 22 July 1999, the Chinese Government banned "Falun Gong" upon its conclusion that the "Falun Dafa Research Society" and the "Falun Gong" organization under its control were illegal under *The Regulations on the Registration and Administration of Associations*. Li Hongzhi and other core members of the cult fled the country. As it is established by the investigations, Li Hongzhi and his "Falun Gong" organization have engaged in illegal activities such as propagating superstitious and cultic fallacies through deceitful means and causing human death. They are suspected of crime of disrupting public order for their masterminding and organizing unlawful assemblies and demonstrations without proper application and permission as required by law and for assembling crowds to disturb order at public places. On 29 July 1999, the procuratorial organ of Beijing Municipality decided to arrest criminal suspect Li Hongzhi

according to law. On 29 July 1999, the Ministry of Public Security of the People's Republic of China issued a Wanted Order (Gongji [1999] No. 0102), ordering the arrest of criminal suspect Li Hongzhi in accordance with law.

The Chinese Government has acted in strict accordance with law in addressing the issue of "Falun Gong". The policy towards the ordinary practitioners is one of persuasion and education, helping them break the spiritual shackles of the cult. Thanks to the implementation of such policy, the overwhelming majority of "Falun Gong" practitioners have returned to their normal life. As for those practitioners who, misled and instigated by the outlawed organization, have repeatedly taken part in illegal activities aimed at stirring up trouble and disrupting public order, the Chinese Government adheres to the basic policy of "education, persuasion and redemption".

"Falun Gong" alleges that the Chinese Government tortures and persecutes "Falun Gong" practitioners, and some practitioners have been persecuted to death. Such malicious charges are totally unwarranted and groundless. Prohibition of torture has always been a consistent position of the Chinese Government. In 1986, China signed *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The Chinese legislative, administrative and judicial organs at national level all have taken corresponding measures to constantly improve the legislative, administrative and judicial guarantee against torture and to ensure the inviolability of citizens' personal and democratic rights and interests. In punishing the very few criminals who had used the cult to undermine the state laws and regulations or commit serious offences, the Chinese Government has strictly observed the relevant laws such as *The Criminal Law* and *The Criminal Procedure Law*, fully protecting the lawful rights and interests of criminal suspects and sentenced persons and ensuring their humanitarian treatment.

### **3. The US courts have no jurisdiction over cases of such kind.**

The principle of state sovereign immunity is derived from the principle of sovereign equality which, as the cornerstone of modern international law, has been enshrined in explicit terms in many important international legal instruments such as *The Charter of United Nations*. Under the legal principle of "*Par in parem non habet jurisdictionem*"



(between equals there is no jurisdiction), courts of a State shall not entertain any lawsuit in which a foreign State is the defendant unless the government of the foreign State in question declares an express waiver of its jurisdictional immunity. If and only if a State initiates a proceeding before a court of foreign jurisdiction or there is a counter-claim arising from the same legal relationship or facts as the principal claim, the State would not be in a position to invoke jurisdictional immunity in the foreign State. In the same context, even if a State loses a case in a court of a foreign State, it shall not be subject to any measure of constraint. Such are part and parcel of the principle of state sovereign immunity.

The principle of state sovereign immunity was universally accepted by states in their judicial practice as early as in the 19<sup>th</sup> century. The United States was among the first states to apply this principle. Both the *Case of Schooner Exchange v. McFadden* heard by the US Supreme Court in 1812 and the many other cases entertained by US courts thereafter all reaffirmed this principle. All European, American and Asian states at the time almost invariably followed this principle. In international relations of modern times, the principle of state sovereign immunity continues to be upheld by many states in their legislative and judicial practice. Moreover, articles or provisions on state sovereign immunity are found in the international legal documents of far-reaching impact, such as *The Bustamante Code* of 1928. Many renowned scholars of international law, represented by Lassa Francis Lawrence Oppenheim, also support the principle. In short, the principle of state sovereign immunity enjoys a strong backing worldwide as evidenced by the legislations, case precedents and judicial practices of States as well as by international legislations and opinion of jurisprudence authority. Therefore, the principle of state sovereign immunity has long since acquired the status of customary international law, which remains the case today.

Since the 20<sup>th</sup> century, especially after World War II, some States began advocating the idea of denying sovereign immunity to foreign States in respect of their commercial acts. They adopted the so-called restrictive theory of sovereign immunity and introduced domestic laws on restrictive immunities for foreign States and their property, such as the US *Foreign Sovereign Immunities Act* (FSIA) of 1976. Despite their such preference, these States do admit that jurisdictional immunity of foreign States is a general principle of international law, and that denial to

sovereign immunity claim is only an exception. It should also be emphasized that even under the restrictive theory of sovereign immunity, only commercial acts of a State are not eligible for jurisdictional immunity. The acts of the Chinese Government to outlaw the "Falun Gong" cult, and those of Chinese government officials to perform their functions and duties in accordance with law obviously do not fall into the category of commercial acts at all.

It is an act of state on the part of China when its Government, acting in accordance with the Constitution and laws of the country, outlawed the "Falun Gong" cult and dealt with the individuals engaged in illegal activities on Chinese soil. Likewise, it should also be seen as an act of state when Chinese government officials performed their functions and duties in accordance with the power entrusted to them under Chinese Constitution and laws. Therefore, under the principle of state sovereign immunity, which is a rule of customary international law, no foreign courts have jurisdiction over such acts of state.

In handling the issue of "Falun Gong" and related cases, Chinese government officials have always strictly complied with law in all their law enforcement endeavours. Like the lawsuit against Beijing Mayor Liu Qi, the allegations of the plaintiffs in the action against Deputy Governor Xia Deren are also utterly groundless. The true motive behind such unwarranted lawsuits against them and other Chinese officials is apparently to initiate a proceeding challenging the acts of state on the part of the Chinese Government to ban Falun Gong according to law. The US courts should not entertain any such lawsuit based on trumped-up charges.

#### **4. "Falun Gong" unwarranted lawsuits are detrimental to China-US relations.**

A sound and stable China-US relationship is in the common interest of the two countries. Both China and the United States are major countries with significant global influence. Our two countries have broad and important common interests despite our disagreements on certain issues. Ever since the establishment of diplomatic ties in 1979, China and the United States have had fruitful exchanges and cooperation in many areas such as economy, trade, science and technology, culture, education, drug control and law enforcement, and on counter-terrorism,



non-proliferation and other major international and regional issues. The people-to-people contacts between the two countries are growing. All such exchanges and cooperation have brought tremendous and tangible benefits to our two peoples, and contributed greatly to peace and stability in the Asia-Pacific and the world at large. The present state of China-US relations has not come by easily, and the two sides should treasure and safeguard it through joint efforts.

It should be noted that China-US relations have always been a two-way and mutually beneficial process. Such relationship cannot have a sound and stable growth unless both sides adhere to the principles of mutual respect of each other's sovereignty and territorial integrity, non-interference in each other's internal affairs, equality and mutual benefit and other basic norms governing international relations, and properly handle the issues between them.

The "Falun Gong" false and unwarranted lawsuits are detrimental to China-US relations. The frame-ups by the US-based Falun Gong cult organization against the public officials of the Chinese Government are not merely to attack the Chinese Government, but to obstruct the normal bilateral exchanges and cooperation and poison the friendly relations and cooperation between the two countries. The political motive behind all these "Falun Gong" schemes cannot be more sinister.

The Chinese public officers falsely accused by Falun Gong are all officials holding important positions in the Chinese Government. They have over years worked persistently to promote the cooperation between our two countries and the friendship between our two peoples.

If the US courts should entertain the "Falun Gong" trumped-up lawsuits, they would send a wrong signal to the "Falun Gong" cult organization and embolden it to initiate more such false, unwarranted lawsuits. In that case, it would cause immeasurable interferences to the normal exchanges and cooperation between China and the United States in all fields, and severely undermine the common interests of the two countries.