

The Epoch Times:

From Crimes against Humanity, Including Torture, to the Crimes Committed by Jiang Zemin

--Legal Issues Concerning International Crimes

[Summary of the Article] The actions of Jiang Zemin, who persecutes, suppresses, slanders and brutally tortures Falun Dafa Practitioners in China and worldwide have seriously violated the legal rights of practitioners. His barbarous policies flagrantly disregard the provisions made by "The United Nations Charters", "Universal Declaration of Human Rights", "International Covenant on Civil and Political Rights", "The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", and the "International Covenant on Economic, Social and Cultural Rights." These actions constitute a large scale, organized, premeditated defamation of human rights, and have resulted in the darkest page in the history of China and international human rights.

1. The Issue of Crimes Against Humanity

a. Introduction of Crimes Against Humanity:

The concept of crimes against humanity was initially discussed in the "Agreement on the Prosecution and Punishment of Major War Criminals of Axis Countries." According to "The Drafted Code of Offences against the Peace and Security of Mankind" compiled by the International Law Commission in 1954, crimes against humanity refer to "murder, extermination, enslavement, deportation and other inhuman acts committed against any civilian population for social, political, racial, religious or cultural reasons by the authorities of a state or by private individuals acting at the instigation or with the toleration of such authorities."

Crimes against humanity are recognized as severe international offenses against the peace and security of mankind.

The "Drafted Code of Offences against the Peace and Security of Mankind" compiled by the International Law Commission of the UN made it an internationally recognized crime to engage in "systematic or mass violations of human rights". Crimes in this category include all those previously listed as "crimes against humanity" , and are extended from this list to include crimes of "torture, establishing or maintaining over persons a status of slavery, servitude or forced labor".

The characteristics of crimes against humanity are: Firstly, the perpetrator is a state or individual who carries out the crimes through state power. Secondly, the perpetrator carries out the crimes

based on his personal political ambition, or hatred against people of different religious belief. And finally, the acts that constitute crimes against humanity include premeditated deprivation of human lives, forced slavery, delivering citizens to remote and desolated areas for forced labor; deportation or forcible transfer of population and other offenses that injure or deprive citizens of their rights to life, liberty, equal protection and religious faith.

Willful deprivation of civilian population's right to liberty, passing criminal sentence without legal and factual basis, maintenance of an extremely low standard of living for a civilian population, and persecution on the grounds of political, religious, and/or racial differences, are all within the ambit of crimes against humanity.

b. The Criminal Liabilities of Crimes against Humanity:

Due to the murders of millions of civilians by the German and Japanese militaries in World War II, several other nations of the world created 46 international documents that assign criminal liabilities to perpetrators of crimes against humanity. These documents spell out that not only can the dictator of a nation or other individual in power be held criminally liable for these offences, but liability can also be assessed against anyone who acts against humanity while implementing state policy. Many nations (including China) have agreed that every country is obligated to co-operate in the fight to eliminate crimes against humanity. Significant legal precedents in this area have been set at International Tribunals at Nuremberg, and Tokyo, the former Yugoslavia and Rwanda.

The 28th UN General Assembly adopted a resolution entitled "Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity" in its 2187th Convention on December 13, 1973. The resolution provides that: "crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, punishment."

The guidelines for punishment of criminals against humanity included in this resolution state that: "forgiveness shall not be given to heads of a state or other public officials convicted of crimes against humanity. Forgiveness shall not be given to an individual who committed crimes against humanity in carrying out orders or plans from his superiors in the government. A statute of limitation shall not be applied to crimes against humanity so that the criminals can be prosecuted whenever possible".

c. Jurisdictional provisions for cases of Crime against Humanity:

The general principle of jurisdiction is that a person who committed crimes against humanity shall be tried and punished, if found guilty, by the country where the offense was committed. There is a provision for what is called "protective jurisdiction" whereby any state can prosecute a person who has committed these crimes against the citizens or interests of that country, regardless of where the criminal is from, and regardless of whether or not the crimes were committed within the boundary of that country.

The principle of "universal jurisdiction" expands the right of a nation to claim jurisdiction over any offender irrespective of the nationality of the offender, the location of the offense, or of any link between the interests of the prosecuting state and those of the offender. In 1993 and again in 1994, the UN Security Council adopted resolutions to establish international tribunals for Former Yugoslavian and Rwandan leaders to prosecute them for their respective crimes against humanity. However, there is no permanent international tribunal of criminal justice.

2. Crimes of Torture

a. An Introduction to the Provisions for Crimes of Torture:

In the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", the UN defines the term "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent of a public official or other person acting in an official capacity."

Torturous acts are many, such as tying someone up, beating a person while suspended, burning or baking someone using fire, subjection to cold and hunger, electrical shocks, etc. The acts also include repeated interrogations, coercion, threats, insults and other means of mental torture. These criminal acts are not limited to interrogation or coerced confession in criminal proceedings; they also include any other acts that forcefully subject a person to physical or mental pain and suffering.

Due to the severity of torture as a crime against personal liberty and dignity, and the deviation from international principles of justice and fairness, and the current high pressure, terrorist-like practices employed by certain countries, it has been recognized by the international community that it is absolutely necessary to establish international treaties and to operate with international consensus to curb crimes of torture. Anti-torture provisions appear in numerous international treaties such as the "Universal Declaration of Human Rights" adopted by the UN on December 10, 1948, the "International Covenant on Civil and Political Rights", which was openly signed by treaty nations in New York city on December 9, 1966, and the "Declaration of Protection for All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" adopted by the UN General Assembly on December 9, 1975.

At the 93rd Convention of 39th Congress of the UN General Assembly on December 10, 1984, the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" was unanimously adopted and became effective on June 26, 1987. China ratified and joined the Convention on October 3, 1988. The Convention became binding and effective on China on November 3, 1988 except for Article 20, and Paragraph 1 of the Article 30. Pursuant to the Convention, China is obligated to take effective legislative, administrative and judicial measures to prevent the acts of torture in the territory under its jurisdiction.

b. Criminal Punishment for Violators of the Crimes of Torture Statutes:

Paragraphs 2 and 3 of Article 2 of the Convention provides "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." and "an order from a superior officer or a public authority may not be invoked as a justification of torture."

c. Committee against Torture:

The Convention established a Committee, which consists of ten experts of high moral standing and recognized competence in the field of human rights. The committee's responsibilities include:

(1) To accept and review reports submitted by one State Party on the carrying out of the Convention;

(2) To investigate acts of torture, make comments and suggestions, and maneuver or mediate between State Parties;

(3) To accept and review documents submitted by one State Party about responsibilities of another State Party in carrying out the Convention, and to accept and review documents submitted by individuals or representatives of individuals who are victims of acts in violation of the Convention that occurred in the territory of a State Party.

d. Jurisdictional Guidelines for Crimes of Torture:

Under the Convention, jurisdiction can be exercised by the state in which the offense has taken place, the state in which the ship or aircraft (as the site of the abuse) is registered, or the state of the alleged offender or victim. Paragraph 2 of Article 5 specifically provides that "each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to act and to any of the state mentioned in Paragraph 1 of this Article." The Convention does not exclude any criminal jurisdiction exercised in accordance with internal law. This is the principle of extradition and prosecution (aut dedere aut judicare).

In addition, any State Party, in whose territory a person alleged to have committed any offense of torture is present, shall take him into custody or take other legal measures to ensure the investigation, prosecution, extradition, trial and punishment of said offender.

3. International Crimes Committed by Jiang Zemin:

The actions taken by Jiang Zemin to persecute, suppress, slander and harass Falun Dafa practitioners in China and worldwide, and his application of torture in the implementation of these efforts have severely violated several rights of the practitioners and violated the provisions made by "The United Nations Charters", the "Universal Declaration of Human Rights", the "International Covenant on Civil and Political Rights", the "Covenant Against Torture and other

Cruel, Inhuman or Degrading Treatment or Punishment," and the "International Covenant on Economic, Social and Cultural Rights." These actions have constituted a large scale, organized and premeditated violation of human rights, and have resulted in the darkest page in the history of China and international human rights.

Jiang Zemin's actions obviously constitute international atrocities including crimes against humanity and crimes of torture. He should be thoroughly investigated and put on trial by the international community and all nations that respect justice and human rights.

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