

1615 L\Street NW, Suite 1100, Washington DC, 20036

Office: (202) 973-3530 \* Fax: (202) 355-6701 \* Email: terri.marsh@hrlf.net

**Statement of Concern over Visit of Human Rights Violator Liu Yunshan**

Dear Taoiseach, Honorable Members of Government, and Members of the Media,

We, the undersigned American human rights attorneys and experts on Chinese law, represent an NGO devoted to litigation, research, and advocacy on behalf of victims of mass human rights abuse. Our organization, Human Rights Law Foundation, is based in Washington, D.C., but has engaged in partnerships and joint projects around the world, including in the Republic of Ireland.

Having become aware of the upcoming visit to Ireland of Liu Yunshan, member of the Standing Committee of the Chinese Communist Party, we write to call to your attention Mr. Liu’s direct involvement in a grave situation of mass human rights abuse. More specifically, Mr. Liu has served since 1999 as one of the leading administrators of the violent, internationally condemned crackdown on Falun Gong.

In July 1999, former Party Secretary General Jiang Zemin launched the extralegal campaign to “eliminate” from China members of the Falun Gong religious community. As explained by the U.S. Department of State,“the CCP maintains its Leading Small Group for Preventing and Dealing with the Problem of Heretical Cults and its implementing ‘610’ office[ ] (named for the date of its creation on June 10, 1999) to eliminate the Falun Gong movement[.]” (Department of State, Bureau of Democracy, Human Rights, And Labor, ‘2012 Report on International Religious Freedom: China’, May 20, 2013).

Often, these efforts to eliminate Falun Gong have entailed widespread violence, including torture and killing, under the central guidance and support of the CCP “Leading Group.” Falun Gong adherents in China have been deprived of their most fundamental legal rights and protections and denied due process or the opportunity to retain legal counsel. Liu Yunshan has been one of the Leading Group’s core members since its formation. He was in charge of the Group’s “Propaganda Work Office”, and also exercised significant authority over the personnel of its security division, the “610 Office.”

The above violations of Chinese and international law began in 1999, and have been occurring ever since. As noted in a 2011 report by the U.S. Congressional-Executive Commission on China (CECC), “Chinese authorities are currently in the second stage of a three-stage, three-year campaign to increase efforts to ‘transform’ Falun Gong practitioners―a term the government and Party use to refer to the process of pressuring Falun Gong practitioners to renounce their belief in and practice of Falun Gong. The campaign […] originated from the central-level 6-10 Office―an extralegal, Party-run security apparatus created in June 1999 to implement the Party's ban against Falun Gong.” (Congressional-Executive Commission on China, ‘Communist Party Calls for Increased Efforts To "Transform" Falun Gong Practitioners as Part of Three-Year Campaign’, March 22, 2011).

**Liu Yunshan’s Responsibility for the Violations**

As noted, Falun Gong adherents in Mainland China have, since 1999, endured the most severe forms of persecution and abuse violative of their fundamental human rights. Such abuse has occurred with the authorization, support, specific direction, and substantial assistance of Liu Yunshan, acting in concert with other high-level individuals in the Communist Party, and especially as a high-ranking Party official exercising authority over the 610 Office—the extrajudicial persecutory organization established unofficially by Party leaders to carry out the campaign of persecution against Falun Gong.

This campaign is termed in post-Cultural Revolution Communist Party parlance a “*douzheng*”, or “struggle campaign”, whereby Party authorities seek to totally eradicate and suppress an alternative ideological system. A key prerogative of such *douzheng* campaigns has been the mental “transformation” of target groups through torture, aimed at forcing members of such groups to renounce beliefs disfavored by the Party. Mr. Liu advocated and organized just such practices.

Mr. Liu’s specific personal actions have also directly exacerbated the abuses, e.g.:

1. In February 2000, Liu Yunshan convened/hosted the national “Meeting to Report Advanced Achievements in the Campaign [*douzheng*] Against Falun Gong”, at which Liaoning Masanjia Re-education Through Labor (RTL) Center, No.2 Women’s Facility Director Su Jing, and Hubei Province, Shayang RTL Center [representative] Ouyang Daixia, each reported their work in “transforming” (a process involving torture and forced conversion) Falun Gong adherents at their RTL facilities. Liu stated that they had “managed to obtain immense victories” in attacking diehard Falun Gong members, and he required [others] to “carry out with utmost effort the campaign [*douzheng*] against Falun Gong.” The RTL centers praised by Liu are among the worst violators in terms of widespread commission of torture and other abuses against Falun Gong.

2. In July 2001, the Department of Propaganda of the CCP Central Committee, the Central Office for Civilization, the “610 Office” and others jointly convened a Large-Scale Exhibition Against Falun Gong, where Liu Yunshan gave opening remarks. He called on those present to, based upon Jiang Zemin’s “Three Represents” (ideological theory), “utterly exterminate Falun Gong.”

3. In April 2005, as head of the Propaganda Department, Liu Yunshan visited the city of Yichang in Hubei Province, and during his visit many local media/propaganda organs promulgated large quantities of anti-Falun Gong propaganda material, including media coverage, posters, slogans, etc., causing the persecution of local Falun Gong adherents to intensify.

The above are but a small sample of the relevant activities of Mr. Liu, who for much of the past 15 years has been tasked with administering significant aspects of the violent persecution of Falun Gong adherents in China. Our organization and other concerned individuals are currently in the process of creating an indictment of Mr. Liu’s crimes under international law, for the purposes of a potential international tribunal.

The following are among the legal theories of liability applicable to Mr. Liu:  **Command Responsibility**: The principle of individual criminal responsibility for ordering a crime to be committed is expressly recognized in the Geneva Convention and the ICTY (Article 7(3)) and ICTR (Article 6(3)) Tribunal Statutes. Superiors, including civilians, have been held equally responsible with their subordinates if the superior knew or had reason to know that a subordinate had committed or was about to commit a crime and failed to take the necessary steps within his or her power to prevent or punish the crime. High-ranking CCP officials in the anti-Falun Gong “Leading Group” hierarchy, such as Liu Yunshan, may be held liable under principles of superior responsibility for unlawful acts committed against the Falun Gong population.

Liu Yunshan 1) had Party duties to exercise authority over his subordinates, especially all those subject to the orders of the “Leading Group” or the “610 Office”; 2) he was responsible for the acts of the Party organizations of which he was the head; 3) he had, as described *supra*, actual knowledge of the unlawful conduct committed by security forces against Falun Gong adherents throughout China, and made numerous affirmative statements and orders calling for and/or directing the commission of such abuses; 4) he took no steps to halt or mitigate such abuses; 5) feasibility of prevention was not at issue as no steps were taken; and 6) he did not act to prevent nor did he actually prevent such abuses from occurring.

**Joint Criminal Enterprise (JCE):** Liu would also be found responsible based upon international tribunals’ imposition of liability on those who “co-perpetrate” or participate in a “joint criminal enterprise.” One of the earliest analyses of joint criminal enterprise liability was provided in the ICTY case *Prosecutor v. Tadic*. The Appeals Chamber held the defendant in that case liable for murder because he “took part in the common criminal purpose to rid the region of the non-Serb population, by committing inhumane acts,” and because the killing of the non-Serbs in furtherance of this plan was a foreseeable outcome of which he was aware. Similarly, Liu took part in the common criminal purpose to rid China of Falun Gong adherents, and actively promoted inhumane practices such as forced conversion, abitrary detention, and torture.

As another example, in *Prosecutor v. Simba*, the ICTR found the accused guilty of a joint criminal enterprise to massacre Tutsis at various sites. The ICTR inferred a common criminal plan from the coordinated killings, for the “massive scale and relative efficiency of the slaughter by necessity demanded the involvement of plurality of persons, each carrying out a particular role.” Liu was similarly involved in such a coordinated crackdown on Falun Gong practitioners across China, by leading and coordinating the Leading Group’s targeting of Falun Gong across China for capture, detention without trial, forced “transformation”, etc.

We view it as inevitable that individuals like Mr. Liu, who have directed the commission of torture and other grave abuses against a peaceful minority community, will eventually face exposure and justice.

Finally, your Republic’s own experience in and commitment to upholding international law is highly instructive. As just one recent example, we draw your attention to the Statement of Ireland before the 25th Session of the UN Human Rights Council, at the Integrative Dialogue on the Prevention of Genocide, March 7, 2014. There, Ireland’s delegation reiterated that “the prevention of Genocide is central to all three pillars of the Responsibility to Protect,” and also cited the the July 2013 UN Secretary-General report on the Responsibility to Protect, which noted that “The Holocaust did not originate in the gas chambers and the genocide in Rwanda did not start with massacres in churches. Those genocides started with hate speech, discrimination and marginalization.”

Indeed, Article 29(8) of the Irish Constitution provides that,  "[t]he State may exercise extraterritorial jurisdiction in accordance with the generally recognised principles of international law." Meanwhile, the Criminal Justice (United Nations Convention against Torture) Act 2000 provides for jurisdiction over the crime of torture “whether within or outside the State.” Cruel, inhuman or degrading treatment is also prohibited by the provisions of the Constitution and Section 2 of the Criminal Justice Act.

Liu Yunshan’s extensive propaganda and organizational activities against the Falun Gong minority in China, no less than those of similarly-situated *génocidaires* against the Tutsi of Rwanda, or leading figures in the commission of atrocities in the former Yugoslavia, contributed significantly to the commission of severe and widespread crimes against humanity. It behooves Ireland and all other members of the world community not to ignore these well-documented violations. These ongoing human rights abuses should be raised specifically, publicly, and often.

With utmost respect,

Human Rights Law Foundation
1615 L St. NW, Ste 1100
Washington, D.C. 20036

/s\_\_\_\_\_\_\_\_\_\_\_\_
Terri E. Marsh

Executive Director

/s\_\_\_\_\_\_\_\_\_\_\_\_
Yiyang Xia
Research Director

/s\_\_\_\_\_\_\_\_\_\_\_\_
R.J. Mitchell
Attorney

/s\_\_\_\_\_\_\_\_\_\_\_\_
Can Sun
Attorney