

Laws Broken by Jiang Zemin's Government

American Practitioners

1. Constitution of People's Republic of China

- ?? According to Article 35, citizens of the People's Republic of China enjoy the freedoms of speech, of the press, of assembly, of association, of due process, and of demonstration.

All Chinese citizens, including Falun Gong practitioners, should be able to enjoy the freedom of peaceful assembly, such as joining group practices and attending experience-sharing conferences etc. However, this right has been completely denied in China at present.

- ?? According to Article 37, the personal freedom of the People's Republic of China's citizens is inviolable. No citizen may be arrested except with the approval of or by decision of a people's procuratorate, or by the decision of a people's court. Furthermore, arrests must be made by a public security agency.

But Falun Gong practitioners have been completely deprived of this right. The Chinese police have arrested Falun Gong practitioners and taken their personal properties at will without any warrants, including arrest warrants. Furthermore, the police in Tiananmen Square illegally arrest Falun Gong practitioners almost every day.

- ?? According to Article 39, the home of citizens of the People's Republic of China is inviolable, and unlawful search of, or intrusion into, a citizen's home is prohibited.

Falun Gong practitioners have also been deprived of this right, as police simply intrude into their homes at will without any warrant. In addition, Jiang Zemin's authorities have been inciting the masses to fight against each other since the so-called "Tiananmen self-immolation incident." Mob actions against Falun Gong practitioners have already occurred in some regions of China, including the breaking into practitioner's home with iron shovels or other tools to "forcibly transform" the practitioners.

- ?? According to Article 41, citizens have the right to make complaints and charges against, or expose, any state agency or functionary that violates the law or is derelict in their duty.

Once again, Falun Gong practitioners have been deprived of this right. If Falun Gong practitioners appeal to higher authorities, they will only be arrested. The Appealing Bureau, a subsidiary department of the State Council, has actually become a police bureau.

2. Criminal Law

- ?? According to Article 232, whoever intentionally kills another is to be sentenced to death, life imprisonment, or not less than 10 years of imprisonment without parole. When there are extenuating circumstances, he may be sentenced to not less than three years and not more than 10 years of imprisonment.

At present, at least 145 Falun Gong practitioners have been tortured to death, according to incomplete statistics (refer to the web site:

http://www.clearwisdom.net/eng/weekly_category/death_list.html). Currently, the police in China still intentionally torture practitioners brutally even though they are fully aware of the potential consequences.

- ?? According to Article 234, whoever intentionally injures another person is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control.

The Chinese police have intentionally caused injuries to countless Falun Gong practitioners in China without receiving any punishment (refer to the human right reports in: <http://hrreports.faluninfo.net/>).

According to Article 247, judicial workers who extort confessions from criminal suspects or defendants by torture, or who use force to extract testimony from witnesses, are to be sentenced to a maximum of three years in prison or put under criminal detention.

The police have systematically tortured Falun Gong practitioners cruelly to force them to write so-called "statements of repentance," in an attempt to forcibly transform them, and for this they have received no punishment (refer to http://www.clearwisdom.net/eng/weekly_category/news.html and <http://hrreports.faluninfo.net/>).

- ?? According to Article 248, supervisory and management personnel of prisons, detention centers, and other penal facilities who beat or physically abuse their inmates, if the case is serious, are to be sentenced to a maximum of three years in prison or put under criminal detention.

However, police abuse is very common to Falun Gong practitioners who were arrested illegally. Police have tortured practitioners heartlessly, committing sexual abuse and even rape (see <http://hrreports.faluninfo.net/>).

3. Criminal Procedural Law

According to Article 160, litigants shall be represented by their legal counsels.

Falun Gong practitioners have been deprived of this right completely. Lawyers in Mainland China are not allowed to provide legal assistances to Falun Gong practitioners. Under pressures and threats from the Government, currently no lawyers dare to defend Falun Gong practitioners in court.

4. Public Order Violation Punishments Ordinances

- ?? According to Article 6 (2), the penalty should range from 1 Renminbi to 200 Renminbi, but Falun Gong practitioners and their relatives have been penalized up to 5000 Renminbi.
- ?? According to the Article 6 (2), the detention period varies from 1 day to 15 days, but Falun Gong practitioners have generally been detained for more than 30 days, sometimes even longer.

5. United Nations Universal Declaration of Human Rights

The Chinese Government and those vicious police in Mainland China have breached the following legal articles:

- ?? Article 1. All human beings are born free and equal in dignity and rights.
- ?? Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- ?? Article 3. Everyone has the right to life, liberty and security of person.
- ?? Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- ?? Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
- ?? Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- ?? Article 9. No one shall be subjected to arbitrary arrest, detention or exile.
- ?? Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
- ?? Article 11 (1). Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. Article 11 (2). No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
- ?? Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.
- ?? Article 17 (2). No one shall be arbitrarily deprived of his property.
- ?? Article 18. 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.
- ?? Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
- ?? Article 20 (1). Everyone has the right to freedom of peaceful assembly and association.
- ?? Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in

accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

- ?? Article 23 (1). Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- ?? Article 26 (1), in part. Everyone has the right to education. And higher education shall be equally accessible to all on the basis of merit.
- ?? Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.
- ?? Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

6. The Issue of "X Cult"

On October 25 1999, Jiang Zemin publicly announced that "Falun Gong is a dangerous X X to society and to people" when being interviewed by the Chair of the Editorial Committee of the French Newspaper LeFigaro. Right after that, a special editorial comment entitled "Falun Gong is an X X" was broadcasted and published respectively by the Central TV Channel and *People's Daily* on October 27 and 28. The Public Security Department then took this speech as the legal basis for the crackdown on Falun Gong practitioners who appealed to higher authorities. However, the announcement made by President Jiang Zemin was not a decision made by the National People's Congress Standing Committee. According to Articles 5 and 80 in the Constitution, the President of the People's Republic of China should act in pursuance of decisions of the National People's Congress and its Standing Committee. Therefore, the President does not have the power to independently determine the nature of or to declare the guilt or innocence of any groups. Since Jiang Zemin in the above speech overstepped his power as it is defined in the Constitution, his words have no standing in law.

In November 1999, the Judicial Department created a booklet of Q&A entitled "Outlaw the XX, Prevent and Punish the Activities of XX" in response to people's doubts and discontent with the police's extensive arrests and detention. The Judicial Department is an administrative state organ and has no right to determine the nature of Falun Gong. However, it unreasonably insisted that Falun Gong is an xx.

On October 9 1999, the Supreme People's Court and the Supreme People's Procuratorate together published a document entitled "Directions on How to Implement Regulations Against the Criminal Acts of XX". However, Falun Gong was not mentioned in the document. It means that the Supreme People's Court and the Supreme People's Procuratorate clearly know that they don't have the right to determine the nature of Falun Gong.

On October 30, 1999, the National People's Congress Standing Committee passed a resolution called "Outlaw the XX, Prevent and Punish the Activities of XX". Again, Falun Gong was not mentioned in the resolution. It means that the Committee did not determine the nature of Falun Gong even though it has the

power to enact laws and make decisions on major events. In summary, there is no legal basis for the claim that "Falun Gong is an xx," even to this day.

According to the Constitution, the National People's Congress and its Standing Committee are the only two state governing bodies that have the power to enact, change and explain laws and make major decisions. The claim that "Falun Gong is xx" has to be passed by the National People's Congress as a resolution before being announced. Otherwise, it is unconstitutional.

7. Some Legal Suggestions

1) Collect evidence regarding how Jiang Zemin's government and the police have committed crimes as they illegally persecuted Falun Gong practitioners. The evidence includes witnesses and their testimonies, material evidence and other related documents. The witnesses and their testimonies consist of personal statements by Falun Gong practitioners; statements from the family or relatives of practitioners; the supervisors, colleagues and Community Committee Staff Members of practitioners and their testimonies; the witnesses at the crime scenes, e.g. doctors (including doctors in mental hospitals), nurses, reporters and their testimonies. The material evidence consists of pictures of practitioners' injuries; injury and disability certificates from hospitals; detention and arrest warrants from police departments; receipts for the confiscation of personal property; notices issued to practitioners of being discharged from public employment, from school, from the Party, or from the army; notice of demotion and relevant phone records or onsite video tapes.

2) Collect evidence regarding how the Chinese Consulates and their special agents together with the Jiang Zemin Government have disrupted overseas Falun Gong practitioners. The evidence includes witnesses and their testimonies, material evidence and other related documents. The witnesses and their testimonies consist of personal statements of Falun Gong practitioners; those Falun Gong practitioners who were beaten in San Francisco in October 2000; statements from American policemen, American officials, American people (including overseas Chinese) and American journalists. The material evidence consist of the facts that practitioners home phones were monitored; threatening phone calls were received by practitioners; how Falun Gong practitioners were illegally photographed and video-taped; how practitioners' cars were destroyed, including police records and case numbers from police stations.

3) Falun Gong practitioners retain the right to file lawsuits against Jiang Zemin himself, the Jiang Zemin Government, those malicious police in Mainland China and other organizations or persons who have persecuted Falun Gong practitioners. Practitioners will resort to legal procedures and assistance from appropriate agencies at the appropriate time and place.

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