

30 August, 2019

Dear

We write to inform you of the findings (“Final Judgment”) of the Independent Tribunal into Forced Organ Harvesting of Prisoners of Conscience in China (“China Tribunal”). The Final Judgment was delivered on 17 June 2019 and found, beyond reasonable doubt, that forced organ harvesting from prisoners of conscience in China has occurred.

The China Tribunal was established in 2018 to inquire into forced organ harvesting from prisoners of conscience in China, applying international law and standards in considering the allegations. The China Tribunal concluded, amongst other things, that crimes against humanity had been committed by China.

We request that forced organ harvesting and the China Tribunal’s findings be included in your statement under Agenda Item 4 in the upcoming UN Human Rights Council (“HRC” or “Council”) September Session, and under Agenda Item D or F in the upcoming UN General Assembly meeting beginning on September 18th.

We also request your support for an urgent resolution for a Commission of Inquiry into Forced Organ Harvesting in China.

The HRC is entrusted with promoting and protecting universal respect for human rights and addressing situations where they are violated. The Council has, in its resolutions, repeatedly affirmed that everyone has the right to life, liberty and security of person, and to freedom from torture and ill treatment. It is clear that these basic human rights protections are a fundamental part of customary international law. The HRC has likewise called for an end to impunity for international crimes, including crimes against humanity.

States have obligation under customary international law to uphold, protect and promote fundamental human rights including, but not limited to, the right to life, the right to liberty and security of the person, the right to be free from cruel, inhuman or degrading treatment or punishment, and the right to be free from slavery and servitude.

The Genocide Convention, for its Contracting Parties, and customary law for *all* States, create a peremptory prohibition on genocide as well as an obligation on States to prevent genocide.

We write to draw to your attention to the Judgment of the China Tribunal, which, as explained below, makes clear that States should be gravely concerned about gross and systematic human rights violations taking place in China through the practice of forced organ harvesting of prisoners of conscience. Given the growing international trade in organ tourism, and the growing number of partnerships with China in relation to organ transplantation, this practice also gives rise to concerns that citizens of other States may be involved in these human rights violations.

We trust that you will act urgently to address these serious breaches of fundamental human rights and serious international crimes which have been, and are currently, being committed.

1. China Tribunal Final Judgment – “crimes against humanity”

For at least two decades, the government of China has been accused of forcibly harvesting organs from prisoners of conscience, principally Falun Gong practitioners and Uyghur Muslims – killing the victim in the process. The Chinese government engages in the persecution and large-scale arbitrary arrest and detention of these groups. There is also evidence that suggests that House Church Christians and Tibetans may have also been targeted for forced organ harvesting.

Although multiple reports (some from eminent bodies) have detailed allegations of forced organ harvesting from prisoners of conscience in China, controversy persisted. The [China Tribunal](#) was established in London in 2018, with the goal of hearing and assessing evidence in order to determine whether forced organ harvesting of prisoners of conscience is occurring in China, and if so what, if any, international crimes have been committed. The Tribunal was constituted by a panel of seven eminent, independent and impartial experts and was chaired by Sir Geoffrey Nice QC an internationally respected expert in international criminal law who formerly served as lead prosecutor of Slobodan Milosevic at the UN International Criminal Tribunal for the Former Yugoslavia.

Over a period of 12 months, the Tribunal’s work included public hearings in [December 2018](#) and [April 2019](#) where over 50 fact witnesses, experts and investigators contributed evidence. The China Tribunal also reviewed additional [reading material](#) and [submissions](#) and received expert opinions and advice on international law from Edward Fitzgerald QC and Datuk N. Savanathan.

On 17 June 2019 the Tribunal issued its findings, unanimously concluding that allegations of forced organ harvesting committed against Falun Gong had been “proved beyond reasonable doubt” and that “the vulnerability of the Uyghurs to being used as a bank of organs is also obvious.” **The Tribunal also concluded that these acts constitute crimes against humanity.** The Tribunal’s full report will be issued in September. In June it issued a [Summary Report](#), as well as a [Short Form](#) of its conclusions. These include the following:

- ***“Forced organ harvesting has been committed for years throughout China on a significant scale and ... Falun Gong practitioners have been one – and probably the main – source of organ supply.”***
- ***“In regard to the Uyghurs the Tribunal had evidence of medical testing on a scale that could allow them, amongst other uses, to become an ‘organ bank’.”***
- ***“The Tribunal has no evidence that the significant infrastructure associated with China’s transplantation industry has been dismantled and absent a satisfactory explanation as to***

the source of readily available organs concludes that forced organ harvesting continues till today.”

The Tribunal concluded that whilst it did not have sufficient evidence regarding *intent* to determine beyond reasonable doubt that the crimes involve genocide there are grave reasons for concern about the possibility that genocide may be occurring, and that further steps are warranted in light of this:

“The Tribunal notes that forced organ harvesting is of unmatched wickedness even compared - on death by death basis – with the killings by mass crimes committed in the last century. There is justifiable belief in the minds of some or many – rising to probability or high probability – that Genocide has been committed.

“In line with this, and by considering the evidence and the law, there can be no doubt that there is a duty on those who have the power to institute investigations for, and proceedings at, international courts or at the UN to test whether Genocide has been committed. They should act immediately to determine accountability for any acts contrary to the provisions of the Genocide Convention.”

A short video on the judgment (8 mins) is available here - <https://youtu.be/naJFMfDv3Tc>

2. Request for Formal Statement

In light of the gravity of the China Tribunal Judgment and Summary Report, we urge you to include in your statements under **Agenda Item 4 (Human rights situations that require the Council's attention) in the upcoming UNHRC September session**, and under **Agenda Item D (Promotion of Human Rights) or agenda item F (Promotion of Justice and International Law) in the upcoming UN General Assembly meeting beginning on September 18th**, a component that raises this issue of forced organ harvesting of prisoners of conscience in China including mention of the findings of the China Tribunal.

Please find a briefing document attached that includes an overview on the issue.

Prominent international responses include:

- [The European Parliament](#), [United States Congress House of Representatives](#) and the [Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development of the House of Commons Parliament of Canada](#) have called reports of this sourcing from prisoners of conscience as “persistent and credible”.

- The [United Nations Rapporteur on Torture](#), the [United Nations Rapporteur on Religious Intolerance](#) and the [United Nations Committee on Torture](#) have all called on China to explain the discrepancy between the volume of its transplants and the volume of its identifiable sources.

- The [European Parliament](#) and the [UN Committee on Torture](#), in two separate years, and the [United States Congress House of Representatives](#) have all called on the Government of China to cooperate

with an independent investigation with a credible, transparent, and independent investigation into organ transplant abuse in China.

- The Republican National Committee (RNC) in the United States recently issued a resolution on forced organ harvesting in China that resolved, *“That the Republican National Committee (RNC) strongly condemns the practice of China’s involuntary organ harvesting;”* and *“that the RNC considers China’s involuntary organ harvesting as a major human rights violation.”*

3. Urgent Resolution needed for a Commission of Inquiry into Forced Organ Harvesting in China

The work of the China Tribunal provides sufficiently compelling conclusions based on the available evidence to require States to act. Its findings make clear that crimes against humanity are being committed. The conduct involved also involves human rights violations, the most obvious being violations of the prohibitions on arbitrary detention and torture and violations of the right to life.

We strongly recommend that a Commission of Inquiry into Forced Organ Harvesting is urgently established to examine this issue, and issue detailed findings and, if appropriate recommendations.

A Commission of Inquiry would be in line with recommendations made by the [European Parliament](#), the [UN Committee on Torture](#), in two separate years, and the [United States Congress House of Representatives, among others](#), to carry out an independent investigation with a credible, transparent, and independent mandate into allegations of organ transplant abuse in China.

The Council has previously demonstrated its willingness to create independent commissions of inquiry and fact-finding bodies when necessary, including in recent years into the situations in Burundi, Syria and Myanmar and the 2018 protests in the Occupied Palestinian Territories. The allegations of forced organ harvesting in China are at least as grave as a number of the situations which the Council has seen fit to address with these mechanisms. They also involve unique elements, particularly owing to the fact that the violations in question are linked to transnational trade in medical services, pharmaceuticals and technology. A substantial number of universities and hospitals internationally have partnerships with China in the field of transplantation medicine, research and training. The nationals and governments of other States may also find themselves implicated.

A HRC mandated Commission of Inquiry can play a powerful role in documenting human rights violations where they are occurring, but likewise can reveal if any of the allegations are unfounded. From this perspective, and even in light of China’s denial of the allegations against it, a Commission of Inquiry should be a measure welcomed by all States in order to fully investigate the allegations made and reveal the truth. The Commission should be given broad powers to request documents from various sources including State authorities. Its mandate should extend beyond acts occurring within China, and extend to the possible complicity of nationals outside of China who are involved in

partnerships with China in relation to transplant medicine, or who engage in 'transplant tourism' in China.

Evidence assessed by the China Tribunal demonstrates that the killing of prisoners of conscience for their organs in China has been taking place since at least 1999 with estimations of 60,000 to 100,000 transplants per year. This is a disturbing number when translated into the innocent lives that have been lost. We hope that you will lend your support to shine a light onto the crimes of forced organ harvesting of prisoners of conscience in China, and ensure that this practice does not continue or spread to other jurisdictions that lack transparency or effective legal accountability within their organ transplant system.

We look forward to your urgent response.

Yours sincerely,

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