ANNUAL REPORT OF THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

MAY 2008

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2008

The PRESIDENT
The White House

DEAR MR. PRESIDENT: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the annual report, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

We would welcome the opportunity to discuss with you this Report, and the policy recommendations that it contains.

Sincerely,

Michael Cromartie
Chair

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2008

Hon. CONDOLEEZZA RICE
Secretary of State
Department of State

DEAR MADAME SECRETARY: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the annual report, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Michael Cromartie
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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2008

Hon. NANCY PELOSI
Speaker of the House
U.S. House of Representatives

DEAR MS. PELOSI: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the annual report, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2008

Hon. ROBERT BYRD
President Pro Tempore
U.S. Senate

DEAR MR. BYRD: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the annual report, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55 and P.L. 107-228.

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Sincerely,

Michael Cromartie
Chair

Enclosure

IN MEMORIAM
JOE CRAPA
1943-2007

This Annual Report is dedicated in memory and respect to Joseph R. Crapa, who served as the Commission's Executive Director from 2002 until his untimely death from cancer in 2007.

A committed public servant, Mr. Crapa guided this bipartisan body with consummate skill, combining a keen sense of public service with an abiding commitment to advancing the cause of religious freedom. He helped the Commission amplify its voice and broaden its reach. He came in as an accomplished policymaker and left as a friend and advisor to Commissioners and Commission staff alike.

ABOUT THE COMMISSION

The United States Commission on International Religious Freedom was created by the International Religious Freedom Act of 1998 (IRFA) to monitor violations of the right to freedom of thought, conscience, and religion or belief abroad, as defined in IRFA and set forth in the Universal Declaration of Human Rights and related international instruments, and to give independent policy recommendations to the President, Secretary of State, and Congress.

The Commission is the first government commission in the world with the sole mission of reviewing and making policy recommendations on the facts and circumstances of violations of religious freedom globally. The Commission's impact and success in accomplishing its mission are achieved through its efforts to bring advice and accountability to U.S. foreign policy in the promotion of religious freedom abroad. By providing reliable information and analysis, and careful and specific policy recommendations, the Commission provides the U.S. government and the American public with the tools necessary to promote this fundamental freedom throughout the world.

In the words of a key drafter of IRFA, the Commission was established for the purpose of ensuring "that the President and the Congress receive independent recommendations and, where necessary, criticism of American policy that does not promote international religious freedom."[1]

The Commission, which began its work in May 1999, is not a part of the State Department and is independent from the Executive Branch.

The Commission is composed of 10 members. Three are appointed by the President. Three are appointed by the President *pro tempore* of the Senate, of which two are appointed upon the recommendation of the Senate Minority Leader. Three are appointed by the Speaker of the House of Representatives, of which two are appointed upon the recommendation of the House Minority Leader. The system of appointments thus provides that leaders of the party in the White House appoint five voting members, and leaders of the other party appoint four. The Ambassador-at-Large for International Religious Freedom serves *ex officio* as a non-voting member.

Commissioners bring a wealth of expertise and experience in foreign affairs, human rights, religious freedom, and international law; the membership also reflects the religious diversity of the United States.

The report covers the period May 2007 through April 2008. In June 2007, Felice D. Gaer completed her term as the Chair of the Commission, during which Michael Cromartie, Dr. Elizabeth H. Prodromou, and Nina Shea served as Vice Chairs. In July 2007, Michael Cromartie became Chair, and Preeta D. Bansal and Dr. Richard D. Land became Vice Chairs. Commissioners serve a two-year term and can be reappointed.

In carrying out its mandate, the Commission reviews information on violations of religious freedom as presented in the Department of State's *Country Reports on Human Rights Practices* and its *Annual Report on International Religious Freedom*. The Commission also

consults regularly with State Department and National Security Council officials, U.S. Ambassadors, and officials of foreign governments, as well as with representatives of religious communities and institutions, human rights groups, other non-governmental organizations, academics, and other policy experts. It visits foreign countries to examine religious freedom conditions firsthand. The Commission also holds public hearings, briefings and roundtables.

The Commission has met with President George W. Bush and senior members of his Administration, including the Secretary of State and the National Security Advisor, to discuss its findings and recommendations. The Commission also briefs Members of Congress, U.S. Ambassadors, and officials from international organizations. In addition, the Commission testifies before Congress, participates with U.S. delegations to international meetings and conferences, helps provide training to Foreign Service officers and other U.S. officials, and advises the Administration and Members of Congress and their staff on executive and legislative initiatives.

The Commission raises issues and brings its findings and recommendations to the American public through its public speaking activities, press conferences, other public events such as roundtables and briefings, its publications, Web site, and media outreach. During this reporting period the Commission's activities were covered by the *Christian Science Monitor, International Herald Tribune, Miami Herald, Los Angeles Times, New York Times, The Washington Post, The Washington Times*, the wires, National Public Radio, and PBS, to name a few.

Commissioners reside throughout the United States, and the Commission has traveled around the country to hold public hearings, public meetings, and other activities to inform the American people of its work.

While the work of the Commission is conducted year round, the Commission compiles an annual report of its policy recommendations in May to the President, the Secretary of State, and Congress. This report covers the period from May 2007 – April 2008.

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[1] Congressional Record, S12999, November 12, 1998.

Annual Report of the U.S. Commission on International Religious Freedom

May 2008

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INTRODUCTION

The year 2008 marks the tenth anniversary of the passage of the International Religious Freedom Act (IRFA), legislation that threw a spotlight on the importance of religious freedom around the world and on the need to promote this freedom as an integral component of U.S. foreign policy. Developments of the past decade have strengthened the importance of freedom of religion or belief, as the U.S. government navigates a world threatened by religion-based extremism and religion-imbued conflict. The issue of religious freedom is now understood to have a profound impact on our own political and national security interests, as well as on political stability throughout the world. Whether in the Middle East, Southeast Europe, East Asia, or elsewhere, religion and the striving for religious freedom have often been explicit or implicit factors in civil strife. Religion can also be a powerful force for reconciliation. Clearly, the right to exercise freedom of religion or belief is too fundamental to be left undefended from the whims of autocrats, extremists, and demagogues.

IRFA provided a new array of diplomatic mechanisms that could be employed to advance this freedom internationally. It created the Office of International Religious Freedom at the Department of State, headed by the Ambassador-at-Large for International Religious Freedom and required that the Department draw on its network of U.S. embassies around the world to collect information on religious freedom conditions for constant monitoring and the annual publication of the *International Religious Freedom Report*. It also put an official in place at the National Security Council to advise on religious freedom issues.

IRFA also established the Commission on International Religious Freedom, an independent, bipartisan federal body of private citizens mandated to advance freedom of religion or belief. The Commission, with nine voting members, monitors international violations of religious freedom, provides reliable information and analysis, and makes policy recommendations to the President, State Department, and Congress on how best to ensure that people the world over are free to believe and manifest their belief, in accordance with international human rights norms.

Throughout the past decade, the existence of IRFA has sparked an increase in U.S. policymakers' recognition of the importance of religious freedom to people around the world, and its protection is now a recurrent focus of international actors. This change is also felt among religious freedom advocates throughout the world, many of whom are struggling under oppressive conditions, including some whom Commission delegations have met in their prison cells or in their homes, where they are being held under house arrest. Encouraged by the spotlight on this previously neglected area of human rights, non-governmental organizations and the media have risen to the task of documenting violations as well as advances, and their grass-roots efforts dovetail with those of governments and international organizations. Much room remains, however, for more effective U.S. policies promoting freedom of religion or belief.

Two countries can be singled out as exemplifying IRFA's impact. After decades of having its poor human rights and religious freedom record overlooked, Saudi Arabia was finally added to the State Department's list of "countries of particular concern," or CPCs, the most

egregious violators of religious freedom, in 2004. Finally under scrutiny for its severe religious freedom abuses, the Saudi government has been forced to address its record and has pledged to reform. The task ahead is to ensure that those pledges are implemented in practice. Vietnam has also come to recognize, as a result of the IRFA process and its designation as a CPC, that religious freedom matters, both in its relations with the United States and to its own citizens. The CPC designation worked as Congress intended when it passed IRFA, making religious freedom a priority in U.S.-Vietnamese relations. The government of Vietnam engaged on religious freedom concerns, legal issues, and prisoners—and there was noticeable progress. Nevertheless, enough serious religious freedom concerns remain for the Commission to conclude that it is too soon for the Administration to have lifted the CPC designation for Vietnam.

The Commission's Impact under IRFA

The Commission has made an impact on CPC designations, a key aspect of the implementation of IRFA. Since 2001, it has successfully recommended that North Korea, Eritrea, Vietnam, Saudi Arabia, and Uzbekistan be added to the U.S. government's list of the most severe violators of religious freedom. It has persuaded successive U.S. Administrations of the need to highlight religious freedom abuses in meetings with high-level dignitaries, including from the governments of China, Indonesia, Nigeria, Pakistan, Russia, Saudi Arabia, Sudan, and Vietnam. Its findings and policy recommendations have been incorporated into dozens of bills and resolutions in Congress.

For example, over the past decade, the Commission has influenced the debate on U.S. foreign policy regarding Sudan. The Commission was one of the first to call for a Special Envoy for Sudan, who was named by President Bush in September 2001. It helped ensure that desperately needed humanitarian assistance went to the worst-hit areas of Sudan, including the Nuba Mountains, by persuading the United States to increase aid outside of the UN's Operation Lifeline Sudan program, which is influenced by the government of Sudan, and it successfully encouraged the Administration to increase non-lethal assistance to opposition-controlled areas in Sudan. The Commission continues to conclude that the U.S. government has a crucial role to play in the future of Sudan, both by enlisting international support to press the Sudanese government to end its delaying tactics on implementing the 2005 Comprehensive Peace Agreement and by considering new sanctions to respond to such non-compliance.

The Commission has also helped shape U.S. policies with regard to China. In 2002, the Commission recommended to President Bush that he condition a state visit to China on the Chinese government providing him with an opportunity to make a major speech on religious freedom and human rights televised live and uncensored to the Chinese people. That speech was delivered at China's Tsinghua University and broadcast live nationwide on Chinese state television. The Commission sent a delegation to China in 2005 to discuss with Chinese officials the government's systematic violations of the right to freedom of religion or belief, including crackdowns on religious activities among Buddhists in Tibet, Muslims in Xinjiang, and unregistered Roman Catholic and Protestant communities. The delegation also drew attention to the protection of North Korean refugees in China. China remains a prominent focus of the Commission's work, with at least five separate hearings and panel discussions organized by the Commission, as well as the regular presentation of expert testimony before various congressional

committees. The unrest in Tibet as this report goes to press illustrates the necessity of keeping religious freedom concerns at the heart of U.S. policy toward China.

The Commission highlighted the undemocratic nature of Pakistan's separate-electorate system for religious minorities; the Pakistan government abolished separate electorates in 2002. The Commission also pressed for action against extremist religious groups and schools that promote violence, an issue that came to the forefront of U.S. policy only after the events of September 11. The Commission has regularly spoken out about the country's blasphemy laws, which commonly involve false accusations and result in the lengthy detention of and violence against Ahmadis, Christians, Hindus, and Muslims on account of their religious beliefs, as well as on other issues, including the laws violating the fundamental rights of the Ahmadi community, the persistent sectarian violence targeting Shi'as, Ahmadis, Hindus, and Christians, and the Hudood ordinances, which violate the rights of women.

Regarding Vietnam, the Commission successfully advised the U.S. House of Representatives in 2001 to ratify the U.S.-Vietnam Bilateral Trade Agreement, but only following adoption of legislation calling on the Vietnamese government to make substantial improvements in the protection of religious freedom—sending a signal to the Vietnamese government of America's commitment to human rights. The Vietnam Human Rights Act was overwhelmingly passed by the House prior to the Bilateral Trade Agreement vote.

The Commission was among the first voices in Washington to call attention to the grave plight of religious minorities in Iraq. As early as 2004, the Commission warned of legal shortcomings in Iraq that could result in discrimination against and repression of religious minorities. In December 2004, the Commission wrote to President Bush to urge the United States to do more to protect religious communities and religious sites from the escalating violence against them. In 2006, the Commission wrote to Undersecretary of State Paula Dobriansky seeking new or expanded options for allowing members of Iraq's smallest religious minority communities access to the U.S. refugee program. That letter was followed by a Commission op-ed on the subject in *The Washington Times*, which helped spur congressional hearings and led to the State Department's decision to establish a task force on Iraqi refugees. In the past year, the Commission held two hearings on the topic, and raised the issue during a meeting with Secretary of State Condoleezza Rice in May 2007 and through follow-up letters in February and September 2007.

The Commission also conducted a major study of the impact of a new U.S. immigration procedure, "Expedited Removal," on asylum-seekers in the United States. The study was authorized by the Commission's mandate to monitor implementation of Title VI of IRFA, which has provisions related to asylum seekers, refugees, and immigrants, with particular attention to individuals who have fled—or committed—severe violations of religious freedom. The study found that while implementation of some of the training and reporting provisions of Title VI has heightened awareness of religious persecution issues among immigration officials, other training and operational provisions remain under- or even un-implemented. Although Expedited Removal was intended equally to protect the integrity of U.S. borders and *bona fide* asylum seekers, the Commission's study found that serious implementation flaws meant asylum seekers were at risk of being returned to countries where they may face persecution. The study also

found that asylum seekers were detained inappropriately, in prison-like conditions and in actual jails. Those shortcomings were still apparent in 2007 when the Commission did a follow-up study, or "report card," on the Expedited Removal program.

The Commission's Annual Report

This annual report reviews the Commission's activities during the past year and specifically:

- Describes conditions for religious freedom and related human rights in the countries of central concern to the Commission and highlights key findings;

- presents the Commission's policy recommendations to ensure that the promotion of freedom of religion or belief becomes a more integral part of U.S. foreign policy, furthering both our nation's humanitarian and national security interests; and

- reports on the actions the Commission has taken to raise public awareness of religious freedom violations, and summarizes the Commission's efforts to keep Congress and the Administration informed of religious freedom conditions throughout the world.

The wide array of activities and publications in this reporting period illustrates the major impact the Commission has on developing U.S. policy to promote religious freedom abroad. Commissioners have testified before congressional committees and caucuses, met with high-ranking U.S. Administration officials including Secretary of State Condoleezza Rice, held hearings and press conferences on pressing religious freedom issues, conducted fact-finding missions to other countries, and published numerous policy papers, press releases, and op-eds.

Assessing the Status of Religious Freedom Firsthand

Each year, the Commission conducts visits to foreign countries to examine threats to religious freedom and to formulate potential policy responses. During this reporting period, Commission delegations visited Saudi Arabia, Turkmenistan, and Vietnam, all countries that have been on the Commission's list of the worst violators of religious freedom, as well as Sweden, Jordan, and Iraq to examine Iraq-related issues. The visit to Saudi Arabia was intended to assess how far the Saudi authorities have progressed in implementing their previously articulated commitments to improve the climate for religious freedom. On the visit to Turkmenistan, Commissioners considered the extent to which the Central Asian country has undertaken reforms since the December 2006 death of longtime dictator Saparmurat Niyazov. The trip to Vietnam enabled Commissioners to gauge the impact of newly adopted government policies concerning religious freedom, and in Sweden, Jordan, and the Kurdistan region of Iraq, Commissioners met with displaced Iraqis and officials to gather current information about religious freedom conditions inside Iraq.

Saudi Arabia

The delegation to Saudi Arabia, led by then-Chair Felice D. Gaer, raised issues concerning the freedom of thought, conscience, and religion or belief that affect Saudi citizens and the large population of foreign workers, as well as others outside the country. The delegation visited three regions of the country in order to hear differing viewpoints: Riyadh, Jeddah and the Eastern Province. The discussions focused on: halting the dissemination of intolerant literature and extremist ideology; reform of school textbooks and curricula to remove language encouraging intolerance, hatred, or violence on the basis of religious differences, whether against Muslims, Christians, Jews, Hindus or others; protecting the right of private worship; curbing harassment by the Commission to Promote Virtue and Prevent Vice; and empowering the National Human Rights Commission. The delegation also explored Saudi government efforts to institute political and social reforms, the establishment of indigenous human rights institutions, the steps taken to combat religious extremism, religious freedom restrictions and discrimination affecting followers of different schools of thought within Islam, limitations on the universal human rights of women, and freedom of expression, including on sensitive issues relevant to religion in the press and other media.

The Commission was informed of certain institutional initiatives by the Saudi government to address human rights violations. The issue of abuses by the Commission to Promote Virtue and Prevent Vice—the religious police—also received unprecedented exposure in the Saudi media during the delegation visit. Yet, despite Saudi government pledges to institute reforms, the Commission concluded that many of these promises remain just that—promises—that have not yet been reflected in the promulgation and implementation of tangible protections for human rights. Although the Saudi government has permitted some initial steps toward the development of civil society, policies that would advance reforms have not yet been realized.

Turkmenistan

Chair Michael Cromartie led the Commission delegation to Turkmenistan eight months after the death of President Niyazov, under whom virtually no independent religious activity was allowed and severe government restrictions left most religious activity under strict, often arbitrary, state control. In addition, Niyazov's personality cult took the form of a quasi-religion to which everyone in Turkmenistan was forced to adhere, and his book of "spiritual thoughts," the *Ruhnama*, was required in mosques and churches alongside the Koran and the Bible. President Gurbanguly Berdimuhamedov has initiated some changes, including the release, just prior to the Commission's trip, of the country's former chief mufti, Nasrullah ibn Ibadullah, and 10 other prisoners of conscience.

The Commission raised many concerns with President Gurbanguly Berdimuhamedov and other Turkmen government officials, including: the 2003 law on religion, particularly those articles that violate international norms pertaining to freedom of religion or belief; the state-imposed ideology, particularly that of the personality cult, that infringes upon or severely diminishes the practice of freedom of religion or belief and related freedoms of association, movement, expression, and the press; intrusive and onerous registration procedures that hinder

the registration of peaceful religious communities; administrative fines on and the imprisonment of leaders or members of peaceful unregistered religious communities whose activities are deemed "illegal"; obstacles to the purchase or rental of land or buildings intended as houses of worship or for meeting purposes; the great difficulty in the use of private homes and public halls in residential areas for worship services; and a legal ban on the importation and printing of religious and other material.

The delegation found that despite new developments, the system of oppressive laws and practices that have led to severe violations of human rights, including freedom of religion or belief, remain in place. In addition, the overall repressive atmosphere that characterized public life in Turkmenistan under President Niyazov remains largely unchanged, and significant religious freedom problems and official harassment continue.

Vietnam

In Vietnam, Commissioners led by Chair Michael Cromartie visited Hanoi, Ho Chi Minh City, Hue, the Central Highlands, and Soc Trang Province in October – November 2007 to discuss conditions for freedom of religion and related human rights. The Commission met with Prime Minister Nguyen Tan Dung and other government officials and with representatives of Vietnam's diverse religious communities. Moreover, the delegation was permitted to meet with prisoners of concern and others held under house and pagoda arrest and advocated for their release. The Commission also urged the government to undertake full, impartial, and effective investigations into continued report of restrictions and abuses on the freedom of religion among ethnic minorities and religious groups the government views as "political" or "security" threats.

The Commission found that since 2004, after Vietnam was named a CPC, permissible religious activity has increased. However, the Commission remained skeptical that genuine reform has been fully implemented, particularly in the context of Vietnam's continued repression of peaceful political and religious dissent.

The Commission also found that in some areas of the country, provincial leaders are using their authority to restrict and abuse religious freedom. In the Central Highlands and Central Coast, local officials have confiscated the lands belonging to ethnic minority Protestants. In the Central Highlands, provincial officials are instructed to deny medical, educational, financial and other government services to "religious families" as well as to the family members of recent converts. In Sac Trong and An Giang provinces, Hoa Hao and Khmer Buddhists have been arrested after demonstrating against religious freedom restrictions and abuses. The Commission raised theses issues, as well as concerns about continued restrictions targeting the United Buddhist Church of Vietnam, with government officials.

The Commission concluded that while religious freedom conditions are gradually improving in Vietnam, significant problems remain, includijng restrictions on and the mistreatment of certain religious groups and the continued detention of "prisoners of concern." These prisoners include people who, motivated by their religion or conscience, express views or organize in support of legal or political reforms to advance religious freedom, those who monitor religious freedom problems and are arrested or otherwise punished for publicizing their findings,

and those who peacefully organize or protest to draw attention to persistent religious freedom concerns.

Sweden, Jordan, and the Kurdistan Region of Iraq

In November 2007, Commission staff traveled to Sweden to meet Iraqi asylum seekers, refugees, and internally displaced persons (IDPs). In March 2008, a delegation of Commissioners traveled to Amman, Jordan and Erbil, Iraq for additional meetings with refugees and IDPs from Iraq. The purpose of these visits was to learn from displaced Iraqis the circumstances under which they fled their homes, in order to determine what role religious repression may have played in that flight.

The Commission delegation to Jordan and Iraq also met with representatives of international and non-governmental organizations that are assisting the asylum seekers, refugees, and IDPs. In addition, in Erbil, the Commission met with members of the Kurdistan Regional Government and other local government officials and representatives of local religious communities, human rights organizations, and political parties, as well as with U.S. Ambassador to Iraq Ryan C. Crocker and other U.S. officials to discuss reports of discrimination against religious minorities both in Kurdish-dominated areas and in other parts of Iraq.

Keeping Congress Apprised of Religious Freedom Issues

Commission-Sponsored Hearings

The Commission held four hearings during the reporting period. Two focused on religious minorities, sectarian violence, and the refugee crisis in Iraq, one examined the aftermath of the "Saffron Revolution" in Burma, and one explored religious freedom in, and U.S. policy toward, Iran.

The first hearing on Iraq, held in July, focused on the threats faced by members of the smallest religious communities. Commissioners heard testimony of representatives of religious minorities and others who had been deliberately victimized by militants—and, witnesses claimed, even by members of the Iraqi police and security forces—testimony that included reports of murder, torture, and abductions for ransom; parishioners sleeping in churches to escape death squads and insurgents; families being given just hour deadlines to vacate their homes; and expropriated land, forced conversions and alleged extortion in the form of taxes on non-Muslims. The Commission was joined at the hearing by Reps. Anna Eshoo (D-CA) and Christopher Shays (R-CT).

The second hearing on Iraq, held in September, examined the causes, dimensions, and patterns of intra-Muslim sectarian violence, including the targeting of individual Muslims for killings and other violence on account of their religious identity as well as any potential Iraqi government role in that violence. It also examined U.S. policy in relation to Iraq's refugee crisis, focusing on internal displacement and Iraqis sheltering in neighboring countries. Witnesses included Assistant Secretary of State Ellen R. Sauerbrey, Judy Cheng-Hopkins, the UN High Commissioner for Refugees' Assistant High Commissioner for Operations, and Dana Graber,

Iraq Displacement Specialist, International Organization for Migration. Sen. Arlen Specter (R-PA), Sen. Gordon Smith (R-OR), and Rep. Steve Israel (D-NY) also addressed the Commission at the hearing.

"After the Saffron Revolution: Religion, Repression, and the U.S. Policy Options for Burma," a hearing held in December 2007, evaluated how the Burmese military contributes to violent repression of peaceful dissent, ongoing abuses against ethnic minorities, and regional instability. It also examined UN diplomatic efforts and U.S. policy options for bringing about democratic change in Burma. Witness panels addressed the role of Buddhist monks in the demonstrations, the military's manipulation of Buddhism to bolster its political legitimacy, the monks' fate since the crackdown, the impact of the military's ethnic policies, prospects for recent UN diplomacy in Burma, and suggestions for additional multilateral diplomatic action. Witnesses also evaluated sanctions and other U.S. policy options for bringing about democratic change in Burma.

Six witnesses, including Jeffrey Feltman, Principal Deputy Assistant Secretary of State for Near Eastern Affairs, testified before the Commission at its February 2008 hearing on "Advancing Religious Freedom and Related Human Rights in Iran." The Commissioners and witnesses discussed human rights abuses in Iran, current U.S. policy, and potential avenues for more effectively addressing rights violations in the Islamic Republic. Witnesses highlighted the dire situation facing religious minorities in Iran, particularly Baha'is who are seen as heretics and are not recognized by Iranian authorities, as well as Sufi Muslims and Evangelical and other Protestant Christians. They also pointed to state-sponsored anti-Semitism and Holocaust denial rhetoric that have increased fear among Iran's Jewish community.

Testimony by Commissioners at Other Congressional Hearings and Events

Commissioners also presented expert testimony before congressional bodies. In September, Commissioners Leonard Leo and Imam Talal Eid presented the findings of the Commission's 2007 Annual Report at a meeting of the Religious Freedom Working Group, a bicameral body co-chaired by Sen. Norm Coleman (R-MN) and Rep. Roy Blunt (R-MO). Commissioner Leo also discussed the Commission's trip to Vietnam at a joint briefing in December for the Congressional Human Rights Caucus, the Task Force on International Religious Freedom, and the Congressional Caucus on Vietnam. In October 2007, the Commission and the Congressional China Caucus co-hosted a roundtable discussion on Capitol Hill focusing on current problems facing refugees and asylum seekers in China, particularly North Koreans, Uighur Muslims, and Tibetan Buddhists.

In January 2008, Commissioner Nina Shea addressed human rights abuses and religious persecution in Burma at an off-the-record briefing of the congressional Task Force on International Religious Freedom. Commissioner Felice D. Gaer testified before the U.S. Commission on Security and Cooperation in Europe (Helsinki Commission) in February 2008. She reviewed the record of the Organization on Security and Cooperation in Europe (OSCE) in combating anti-Semitism, noting that anti-Semitism poses a significant danger to the security of OSCE participating states. In March, Commissioner Shea spoke about religious freedom conditions in Iran at a meeting of the bipartisan Iran Working Group.

Countries of Particular Concern and the Watch List

Each year, the Commission makes recommendations to the Department of State on "countries of particular concern," or CPCs: countries whose governments have engaged in or tolerated systematic and egregious violations of the universal right to freedom of religion or belief. After a country is designated, the U.S. president is required by law to oppose the violations by taking actions specified in IRFA. The Commission stresses that under IRFA, CPC designation is just the start to diplomatic activity aimed at promoting freedom of religion or belief.

In this reporting period, the Commission recommends that the Secretary of State designate the following countries as CPCs: Burma, the Democratic People's Republic of Korea, Eritrea, Iran, Pakistan, the People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam. This report contains chapters detailing the status of religious freedom in each of those countries.

The Commission also compiles a Watch List of countries that do not merit CPC designation but require close monitoring in an effort to improve conditions for the freedom of religion or belief. The Commission's Watch List in this reporting period includes Afghanistan, Bangladesh, Belarus, Cuba, Egypt, Indonesia, and Nigeria. The Commission is concerned about the serious abuses in these countries, and that the governments either continue to be responsible for repression of and/or violence against persons amounting to serious violations of freedom of religion, or have failed to punish the perpetrators of those acts.

More information about the Commission's recommendations on all of these countries can be found in this report.

Assessing U.S. Government Performance

The Commission has played a key role in efforts to encourage the U.S. government to increase resettlement options for members of vulnerable groups fleeing religious repression. In particular, the Commission has recommended that the U.S. government expand the possibility of resettlement for refugees from Iraq's smallest religious communities, including ChaldoAssyrian Christians, Mandaeans, and Yazidis, who are heavily targeted in Iraq and disproportionately represented among the refugee populations in neighboring countries. The Commission recommends that the State Department open a Priority 2 categorization for members of these particularly vulnerable groups and expand family reunification options for Iraqi refugees with relatives in the United States.

In May 2007, the Commission met with Secretary of State Condoleezza Rice to discuss the Commission's grave concern over the deteriorating situation for freedom of religion and belief in Iraq, including the plight of the smallest religious minorities. In addition to Iraq, the Commissioners raised religious freedom and associated human rights issues in Saudi Arabia, Sudan, China, Bangladesh, Turkey and the 56-member OSCE. Then-Vice Chairs Elizabeth H. Prodromou, Nina Shea, and Michael Cromartie and Commissioners Richard D. Land and Preeta D. Bansal attended the meeting.

The same month, Commissioners met with Homeland Security Secretary Michael Chertoff regarding asylum seekers in the Expedited Removal process. The meeting followed the Commission's congressionally-authorized 2005 study, published under then-Chair Preeta D. Bansal, which found that implementation of the Expedited Removal procedure allowing U.S. border officials to quickly remove illegal aliens from the country was seriously flawed. The meeting occurred after the Commission's February 2007 follow-up study, issued under then-Chair Felice D. Gaer, which noted the failure of most relevant federal agencies to adopt the Commission's recommendations regarding ways to ensure that persons fleeing repression on account of their religion are not denied refuge in the United States.

Throughout the fall of 2007, the Commission advocated for the renewal of the mandate of the UN independent expert (or "Special Rapporteur") who investigates and reports on violations of the freedom of religion or belief around the world. The Commission set out its views on the vital need to renew the Special Rapporteur's mandate in a September 2007 letter to Secretary of State Rice, in which it also called for the U.S. government to speak out firmly against the increasing pressure in international institutions, including the UN Human Rights Council, to shift the focus from promoting religious freedom to halting so-called "defamation of religions." The UN Special Rapporteur's mandate was renewed at the December 2007 session of the UN Human Rights Council, at which Commissioner Leonard Leo participated as part of the U.S. delegation.

Raising Public Awareness

The Commission has also voiced concerned on issues connected with freedom of religion or belief during this reporting period, including through reports, press releases and op-eds. An article in *the Las Cruces Sun-News*, by then-Commissioner Bishop Ricardo Ramirez and Commissioner Michael Cromartie, urged a reinvigorated U.S. leadership role in efforts to revive peacemaking in Sudan. Commissioner Cromartie and then-Chair Felice D. Gaer published an op-ed in *The Washington Times* calling on the U.S. government clearly and unequivocally to press Pakistan to decriminalize blasphemy and to urge the Pakistani government to take more serious steps to combat Islamic extremism.

The Commission also highlighted religious freedom issues by sponsoring public events. In October 2007, the Commission co-sponsored two public events on the human rights situation in Kazakhstan with Freedom House and the Open Society Institute, featuring two leading Kazakh human rights activists, Ninel Fokina, Chair of the Almaty Helsinki Committee and Evgeny Zhovtis, Chair of the International Bureau of Human Rights, along with several representatives of Kazakhstan's Hare Krishna community.

In December 2007, Commission Chair Michael Cromartie presented the Commission's *Policy Focus Turkmenistan*, based on the conclusions of the Commission's trip to that Central Asian country, at a roundtable sponsored by Freedom House. In January 2008, the Commission co-sponsored a presentation at the Kennan Institute for Advanced Russian Studies of the Woodrow Wilson Center on "The Putin Government's Responses to Increased

Xenophobia," featuring Aleksandr Verkhovsky, a leading Russian expert on xenophobia and freedom of religion.

In April 2008, the Commission published *Prison Without Bars*, a follow-up report to its 2005 study of religious repression in North Korea. The purpose of the new report was to determine whether religious freedom conditions have changed, if the repressive government policies discussed in the first report remain in force, and whether refugees repatriated to North Korea continue to face harsh treatment. The report confirmed the continuing, pressing need for more effective action on the international level to address the repression of religious freedom and other human rights in North Korea.

The past decade has resulted in significant progress toward the primary goal of IRFA: to institutionalize concern for religious freedom in the U.S. government's foreign policy apparatus. Yet, as the chapters in this Annual Report demonstrate, the process is far from complete. Fully integrating religious freedom into the U.S. foreign policy agenda will continue to be a key challenge for U.S. policymakers in future decades as they work to advance this fundamental freedom in accordance with the IRFA legislation. Indeed, ten years after the adoption of IRFA, promoting religious freedom has proved to be more vital than ever to the political and humanitarian interests of the United States, as well as to national and global security.

SAUDI ARABIA

Introduction

Since its inception, the U.S. Commission on International Religious Freedom has raised serious concerns about religious freedom conditions in Saudi Arabia and recommended that the country be designated by the Secretary of State as a "country of particular concern," or CPC, for engaging in systematic, ongoing, and egregious violations of the right to freedom of religion or belief. The Commission was instrumental in securing Saudi Arabia's official CPC designation in September 2004.

In July 2006, as a consequence of CPC designation, the State Department announced that ongoing bilateral discussions with Saudi Arabia had enabled the U.S. government to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups."[1]

Nearly one year after the State Department announcement, the Commission traveled to Saudi Arabia in late May and early June 2007 to discuss religious freedom concerns and examine policy measures to ensure progress by the Saudi government in implementing several of its stated policies related to religious practice and tolerance. Such stated policies include: 1) halting the dissemination of intolerant literature and extremist ideology within Saudi Arabia and abroad; 2) reviewing and revising educational materials and textbooks; 3) protecting the subsidiary rights to private worship and to possess personal religious materials; 4) curbing harassment and repression of religious practitioners; and 5) empowering officially sanctioned human rights institutions. In addition, the Commission discussed the status of religious pluralism in the Kingdom, including freedom of religion or belief with respect to followers of different schools of thought within Sunni and Shi'a Islam, as well as for non-Muslims.

Although the Commission was extended various courtesies and assistance by the Saudi government in connection with the visit, the government refused Commission requests for meetings with officials at key agencies such as the Commission to Promote Virtue and Prevent Vice (CPVPV) and the Ministries of Education and Justice. The Commission also requested, but was not granted, meetings with members of the Consultative Council (Shura) and representatives of the King Abdul Aziz National Center for Dialogue, which inhibited the delegation from hearing various governmental points of view on a full range of issues. After the visit, then Commission Chair Felice D. Gaer wrote in late June 2007 to the Saudi Ambassador in Washington, DC and to the Chair of the Saudi Human Rights Commission, requesting textbooks from the current Saudi government curriculum, further information, and responses to outstanding questions. As of this writing, the Commission has not received a reply from the Saudi Ambassador. A July 2007 letter to the Commission from the Saudi Human Rights Commission stated that textbooks currently are being reviewed and copies would be sent to the Commission upon completion, although no completion date was given.

U.S. Policy

Until the State Department's CPC designation in 2004, many observers of the U.S.-Saudi relationship had been critical of the unwillingness of successive U. S. administrations to raise religious freedom and other human rights concerns as part of the bilateral agenda. The Commission had urged CPC designation for several years prior to the designation. In 2004, the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) concluded that Saudi Arabia was a "problematic ally in combating Islamic extremism," and called on the United States to "confront problems with Saudi Arabia in the open and build a relationship beyond oil, a relationship that both sides can defend to their citizens and includes a shared commitment to reform." Notwithstanding CPC designation, many observers contend that, even now, the United States does not want to jeopardize important bilateral security and economic ties by pushing for political and human rights reforms. Indeed, it is the conclusion of this Commission that CPC designation and subsequent U.S.-Saudi bilateral discussions have not resulted in substantial reforms by the Saudi government concerning religious freedom.

In September 2005, Secretary Condoleezza Rice approved a temporary 180-day waiver of further action to allow for continued diplomatic discussions between the U.S. and Saudi governments and "to further the purposes of the International Religious Freedom Act (IRFA)." The July 2006 announcement by the State Department included a renewal of the waiver by Secretary of State Rice. Other than the waiver, no action under IRFA has been taken by the U.S. government as a consequence of CPC designation.[2]

In August 2007, Congress passed legislation (H.R. 1, "Implementing Recommendations of the 9/11 Commission Act of 2007") that requires the President to report to it within 180 days on progress made by the Saudi government since 2001 "to facilitate political, economic, and social reforms, including greater religious freedom." As discussed in the recommendations below, this assessment should include progress by the Saudi government on implementation of the July 2006 confirmation of policies.

The Commission urges the U.S. government to address more actively and publicly religious freedom and other human rights issues with the Saudi Arabian government and report openly on the success or failure to implement genuine reforms in these areas in order to ensure that initiatives by the Saudi government will result in substantial, demonstrable progress. Specific recommendations are presented at the end of this chapter.

Findings

The Commission's findings from its visit and other information received during the past year are outlined below, followed by a detailed discussion of those findings and recommendations for U.S. policy. It should be reiterated that the Commission did not meet with a fully representational set of interlocutors during its visit. The majority of persons with whom the Commission met, both in and outside the government, stated their view that King Abdullah is making some efforts to bring much needed human rights reforms to the Kingdom. Most agreed that the pace of reform has been slow, and that obstacles—including but not limited to corruption and resistance within the Royal family and religious establishment from elements that oppose change—have hindered progress. The Commission visit confirmed that the Saudi government

persists in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of Sunni Islam.

General Findings: Lack of Progress on Reform Efforts

- Despite Saudi government pledges to institute reforms, particularly those confirmed in the July 2006 list issued by Ambassador-at-Large for International Religious Freedom John V. Hanford III, the Commission concludes that many of these promises remain just that—promises—that have not yet been reflected in the promulgation and implementation of tangible protections for human rights. Although the Saudi government has permitted some nascent steps toward the development of civil society, policies that would advance reforms have not yet been realized.

- The Commission continues to conclude that if the Saudi government were to implement fully the July 2006 policies it has previously identified and confirmed to the U.S. government for the purpose of improving conditions for religious practice and tolerance, it would begin to diminish some of its institutionalized abusive practices that have resulted in severe violations of freedom of thought, conscience, and religion or belief in Saudi Arabia and worldwide. However, the Saudi government has not been transparent with regard to evidence of progress on these policies. Nor has it established adequate measures to implement universal human rights standards and to provide enforceable remedies to the alleged victims. The Commission concludes that, as a result, little progress has been made with regard to implementation of the policies in practice.

- Some institutional response by the Saudi government to external and internal pressures to address the country's poor overall human rights situation has resulted in the establishment of two officially tolerated human rights institutions and more public discussion in the media about some human rights issues, including through a series of National Dialogue meetings. However, there continues to be substantial resistance to change from various sectors within the Saudi government, and numerous other impediments remain. In addition, many of the recommendations that have come out of the relevant National Dialogue meetings—on the rights of women, religious extremism, and educational reform—have not been implemented.

- Despite some increase in public space to discuss human rights issues, pervasive restrictions remain on civil society and political activists, including representatives of minority religious groups, particularly regarding freedom of speech, assembly, and association. The Commission to Promote Virtue and Prevent Vice (CPVPV), also known as the religious police or *mutawaa*, exercises largely unchecked power to curtail rights, and the courts do not offer due process protecting the individual or effective remedies for violations of those rights.

State Enforcement of Religious Conformity

- Saudi Arabia has a diverse population, both regionally and religiously, despite decades of Saudi government enforcement of religious conformity. Permitting the public practice of

only one interpretation of Islam and requiring public behavior to comply with this interpretation violates universal human rights standards and has resulted in discrimination and human rights violations against members of indigenous Muslim communities who follow other schools of thought, such as Shi'a Muslims, Ismailis, and non-conforming Sunnis, as well as both Muslim and non-Muslim expatriate workers.

- The Saudi government's harsh enforcement of its interpretation of Islam, together with other violations of freedom of religion, adversely affect the human rights of women in Saudi Arabia, including with regard to freedom of speech, movement, association, and religion, freedom from coercion, access to education, and full equality before the law. The Commission noted some increase in public space to discuss human rights practices affecting women. Unfortunately, the Saudi government has continued discriminatory measures aimed at the destruction, rather than realization, of many of the human rights guaranteed to women.

- There is a general attitude and policy of the government of curtailing universal rights for non-Saudi visitors to the country and inhibiting the enjoyment of human rights on an equal basis for expatriate workers, particularly for the two – three million non-Muslim workers, including Christians, Hindus, Buddhists, and others, who have come to Saudi Arabia for temporary employment. Provisions often included in labor contracts require expatriate workers to conform to Saudi religious customs and traditions, in the process forcing them to waive their inalienable human rights and submitting them to the limits of, and rights abuses by, Saudi employers.

Exportation of Extremist Ideology and Intolerance in Education Materials in Saudi Arabia and Around the World

- The Saudi government has undertaken some security measures to combat extremism inside the country, such as a "re-education" program for convicted "extremists" and the retraining or dismissal of imams known to espouse extremist views. However, these efforts appear to be designed to address security concerns rather than to implement reforms to protect human rights, including religious freedom.

- The Commission received mixed and contradictory messages about which government entity in fact has responsibility over materials that are sent abroad. Due to insufficient information provided by the Saudi government, the Commission could not verify that a formal mechanism exists within the Saudi government to review thoroughly and revise educational texts and other materials sent outside of Saudi Arabia. It appears that the Saudi government has made little or no progress on efforts to halt the exportation of extremist ideology outside the Kingdom.

- There is very little transparency in the process of textbook revision, curriculum reform, and teacher training efforts. Moreover, there is evidence that intolerant and inflammatory elements remain in textbooks. Despite numerous requests to obtain copies of textbooks during and after the Commission's visit, Saudi government officials did not provide a single textbook to the Commission. Furthermore, Saudi government officials did not

provide requested information on 1) how many teachers and principals have been retrained; 2) how many teachers have been held accountable for deviating from the approved curriculum; or 3) whether or how teachers' manuals have been revised to include the promotion of religious tolerance.

Official Harassment of Private Religious Practice

- Incidents of harassment, detention, abuse, and interference by members of the Commission to Promote Virtue and Prevent Vice (CPVPV) during non-Muslim private worship services have decreased over the past year. However, other than at a few tolerated compounds where private worship takes place, expatriate workers go to great lengths to worship in private for fear of government interference, which can occur if the worship service is too loud, has too many people in attendance, or occurs too often in the same place. Furthermore, Saudi officials do not accept that for members of some religious groups, the practice of religion requires more than the individual or a small group worshipping in private, but includes the need for religious leaders to be able to conduct services in community with others. Foreign religious leaders continue to be prohibited from seeking and obtaining visas to enter Saudi Arabia and minister to local religious communities. Despite repeated requests for details on the parameters surrounding private worship, guidelines as to what constitutes "private" worship were not specified by Saudi officials.

- In addition to the abuses, the CPVPV regularly oversteps its authority with impunity and is not subject to judicial review. Despite the fact that the CPVPV is not allowed to engage in surveillance, detain individuals for more than 24 hours, arrest individuals without police accompaniment, or carry out any kind of punishment, members have been accused of killing, beating, whipping, detaining, and otherwise harassing individuals. Some Saudis would like to see the entity dissolved altogether, while others would like to see greater accountability of its employees and volunteers, including prosecution for abuses. During the past year, CPVPV abuses were the subject of numerous articles in the Arabic and English press, garnering unprecedented attention in the public and international media. There have been a greater number of investigations of abuses, yet in the recent cases that have been prosecuted, CPVPV members have not been held accountable and complainants report summary dismissals without due process for them to obtain redress.

Empowerment of Officially Recognized Human Rights Institutions

- The government's Human Rights Commission (HRC) can advance human rights protections if it examines all internationally recognized human rights issues and its recommendations to the Saudi government are implemented in practice. The HRC would be more representative were it to include women members; it should also include freedom of thought, conscience, and religion or belief in its initial training on international human rights. The Commission welcomes the HRC's commitment to take up the issue of societal discrimination against Muslims who dissent from or who follow different schools of thought within Islam.

- The non-governmental National Society for Human Rights can play a more constructive role in protecting human rights by continuing to maintain its independence from the government and ensuring that its reporting and recommendations are in conformity with universal human rights standards.

State Enforcement of Religious Conformity

The Commission visit confirmed that the Saudi government persists in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of its version of Sunni Islam. This policy violates the rights of the large communities of Muslims from a variety of schools of Islam who reside in Saudi Arabia, including large populations of Sunnis who follow other schools of thought, Shi'a Muslims, and Ismailis, among others.[3] The government tightly controls even the restricted religious activity it does permit—through limits on the building of mosques, the appointment of imams, the regulation of sermons and public celebrations, and the content of religious education in public schools—and suppresses the religious views of Saudi and non-Saudi Muslims who do not conform to official positions. For example, only imams following a single school of Islam are permitted in the holy cities of Mecca and Medina, centers of Islamic thought traditionally reflective of Islam's great diversity because of the influx of pilgrims from all over the world.

Saudi Arabia has a very diverse population, both regionally and religiously, despite decades of Saudi government enforcement of religious conformity. Permitting the public practice of only one interpretation of Islam and requiring public behavior to comply with this interpretation violates universal human rights norms and has resulted in discrimination and human rights violations against members of indigenous Muslim communities who follow other schools of thought, such as Shi'a Muslims, Ismailis, and non-conforming Sunnis, as well as both Muslim and non-Muslim expatriate workers. The Saudi government attitude toward expatriate workers, particularly non-Muslim workers, is that they have come to Saudi Arabia only to work. As a result, provisions are often included in labor contracts requiring expatriate workers to conform to Saudi religious customs and traditions, forcing them to waive their inalienable human rights and submitting the workers to the limits of, and rights abuses by, Saudi employers.[4]

The Rights of Women

The government's monopoly on the interpretation of Islam and other violations of freedom of religion adversely affect the human rights of women in Saudi Arabia, including freedom of speech, movement, association, and religion, freedom from coercion, access to education, and full equality before the law. For example, when appearing in public women must adhere to a strict dress code and can be admitted to a hospital for medical treatment only with the consent of a male relative. Women require written permission from a male relative to travel inside or outside the country and are not permitted to drive motor vehicles. In addition, the Saudi justice system, in which courts apply Islamic law to the cases before them, does not grant a woman legal status equal to that of a man. Testimony by a woman is equivalent to one-half the testimony of a man; daughters receive half the inheritance that their brothers receive; and women have to demonstrate legally specified grounds for divorce, while men may divorce without

giving cause. In one of the most egregious cases in recent years, in November 2007, a woman, known in the media as the "Qatif Girl," was convicted and sentenced to 200 lashes and six months in prison because, immediately before she was gang raped by seven men in 2006, she was found alone in a car with a man who was not her relative, which is illegal in Saudi Arabia. She escaped the sentence only because King Abdullah pardoned her in December, though he also said he believed the punishment for the alleged crime was appropriate.

In February 2008, the UN Special Rapporteur on Violence Against Women, Yakin Ertürk, undertook a formal visit to Saudi Arabia and offered several preliminary observations and recommendations. Among them, the Rapporteur found that while there has been a "demystification of the taboo around violence against women" in recent years, there still existed "practices surrounding divorce and child custody, the absence of a law criminalizing violence against women and inconsistencies in the application of laws and procedures" that "continue to prevent many women from escaping abusive environments." Furthermore, the Rapporteur found that members of the CPVPV were "responsible for serious human rights abuses in harassing, threatening and arresting women who 'deviate from accepted norms'." The Rapporteur also highlighted the situation facing female migrant domestic workers of all faiths and backgrounds who continue to face serious human rights abuses and various forms of violence. Among other recommendations, the Rapporteur urged the Saudi government to develop "a legal framework based on international human rights standards," which would include a law criminalizing violence against women and a family law on marriage and divorce.

Shi'a Muslims

During its visit, the Commission met with numerous representatives of minority Muslim communities. The Commission found that Shi'a Muslims and members of indigenous Muslim communities who follow other schools of thought are subject to government restrictions on public religious practices and official discrimination in numerous areas, particularly in government employment and education. Nevertheless, Saudi officials claimed that the government does not discriminate on the basis of different schools of thought within Islam. One high-level official pointed to the fact that the Shi'a community has its own judges on personal matters and claimed that the community funds its own mosques because they have refused government assistance. However, Shi'a interlocutors said that the community does not register its mosques because of the fear of Ministry of Interior interference in activities that are already severely restricted. According to some Shi'a interlocutors, there are no Shi'a ministers in the government and very few Shi'a leaders in large corporations or in high-level government positions, particularly in the security agencies.

Two of the major concerns that were repeatedly raised by interlocutors were the ongoing discrimination by teachers against Shi'a children in schools and the intolerant content in school textbooks. Shi'a community leaders expressed concern that their children go to school and are told by state-employed teachers that they are "bad people," that "Shi'a Muslims are worse than Christians and Jews," or that "Shi'a Muslims are not true Muslims." Others showed school textbooks that contained discriminatory and inflammatory language about the Shi'a community. When the Commission raised this concern, one Saudi government official simply denied it, claiming that there is no textbook in the Kingdom which says that Shi'a Muslims are infidels.

Moreover, several non-governmental interlocutors cited concerns about *fatwas* (religious edicts) issued by conservative Sunni clerics in recent years, including in 2007, which justify committing violent acts against Shi'a Muslims. Members of the Shi'a community expressed a desire to see more active government intervention when clerics issue such provocative edicts. Furthermore, in many cases, application of criminal law includes harsher punishments for Shi'a Muslims as well as Ismailis. Since many Saudi judges consider Shi'a Muslims and Ismailis to be "non-believers," they are frequently dealt with more severely by the courts.

Upon its return from Saudi Arabia, the Commission learned that since January 2007, dozens of members of the Shi'a community in the Eastern Province have been detained for up to 30 days and then released for holding small religious gatherings in private homes. None of the individuals have been charged with any crime, nor have Saudi authorities offered any explanation other than suggesting that the short-term detentions were punishment for holding private religious gatherings. Furthermore, the Commission learned that several British and American Shi'a men who traveled to Mecca in early August 2007 were harassed and beaten by members of the CPVPV.[5] According to one of those detained, a member of the CPVPV was making derogatory remarks about Shi'a Muslims in a public lecture inside a mosque. When the CPVPV member realized that the visitor was Shi'a, he arrested him after a short exchange of words. Nearly a dozen of the Shi'a men, including two minors, were detained and held overnight after hours of interrogation and verbal and physical abuse. According to one of the individuals who was detained, intervention by British and American diplomats helped secure their release.

On a positive note, several members of the Shi'a community pointed out that over the past few years, there have been some improvements for the Shi'a community in the Eastern Province, particularly regarding the public expression of religious practice. Members of the Shi'a community in Qatif, where they represent the majority of the population, held their largest public gathering in observance of Ashura without government interference in 2007. However, authorities continue to prohibit observance in other areas of the Eastern Province, such as in Al-Ahsa and Dammam. It was also noted that there has been an increase in the number of Shi'a judges and courts for family matters and personal status. While the Shi'a community points to increased dialogue with the government, there is limited progress on a number of practical issues, such as the ability to teach Shi'a beliefs to Shi'a children in schools and the inability to re-open mosques and *hussainiyas* (Shi'a community centers) in Al-Ahsa and Dammam that have been closed by the government for years.

Due to U.S. Embassy security policies, the Commission was not able to visit Najran in the south, home to the vast majority of Ismailis in the Kingdom. However, the delegation was able to meet with some non-governmental interlocutors who had knowledge of the situation of Saudi Ismailis. Human rights advocates report that Ismailis, a Shi'a sect numbering some 700,000 inside Saudi Arabia, continue to suffer severe discrimination and abuse by Saudi authorities, particularly in government employment and education. The government does not finance the building of mosques for Ismailis and has closed down several places of worship in recent years. In 2000, in the Najran region, after members of the CPVPV raided and closed down an Ismaili mosque, approximately 100 Ismailis, including clerics, were arrested. Many

were released after serving reduced sentences, but dozens remained in prison for several years. As of this writing, 17 Ismailis remain in prison, some of whom reportedly have been flogged.

Another Ismaili, Hadi Al-Mutaif, also remains in prison after originally being sentenced to death for apostasy in 1994 for a remark deemed blasphemous, which he made as a teenager. Al-Mutaif continues to serve a life sentence on reduced blasphemy charges and some non-governmental interlocutors said that because of the nature of the crime, the King cannot pardon him. Defense lawyers are trying to appeal in court, claiming that Al-Mutaif violated civil rather than criminal law. According to an official at the Interior Ministry, King Abdullah planned to pardon Al-Mutaif last year, but because Al-Mutaif's offense is considered a *hadd* crime by the court and not a *tahzir* crime, there are fewer options for intervention.[6] According to government officials, the issue is now in the hands of the Supreme Court. The Saudi Human Rights Commission stated that it was also working on this case.

Other Minority Muslim Communities

Criminal charges of apostasy, blasphemy, and criticizing the nature of the regime are used by the Saudi government to suppress discussion and debate and to silence dissidents. Promoters of political and human rights reforms, as well as those seeking to debate the appropriate role of religion in relation to the state, its laws, and society are typically the target of such charges. For example, in March 2008, a Turkish Muslim citizen was sentenced to death by a court in Jeddah for allegedly blaspheming the prophet Muhammad; the sentence is being appealed to a higher court. According to a press report, two witnesses testified that they heard the Turkish man swear at God and the prophet Muhammad in a barbershop and reported it to authorities. In April 2007, an Egyptian Muslim guest worker reportedly was sentenced to death in the town of Arar in northern Saudi Arabia for allegedly desecrating the Koran and renouncing Islam. Media reports indicated that a court found the man guilty of no longer being a Muslim for "violating the boundaries set by God." In addition, spurious charges of "sorcery" and "witchcraft" continue to be used by the Saudi authorities against non-conforming Muslims. According to press reports, in 2007 the CPVPV arrested at least 25 individuals in Taif for practicing witchcraft and sorcery. Several individuals remain in prison on these charges.

In late December 2006, approximately 49 foreign guest workers, all members of the Ahmadi Muslim religious movement, were arrested by the CPVPV at a place of worship in Jeddah. In January and February 2007, an additional nine Ahmadis were arrested. In January 2007, after Saudi authorities began deporting several of the Ahmadi prisoners, mostly Indian and Pakistani nationals, international human rights groups called on the Saudi government to halt expulsions of foreign workers on account of their religious beliefs and affiliations. Despite this call, by early April 2007, all 58 of the Ahmadis had been deported. None of those deported are known to have been charged with any criminal offenses. In addition, two other Ahmadi religious leaders, who were not in Saudi Arabia during the initial arrests of 49 Ahmadis in December, have not returned to the country for fear of arrest and prosecution by Saudi authorities. According to the State Department, the Saudi government said that it had deported as many as 150 Ahmadis but it provided no explanation for their arrests or deportations.

Over the past few years, members of the Sufi community have been harassed, arrested, and detained because of their non-conforming religious views, although there have been no new

reports of such incidents in the past year. In September 2003, the *mutawaa* arrested 16 foreign workers for allegedly practicing Sufism; their status remains unknown. In June 2005, Saudi authorities shut down a weekly gathering held by a Sufi leader who adheres to the Shafi'i school of Islamic jurisprudence.

The Dissemination of Extremist Ideology and Intolerant Literature in Saudi Arabia and its Exportation Around the World

For years, the Commission has expressed concern that Saudi government funding and other funding originating in Saudi Arabia have been used globally to finance religious schools, hate literature, and other activities that support religious intolerance and, in some cases, violence toward non-Muslims and disfavored Muslims. During the past year, there were continued reports, including from the State Department, of virulently anti-Semitic and anti-Christian sentiments expressed in the official media and in sermons delivered by clerics, who in some cases continue to pray for the death of Jews and Christians, despite having been disciplined for preaching extremist views. During its visit, the Commission gained some information from Saudi government officials regarding efforts to combat extremism and contain dissemination of hate literature within Saudi Arabia. However, despite raising many questions on the subject, the Commission was told very little about Saudi government efforts to halt the exportation of extremist ideology and literature outside the Kingdom. According to the State Department, the Saudi government either itself operates or tightly regulates all publishing entities inside Saudi Arabia.

Efforts to Combat Extremism Inside Saudi Arabia

In recent years, the Saudi government has undertaken some security measures to combat extremism, such as a "re-education" program for convicted "extremists" and the retraining or dismissal of imams known to espouse extremist views. However, these efforts appear to be designed to address security concerns rather than to implement reforms to protect human rights, including religious freedom.

According to the Ministry of Islamic Affairs, there are approximately 72,000 mosques in the country and about 120,000 employees paid by the Ministry, including imams and muezzins (those who make the call to prayer).[7] According to Saudi officials, the government uses several methods to deal with imams who preach hatred and extremism in mosques. The Minister of Islamic Affairs stated that there are government-appointed Islamic scholars in each province who meet with the particular imam who has been identified as advocating extremist views. In the first instance, the representative of the Ministry engages in direct dialogue by meeting with the imam in question in public to discuss the matter. If this dialogue fails to convince the imam to change his views, the Ministry representative meets with the imam privately. If this discussion is not successful, the imam will be dismissed from his post or, in some cases, criminally charged if he is found to have incited violence. According to the Ministry, approximately 1,000 have been dismissed since the September 11 attacks on the United States. Since the Commission visit, a press report indicated that Interior Minister Prince Naif gathered hundreds of imams and preachers in Riyadh to stress the importance of combating extremist ideas through activities such as Friday sermons.[8]

The Ministry of Islamic Affairs claimed to have started "retraining" imams who espouse intolerance since 2006, and that this has yielded positive results, although no statistics or detailed information were provided. In March 2008, the Saudi government announced that the Ministry of Islamic Affairs and the King Abdul Aziz National Center for Dialogue would carry out the retraining of 40,000 additional Muslim clerics in the Kingdom as part of a program to promote tolerance and moderation in Saudi society.[9] Imams are reportedly trained at a special training center that allows them a chance to be exposed to more moderate views. Saudi officials also stated that teachers, imams, or professors who promote hatred and intolerance are dismissed. Those let go can work in other fields of public or private employment, but not within the education system.

Among those people who have been arrested for promoting hatred and inciting violence, several, particularly those who have been sentenced to prison terms, have gone through a "re-education" program that aims to encourage prisoners to renounce extremist beliefs. According to one high-level Saudi official, more than 700 individuals have gone through this program and been given jobs, and then subsequently tracked and monitored. Furthermore, Saudi authorities claim to make every attempt to arrest those who promote violent acts, not just the perpetrators of the acts. Despite repeated requests by the Commission during and after its visit, no further statistics or details on dismissals were provided; nor was the Commission permitted to meet any "retrained" imams or those engaged in the training process.

Efforts to Halt Exportation of Extremist Ideology Outside Saudi Arabia

Saudi authorities categorically denied that extremist literature or materials were ever distributed through official government channels outside the country, despite numerous well-documented studies and reports to the contrary.[10] There was acknowledgement from some officials that before the September 11 attacks, many Saudi Muslim volunteers took it upon themselves to distribute extremist materials abroad. Saudi authorities claim to have found a "very small amount" of intolerant material abroad that would be considered extremist and this material has been subsequently destroyed. According to Saudi officials, unless there is explicit permission by the Ministries of Culture and Information or Islamic Affairs, no materials can be sent overseas. Despite requests for further clarification, the Commission could not confirm whether a formal mechanism exists to review thoroughly and revise educational materials and other materials sent outside of Saudi Arabia. In addition, the Commission received mixed and contradictory messages about which government entity has responsibility over materials that are sent abroad.

When asked about reports that Islamic Affairs sections in Saudi embassies worldwide have been responsible for both distributing extremist and intolerant materials and providing diplomatic status to Muslim, even non-Saudi, clerics, a high-level Saudi official said that these sections have been closed temporarily, pending reorganization, due to these reports. No time-frame was given for these reorganization efforts. In the meantime, the Commission was told, the Ministry of Foreign Affairs is analyzing what further steps should be taken. However, it is not clear if the activities of the Islamic Affairs sections are being carried out through other entities in Saudi embassies. Despite requests for clarification, the Commission was not able to determine

whether diplomatic status is still being given to religious personnel, including imams and religious teachers, both Saudi citizens and non-Saudi foreign nationals.

Exportation of Extremism: an American Case in Point?

The Commission has raised concerns for many years that the Saudi government and members of the royal family directly and indirectly fund the global propagation of an ideology which promotes hatred, intolerance, and other human rights abuses, including violence. The concern is not about the propagation of Islam *per se*, but about credible reports that the Saudi government's interpretation of Islam promotes abuses of human rights, including violent acts, against non-Muslims and disfavored Muslims. One potential example that gained attention in recent years is the Islamic Saudi Academy (ISA), a Saudi government school located in northern Virginia. The operation of the school raises serious concerns about whether it is in violation of a U.S. law restricting the activities of foreign embassies and whether textbooks used at the school are in violation of international human rights standards.

The ISA is unlike conventional private or parochial schools in the United States in that it is operated by a foreign government and uses that foreign government's official texts, and therefore falls under the Commission's mandate to monitor the actions of foreign governments in relation to religious freedom. The ISA's board is chaired by the Saudi Ambassador to Washington, the school is located on two properties, one of which is owned, the other leased, by the Saudi Embassy, and the institution shares the Embassy's Internal Revenue Service employer tax number.

In October 2007, the Commission requested that the Secretary of State commence immediate diplomatic discussions and appropriate actions under the Foreign Missions Act by securing the release of all Arabic-language textbooks used at the ISA. The Foreign Missions Act gives the Secretary of State the authority to regulate foreign missions in the United States and the broad discretion to decide how to treat such missions based on, among other things, "matters relating to the protection of the interests of the United States."[11] The Secretary's authority includes the power to require a foreign mission to divest itself of or forgo the use of property and to order it to close. The Commission made its recommendation to ensure that the books used at the ISA be publicly examined to determine whether they promote discrimination, intolerance, or violence based on religion or belief. The Commission's concerns are not theoretical, as independent studies have found that textbooks used in Saudi schools, which the ISA, until last fall, also claimed to use, have incited violence against others on the basis of their religion.

Commission concerns about the ISA are exacerbated by the Saudi Embassy officials' repeated refusals, despite the strong basis of concern and requests from the Commission and Members of Congress, to make textbooks available for outside scrutiny. The Saudi government has claimed that it has made changes to the textbooks, including in the July 2006 confirmation of policies, by stating that it thoroughly reviews and revises "educational materials and other literature sent abroad to ensure that all intolerant references are removed, and where possible, attempt to retrieve previously distributed materials that contain intolerance."

Following its visit to Saudi Arabia, the Commission again requested copies of the textbooks used at the ISA, but as of this writing, Saudi Embassy officials have not made them

available. Shortly after the Commission raised the issue last October, the Saudi government reportedly turned over textbooks used at the ISA to the State Department, but as of this writing, the Department has not made them available either to the public or to the Commission. After the Commission issued its recommendation on the ISA in October 2007, the school did distribute some textbooks during a series of open houses held for selected reporters and congressional staffers. However, it did not make available the texts thought to have the most problematic passages, including *Tawhid* (monotheism) and *Tafsir* (Koranic interpretation). The Commission continues to monitor this situation.

Intolerant References in Educational Materials and Textbooks

In March 2006, the Saudi Embassy in Washington published a report summarizing efforts by the Saudi government to revise the state curriculum and a number of school textbooks to exclude language promoting religious intolerance.[12] Nevertheless, non-governmental organizations from outside Saudi Arabia continue to report the presence of highly intolerant and discriminatory language, particularly against Jews, Christians, and Shi'a Muslims, in educational materials published by the Ministry of Education.[13] It was these very kinds of contradictory assessments that the Commission sought to learn more about during its visit to Saudi Arabia. However, as mentioned above, the Commission's request to meet with a representative of the Ministry of Education was denied.

In several meetings with a variety of other Saudi officials, the Commission requested copies of textbooks, which were not supplied during the visit. Specifically, the Commission requested copies of textbooks used at all grade levels on *Hadith* (Islamic traditions), *fiqh* (matters of religious law and ritual), *tawhid* (matters of belief), Arabic language, and Saudi history. Despite the promise of several officials to send them to the Commission's office in Washington and later written requests by the Commission, as of this writing, nothing has been received. A July 2007 letter to the Commission from the Saudi Human Rights Commission stated that textbooks currently are being reviewed and copies would be sent to the Commission upon completion, although no completion date was given. The Commission delegation was told by U.S. Embassy officials that it also had not received copies of textbooks from the Saudi government, despite numerous requests over a period of several years.

According to a high-level Saudi official, oversight for textbooks and curricula fall within the jurisdiction of the Ministry of Education and the Ministry of Higher Education. The Ministry of Islamic Affairs stated that it does not have jurisdiction over textbooks or the education curriculum. Saudi officials did confirm that an inter-Ministerial committee was formed "some years ago" to review textbooks for intolerant content, although it was never made clear whether final decisions for changes to be made were under the purview of the Ministry of Education or the inter-Ministerial committee. A high-level Foreign Ministry official told the Commission that the Saudi government did review all the textbooks and removed language that was deemed to promote hatred and violence. According to this official, a representative of the Foreign Ministry served as a member on the committee. Most Saudi officials admitted some intolerant material in textbooks, but claimed that this was a very small portion of the curriculum. Furthermore, Saudi officials contended that much progress has been achieved over the past two – three years and that the government continues to work on the issue. They also claimed that the government does not

discriminate against any particular religious group and that government textbooks do not promote discrimination against people of different religious backgrounds. However, as discussed below, evidence from textbooks shown to the delegation privately demonstrates the contrary.

During the visit, non-governmental interlocutors offered varied perspectives on Saudi textbooks and the education system. Some claimed that the Saudi government has made progress in removing some disparaging references in textbooks, and ascribed the overhaul to both internal and international pressure. Others, however, while stating that some intolerant material had been removed over the past few years, indicated that much objectionable and discriminatory material remains. Some individuals pointed out that children from non-Sunni families must, on exams, affirm statements in the textbooks to the effect that their own religious beliefs are false; these children will otherwise fail the course and be forced to repeat it until they answer correctly. This is particularly true when the texts refer to Shi'a beliefs and tenets. The consequences frequently induce serious confusion for children regarding their beliefs, and, in some cases, psychological trauma.

Despite a request for clarification by the Commission, Saudi government officials did not respond to questions as to whether all students at the primary, secondary, or university levels are required to receive the same instruction in Islamic religious education, regardless of the child's religious background. Nor would the officials clarify whether students from different religions or sects of Islam are able to question the conclusions drawn about their sects or communities in the classroom. Individuals told the Commission privately that only one form of Islam is taught in schools and several Shi'a interlocutors supported this claim.

Other non-government interlocutors drew attention to additional weaknesses in the education system that resulted in the promotion of intolerance. Many pointed to the fact that the majority of Saudi teachers were poorly qualified; others stated that most teachers indoctrinated students in a "culture of intolerance" and that the attitudes and training of the teachers needed to be addressed in order to bring about change in the system. Some argued that regardless of the quality of the textbooks, it is the teachers who are manipulating the texts to promote intolerance, rather than understanding, among and between religious groups, Muslim and non-Muslim alike.

On this matter, one Saudi government official claimed that some teachers who promote intolerance and hatred have been fired and that others are being retrained. However, despite attempts to get further information from Saudi authorities, the Commission did not receive information about how many teachers and principals have been retrained. Furthermore, the Saudi government did not provide information about how many teachers have been held accountable for deviating from the approved curriculum, or if teachers' manuals have been revised to include promotion of tolerance.

Some non-governmental interlocutors stated that the entire education system is in disarray and needs a complete overhaul, beyond simply removing intolerant language in the textbooks, to ensure that students are properly prepared for the job market. In 2007, the Saudi government approved a $3 billion project "to ensure overall development of its students by increasing their knowledge as well as their physical, professional, psychological and intellectual

capabilities."[14] According to interlocutors, this process will take approximately three years to complete. However, none of these reform efforts will directly address the issues of intolerance.

In July 2006, the State Department stated that the Saudi government had confirmed that it plans to "revise and update textbooks to remove remaining intolerant references that disparage Muslims or non-Muslims or that promote hatred toward other religions or religious groups, a process the Saudi government expects to complete in one to two years [by July 2008]." In September 2007, the State Department reported that "changes made in 2006 and 2007 to the education system focused on updating teaching methods, including the use of increased class participation, active problem-solving methods, and small group workshops, but did not include revising substantive material." The State Department also reported that the Saudi government had taken "limited measures" to remove disparaging passages about other religious groups from its textbooks and that some 2006-2007 textbooks "were found to be more tolerant than previous textbooks and had fewer negative references to non-Muslims."

Early in 2008, the Saudi government posted on one of its Web sites[15] the current school year's curriculum, including all relevant religious texts taught in primary, middle, and secondary schools in Saudi Arabia. However, a survey of the texts on the Saudi government Web site reveals that many of the passages previously flagged by the Commission and other independent researchers for inciting religious violence and hatred still remain.

State Harassment of Private Worship and the Inability to Obtain and Possess Religious Materials without Harassment

There are no non-Muslim citizens in Saudi Arabia and no places of worship in the country are permitted other than mosques. In addition, the Saudi government enforces and limits public worship to its sanctioned version of Sunni Islam.

In meetings with the Commission delegation, several Saudi officials argued that it is not possible to have places of worship other than mosques in the Kingdom because Saudi Arabia is home to Islam's two holiest sites: Mecca and Medina. Moreover, most officials asserted that there is a *hadith* (oral tradition) from the Prophet Muhammad which says that only Islam can exist on the Arabian Peninsula, although another Saudi official and other interlocutors contended that this *hadith* is subject to differing interpretations. Although the Commission pointed out that other countries on the Arabian Peninsula, such as Qatar and the United Arab Emirates, do permit non-Muslim public places of worship, some officials went so far as to state that having non-Muslim places of worship on Saudi soil would be equivalent to building mosques on Vatican property in Italy. Commissioners drew a distinction between a geographic entity in Italy of two square miles with 800-900 residents versus a country the size of Saudi Arabia containing between two and three million non-Muslim residents. In addition, some officials claimed, without providing any evidence, that if a non-Muslim place of worship were built in the Kingdom, the public would be outraged and the place of worship would be subject to attack by extremists and conservative elements in the Kingdom. Another official claimed, again without providing any evidence, that public opinion among Muslims outside of Saudi Arabia would never permit the government to allow public worship by non-Muslims because the Kingdom is home to the twin holy sites. What is more, some officials suggested that if expatriate workers

wish to practice their faith in public, they should leave Saudi Arabia and go to other countries in the region.

Saudi officials reiterated the government position that non-Muslim expatriate workers are permitted to worship in private. However, guidelines as to what constitutes "private" worship remain unclear and vague. The Foreign Ministry estimated that there are between two and three million non-Muslim expatriate workers in the Kingdom. Some officials suggested that as long as non-Muslims practice their religion in small groups in private homes, no security entity would interfere, since there is no law that prohibits non-Muslims from practicing in this manner. Furthermore, they maintained that members of the CPVPV are not permitted to enter private dwellings under any circumstances.

Despite these claims, there continue to be instances in which members of the CPVPV have entered and raided private homes where non-Muslim expatriate workers were worshipping. According to some non-governmental interlocutors, the incidents of raids on private homes of non-Muslim expatriate workers by members of the CPVPV and other security authorities have decreased in the past year. However, expatriate workers from countries such as the Philippines, India, Pakistan, and some African countries continue to be vulnerable to surveillance and raids by Saudi authorities, despite the fact that CPVPV members are not permitted to conduct such surveillance.[16] In fact, representatives of non-Muslim communities continue to assert that, in practice, religious freedom simply does not exist in the Kingdom. The Commission was told, however, that conditions for private worship are better in the Eastern Province than elsewhere in the country, such as in the Nejd region in the central part of the country, where private religious services continue to be surveilled and, in some cases, raided by Saudi authorities.

It is unclear whether Saudi missions abroad inform expatriate workers who will be entering the Kingdom about their right to private worship, including the right to bring personal religious materials inside the Kingdom. Despite previous assurances by the Saudi government that this policy is in place, requests for clarification were not answered. Furthermore, Saudi officials do not accept that for members of some religious groups, the practice of religion requires more than individual private worship, but includes the need for religious leaders to be able to conduct services in community with others. Religious leaders continue to be prohibited from seeking and obtaining visas to enter and minister to local religious communities.

On a positive note, non-governmental interlocutors indicated that there has been a decrease in recent years in the practice by customs officials of confiscating personal religious materials when expatriate workers or visitors enter the Kingdom. Nevertheless, in August 2007, a press report found that the official Web site of the state-owned Saudi Arabian Airlines included information for travelers that the Airlines claimed was based on Saudi government customs regulations: "Items and articles belonging to religions other than Islam are also prohibited. These may include Bibles, crucifixes, statues, carvings, items with religious symbols such as the Star of David, and others."[17] This information clearly contradicts the reported Saudi policy, also confirmed to the United States, that customs inspectors at borders will not confiscate personal religious materials. Within days of the publication of the initial press report and other subsequent articles, the Saudi Arabian Airlines Web site removed the language about prohibiting specific religious materials.

In recent years, senior Saudi government officials, including King Abdullah and the Grand Mufti, have made statements with the reported aim of improving the climate of tolerance toward other religions; both also continued publicly to call for moderation. In November 2007, King Abdullah met with Pope Benedict at the Vatican. In March 2008, after a senior Muslim cleric, Sheikh Abdul-Rahman al-Barrak, issued a *fatwa* calling for the death of two writers who questioned why Christians and Jews should be considered apostates, King Abdullah proposed a dialogue with representatives of the so-called monotheistic faiths, Islam, Christianity, and Judaism. However, several days after King Abdullah's public proposal, press reports indicated that the Saudi Grand Mufti made clear that if such a gathering were to take place, representatives of the Jewish faith would not include Israeli Jews.

Official Harassment of Religious Practice

Restrictions on public religious practice, for both Saudis and non-Saudis, are officially enforced in large part by the CPVPV, a government entity that includes a force of approximately 5,000 all-male field officers and a total of 10,000 employees in over 500 offices throughout the country. There are also hundreds of "unofficial" volunteers who take it upon themselves to carry out the work of the CPVPV. The CPVPV, which reports to the King, is tasked with enforcing public morality based on the Saudi government's interpretation of Islamic law. Members of the CPVPV patrol the streets enforcing dress codes, maintaining the strict separation of men and women, and ensuring that restaurants and shops are closed during daily prayers. During its visit to the Kingdom, Commission requests to meet with representatives of the CPVPV were denied by the Saudi government.

Within the past year, members of the CPVPV have occasionally conducted raids on worship services in private homes. They continue to harass, detain, whip, beat, and otherwise mete out extrajudicial punishments to individuals deemed to have strayed from "appropriate" dress and/or behavior, such as wearing Muslim religious symbols not sanctioned by the government.

Saudi officials told the Commission delegation that members of the CPVPV are required to be accompanied by law enforcement officials while in the line of duty, although this is not always the case in practice. One high-level Saudi official said that CPVPV members are required to be trained, but many are not, and others work alone instead of together with police officers. According to one press report, members of the CPVPV did not receive their first ever training until early September 2007.[18] According to the Interior Ministry, members of the CPVPV do not have the right to detain or conduct investigations of suspects and must immediately turn suspects over to the police.[19] Saudi government officials claimed to have dismissed and/or disciplined members of the CPVPV for abuses of power, although reports of abuse persist.

During the Commission's visit, representatives of the National Society for Human Rights (NSHR) said that it had received numerous complaints from Saudi citizens and expatriate workers about alleged abuses by the CPVPV. In its first ever report released in May 2007, the NSHR documented several such cases, including unsubstantiated accusations, questionable interrogation practices, beatings, unnecessary body searches, forced entry into private homes, and coerced confessions.[20] The NSHR has recommended that CPVPV regulations be specified

publicly for clarification. According to representatives of the NSHR, members of the CPVPV are required to wear uniforms and badges, but many do not comply with this regulation and it is not necessarily enforced.

Over the past year, there has been unprecedented media coverage, both inside and outside Saudi Arabia, of alleged abuses by the CPVPV. Numerous cases have gone to trial or are going to trial, including alleged beatings and deaths of Saudi citizens.[21] In late May 2007, nearly a dozen members of the CPVPV raided the home of a man suspected of possessing and selling alcohol in Riyadh. The 28 year-old man, Salman al-Huraisi, died in custody at one of the CPVPV offices in Riyadh, and family members accused members of the CPVPV of beating him to death. Autopsy results confirmed that he died due to physical abuse. After an investigation by Saudi authorities, the Riyadh Governorate announced in June that all official CPVPV members involved were cleared of any wrongdoing, and that an "unofficial" volunteer, or part-time worker, would be held responsible for the death of the man.[22] Even before the official investigation was complete and the announcement made, Minister of Interior Prince Naif stated publicly that a preliminary investigation proved that members of the CPVPV were not responsible for the man's death. In November, a lower court acquitted two members of the CPVPV who were eventually charged with the killing of al-Huraisi. The Court of Cassation ordered a re-trial after identifying several errors made by the lower court, including failure to hear expert witnesses. In April 2008, a retrial began and is still in progress as of this writing.

In another case, a man died in June 2007 in the custody of members of the CPVPV in the northern town of Tabuk after he was apprehended for being found alone in a vehicle with a female who was not his relative. It was later established that the man, Ahmad al-Bulaiwi, was a part-time driver for the woman's family. Four individuals, including three members of the CPVPV and a police officer, went on trial for their involvement in the man's death; however, in late July, the court dropped the charges against all four men, reportedly due to the fact that an autopsy showed the man died of natural causes while in CPVPV custody.[23] Bulaiwi's family is appealing the decision of the court. There were also several incidents in the past year in which members of the CPVPV were in cars pursuing, at high speeds, individuals who either died or were seriously injured after the pursuit resulted in vehicle accidents.[24] In one of the cases, a CPVPV spokesman denied any participation involving CPVPV members; in other cases, investigations are ongoing.

Several non-governmental interlocutors with whom the Commission met expressed outrage about the abuses of the CPVPV and their belief that members of the CPVPV had long overstepped their authority with impunity. Many expressed concern that CPVPV members consider themselves "above the law" and have never been held responsible for abuses. Some believed that a *fatwa* (religious edict) exists that does not allow CPVPV members to be held accountable under the law, although the existence of this *fatwa* could not be verified. Despite the media attention, many contended that members of the CPVPV will not be prosecuted or brought to justice because they are protected by elements within the religious establishment and the Royal family.

Despite specific requests for further information, the Commission did not receive any response from the Saudi government on the number of CPVPV members who have been trained

or retrained to ensure that the human rights of Muslims and non-Muslims are protected. In addition, the Saudi government did not respond to an inquiry about the number of CPVPV members who have been held accountable in the past for committing abuses or overstepping their jurisdiction.

In July 2007, after the Commission's visit, Interior Minister Prince Naif issued a directive requiring CPVPV members to deliver immediately any individual arrested—male or female—to local authorities, reaffirming a Royal decree issued in 1981.[25] According to this directive, interrogations at CPVPV centers are prohibited and members who fail to abide by the guidelines should be dismissed. Furthermore, the directive gives authority to the General Investigation and Prosecution Authority to conduct random inspections of CPVPV offices. In June, the president of the CPVPV, Ibrahim al-Ghaith, announced that the CPVPV had established a legal department, the Department of Rules and Regulations, to handle legal matters and compliance with internal regulations, and had hired a spokesperson to handle public relations at its national headquarters.[26] It is not yet clear whether these changes represent genuine reform efforts or reform on paper only.

Empowerment of Officially Sanctioned Human Rights Institutions

Human Rights Commission

In September 2005, the Council of Ministers, chaired by King Abdullah, approved the establishment of a government-appointed, 24-member Human Rights Commission (HRC) that reports directly to the King. The membership of the HRC was not finalized until early 2007 and does not include any female members, although in March 2008, the HRC's Chair, Turki Al Sudairy, announced that a new royal decree would allow women members on the Commission. The HRC is mandated to "protect and promote human rights in conformity with international human rights standards in all fields, to propagate awareness thereof, and to help ensure their application in a manner consistent with the provisions of the Islamic Sharia."[27] During its visit, the Commission delegation met with Al Sudairy and numerous members of the HRC's Board.

According to several members, the HRC hopes to develop a knowledge of international human rights norms among the citizens and residents of the Kingdom, including about international treaties that the Saudi government has ratified. Because the Koran is the constitution of the country, members of the HRC stated that the country must operate strictly in accordance with Islamic law. The HRC stated that it already has negotiated agreements for cooperation with some government agencies, including the Ministry of Defense, the Ministry of Social Affairs, and the Red Crescent Society. In July 2007, the Ministry of Islamic Affairs agreed to work with the HRC to begin an awareness campaign in the Kingdom "to promote the ideals of human rights in the teachings of Islam."[28] The campaign will focus on creating awareness among Saudi citizens and residents about the teachings of human rights in Islam and will reportedly include Friday sermons, with the intention that imams will take part in fostering a culture of respect for human rights in mosques.

The HRC has not yet trained the police and security forces in human rights practices, but plans to do so. In addition, the HRC has initiated a dialogue with the Office of the UN High

Commissioner for Human Rights (UNHCHR) in Geneva, and UNHCHR representatives are scheduled to go to the Kingdom to conduct a training session for members of the Board. According to members of the HRC, the Board will also receive technical assistance from the UN in Geneva.

The HRC is also developing pamphlets on various human rights issues to demonstrate that human rights are not a "foreign" concept, but rather, in accordance with Islam. In this context, however, one of the representatives of the HRC told the Commission that there are two principles in the Universal Declaration of Human Rights with which it disagrees: 1) allowing Muslim women to marry non-Muslim men, and 2) conversion from Islam to another faith, although the HRC representative acknowledged that the latter is in dispute among Muslim scholars.

Procedurally, the HRC receives complaints from individuals and follows up to determine whether there has been a possible violation. The HRC then begins an investigation and makes appropriate recommendations to relevant government agencies. According to the HRC, it has received more than 1,000 complaints and has resolved at least two-thirds of them.

The members of the HRC identified several ways in which the HRC and the Saudi government are working to advance freedom of religion or belief in the Kingdom. These include the facts that: 1) the King regularly makes statements against religious bigotry; 2) the King Abdul Aziz National Center for Dialogue brings together all sectors of society, including various Muslim sects; 3) the government has removed approximately 2,000 imams who preached religious hatred and intolerance; 4) the HRC is introducing a "culture of human rights" to the public; 5) several cases involving imams inciting violence were brought to the attention of the HRC, which reported the cases to the relevant Ministries; and 6) an HRC women's section will be established soon to deal with women's rights in accordance with sharia. In addition, during the Commission's visit, the HRC publicly announced that it would take up the issue of societal discrimination against Muslims who follow different schools of thought within Islam.[29]

Several Board members admitted that the HRC's mission is still in the process of being formulated. They acknowledged that there is much to be accomplished, but also expressed a need to move slowly and introduce concepts gradually, so as not to push too hard on a population that is not familiar with international human rights concepts, particularly those related to freedom of religion or belief.

It is the Commission's view that the HRC can advance human rights protections if it examines all internationally recognized human rights issues and its inquiries regarding individual complaints and recommendations to the Saudi government are implemented in practice.

National Society for Human Rights

In March 2004, the Saudi government approved the formation of a National Society for Human Rights (NSHR), the country's first, and up to now, only independent, legally recognized human rights body. The NSHR is comprised of 41 members, including 10 women, and is chaired by a member of Saudi Arabia's Consultative Council (or Shura), a 150-member advisory

body. The NSHR, which was originally endowed by King Fahd, submits its reports and recommendations directly to King Abdullah. The Commission delegation met with members of the NSHR in Jeddah, the Eastern Province, and at its national headquarters in Riyadh. The NSHR has offices in Riyadh, Jeddah, Dammam, and Jizan, and will be opening an office in the northern region in the future.

Representatives of the NSHR stated that they work to promote the human rights of all in Saudi Arabia, both citizens and foreign nationals, as well as Saudi citizens abroad. They obtain information through individual complaints, site visits, public reports, and the media. The NSHR also studies state compliance with Islamic and international law and works to explain to the public that there is no contradiction between international human rights standards and Islamic law. According to members of the NSHR, their work is conducted in accordance with Islam and they are hoping to clarify through reporting that many human rights problems arise in the Kingdom because of old, outdated traditions and customs rather than religious precepts. Therefore, the issues can be addressed without contradicting Islamic principles.

The NSHR works with Saudi government agencies in order to press for the implementation of its recommendations. Representatives of the NSHR told the Commission it had already received cooperation from several government agencies, but admitted that the Ministry of Interior has not been fully cooperative. Generally speaking, the NSHR continues to have difficulties in getting government agencies to comply with international standards. As of this writing, no members of security agencies have received training on international human rights treaties, including the UN Convention against Torture, which NSHR members believed to be particularly important for security personnel. According to members of the NSHR, government agencies are required to respond to NSHR inquiries within three weeks, but this does not usually happen in practice.

Since 2004, the NSHR has received more than 12,000 complaints in various areas, from judicial issues to labor matters.[30] Representatives of the NSHR claimed to have resolved almost 70 percent of those complaints. Expatriate workers also lodged numerous complaints with the NSHR. Complaints related to family matters make up approximately 40 percent of all cases; some of the most important issues on the social level are domestic violence, divorce, and sexual harassment by relatives. According to the NSHR, raising women's issues used to be taboo some years ago, but today their issues can more openly be discussed in the media and in public. The NSHR office in Dhahran said it receives at least four complaints about domestic violence per day. According to NSHR members, the Ministry of Social Affairs recently established a new unit within the Kingdom to deal with violence against women.

Just days before the Commission delegation arrived in Saudi Arabia, the NSHR published its first ever report calling for wide-ranging improvements in human rights practices in the Kingdom. The lengthy report details abuses in the Kingdom on most international human rights issues and offers numerous recommendations for the Saudi government.

Although the section of the NSHR report on the "Right to Freedom of Religion and Belief" uses religious justifications to support the international right to freedom of religion or belief, it also reaches some troubling conclusions. The section highlights the fact that there should be no compulsion in religion and that "it is forbidden to force someone to forsake his

religion and adopt another…[and] man's freedom to choose his religion is the basis of belief."[31] Later in the section, the report states that "every individual is free to believe in anything and to adopt any ideas he wants." However, the report also specifies reasons that so-called apostates from Islam deserve retribution: "the apostate…according to Islamic Sharia, deserves punishment for raising *fitnah* (sedition), mayhem and damaging the general public order of the Islamic state." The Commission is disappointed that the report does not discuss any objections, from scholars or from a universal human rights perspective, to the concept of apostasy or the severe punishments. The report notes that no one has been executed for apostasy in recent years and claims that non-Muslims enjoy the right to private worship.

The section also states that because of decades of "conservative religious culture," there is a consensus within Saudi society that no religion other than Islam should be practiced in public. The report concludes that "this does not represent a violation of the right to freedom of belief, which is essentially a personal belief." Despite the NSHR's conclusions, it should be noted that the Universal Declaration of Human Rights and international treaties to which Saudi Arabia is a party clearly provide that the right to freedom of religion or belief includes the freedom "either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

The Commission believes that the NSHR can play a more constructive role in protecting human rights by maintaining its independence from the government and ensuring that its reporting and recommendations are in conformity with universal human rights standards.

Commission Activities

In recent years, the Commission has spoken out numerous times about religious freedom concerns in Saudi Arabia. In January 2008, the Commission released a public statement calling on President Bush to raise ongoing Saudi violations of the freedom of religion and other human rights during his meetings that month with Saudi leaders in the Kingdom. In October 2007, the Commission held a press conference at which it released its findings from the May-June visit to Saudi Arabia and presented the Commission's assessment of Saudi government progress on implementation of the July 2006 confirmation of policies. In April 2007, Commissioners Felice D. Gaer and Nina Shea met with the newly appointed U.S. Ambassador to Saudi Arabia, Ford M. Fraker, to discuss persistent religious freedom concerns. In December 2007, the Commission issued a public response to a letter from a group of parents of students at the Islamic Saudi Academy in northern Virginia.

In June 2006, then-Commission Vice Chair Shea testified on behalf of the Commission before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations at a hearing entitled "The Plight of Religious Minorities: Can Religious Pluralism Survive?" Commissioner Shea's testimony focused on religious freedom conditions in five countries—Egypt, Iran, Iraq, Pakistan and Saudi Arabia—as well as recommendations for U.S. policy. In September 2006, the Commission publicly expressed concern that the State Department had removed longstanding and widely quoted language, "freedom of religion does not exist," from its 2006 *Report on International Religious Freedom* on Saudi Arabia, despite the fact

that the report states that "there generally was no change in the status of religious freedom during the reporting period."

In October 2006, the Commission held a briefing on the current status of human rights and reform in Saudi Arabia with Ibrahim al-Mugaiteeb, President of *Human Rights First Society*, a human rights organization in Saudi Arabia that, despite repeated attempts to gain official recognition, has never been granted a license to function by the Saudi government. Mr. al-Mugaiteeb operates in the Kingdom at his own risk. In November 2006, the Commission issued a statement and wrote to then U.S. Ambassador to Saudi Arabia James Oberwetter about misleading claims by Saudi authorities regarding the purported release of religious prisoners in the southwestern region of Najran.

Recommendations for U.S. Policy

Below are Commission recommendations regarding U.S. policy toward Saudi Arabia.

I. Strengthen U.S. Human Rights Diplomacy as Part of the Bilateral Relationship

The U.S. government should:

- continue to designate Saudi Arabia a "country of particular concern," or CPC, under IRFA, for engaging in systematic, ongoing, and egregious violations of the right to freedom of religion or belief;

- create a formal mechanism to monitor implementation of the July 2006 policies as part of every meeting of the United States-Saudi Arabia Strategic Dialogue, co-chaired by the U.S. Secretary of State and the Saudi Foreign Minister; and ensure that U.S. representatives to each relevant Working Group of the Strategic Dialogue, after each session, or at least every six months, report its findings to Congress;

- work with the Saudi government to establish a civil society component of the United States-Saudi Arabia Strategic Dialogue so that non-governmental entities from both countries can be given a platform to discuss mutual human rights concerns, including freedom of religion or belief;

- report to Congress, as part of the reporting required under H.R. 1, Section 2043 (c) (1(b)) ("Implementing Recommendations of the 9/11 Commission Act of 2007"), on progress by the Saudi government to implement the July 2006 previously identified and confirmed policies related to religious practice and tolerance; a description of such progress should include Saudi government transparency and any benchmarks and timetables established for implementation of the July 2006 conformed policies;

- expand the religious educators program—which brings Saudi religious leaders and scholars to the United States through a three week International Visitor Program (IVP) to learn about religious freedom in the United States—to include visits to Saudi Arabia by appropriate

American leaders and educators, and increase the numbers and diversity and range of experience of visitors to both countries;

- address the work of the Human Rights Commission (HRC) and National Society for Human Rights (NSHR) by:

  --urging the Saudi government to ensure that all government agencies cooperate fully with the HRC and the NSHR, including by publishing the decree requiring cooperation and abiding by it, including with penalties for failure to cooperate;

  --urging the HRC to study the situation of freedom of religion or belief in the Kingdom, based on universal human rights standards, and report its findings publicly;

  --offering to facilitate training on universal human rights standards, including the right to freedom of thought, conscience, and religion or belief, as well as to provide limited technical support on universal norms to the HRC and NSHR; and

  --urging the Saudi government to implement recommendations from the NSHR's May 2007 report, which, while not addressing religious freedom concerns *per se*, if implemented, could be a welcome initial step towards improving overall human rights compliance in the Kingdom.

II. Address Exportation of Extremist Ideology and Intolerance in Education Materials in Saudi Arabia and Around the World

Given that official Saudi school textbooks continue to include language encouraging hatred and violence that adversely affects the interests of the United States and that the Saudi government, despite repeated requests over a period of several years, has failed to make its current textbooks available to support its claims that such language has been eliminated, the U.S. government should:

- request that the Saudi government:

  --make publicly available the curricula and teacher training manuals used in state primary and secondary schools inside the country;

  --provide an accounting of what kinds of Saudi official support have been and continue to be provided to which religious schools, mosques, centers of learning, and other religious organizations globally, including in the United States;

  --make public the content of educational and other materials sent abroad to demonstrate whether such activities promote hatred, intolerance, or justify or encourage other human rights violations;

--establish a transparent public effort to monitor, regulate, and report publicly about the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world;

--cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia; and

--ensure that Islamic affairs sections in Saudi embassies throughout the world remain closed indefinitely in accordance with past promises;

- report publicly to Congress on all the above areas as part of the reporting on progress of Saudi government implementation of the July 2006 confirmation of policies, referred to in the recommendation above; and

- communicate and share information with other concerned governments about the July 2006 policies related to Saudi exportation of hate literature and extremist ideology.

III. Press for Immediate Improvements in Other Areas Related to Freedom of Religion or Belief

The U.S. government should continue to advance adherence to international human rights standards, including the freedom of everyone to "manifest his religion or belief in worship, observance, practice and teaching" and prohibit coercion in matters of religion or belief. Saudi government persistence in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of its version of Sunni Islam is a violation of the freedom of thought, conscience, and religion or belief. As initial steps, the U.S. government should press for immediate improvements in respect for religious freedom, including by urging the Saudi government to:

--establish genuine safeguards for the freedom to worship privately;

--end state prosecution of individuals charged with apostasy, blasphemy, sorcery, and criticism of the government;

--dissolve the Commission to Promote Virtue and Prevent Vice (CPVPV) and entrust law enforcement to professionals in law enforcement agencies with a precise jurisdiction and subject to judicial review and immediately ensure that members of the CPVPV are held accountable and prosecuted for abuses; conduct prompt and independent investigations into reported abuses; ensure complainants due process and other rights under international law, including the right to challenge the lawfulness of his/her detention and be released if it is not lawful; and provide the right to a remedy, including an enforceable right to compensation;

--allow foreign clergy to enter the country to carry out private worship services;

--review cases and release those who have been detained or imprisoned for violations of human rights including their religious belief or practices;

--permit independent non-governmental organizations to monitor, promote, and protect human rights;

--invite the UN Special Rapporteur on Freedom of Religion or Belief to conduct a visit to Saudi Arabia in accordance with the standard terms for such a UN visit;

--ratify international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperate with UN human rights mechanisms;

-- implement the recommendations made in Section II ("Address Exportation of Extremist Ideology and Intolerance in Education Materials in Saudi Arabia and Around the World").

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[1] Office of the Spokesman, State Department Media Note, "Ambassador at Large for International Religious Freedom Briefs Congress on U.S.-Saudi Discussions on Religious Practice and Tolerance," July 19, 2007 *(http://www.state.gov/r/pa/prs/ps/2006/69197.htm)*.

[2] Under IRFA, the simple designation of a country as a CPC is not by itself sufficient action. CPC designation carries an obligation that one or more of certain actions specified in Section 405 of IRFA be taken, unless the Secretary of State, as the President's designee, determines that pre-existing sanctions are adequate or otherwise waives the requirement.

[3] Unfortunately, the Commission did not have access to certain Muslim minority communities. Therefore, this section of the report is limited in its focus to minority Muslim communities about which the Commission obtained firsthand information.

[4] Expatriate workers are also reportedly subject to physical abuse by their employers.

[5] Commission staff interviewed one of the American Shi'a Muslim visitors upon his return to the United States in September 2007. Also see Stephen Schwartz, "Saudi Arabia's Koran Cops," *The Weekly Standard*, September 3, 2007 *(http://www.weeklystandard.com/Content/Public/Articles/000/000/014/023xwsaa.asp)*.

[6] *Hadd*, a punishment mandated by the Koran, generally cannot be overturned by the state. *Tahzir*, a punishment not mandated by the Koran, is considered discretionary and less serious and can be overturned by the state.

[7] The primary mission of the Ministry of Islamic Affairs is to supervise and finance the construction and maintenance of the vast majority of mosques in the country, in addition to spreading the teachings of the Koran and translating it into as many languages as possible. The Ministry also maintains all Islamic endowments, particularly the two holy sites in Mecca and Medina. The Ministry publishes Korans and reviews materials in mosques to ensure compliance with its standards.

[8] Raid Qusti, "Awareness Drive to Promote Human Rights Set," *Arab News*, July 11, 2007 *(http://www.arabnews.com/?page=1&section=0&article=98370&d=11&m=7&y=2007)*.

[9] Magdi Abdlehadi, "Saudis to Retrain 40,000 Clerics," *BBC News*, March 20, 2008 (*http://news.bbc.co.uk/2/hi/middle_east/7308040.stm*).

[10] For example, see Center for Religious Freedom and Institute for Gulf Affairs, *Saudi Arabia's Curriculum of Intolerance*, Freedom House, 2006 *(http://www.hudson.org/files/publications/CRF_SaudiReport_2006.pdf)*.
[11] 22 U.S.C. 4301(c).
[12] "Summary of Saudi Arabia's Comprehensive Program to Revise the National Educational Curriculums," Royal Embassy of Saudi Arabia, Washington, DC, March 2006.
[13] Center for Religious Freedom and Institute for Gulf Affairs, *Saudi Arabia's Curriculum of Intolerance*, Freedom House, 2006 *(http://www.hudson.org/files/publications/CRF_SaudiReport_2006.pdf)*.
[14] P.K. Abdul Ghafour, **"**Education System Undergoing Major Overhaul," *Arab News*, April 17, 2007 *(http://www.arabnews.com/?page=1&section=0&article=95083&d=17&m=4&y=2007)*.
[15] *http://www.eschool.gov.sa/index.php?option=com_wrapper&Itemid=109.*
[16] It should be noted that during its visit, the Commission delegation had very limited access to non-Muslim expatriate workers from non-Western countries.
[17] Michael Freund, "Saudis Might Take Bibles from Tourists," *Jerusalem Post*, August 8, 2007 *(http://www.jpost.com/servlet/Satellite?cid=1186557401034&pagename=JPost%2FJPArticle%2FShowFull)*.
[18] Mariam Al Hakeem, "Case Against Saudi Religious Police Adjourned," *Gulf News*, September 4, 2007 *(http://archive.gulfnews.com/articles/07/09/04/10151174.html)*.
[19] Faiza Saleh Ambah, "An Unprecedented Uproar Over Saudi Religious Police," *The Washington Post*, June 22, 2007, p. A14.
[20] The Commission obtained from the U.S. Embassy in Riyadh a provisional translation into English of the original NSHR May 2007 report written in Arabic.
[21] Roula Khalaf and Andrew England, "Saudi Religious Police Face Pressure," *Financial Times*, June 5, 2007.
[22] See Human Rights Watch, "Saudi Arabia: Hold Religious Police Accountable for Killing," July 25, 2007 *(http://hrw.org/english/docs/2007/07/25/saudia16476.htm)*; and Raid Qusti, "Commission Cleared in Huraisi Death," *Arab News*, June 26, 2007 *(http://www.arabnews.com/?page=1&section=0&article=94954&d=26&m=6&y=2007)*.
[23] Abdullah Shiri, "Charges Dropped Against Saudi Police," *Associated Press*, July 31, 2007 *(http://www.washingtonpost.com/wp-dyn/content/article/2007/07/31/AR2007073101044.html)*.
[24] Yousuf Muhammad, "Car Crash Kills 4 in Madinah; Commission Role Suspected," *Arab News*, April 1, 2008 (*http://www.arabnews.com/?page=1&section=0&article=108448&d=1&m=4&y=2008*).
[25] See Asharq Al-Awsat, "Saudi Interior Ministry Issues Warning Against Commission," July 15, 2007 *(http://aawsat.com/english/news.asp?section=1&id=9580)* and Raid Qusti, "Govt Cautions Commission Members," July 15, 2007 *(http://www.arabnews.com/?page=1&section=0&article=98507&d=15&m=7&y=2007)*.
[26] Raid Qusti, "Virtue Commission Chief Disputes NSHR Findings," *Arab News*, June 11, 2007 *(http://www.arabnews.com/?page=1&section=0&article=97340&d=11&m=6&y=2007)*.
[27] The Commission delegation obtained from the Human Rights Commission a copy of their statute, Saudi Council of Ministers Decision No. 207, dated September 12, 2005. See Article I of the statute.
[28] Raid Qusti, "Awareness Drive to Promote Human Rights Set," *Arab News*, July 11, 2007 *(http://www.arabnews.com/?page=1&section=0&article=98370&d=11&m=7&y=2007)*.
[29] Raid Qusti, "Rights Group to Study Claims of Sectarian Prejudices in Society," *Arab News*, June 3, 2007 *(http://www.arabnews.com/?page=1&section=0&article=96997&d=3&m=6&y=2007)*.
[30] Raid Qusti, "Need to Teach Human Rights in School Stressed," *Arab News*, January 6, 2008 (*http://www.arabnews.com/?page=1&section=0&article=105345&d=6&m=1&y=2008*).
[31] See Chapter III, Section I, Paragraph I, of the National Society for Human Rights May 2007 report.

VIETNAM

Introduction

The Commission has recommended that Vietnam be named a "country of particular concern," or CPC, under the International Religious Freedom Act of 1998 (IRFA) every year since 2001. The State Department followed the Commission's recommendation in 2004 and 2005, designating Vietnam a CPC in those years. In May 2005, in response to the CPC designation, the State Department reached an agreement with Vietnam "that addresses a number of important religious freedom concerns," in order to establish benchmarks for improvement in religious freedom conditions and avoid potential sanctions. In November 2006, one week before President George W. Bush's visit to Vietnam for an Asia-Pacific Economic Cooperation (APEC) summit in Hanoi, the State Department removed Vietnam's CPC designation, citing its progress on religious freedom and the release of "prisoners of concern."

A Commission delegation visited Vietnam from October 23 – November 2, 2007 to assess current religious freedom conditions and evaluate reports of both progress and ongoing abuses. The Commission found that religious freedom conditions in Vietnam continue to be mixed, with improvements for some religious communities but not for others; progress in some provinces but not in others; reforms of laws at the national level that are not fully implemented or are ignored at the local and provincial levels; and still too many abuses of and restrictions on religious freedom affecting most of Vietnam's diverse religious communities. Some important changes were implemented and prisoners were released after the U.S. government designated Vietnam a CPC; however, it is not yet correct to state that the Vietnamese government is fully committed to respecting religious freedom instead of maintaining control of its diverse religious communities. In view of the ongoing and serious problems faced by many of Vietnam's religious communities, the uneven pace of reforms meant to improve the situation, the continued detention of religious prisoners of concern, and what can only be seen as a deteriorating human rights situation overall, the Commission again recommends that Vietnam be designated a CPC in 2008.

Since 2004, there have been important signs of improvement in religious freedom conditions in Vietnam. The government has expanded the zone of permissible religious activity and released a number of prisoners from a list provided by the State Department. It has issued new administrative ordinances and decrees that outlined registration procedures and outlawed forced renunciations of faith. However, this notable progress occurred alongside persistent abuses, discrimination, and restrictions. The government continues to imprison and detain dozens of individuals motivated by their religion or conscience to advocate for religious freedom reforms in Vietnam. The government persists in maintaining control of most religious organizations and restricts their activities and growth through a pervasive security apparatus and the process of requiring official recognition, registration with government-approved religious organizations, and permission for most activities. Independent religious activity is illegal, and legal protections for government-approved religious organizations are often vague and subject to arbitrary or discriminatory interpretation based on political factors. There are no clear penalties or procedures for holding accountable police or government officials who restrict or abuse

religious freedom. While new laws have promised needed protections, they have not been fully implemented or have sometimes been used to restrict and discriminate. In addition, religious communities and individuals viewed as political or security threats by the Vietnamese government face continued harassment, detention, or arrest. These include ethnic minorities, both Buddhist and Protestant, whose religious practice is viewed, in the words of a government training manual, as something to be "resolutely overcome."

Since January 2007, when Vietnam joined the World Trade Organization (WTO), religious freedom conditions have not improved as quickly or as readily as other areas important to the U.S.-Vietnamese relationship. Vietnam's overall human rights record remains very poor and in fact has deteriorated since that time, and the government has moved decisively to repress any perceived challenges to its authority. More than 30 legal and political reform advocates, free speech activists, labor unionists, and independent religious leaders and religious freedom advocates were arrested in 2007, placed under home detention or surveillance, threatened, intimidated, and/or harassed. Given the prominence of religious leaders in advocating for the legal and political reforms needed to guarantee religious freedom fully, their continued imprisonment or detention must be considered when measuring religious freedom progress in Vietnam.

In testimony given before the U.S. Senate in March 2008, Assistant Secretary of State for East Asia and Pacific Affairs Christopher R. Hill stated that Vietnam "no longer qualifies as a severe violator of religious freedom" because Vietnam has made a commitment to further change and because "all individuals the United States had identified as prisoners of concern for reasons connected to their faith" have been released. However, the Commission believes that the State Department's attempts to define religious prisoners as those arrested for "reasons connected to their faith" draws a needless distinction between "political" and "religious" activity not consistent with international human rights law. The Commission maintains that there may be scores of religious "prisoners of concern," including well-known religious freedom advocates such as Fr. Nguyen Van Ly and Nguyen Van Dai; imprisoned members of Hoa Hao, Cao Dai, and Khmer Buddhist religious communities; and United Buddhist Church of Vietnam (UBCV) and Catholic religious leaders held under administrative detention, in violation of core human rights protections. In many of the most recent cases, those detained were motivated by their religious vocation, conscience, or belief to call for the legal or political reforms needed to guarantee religious freedom or to organize peaceful demonstrations against religious freedom restrictions. Both the freedom to worship and the freedom to advocate peacefully for an end to religious freedom restrictions are actions consistent with the guarantees of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), which include protections for the freedom of thought, conscience, and religion.

This was made plain to the Commission during its meetings with prisoners Nguyen Van Dai and Li Thi Cong Nhan. Both pointed out that though Vietnam's constitution guaranteed religious freedom, further legal reforms were needed in order for this freedom to be fully realized. Both said that they were peaceful advocates and in contrast to government claims, did not aim to "destabilize" the Vietnamese government. Both also stated that the protection of religious freedom was an important foundation of their professional work. Nguyen Van Dai stated openly that his religious freedom advocacy was part of the reason he was arrested in

March 2007. The continued detention of religious prisoners of concern, and the existence of vague "national security" provisions in various laws used as the basis for their arrest (see below), is a primary factor in the Commission's determination that Vietnam remains a serious violator of religious freedom.

In addition to prisoners, other serious religious freedom violations continue to occur in Vietnam. Prominent religious communities, including the United Buddhist Church of Vietnam (UBCV) and some Hoa Hao and Cao Dai Buddhist groups, face unwarranted restrictions and abuses because of their attempts to organize independently of government oversight and control. Ethnic minority Buddhists and Protestants are often harassed, beaten, detained, arrested, and discriminated against, and they continue to face some efforts to coerce renunciations of faith, exemplified in the beating and subsequent death last year of an ethnic minority Protestant who refused to recant. Today, the intensity and number of religious freedom violations are at a lower level in comparison to previous years, which is a significant development; however, the changes have not yet been substantial enough to warrant the country's removal from the CPC list.

The Commission maintains that the State Department's removal of the CPC designation for Vietnam in November 2006 was premature. In addition to the fact of ongoing religious freedom violations, removing the CPC designation suspended the diplomatic framework that had led to a productive bilateral engagement on religious freedom and other human rights concerns and therefore removed the potential incentives and leverage needed to urge the Vietnamese government to continue to improve its human rights record. Thus, in order to address Vietnam's persistent, severe religious freedom concerns and articulate fully to the Vietnamese government that religious freedom and related human rights are critical matters affecting bilateral relations, the Commission urges the U.S. government to re-designate Vietnam a CPC.

The Commission Visit to Vietnam

The Commission delegation to Vietnam visited Hanoi, Ho Chi Minh City (Saigon), Hue, Pleiku, Banmenthuot, and Soc Trang. Commissioners met with Prime Minister Nguyen Tan Dung, Lt. General Nguyen Van Huong, the Vice Minister of Public Security, and members of the National Assembly, as well as numerous other government leaders and local officials. Even though human rights remains a sensitive bilateral issue, Vietnamese officials were willing to engage the Commission's questions and accommodated all of the Commission's requests for meetings and trip locations, including visits with current and former detainees. During its meetings with officials, the Commission made clear that the aim in raising concerns about religious freedom and other human rights was to improve U.S.-Vietnamese relations, which, the Commission maintains, cannot be fully normalized on the basis of mutual economic interests alone. Commissioners indicated that improving protection for religious freedom and related human rights, in both law and practice, would be of great benefit to bilateral relations and Vietnam's international standing, particularly in light of Vietnam's election as a non-permanent member of the UN Security Council.

During its meetings, the Commission noted the many steps that Vietnam could take to improve bilateral relations, including the revision or repeal of all vague "national security" provisions that result in human rights violations, such as Article 88 of the Criminal Code or

Ordinance 44,[1] the release of all remaining prisoners of concern, and the lifting of remaining restrictions on independent religious practice. The Commission raised prisoner cases and specific legal issues, and sought information about Vietnam's commitment to progress on these and other religious freedom issues. Both Prime Minister Dung and Lt. Gen. Huong invited the Commission to return at a later date, leaving the door open to future discussions. In addition to meetings with government officials, the Commission met with representatives of Vietnam's diverse religious communities, including representatives from the Vietnamese Buddhist Sangha, the UBCV, and the Cao Dai, Cham Muslim, Hoa Hao, Protestant, and Roman Catholic communities. Commissioners also met with representatives of various ethnic groups, including individuals from Hmong and Montagnard Protestant and Khmer Buddhist communities.

In general, Commissioners were allowed to meet with religious leaders and dissidents without Vietnamese government officials present. However, in Ho Chi Minh City and some provincial areas, several dissidents and religious leaders expressed some fear about meeting with the Commission, having been warned by police not to "say anything negative." It was soon discovered that police contact with and warnings to interlocutors prior to their meetings with the Commission was routine. Most religious leaders and human rights activists indicated that they expected to undergo some questioning after the meetings; however, most did not fear any serious repercussions.

The Commission found that religious freedom conditions have improved somewhat in ethnic minority areas, particularly for Protestants in parts of the Central Highlands. However, improvements often depend on the province, minority members' religious affiliation, and the goodwill of provincial officials. In the Central Highland province of Gai Lai, for example, ethnic Montagnard Protestants associated with the government-approved Southern Evangelical Church of Vietnam (SECV) have established a positive working relationship with the provincial officials, which has led to the re-opening of many religious venues closed after 2001, new religious training courses for pastors, and the construction of at least one new church building. However, in other ethnic minority areas of the Central Highlands and central coast region, there were reports of restrictions, land seizures, discrimination, and other abuses of religious freedom. It was also clear that government officials, even in Gai Lai province, remain wary of independent Protestant groups not affiliated with the SECV.

Reports of abuses and restrictions continue to emerge from Hmong Protestants and Khmer Buddhist communities. In recent years, the largest number of arrests, detentions, and incidents of harassment have come from ethnic minority Hmong and Khmer provinces. The government continues to be suspicious that religious activism will promote ethnic solidarity and eventually lead to calls for autonomy. In the northwest provinces and parts of the Mekong Delta, the government is suspicious of any independent religious activity it cannot fully control and actively suppresses any efforts to protest religious freedom restrictions publicly. During its visits to ethnic minority areas, the Commission emphasized to government officials that such policies of repression can often lead directly to the type of resentment and public protest they seek to avoid.

Vietnamese Protestants, Catholics, and non-UBCV Buddhist leaders uniformly reported that conditions had improved since the United States designated Vietnam a CPC in 2004. Some

leaders attributed changes directly to Vietnam's desire to join the international community as well as to the U.S. promotion of religious freedom in its bilateral relations. The pace of progress has been faster in urban areas and among groups viewed as "non-political." Nevertheless, even in urban areas, there are continuing problems. The government actively discourages independent religious activity and refuses to recognize legally the UBCV and some Hoa Hao and Cao Dai groups. Although the government has legally recognized different Protestant denominations and Buddhist groups and allowed them to operate and organize independently, it requires religious leaders and followers from the UBCV, Hoa Hao, and Cao Dai to affiliate only with government-approved religious organizations.

The situation for the UBCV and independent Hoa Hao and Cao Dai groups remains a serious religious freedom concern that has not significantly improved in recent years. The UBCV's attempts to create an independent organizational structure have been met with the harassment, detention, interrogation, and long-term administrative detention of the UBCV leadership, including the Most Venerable Thich Quang Do and Thich Huyen Quang. The Commission met with Thich Quang Do in Ho Chi Minh City and Thich Thien Hanh, another UBCV leader, in Hue. The restrictions on the UBCV leadership have also affected monks, nuns, and lay members of the community. There have been reports of the harassment and detention of leaders of the Buddhist Youth Movement, denunciations of UBCV monks and nuns, and harassment of lay Buddhists attending known UBCV pagodas. Independent Hoa Hao groups face similar restrictions, particularly in An Giang province. Over the past three years, 18 Hoa Hao have been arrested for either distributing Hoa Hao sacred texts or protesting restrictions on Hoa Hao religious practices. Fourteen Hoa Hao remain in prison, including four Hoa Hoa sentenced in 2007 for staging a peaceful hunger strike and a religious leader who sent written testimony to the House Foreign Affairs Committee hearing on Vietnam in 2006.

Findings

- Vietnam's designation as a CPC in 2004 resulted in positive bilateral diplomatic engagement on religious freedom that led to important reforms in the Vietnamese government's treatment of its religious communities. The CPC designation did not hinder U.S.-Vietnamese security or economic cooperation, as both areas, in fact, flourished between 2004 and 2006. Rather, diplomatic engagement brought about by the CPC designation provided a framework and incentives to discuss religious freedom and other human rights concerns, including restrictions on peaceful assembly, expression, and association.

- In view of the ongoing and serious problems faced by many of Vietnam's religious communities, including the continued detention of numerous religious prisoners of concern, the Commission again recommends that Vietnam be designated a CPC in 2008.

Prisoners of Concern

- There are scores of known religious "prisoners of concern" in Vietnam, persons imprisoned in violation of their human rights, for reasons related to their exercise or advocacy of freedom of religion or belief, including, for example, calling for legal reforms to advance religious freedom or organizing protests against religious freedom restrictions. The number

includes at least 15 individuals detained under administrative detention orders. It does not, however, include the Montagnard Protestants who were arrested after the demonstrations for religious freedom in the Central Highlands in 2001 and 2004. Precise information on why these religious leaders and adherents were arrested has been difficult to obtain, but the continued imprisonment of Montagnards remains another persistent religious freedom problem.

Ongoing Religious Freedom Abuses

- There have been some noted improvements in religious freedom conditions in Vietnam, including the expansion of permissible religious activity for Catholics, non-UBCV Buddhists, and some Protestant groups, the decrease in overt restrictions on the religious activities of most religious communities in urban areas such as Hanoi and Ho Chi Minh City, and government support for the building of some new religious venues, the training of some new religious leaders, and the holding of several large religious gatherings, particularly in Ho Chi Minh City.

- Nevertheless, despite the positive changes, the Commission found that religious freedom problems continue to be severe in some provincial areas or among religious groups and individuals the government views as political or security threats. For example, the Vietnamese government continues to place some restrictions on Vietnamese Catholics and remains suspicious of ethnic minority religious groups, such as Montagnard and Hmong Protestants and Khmer Buddhists. Ethnic minority Protestants especially continue to face harassment, detention, arrests, discrimination, property destruction, and some forced renunciations of faith.

- The Central Highlands region, the scene of protests for land rights and religious freedom in 2001 and 2004 that were violently dispersed by the authorities, continues to be the site of particularly severe religious freedom and other human rights violations. Since the demonstrations, officials have imprisoned those believed to have organized or taken part in the protests and those who sought asylum in Cambodia during police crackdowns after the demonstrations. Some Montagnard villages and communes remain under tight government control, and no international observer has been allowed unobstructed access to the region. Even "approved" churches face problems in this region; one-third of the SECV churches in Dak Lak province that were closed in 2001 continue to face serious restrictions on their activities and police regularly break up meetings.

- The freedom of movement, expression, and assembly of UBCV leaders continues to be restricted and there is significant official harassment of monks, nuns, and youth leaders associated with the UBCV. The government also continues to ban and actively discourage participation in independent factions of the Hoa Hao and Cao Dai, two religious groups unique to Vietnam, as well as the estimated 3 million ethnic minority Khmer Buddhists. All three groups are subject to harassment, surveillance, arrests, interrogation, and detention, as well as the defrocking of Buddhist monks. Most of the "prisoners of concern" come from among these three groups.

Government Training of Provincial Officials

- Implementation of the new religion ordinances and regulations remains a problem and has led to uneven enforcement, religious freedom restrictions, and some abuses. Assistant Secretary of State Hill, in his March 2008 Senate Foreign Relations Committee testimony, stated that the Vietnamese government was training government officials "throughout the country" to implement the new religion laws, a sign, he suggested, of "progress." However, official Vietnamese government figures indicate that since 2005, they have conducted only 16 training courses and eight workshops for Vietnamese civil servant in 17 of Vietnam's 59 provinces.

- The value of government-sponsored training seminars or workshops remains unclear, since the regulations regarding legal registration continue to be routinely misapplied or ignored in provincial areas—particularly in the Mekong Delta, northwest provinces, Central Highlands and central coastal regions, including Hue. In addition, there is evidence to suggest that in the Central Highlands, government officials were in fact trained to discriminate against Protestant communities by denying them housing, medical, educational, and other government benefits, including foreign assistance and development aid.

- The Vietnamese government's training materials for dealing with religious adherents in the northwest provinces continue to be antagonistic toward ethnic minority Hmong Protestants and Catholics and do not fully reflect Vietnamese law or international human rights standards. Provincial officials are urged to control and manage existing religious practice through the law, to halt "enemy forces" from "abusing religion" to undermine the Vietnamese state, and to "overcome…and solve the root causes…of the extraordinary growth of Protestantism."

Registration Issues

- The Vietnamese government has extended national legal recognition to various Protestant and Buddhist groups and to Baha'is, and has provided pledges of protection for religious activities. However, there are several different levels of legal recognition offered to religious groups, with "national" recognition being the most difficult to obtain. Most religious groups are granted permission to conduct "specific religious activities," a status that limits religious activities sometimes to a specific leader, location, or only to weekly worship. This last level of recognition has been used, on occasion, to restrict religious activities and members' participation, particularly among ethnic minority Protestants.

- Despite clear timetables for providing responses, the Vietnamese government has not responded to more than a thousand applications for legal recognition, including applications from Protestant house churches in southern Vietnam and Hmong Protestant churches in the northwest provinces, making them technically illegal. In several instances, churches whose applications for legal recognition were delayed or denied faced threats of closure by government officials.

- During the past year, some religious groups have stopped seeking legal recognition because government officials have placed conditions on the approvals of applications. These conditions include requiring application materials to include personal information about church members, a reduction in the size of religious groups' management committees at the district level, religious leaders to become police informants on the activities of other religious groups, and the participation of religious leaders in communist ideology courses.

Prisoners of Concern

By September 2006, then-U.S. Ambassador to Vietnam Michael Marine was quoted by the Voice of America as saying that there were no longer any "prisoners of concern" in Vietnam. That claim was referenced when the State Department decided to lift Vietnam's CPC designation two months later. As mentioned above, Assistant Secretary Hill, in testimony before the Senate Foreign Relations Committee in March 2008, claimed that "all individuals the United States had identified as prisoners of concern for reasons connected to their faith" have been released. Assistant Secretary Hill stated that the State Department recognized and continued to advocate for the immediate release of individuals imprisoned the previous year for involvement "in the pro-democracy group Bloc 8406, and other fledgling pro-democracy groups." Drawing a line between "political" and "religious" activity, the contention that there were no longer any religious prisoners of concern was a principal reason the State Department no longer considered Vietnam a "severe violator of religious freedom."

However, the Commission maintains that there may be scores of prisoners of concern, including religious freedom advocates such as Fr. Nguyen Van Ly and Nguyen Van Dai; at least two dozen members of the Cao Dai, Hoa Hao, and Khmer Buddhist communities; and those being held under long-term administrative detention, including UBCV leaders Thich Huyen Quang and Thich Quang Do and Catholic Fr. Phan Van Loi. In virtually all of these cases, the persons were detained, in part, because of their religious freedom advocacy. However, inexplicably, the State Department appears to exclude from consideration in this category the arrest or detention of those who, motivated by their religious belief, vocation, or conscience, organize in support of legal or political reforms to promote religious freedom, or those who monitor freedom of religion and are arrested or otherwise punished for publicizing their findings. In addition, there are hundreds of Montagnard Protestants arrested after demonstrations in 2001 and 2004 for religious freedom and land rights held in the Central Highlands, including an undetermined number of religious leaders.

It is the Commission's view that in all of the most recent cases of arrest, imprisonment, and other detention, religious leaders and religious freedom advocates had engaged in actions that are protected by international human rights instruments. In addition to the freedoms to believe and to worship, the freedom to peacefully advocate for religious freedom is guaranteed by the Universal Declaration of Human Rights and the ICCPR, which protect not only the right to freedom of thought, conscience, and religion or belief,[2] but also the related rights of freedom of opinion and expression,[3] and to freedom of peaceful assembly and association.[4] Moreover, the right to freedom of thought, conscience, and religion or belief is "far-reaching and profound" and "encompasses freedom of thought on all matters [and] personal conviction," as well as "the commitment to religion or belief." [5] These international human rights law standards are

specifically incorporated in IRFA's definition of how to assess a "violation of religious freedom."[6] Public action may have led to the advocates' detention or arrest, but the actions were taken on behalf of the right to religious freedom; thus, their detention is clearly a violation of international protections for this right.

The "prisoners of concern" include:

- Five Cao Dai followers being held after they were arrested in Cambodia for handing out fliers critical of the Vietnamese government's control of and restrictions on Cao Dai religious practice. The five were arrested in July 2005 with three other Cao Dai members, returned to Vietnam, and sentenced to 13 years for "fleeing abroad to oppose the Government" and "propagating documents against the Vietnamese Government to incite demonstrations and riots."

- At least a dozen Hoa Hao followers incarcerated since 2005 for protesting restrictions on Hoa Hao practice and the arrest of Hoa Hao followers, including four sentenced in May 2007 for staging a peaceful hunger strike.

- Five Khmer Buddhists arrested in February 2007 for leading a demonstration protesting restrictions in Sac Trong province. Also, imprisoned is Khmer Buddhist monk Tim Sarkhorn, who was arrested in Cambodia and returned to Vietnamese authorities allegedly for illegally crossing the border, though reportedly he was arrested for engaging in non-violent activities critical of the Vietnamese government's repression of the language, culture, and religious traditions of the Khmer ethnic minority in Vietnam.

- At least 15 individuals being detained under long-term administrative detention orders, including UBCV and Catholic religious leaders.

It is the Commission's view that Fr. Nguyen Van Ly, Nguyen Van Dai, and Li Thi Cong Nhan should also be considered "prisoners of concern," since they were detained, in part, because of their religious freedom advocacy. These three religious freedom and legal reform advocates were among the first arrested in March 2007 as part of the larger crackdown on democracy, labor, free speech, and human rights advocates by the Vietnamese government.

Father Ly had been arrested in 2001 and sentenced to 15 years in prison after submitting written testimony to this Commission. After he was granted an early release in 2005, he helped found *Freedom of Speech* magazine and organize the Bloc 8406 democracy movement, which began in April 2006 after hundreds of people signed a public petition calling for greater democracy and human rights, including religious freedom, in Vietnam. In April 2006, Fr. Ly founded the Vietnam Progression Party with the primary goal of restoring freedom of religion, speech, and association in order to build a society that respects "people's interests and human rights accords." One year after founding the Progression Party, Fr. Ly and four of his associates were sentenced under Article 88 of the Vietnamese Criminal Code for "propagandizing against the state." Fr. Ly received a sentence of eight years in prison and five years of house arrest.

Nguyen Van Dai, one of Vietnam's few human rights lawyers, has defended individuals arrested for their religious activities. He is also the co-founder of the Committee for Human Rights in Vietnam and one of the principal organizers of Bloc 8406. He was also arrested and given a five year sentence. Some of the public charges leveled against Fr. Ly, Dai, and his associate Li Thi Cong Nhan are related to their religious freedom advocacy. In the state *Family and Society* newspaper, for example, Fr. Ly is described as "joining hands with black forces and reactionary elements to build a force under the cover of freedom of religion activities." In the online publication of the Ministry of Public Security entitled *Law and Order*, Dai is accused of collecting "evidence of Vietnam's religious persecution" to send to "enemy powers and overseas reactionaries."[7]

In addition to the prisoners of concern identified by the Commission, another persistent religious freedom problem is the long-term imprisonment of ethnic minority Montagnard Protestants. The Vietnamese government arrested and detained hundreds of Montagnards suspected of participating in protests for land rights and religious freedom in the Central Highlands region in 2001 and 2004. The non-governmental organization (NGO) Human Rights Watch has compiled a well-documented list of 355 Montagnards who remain in prison.[8] Eyewitnesses confirm the continued long-term detention of Montagnards, including minors. Nguyen Khac Toan, sentenced to 12 years in prison for his advocacy of free speech and Internet freedom in 2002, mentioned that he shared a prison with "225 ethnic Protestant Montagnards." In the past seven years, ethnic minority Montagnards have been arrested on suspicion of engaging in demonstrations, for alleged connections to Montagnard groups in the United States, for organizing refugee flights to Cambodia, or for affiliation with the banned *Tin Lanh Dega*, an ethnic minority Protestant association that purportedly mixes religious activity with political activism.

It is difficult to determine the exact number of Montagnards imprisoned specifically because of their religious affiliation or activities; however, an official in the SECV has compiled a list of almost 150 individuals imprisoned for alleged sympathy with *Tin Lanh Dega* or because they allegedly failed to turn in members of their congregations who participated in the 2001 and 2004 demonstrations. Testimony by recently released detainees indicates that the Vietnamese government arrested many whose only "crime" was affiliation, whether through employment, church, or family with individuals suspected of "anti-government" activity. A full accounting of Montagnard prisoners, and at the very least, the unconditional release of those imprisoned solely on account of their religious identity or association, should be a critical element of future U.S.-Vietnam human rights dialogues.

Vietnam's Religious Communities: Improving Conditions for Some, Ongoing Restrictions and Abuses for Others

The number of those who profess to be religious adherents continues to grow in Vietnam. In large urban areas, the Vietnamese government has expanded the zone of permissible religious activity for Catholics, non-UBCV Buddhists, and some Protestant groups. Religious leaders in Hanoi and Ho Chi Minh City report few overt restrictions on their normal worship activities and the government continues to support the building of some new religious venues, the training of some new religious leaders, and permission to hold several large religious gatherings,

particularly in Ho Chi Minh City. Protestant groups report that police harassment has also declined overall, although the movement and activities of a number of their leaders continue to be monitored by the police. Improvements reportedly depend on geographic area, ethnicity, or the relationship established by religious leaders with local or provincial officials. Many religious leaders said positive changes began in early 2005 and continued through 2006, a time frame that corresponds with the U.S. government's designation of Vietnam as a CPC, an action that made religious freedom concerns a priority in U.S.-Vietnamese bilateral relations. Many religious leaders claimed that positive religious freedom changes were also made because of the Vietnamese government's desire to join the international community, a goal that included WTO accession and election to a non-permanent seat on the UN Security Council.

Despite noted improvements, the Commission found that religious freedom problems remained serious in some provincial areas and among religious groups and individuals the government views as political or security threats. For example, the Vietnamese government continues to be suspicious of ethnic minority religious groups, such as Montagnard and Hmong Protestants and Khmer Buddhists; those who seek to establish independent religious organizations, such as the UBCV, Hao Hoa, and Cao Dai; and those it considers to pose a political threat, such as "Dega" Protestants and individual Mennonite, Catholic, Buddhist, and house church Protestant leaders. Among these groups, there continue to be incidents of harassment, detention, arrests, discrimination, property destruction, and some forced renunciations of faith.

The government continues policies to maintain control of most religious organizations and restricts their activities and growth through a pervasive security apparatus, bureaucratic impediments, the process of official recognition and registration, and the requirement of official permission for certain activities. Independent religious activity remains illegal, and legal protections for government-approved religious organizations are both vague and subject to arbitrary or discriminatory interpretations based on political factors. The new Ordinance on Religion and Belief, which came into effect in November 2004, reiterates citizens' right to freedom of religion, including the freedom not to follow a religion; it also states that violations of these freedoms are prohibited. However, while the Ordinance promises needed protections, they are often not fully implemented or not available to all religious groups, and are sometimes used to restrict and discriminate against religious groups rather than advance religious freedom.

Vietnamese Catholics

Vietnamese Catholics report that the government has gradually eased its oversight over the selection and ordination of priests. It is still the case that all students for the priesthood must be approved by local authorities before enrolling in a seminary and again prior to their ordination as priests. However, the Church often moves ahead with ordinations after informing government officials. The government technically maintains veto power over Vatican appointments of bishops, but it reportedly cooperates with the Church in the appointment process. The government recently approved a bishop for the newly created Ba Ria Vung Tau Diocese, allowed a new Jesuit seminary to be built in Ho Chi Minh City, and permitted several local dioceses to hold religious education classes for minors on weekends and conduct some charitable activities. Hanoi continues to discuss conditions for the normalization of relations with the Holy See,

discussions that included a meeting between Pope Benedict XVI and Prime Minister Dung at the Vatican and a corresponding visit of a high-level Vatican delegation to Vietnam in February 2007.

Nevertheless, Catholics in Vietnam continue to face some restrictions. For example, in 2007, the government rejected the appointment of two bishops and two priests because of inappropriate "family backgrounds." There are also persistent restrictions on the establishment of Catholic seminaries and the recruitment of seminary candidates. In addition, there are continuing problems for Catholics in many rural areas. In Ninh Binh province, local police destroyed a sacred "Pieta" statue during a procession, although in that incident, the police were reportedly reprimanded by provincial authorities. The Archbishop of Hanoi is restricted from traveling to dioceses in certain regions of the country, including northwest Vietnam. Other examples of problems include the fact that provincial authorities in Son La and Dien Bien provinces refused to register a local Catholic diocese and mistreated lay Catholic leaders, Ha Giang provincial authorities refused to grant a parish priest a legal residency permit, and officials in Thua Thien-Hue province placed restrictions on the recruitment of seminary students.

The diocese of Hanoi continues to be locked in a property dispute with the government over buildings and property owned by the Papal Nuncio in Hanoi and seized by the government more than 50 years ago. In December 2007, some Catholics began staging prayer vigils at one property, leading to a tense stand-off with police that included threats and the beating of at least one participant. Prime Minister Dung intervened in the stand-off and has reportedly begun negotiations with the Vatican on the properties' return. Catholics in Hanoi are reportedly staging new vigils at the Thai Ha Redemptorist Church. The government press has encouraged local authorities to take "extreme action" to end the vigils and Catholic leaders have been brought in for "working sessions" with local police. The Commission will continue to monitor this ongoing situation.

Protestants in Vietnam

Conditions for Protestants have improved somewhat since 2004, particularly in urban areas. Protestant religious leaders told the Commission delegation that in the months immediately preceding President Bush's visit to Vietnam in November 2006, there were many positive changes, including an improvement in relations with government officials, decreased official harassment, fewer reports of forced renunciations of faith, expedited approvals of legal recognition applications, and the release of prisoners. The government also allowed worship activities to expand—mostly in urban areas, but also in parts of the Central Highlands as well as among Protestants affiliated with the government-recognized SECV.

However, after the State Department lifted the CPC designation and Vietnam achieved both Permanent Normal Trade Relations (PNTR) and accession to the WTO, momentum reportedly slowed considerably in many places, and stopped altogether in others. Because of poor implementation of Vietnam's regulations and ordinances on religion, noncompliant provincial officials, or government suspicion of ethnic minorities, Protestants continue to face problems. New bureaucratic or administrative controls are being used by some local officials to restrict worship activities, including zoning laws that prohibit attendance at services in other

districts, the denial of applications for legal recognition, or the regular use of the application process to demand personal information about the members of religious communities and/or gain control over the administrative affairs of independent house churches. In addition, some local officials have conditioned approval of registration applications on the leader's willingness to become a government informant. Many, if not most, of these recent problems can be considered isolated cases, but taken together, they appear to indicate that the Vietnamese government remains determined to maintain ongoing control over the practice of religion in ways that contravene human rights norms.

In addition to official restrictions, members of Protestant religious communities continue to face beatings and other ill-treatment, interrogations, harassment, fines, threats, and forced renunciations of faith, though the number and frequency of such abuses are fewer today than in the past. In January 2007, security forces tore down part of the church structure and briefly detained the congregation of Pastor Nguyen Quang in Ho Chi Minh City. Pastor Quang had previously been arrested in 2004, along with five other members of his congregation. In June and July 2006, police beat two men and two women from an unregistered Protestant church in Thanh Hoa province, after a dispute erupted over the home used by the congregation as a place of worship. Although there are reports that security officials were punished for the June incident, another member of the congregation in Thanh Hoa was beaten in October 2006 when he refused police orders to leave a prayer meeting.

In September 2006, Protestant pastor Tran Van Hoa was arrested and detained for two weeks and security officials closed down Christmas celebration services in a Baptist church in Haiphong, Bac Giang province. In Quang Ngai province, security officials reportedly told ethnic Hre Protestants that "unless they behave," their churches would be destroyed and leaders arrested "once the APEC [the Asia-Pacific Economic Cooperation summit meeting] is over." In the past year, local officials have destroyed property or confiscated land from Hre Protestants, fined adherents, and told leaders that they would be "tolerated as long as they did not gather in large groups." In June 2005, police detained 17 ethnic Hre Protestants; when community members refused to cease their religious activities, their homes and rice fields were burned and their land confiscated.

In the past 18 months, unregistered Protestant churches in Ben Tre, Kien Giang, Long An, and Soc Trang provinces reported that police had harassed their congregations, confiscated property, disrupted holiday services, and threatened to close their buildings. Incidents of local police harassment and beatings were also reported in the provinces of Quang Ninh, Hai Phong, Lang Son, Son La, Thanh Hoa, and Tra Vinh, often involving disruption of "illegal" meetings at Protestant house churches or restrictions on religious holiday celebrations. In November 2007, police broke up a house church meeting in Haiphong. There have also been reports of clashes between Vietnamese Protestants and local Khmer Buddhists in the Mekong Delta, allegedly instigated by provincial officials.

There is also disturbing evidence that provincial officials discriminate against ethnic minority Protestants. Children are denied access to high school, based on outdated laws prohibiting the entry of children from religious families. There are also reports that Protestants are denied access to government benefits readily available to non-Protestants. In addition, local

officials reportedly intimidate family elders, threatening to take away their government benefits unless they convince younger family members to renounce their religion. Montagnard Protestants have long complained of targeted discrimination, but there is troubling evidence that both provincial and government officials are training local officials in these discriminatory tactics. At a 2007 training workshop in Kontum, local police and government officials were reportedly trained in ways to deny medical, educational, housing, financial and other government services to "religious families" or to the families of recent converts. In addition, officials were instructed to divert foreign aid projects from known Protestant villages.

In March 2008, leaders of the SECV issued a public letter alleging that in spite of public promises to protect religious freedom, the Vietnamese government continues to confiscate and destroy church properties, interfere in church leadership decisions, and instigate communal violence against Protestants affiliated with the SECV. Moreover, the SECV expressed concern that government officials continue to interfere in the organization's internal affairs, including the reassignment and ordination of religious leaders. SECV leaders also claimed that despite efforts to engage government officials on issues of concern, two SECV churches were destroyed in Ho Chi Minh City in December 2007 and provincial authorities had allowed several ethnic Khmer, including a number of Buddhist monks, to vandalize and destroy church property and beat the members of two SECV congregations in the Mekong Delta, a region where Khmer Buddhist culture and religious practice are also severely restricted. In addition to these abuses, the SECV's letter also states that despite repeated requests, there has been no action resolving the SECV's claims on as many as 256 properties confiscated by the government after 1975.

Forced Renunciations of Faith

Incidents of forced renunciations of faith continue to occur, generally targeting ethnic minority Protestants, but including also some UBCV monks and nuns in recent years. A February 2005 decree outlawed the practice of large-scale forced renunciations of faith, which were a national policy before that time. According to the State Department, there continue to be "isolated but credible reports" in which local authorities "encourage renunciations" of recently converted Christians and pressure them to return to their traditional beliefs. In September 2006, a pastor in Dak Nong province reported that the deputy chairman of Dak Mil district accused him and his church of "anti-government activities" for not participating in required Sunday buffalo sacrifices, an activity that would have been contrary to his religious beliefs. There were other cases of fines, police summons, short-term detentions, or threats of withholding government benefits used to induce individuals to abandon their religion, including 30 ethnic minority Protestants in Coastal Ninh Thuan province and 10 Hmong Protestants in Dien Bien province.

In 2007, two Hmong Protestant leaders in Sang Chai hamlet, Lu Thanh village, Si Ma Cia district were physically assaulted and threatened with a gun in an attempt to force a new Protestant church to close and to coerce the members of the congregation to recant their religion. In Dien Bien province, Muong Lay district, Cha Cang commune, local authorities encouraged Hmong clan leaders to pressure local Protestant families to cease practicing their faith, including by forcing some families to construct traditional altars in their homes and/or to sign formal documents renouncing their beliefs. In Thai Binh province, Tien Hai district, Dong Lam commune, local authorities tried to force Protestant house church pastor Nguyen Van Cam to

sign documents committing him to stop holding church services. In Dien Bien province, East Dien Bien district, police broke up a house church meeting, banned worshippers from gathering, confiscated religious material, fined followers, forced some to cut wood, and visited the homes of church members to pressure them to abandon their faith. Religious leaders in the northwest provinces and central coast region, including leaders and followers from the Inter-Evangelistic Movement Bible Church, also reported that they were being denounced as "enemies of the state" for "believing in an American religion," and were forced to pay fines.

The most serious recent case of forced renunciation involved the beating death in Phu Sen province of an ethnic minority Protestant man named Y Vin Het. Credible reports from Phu Sen indicated that Y Vin Het was repeatedly beaten in police custody for refusing to recant his faith. He could not afford medical care and died of internal injuries in March 2007. Religious leaders complained about police tactics, but provincial officials forced the young man, without any independent medical examination or investigation, to mark a paper indicating that he was injured in a drunken brawl, a story repeated to the Commission during its meeting with the Ministry of Public Security (MPS). The Commission asked for the Phu Yen provincial police responsible for the beating death to be held responsible and for an account of their punishment to be published in the MPS's newspaper *Law & Order*. As of this writing, there has been no response from the MPS and no information about whether those responsible for Y Vin Het's death have been brought to justice, or whether there has been any independent or effective investigation.

Specific Problems in the Central Highlands

Montagnard Protestants

During the Commission's visit to the Central Highlands in November 2007, religious leaders indicated that the situation had markedly improved during the past two years, particularly for groups affiliated with the SECV. In Gai Lai and parts of Dak Lak provinces, local religious leaders and government officials have worked together to re-open churches closed since 2001, approve religious training classes, and legally recognize congregations. However, relations between ethnic minority residents of the Central Highlands and Vietnamese government officials remain tense in some provinces and there continue to be reports of an intrusive security presence in the region.

The Vietnamese government remains on guard against ethnic minority unrest since the Central Highlands was the scene of protests for land rights and religious freedom in 2001 and 2004. Numerous eyewitnesses report that the 2004 demonstrations were disrupted by attacks on protesters by security forces and hired proxies. There are credible reports of especially severe violence occurring in Dak Lak province, including the killing of at least 10 demonstrators. No public investigation of or accounting for police action during the 2001 and 2004 demonstrations has occurred. Since the demonstrations, however, Vietnamese officials have imprisoned those believed to have organized the protests, others suspected of taking part, and those who sought asylum in Cambodia during police crackdowns after the demonstrations. Vietnamese security officials have also pursued Montagnards into Cambodia to stop the flow of asylum seekers. Some Montagnard villages and communes remain under tight government control, and no

international observer has been allowed unobstructed access to the region, though diplomats have occasionally visited, including representatives of the UN High Commissioner for Refugees (UNHCR) and Ellen Sauerbray, the then-U.S. State Department's Assistant Secretary of State for Populations, Refugees, and Migration. There continue to be reports of Montagnards seeking asylum in Cambodia, despite efforts to halt the refugee flow by both the Vietnamese and Cambodian governments.

Religious leaders reported that in recent years, the government has relaxed some restrictions, allowing a reported 100 churches in the Central Highlands to register legally with the SECV. Several hundred more have been given *de facto* or official permission to operate pending registration decisions. As many as 700 of the 1,250 churches and meeting points closed after 2001 have since been re-opened. However, religious freedom improvements depend upon province, religious affiliation, and the goodwill of local and provincial officials. For example, severe restrictions on the activities of religious groups and believers in parts of Dak Lak, Dak Nong, Kontum, and Bien Phouc provinces continue. In Dak Lak province, the Commission delegation met with one house church Protestant pastor who described how government authorities had threatened to remove his residency permit, brought lawsuits against him to confiscate his property, and harassed and threatened his congregation until many of them left. Officials then put a sign up at the end of the road prohibiting entry to what was termed a "secret military area." This pastor stated that 14 other congregations affiliated with his group experienced similar problems. Many of the pastor's legal problems "disappeared" immediately prior to his meeting with the Commission; however, there have not been additional improvements since the Commission delegation left Vietnam and most of the same problems remain. Other ethnic minority Protestants, including members of the Stieng minority in Bien Phouc province and the Hre ethnic minority in Quang Ngai, continue to face discrimination and harassment or have had property confiscated by provincial officials. Central government authorities either ignore these problems or have not yet acted to curtail them. After conducting extensive interviews with Montagnard Protestants in 2007, Human Rights Watch confirmed that ethnic minority Protestants face severe restrictions on religious practice, expression, and association. Most repression targeted Protestants who refused to join the SECV or who were suspected of affiliating with the banned *Tin Lanh Dega* (Dega Protestant Church).

The Vietnamese government views *Tin Lanh Dega* as a subversive institution combining religion and advocacy of political autonomy. A recent study commissioned by the UNHCR found that few self-identified adherents of *Tin Lanh Dega* sought any type of political autonomy; rather, most sought "enhancement of their human rights position" and the "need to gather in independent *Tin Lanh Dega* church communities" that are separate from what they viewed as the Vietnamese-led SECV. Even those *Tin Lanh Dega* leaders who expressed a desire for greater political autonomy sought to advance this position peacefully. Nevertheless, to suppress *Tin Lanh Dega* activity or sympathy with the group, security officials in Dak Nong, Dak Lak, and parts of Gai Lai and Kontum provinces have engaged in severe violations of religious freedom and related human rights. Human Rights Watch found that police do not allow people to gather for worship, often live in the homes of known religious leaders, constantly monitor and interrogate religious leaders, and arrest and detain those found meeting clandestinely for prayer. Police also reportedly pressure some to sign pledges agreeing to "abandon Christianity and politics." In addition, police also use a variety of methods to coerce suspected Dega Protestants

to join the SECV, the government-approved religious organization. In February and March 2006, police in Gia Lai province reportedly detained individuals from several allegedly *Tin Lanh Dega* congregations in an attempt to force them to affiliate with the SECV. Police asked those detained whether they would remain "political" or whether they would follow the "Christianity of [the Prime Minister]." Those who refused to cease their religious activity reportedly were beaten and later released. SECV religious leaders told the Commission that attempts by police to coerce alleged *Tin Lanh Dega* congregations to join the SECV were made without their knowledge or cooperation.

Beatings and Other Ill-Treatment, Restrictions, Detentions, and Discrimination

Religious leaders in the Central Highlands have reported that progress made in the previous year has, for the most part, stalled. New legal registrations and recognitions have stopped, officials are refusing to approve new building permits, and the authorities have not renewed permission to hold additional religious education classes. Over the past year, even members of the government-approved SECV have been subjected to beatings and other ill-treatment, arrests, and various restrictions, including government discrimination. According to the State Department, one-third of the SECV churches in Dak Lak province that were closed in 2001 continue to face severe restrictions on their activities. Police regularly prevent people from gathering and break up meetings, halting religious activity in as many as 100 congregations. In Say Thay, Kontum province, district officials told visiting State Department diplomats that "no religion" existed in the area and refused to provide details about the alleged beating of two ethnic minority Dao Protestant leaders. In July 2006, police in Dak Nong province arrested and reportedly mistreated 10 ethnic minority M'Nong Protestants and accused them of "participating in American Protestantism" and "anti-government activities." Six were detained for between three and six months. As of January 2007, four remained incarcerated under obscure provisions in the legal code relating to national security and "national solidarity." Religious leaders from Dak Nong report that most of those arrested were young people holding unauthorized prayer meetings outside of a recognized religious venue and for possessing cell phones.

Abuses in the Northwest Provinces

Among Protestant groups, ethnic minorities in Vietnam's northwest provinces continue to experience the greatest number of restrictions and abuses. Since 2001, the government has closely monitored Hmong Protestants and conducted campaigns among them involving harassment, detention, beatings, and forced renunciations of faith. During this time, hundreds of churches and meetings points have been forced underground, and in the period between 2002 and 2003, at least two pastors were beaten to death while in detention. The Vietnamese government has long tied the growth of Protestantism in the Hmong community to alleged separatist aims that require a security response.

Recent government documents appear to recognize that ethnic minority Protestants in the northwest provinces have a "genuine need" to practice their religion. Over the past several years, the Vietnamese government has begun to allow Hmong Protestants to gather for worship purposes and, according to the State Department, to conduct religious activity in homes "during the daytime." In the last year, the government has given an estimated 60 churches official

permission to conduct legal religious activity as a "pilot project." An estimated 1,000 other religious venues in the northwest provinces are seeking affiliation with the Evangelical Church of Vietnam, North (ECVN), and hundreds of other house church Protestant groups are conducting some sort of independent religious activity in the region.

However, these positive moves have been accompanied by persistent official harassment and even repression. For example, ECVN leaders were told to stop accepting new applications for registration after the number reached 671. Though required by law to respond to new applications in a timely manner, Vietnamese government officials have denied or ignored all new applications for legal recognition, making these religious groups technically illegal. ECVN officials were told that they should not expect approval of new registration applications this year. Two Protestant leaders from Lao Cai province were detained for two weeks and fined because they traveled to Hanoi to acquire registration application forms from ECVN leaders.

ECVN leaders have also expressed concern about the way local authorities are interpreting the new laws on religion. In a State Department investigation of the current situation, ethnic minority religious leaders reported that security officials regularly attend religious services, check church membership lists, and force anyone not on the list to leave. In some locations, security officials have reportedly barred anyone under the age of 14 from attending services, banned mid-week meetings and programs for children and young people, and insisted that religious leaders be chosen under their supervision. During its visit to Vietnam, the Commission confirmed that some of these practices continue to occur.

Forced Renunciations, Detentions, and Fines

Despite a February 2005 decree prohibiting forced renunciations of faith, official efforts to coerce individuals to renounce their religion reportedly continue. In 2006, Protestants in Muong Lay district, Dien Bien province, were forced by police to construct traditional animistic altars in their homes and sign documents renouncing Protestantism. In April 2006, four Hmong Protestants from Gap Trung village, Hoang Su Phi district, Ha Giang province were pressured unsuccessfully by border guards to sign documents renouncing their faith. Also in April 2006, police in Dien Bien province beat 10 Hmong Protestants in an attempt to induce them to renounce their faith. In January 2007, security officials threatened to freeze the bank account of a Protestant leader in Muong Khong district, Dien Bien province unless he either left the district or renounced his faith. Members of one house church Protestant group in the northwest provinces report that police actively broke up meetings of worshippers and authorities refused to register their meeting areas. Members of this group reported that they were forced to "meet secretly at night, in the fields" in order to worship and that police actively pressured them to abandon their religion and return to "traditional beliefs." There are no reports that any security officials have been punished for these actions, despite the fact that they have been technically illegal since the February 2005 decree.

In addition, although the number of reported abuses has declined in recent years, the persistent reports detailing detentions, fines, and other forms of harassment indicate that the central government continues to limit the religious freedom of ethnic minority groups in Vietnam. Ethnic minority Protestants have been fined and detained for carrying Protestant

literature and training materials and for providing researchers with information about religious freedom conditions. In Muong Nhe district, Dien Bien province, a house church deacon was detained after he returned from Hanoi carrying church documents and applications for registration. Since that time, there are reports that a special task force of security personnel has been living in the district to monitor the activities of Hmong Protestants there. In January 2007, four Protestants from Tuyen Quang province were arrested for transporting 115 Christian books and training materials. They were released after a week and fined $1,000—several years' wages. Police have threatened to charge the village chief of Muong Nhe district, Dien Bien province with national security crimes for sending researchers documents about government attempts to "prohibit Christian practice" in the northwest provinces. In June 2007, a Protestant group in Bat Xat district, Lao Cai province reported that local government authorities imposed fines of up to approximately $100—amounting to one half year's wages—on eight "illegal Protestants" and imposed material fines on nine others (apparently by confiscating chickens). The "illegal Protestants" were accused of following Protestantism without seeking permission from provincial authorities, although the group had submitted an application for registration with the ECVN. Sometimes the harassment results in violence, as in July 2007, when a government-sanctioned veterans' group in Ha Giang province burned down a home where ethnic minority Protestants met for worship and damaged other buildings in an attempt to stop their worship activities.

The United Buddhist Church of Vietnam

The restrictions and abuses faced by the UBCV remain a serious religious freedom concern in Vietnam. The freedoms of movement, expression, and assembly of UBCV leaders continues to be restricted, and there is significant official harassment of monks, nuns, and youth leaders associated with the UBCV. During its trip to Vietnam, the Commission met with the Most Venerable Thich Quang Do in Ho Chi Minh City and the Venerable Thich Thien Hanh in Hue. Thich Quang Do, as well as Thich Huyen Quang, are still restricted in their contacts and movement. Western diplomats and high-level Vietnamese officials have met with these leaders in the last year, and Thich Huyen Quang was allowed to seek needed medical treatment. However, 12 senior UBCV monks remain under some form of administrative probation or "pagoda arrest." Charges issued in October 2004 against UBCV leaders for "possessing state secrets" have not been rescinded. Repression of the UBCV is not entirely focused on its leadership, as local attempts by monks to organize "provincial boards" are also thwarted.

During its meeting with the Most Venerable Thich Quang Do, the Commission delegation asked about the Vietnamese government's charge that the UBCV was a "political" organization. In September 2007, President Nguyen Minh Triet threatened to put on trial and convict UBCV monks who "are hiding under the cloak of religion…to overthrow" the government." Thich Quang Do said that his advocacy for religious freedom and related human rights in Vietnam was directly related to his vocation as a monk and the "2,000 year old tradition of Mayahana Buddhism." According to Thich Quang Do, "Buddhists promise not to kill, steal, engage in sexual misconduct, or lie, but when the government steals land, engages in sexual trafficking of young girls, stifles free speech, or arbitrarily kills or mistreats victims in prison we must speak out against state repression, that is why the government views the UBCV as political and why we are threatened with arrest and detention." Thich Quang Do continued, "But our first

need is freedom of religion," [and] "the Vietnamese people need religious freedom to address all of Vietnam's growing social problems. We have tried to organize and carry out our work peacefully, but we are unable."

Since 2005, the UBCV has organized more than 20 provincial and local representative boards in central and southern Vietnam. Police regularly harass and interrogate monks and laypeople who have organized provincial level boards in Quang Nam-Danang, Thua Thien-Hue, Binh Dinh, Dong Nai, Quang Tri, Lam Dong, and Bac Lieu provinces. Monks have been detained and ordered to withdraw their names from the boards and cease all connections with the UBCV. Over the past year, government officials in Lam Dong province have sought to depose Thich Tri Khai from his post as superior monk of the Giac Hai pagoda in Dong Duong district. In late March 2008, pressure on the Giac Hai pagoda increased, as police and representatives of Vietnam's Fatherland Front, a Communist Party organization, reportedly offered bribes to anyone who would denounce Thich Tri Khai. Twelve Buddhist monks associated with the government-approved Vietnamese Buddhist Sangha (VBS) signed a petition supporting Thich Tri Khai's ouster. However, 239 monks affiliated with the UBCV signed another petition opposing the government's action. All of those who signed the counter-petition have been threatened and subjected to "working sessions" at local police stations.

Prior to their action targeting Thich Tri Khai, Lam Dong provincial officials reportedly issued a "secret plan" in September 2007 to orchestrate his removal, according to the International Buddhist Information Bureau in Paris. The document, which the Information Bureau has obtained, is an indication of the Vietnamese government's aim to harass and restrict the UBCV in Vietnam. It describes the "illegal" UBCV as a "hostile force" using "the advantage of religion to oppose the State and sabotage the people's great tradition of unity." The document also advises provincial authorities to "mobilize local people against those who take advantage of religion…consolidate evidence in the form of complaints from local people and religious followers about Thich Tri Khai's morals and virtue, and [launch] public accusations against him." Thus far, however, the government has been unable to depose or remove Thich Tri Khai from the Giac Hai pagoda, despite the trumped up charges and denunciations from local Buddhists.

The efforts of Lam Dong provincial officials are being duplicated in other areas. In April 2008, police and local officials reportedly entered the UBCV-affiliated Phuoc Hue pagoda in Quang Tri province, vandalized the property, destroyed statues and the pagoda's gate, assaulted monks filming the vandalism, and beat head monk Thich Tu Giao. Police also assaulted and detained Thich Tu Giao's mother and members of the Buddhist Youth Movement present at the pagoda. Local officials set up barriers on roads leading to the pagoda and put up signs declaring the pagoda to be a "forbidden area." It was the second time police had vandalized the Phuoc Hue pagoda over the past year. Previously, police destroyed a newly-built kitchen and warehouse and allegedly stole money contributed by local Buddhists for pagoda building projects.

Restrictions and abuses targeting the UBCV affect lay Buddhists as well as associated monks and nuns. The Vietnamese government has actively sought to stop the organization of the Buddhist Youth Movement. In the last year, police have briefly detained monks attending a

youth conference in Hue and have subjected the lay Buddhist organizers of the conference to constant interrogations and harassment. In 2007, the UBCV's national youth leader, Le Cong Cau, was held under house arrest during preparations for the Hue conference. In late November and early December 2007, UBCV Youth Leaders Ho Dac Thich and Mai Tien Son from Phuong Vy district, Hue were detained and interrogated. Other youth leaders in Phuoc Vinh district, Tay Loc district, and Huong Phong village were detained and interrogated. All reportedly were asked to resign their positions under the threat that criminal charges would be brought against them. Police also threatened to revoke family members' government benefits. Former religious prisoner and monk Thich Thien Minh continues to face constant harassment and in March 2007, local officials reportedly tore down the pagoda in which he was living. The next day he was presented with a "police order" accusing him of "activities opposing the Socialist Republic of Vietnam." In addition, Thich Thien Minh was ordered to renounce his position as UBCV Youth Commissioner, cease all contacts with the outlawed UBCV leadership, and disband operation of the Former Political and Religious Prisoners Association, which the authorities consider an "illegal organization."

Vietnamese authorities continue to threaten and detain monks and adherents of UBCV affiliated monasteries, as well as others seeking to meet UBCV leaders. Lay Buddhists who visit the pagodas of known UBCV leaders are harassed and information about them is collected. In December 2005, reports emerged that UBCV nun Thich Nu Thong Man was subject to a "denunciation campaign" and expulsion order by provincial authorities in Khanh Hoa province. Police threatened local villagers with the loss of jobs and government services unless they publicly denounced the nun and reportedly asked provincial authorities to have her expelled from the local monastery. In January 2007, security officials from Binh Dinh province issued orders prohibiting future religious gatherings at the Thap Thap monastery, reportedly threatening that local Buddhists would lose their jobs or their children would be expelled from school if they did not obey.

Hoa Hao, Cao Dai, and Khmer Buddhist Communities

The government continues to ban and actively discourage participation in independent factions of the Hoa Hao and Cao Dai, two religious groups unique to Vietnam claiming membership of four million and three million respectively. There are also an estimated three million ethnic minority Khmer Buddhists, centered in the Mekong Delta region. Long-standing restrictions on the Khmer have lead to peaceful demonstrations in both Cambodia and Vietnam. The Vietnamese government has viewed such actions as a threat to public order and responded with harassment, surveillance, arrests, interrogation, and detention, as well as the defrocking of Buddhist monks, some of whom have taken the lead in organizing protests. The Commission met with Hoa Hao and Cao Dai religious leaders in Vietnam and visited Soc Trang province to discuss issues related to Khmer Buddhism in Vietnam. Improvements experienced by other religious groups have not extended to these communities. In addition, most of the "prisoners of concern" described above come from these three groups.

Both the Cao Dai and Hoa Hao pointed to the government's ongoing oversight of and control over their communities' internal affairs. The Cao Dai continue to protest that the Vietnamese government controls their rituals, celebrations, funerals, and the selection of

religious leaders. For example, the government has long banned the use of séances, the key method for selecting Cao Dai leaders. Another complaint is related to the government's rejection of the Cao Dai charter drawn up before the 1950s, the official unwillingness to allow the community to maintain its own independent source of income, and the seizure without compensation of Cao Dai properties after 1975. Some Cao Dai traditionalists have refused to participate in the government-appointed management committees and have formed independent groups. Eight Cao Dai were arrested in 2005 for protesting government control.

The government-recognized Hoa Hao Administrative Committee (HHAC) was organized in 1999. Several leaders of the Hoa Hao community, including many pre-1975 leaders, have openly criticized the HHAC, claiming that it is subservient to the government. They have set up their own organization, the Hoa Hao Central Buddhist Church (HHCBC), and have sought legal recognition. HHCBC leaders and followers face significant official repression. The government has arrested individuals caught distributing the sacred texts of the Hoa Hao founding prophet, Huynh Phu So, broken up ceremonies held by the HHCBC commemorating its founder, and destroyed sacred properties, including a library and other artifacts in An Giang province. Religious leaders also claim that the Religious Publishing House publishes only a part of the Hoa Hao sacred texts and actively restricts attempts to distribute full scriptures.

In May 2007, a court in the Dong Thap province sentenced four Hoa Hao followers to between four and six years in prison for "creating public disorder" under Article 245 of the 1999 Penal Code. The four were arrested for their involvement in a peaceful hunger strike protesting the arrest and imprisonment of at least eight other Hoa Hao sect members in 2005, as well as more general allegations of government suppression of the Hoa Hao religion.

The Vietnamese government's repression of the language, culture, and religion of ethnic Khmer living in Vietnam has intensified, leading to growing resentment. Long-simmering tensions emerged in 2006 and 2007, as Khmer Buddhist monks in Cambodia protested the Vietnamese government's religious freedom restrictions in demonstrations that were violently dispersed by Cambodian police. In February 2007, more than 200 Buddhist monks staged demonstrations in Sac Trong province to demand greater religious freedom, including, among other demands, more language instruction in the sacred Pali language and the lifting of a ban on month-long ordination ceremonies. At least 10 monks were defrocked and five arrested for taking part in the demonstrations. According to reports, five other Khmer Buddhists are being held under administrative detention in their pagodas. In May 2007, five monks were sentenced to terms ranging from two to five years for "causing a public disorder." In July 2007, the Vietnamese government arrested Tim Sarkhon, a Khmer Buddhist monk living in Cambodia, on charges of "illegally crossing the border." Sarkhorn was earlier defrocked by Cambodian Buddhist leaders for undermining the "friendship" between Vietnam and Cambodia when he organized demonstrations in Cambodia.

After the February 2007 demonstration in Soc Trang, provincial officials and police expanded surveillance and restrictions on Khmer Buddhist religious activity and pressured Khmer Buddhist leaders to identify or defrock monks critical of the government. As Theravada Buddhists, the Khmer have ethnic and religious traditions distinct from the dominant Mahayana Buddhist tradition practiced in most places of Vietnam. Khmer Buddhists in Cambodia have

called for a separate religious organization for their co-religionists in Vietnam, an idea roundly rejected by provincial officials during the Commission's visit to Soc Trang.

Government Handbook on Religious Practice in the Northwest Provinces

The Committee on Religious Affairs in Hanoi publishes a handbook to instruct provincial officials in northwest provinces of Vietnam on how to manage and control religious practice among ethnic minorities. The Commission was critical of the 2006 version of the handbook because it offered instructions on ways to restrict religious freedom, including a command to "resolutely subdue" new religious growth, "mobilize and persuade" new converts to return to their traditional religious practice, and halt anyone who "abuses religion" to undermine "the revolution." While the handbook is important because it recognizes the legitimacy of "some" religious activity, it also indicates that the Vietnamese government will continue to control and manage religious growth, label anyone who seeks to spread Christianity in the northwest provinces a national security threat, and use unspecified tactics to "persuade" new converts to renounce their beliefs.

The Commission, as well as international human rights NGOs, criticized the 2006 handbook, noting that it promoted control of religious communities rather than protection of religious freedom. The Commission also pointed out that the text did not reflect international human rights norms on religious freedom and seemed to condone forced renunciations of faith targeting "new" converts. Vietnam's Committee on Religious Affairs promised to revise the 2006 handbook and issue a new version in 2007. The revised handbook was presented to the Commission during its meeting with the Religious Affairs Committee in Hanoi.

An analysis of the revised handbook reveals, unfortunately, that the new edition is hardly better than the previous one. Provincial officials continue to be urged to control and manage existing religious practice through law, halt "enemy forces" from "abusing religion" to undermine the Vietnamese state, and "overcome the extraordinary…growth of Protestantism." This last instruction is especially problematic, since it suggests that the growth of Protestantism among ethnic minority groups continues to be viewed as a potential threat to public security and that it is the "responsibility" of officials to stem it. As stated in the revised handbook "Protestant growth can explode at any time…and is spreading to other tribes and regions…some can take advantage of religion to practice superstition, to violate the policies and laws of our State, to incite division among the people, to cause disturbances, to violate the common good or threaten the security of the State."

In the 2006 version of the handbook, local authorities were told to identify ethnic minority Protestants "new" to the faith and "mobilize and persuade" them to "return to traditional religious practices." In the revised 2007 version, these commands are replaced with more vague instructions to "solve the root cause" of Protestant growth by "mobilizing" ethnic groups to "preserve their beautiful religious traditions" by "developing the economy and society…to raise the standard of living." The words are different, but the task of officials managing religious communities remains essentially the same: religious practice must be managed and controlled, religious growth must be thwarted, and outsiders who, in their view, use religion to undermine the state must be stopped.

The 2007 version of the handbook was revised, as promised, but the new version does not promote or fully protect religious freedom in the northwest provinces of Vietnam. Rather, it tolerates some religious practice while continuing to view new religious growth as a political and security problem needing to be "overcome" and "solved."

Legal Registration and the Implementation of the New Ordinance on Religion and Belief

Both Vietnamese and U.S. government officials have claimed that the implementation of the November 2004 Ordinance on Religion and Belief and the expansion of legal recognition for religious groups are signs of progress in the protection of religious freedom in Vietnam. The Ordinance does affirm the right to freedom of religion. However, it also requires that all religious groups register with the government in order to function legally, and bans any religious activity deemed to cause public disorder, harm national security and national unity, or "sow divisions." In addition, there continue to be problems in the implementation of a number of the provisions of the Ordinance, problems that include: the excessive denials or delays in approving thousands of legitimate registration applications, the refusal to register all but a handful of Protestant congregations in the north and the northwest provinces, inconsistent registration procedures and other legal requirements, continued restrictions on the recruitment or selection of religious leaders, difficulties in establishing a sufficient number of Catholic seminaries and Protestant pastor training courses, and unresolved land expropriation claims involving a number of religious groups.

Religious organizations that gain legal recognition are, in principle, allowed to open, operate, and refurbish places of worship, train religious leaders, and obtain permission for the publication of materials. To obtain official recognition, an organization must first receive registration at the national level. According to the legal framework, a religious organization must have been in operation in Vietnam for 20 years in order to move through the three legal stages needed to receive national-level registration. To its credit, since 2006, the Vietnamese government has issued national-level recognition to at least six Protestant organizations, five Buddhist groups, and the Baha'i community.

Other religious groups have encountered problems in the application process. The most basic level of registration is the most problematic, whereby a single religious venue is given permission to "carry out specific religious activities" that may be limited to approval of place, time, and number of people attending. This level of registration sometimes requires annual renewal. The second level of registration allows religious venues to affiliate with an already established religious organization or denomination. It is possible, after one year, for this group of religious venues or organization to draft a government-approved constitution and hold a convention to elect officers. At that time, the group can apply to Hanoi for national-level recognition. Vietnam's Prime Minister must authorize an organization's application in order for it to gain national legal status. Only those religious groups that reach this final level of recognition can carry out the activities detailed in the Ordinance on Religion, such as religious education, the ordination of leaders, the operation of religious sites, and the conducting of charitable activities.

One benefit usually noted about the Ordinance is that it makes the registration process clearer than the regulations used in the past. The new Ordinance does set specific timetables and delineates a process for gaining national-level recognition. Nevertheless, though religious groups have been approved for legal recognition at all levels, even with the Ordinance, the most common response to applications is either no response or denial. Religious venues whose approvals are denied remain illegal.

Other problems with the Ordinance have also emerged:

- The requirement that registration be gained for "specific religious activities" has been used to restrict religious practice. Some registered congregations in the northern region and the northwest Highlands complained that officials attend services, deny entrance to individuals not on application lists, refuse to approve religious meetings that are not held on weekends, and prevent members from participating in services through harassment by local authorities or their agents. Annual activities by congregations must also be registered with the authorities, and activities not on the accepted annual calendar require separate government approval.

- The approval process is slow and there is no redress for denials. Thousands of applications for legal recognition have not been answered, including at least 671 applications from ethnic Protestant churches seeking to affiliate with the ECVN. There are similar approval problems in the Mekong Delta region. Religious venues that are denied legal recognition have no clear avenue of appeal. Provincial authorities have threatened to close several religious venues that have been denied registration.

- There are frequently unreasonable demands made by local officials, including that a religious organization provide lists of members of all its congregations as a precondition to registration, even though this specific requirement was not codified in the Ordinance on Religion. Many house church Protestants have ceased seeking national registration because local and provincial authorities are requiring that all district/provincial administrative staff be removed, religious leaders undergo indoctrination classes in Communist ideology, and denominational leaders become government informants as conditions for application approval.

- Not all religious groups are eligible for registration. Independent Hoa Hao and Cao Dai groups, and some Mennonite, Baptist, and other house church Protestants in the Mekong Delta, Central Highlands, and northwest provinces have not been allowed to register. UBCV Buddhists are required to affiliate with the Vietnamese Buddhist Sangha (VBS).

Some of the problems encountered by religious groups in the registration process require a political solution, such as legal recognition of the UBCV and some Hoa Hao and Cao Dai groups. Other problems require better training on the Ordinance and implementation regulations among Vietnamese government officials. Assistant Secretary of State Hill, in his March 2008 Senate Foreign Relations Committee testimony, publicly stated that Vietnam's efforts to train government officials to implement Vietnam's new religion laws were a sign of "progress." However, in Vietnam, when the Commission asked about the number of training programs that

have been conducted for government officials, the delegation was told that between 2005 and 2007, the Vietnamese government conducted 16 training courses and eight workshops for Vietnamese civil servants in 17 of Vietnam's 59 provinces. Given the problems encountered implementing Vietnam's Ordinance on Religion, it is difficult to see how the relatively small number of training sessions for government officials can be viewed as a sign of progress.

Clearly, the Ordinance offers many important promises that have not yet been fulfilled and may never be given Vietnam's lack of an independent and transparent legal system and judiciary. In addition, there are too many problems with the implementation of religion laws to conclude that, at this time, Vietnam protects the individual's right to religious freedom in law. Other than the limited number of training courses conducted in the past few years, it continues to be unclear exactly what provincial officials and security personnel are learning in government-sponsored training seminars. Regulations regarding legal registration are routinely misapplied or ignored in provincial areas, particularly in the Mekong Delta, northwest provinces, Central Highlands, and central coastal regions, including Hue. In addition, in the Central Highland province of Kontum, there is evidence suggesting that provincial authorities are being trained to discriminate against Protestant families by denying them housing, medical, educational, and other government benefits and diverting foreign assistance and development aid away from known Protestant villages. Recent reports indicating that provincial officials in the central coast and northwest provinces also denied medical benefits to Protestants and threatened family elders with a cut-off in aid unless younger family members renounced their beliefs demonstrate that discrimination is a tactic in other regions and provinces of Vietnam.

Commission Recommendations

In addition to recommending that Vietnam continue to be named a CPC, the Commission has other recommendations for U.S. government action.

I. Press for Immediate Improvements to End Religious Freedom Abuses, Ease Restrictions, and Release Prisoners

The U.S. government should, through its regular diplomatic exchanges with Vietnamese government officials, make clear that ending violations of religious freedom is essential to the expansion of U.S.-Vietnam relations. It should urge the Vietnamese government to take action to halt religious freedom abuses and restrictions, release prisoners, and take other measures to ensure that Vietnam's policies are consistent with international religious freedom standards including:

Prisoner Releases

- releasing or commuting the sentences of all religious prisoners of concern, including those imprisoned or detained on account of their peaceful advocacy of religious freedom and related human rights including, among others, Fr. Nguyen Van Ly, Nguyen Van Dai, Li Thi Cong Nhan, members of ethnic minorities in the Central Highlands and northwest provinces, Khmer Buddhist monks, the Cao Dai and Hoa Hao followers, and those held under administrative detention including Fr. Phan Van Loi, UBCV Patriarch Thich Huyen Quang,

Thich Quang Do, and the other UBCV leaders detained since the 2003 crackdown on the UBCV's leadership;

- publicizing the names of all Montagnard Protestants currently in detention for reasons related to the 2001 and 2004 demonstrations, allowing visits to prisoners from representatives of the International Committee of the Red Cross or other independent foreign observers, and announcing publicly that a prompt review of all such prisoner cases will be conducted;

The Revision of Laws to Reflect International Human Rights Standards

- amending the 2004 Ordinance on Religious Beliefs and Religious Organizations, Decree 22, the "Prime Minister's Instructions on Protestantism," and other domestic legislation to ensure that such laws do not restrict the exercise of religious freedom and instead conform to international norms regarding the freedom of thought, conscience, and religion or belief, including revising the vague national security provisions in the 2004 Ordinance;

- enforcing the provisions in the Prime Minister's "Instructions on Protestantism" that outlaw forced renunciations of faith and establishing specific penalties in the Vietnamese Criminal Code for anyone who carries out such practices;

- ending the use of such far-reaching "national security" provisions as Article 88 or Article 258 of the Criminal Code, which have resulted in the detention of advocates for religious freedom and related human rights such as the freedoms of expression, association, and assembly;

- revising or repealing ordinances and decrees that empower local security police to arrest, imprison, or detain citizens in administrative detention for vague national security or national solidarity offenses, including Ordinance 44, Decree 38/CP, Decree 56/CP, and Articles 258, 79, and 88, among others, of the Criminal Code, and ending their *de facto* use to detain advocates;

- establishing a clear and consistent legal framework that allows religious groups to organize and engage in humanitarian, medical, educational, and charitable work;

- investigating and publicly reporting on the beating deaths of Hmong Protestant leaders Mua Bua Senh and Vang Seo Giao and the 2007 beating death of Hroi Protestant Y Vin Het in Phu Sen province, and prosecuting anyone found responsible for these deaths;

Protecting Independent Religious Practice

- establishing a non-discriminatory legal framework for religious groups to engage in peaceful religious activities protected by international law without requiring groups to affiliate with any officially registered religious organization, for example:

  --allowing the banned Unified Buddhist Church of Vietnam (UBCV) or the Khmer Buddhists to operate legally and independently of the official Buddhist organizations and the Vietnam Buddhist Sangha, including allowing the UBCV's Provincial Committees and Buddhist Youth Movement to organize and operate without restrictions or harassment;

--allowing leaders chosen by all Hoa Hao adherents to participate in the Executive Board of the Hoa Hao Administrative Council or allowing a separate Hoa Hao organization, such as the Hoa Hao Central Buddhist Church, to organize legally and operate with the same privileges as the Administrative Council;
--allowing Cao Dai leaders opposed to the Cao Dai Management Council to form a separate Cao Dai organization with management over its own affairs; and
--allowing Protestant house church groups in the Central Highlands, central coast, and north and northwest provinces to organize independently and without harassment, and allowing them to operate, if desired, outside of either the Southern Evangelical Church of Vietnam (SECV) or the Northern Evangelical Church of Vietnam (ECVN);

- allowing all Hoa Hao groups freely and fully to celebrate their founding Prophet's Birthday, allowing the printing and distribution of all the groups' sacred writings, and allowing the rebuilding of the Hoa Hoa Buddhist Library in Phu Tan, An Giang province;

- approving the registration applications of all 671 ethnic minority churches in the north and northwest provinces and allowing them to affiliate immediately with the Evangelical Church of Vietnam (ECVN), consistent with the deadlines established in the Ordinance on Religious Belief and Religious Organizations;

- creating a national commission of religious groups, government officials, and independent, non-governmental observers to find equitable solutions on returning confiscated properties to religious groups;

The Training of Government Officials

- revising the *Training Manual for the Work Concerning the Protestant Religion in the Northwest Mountainous Region* to reflect fully international standards regarding the protection of religious freedom and removing language that urges authorities to control and manage existing religious practice through law, halt "enemy forces" from "abusing religion" in order to undermine the Vietnamese state, and "overcome the extraordinary…growth of Protestantism";

- issuing clear, public instructions for provincial officials regarding the registration process, consistent with the provisions of the Ordinance, including by restating the timetables for responding to applications; providing redress for denials; and ceasing unreasonable demands for information or other conditions placed on registration applications, such as demanding names of all members of religious communities, requesting management changes, requiring denominational leaders to convene conferences to undergo indoctrination classes, and requesting that denominational leaders become informants on other religious groups;

- issuing a "National Handbook for Religious Work" to train the estimated 21,000 new government officials engaged in "religious work," which should include an unambiguous statement about the need to respect international standards regarding religious freedom, guidelines for interpreting the Ordinance on Religion and Belief, detailed procedures on how to oversee the legal recognition process, a clear explanation of the duties of provincial officials under the law, and a description of the rights of religious communities under

Vietnamese law and international human rights standards, including providing avenues to report inappropriate actions by local officials or police;

- issuing a public statement clearly stating that the denial of educational, medical, housing, and other government services or economic assistance, including foreign aid, based on religious belief, affiliation, or ethnicity is contrary to Vietnamese law and that government officials found using such tactics will be prosecuted under the law;

Asylum and Refugee Issues

- allowing ethnic minorities in the Central Highlands or northwest provinces to seek asylum safely in Cambodia and continue to allow representatives of the UN High Commissioner for Refugees (UNCHR) and other appropriate international organizations unimpeded access to the Central Highlands in order to monitor repatriated Montagnards, consistent with the Memorandum of Understanding (MoU) signed on January 25, 2005 between the UNHCR, Cambodia, and Vietnam, and provide unhindered access for diplomats, journalists, and non-governmental organizations (NGOs) to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces; and

- halting incursions into Laos and Cambodia by the Vietnamese military and police in pursuit of those seeking asylum because of abuses of and restrictions on their religious freedom.

II. Establish New Priorities for U.S. Assistance Programs

The U.S. government should assist the government of Vietnam in the development of protections for religious freedom in Vietnam, including by taking the following actions.

- Fully implementing the Montagnard Development Program (MDP) created as part of the House and Senate Foreign Operations conference report of 2005 and continued in the 2008 conference report to provide targeted humanitarian and development funds to ethnic minorities whose demands for land rights and religious freedom are closely connected. This program is consistent with Vietnam's own stated goals of reducing poverty in the Central Highlands and northwest provinces and with the need for reform, transparency, and access to regions where many religious freedom abuses continue to occur.

- Re-allocating some funds that formerly supported the STAR (Support for Trade Acceleration Program) to new projects in human rights training, civil society capacity-building, non-commercial rule of law programs in Vietnam, education programs for minors and young adults, and exchange programs between the Vietnamese National Assembly and the U.S. Congress. Funds should go to the creation of a pilot program that would be the counterpart in Asia of the Supporting Eastern European Democracy (SEED) program and could be called Promoting Equal Rights and the Rule of Law (PEARL).

- Ensuring that rule of law programs include regular exchanges between international experts on religion and law and appropriate representatives from the Vietnamese government, academia, and religious communities to discuss the impact of Vietnam's laws and decrees on religious freedom and other human rights, to train public security forces on these issues, and

to discuss ways to incorporate international standards of human rights in Vietnamese laws and regulations.

- Working to improve the capacity and skills of Vietnamese civil society organizations, including medical, educational, development, relief, youth, and charitable organizations run by religious organizations.

- Offering some Fulbright Program grants to individuals and scholars whose work promotes understanding of religious freedom and related human rights.

- Encouraging the Vietnam Educational Foundation, which offers scholarships to Vietnamese high school-age students to attend school in the United States, to select youth from ethnic minority group areas (Montagnard and Hmong), from minority religious communities (Cao Dai, Hoa Hao, Catholic, Protestant, Cham Islamic, and Khmer Buddhists), or former novice monks associated with the Unified Buddhist Church of Vietnam and Khmer Buddhists.

- Working with international corporations seeking new investment in Vietnam to promote international human rights standards in Vietnam and find ways their corporate presence can help promote and protect religious freedom and related human rights.

- Expanding funding for additional Voice of America (VOA) and Radio Free Asia (RFA) programming for Vietnam and to overcome the jamming of VOA and RFA broadcasts.

In addition, the U.S. Congress should:

- continue oversight, establish benchmarks, and measure progress of the U.S.-Vietnam Human Rights Dialogues, renewed in 2007, by holding appropriate hearings on a report the State Department is required to submit to Congress on the trajectory and outcomes of bilateral discussions on human rights and detail progress made on a series of issues specified by Congress (see Sec. 702 of PL 107-228);

- appropriate additional funds for the State Department's Human Rights and Democracy Fund for new technical assistance and religious freedom programming, funding that should be commensurate with new and ongoing programs for Vietnamese workers, women, and rule of law training; and

- engage Vietnamese leaders on needed legal revisions and protections of individuals related to the far-reaching national security provisions that are currently used to arrest and detain peaceful advocates for religious freedom and related human rights.

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[1] Article 88 targets people for "propagandizing against the state," and Ordinance 44 is an administrative detention ordinance, which includes detention in mental hospitals.
[2] Universal Declaration of Human Rights, Art. 18; International Covenant on Civil and Political Rights, Art. 18.

[3] Universal Declaration of Human Rights, Art. 19; International Covenant on Civil and Political Rights, Art. 19.
[4] Universal Declaration of Human Rights, Art. 20; International Covenant on Civil and Political Rights, Arts. 21 & 22.
[5] UN Human Rights Committee General Comment 22, Article 18 (Forty-eighth session, 1993), para 1.
[6] See International Religious Freedom Act of 1998, Sec. 2(a) (2) & (3) and 3(13).
[7]Other human rights advocates who have been temporarily detained, interrogated, beaten, arrested, or had warrants issued for their arrest since January 2007 include Fr. Chun Tin and Fr Phan Van Loi; Mennonite Pastors Nguyen Quang and Tran Van Hoa; Catholic seminary professor Nguyen Chinh Ket; and lawyers Li Thi Cong Nhan and Le Quoc Quan.
[8] Human Rights Watch, *No Sanctuary: Ongoing Threats to Indigenous Montagnards in Vietnam's Central Highlands*, Volume 18, Number 4, June 2006.

TURKMENISTAN

Introduction

Since 2000, the U.S. Commission on International Religious Freedom has raised serious concerns about conditions for freedom of religion or belief in Turkmenistan and has recommended that the country be designated by the Secretary of State as a "country of particular concern," or CPC, for engaging in systematic, ongoing, and egregious violations of religious freedom and related human rights. Despite the Commission's repeated recommendation, throughout some of the darkest years of repression in Turkmenistan, the U.S. government has never designated it as a CPC under the International Religious Freedom Act of 1998.

Under the late President Saparmurat Niyazov, who died in December 2006, Turkmenistan was among the most repressive and isolated states in the world. Virtually no independent public activity was allowed and severe government restrictions meant that most religious activity was under strict and often arbitrary state control. The 2003 law on religion further codified the country's highly repressive policies, in effect banning most religious activity, despite legal amendments promulgated in 2004 to relax registration requirements. Registration for many religious groups remained difficult, and any activities by unregistered groups were deemed "illegal." Moreover, the law set severe penalties for those found guilty of participating in so-called "illegal" religious activity.

In addition, Turkmenistan's public life was dominated by President Niyazov's quasi-religious personality cult, including, most notoriously, the president's two-volume work of "spiritual thoughts" known as the *Ruhnama*. The *Ruhnama* was employed by the government to play a preeminent role at various levels of the country's educational system, displacing some—and in some areas, most—academic subjects. What is more, the government under President Niyazov required that the *Ruhnama* be given equal prominence to the Koran and the Bible in mosques and churches.

President Niyazov was succeeded by Gurbanguly Berdimuhamedov, who moved to implement educational reforms and also promised reforms in a variety of other sectors. Despite the flaws accompanying his orchestrated presidential election, and while no changes have been made to the country's oppressive laws, he nonetheless has initiated some limited positive steps relevant to religious freedom and other human rights. These include the release in August 2007 of 11 political prisoners, some decline in President Niyazov's oppressive personality cult, the formation of two new official commissions relevant to human rights concerns, and an expressed willingness to consider reform of the country's religion law. Despite these achievements, however, the system of oppressive laws and practices that have led to severe violations of human rights, including freedom of religion or belief, remain in place. In addition, the overall repressive atmosphere that characterized public life in Turkmenistan under President Niyazov remains largely unchanged. As Human Rights Watch noted in February 2008, "although the Turkmen government of President Berdimuhamedov has begun to reverse some of the most ruinous social policies and the cult of personality that characterized Niazov's rule, it remains one of the most repressive and authoritarian in the world."

In order to examine religious freedom and related human rights concerns in Turkmenistan and in light of the new government's statements and actions, the Commission traveled to Turkmenistan in August 2007. The Commission delegation visited Turkmenistan in part to ascertain the measures taken to address religious freedom problems, including whether the new Turkmen government will in fact adopt reforms leading to major improvements in protections for human rights, including freedom of religion or belief, and whether further democratizing reforms will be undertaken in the near future. The late President Niyazov had severely isolated Turkmenistan, limiting both foreign visitors to the country and the number of Turkmen citizens allowed to travel abroad. The new government, in contrast, has re-opened the country to many official visitors from other countries, including high-ranking representatives from the UN and the Organization for Security and Cooperation in Europe (OSCE) responsible for human rights.

The Commission delegation met with President Berdimuhamedov and the Ministers of Foreign Affairs, Justice, Education, Culture, and Internal Affairs, as well as representatives of the Council on Religious Affairs (CRA), the Institute on Democracy and Human Rights, and the head of the parliamentary human rights committee. The delegation also held meetings with the representatives of a variety of religious communities and several civil society organizations, and took part in a public meeting with the country's former chief mufti, Nasrullah ibn Ibadullah, who had been released from prison in August, shortly before the Commission visit. In addition, the delegation met with OSCE representatives, the Papal Nuncio, and ambassadors from several western countries.

The Commission raised a number of key concerns with Turkmen government officials. Among these issues were the 2003 law on religion, particularly those articles that violate international norms pertaining to freedom of religion or belief; the state-imposed ideology, particularly that of the personality cult, that infringes upon or severely diminishes the practice of freedom of religion or belief and related freedoms of association, movement, expression, and the press; intrusive and onerous registration procedures that hinder the registration of peaceful religious communities; administrative fines on and imprisonment of leaders or members of peaceful unregistered religious communities whose activities are deemed "illegal"; obstacles to the purchase or rental of land or buildings to be used as houses of worship or for meeting purposes; onerous impediments to the use of private homes and public halls in residential areas for worship services; and a legal ban on the importation and printing of religious and other material.

Findings

It is still too early to determine whether any of the government's statements or actions will have a substantial impact on the legal structure or actual enjoyment of freedom of religion or belief in Turkmenistan. However, in light of persistent, serious problems, the Commission concludes that its recommendation that Turkmenistan be designated a CPC should not be rescinded at the present time. The Commission acknowledges the positive steps undertaken by the government of President Berdimuhamedov, and encourages the new government to implement reforms to bring Turkmenistan's laws, policies, and practices into accordance with international human rights norms. At the very least, these steps should include reform of the religion law and the removal of any state-imposed ideology from the religious practice of Turkmenistan's citizens.

General Conditions for Freedom of Religion or Belief

- Most Turkmen government officials, including President Berdimuhamedov, were willing to discuss the various issues raised by the Commission, including the possibility of amending laws relevant to freedom of religion or belief. In addition, President Berdimuhamedov has taken some steps to diminish the oppressive personality cult of the former president, and has formed two new official commissions relevant to human rights concerns (discussed below).

- The 11 political prisoners released by President Berdimuhamedov following the recommendation of a new official commission to examine citizens' petitions on the work of law enforcement bodies, included the country's former chief mufti, Nasrullah ibn Ibadullah, who had been sentenced in a secret trial on unsubstantiated charges of involvement in an alleged coup attempt. The Commission delegation took part in a meeting with Ibadullah, whose imprisonment the Commission had long protested. With the exception of Ibadullah, it remains unclear whether other released prisoners have had their full civil and political rights restored.

- President Berdimuhamedov and other officials also told the Commission that the Turkmen government is considering the adoption of certain legal reforms relevant to human rights, including religious freedom. In August 2007, during the Commission's visit to Turkmenistan, President Berdimuhamedov announced the formation of a new commission to examine how Turkmenistan's legislation conforms to international human rights commitments and by early 2008, the Turkmen government reportedly had initiated this process.

- Significant religious freedom problems and official harassment continue and, at least in some regions, certain religious freedom conditions may be deteriorating:

  --Religious practice continues to be fully controlled by the state, including severe limitations on religious instruction even for the two largest religious communities, Sunni Muslims and Orthodox Christians.
  --The repressive 2003 religion law remains in force, giving rise to, among other problems, serious difficulties for the legal functioning of minority religious groups.
  --Despite an apparent decreased emphasis on the forcible state promotion of former President Niyazov's spiritual writings, or *Ruhnama*, the book continues to be present in mosques, all of which are tightly controlled by the state.
  --Police raids on and other forms of harassment of registered and unregistered religious groups increased, particularly on the local level, during the first six months of 2007, though they have declined somewhat since then.
  --The absence of a law providing genuine alternatives to military service has resulted in prison sentences for the members of certain minority religious communities.
  -- The government prevents unregistered churches from buying or renting property, and there is official pressure on homeowners to prevent unsanctioned meetings for worship.

Legal Reforms and Registration

- During the Commission's visit, Turkmen government officials referred to a 2004 presidential decree lowering the requirement for the number of persons belonging to a religious community to qualify for its legal registration from 500 persons to five. The government told the Commission that there are only two religious communities with pending registration requests; since the Commission visit to Turkmenistan, two other religious groups were registered. With regard to other ongoing problems for members of registered religious minority communities, Turkmenistan officials told the Commission delegation that they were prepared to hold a second conference with members of registered religious communities to discuss outstanding issues.

- Nevertheless, the 2003 religion law remains highly problematic and some of its provisions continue to violate international standards with regard to freedom of religion or belief, including the requirement that religious groups must be registered in order for their activities to be legal; the fact that the government must be informed of all financial support received from abroad; the strict government control of, and limitations on, people's ability to gather for worship; the ban on the public wearing of religious garb except by religious leaders; and the severe restrictions on religious education.

- There continue to be significant problems in gaining legal registration in Turkmenistan. Local and regional governments sometimes do not recognize a religious group or organization even if the group is registered at the national level. Because of the intrusive requirements and the ongoing harassment of registered communities, several religious groups are not currently seeking registration, thereby increasing the likelihood of official interference in the ability of those groups to function.

- Obtaining worship space is difficult for most, if not all, communities. For unregistered groups it is virtually impossible, as it is illegal for them to rent or buy worship space. Worship in private homes, even for members of registered groups, is strictly limited to nuclear families; security officials routinely break up religious meetings in private homes and search homes without warrants.

Other Religious Freedom Concerns

- Various minority religious communities, both registered and unregistered, continue to face official harassment, particularly outside the capital city of Ashgabat. These problems include police raids, detentions, and threats by police and other security services, as well as demands for payment of onerous fines, some of which were levied by courts years ago. Religious literature is also routinely confiscated.

- The printing and import of religious literature continues to be rigorously controlled and limited by the government, and customs agents still confiscate religious materials. Even the import of literature that is technically legal is reportedly extremely difficult in practice. Representatives of almost all registered religious minority communities reported a severe shortage of religious literature.

- Turkmenistan's legal code lacks a genuine civilian alternative to compulsory military service. Article 219, Part 1 of the Criminal Code punishes refusal to serve in the armed forces with a maximum penalty of two years' imprisonment. By early 2008, six members of the Jehovah's Witnesses had been sentenced to jail under this article, though all ultimately were given suspended sentences.

- There continue to be restrictions on freedom of movement on account of religion. For example, the Turkmen authorities continue to place severe limits on the number of Muslims permitted to perform the *hajj*. Moreover, despite official protestations to the contrary, the Turkmen government still appears to have a secret "black list" of individuals who are denied permission to leave the country, although one such case, involving family reunification of an unregistered Baptist from the city of Dashoguz (often spelled Tashauz) and a U.S. citizen, was resolved in July 2007. Representatives of various religious minority communities told the Commission delegation that they are not allowed to travel overseas, including for religious education not permitted inside the country, and their co-religionists are also often denied permission to enter Turkmenistan.

Current Status of the Personality Cult and the Ruhnama

- There are some, though contradictory, indications that the new government has decreased official emphasis on President Niyazov's all-pervasive personality cult and the *Ruhnama*. For example, President Berdimuhamedov has made attempts to curtail the imposition of the sworn oath of loyalty to President Niyazov. Although the *Ruhnama* continues to be part of the school curriculum, government officials told the Commission that they have significantly decreased the time devoted to its study. Reportedly, new textbooks have been printed with greater focus on conventional subjects, although other reports indicate that not enough time has passed to implement significant changes to the actual texts and that in fact, only the presidential photographs have been updated.

- Nevertheless, the Turkmen government is still promoting the *Ruhnama* in religious affairs and as a mandatory aspect feature of public education. The *Ruhnama* remains a required subject of school exams, and in September 2007, the government sponsored an international conference devoted to the text. Moreover, also in September, President Berdimuhamedov told a U.S. audience at Columbia University that "I want to emphasize this—the book [*Ruhnama*] will be mandatory teaching in all educational institutions, from kindergarten through college. Why? Because it contains a lot of wisdom related to our heritage."

- The *Ruhnama* is still widely found in mosques; in the Niyazov Memorial Mosque, the country's largest mosque located in the village of Gipchak just outside Ashgabat, virtually all of the inscriptions carved on the walls are from the *Ruhnama*.

General Conditions for Freedom of Religion or Belief

Turkmenistan under President Niyazov

President Niyazov's pervasive authoritarian rule and escalating personality cult effectively prevented any opposition or independent religious activity within the country. While President Niyazov's government had made small adjustments to the laws that closely regulate religious practice, these changes had over the years done little to alter in practice the country's generally repressive policies.

A 2003 law on religion further codified the Turkmen government's highly repressive policies, effectively banning most religious activity and setting criminal penalties for those found guilty of participating in "illegal" religious activity. The law also required religious groups to coordinate with the Turkmen government any contacts with co-religionists abroad. In response to international pressure, President Niyazov issued a decree in March 2004 stating that religious communities may register "in the prescribed manner," and reduced the registration requirement from 500 members to five. In May 2004, President Niyazov issued several decrees decriminalizing unregistered religious activities and easing other requirements for registration, resulting in the registration of nine small groups, in addition to the majority Sunni Muslims and the Russian Orthodox Church. These amendments, however, did not substantially change the overall highly repressive environment in Turkmenistan; in fact, some reports indicate that the new, ostensibly eased registration requirements were used as a method of more effective state control over religious communities, not least because they afforded officials the legal right to know what occurs at every meeting of a religious group. In any case, religious groups that did not meet the often arbitrary registration rules still faced administrative penalties, including imprisonment and large fines due to their unregistered status.

President Niyazov's personality cult, bolstered by the forceful official promotion of the *Ruhnama*, was comparable to a state-imposed religion. Students were required to study the *Ruhnama* extensively at all public schools and institutes of higher learning, and Niyazov insisted that the *Ruhnama* supersede other religious and historical texts. Reports indicate that mullahs in Turkmenistan were told to stop reading the Koran in mosques and restrict themselves to the *Ruhnama*, which also was required in mosques and churches alongside the Koran and the Bible.

Changes under the New President

After his highly orchestrated electoral win in February 2007, President Berdimuhamedov moved to implement educational reforms and also promised reforms in the agricultural, health, and other social sectors. He has also expanded Internet access and promised to allow more international contacts; indeed, his first official action was to order the opening of 15 Internet cafes in various cities, although access fees are high, politically sensitive sites are blocked, and copies of the *Ruhnama* are reportedly displayed. In the president's first decree, aimed at the educational system that President Niyazov had done much to destroy, secondary schooling was increased from nine to 10 years and higher education from two to five years; the new president also promised to facilitate access for Turkmen citizens to universities and institutes in other countries. In March 2007, the Turkmen president signed an educational reform decree that

recognized foreign diplomas and initiated reform of the high school curriculum. Reportedly, 23,000 teachers have returned to work at increased wages, and the Commission delegation was informed that the country's new leader has told U.S. diplomats that he wants more international exchange programs. Police and street controls on travel inside Turkmenistan have also been eased.

The new leadership has also begun to distance itself from President Niyazov's personality cult. For example, President Berdimuhamedov has made some initial attempts to alter the imposition of the sworn oath of loyalty to President Niyazov, calling for assigning a specific time and place when the oath should be made and suggesting that it should be restricted to special occasions. In March 2007, Berdimuhamedov proposed a new law on loyalty oath procedures and regulations, enabling people to swear an oath on a book other than the *Ruhnama*, and signed a decree ordering that President Niyazov's name be replaced by the words "Turkmen president" on the presidential banner. In January 2008, Berdimuhamedov issued an order that the national holiday on February 19, Niyazov's birthday, which previously had been celebrated in conjunction with Flag Day, would henceforth mark only Flag Day. On the other hand, while new primary, secondary, and university textbooks were printed in the past year, reports indicate that the only perceived change was in the pictures: the new president's photographs replaced those of President Niyazov.

President Berdimuhamedov acknowledged to the Commission that his country "may have some shortcomings on religion and other issues" but that he hoped that the Commission delegation could help to improve the situation. Shirin Akhmedova, director of the Presidential Institute on Democracy and Human Rights, told the Commission that "the government of Turkmenistan is looking forward to working more closely with the international community."

In August 2007, on the last day of the Commission's visit to Turkmenistan, President Berdimuhamedov announced the formation of a new commission to examine how Turkmenistan's laws conform to its international human rights commitments, thus indicating a possible willingness to consider reform of the country's repressive laws on human rights, including freedom of religion or belief. The commission held its inaugural session in September, when it formally adopted a new draft national program on human rights and approved a human rights project in conjunction with the European Union and with UN refugee and development agencies. The commission also reportedly reviewed existing Turkmen human rights-related laws in an effort to ensure greater conformity with international human-rights standards and norms.

The Release of the Former Chief Mufti

In February 2007, President Berdimuhamedov ordered the establishment of a government commission, led by the Chairman of the Supreme Court, to examine citizens' petitions on the work of law enforcement bodies, though neither its membership nor procedures were specified. By establishing this commission, the new president continued a previous tradition of allowing citizens, however theoretically, to petition the president. With the new commission, however, the president indicated that government agencies, rather than the office of the president, should address the petitions. Reportedly, this governmental commission has received thousands of

petitions from Turkmen citizens, including from the family of the former chief mufti, on such issues as police abuse, allegations of bribery, and unjustified arrests and prosecutions.

Some observers have suggested, however, that the actual role of the commission is to test the political loyalty and effectiveness of the various government agencies to which citizens' petitions are sent. For example, in July 2007, the president fired and later arrested the Chairman of the Supreme Court, allegedly in part due to his failure to ensure that cases originating from the commission had been properly reviewed. In October, the president dismissed the Minister of Internal Affairs, reportedly because of an alleged doubling of cases involving ministry corruption and abuse under review by the commission. By late 2007, the State Department reported, the commission had examined only three cases that led to further review by the Supreme Court and reductions in sentences.

In August 2007, the president acted on the new commission's significant first decision, which was to pardon and release from prison 11 prisoners of conscience, including the country's former chief mufti, Nasrullah ibn Ibadullah, who had been serving a 22-year prison term handed down during a closed trial in 2004. Ibadullah, who opposed President Niyazov's decree that the *Ruhnama* be displayed next to the Koran in the country's mosques, was officially charged with treason for an alleged role in a 2002 coup attempt against President Niyazov. However, the presidential pardon ordering the release of the 11 prisoners stated that the convicts had expressed "sincere repentance…for the acts committed by them," implying that the 11 former prisoners had committed actual crimes, although neither their supposed crimes nor the nature of their trials had been specified.

Ibadullah was allowed to resume work with the official Council of Religious Affairs, no longer as a deputy chairman but as a senior adviser. Other former political prisoners, however, including those imprisoned for alleged religious offenses, as well as three Jehovah's Witnesses who were given suspended sentences in July 2007 for their refusal to serve in the military, were not eligible for employment. Under Turkmenistan's laws, such cases require the restoration of a former prisoner's civil and political rights, or "rehabilitation," and not just pardon by the government.

Legal Structures, Registration, and the Fundamentals of Religious Practice

Religious affairs are technically governed by the Council on Religious Affairs (CRA), whose members are appointed by the government and report to the president. Membership includes representatives of the Sunni Muslim community and the Russian Orthodox Church, as well as government officials, but includes no representatives of other minority religious groups. Although the CRA is supposed to act as an intermediary between the government bureaucracy and registered religious organizations, it acts essentially as an arm of the state. The CRA controls the hiring, promotion, and firing of Sunni Muslim and Russian Orthodox clergy, who are required to report regularly to the CRA. It also examines and controls all religious publications and activities.

Since Turkmenistan gained independence in 1991, religious groups have been required to register with the government in order to engage in any religious activities. The 1997 version of the country's religion law effectively banned all religious groups except the state-controlled

Sunni Muslim Board and the Russian Orthodox Church, though religious instruction even for these two communities remained severely limited. Despite decrees issued in 2004 easing registration requirements, obtaining registration continued—and continues—to be a serious problem for many religious groups, a problem compounded by the penalties levied on unregistered groups that are accused of engaging in "illegal" religious activities. In May 2004, President Niyazov issued several decrees decriminalizing unregistered religious activities. However, representatives of various minority religious communities told the Commission that they faced continuing official harassment, particularly outside the capital Ashgabat, regardless of whether they are registered or unregistered. These problems included police raids and threats by police and other security services, as well as demands for payment of onerous fines, some of which were levied by courts years ago (see below).

The new version of the religion law, promulgated in 2003, remains highly problematic and some of its provisions continue to violate international standards with regard to freedom of religion or belief. These problems include: intrusive registration criteria; the requirement that the government be informed of all financial support received from abroad; a ban on worship in private homes for unregistered groups and the public wearing of religious garb except by religious leaders; and severe and discriminatory restrictions on religious education. The Turkmen government has also interfered in internal leadership issues and organizational arrangements of religious communities. Under President Niyazov, the Turkmen government had pressured the local Church to take Turkmenistan's parishes outside of the jurisdiction of the Central Asian diocese in Uzbekistan and put them under the Patriarch of Moscow, which in July 2005 rejected this proposal, although the proposal was accepted two years later. President Berdimuhamedov told the Commission in August 2007 that he believed that the Russian Orthodox Church (ROC) in Turkmenistan should be under the jurisdiction of the Moscow Patriarchate. In October 2007, the ROC Holy Synod in Moscow placed Turkmenistan's ROC parishes under the Moscow Patriarchate's jurisdiction, removing it from the Central Asian diocese in Tashkent. According to the news agency Forum 18, the official reason for this decision was "to ease pastoral oversight" over the 12 isolated parishes and the ROC convent in Ashgabat.

President Berdimuhamedov's establishment of a new commission to examine how Turkmenistan's legislation conforms to international human rights commitments may be a sign that legal changes to improve religious freedom and other human rights protections are being considered. It remains, however, too early to determine whether this commission will result in any substantive changes in Turkmenistan. During the Commission's meeting with Turkmen Foreign Minister Rashit Meredov, he indicated his hope that "cooperation could emerge from collaboration in other areas…to work together to improve existing legislation" in connection with U.S. assistance on exchange and training programs.

In February 2008, the news agency Forum 18 reported that Shirin Akhmedova, the director of the Presidential Institute on Democracy and Human Rights, pledged that the process of amending the religion law would be "transparent" and would involve "international experts." However, she did not provide a time table for the bill or clarify what sections of the law might be amended. Akhmedova also noted that Turkmen citizens could also present their suggestions for legal amendments to the religion law. Although the religious freedom experts at the Organization for Security and Cooperation in Europe (OSCE) have not yet been invited to take

part in this process, after five years of requests the UN Special Rapporteur on Freedom of Religion or Belief finally received an official invitation to visit Turkmenistan in 2008.

Registration

For many years, as a result of the 1997 law on religion, only two religious communities were legally registered in Turkmenistan: Sunni Muslims and the Russian Orthodox Church. That law made it all but impossible for other religious groups to register and thus function legally. In March 2004, in response to international pressure, President Niyazov issued a decree stating that religious communities may register "in the prescribed manner," reduced the registration requirement from 500 members to five, and eased other requirements for registration. The result was the registration of nine small groups, in addition to the Sunni Muslims and the Russian Orthodox Church.

Since the 2004 decree, however, registration has been used as a method of more effective state control over religious communities, as it affords officials the legal right to know what occurs at every meeting of a religious group. Participants in religious meetings who refuse to provide details about their gatherings risk having their communities charged with violating registration requirements. Moreover, religious groups that do not meet the often arbitrary registration rules still face administrative penalties that may include imprisonment and/or large fines due to their unregistered status.

In spite of the difficulties, other religious groups, including various religious minority communities have gained registration since the 2004 decree, including groups of Adventists, Baptists, Baha'is, and Hare Krishnas. Turkmenistan's small community of Shi'a Muslims, most of whom are members of ethnic minorities, remains unregistered, but reportedly many of its congregations are allowed to function. The country's small Roman Catholic community also remains unregistered, due to the legal requirement that a religious community be headed by a citizen of Turkmenistan. The Catholics in Ashgabat, however, are permitted to meet for worship services in the chapel of the Vatican Nunciature. Turkmenistan's Jewish community, estimated by the State Department to number 1,000, are mostly ethnic Russians who came to Turkmenistan after World War II. Although the Jewish community is allowed to meet for religious observances, it has decided not to seek registration.

Akhmedova told the Commission that there were 120 religious organizations currently registered in Turkmenistan. Other government officials claimed that many steps had been taken to ease registration, referring to the 2004 presidential decree that lowered the numerical threshold to qualify for registration as a religious group. Foreign Minister Meredov said that some of these steps were in response to concerns raised by the U.S. government. Meredov also claimed that at present, all organizations wanting to register had done so. He denied that there were obstacles to gaining registration and claimed that those who wish to register need only apply. Turkmenistan's Ministry of Justice is currently reviewing four such applications, Meredov said, though some had been returned to applicants to "improve compliance with Turkmen law." After the Commission visit, two small minority Protestant communities outside Ashgabat were registered, one in the city of Turkmenabat and another in the city of Turkmenbashi.

Akhmedova explained to the delegation how the registration process should work. The CRA advises the government on registration, while the Justice Ministry manages the actual registration process. All applications are reviewed by an intergovernmental commission that includes representatives from the Ministries of Justice and Internal Affairs, as well as the Security Service. The review process typically takes one month, but can take up to three months. Groups denied registration will, Akhmedova claimed, receive a written notice and explanation for the decision. If the flaws in the application are corrected, the applicants may re-apply. As for other issues affecting registered religious minority communities, Turkmen government officials told the Commission that they were willing to hold a follow-up to the October 2005 roundtable discussion between the government and members of various religious communities to address other problems.

Continuing Registration Problems

According to the representatives of a number of minority religious groups, there continue to be significant problems in obtaining registration in Turkmenistan. According to the State Department, some groups reported confusion over registration requirements because of conflicting statements by government officials from different ministries. The Commission was told that despite a surge in the registration of religious groups in 2004, that process has slowed. In addition, local and regional governments sometimes do not recognize a religious group or organization even if it is registered at the national level. Moreover, it is reportedly more difficult for ethnic Turkmens or Uzbeks than for Russians to register as members of a Christian denomination; Turkmen officials did not respond to the Commission delegation's requests for information about these reports.

In some instances, these groups said, the CRA may not find problems with a registration application, but the Justice Ministry may oppose that application on what were reported as questionable grounds. It was also reported that the Justice Ministry has taken upon itself to advise several smaller unregistered groups to combine with other, currently registered communities, without giving any consideration to possible doctrinal differences or some groups' need for organizational autonomy. One group was told by the CRA that all prior decisions denying their registration applications "were correct," without any further information. One church leader said that his group has been trying to register for two years, but that the government would not acknowledge the group's efforts.

The leader of another registered Protestant church described the difficult branch registration procedure his group experienced. The church was required to meet seven registration criteria, and despite providing that information and being assured that nothing further was needed, the government still had not given registration approval. In many cases, he noted, the government will not even acknowledge that religious communities have branches in other cities. The Hare Krishna Society was informed by the government in the past year that it is authorized to open a branch; however, the government had told members of that community previously that it would begin to register other branches, and thus far there had been no progress in that regard. The Baha'is also submitted the necessary documents, but had been told by the government that there is "no legislation on branch registration."

Yet when the Commission raised the issue of registration, particularly that of local branches, during a meeting at the Justice Ministry, Serdar Valiyev, Director of the Registration Department, said that a registered organization automatically receives legal status when it is entered in the main national register. Branch organizations are not subject to these requirements, as they are regulated by the main organization. To register a branch, he claimed, the main organization need only present information regarding the branch to the Ministry of Justice. However, this was clearly not the experience that various religious groups in Turkmenistan described to the Commission delegation.

People from historically Muslim ethnic groups who want to register Christian churches are more often denied registration than communities comprised largely of individuals of Slavic origin. The Commission was informed that in some cases, local and national government officials have told such church members that they "cannot be Christians because they are ethnic Turkmen." Because officials refuse to issue registration denials in writing, the groups in question have not been able to identify the official or officials responsible for these refusals. In one case, the members of a church were told repeatedly that their church would never be registered because they are Turkmen and "Turkmen are supposed to be Muslim." Justice Ministry officials also suggested that they remove certain articles from the church charter documents in order to gain registration. In this case, in addition to trying to change the substance of the church's charter, officials also reportedly used spurious clerical errors as the basis for denying the registration application.

Finally, the Commission was told that the Turkmen government may try to convince prospective congregants that they should not join minority religious communities. Often officials claim that religious minority groups are "cults." The Turkmen government has also told several churches that it is not their role to assist the poor, drug addicts, and others.

Practical Effects of Registration

The Turkmen government reportedly actively solicited new religious groups to register in the period 2004 – 2005, and several groups were easily and rapidly registered at that time. Once those religious communities were registered, however, state officials began to subject the groups' charters to strict review. Thus, some representatives of Turkmenistan's religious minority community believe that the Turkmen government undertook registration mainly due to pressure from the United States and OSCE and that the Turkmen government still did not truly recognize them. Indeed, despite their registered status, a member of a religious minority group told the Commission that in many instances, the group still needed permission from the city of Ashgabat's CRA in order to undertake routine activities, such as seeking to increase its membership.

The situation for religious minorities is particularly difficult outside the capital, where some groups continue to face onerous administrative documentation burdens. According to the leader of a registered religious minority community, "the fact that we are registered did not help in any way…there is no freedom, just pressure from the government. And there is certainly no freedom outside Ashgabat." Some registered groups told the Commission delegation that they believed that registration has become a method to expose their members to possible official

discrimination or harassment and actually worsened the situation. On the other hand, several leaders of registered religious minority communities told the delegation that in Ashgabat, they are free to meet for worship.

Members of various registered religious minority communities told the Commission what Turkmen officials had claimed would be the benefits of registration. For example, the Adventist church was informed that the government would not demolish its churches (one had been demolished by the authorities in 1999—see below) and the community would have access to worship space. The government kept its promise to the Hare Krishnas that once they were registered there would be no further arrests of their members. On the other hand, the CRA also promised that members of registered communities could meet for worship in private homes, but Turkmenistan's religion law allows home worship only for members of nuclear families. Religious adherents who ignore these legal prohibitions on home worship may be subject to various penalties, ranging from official warnings to job loss, police raids, and/or detention.

Despite their illegal status under Turkmen law, several religious minority communities have decided that registration either violates their freedom of conscience or does not entail enough benefits to justify the intrusive government requirements and procedures. One leader of an unregistered community told the Commission delegation that Turkmenistan's religion law is "only paper and has no operative meaning" and that "even registered churches enjoy only limited religious freedom." Another unregistered religious leader said that he had asked state officials about the practical benefits of registration and they had refused to answer him. Faced with this lack of information, he had decided against applying for registration.

There are, however, numerous negative consequences for those groups that decide to forego registration. For example, the leader of one unregistered group told the Commission that his group's illegal status "keeps potential congregants away." He also observed that lack of registration limits his group's ability to practice its religion fully, as well as to organize charitable assistance programs.

Worship Space

In Turkmenistan, obtaining worship space is difficult for most religious communities. For unregistered groups, it is virtually impossible, as it is illegal for them to rent or buy worship space. Worship in private homes is limited to members of nuclear families who belong to registered religious communities, although Turkmen officials have told the State Department that worship in private homes is allowed as long as neighbors do not object. Nevertheless, security police reportedly break up religious meetings in private homes and search homes without warrants. The leader of one registered Christian community told the Commission that after his group was registered, he could no longer invite friends and family to worship, even in his own apartment, as his group was told by the government that private worship must be limited to husband and wife and children and could not include adult parents and siblings.

The government has forced some groups to write letters stating that they will not gather for worship until they are registered. Indeed, Turkmen officials have stated that the eased registration requirements that Niyazov promulgated in 2004 do not mean that religious adherents

will no longer be required to request official permission before holding worship services. One leader of a registered Pentecostal church told the Commission that his home in Ashgabat had been confiscated by the government several years ago because he had allowed unsanctioned worship services to be held there. Despite years of efforts, the church leader has been unsuccessful in efforts to have the building—his personal property—returned to him. Nevertheless, five registered minority religious communities have managed to establish public places of worship, three of which were rented and two of which were in the private homes of community members.

President Niyazov had refused to allow the Russian Orthodox community to build a new cathedral in the capital of Ashgabat, though he had allocated land for that purpose 10 years ago. According to Forum 18, final construction work on the community-funded convent next to St. Nicholas' Church in Ashgabat was halted in late 2005, after President Niyazov reportedly warned Orthodox clergy privately that if construction went ahead he would order demolition of all the country's Orthodox churches. The Commission was told that construction of the Russian Orthodox cathedral was now proceeding, albeit slowly, due to the need to design the building to withstand earthquakes. President Berdimuhamedov told the Commission that the Turkmen government recently had granted land to build a new church in Ashgabat.

Under President Niyazov, the Turkmen government had a history of closing, confiscating, or destroying houses of worship. Appropriate compensation has never been made to the various religious communities affected by this practice, nor is there any complaint process or new law providing compensation. For example, in 2000, two unregistered mosques were bulldozed by the authorities and in 2003 the Abu Bekir mosque in Ashgabat was closed. In March 2004, President Niyazov proclaimed that no new mosques should be built anywhere in the country; seven mosques are reported to have been destroyed in that year. In addition, according to the State Department, the government refuses to allow the final construction of three Shi'a mosques, two near Ashgabat and one in Turkmenbashi. In July 2005, a Sunni "family" mosque in Turkmenbashi was demolished, and in 2006, two Shi'a mosques were razed.

In 1999, two Hare Krishna shrines near the city of Mary were torn down by Turkmen authorities; the Seventh-Day Adventist Church in Ashgabat was bulldozed that same year. Baptist and Pentecostal churches were confiscated in 2001. In 2005, the historic Armenian Apostolic Church in the city of Turkmenbashi was partially demolished by local officials and sealed off; that community has neither received compensation for the partial destruction nor has the church been returned to it. A court ruling in 2006 denied compensation to the Seventh Day Adventist community for the government's destruction of its church.

While under the new government, there have been no reports of the destruction of any houses of worship by the Turkmen authorities, no measures have been taken to redress the claims of those religious and other communities whose property was destroyed under the Niyazov government. Some new construction is underway, however. In March 2007, the parliament voted funds to finish construction of a mosque in the city of Mary and in October, and the governor of the Dashoguz region announced a tender for construction of a large new mosque.

Religious Literature

The publication of religious literature inside Turkmenistan is banned by decree, resulting in a severe shortage of such literature, which also is rarely available for purchase. An additional difficulty is the government's legal requirement that the CRA must approve the content of all religious literature and the fact that there are no representatives of religious minorities on the CRA.

By law, only registered religious communities are permitted to import religious literature, on a limited basis, depending on the number of people in a given house of worship. The local CRA frequently confiscates literature and even photocopies it. In some cases, the CRA allegedly has required that adherents make a written apology for the possession or import of such material. According to the members of the religious minority communities with whom the Commission met, despite limited legal provisions to the contrary, they are denied official permission to import religious literature. In any case, they said, the experts at the CRA who are required by law to examine such literature are, at best, informed only about Islam and Russian Orthodoxy. Moreover, religious literature is often confiscated before it can be submitted for official examination. On a positive note, however, one leader of a registered religious community told the Commission of some improvements under President Berdimuhamedov; for example, one may now receive some religious material, though it cannot be shared with others. In addition, the State Department reported that, unlike in previous years, ethnic Turkmen members of unregistered religious groups accused of disseminating religious material did not receive harsher treatment than members of other ethnic groups.

The head of one registered religious community told the Commission delegation that until now, no pastor in his church had received official permission to bring the legal allotment of any religious text into the country, even though his church had translated some of its religious literature into Turkmen so that government officials could read it. The Russian Orthodox Church can receive and distribute Bibles easily, but according to the leaders of a number of other Christian communities, the Orthodox Church does not share the literature with Protestant churches because those churches allegedly may be seen as competitors. Nevertheless, the Russian Orthodox community was also affected by the government's past policies, which banned Turkmen residents from receiving Russian publications by mail, including the *Journal of the Moscow Patriarchate*. As far as is known, that ban remains in effect.

In one instance, a leader of a minority religious community was detained for receiving Christian materials in the mail. The authorities instructed him to write to the sender and ask him not to send any more religious material. Even registered churches need to consult with the CRA before they import religious literature. In another instance, the Ministries of National Security and Internal Affairs detained a pastor for questioning at the post office after receiving religious materials in the mail, with the justification that the material could promote extremism and violence. Religious communities reportedly need a government license in order to reproduce religious literature already in their possession. One leader of a registered Protestant community told the Commission delegation that the Justice Ministry had called and threatened his church for attempting to make copies of religious literature without a license.

When the Commission delegation raised the issue of religious literature with the CRA, Russian Orthodox representative Father Sapunov stated that in the view of his church, Turkmenistan had enough religious literature and perhaps it would be better to ask whether there was a need for such material. Father Sapunov also stated that the law sets out what kind of materials may be imported and in what quantity. The Council, he maintained, has always tried to help, but the Turkmen authorities have the right to inquire about the reason so many Bibles are needed. Sapunov claimed that he himself saw no problem with the import of religious materials, but the Council must follow the law. Deputy Chairman Nurmukhamet Gurbanov maintained that there is no evidence that the rights of Turkmen citizens had been violated with regard to the import of religious literature.

Religious Education

Turkmenistan's religion law bans the private teaching of religion and those who engage in such instruction are liable for legal penalties. Only those who have graduated from institutions of higher religious education (domestic or foreign is not specified) and approved by the CRA may offer religious instruction. Citizens have the right to receive religious education alone or with others from these official institutions; some independent religious education takes place unofficially. Usually, home schooling is allowed only in cases of severe illness or disability and not for religious reasons.

Under Article 6 of the November 2004 amendments to the religion law, mosques are allowed to provide religious education to children after school for four hours per week, as long as parents have given their approval. Some Sunni mosques have regularly scheduled Koran instruction. The 2003 religion law prohibits the Russian Orthodox Church from conducting religious education programs without CRA and presidential approval and there were, according to the State Department, no reports that such programs had been approved.

In June 2001, President Niyazov's government closed the *madrassa* in the town of Dashoguz, leaving only the theological faculty at the Turkmen State University in Ashgabat to conduct Islamic education. That faculty was later dissolved and absorbed into another department, with the result that only one institution of Islamic education is currently open. It was set up after 2001 and has a curriculum controlled by the government. The country's largest religious minority, the Russian Orthodox, has no institution for religious education in Turkmenistan, although even under President Niyazov, men were allowed to leave the country to train for the clergy. The Shi'a, who are mainly represented among the country's Iranian and Azeri ethnic minorities, also have no religious training institutions in Turkmenistan.

Religious minorities, even those that have gained registration, are in a particularly difficult situation. One religious minority leader told the Commission delegation that most religious training is conducted informally, in private homes. Some churches are able to train clergy based on formal programs, but others are not. Some clergy members are able to receive their religious education and ordination overseas.

Other Religious Freedom Concerns

Continuing Official Harassment of Religious Minorities

Under the late President Niyazov, police routinely interfered in the activities of both registered and unregistered religious communities. Security police frequently broke up religious meetings in private homes, searched homes without warrants, confiscated religious literature, and detained and threatened congregants with criminal prosecution and deportation. Family members of detained religious leaders were subjected to harassment, discrimination and internal exile. In addition, members of some religious minority groups, particularly Protestants, Hare Krishnas, and Jehovah's Witnesses, faced official pressure to renounce their religion publicly, and were sometimes forced to swear an oath on the *Ruhnama*. Though such raids and other forms of harassment were less frequent last year than in previous years, they have continued following President Niyazov's death.

According to the State Department, however, although the Turkmen government had increased harassment of some registered and many unregistered religious minority groups after the February inauguration of President Berdimuhamedov, reports of such incidents decreased by the end of 2007. Yet, despite official pledges to improve the situation, registered and unregistered religious groups continue to experience serious discrimination and maltreatment from government officials, particularly outside Ashgabat. One leader of a registered religious minority community told the Commission that some actions against his community are carried out by the local city governments, while other operations involve the Ministry of Internal Affairs' Sixth Department, which deals with organized crime and terrorism. For example, in March 2007, authorities raided a meeting of an unregistered religious group in a private house in Abadan and the home owners were fined. In June 2007, police raided a meeting of the registered Light of the East Pentecostal community in the city of Dashoguz. In August 2007, a branch community of a nationally registered Protestant church in western Turkmenistan was raided by police; literature was confiscated and a member was arrested. There was a similar incident at another branch church. The leader of another registered Protestant church told the Commission that in one incident, local and regional officials brought a bus to detain and remove the church members who had assembled without government authorization. There were no arrests, but the religious gathering was broken up and the literature confiscated. Forum 18 reported that police raided a Baptist service in December 2007 in a private home in the town of Balkanabad in western Turkmenistan.

Members of several unregistered religious groups, including some Baptists and Jehovah's Witnesses, said that the Turkmen government sometimes deployed anti-terrorist and secret police raids against their groups, which were frequently followed by arrests. Forum 18 reported in November 2007 that in one town, local officials encouraged a Muslim community to apply for registration, but secret police later ordered them to drop their effort and not to publicize their situation. The group is reportedly allowed to function in a limited capacity. In some instances, unregistered church leaders were threatened with the loss of their retirement savings. According to the State Department, in the past year, police officers subjected ethnic Turkmen who converted to Christian denominations other than Russian Orthodoxy to harassment and

mistreatment, including verbal abuse for denying their heritage by converting to a religion viewed by the government as "non-traditional" for Turkmen.

Several religious minority groups noted that the Turkmen authorities appeared to be using charges leveled against them in the past as a means to make current religious activity extremely difficult. Since early 2007, there has been increased pressure on the Jehovah's Witnesses: meetings have been raided, literature confiscated, and fines imposed. Jehovah's Witnesses employed in state agencies reported being subject to harassment and public ridicule and pressured to leave their jobs, while many had already been dismissed or had their contracts discontinued. Several Jehovah's Witnesses were summoned to police stations in connection with incidents that allegedly had taken place several years ago, and fines, issued as long as three years ago, were only now being enforced.

Members of the Jehovah's Witnesses have experienced other serious problems in 2007, particularly in April 2007. For example, police confiscated internal passports during a raid in the city of Turkmenabad; three Jehovah's Witnesses were detained and one of them, a woman, claims to have been sexually molested by police. Although a prosecutor first ruled the passport seizure to be illegal, after he talked to police he threatened to fine the Jehovah's Witnesses. In two other incidents, as a result of police actions in Ashgabat, two Jehovah's Witnesses lost their jobs after police interrogated them about their beliefs. Three days later, in the city of Dashoguz, police confiscated some literature from a Jehovah's Witness who was later fined at a police station.

Absence of Alternatives to Military Service

Another unresolved issue affecting Turkmenistan's religious freedom record is the country's lack of a genuine civilian alternative to compulsory military service. In 2007, six members of the Jehovah's Witnesses were sentenced to prison—although they ultimately received suspended sentences. They were prosecuted under Article 219, Part 1 of the Criminal Code for refusal to serve in the armed forces with a maximum penalty of two years' imprisonment. The five were still denied their full civil and political rights, including the free choice of employment. For example, Jehovah's Witness Suleiman Udaev, who was sentenced in August 2007 but freed from prison in September, must still pay 20 percent of his wages to the state. In addition, he will not be able to leave his home village without permission, and will be officially assigned to work in the local collective farm. According to the State Department, the government pardoned three other members of the Jehovah's Witnesses under an annual amnesty program. In December 2007, a sixth conscientious objector received an 18-month suspended sentence for refusing compulsory military service. Amnesty International reported that some of these men were informed that if they persisted in their conscientious objection, they could again face conscription and imprisonment.

Freedom of Movement Issues

Under President Niyazov, there was deliberate official interference in international freedom of movement of religious adherents in Turkmenistan. Many of these policies have continued under the new government. Entry visas are refused to religious workers who are, in many cases, critical to the functions of a particular religious community, and other individuals

known to participate in religious activities have been pointedly prevented from leaving the country.

The Turkmen authorities continue to limit the number of Muslims permitted to perform the *hajj*. In November 2006, the government announced that only 188 of the country's official quota of 4,600 would be allowed to go to Mecca. Yet, even the country's official newspaper acknowledged in April 2007 that it was the duty of every Muslim to undertake the *hajj*. The Commission delegation repeatedly raised the severe limitations on the number of Muslims allowed to perform the *hajj*. In response, President Berdimuhamedov claimed that while the government will pay for only one planeload (188 people) of Muslim *hajj* pilgrims, there is no legal limit on those who can afford to undertake the *hajj* at their own expense. While this was not, in fact, the situation under Niyazov, it remains to be seen whether this will be the policy of the new government. According to the State Department, there were anecdotal reports indicating that additional persons may have undertaken the pilgrimage at their own expense.

Baptist Vyacheslav Kalataevsky, who was born in Turkmenistan but holds Ukrainian citizenship, was deported from Turkmenistan to Kazakhstan in 2001, allegedly due to his membership in an unregistered Baptist congregation in the city of Turkmenbashi. In March 2007, as he attempted to regularize his residential status in that city, he was arrested by the security police. Kalataevsky's trial took place in May 2007, at the same time, that the then-UN High Commissioner for Human Rights, Louise Arbour, was visiting Turkmenistan. Kalataevsky was sentenced to three years' imprisonment for "illegally crossing the border" in 2001. One month later, in June 2007, he was transferred to a labor camp to serve his sentence. As part of the traditional 2007 Ramadan prisoner release, Kalataevsky was released from camp. One month later, he was allowed to rejoin his family in Turkmenbashi. In November 2007, a few days after his return to Turkmenbashi, Kalataevsky reportedly received an official warning not to meet for worship with his fellow Baptists and in December, the State Department reported, Turkmen authorities denied Kalataevsky's request for residency even though his family lives in Turkmenbashi. He was deported to Ukraine one week later. In another case, Baptist pastor Yevgeny Potolov, head of an unregistered congregation belonging to the Baptist Council of Churches, was deported in July 2007, seven weeks after his arrest for religious activity. After Baptist leader Aleksandr Frolov was deported in June 2006, his family moved to Russia following a year of unsuccessful appeals that he be allowed to return to Turkmenistan. In the past, the Turkmen government has refused entry visas to several priests who are Russian citizens and were invited by the Russian Orthodox community to Turkmenistan. According to Forum 18, in 2007 the ROC did not encounter similar problems.

Despite official protestations to the contrary, the Turkmen government appears to maintain a secret "black list" of selected individuals who are denied permission to leave the country. Former Baptist prisoner of conscience, Shageldy Atakov, reportedly is banned from leaving Turkmenistan; he was most recently denied exit permission in June 2007. In 2006, a Migration Service official referred to an exit blacklist on which Atakov's name appeared, most likely because he had not had his full political and civil rights restored after serving a prison term. In August 2007, a court granted exit permission to Merdan Shirmedov, an ethnic Turkmen leader of an unregistered Baptist community in the city of Dashoguz, to travel to Turkey to rejoin

his family in the West. Nevertheless, the court gave no explanation as to why Shirmedov had been denied permission to leave the country since January 2007.

The leader of one minority community told the Commission that some religious leaders and their families are still prohibited from leaving the country and their mail is searched and read by the security service. Two years ago, two men from this church tried to travel to Azerbaijan to attend a Bible school. In November 2007, a Turkmen Evangelical Church pastor was escorted off a plane bound for Ukraine. According to the State Department, when he wrote a complaint to the State Agency for the Registration of Foreign Citizens, he received a reply noting that his claim was not valid. A Baha'i activist said that there is a secret ban on invitations for relatives to come to Turkmenistan, although members of the Baha'i community can travel out of the country. The State Department reports that others, including some religious leaders, were allowed to travel outside the country in 2007.

When the Commission delegation raised the issue of Turkmen citizens being denied exit permission due to their religious affiliation, the country's officials denied that this had ever occurred. For example, Presidential Institute on Democracy and Human Rights Director Akhmedova claimed that Turkmenistan did have an "exit visa regime" left over from Soviet days, but those barriers had since been removed. The new Deputy Chairman of the CRA, Nurmukhammet Gurbanov, told the delegation, "I have never met a person who was not allowed to enter or leave Turkmenistan because of his religion."

Current Status of the Personality Cult and the *Ruhnama*

President Niyazov's personality cult was bolstered by the forceful official promotion of a book containing the late president's "spiritual thoughts," known as *Ruhnama*. Imams were also reportedly instructed by the government to repeat an oath of loyalty to the "fatherland" and to President Niyazov after each daily prayer. Under President Niyazov, students were required to study the *Ruhnama* at all public schools and institutes of higher learning. Moreover, according to the State Department, President Niyazov used his teachings "in part to supersede other established religious codes, as well as historical and cultural texts, and thereby influence citizens' religious and cultural behavior." A law promulgated in 2002 enjoined parents and guardians "to bring [children] up in spirit of…the unshakeable spiritual values embodied in the holy *Ruhnama*." The study of the *Ruhnama* also replaced many subjects in the school curricula and was a required subject at institutes of higher learning.

After Turkmenistan's chief mufti, Ibn Ibadullah, lost his position in 2003 for opposing the elevation of the *Ruhnama*, he was replaced by Kakgeldi Wepayev, who was soon put under house arrest for alleged involvement in the purported coup attempt against Niyazov. In 2004, three ethnic Uzbek imams lost their positions for opposing the elevation of the *Ruhnama* as a sacred text. Indeed, the head of a mosque in Ashgabat, Imam Hoja Ahmed Orazgylyjov, died after being sentenced to internal exile in the remote town of Tejen for alleged "criminal activity." Some believe that Orazgylyjov was sent into internal exile due to his refusal to support the Niyazov regime based on his religious beliefs. Furthermore, credible reports indicate that mullahs in Turkmenistan were told in 2005 to stop reading the Koran in mosques and restrict themselves to the *Ruhnama.*

The religion-like quality of the personality cult became even more apparent in March 2006, when President Niyazov announced on Turkmen state television that anyone reading the *Ruhnama* three times "would be assured a place in heaven." The president's books were required to be displayed in mosques and churches alongside the Koran and the Bible. In at least one instance, a mosque was closed by the National Security Ministry after mosque leaders refused to place the *Ruhnama* on a par with the Koran. *Ruhnama* quotations also were carved alongside Koran citations in the country's largest mosque. As noted above, Turkmenistan's former chief mufti, Nazrullah ibn Ibadullah, who opposed this requirement, was sentenced to 22 years in prison; he remained in prison until August 2007, when he and 10 other political prisoners were released by President Berdimuhamedov. Since the autumn of 2006, a Sunni mullah has reportedly been forcibly held in a closed psychiatric hospital in the Lebap region of Turkmenistan due to his critical sermons in a village in the Kaakha district near Ashgabad, according to Forum 18. His name and current status are unknown.

As during the Soviet period, the government under President Niyazov retained tight control over Islamic practice and observance and remunerated and monitored all members of the Muslim clergy. Although Islam was always allowed as one of the country's tolerated religions, only those Muslim religious teachers and believers who accepted and fully cooperated with state authority were tolerated. As his personality cult intensified, President Niyazov attempted to gain even tighter control over Islamic practice by ordering the publication of a list of religious rituals purportedly common to all Turkmen to which all Muslims in Turkmenistan were expected to adhere. Secret police were reportedly sent to attend mosques to identify Muslims who performed religious rites in a way that differed from the officially-prescribed Turkmen practice.

According to some reports, the new leadership intends to decrease emphasis on the *Ruhnama* and has already taken some steps to distance itself from President Niyazov's personality cult. The imposition of the sworn oath of loyalty to President Niyazov has been curtailed and limited only to certain occasions. In March 2007, Berdimuhamedov proposed a new loyalty oath procedure enabling people to swear an oath on a book other than the *Ruhnama*. According to Forum 18, however, the 9,000 prisoners released in 2007 were required to swear a loyalty oath on the Koran and the *Ruhnama*. The Turkmen Academy of Sciences, closed by President Niyazov, has been re-opened. A series of articles by Turkmen scholars exploring the country's history, including through the excavation of Islamic and archeological sites, have recently been published on official Web sites and in November 2007, the works of four classical Turkmen authors were published in small editions. This is a departure from the time of President Niyazov, who had insisted that historical and cultural topics be influenced primarily by his views of Turkmen history as published in the *Ruhnama*.

Nevertheless, the future of the formal personality cult in Turkmenistan remains unclear. During its visit to Turkmenistan, the Commission noticed that several of the portraits and golden statues of President Niyazov that he himself had had built are still found throughout Ashgabat. However, a Turkmen government official reportedly told Radio Free Europe/Radio Liberty in February 2008 that Berdimuhamedov ordered the removal of all portraits of Niyazov and of *Ruhnama* citations from the outside of buildings throughout the country. Yet, the State

Department reported that the government still requires ministry employees to pass tests demonstrating knowledge of the *Ruhnama*, as well as other subjects; employees who fail the exam are reportedly dismissed. In addition, though Niyazov's portraits are being removed, many large portraits of the country's new president are now visible in the capital. It is too early to determine whether these new portrait displays are an aspect of President Berdimuhamedov's consolidation of power or mark the beginnings of new authoritarian presidential rule, accompanied by a new personality cult. On his fiftieth birthday, President Berdimuhamedov ordered commemorative coins with his picture, but when Turkmenistan marked its independence day in October 2007, the commemorative coins did not bear any presidential image.

Ruhnama Still Given Prominence in Religious Life

At the large mosque in President Niyazov's native village of Gipchak, which was built on President Niyazov's orders and which the Commission visited, it was readily apparent that *Ruhnama* inscriptions dominated the exterior and interior walls. Inside the mosque, above the *mikhrab*, or the special bay in the main wall that is directed toward Mecca, was inscribed the word "Turkmenbashi," President Niyazov's self-designated title, a display that most Muslims would consider deeply offensive. Turkmenistan's chief mufti stated that "the *Ruhnama* citations do not violate Islamic law because there is no requirement that there be writings inside a mosque." At the Ministry of Culture, it was claimed that "the way Islam is practiced in Turkmenistan is different than in other places. Our mode of belief is different from Arabs. Our poetry is adapted from the Koran, and the *Ruhnama* is very similar." The Interior Ministry official also claimed that the matter was discussed with representatives from Arab countries prior to building the mosque and that no one had expressed a concern about the design "because all of the verses from the *Ruhnama* that appear within the mosque relate to Turkmenistan's relationship with God."

Clearly, the *Ruhnama* continues to be an imposing state presence in the religious life of the people of Turkmenistan. One interlocutor told the Commission that Muslim clerics can lose their jobs for refusing to teach the *Ruhnama* in the mosques. The *Ruhnama* apparently also continues to impinge on members of the minority communities. A member of a religious minority group told the Commission that "refusing to acknowledge the *Ruhnama* as a sacred text can have serious effects on a person's educational and professional opportunities." In the past, he said he had been punished for refusing to write about the *Ruhnama* at school.

The Role of the Ruhnama in Education

Official and unofficial sources report a decreased role for the *Ruhnama* in Turkmenistan's educational system. Turkmenistan's Minister of Education, Mukhammetgeldi Annaamanov, told the Commission that "the sacred *Ruhnama* was written by our former leader for the education and upbringing of Turkmen youth. It was used and will continue to be used, but there will now be only one hour of instruction each week." Under President Niyazov, one hour per day in institutions of higher learning was devoted to study of the text. Annaamanov also specified that the government currently mandates "only 362 hours of instruction in the *Ruhnama* over 10 years of formal education," and that Muslim and Russian Orthodox religious leaders, presumably CRA representatives, assist in curriculum development. While at the

Ministry of Education, the Commission delegation was shown the official decree eliminating the teaching of the *Ruhnama* in primary schools and curtailing the teaching of the text in high schools from one hour per day to one hour per week, except for the final year in which it will be taught two hours per week. On another occasion, the Commission was told that "recently the new president cut *Ruhnama* classes in high schools and totally removed the book from elementary schools. They also did away with the *Ruhnama* oath in schools."

Another Education Ministry official, however, stated that the *Ruhnama* "tells the history of Turkmenistan" and that the text is part of the curriculum for students from the ages of seven to 17; indeed, he claimed, "many students read it of their own free will." He also stated that the *Ruhnama* is a spiritual but not a religious book, and that reading it leads to "purity" and provides a moral and philosophical background. During a visit to one of several Ashgabat Turkmen-Turkish public high schools, the delegation was shown a special room that was still known as the *Ruhnama* room. In addition, in contrast to what the Commission was told by the Minister of Education, reports indicate that the Niyazov curriculum is still in use at universities in Turkmenistan, and that the *Ruhnama* is still one of the main textbooks for all university students. The State Department reported that President Berdimuhamedov continued with 2006 plans to construct a *Ruhnama* university, though the projected university's focus began to change from "studying the deep roots of the nation's great spirit" to include a more international outlook. In fact, all of Niyazov's texts—the *Ruhnama, Ruhnama II*, poetry volumes, *The Spring of My Inspiration*, and *My Beloved*—remained part of the school curriculum, and passing tests on knowledge of the *Ruhnama* was still necessary for advancement or graduation, though less class time was spent on these works than in the past.

Commission Activities

The Commission continues to raise concern at a variety of venues about the status of religious freedom in Turkmenistan. In October 2006, Commission staff took part in a roundtable on Turkmenistan sponsored by RFE/RL at the OSCE Human Dimension Meeting in Warsaw. In January 2007, then-Commission Chair Felice D. Gaer met with Assistant Secretary of State Richard Boucher to discuss concerns over U.S. policy on Turkmenistan and the failure to name the country a CPC. In August 2007, Commission Chair Michael Cromartie and Commissioners Imam Talal Y. Eid and Donald H. Argue traveled to Turkmenistan, where they met with President Berdimuhmedov and other government officials, as well as representatives of religious communities and civil society. In December 2007, the Commission released a policy brief about its visit to Turkmenistan and sponsored an event at Freedom House entitled "The State of Freedom in Turkmenistan" to launch its publication. In December 2007, Commission staff gave a talk on Uzbekistan and the CPC process in Berlin at the Forum on Freedom of Religion or Belief, a private organization comprised of international legal specialists. In January 2008, Commission staff made a presentation in Brussels on the status of freedom of religion or belief in Central Asia at events sponsored by the NGO European Platform on Religious Intolerance and Discrimination.

The Commission has met with the U.S. Ambassador to Turkmenistan to discuss bilateral relations, the status of religious freedom and other human rights, and steps the United States might take to ameliorate the situation. As recommended by the Commission, the UN

Commission on Human Rights (UNCHR) passed resolutions condemning Turkmenistan for repression of religious and political rights in 2004. In March 2005, the Commission met with delegation heads from the United States and European Union (EU) countries at the 61st session of the UNCHR session and presented information about violations of religious freedom in Turkmenistan, questioning the decision of the United States and the EU not to introduce a resolution on Turkmenistan at the 2005 UNCHR.

The Commission also continues to make public statements and take part in meetings with U.S.-based experts and activists concerned with Turkmenistan. In January 2007, the Commission co-sponsored and spoke at an event entitled "Religious Freedom and State Policy in Central Asia," together with the Center for Strategic and International Studies (CSIS). After Niyazov's death, the Commission issued a press statement with an extensive set of new recommendations on ways to promote religious freedom and other human rights in Turkmenistan. In July 2005, the Commission held a public briefing with the CSIS, on "U.S. Strategic Dilemmas in Uzbekistan and Turkmenistan." The briefing discussed the human rights situation in Uzbekistan and Turkmenistan, the nature of local extremist and terrorist threats, and U.S. and other strategic interests in the region.

Recommendations on Turkmenistan

I. The CPC Designation

The Commission has noted the initial steps undertaken by the government of President Berdimuhamedov to lessen some aspects of the repression mandated by President Niyazov, and encourages the new government to implement further specific steps to bring Turkmenistan's law, policies, and practices in line with international human rights norms, including for freedom of religion or belief. Nevertheless, in light of the persistent, severe problems, until tangible and systemic reforms have been implemented, the Commission continues to recommend that the U.S. government designate Turkmenistan as a "country of particular concern," or CPC.

The Commission recommends that the U.S. government encourage continued reforms, indicating to the government of Turkmenistan the specific measures that it must take to end particularly severe violations of freedom of religion or belief and other human rights, including:

--repeal immediately all laws, decrees or regulations, including major changes in the 2003 religion law, that violate international norms pertaining to freedom of religion or belief;
--repeal the state ideology, imposed through the *Ruhnama,* that infringes upon or severely diminishes the practice of freedom of religion or belief and related freedoms of association, movement, expression, and the media.
--eliminate intrusive and onerous registration procedures and abolish criminal or other penalties for engaging in religious or other peaceful activity solely because it is not approved by the state;
--halt unjust arrest, detention, harassment, deportation, fines and residential and workplace intimidation of religious leaders and their adherents on account of their religious or other beliefs;

--end fully the past practice of harassing and deporting religious leaders and imposing fines on leaders or members of peaceful unregistered religious communities whose activities are deemed "illegal";
--promulgate new regulations and adopt new policies to ease the importation of religious and other material and permit the domestic printing and dissemination of such material in accordance with international standards; and
--implement genuine legal alternatives to military service on grounds of religious or conscientious objection, possibly modeled on Organization on Security and Cooperation in Europe (OSCE) proposals and other international precedents.

II. Promoting Freedom of Religion or Belief and Other Human Rights

The Commission further recommends that the U.S. government urge the government of Turkmenistan to:

- end the personality cult of the late President Niyazov, particularly in the country's religious life and educational system, including by removing the *Ruhnama*—a book containing President Niyazov's "spiritual thoughts"—from mosques and other houses of worship and by further decreasing reliance on the *Ruhnama* in educational curricula;

- release and fully restore the civil and political rights of all former political prisoners, including those in internal exile;

- permit the inspection of places of imprisonment, including labor camps, prisons, and temporary places of detention, by independent impartial experts such as the International Committee of the Red Cross and/or Red Crescent;

- promote and expand the work of the government's Commission to Examine Turkmenistan's Legal Obligations under International Human Rights Law, established in August 2007, including by involving international legal experts, such as the Organization on Security and Cooperation in Europe's (OSCE) Panel of Experts on Religion or Belief and Panel on Freedom of Association, and relevant UN agencies and by preparing and submitting all outstanding reports to human rights treaty bodies, special rapporteurs, and regional bodies;

- reform laws, decrees, and regulations to bring them into conformity with international legal obligations, such as dropping penalties on individuals under the administrative code for engaging in unregistered religious activities; instructing local and other officials to remove obstacles to the purchase or rental of land or buildings to be used as houses of worship or for meeting purposes; permit the use of private homes and public halls in residential areas for worship services; allow children to receive private religious education; allow the publication and distribution of religious literature inside Turkmenistan; and permit freedom of movement for members of all religious and other communities as well as increasing the numbers of Muslims allowed to undertake the *hajj*; and

- reform the government's other policies toward religious practice, including ending state interference in the management of religious communities and the selection and training of

religious leaders, including from Sunni and Shi'a Muslim and the Russian Orthodox communities, as well as from Protestant and other minority communities, reopening the country's Sunni theological faculty, and permitting the members of the Shi'a Muslim community to practice their religion freely.

III. Expanding U.S. Programs and Other Activities to Promote Reform

The Commission also recommends that, in the longer term, the U.S. government make the following efforts to expand activities in Turkmenistan that would protect and promote human rights:

- increase and improve radio, Internet, and other broadcasts of objective news and information, including topics such as religious freedom and other human rights and religious tolerance, by:

  --expanding and improving broadcasts to Turkmenistan by the Turkmen Service of Radio Free Europe/Radio Liberty (RFE/RL), including by increasing coverage of issues relating to freedom of religion or belief and by adding broadcasts in the Russian language and providing additional programming for the estimated 12 million Turkmen in the diaspora, particularly in Iran, Iraq, and Afghanistan; and
  --restoring Voice of America's Russian-language television and radio broadcasts to Central Asia, particularly relating to human rights, including freedom of religion or belief.

- use appropriate avenues of public diplomacy to explain why freedom of religion or belief is an important element of U.S. foreign policy, as well as specific concerns about violations of freedom of religion or belief in Turkmenistan;

- assist in improving Turkmenistan's educational system, particularly with regard to curricula on religious freedom and other human rights, by:

  --expanding "American corner" reading rooms and Internet access in various regions;
  --reprinting Russian and Turkmen-language materials on human rights, particularly on international norms on freedom of religion or belief, including civic education materials such as "The Law that Unifies Us," a text on the importance of respect for the law that was first published and distributed through the OSCE Center in Ashgabat; and
  --providing funds for libraries in Ashgabat and other cities, including materials on human rights, as well as information on freedom of religion or belief, tolerance, civic education, and international legal standards;

- develop assistance programs to encourage civil society groups that protect human rights and promote religious freedom, including by:

  --expanding "train-the-trainer" legal assistance programs for representatives of religious communities to act as legal advisers in the registration process; and

--specifying freedom of religion as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development (USAID) and the Democracy Commission Small Grants program administered by the U.S. Embassy; and

- expand international contacts and increase U.S. involvement in various types of communities in Turkmenistan by:

  --increasing the current Peace Corps budget of $70 million and the current budget of USAID programs, projected to reach $12 million in FY 2008, including by involving religious leaders on community projects in efforts to address social problems and to increase religious and ethnic tolerance;
  --expanding exchange programs, including with civil society leaders, students, and others concerned with human rights;
  --increasing funding for programs that help citizens understand and claim their legal rights;
  --cooperating with the OSCE Center in Ashgabat, in part by resuming joint activities with human rights activists from Turkmenistan to encourage civic education, including on international norms on freedom of religion or belief as well as other human rights, and also by encouraging the OSCE officially to respond to the Turkmen government's offer in May 2007 to host an OSCE experts' level meeting; and
  --organizing a travel grant category for non-governmental organizations and members of diverse religious communities to enable them to take part in various international conferences, including those of the OSCE.

IV. Strengthening Efforts in the International Arena

With regard to international fora, the Commission recommends that the U.S. government urge the government of Turkmenistan to:

- implement the recommendations of the October 2006 Report of the UN Secretary General on the Situation of Human Rights in Turkmenistan;

- agree to the numerous requests for visits by the UN Special Rapporteurs on Torture, the Right to Education, Extra-judicial, summary or arbitrary executions, Freedom of Opinion and Expression, and the Independence of the Judiciary; and from the Representative of the UN Secretary General on the Human Rights of Displaced Persons; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Working Group on Arbitrary Detention, as well as representatives of the OSCE, including the Panel of Experts on Freedom of Religion or Belief, and provide the full and necessary conditions for such visits; and

- participate fully in the OSCE, by

  --participating in the annual Human Dimension meeting in Warsaw;

--expanding the activities of the OSCE Center in Ashgabat, particularly on human rights, including programs with local schools, universities, and institutes; and
--complying with relevant OSCE commitments on key human rights, including freedom of religion or belief, freedom of association, and freedom of expression.

"A PRISON WITHOUT BARS": REFUGEE AND DEFECTOR TESTIMONIES OF SEVERE VIOLATIONS OF FREEDOM OF RELIGION OR BELIEF IN NORTH KOREA

Update on Religious Freedom Conditions in North Korea and New Interviews with Former North Korean Security Agents

In December 2005, the U.S. Commission on International Religious Freedom published a report entitled *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of the Freedom of Thought, Conscience, and Religion in North Korea.* That report, based on extensive interviews with North Korean refugees who fled through China to South Korea from 1999 – 2003, provided a much needed window on religious freedom conditions inside North Korea and the consequences for refugees who are forced to return. The North Koreans interviewed for that report provided compelling eyewitness accounts of public executions of religious believers, torture and imprisonment of refugees repatriated from China, the state's manipulation of religious institutions to gain international prestige and foreign currency, and recent developments inside North Korea, including the revival of Shamanistic practice and fortune-telling.

Those initial interviews also provided compelling details about the rites, requirements, and rituals of the quasi-religious personality cult surrounding Kim Il Sung and his family. Veneration of the Kim family is part of an all-encompassing ideological system known as *KimIlSungism*. All North Koreans are required to attend weekly meetings and to keep pictures of the Kim family in their homes, and there are specific penalties for those who refuse to follow the required rituals. From those interviews it was learned that even the infamous "Yodok" prison camp has a special shrine where inmates, despite living in appalling conditions, are required to keep a special pair of socks for entry. *KimIlSungism* is not merely a method of social control, but the ideological basis of the Kim family's political legitimacy.

Thank You Father Kim Il Sung presented valuable information about religious freedom conditions in North Korea for the widest possible audience of policymakers, diplomats, journalists, religious leaders, and researchers on religious freedom and related human rights in North Korea. The findings from that report were conveyed to senior U.S. Administration officials, Members of Congress, relevant UN agencies including the UN Special Rapporteur on North Korea, and a variety of think tanks in Washington, New York, Rome, and Seoul. That report has been translated into Korean and is available on the Commission's Web site at *http://www.uscirf.gov/images/stories/pdf/nkwitnesses_wgraphics.pdf*.

Updating *Thank You Father Kim Il Sung*

Over the past year, a team of researchers contracted by the Commission conducted 32 additional interviews with North Korean refugees who fled to China from 2003 – 2007 and six interviews with former North Korean security agents who defected to South Korea over the past eight years. The purpose of these supplementary interviews was to determine if religious freedom conditions had changed to any degree, if repressive government policies uncovered in the first report remained in force, and if repatriated refugees continue to face harsh treatment at

the border.[1] The new refugee interviews are the basis of a report published by the Commission in April 2008 entitled, *"A Prison Without Bars": Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea.*

Forcibly Repatriated Refugees

Recent refugee testimony provides further evidence that North Koreans face a well-founded fear of persecution if repatriated from China and require protection as refugees under the international Convention Relating to the Status of Refugees. The forcible repatriation of refugees from China remains an issue of special concern, particularly because refugees are singled out for harsher punishment if they are suspected of having had close and ongoing contact with South Koreans or religious groups. Refugee testimony confirms that repatriated North Koreans are asked repeatedly about their religious affiliations and associations in China. They suffer harsh interrogation, torture, and prolonged detention, particularly if it is discovered that they have either converted to Christianity while in China or had contact with South Koreans—both of which are considered to be political offenses.

As David Hawk, the lead researcher for the first Commission report, and others have argued, the harsh treatment of repatriated refugees, particularly for their religious beliefs or associations, may constitute a crime against humanity according to international human rights treaties.[2] Clearly, the plight of North Korean asylum-seekers requires continued vigilance and action from the international community.

The Supremacy of KimIlSungism

The new refugee interviews provide substantial details about the strength and scope of *KimIlSungism*. Absolute reverence for the Kim family continues to be indoctrinated into every North Korean, through schools, media, and the workplace. Enthusiastic veneration can advance careers and ensure access to daily necessities, while disinterest, "complaints," or "wrong thoughts" can lead to the imprisonment of up to three generations of one's family in the notorious political prison labor camps (*kwanliso*). The penalties for challenging *KimIlSungism* are well known, but refugee testimony did provide some information about individual private rebellions, lax enforcement of some rituals, and widespread dissatisfaction with the personality cult's requirements.

New and Surviving Religious Practices

Additional insight into surviving religious activity in North Korea is also gained from the recent interviews. Despite decades of repression, anti-religious propaganda, and the promulgation of *KimIlSungism*, remnants of Buddhism, Christianity, and traditional folk beliefs such as Shamanism persist. For example, there was a notable amount of eyewitness testimony about Buddhist temples that are preserved as "heritage" or "tourist" attractions by so-called "monks" paid by the Korean Workers' Party. However, despite testimony about surviving Buddhist religious venues, only two refugees interviewed for the Commission's new report witnessed any religious practice at these venues—and what they witnessed was practiced clandestinely.

The persistence—and even popularity—of Shamanistic practice, particularly by exorcists and fortune-tellers, continues to be an intriguing finding of the Commission's research. Most refugees interviewed had visited, or knew of a family member who had visited, an exorcist or fortune-teller. Despite ongoing bans on these practices, they are apparently tolerated in rural areas—and indeed, practitioners are even frequented by high ranking officials and military officers.

The current group of refugees also provides additional information about clandestine Protestant activity, including details about surviving religious practices and "new" religious activity fueled by cross-border contacts with China. The refugees testified to the existence of secret meetings and missionary activity occurring in the border regions. Although there is not enough data from these interviews to determine the size and scope of clandestine Protestant activity, it is nevertheless clearly perceived as a threat by North Korean security officials.

Interviews with Former North Korean Security Agents

One important new facet of the new report is the inclusion of former North Korean Security Agents among those interviewed, providing particularly unusual and valuable insight into police tactics and efforts to curtail clandestine religious activities. The Commission interviewed former National Security Agency (NSA or *Bowibu*) and Public Security Agency (PSA, or *Anjeobu*) officers. Their testimony confirms that refugees face extensive interrogation about their religious contacts and affiliations once they are repatriated from China. Their statements also acknowledge the torture and mistreatment of repatriated refugees, particularly those who confessed to contact with South Korean humanitarian organizations or who were suspected of being religious believers.

The former North Korean security agents testify to increased police activity aimed at halting religious activities in the border regions with China. The agents told of infiltrating Korean-Chinese churches in China, posing as "pastors," or setting up mock prayer meetings to gather information and entrap new converts in North Korea. The former agents believed Protestantism to be an ideological competitor to the "one and only ideology—*KimIlSungism*." They also understood Protestantism as a security threat, suspecting that its growth was a product of "South Korean and American intelligence" agencies. The testimony presented in the new report suggests that the repression and mistreatment of repatriated refugees, and anyone suspected of conducting clandestine religious activity in North Korea, will continue.

Conclusion

Clearly, religious freedom and other human rights conditions in North Korea remain among the world's worst, as the testimony of this more recent group of interviewees confirms. Moreover, the regime headed by Kim Jong Il maintains an unyielding dominance over virtually every aspect of life there, aided by the state-imposed veneration of the Kim family and enforced through an extensive government network of control that intrudes upon virtually every aspect of life in North Korea.

The Commission on International Religious Freedom has worked actively since its inception to draw the world's attention to ways that the internationally guaranteed right to freedom of thought, conscience, and religion or belief is consistently—and severely—violated by the North Korean government. The Commission has devoted considerable resources to helping voices that are heard all too rarely—the voices of North Koreans—to reach policymakers far beyond the DPRK's borders. The reality of life for the people of North Korea can perhaps best be summarized by the words of one former government official, "The only reason the North Korean system…still exists is because of the strict surveillance system… North Korea is a prison without bars."

"A Prison Without Bars": Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea can be found on the Commission's Web site at *http://www.uscirf.gov/images/A_Prison_Without_Bars/prisonwithoutbars.pdf.*

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[1] Researchers were also asked to 1) interview a more geographically diverse sample of refugees to confirm previous findings; 2) ask additional questions about the practice of Buddhism in North Korea; and 3) seek more information about conditions for refugees repatriated from China.
[2] Hawk, David, *Concentrations of Inhumanity: An Analysis of the Phenomena of Repression Associated With North Korea's Kwan-li-so Political Penal Labor Camps*, Freedom House: 2007; and Christian Solidarity Worldwide, *North Korea: A Case to Answer, A Call to Act*, CRS: 2007.

PROMOTING INTERNATIONAL RELIGIOUS FREEDOM AT THE UNITED NATIONS

The International Religious Freedom Act of 1998 (IRFA) specifically cites U.S. participation in multilateral organizations as a way to advance religious freedom worldwide. The 192 member states of the United Nations have all agreed, by signing the UN Charter, to "practice tolerance" and to "promot[e] and encourag[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." These fundamental freedoms include the freedom of thought, conscience, and religion or belief, which is protected in numerous international human rights instruments, including the 1948 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

Over the past several years, the Commission has become increasingly concerned that certain initiatives by some states at the UN could have negative consequences for the UN's ability and efforts to continue to advance compliance with norms guaranteeing religious freedom worldwide. These initiatives include a recent attempt to limit the mandate of the UN Special Rapporteur on Freedom of Religion or Belief, as well as an ongoing campaign to create an international legal principle that would protect religions, rather than individuals, from alleged "defamation" and, in the process, violate key principles that guarantee freedom of expression and freedom of religion or belief.

The Special Rapporteur on Freedom of Religion or Belief

In 1986, on the initiative of the United States, the UN Commission on Human Rights appointed an independent expert, or Special Rapporteur, to investigate and report on instances of religious intolerance and violations of the internationally-protected right to freedom of religion or belief around the world. The Special Rapporteur on Freedom of Religion or Belief monitors this fundamental freedom worldwide, communicates with governments about alleged violations, conducts country visits, and, perhaps most importantly, brings religious freedom concerns to the UN and public attention.

The position of Special Rapporteur was held from 1986 to 1993 by Mr. Angelo d'Almeida Ribeiro of Portugal, from 1993 to 2004 by Mr. Abdelfattah Amor of Tunisia, and since 2004 by Ms. Asma Jahangir of Pakistan. Over the years, the successive Special Rapporteurs have visited and reported on the religious freedom situations in, chronologically, China, Pakistan, Iran, Sudan, Greece, India, Australia, Germany, the United States, Vietnam, Turkey, Bangladesh, Argentina, Algeria, Georgia, Romania, Nigeria, Sri Lanka, France, Azerbaijan, the Maldives, Angola, Israel, the Palestinian Territories, and India. In addition, the current Special Rapporteur plans to visit Turkmenistan in the near future. Bangladesh, China and Iran also have agreed in principle to allow her to visit, although dates for these visits have not yet been determined.

In September 2007, the Special Rapporteur's mandate came up for renewal before the UN Human Rights Council, the successor to the UN Commission on Human Rights. At the time, it appeared that some countries might seek either to abolish the mandate or to change its focus from the individual right to freedom of religion or belief to the purported right of religion itself to be protected from alleged defamation. Since championing its creation, the U.S. government had always been a strong supporter of the Special Rapporteur on Freedom of Religion or Belief. Yet, when the issue of renewing the position arose at the September 2007 Human Rights Council session, the United States was silent, reportedly because of a policy decision, based on dissatisfaction with the Council, to downgrade significantly the participation of the United States in the Council's ongoing deliberations.

In response, the Commission advocated publicly and in private meetings with Administration officials that the U.S. government should re-engage with the Council on this vital issue. The Commission noted that, consistent with the importance of religious freedom in American history, IRFA makes promoting the freedom of religion or belief around the world a foreign policy priority of the United States, and that the Special Rapporteur's mandate is an important tool in the international protection of this freedom. In the end, the United States did participate actively on the issue at the December 2007 Council session and the Special Rapporteur's position was renewed (without an emphasis on the protection of religions) for three additional years. A Commission representative participated in the U.S. delegation to that session.

The Campaign to Protect Religions from Alleged Defamation

In recent years, and particularly since the controversy over a Danish newspaper's publication of cartoons of the Prophet Mohammed in September 2005, some countries with predominately Muslim populations have increasingly sought to emphasize halting so-called "defamation of religions," a concept without basis in international law. Since its inauguration in June 2006, the UN Human Rights Council has adopted three resolutions calling on UN member states to outlaw defamation of religions, all of which were sponsored by the Organization of the Islamic Conference (OIC) and opposed by most of the Council's democracies. As in prior years, a similar OIC-sponsored resolution currently is working its way through the UN General Assembly. In addition, at the March 2008 Human Rights Council session, the OIC succeeded, over the objections of most of the Council's democratic states, in amending the mandate of the Special Rapporteur on Freedom of Opinion and Expression to require that expert to report on instances of defamation of religions as "abuses" of the freedom of expression. The OIC has indicated that its ultimate goal is the adoption of a binding international covenant to protect religions from defamation.[1]

Although the defamation resolutions purport to seek protection for religions generally, the only religion and religious adherents that are specifically mentioned are Islam and Muslims.[2] Moreover, even assuming that other religions are included, the resolutions do not specify which religions are deserving of protection, or explain how and by whom this would be determined. By contrast, protecting the internationally-established individual right to the freedom of thought, conscience, and religion or belief does not require answering these thorny questions. As the UN Human Rights Committee has explained, this right:

> ...protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms 'belief' and 'religion' are to be broadly construed. [The right] is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.[3]

The right thus protects adherents of any religion or belief, including newly established religions and minority religions that can be subject to hostility by the predominant religious community[4]—adherents who not only may not be protected, but may be even more likely to be repressed under a legal rule against the defamation of religions.

The resolutions also do not define what exactly makes a statement defamatory to religions or explain who decides this question. However, other OIC documents reveal that the OIC appears to deem any criticism of Islam or Muslims to be religiously defamatory speech—a view that goes well beyond the existing legal concept of defamation.[5] The most comprehensive such document to date is the March 2008 First OIC Observatory Report on Islamophobia, which cites as defamatory speech the publication of cartoons depicting the Prophet Mohammed or Allah in newspapers in several European countries and South Africa, Pope Benedict's quotation of a fourteenth-century Byzantine emperor's allegation that Mohammed was "bad and inhuman" for commanding his followers to spread Islam by the sword, and "derogatory political statements against Islam from some Western politicians." In the latter category, the examples include comments critical of Islam or Muslims by Dutch, Austrian, Norwegian, Italian, and Swiss politicians, mostly from far-right parties. Also mentioned is Dutch MP Geert Wilders' production of a then-unreleased film that the OIC believed would "vilify" the Koran,[6] and an article by a British columnist that called Islam "an uncompromising seventh-century ideology."

Protecting religions from defamation is often justified in the name of promoting religious tolerance, but in fact, it promotes intolerance and human rights violations. As the Special Rapporteur on Freedom of Religion or Belief has noted,

> the rigorous protection of religions as such may create an atmosphere of intolerance and can give rise to fear and may even provoke the chances of a backlash. There are numerous examples of persecution of religious minorities as a result of excessive legislation on religious offences or overzealous application of laws that are fairly neutral. As a limit to freedom of expression, it can also limit scholarship on religious issues and may asphyxiate honest debate or research. [In addition, it] can limit discussion of practices within religions that may impinge on other human rights. In such a context, criticism of practices—in some cases adopted in the form of a law—appearing to be in violation of human rights but that are sanctioned by religion or perceived to be sanctioned by religion would also come within the ambit of defamation of religion. The dilemma deepens, as independent research on the impact of such laws may not be possible, as a critical analysis of the law may by itself, in certain situations, be considered as defaming the religion itself.[7]

It is worth noting that these resolutions are being put forward not by liberal democracies, but by authoritarian regimes that limit the religious freedom and other human rights of their citizens at home. Legal protections against defaming religions allow repressive governments and religious extremists to suppress and punish whatever they deem to be offensive or unacceptable speech about a particular, favored religion or sect. Such prohibitions have been used to restrict peaceful discussion of the appropriate role of religions in state and society, to prevent criticism of specific political figures or parties, to curb dissent from prevailing views and beliefs, and even to incite and to justify violence.

Many of the countries promoting this international effort have laws that are similar to the defamation proposals in their own countries, usually against blaspheming only one religion (Islam), and often resulting in gross human rights violations. For example, in Pakistan—the chair of the OIC in the Human Rights Council—the domestic law makes blasphemy against Islam a criminal offense subject to severe penalties, including death. These broad provisions have been abused by extremists to intimidate members of religious minorities, including members of disfavored minority Muslim sects, and others with whom they disagree, as well as by the unscrupulous simply to carry out a vendetta or gain an advantage over another person. Blasphemy allegations in Pakistan, which are often false, have resulted in the lengthy detention of, as well as threats of violence and actual violence against, the accused. Even persons who have been acquitted of blasphemy have been forced into hiding or to flee the country because of fears of vigilante violence.

This multilateral campaign to insert "defamation" of religions into various resolutions and to demand new norms to prohibit it appears to be an attempt by its proponents to extend their national blasphemy laws into the international arena, notwithstanding these laws' incompatibility with universal human rights norms. Legal prohibitions on defaming or criticizing a religion, or even all religions, violate the principles outlined in international human rights instruments, which guarantee the right of everyone to freedom of opinion and expression as well as to freedom of thought, conscience, and religion or belief. They also improperly subordinate the protection of every individual's human rights to the protection of religion *qua* religion.

As the Special Rapporteur on Freedom of Religion or Belief has recognized, international human rights law protects individuals, not religions or belief systems, and the individual right to freedom of religion or belief does not include the right to have one's religion or belief be free from criticism.[8] "Freedom of religion primarily confers a right to act in accordance with one's religion but does not bestow a right for believers to have their religion itself protected from all adverse comment."[9] In addition, as noted by the Special Rapporteur on Freedom of Opinion and Expression, the limitations on freedom of expression that are allowed under international human rights law to protect the rights or reputations of others and to prevent the advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence "are designed to protect individuals rather than belief systems, [thus] guaranteeing that every person will have all of his or her human rights protected."[10] Moreover, the right to freedom of opinion and expression applies "not only to comfortable, inoffensive or politically correct opinions, but also to ideas that 'offend, shock and disturb.'"[11]

The Commission has spoken out repeatedly against repressive domestic blasphemy laws in Pakistan, Sudan, and elsewhere.[12] It has been following closely, and with increasing concern, the OIC's apparent campaign to internationalize these provisions. In September 2007, the Commission wrote to Secretary of State Condoleezza Rice urging the United States to oppose a threatened attempt by the OIC to require the work of the Special Rapporteur on Freedom of Religion or Belief to focus on combating defamation of religions. Although it is not a voting member of the Council, the U.S. delegation, including the Commission, engaged vigorously on this issue at the December 2007 Council session, as did the European Union members and Canada. Eventually, the Special Rapporteur's position was renewed without any such requirement. However, because of the rejection of the OIC's proposed amendments—which included the addition of language on the protection of religions under international and national law and the removal of a reference to the right to change one's religion—the OIC members of the Council abstained.[13] This was the first time that a routine resolution on freedom of religion and the Special Rapporteur's mandate was not approved by consensus.

Recommendations

In order to ensure that the UN fully maintains its crucial function to protect and promote freedom of thought, conscience, and religion or belief, the U.S. government should:

- continue firmly and unequivocally to support a mandate and mandate-holder for the position of UN Special Rapporteur on Freedom of Religion or Belief that focuses on the internationally-protected right of every individual to the freedom of thought, conscience and religion or belief, rather than on the purported rights of religions;

- continue to oppose efforts in international fora to establish an international legal principle that would claim to "protect" religions from defamation or criticism, offering new rights to religions that would undermine many fundamental, individual human rights; and

- work diplomatically, through its new Special Envoy to the Organization of the Islamic Conference (OIC) and its ambassadors in OIC countries, to persuade OIC members that religious intolerance and discrimination can best be fought not through national or international legal prohibitions that purport to stop criticism or "defamation" of religions, but rather through efforts to encourage respect for the human rights of every individual.

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[1] Statement of Mr. Ekmelledin Ihsanoglu, OIC Secretary General, UN Human Rights Council, Fourth Session, March 12, 2007. Although this statement referred to a convention against defamation of religions generally, other OIC documents have stated its aim as the establishment of "international legislation combating defamation of Islam and discrimination of Muslims" only. First OIC Observatory Report on Islamophobia, May 2007-March 2008, Organization of the Islamic Conference, March 2008, p. 8.

[2] The OIC has characterized the General Assembly's adoption in 2006 of an OIC-sponsored resolution on combating defamation of religions as "reflect[ing] the international community's views and willingness to eliminate any discrimination against Muslims or defamation of Islam." Ibid., p. 24.
[3] UN Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), para. 2.
[4] Ibid.
[5] See, e.g., Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, A/HRC/7/14, 28 February 2008, paragraphs 38-39 (noting that defamation laws "protect people against false statements of fact that could damage their reputation" and expressing concern about the dangers of expanding them to protect abstract values or institutions, including religions.)
[6] The film, titled "*Fitna"* (Strife), subsequently was released on the Internet. It intersperses quotations from the Koran and video of preachers advocating violence with graphic images from the September 11, 2001 attacks and other terrorist acts and argues that Muslims are seeking to subjugate the West.
[7] Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, Doudou Diene, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance, A/HRC/2/3, September 20, 2006, para. 42-43.
[8] Ibid., paragraphs 36-38.
[9] Ibid., paragraph 37.
[10] Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, A/HRC/7/14, 28 February 2008, paragraphs 40, 65-66, 85.
[11] *Ibid.*
[12] See, e.g., U.S. Commission on International Religious Freedom, *Sudan: USCIRF Condemns Punishment of Teacher for Allegedly Insulting Religion, Urges her Release and Safe Passage*, December 1, 2007; U.S. Commission on International Religious Freedom, Pakistan*: USCIRF Decries Abuse of Blasphemy Laws, Apostasy Bill*, June 11, 2007.
[13] The OIC members also expressly disassociated themselves from the resolution's reference to the right to change one's religion, which they said they do not consider to be binding—despite the fact that this right is a long-recognized element of international human rights law. *See* Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), para. 5 ("The Committee observes that the freedom to 'have or adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views. . . .").

IRFA AND THE U.S. REFUGEE AND ASYLUM PROGRAMS

Overview of the Commission's Work with Refugee, Asylum and Immigration Issues

As stated in the preamble of the International Religious Freedom Act of 1998 (IRFA):

> The right to freedom of religion undergirds the very origin and existence of the United States. Many of our nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom… From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

Consistent with the language in these principles, Title VI of IRFA included several provisions related to asylum seekers, refugees, and immigrants, with particular attention to those individuals who have fled—or committed—severe violations of religious freedom. Title VI also authorized the Commission to conduct a major study of the impact of a new U.S. immigration procedure established in 1996, called "Expedited Removal," on asylum seekers. This study was conducted in 2003 and 2004, and the Commission released its findings and recommendations in its *Report on Asylum Seekers in Expedited Removal* in February 2005. Two years after the release of the report, the Commission released a "report card" in 2007 of the agencies responsible for Expedited Removal on their implementation of the report's recommendations.

As part of its monitoring of the implementation of Title VI of IRFA, the Commission has concluded that implementation of some of the training and reporting provisions of Title VI has resulted in a heightened awareness of religious persecution issues among relevant decision-makers and adjudicators. Other training and operational provisions, however, remain under or even unimplemented—nearly eight years after IRFA's enactment. The Commission continues to urge the State Department and other relevant agencies to implement fully IRFA's Title VI provisions.

Working with the U.S. Departments of State, Justice, and Homeland Security, as well as the U.S. Congress, the Commission had several notable achievements in the refugee, asylum, and immigration fields in the past year.

- The Commission released a report card in 2007 assessing the Department of Homeland Security and the Department of Justice on their implementation of Commission recommendations in the Commission's *Report on Asylum Seekers in Expedited Removal* two years following the release of the report.[1]

- The Commission met with Department of Homeland Security Secretary Michael Chertoff, Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement Julie L. Myers, and Chief Immigration Judge David L. Neal following the release of the 2007 report card.

- The Department of Homeland Security created a new training module for its personnel on cultural awareness and asylum issues based on the Commission's recommendations to protect asylum seekers in the Expedited Removal process.

- The Department of Homeland Security implemented quality assurance procedures to better track parole decisions for asylees in the Expedited Removal Process as recommended by the Commission.

- Legislation was introduced by Senator Joseph Lieberman in the Safe and Secure Detention Act of 2007 as part of comprehensive immigration reform to implement many of the recommendations of the Commission's study on Expedited Removal.

- The Commission conducted trainings on international religious freedom issues for U.S. government officials involved in the asylum and refugee adjudication processes, including immigration judges and the Board of Immigration Appeals at the Executive Office for Immigration Review in the Department of Justice, as well as the Refugee Corps and Asylum Officers of the U.S. Citizenship and Immigration Services in the Department of Homeland Security.

Expedited Removal Study Report Card: Two Years Later

In early 2007, the Commission released a report card assessing the Department of Justice (DOJ) and the Department of Homeland Security (DHS) on their implementation of recommendations put forth in its congressionally-authorized *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study), which examined how adequately the two federal agencies implemented congressionally-mandated protections for asylum seekers facing Expedited Removal (see below).

The Commission's report card concluded that two years after the Study was released, most of the serious implementation flaws identified in the Study have yet to be addressed, and most of the Study's recommendations have not been implemented. In 2008, one year after the report card was issued, many of the Commission's concerns continue to be valid and the problems identified remain unaddressed.

Expedited Removal—included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996—provides for the prompt removal of aliens without proper documentation to their country of origin. However, the process includes the risk that refugees, who often travel without proper documents, might be mistakenly returned to their persecutors. To address this risk, Congress implemented several special procedural protections, including detention of asylum seekers while a determination is made if the alien has a "credible fear" of persecution (credible fear determination) and, if the asylum seeker goes before an immigration judge (IJ), allowing some to be paroled while their asylum case is pending. If it is determined that the asylum seeker does not have a credible fear of persecution, he or she is returned to the Expedited Removal process and removed promptly.

At least five separate entities are involved in Expedited Removal. Within DHS, it is Customs and Border Protection (CBP) that first encounters aliens and identifies those subject to Expedited Removal and those seeking asylum. Immigration and Customs Enforcement (ICE) is responsible for detaining asylum seekers until Citizenship and Immigration Services (USCIS) makes the credible fear determination. For those asylum seekers found to have a credible fear, the DOJ's Executive Office for Immigration Review (EOIR) takes over; immigration judges hear the cases, and the Board of Immigration Appeals (BIA or Board) reviews any appeals. With so many immigration officers involved in so many locations, coordination remains a major challenge within DHS, and between DHS and DOJ.

Although Expedited Removal was intended to protect the integrity of U.S. borders while also protecting *bona fide* asylum seekers, the Study discovered that serious implementation flaws place asylum seekers at risk of being returned to countries where they may face persecution. The Study also found that asylum seekers were detained inappropriately, under prison-like conditions and in actual jails.

DHS has not made any public response to the Study, despite an assurance by DHS Secretary Michael Chertoff and Assistant Secretary for Policy Stewart Baker in a May 2007 meeting with the Commission and an earlier request from the Senate Appropriations Committee in Report 109-083 to consult with EOIR and report to the Committee by February 2006 on various aspects of the agency's implementation of the Study's recommendations. The House of Representatives Appropriations Committee in Report 109-79 also urged DHS to consider implementation of specific Study recommendations. It should be emphasized that none of the Study's recommendations require congressional action. However, because of concern over the agencies' failures to address the Study, Senator Lieberman introduced legislation in 2007 that would mandate implementation of a number of the Commission's recommendations.

Customs and Border Protection (CBP)

The Commission found that in more than half of the Expedited Removal interviews observed during the Study, immigration officers failed to read a script advising aliens in the Expedited Removal process that they should ask for protection without delay if they have any reason to fear being returned home. The Study further found that in 72 percent of the cases, asylum seekers were not provided an opportunity to review sworn statements taken by immigration officers to make any necessary corrections for errors in interpretation before signing. These sworn statements are not verbatim, are not verifiable, often suggest that information was conveyed to the asylum seeker which was in fact never conveyed, and sometimes contain questions that were never asked. Although they resemble verbatim transcripts, they are not. The Study found that these unreliable documents are often used against asylum seekers when their cases are presented before an immigration judge.

DHS regulations also require that, when an asylum seeker expresses a fear of return, he or she must be referred to an Asylum Officer to determine whether the fear is "credible." Yet, in nearly 15 percent of the cases that Study experts observed in person, asylum seekers who expressed a fear of return were nevertheless removed without a referral to an Asylum Officer.

Of those cases, nearly half of the files indicated that the asylum seeker had not expressed any fear.

The Study put forth five recommendations to CBP to enhance and expand quality assurance procedures to ensure that Expedited Removal procedures are being properly followed, including: 1) expand existing videotape systems to all ports of entry and border patrol stations and have "testers" verify that procedures are correctly followed; 2) reconcile conflicting field guidance to clarify the requirement that any alien who expressed fear be referred for a credible fear interview; 3) inform immigration judges that forms used at ports of entry and the border are not verbatim transcripts of the alien's entire asylum case, despite their appearance, so that they can be given proper weight; 4) save scarce detention resources by not placing asylum seekers with valid travel documents in Expedited Removal; and 5) improve monitoring so that existing border procedures are correctly followed.

Before the report card's release, DHS failed to provide information on steps taken by CBP to address these issues and there was no public information to indicate that any of the recommendations had been implemented. On the contrary, information provided by DHS during the course of the *Orantes* litigation revealed that supervisors continue to rely almost exclusively on file reviews of Expedited Removal orders, and that the relevant DHS officials had no knowledge of whether DHS had adopted the Commission's recommendations. During the Commission's meeting with Secretary Chertoff, the Commission was told that CBP had taken steps to increase enforcement and review of its procedures and field guidance related to cases of Expedited Removal, as well as to improve training of field officers. However, the Commission's primary recommendation, the expansion of existing videotape systems to verify that procedures are correctly followed, has yet to be implemented.

Immigration and Customs Enforcement (ICE)

The Study found that despite established national criteria to determine when asylum seekers in Expedited Removal should be released from detention pending their asylum hearing, there was no evidence that the criteria are actually being implemented. The Study found wide variations in release rates across the country, from 0.5 percent in New Orleans and 4 percent in New Jersey, to 94 percent in San Antonio and 81 percent in Chicago. Additionally, the overwhelming majority of asylum seekers referred for credible fear are detained—for weeks or months and occasionally years—in penal or penitentiary-like facilities. On average, asylum seekers with a credible fear of persecution are detained for 60 days, and one third are held for 90 days or more. Many facilities are, in fact, jails and prisons, and in some of these facilities, asylum seekers live alongside U.S. citizens serving criminal sentences or criminal aliens—even though ICE detention standards do not permit non-criminal detainees to be co-mingled with criminals. ICE has experimented with alternatives to detention, and has opened one secure facility—in Broward County, Florida—that resembles a refugee center rather than a penal institution. Broward, unfortunately, remains the exception.

The Study put forth five recommendations to ICE to ensure that detention standards and conditions are appropriate for asylum seekers and to implement more consistent parole criteria, including: 1) train detention center personnel to work with non-criminal, psychologically

vulnerable asylum-seekers; 2) work with the immigration courts to ensure that detained aliens in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers; 3) change detention standards so that non-criminal asylum seekers are not detained under penal conditions; 4) codify existing parole criteria into regulations; and 5) ensure consistent and correct parole decisions by developing standardized forms and national review procedures to ensure their proper application.

Since the release of the report card, ICE has taken steps to increase communication and cooperation with the Commission on its efforts to address concerns raised in the Study. In 2007, ICE implemented some of the Commission's recommendations, but it also enacted policies contrary to the recommendations. In December, in compliance with a Commission recommendation, ICE jointly released a new training module on cultural awareness and asylum issues. The previous month, ICE announced new quality assurance procedures to track parole decisions and statistics. However, the same policy directive expanded the criteria that must be met to allow asylum seekers to be paroled, rather than simply codify the existing criteria as the Commission recommended. Unfortunately, this move may actually extend detention for asylum seekers.

The agency has also been unwilling to develop alternatives to detention. A December 2006 Audit Report by the DHS Office of the Inspector General (OIG) found instances of non-compliance with existing ICE Detention Standards at all five of the facilities surveyed, three of which were included in the Commission's Study. Moreover, an April 2006 DHS OIG Audit Report recommended that ICE expedite alternatives to detention and improve the capacity of data management systems to track information on the rationale underlying parole decisions.

U.S. Citizenship and Immigration Services (USCIS)

The Study found that, despite their expertise and authority to grant asylum outside the Expedited Removal context, Asylum Officers have a limited role in the Expedited Removal process. The Study found a high rate of positive credible fear determinations, reflecting the deliberately generous preliminary screening standard used in order to assure that a refugee is not mistakenly returned. However, review procedures for negative credible fear determinations were found to be more onerous, and might have the unintended consequence of encouraging positive determinations. The Study also found that the partnership between the Arlington, Virginia Asylum Office and the Capital Area Immigrants Rights Coalition to ensure legal advice for credible fear determinations was a success worth replicating. The partnership not only provides detained asylum seekers with legal advice, but has also improved efficiency by increasing the number of asylum seekers who, after consulting with counsel, chose not to pursue their claims.

The Study put forth three recommendations to ensure asylum seekers are not turned away in error, including: 1) subject both positive and negative credible fear findings to similar review procedures; 2) expand the existing *pro bono* program for the credible fear process to all eight Asylum Offices; and 3) allow Asylum Officers to grant asylum at the credible fear stage.

The Commission commends USCIS for its April 2006 memorandum on increasing quality assurance review for positive credible fear determinations, the release of an updated

Asylum Officer Basic Training Course Lesson Plan, and the announcement in December 2006 that it welcomes approaches by non-governmental organizations (NGOs) to expand the existing *pro bono* program to the other seven Asylum Office cities.

Department of Homeland Security (DHS) Agency-wide

The Study found extensive problems with the overall management and coordination of the Expedited Removal process, including insufficient quality assurance practices, inadequate data management systems, poor communication between responsible DHS bureaus, and no mechanism to address system-wide issues. The Commission put forth four recommendations to address these coordination and management flaws: 1) create a high-level Refugee Coordinator position; 2) address implementation and coordination issues before expanding the Expedited Removal program; 3) create a reliable data management system that allows for real-time information on asylum seekers in Expedited Removal; and 4) allow Asylum Officers to grant asylum at the credible fear stage.

While DHS Secretary Michael Chertoff did appoint a Refugee Coordinator, no other recommendations were acted upon. In February 2006, a Senior Advisor for Refugee and Asylum Policy was appointed. The Commission remains concerned, however, that unless supported by a fully staffed office and with the necessary authority within the Department to make the needed changes, the position cannot implement the Study's recommendations, ensure consistent asylum policy and legal interpretations Department-wide, and monitor the system on an agency-wide basis to ensure that changes remain in place and problems are addressed as they arise.

The Commission's broad recommendation was that Expedited Removal not be expanded until the serious problems identified in the Study were resolved. Despite this recommendation—and the failure to resolve the problems cited in the Study—DHS has in fact expanded Expedited Removal from a port-of-entry program to encompass the entire land and sea border of the United States, to a distance of 100 miles inland. The Commission continues to be concerned about this extension of Expedited Removal, despite its specific recommendation that flaws in the process must be addressed before such an expansion.

The Commission discovered in the DHS OIG Audit Report in April 2006 that ICE lacks data analysis capabilities to manage the detention and removal program in an efficient and effective manner. The Commission continues to urge the Department to develop a department-wide data management system to allow for real-time information on asylum seekers in the Expedited Removal process.

The Commission also continues to urge DHS to allow Asylum Officers to grant asylum at the credible fear stage, a recommendation which Secretary Chertoff and other DHS officials have told the Commission is currently under review.

Department of Justice, Executive Office for Immigration Review (EOIR)

The Study found that sworn statements taken at ports of entry and the border are inaccurate and incomplete, and that credible fear determinations are not intended to document

the asylum seeker's entire claim. Nevertheless, the Study found that in 57 percent of all cases, sworn statements and/or credible fear determination records were used to impeach the asylum seeker. In 39 percent of all cases, the immigration judge cited these documents in denying the claim. The Study also found that one in four asylum seekers who are represented by *pro bono* attorneys are granted asylum, whereas only one in 40 unrepresented asylum seekers succeed.

The outcome of the asylum seeker's case also seems to depend largely on chance; namely, the IJ who happens to be assigned to hear the case. Among IJs sitting in the same city who hear a significant number of asylum cases, some grant almost zero percent of applications, while others grant 80 percent. Of the asylum cases appealed to the BIA, only 2 to 4 percent are reversed. A particular concern is the use of "summary affirmances without opinion," whereby a single Board member can endorse an IJ decision without providing a reasoned written opinion discussing the issues raised on appeal. This practice, while allowing the Board to work through some of its backlog, can reduce confidence in the rigor of the Board's review and has led to an increase in appeals of BIA decisions to federal circuit courts. Another drawback of summary affirmances is that they do not provide any guidance to IJs, since any errors other than those cases requiring reversal of the decision are not corrected by the Board.

The Commission put forth six recommendations to improve consistency in asylum determinations by IJs. These are: 1) reinstate funding for immigration judge training; 2) expand the Legal Orientation Program (LOP), conducted by NGOs under EOIR's direction in order to provide legal information to detained aliens, improve their access to *pro bono* counsel, reduce detention costs, and increase immigration cost efficiency; 3) improve the quality of immigration court decisions; 4) work with ICE to ensure that detained aliens in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers; 5) improve administrative review of asylum appeals; and 6) allow Asylum Officers to grant asylum at the credible fear stage.

The Commission welcomes the efforts EOIR has made to address the concerns raised in the Study. In August 2006, the Commission expressed approval of new DOJ reforms based on the Commission's recommendations. The reforms included: implementation of performance and supervision measures to promote better consistence and quality of IJ decisions; improvement and increased explanation of BIA decisions; increased training of IJs, BIA members, and EOIR staff; and expansion and improvement of EOIR's *pro bono* programs.

EOIR has also increased training opportunities provided to immigration judges. In January 2007, EOIR informed the Commission that it is expanding and improving training for all IJs, including some country specific trainings, and that it welcomed Commission input or recommendations for these training sessions. EOIR is also providing more resource materials for the judges. In August 2006 and 2007, all IJs participated in a five-day training conference, which included presentations on religious freedom by the Commission and the State Department's Office of International Religious Freedom, and mandatory workshops concerning asylum law and procedures and improving oral decisions. The conference also included circuit-specific reference materials. In November 2006, all IJs received an in-depth outline on asylum credibility and corroborating evidence in the federal Courts of Appeals. Additionally, a one-week training course for new IJs was held in March 2007 that included lectures on asylum,

withholding of removal and protection under the Convention against Torture, a discussion of credibility developments under the REAL-ID Act, and a mock asylum hearing.

The Commission was also pleased to learn that EOIR in January 2007 doubled the number of LOP sites from six to 12, with an additional four pilot sites for unaccompanied minors in the custody of the Office of Refugee Resettlement. In addition, EOIR formed a Pro Bono Committee to oversee expansion and improvement of its *pro bono* programs.

The Commission noted efforts by EOIR to improve immigration adjudication through additional training and resource materials and the consideration of "quality assurance procedures (i.e., peer review) to address the significant variations in approval and denial rates among immigration judges." The Commission further notes that the BIA has decreased the number of summary affirmances and has also added new Board members. It continues to urge the BIA to increase the number of written opinions in asylum cases.

U.S. Inter-agency Disagreement Hampering Protection for Many Who Fled Religious Persecution

A legislative development in the U.S.A. PATRIOT Act (as amended in 2005 by the REAL ID Act) has inadvertently become a barrier for refugees and asylum seekers who have fled religious persecution at the hands of terrorists and terrorist regimes.[2] Essentially, an alien is now held inadmissible if he or she provided any in-kind or monetary assistance (i.e., "material support") to any group that advocates, conspires to commit, or commits an illegal act of violence, even if such support was provided under duress or was directed toward a group supported by the U.S. government. This policy has left thousands of refugees stranded in camps overseas as their applications have been put on hold by DHS and UNHCR.

The Departments of Justice, State, and Homeland Security may waive this so-called "material support bar" under certain circumstances. In 2006, Secretary of State Condoleezza Rice announced a waiver for the Burmese Karen, Karenni, and Chin ethnic groups and for the Tibetan Mustangs and Cuban Alzados, groups fighting for democracy in their respective countries. In January 2007, Secretary Chertoff announced that provisions of material support to terrorism do not apply to those seeking asylum or adjustment of status to those that provided support to the following groups: the Karen National Union and Karen National Liberation Army, Chin National Front and Chin National Army, China National League for Democracy, Kayam Mew Land Party, Arakan Liberation Party, Tibetan Mustangs, Cuban Alzados, and Karenni National Progressive Party. In late 2007, Hmong and Montagnards from Southeast Asian countries also were exempted from material support bars. Additionally, a duress exemption has been granted for victims of Tier III terrorist groups.[3] In December 2007, the Consolidated Appropriations Act of 2008 broadened the categories of people now eligible for a waiver and granted the Secretaries of State and Homeland Security the discretionary authority to determine that the "Tier III" definition shall not apply to any group that would otherwise fall within its scope. Groups that "have engaged terrorist activity against the United States or another democratic country or that has purposefully engaged in a pattern or practice of terrorist activity that is directed at civilians" continue to be prohibited from receiving a waiver.

These steps have not fully addressed the situation, however. Individuals who provided support under duress to Tier I or II terrorist groups are still barred from entry into the United States. Many Iraqis fleeing religious and other forms of persecution in their country—as many as 13 percent of those referred to the U.S. Refugee Admissions Program—have had their resettlement cases delayed because of material support concerns. Finally, the U.S. government may rescind waivers without notice and without allowing asylum seekers to challenge the revocations, raising due process concerns.

Individuals who have voluntarily supported foreign terrorist organizations, such as those designated by the Secretary of State under section 219 of the Immigration and Nationality Act, should certainly be excluded from the United States. However, denying refugees admission to the United States because they were physically forced against their will to assist a terrorist organization, or because they provided inconsequential support to organizations which oppose particularly repressive regimes, is not only undermining the international leadership of the United States in the field of human rights, it is endangering the lives of innocent refugees who have fled terror or repression.

The Commission urges the Administration and Congress to resolve this impasse without further delay. *Bona fide* refugees should not continue to be barred from the United States if they represent no genuine security threat.

Access to the U.S. Refugee Admissions Program for those who have Fled Severe Violations of Religious Freedom

The Commission has repeatedly urged that the U.S. Refugee Program be made more accessible for refugee applicants who have fled severe abuses of religious freedom, particularly those who have fled countries of particular concern (CPCs). The Commission has been joined in this call by the Congress, which enacted a provision in the North Korea Human Rights Act of 2004 requiring that the President, in his annual report on proposed refugee admissions pursuant to section 207(d) of the Immigration and Nationality Act, include information about specific measures taken to facilitate access to the U.S. Refugee Program for individuals from each CPC.[4]

The Congress also renewed for FY07 the Lautenberg (formerly Specter) Amendment, which provides relief to religious minority refugee applicants from Iran by clarifying the adjudication standards specific to their claims.[5] The Commission recommends that Congress and the President continue to extend the Lautenberg Amendment until the government of Iran ceases to engage in systematic, ongoing, and egregious violations of religious freedom.

The United States has the largest program in the world to interview and process refugees in third countries for resettlement, with a proposed ceiling (for FY08) of up to 70,000 refugee admissions. With more than 8 million refugees in the world, however, access to the U.S. Refugee Program is tightly controlled, to the extent that for every year since 1991, the refugee admissions level has been undersubscribed by 5,000 refugees or more. Refugees overseas may not submit an application to the Refugee Program unless they are referred by the UN High Commissioner for Refugees (UNHCR), or unless they belong to a specific group that has been deemed a "processing priority" by the Secretary of State. U.S. embassies may also refer cases to

the Refugee Program for resettlement, but such referrals are an insignificant percentage of the overall caseload.

Since the release of its 2005 Annual Report, the Commission has called upon the Department of State to facilitate access for certain specific groups, including Afghan Hindus under threat of imminent deportation from Germany, ChaldoAssyrian Christians, Mandeans, Yazidis, and other religious minorities who have fled targeted violence in Iraq, and Sudanese Christians who, due to the severity of past persecution or special vulnerabilities, will be unlikely candidates for voluntary repatriation. Other groups that may warrant consideration include Jehovah's Witnesses from Eritrea who have fled to Sudan, as well as ethnic and religious minorities from Burma—such as Chin and Karen Christians and Rohingya Muslims—who have no realistic hope of imminent integration into countries of first asylum or safe and voluntary repatriation to Burma.

Problems in Implementation of Title VI of IRFA

Training Consular Officers in Refugee and Asylum Adjudications and Human Rights, Particularly Religious Freedom

Section 602 of IRFA mandates training on the U.S. Refugee Program for consular officers. The Commission remains concerned, however, that training of State Department consular officers in the Refugee Program continues to fall short of IRFA requirements in that the training concentrates on only one narrow aspect of the Refugee Program. Although consular officers do not adjudicate refugee applications, as noted above they are authorized to refer individuals in need of protection to the Refugee Program.[6] Such referrals rarely take place. A report by Professor David Martin at the University of Virginia, commissioned by the State Department's Bureau of Population, Refugees and Migration, recommended that the Department provide new Foreign Service officers with more systematic instruction on refugee and humanitarian programs and on the specific opportunities and procedures for referrals.[7] Further, the Commission's *Report on Asylum Seekers in Expedited Removal* noted concern over evidence that it may be increasingly difficult for refugees and asylum seekers to obtain protection in the United States, and called for a study on the extent to which consular officers are trained in the Refugee Program, as is required by IRFA, and on the impact such training is having on referrals made by U.S. embassies to the Refugee Program. The Commission regrets that no such study has been undertaken to date.

IRFA Procedural Requirements Relating to the U.S. Refugee Admissions Program

Section 602 of IRFA also contains other requirements for the U.S. Refugee Program. Among these are the requirement that the State Department establish uniform procedures for overseas processing entities, which prepare, under contract with the Department, the applications of individuals seeking refugee status, as well as for personnel responsible for preparing refugee case files for refugee adjudications.

Although the State Department has made progress in complying with this provision by developing a "Worldwide Refugee Admissions Processing System" (WRAPS) to promote

uniformity in the preparation of refugee case files, WRAPS does not provide any substantive guidance in two central aspects of the preparation of refugee case files: the preparation of each refugee applicant's persecution story and the filing of requests for reconsideration of refugee applications that are denied.

In the Commission's 2004 Annual Report, it was noted that the State Department's Population, Refugees, and Migration Bureau had expressed its intention to establish an internal working group on overseas processing entities. Professor David Martin, in the paper commissioned by the Department, also recommended that such a group develop guidelines consistent with section 602 of IRFA.[8] The Commission reiterates its recommendation that the State Department's Population, Refugees, and Migration Bureau more fully implement the requirements set forth in this provision of IRFA.

Section 602 also requires the State Department to develop guidelines to address potential hostile biases in individuals working in the U.S. Refugee Program. While the Bureau of Population, Refugee and Migration (PRM) has included a provision in the cooperative agreement requiring each overseas processing entity (OPE) to take steps to ensure against hostile biases of employees toward any particular refugee applicant, no guidelines have been developed. In November 2006, PRM did hold a session during its training of OPEs where this issue was discussed. The Commission urges PRM to draw guidance from this discussion to form the basis of such guidelines as mandated under IRFA.

Inadmissibility of Religious Freedom Violators

Although section 604 of IRFA holds any alien inadmissible who, as a foreign government official, was "responsible for or directly carried out…particularly severe violations of religious freedom," the Commission has not seen any evidence that the Departments of State and Homeland Security have developed a lookout list of aliens who are inadmissible on this basis. This lifetime bar on admissions has only been invoked once to render an alien inadmissible. In March 2005, it was used to exclude Governor Nahendra Modi of Gujarat state in India for his complicity in the reportedly pre-planned riots in 2002 that resulted in the deaths of nearly 2,000 Muslims. The Commission had issued a statement urging such an action.

Directly related to identifying and barring severe religious freedom violators from entry to the United States, section 402(b)(2) of IRFA requires that the President determine the specific officials responsible for violations of religious freedom engaged in or tolerated by governments of CPCs. Section 408(a)(1) requires that the identities of these officials be published in the Federal Register ("when applicable and to the extent practicable"). To date, no individual officials responsible for particularly severe religious freedom violations have been identified from any CPCs, despite these requirements.

The Commission urges the Departments of State and Homeland Security to implement these provisions of IRFA to identify and exclude religious freedom violators.

[1] The *Report on asylum Seekers in Expedited Removal* can be accessed at *http://www.uscirf.gov/countries/global/asylum_refugees/2005/february/index.html*. The report card can be accessed at *http://www.uscirf.gov/reports/scorecard_FINAL.pdf.*

[2] *See* 8 U.S.C. 1182(a)(3)(B) (2006), *as amended by* Section 411 of the USA PATRIOT ACT OF 2001 (P.L. 107-56) *and* Section 103 of the REAL ID Act of 2005 (P.L. 109-13).

[3] Tier I and II terrorist organizations are defined as those designated under Title 8, U.S. Code, §1189, or subsequently by the Secretary of State. Tier III terrorist organizations are those that consist of two or more individuals, who engage in terrorist activities or have a subgroup that engages in terrorist activities.

[4] The North Korea Human Rights Act of 2004 (P.L. 108-333) SEC. 305. ANNUAL REPORTS**.**
(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—(1) referrals by external agencies to a refugee adjudication; (2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and (3) family links to the United States.

[5] P.L. 110-5, Section 20412

[6] This is an important function, since individuals fleeing persecution may not submit an application for refugee status unless they either (1) receive such a referral from an Embassy or the United Nations High Commissioner for Refugees or (2) fall into one of the narrowly defined processing priorities of "humanitarian concern" to the U.S. Refugee Program.

[7] David A. Martin, *The United States Refugee Admissions Program: Reforms for a New Era of Refugee Resettlement* (July 2004), p. 72 *(http://www.state.gov/documents/organization/36495.pdf*).

[8] See Martin, p. 143.

COUNTRIES OF PARTICULAR CONCERN AND THE COMMISSION WATCH LIST

In passing the 1998 International Religious Freedom Act (IRFA), Congress not only recognized the global importance of freedom of thought, conscience, and religion or belief, but also made the promotion of this critical freedom a matter of U.S. law. This action ensured that advancing international religious freedom became an integral part of the U.S. government's foreign policy agenda. IRFA established a number of interrelated mechanisms to pursue this goal. These include: an Office of International Religious Freedom in the Department of State headed by an Ambassador-at-Large for International Religious Freedom; an annual report by the State Department on the conditions of religious freedom in each foreign country and U.S. actions to promote religious freedom; and the establishment of the United States Commission on International Religious Freedom.

The Commission was created by Congress through IRFA expressly to advocate a prominent place within U.S. foreign policy for the promotion of religious freedom throughout the world. The Commission was mandated both to monitor the status of freedom of thought, conscience, and religion or belief globally and to make recommendations to the President, the Secretary of State, and Congress on ways the U.S. government can further the protection and promotion of this freedom and related human rights in its relations with other countries.

Under IRFA, the President is required to single out and explicitly name those countries that are the most egregious violators of religious freedom, and the Act contains a formal mechanism for doing so. Section 402(b)(1) of IRFA specifically directs the President at least annually to designate each country in which the government has engaged in or tolerated "particularly severe violations of religious freedom" as "a country of particular concern" or CPC. Particularly severe violations of religious freedom are defined as those that are "systematic, ongoing, and egregious."[1] In defining violations of religious freedom, IRFA directly refers to the "internationally recognized right to freedom of religion and religious belief and practice" as laid out in such international instruments as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.[2]

Severe Religious Freedom Violators: the Commission's CPC List

This year marks the tenth anniversary of the adoption of the International Religious Freedom Act (IRFA), legislation that underscores the importance of religious freedom around the world and the need to promote this freedom as an integral component of U.S. foreign policy. Developments of the past decade have strengthened the significance of this critical freedom, which affects the political and humanitarian interests of the United States, as well as America's national security concerns.

As required by IRFA and pursuant to the Commission's review of the facts and circumstances regarding violations of religious freedom around the world, the Commission wrote to Secretary of State Condoleezza Rice in May 2008, continuing to recommend that she, using authority delegated to her by the President, designate as CPCs the following 11 countries: **Burma, Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Pakistan,**

People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and **Vietnam**.

*CPCs: the Failure to Designate and Adequately Respond****

The process of CPC designation as outlined under IRFA, and the implementation of meaningful policies in response to such designations, should be considered among the most serious actions taken by the U.S. government in its human rights policy. Under IRFA, however, the simple designation by the U.S. government of a severe violator of religious freedom as a CPC is not by itself sufficient action. CPC designation carries an obligation that one or more of certain actions specified in Section 405 of IRFA be taken, unless the Secretary of State, as the President's designee, determines that pre-existing sanctions are adequate or otherwise waives the requirement.[3] If a CPC designee is already subject to ongoing, multiple, broad-based sanctions "imposed in significant part in response to human rights abuses," then one or more of these pre-existing sanctions can be designated as meeting the requirements of IRFA.[4]

The CPC designation is a flexible diplomatic tool. It provides the Secretary of State with a range of specific options to take to address serious violations of religious freedom. It does not automatically entail sanctions, but requires that the Secretary of State enter into direct consultations with a country to find ways to improve the situation. To avoid more punitive actions, one policy response under IRFA is for the CPC country to enter into a binding agreement with the United States that spells out specific actions the government will take to end the violations that gave rise to the designation.

When used properly, the CPC designation:

- sends the clear signal that U.S. interests include concern for human rights;
- starts a dialogue where specific benchmarks on progress are agreed upon in order to avoid economic sanctions;
- allows the Secretary of State in an incremental fashion to employ or use the threat of punitive actions to address egregious abuses of religious freedom; and
- allows the Secretary of State to waive any specific actions if progress is being made toward addressing serious violations of freedom of religion or belief.

The Commission is concerned that the State Department has not designated any country as a CPC since November 2006. As you know, IRFA specifically directs the Secretary of State, delegated by the President, on an annual basis, to review religious freedom conditions around the world and, based on that review, to designate as CPCs those countries in which the government has engaged in or tolerated "particularly severe violations of religious freedom." The annual review must occur by September 1 of each year and, while IRFA does not set a specific deadline for the CPC designations, the fact that those designations are based on that review indicates that they should be made in a timely way thereafter. It is now May 2008 and no CPC designations have yet been made based on the review that had to be completed by September 1, 2007. The State Department issued its annual Report on International Religious Freedom in September

2007, as required by statute, but without making any CPC designations. While the report is extremely valuable, its purpose is to help the Administration identify the very worst religious freedom violators as required by IRFA. The CPC designation process is vital to that legislation. The State Department's delay in naming CPCs following the annual review deadline undermines IRFA's statutory scheme, and may send the unfortunate signal that the U.S. government is not sufficiently committed to the IRFA process, including by seeking improvements from the most severe religious freedom violators.

IRFA prescribes a list of actions from which the President can select appropriate policy responses for each CPC. This was done in the case of Eritrea, to which, in September 2005, you announced the denial of commercial export of defense articles and services covered by the Arms Control Export Act, with some items exempted. This was the first unique presidential action to be undertaken under IRFA as a result of CPC designation. With respect to Burma, Iran, North Korea, and Sudan, substantial and important sanctions are in place, initially imposed on other grounds and then redesignated for religious freedom reasons under IRFA. In the case of China, the Chinese government's egregious religious freedom violations have been met with a relatively weak U.S. response, a redesignation of sanctions restricting exports of crime control and detection instruments and equipment. The designation of a severe religious freedom violator as a CPC should be followed by the implementation of a clear policy response uniquely directed at addressing religious freedom violations such as the recommendations for each CPC that are provided in the Commission's report.

Moreover, the Commission encourages the State Department to comply with the requirements of IRFA in the case of the most recently named CPC, Uzbekistan. As stated in the *Report on International Religious Freedom*, the State Department has opted "to establish a dialogue aimed at improving religious freedom" in lieu of a presidential action. The Commission hopes that these negotiations are directed toward negotiating a binding agreement on Uzbekistan for measures to improve religious freedom, which would be an acceptable action provided under IRFA. A single CPC, Saudi Arabia, was granted a 180-day waiver exempting it from any presidential action whatsoever; first announced in 2005, the waiver was subsequently extended in 2006 for two years, "to further the purposes of the (International Religious Freedom) Act." With the waiver, the U.S. has not implemented a single policy response to the denial of religious freedom in Saudi Arabia, one of the world's most egregious violators.

Re-Designations: Persistently Severe Violators

In November 2006, Secretary of State Rice re-designated **Burma, China, Eritrea, Iran, North Korea, Saudi Arabia**, **Sudan**, and **Uzbekistan** as CPCs. The Commission agreed that there had been no improvements substantial enough to warrant the removal of these eight countries from the CPC list. In many of these countries, conditions have instead deteriorated further.

- The military junta that governs **Burma** has directed increasing repression at ethnic and religious minorities, democracy activists, and international humanitarian agencies over the past year. In September 2007, the Burmese government violently cracked down on the peaceful "Saffron Revolution" demonstrations by Buddhist monks, killing at least 30

people and unleashing a wave of killings, arrests, de-frockings, and disappearances. Ethnic minority Christians and Muslims have encountered the most sustained repression in recent years. Moreover, following the September 2007 unrest, the junta has also increased repression of Burmese Buddhists.

Countries Named as CPCs by the Department of State	Countries Recommended for CPC Designation by the Commission	Countries on the Commission's Watch List
Burma	Burma	Afghanistan
China	China	Bangladesh
Eritrea	Eritrea	Belarus
Iran	Iran	Cuba
North Korea	North Korea	Egypt
Saudi Arabia	Saudi Arabia	Indonesia
Sudan	Sudan	Nigeria
Uzbekistan	Uzbekistan	
	Pakistan	
	Turkmenistan	
	Vietnam	

- In **China**, severe crackdowns targeting Tibetan Buddhists, Uighur Muslims, "underground" Roman Catholics, "house church" Protestants, and various spiritual movements such as Falun Gong continue unabated. The recent, concentrated wave of repression in Tibet has thrown a glaring new spotlight on the repressive policies and practices of the Chinese government, which continues to restrict religious practice to government-approved religious associations and tries to control the growth and activities of both registered and unregistered religious groups. Ethnic minority religious groups such as Tibetan Buddhists and Uighur Muslims, unregistered groups, and those derided and termed by the government to be "cults" are subject to the most brutal abuses.

- The conditions for religious freedom in **Eritrea** appear to have worsened over the past year, including arbitrary arrests and detention without charge of members of unregistered

religious groups, and the torture or other ill-treatment of hundreds of persons on account of their religion, sometimes resulting in death. The State Department reports that the number of long-term prisoners continues to grow, noting that at least 160 additional members of unregistered religious groups were detained without charges by Eritrean authorities in the past year.

- The already poor religious freedom record of **Iran** has deteriorated further, especially for religious minorities—including Baha'is, Sufi Muslims, and Evangelical Christians—who face relentless arrests, imprisonment, and harassment. Fears among Iran's Jews have grown due to President Mahmoud Ahmadinejad's repeated denials of the Holocaust and other anti-Semitic statements. Dissidents and political reformers continue to be imprisoned on criminal charges of blasphemy and for criticizing the Islamic regime. Nearly 150 Baha'is have been subjected to a wave of arrests and detention since late 2004; some have been sentenced to prison terms ranging from 90 days to one year on dubious charges that include "spreading propaganda against the regime," and the fear of arbitrary arrest has grown.

- **North Korea** affords its citizens no protections for universal human rights, including religious freedom; the regime perceives religion as a security threat to be combated at all costs. The government severely represses public and private religious activities and maintains a policy of pervasive control over government-sanctioned religious practice. A new Commission study released in April 2008 confirms that refugees who are forcibly repatriated from China face severe persecution, including harsh interrogations, long-term imprisonment, and torture if they are found to have converted to Christianity or have had ongoing contact with South Korean churches. The report also revealed that new efforts are underway to suppress the growth of religious activity in North Korea spurred by cross-border contacts with China.

- The government of **Saudi Arabia** continues to commit serious violations of freedom of religion and related human rights of the members of Muslim communities from a variety of schools of Islam, as well as non-Muslims, by banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam and by interfering with private religious practice. The government in Saudi Arabia also continues to be a source of funding used globally to finance religious schools, hate literature, and other activities that support religious intolerance and, in some cases, violence toward non-Muslims and disfavored Muslims—actions that are incompatible with the Saudi government's commitments as a member of the United Nations. In addition, the government's policy of curtailing universal rights for non-Saudi visitors to the country and inhibiting the enjoyment of human rights on an equal basis for expatriate workers, particularly the two – three million non-Muslim workers, including Christians, Hindus, Buddhists, and others, who have gone to Saudi Arabia for temporary employment, results in severe religious freedom violations.

- In **Sudan**, an authoritarian government—which has pursued coercive policies of Arabization and Islamization resulting in genocide—severely restricts the religious freedom and other human rights of its population. Most of the victims of Sudan's decades-

long North-South Civil War were Christians or followers of traditional African religions. With the signing of the Comprehensive Peace Agreement (CPA) in January 2005, religious freedom conditions have improved in southern and central Sudan. However, there are serious government-directed obstacles to implementing the CPA, and despite the creation of the constitutionally-required Commission on the Rights of Non-Muslims in the National Capital, the CPA agreement has not yet resulted in significant changes in practice in government-controlled areas of the North. The government's continuing attacks and genocide in Darfur, as well as its deliberate obstruction of the CPA and in Darfur of international peacekeepers and humanitarian assistance, including its failure to cooperate with the Security Council-mandated investigation by the International Criminal Court of alleged war crimes, impugn the commitment of Sudanese leaders to support human rights guarantees.

- In **Uzbekistan**, which was designated in 2006, the government has continued to arrest Muslims and harshly repress groups and close mosques that do not conform to government-prescribed practices or that it alleges to be associated with extremist political programs. Thousands of Muslims who reject the state's control over religious practice have been imprisoned in recent years, many of them are denied the right to due process, and there are credible reports that many of those arrested are tortured or beaten in detention. As of 2007, according to the State Department's own estimate, there were at least 5,000 non-conforming Muslims in prison, including some interned in psychiatric hospitals. Moreover, Uzbekistan has a highly restrictive law on religion that severely limits the ability of religious communities to function, leaving more than 100 religious groups currently denied registration. The Uzbek government faces security threats, but these threats do not justify the government's harsh abuse of religious believers or the continued practice of torture, which reportedly remains widespread.

Vietnam: Severe Religious Freedom Violations Continue

Vietnam was removed from the State Department's CPC list in November 2006, on the eve of President Bush's visit to Hanoi for the Asian Pacific Economic Conference. The Commission expressed its concern over the decision to lift the CPC designation, citing continued arrests and detentions of individuals in part because of their religious activities and the persistent, severe religious freedom restrictions targeting some ethnic minority Protestants and Buddhists, Vietnamese Mennonites, Hao Hoa Buddhists, and monks and nuns associated with the Unified Buddhist Church of Vietnam (UBCV).

A Commission delegation traveled to Vietnam in October 2007 and found that progress in improving conditions for religious freedom has been very uneven: improvements for some religious communities do not extend to others; progress in one province is not similarly realized in another; national laws are not fully implemented at the local and provincial levels; and there continue to be far too many abuses and restrictions of religious freedom, including the imprisonment of individuals for reasons related to their religious activity or religious freedom advocacy. In view of the overall deterioration of human rights conditions in Vietnam, which includes continued abuses of religious freedom and related human rights, the Commission

continued to find that lifting the CPC designation for Vietnam was premature. The Commission recommended that Vietnam be re-designated as a CPC in 2008.

In contrast to the State Department, the Commission maintains that there continue to be religious "prisoners of concern" in Vietnam, the long-term detention of whom should be a factor in determining whether Vietnam continues to be a severe violator of religious freedom. Since the CPC designation was lifted and Vietnam joined the World Trade Organization, positive religious freedom trends have not kept pace with other elements of the U.S.-Vietnamese relationship. Arrests, detentions, discrimination, and other restrictions continue, perpetrated by recalcitrant provincial officials and abetted by the central government's suspicion of religious leaders believed to have political motives or the expansion of religious adherence in some ethnic minority areas. In addition, Vietnam has initiated a severe crackdown on human rights defenders and advocates for the freedoms of speech, association assembly, and religion, including many religious leaders.

Saudi Arabia: the U.S. Government Response to an Important CPC Designation

In July 2006, Secretary of State Rice decided to leave in place a waiver "to further the purposes" of IRFA by announcing that bilateral discussions with **Saudi Arabia** had enabled the United States to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups." The Saudi government's stated reforms, however, have not been implemented. As a consequence, the Commission remains seriously concerned about: (1) whether and how the Saudi policies will be put into effect and (2) how the United States will monitor and report publicly on them.

A Commission delegation traveled to Saudi Arabia last summer and found that, in spite of many promises by government officials, little has changed on the ground to improve religious freedom conditions. The Saudi government persists in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of its school of Sunni Islam. It is clear that the government has not substantially revised the Ministry of Education textbooks used in schools across Saudi Arabia and abroad to remove material that incites violence and fuels extreme religious intolerance, even though this pledge for textbook reform was included in the Department's July 2006 statement confirming Saudi policies.

The Commission therefore continues to recommend that the State Department report publicly to Congress every 120 days on the implementation of the policies identified in the bilateral discussions. The policies in question—if implemented in full—could advance much-needed efforts to dismantle some of the institutionalized policies that have promoted severe violations of freedom of religion or belief in Saudi Arabia and worldwide.

Other Severe Violators Not on the State Department List

Of the countries not on the State Department's CPC list, in addition to Vietnam, the Commission continued to find that **Pakistan** and **Turkmenistan** persist in engaging in or

tolerating particularly severe violations of religious freedom. The Commission strongly recommended that these countries be designated as CPCs.

- Despite the dramatic events in **Pakistan** in the past year, the Commission finds that of all of the serious religious freedom concerns, including violence, on which it has previously reported persist. Sectarian and religiously motivated violence continues in Pakistan, particularly against Shi'as, Ahmadis, Christians, and Hindus, and the government's response remains inadequate. A number of the country's laws, including legislation restricting the Ahmadi community and laws against blasphemy, have been used to silence members of religious minorities and dissenters, and they frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. The Hudood Ordinances—Islamic decrees predominantly affecting women that are enforced alongside Pakistan's secular legal system—provide for harsh punishments, including amputation and death by stoning, for alleged violations of Islamic law. There is also mounting evidence from multiple sources that Pakistan's government has been complicit in providing sanctuary to the Taliban. Finally, the government of Pakistan has extended its undemocratic practices into the international arena by promoting measures at the UN to halt the so-called "defamation of religions," which clearly violate the right to freedom of expression, as well as freedom of thought, conscience, and religion.

- Significant religious freedom problems and official harassment of religious adherents persist in **Turkmenistan**, where police raids and other forms of harassment of registered and unregistered religious groups continue more than a year after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing severe difficulties for the legal functioning of religious groups. The government is still promoting the former president's personality cult in the form of the *Ruhnama* in religious affairs and as a mandatory feature of public education. Although the new president has taken some isolated steps, including the release of the country's former chief mufti, systemic legal reforms directly related to religious freedom and other human rights have not been made. Turkmenistan's removal from the Commission's CPC list is therefore not warranted.

The Commission's Watch List

In addition to its CPC recommendations, the Commission has established a Watch List of countries where conditions do not rise to the statutory level requiring CPC designation but which require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments. **Afghanistan**, **Bangladesh**, **Belarus, Cuba, Egypt, Indonesia,** and **Nigeria** comprise the Commission's Watch List. The Commission is concerned about the serious abuses in these countries, and that the governments either have not halted repression and/or violence amounting to severe violations of freedom of religion, or have failed to punish those responsible for perpetrating those acts. The Commission urges the U.S. government to pay particular attention to the poor situation for religious freedom in these countries, which, if not reversed, may deteriorate and require CPC designation during the coming year.

- In **Afghanistan**, conditions for freedom of religion or belief continue to be highly problematic. The country's flawed new constitution does not protect the right of individuals to dissent from the prevailing orthodoxy regarding Islamic beliefs and practices, leading in some cases to serious abuses, including judicial action that violates the rights of the accused. The Afghan government's incapacity to exercise authority effectively outside the capital, Kabul, contributes to a progressively deteriorating situation for religious freedom and other human rights in many regions, and religious extremism, including through the return of the Taliban, is an increasingly real threat once again in Afghanistan.

- In **Bangladesh**, Islamist radicalism and violence and the threat of serious violence and continued discrimination against members of religious minority communities remain significant concerns. Since the installation of a new caretaker government, there have been numerous and alarming reports of serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, and curbs on press freedom. In addition to violent attacks against Hindus, Christians, and Ahmadi Muslims, the pre-independence Vested Property Act continues to be used as justification for some Muslims to seize Hindu-owned land with impunity.

- Already harsh religious freedom conditions in **Belarus** deteriorated in 2007, with the government harassing and imposing the payment of sharply increased fines on members of certain religious groups, especially those whom officials allege to have links to foreign entities or political agendas. In January 2008, Belarus issued a decree that further tightened strict government regulations on foreign religious workers. The authoritarian government of President Aleksandr Lukashenko enforces the country's harsh 2002 law on religion, resulting in serious regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. In 2007, 50,000 Christians of various denominations in Belarus signed a petition to reform the 2002 law, but in March 2008 the Belarusian government rejected it.

- In **Egypt**, the government has taken inadequate measures to stop repression of minority religious adherents and "unorthodox Muslims" or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. Despite some increased public space to discuss religious freedom issues in the media and other fora as well as some positive, but limited, judicial rulings on some religious freedom cases, serious religious freedom violations continue to affect Coptic Orthodox Christians, Jews, and Baha'is, as well as members of minority Muslim communities, all of whom are also subject to religiously-motivated attacks. The government has also done too little to combat rampant anti-Semitism in the state media.

- Religious belief and practice remain under tight governmental control in **Cuba** despite a change in governmental leadership. Both registered and unregistered religious groups continue to suffer official interference, harassment, and repression. Political prisoners and human rights and pro-democracy activists continue to be denied the right to worship. There are reports of religious leaders being attacked, beaten, or detained for opposing

government actions, and political prisoners, as well as human rights and pro-democracy activists, are increasingly limited in their right to practice their religion.

- Although the situation has continued to improve in **Indonesia**, concerns remain about ongoing communal violence and the government's inability or unwillingness to curb it, the forcible closures of places of worship belonging to religious minorities, the growing political power and influence of religious extremists who harass and sometimes instigate violence against moderate Muslim leaders and members of religious minorities, and the arrests of individuals considered "deviant" under Indonesian law. There are persistent fears that Indonesia's commitment to secular governance, ethnic and religious pluralism, and a culture of tolerance will be eroded by some who promote extremist interpretations of Islam.

- **Nigeria** continues to suffer from violent communal conflicts along religious lines. Other concerns in Nigeria are the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states and discrimination against minority communities of Christians and Muslims. At least 29 Christians were killed and numerous churches burned in religiously motivated rioting in September and December 2007, which led to the flight of some 3,000 people. In February 2008, riots broke out among a mob of Muslim youths who torched a police station and looted Christian and police officers' homes. One person was killed and five were seriously wounded.

Summaries of conditions in all of the countries discussed in this chapter, as well as the Commission's policy recommendations, can be found in the country chapters of this report.

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[1] IRFA § 402 (b)(1)(A).
[2] IRFA § 3(13).
[***] Commissioner Leo declines to join this portion of the letter. A separate statement setting forth reasons immediately follows this chapter.
[3] The authority to make these decisions has been delegated by the President to the Secretary of State.
[4] IRFA § 402(c)(5).

Separate Statement of Commissioner Leo Regarding the Failure to Designate and Adequately Respond to CPCs

"I cannot join the portion of the Commission's letter to Secretary Rice that discusses the failure of the Department of State to make CPC designations and prescribe presidential actions in response to CPC designations, and that further criticizes the U.S. government for relying only on pre-existing sanctions without adding any new presidential actions. I shall not express an opinion one way or the other on these matters.

"I do not believe it is this Commission's duty to police the executive branch's compliance with Sections 401 and 405 of the International Religious Freedom Act (IRFA). That is Congress's responsibility as part of its oversight role. The Commission's only responsibilities are those set forth in Section 202 of the Act, and they are essentially confined to evaluating the

condition of religious freedom abroad and making particular recommendations about how to improve it.

"Section 202 of IRFA sets forth two 'primary responsibilities.' The first is to review 'the facts and circumstances of violations of religious freedom presented in the Country *Reports on Human Rights Practices*, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate.' In other words, the Commission is to cull facts and circumstances demonstrating religious freedom violations from a review of a broader set of human rights practices and materials.

"The second responsibility is to make policy recommendations 'with respect to matters involving international religious freedom.' This is not a general mandate, but instead flows naturally from the previous subsection. Specifically, the Commission develops factual findings about a country's religious freedom violations (Section 202(a)(1)), and then makes policy recommendations about how to rectify them (Section 202(a)(2)).

"A broad interpretation of the second responsibility—that the Commission can make general pronouncements about Executive Branch action (or inaction) under IRFA—is not, in my view, supported by the language or structure of Section 202. That reading of Section 202 would be correct if the first responsibility captured both a command to make findings about violations and a command to make recommendations for their resolution. The second responsibility would then stand alone, as a general mandate. However, as written, the second responsibility of making policy recommendations is simply a follow-on to the specific country-by-country findings we are to make. At least that is the reading that I think is dictated by the plain meaning of the statute's structure and words.

"No other part of Section 202 suggests a broader charge or mandate. The Commission is to 'recommend policies of the United States Government with respect to each foreign country.' It is to 'monitor facts and circumstances of violations of religious freedom.' And, the job of 'evaluating United States Government policies in response to violations of religious freedom' is tied to making policy recommendations with respect to 'each foreign country.' If Congress wanted us to generally police executive branch compliance with Sections 403 and 405 of IRFA (timely issuance of reports, decisions to issue sanctions, etc.), it knew how to say that and should have said so explicitly.

"I agree with the notion that, in a manner of speaking, the Commission was established to 'keep State honest.' However, we did not get that job by Congress having delegated to us in 1998 a piece of its oversight responsibility, which entails an overall performance review. Rather, we 'keep State honest' through the thoroughness of our findings and the incisiveness of our recommendations in relation to particular countries, because that gives the President, Congress, and the public a set of benchmarks from which they can make their judgments about the Department's performance, and, in particular, the performance of the State Department's Office of International Religious Freedom.

"There are practical issues here, also. I have no objection to the Commission saying that more should be done respecting a particular country (such as Uzbekistan) based upon a review

of the facts on the ground and what we think might be most effective. That can produce specific action by the U.S. government that improves religious freedom for a specific population or group. The Commission is at its best, and works with the greatest amount of unity and collegiality, when this kind of technical work is tackled. However, a blanket criticism or review strikes me as not yielding the same value, and I fear that blanket pronouncements and criticisms are far more susceptible to being construed as political broadsides."

OTHER COUNTRIES ON THE COMMISSION'S CPC LIST

Burma

Serious human rights abuses, including systematic and egregious violations of religious freedom, perpetuated by Burma's military regime continue to be widespread. In the past year, the Burmese government's extremely poor human rights record deteriorated, with increasing repression directed at ethnic and religious minorities, democracy activists, and international humanitarian agencies. In addition, in September 2007, the Burmese government used violence to halt peaceful demonstrations by Buddhist monks, violence that resulted in deaths, arrests, defrocking, and disappearances. Since its inception, the Commission has recommended that Burma be designated a "country of particular concern," or CPC. The State Department has followed this recommendation and consistently named Burma a CPC.

The military junta that governs Burma, the State Peace and Development Council (SPDC), monitors the activities of all religious organizations through a pervasive internal security apparatus. The government imposes restrictions on certain religious practices, controls and censors all religious publications, has supported, allowed, or instigated violence against religious minorities, and in some areas of the country, has forcibly promoted Buddhism over other religions. Ethnic minority Christians and Muslims have encountered the most sustained difficulties in recent years; however, in the aftermath of the September 2007 "Saffron Revolution," the junta has increased repression of Burmese Buddhists. The Burmese government has closed monasteries, arrested and defrocked monks, and curtailed their public religious activities. In the past year, SPDC policies have continued to isolate Burma from the international community, multilateral organizations, and its neighbors.

In September 2007, monks from several major monasteries joined Burmese activists in a series of small demonstrations to protest a sudden increase in fuel prices. After several activists were arrested and detained for staging the initial protests, Buddhist monks took over the leadership of the growing demonstrations. On September 5, in the town of Pakokku, the government militia fired warning shots over the heads of the peacefully demonstrating monks and beat some of them with bamboo sticks. In response, Burma's monks broadened their demands, calling for release of all political prisoners and the initiation of a process leading to the democratization of the country.

In the several weeks that followed, Buddhist monks organized peaceful demonstrations in most of Burma's major cities. In response, the SPDC initiated a violent crackdown on the protests in late September 2007. The military, along with several militia units, fired live rounds into crowds of demonstrators, carried out baton charges, and used tear gas to break up crowds. There are reports of at least 30 deaths, although some experts estimate that the actual number is much higher. Journalists and activists in Burma state that at least 4,000 people, an unknown portion of which were monks, were arrested during the crackdown, with estimates that between 500 and 1,000 remained in detention months later. What is more, between September 26 and October 6, the military carried out coordinated raids against 52 monasteries throughout the country, detaining large numbers of monks and arresting those perceived as leaders of the

demonstrations. Monks were tortured in detention and then forcibly defrocked and required to return to their villages. Human rights organizations state that about 200 – 300 monks currently remain imprisoned due to their role in organizing the demonstrations, with most facing trial on charges relating to terrorism. Since August 2007, when the junta first initiated steps to quell dissent among activists and the clergy, at least 15 individuals have received sentences of more than nine years imprisonment. At least 70 individuals, including many monks, also remain unaccounted for following the government crackdown.

In January 2008, a spokesperson from the National League for Democracy (NLD) reported that several monks were sentenced for their role in leading the August and September demonstrations. U Kitharihya from Seikthathukhah monastery was sentenced to seven and one half years imprisonment; U Kawmala from Adithan monastery was sentenced to two and one half years; U Wunnathiri from Yadanabonmyay monastery was sentenced to three years; and U Eindiya from Myoma monastery was sentenced to seven and one half years. All four monasteries are located in the city of Sittwe. U Gambira was also arrested and has been charged under Section 17/1 of the Unlawful Association Act, Section 13/1 of the Immigration Act (for illegal movement across borders), and Article 5(J) of the Emergency Provisions Act (for encouraging demonstrations). He is being detained in Insein Prison.

Several monasteries remain closed or are functioning in a more limited capacity, including Ngwe Kyar Yan monastery, where only approximately 50 of the original 180 monks in residence have been permitted to return. In addition, Maggin monastery, Thingan Gyun township, Rangoon was forcibly sealed off by the authorities in November 2007 and most of the monks and civilian assistants were arrested or detained for supporting the September protests and giving refuge to democracy activists. Maggin monastery, in addition to being a religious center, was also an orphanage and a hospice for HIV/AIDS patients. Government authorities continue to monitor closely monasteries viewed as epicenters of the protest.

In addition to the events surrounding the violence against the monks and other demonstrators last year, other, persistent religious freedom problems remain. The SPDC continues to be locked in a decades-long conflict with armed groups of ethnic minorities in the countryside. Renewed government attacks on ethnic villages have resulted in additional human rights abuses, including killings, rapes, forced labor, communal violence, displaced persons, and forced renunciations of faith. The military has, at times, forcibly promoted Buddhism and Burman culture and language among ethnic minorities and targets religious leaders for harassment and arrest. Human rights and humanitarian aid groups report that a military offensive targeting the Karen ethnic minority intensified last year, resulting in the destruction of 167 villages and the internal displacement of approximately 76,000 individuals. After more than 10 years of sustained conflict in the eastern region of the country, over 500,000 people remain internally displaced. In the past year, the government increased its deployment of regiments in Karen state, where there are now 10 divisions compared to the nine divisions posted there in 2006. Following the crackdown on peaceful demonstrators during the Saffron Revolution last year, some armed ethnic movements abandoned ceasefire agreements because of the anger and mistrust brought on by the violence.

In the past year, members of minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have forcibly conscripted members of ethnic and religious minorities for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined. Those who do not carry out their tasks have been shot or beaten to death. Christians and Muslims have been forced to engage in the destruction of mosques, churches, and graveyards and to serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries. In November 2006, Chin women in Thantlang township were required to assist in the cleaning and decorating of a local Buddhist monastery. Those who refused were heavily fined. In January 2007, 14 Christians in Mutapi township were conscripted for construction of a Buddhist temple. They were required to work on Sunday, denying them their right to participate in religious services. In July 2006, about 13 acres of land were confiscated from Chin Christian residents in Tedim township for construction of a Buddhist monastery. In August of the same year, about 50 families were evicted from their homes in Hakha, capital of Chin state, for expansion of the city's 45 year old monastery. In both localities, those losing their land and their homes received no compensation.

Tensions between the Buddhist and Muslim communities have resulted in outbreaks of violence over the past several years, some of it instigated by Burmese security forces against ethnic minority Muslims. In January 2005, two Muslims were killed and one Buddhist monk severely injured in communal violence in Rakhine (formerly known as Arakan) state. Police and soldiers reportedly stood by and did not halt the violence against Muslims until Muslims started to fight back. In February 2006, violent clashes erupted between Muslims and Buddhists in Rakhine and local authorities were hesitant to respond. During the riots, at least three people reportedly died and three mosques were destroyed. In the past two years since the riots, authorities have prevented local efforts to rebuild the mosques. Muslims throughout the country report that they have not been permitted to construct new mosques and that they must pay onerous bribes to secure permission to repair older facilities.

In addition to violence, overt discrimination against Muslims, particularly ethnic Rohingya Muslims, is widespread and severe. The government has denied citizenship to Rohingya Muslims, who number approximately 800,000 in Burma, on the grounds that their ancestors allegedly did not reside in the country prior to British colonial rule. Without citizenship, Rohingya Muslims face restrictions on their freedom of movement; refugees report that some Rohingya are prevented from owning property legally, residing in certain townships, or attending state-run schools beyond the primary level. Since 1988, the government has permitted only three marriages per year per village in the predominantly Muslim parts of Rakhine state. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe. Enforcement of such policies widened in the past year. In June 2004, the UN Committee on the Rights of the Child expressed concern over the situation among Rohingya children, particularly with regard to the denial of their right to food, health care, and education, as well as to their ability to survive, develop, and enjoy their own culture and be protected from discrimination. In April 2007, a panel of UN experts, including the UN Special Rapporteur on Human Rights in Myanmar and the UN Special Rapporteur on Racism, Racial Discrimination and Xenophobia, issued a statement declaring that the Burmese government's denial of citizenship for Rohingya Muslims "has seriously curtailed the full exercise of their civil

political, economic, social and cultural rights and led to various discriminatory practices. This includes severe restrictions on freedom of movement; various forms of extortion and arbitrary taxation; land confiscation and forced evictions; restricted access to medical care, food and adequate housing; forced labor; and restrictions on marriages."

Muslims reported difficulties in constructing new mosques or re-building those previously destroyed. In 2002, authorities in Rakhine state destroyed 13 mosques, halting only in response to international pressure. Local authorities reportedly replaced the mosques with government-owned buildings and Buddhist temples and have refused to issue the necessary permission for mosque construction on other sites. In July 2005, authorities forced the closure of a Muslim school on the grounds that its teachers had tried to convert Buddhist children to Islam by offering private courses. In August 2006, Muslim sources in Rakhine state reported that border security forces issued an order requiring the closure of five mosques, four *madrassas*, and 18 pre-*madrassas*. At the end of 2007, only two *madrassas* had been permitted to reopen. In early 2007, authorities reportedly destroyed repairs that were completed at a mosque in Northern Rakhine state following damage in a severe storm. Authorities in that state also stepped up arbitrary "inspections" of mosques; mosque members were reportedly forced to destroy nine mosques in the region when religious leaders failed to produce operation permits during inspection. In addition, although Buddhists account for only 2 percent of the population of Rakhine state, Rohingya Muslims continue to report that they are routinely forced to provide labor for construction of Buddhist shrines and pagodas in local villages.

Christian groups continue regularly to experience difficulties in obtaining permission to build new churches, as well as to hold public ceremonies and festivals and import religious literature. Authorities have reportedly denied permission for the construction of new churches since 1997 in certain parts of Chin state. Similar restrictions are reportedly imposed in the capital of Kachin state, in some localities in Karen state, and among Catholics and Baptists in Karenni state. In late 2007, a military general in Shan state confiscated land from a Catholic diocese and destroyed the home of the bishop. No compensation has been awarded. In all these areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes. In Rangoon in 2001-2002, authorities closed more than 80 Protestant house churches because they did not have proper authorization to hold religious meetings. Authorities refused to grant applications to obtain such authorizations and few of the closed churches have been reopened. Additional reports of church closings in Rangoon and Mandalay have been received within the last year. In February 2006, authorities in Rangoon issued a ban on the Phawkkan church, which had been in operation for over 20 years. Also in February 2006, a Chin evangelist in Insein township was ordered to halt services that he hosted in his home. In October 2006, a Christian orphanage in Chin state was reportedly forced to close.

Among the Chin and Naga ethnic minorities, there are credible reports that government and military authorities made active efforts to convert Christians to Buddhism. In 2004, numerous reports emerged alleging that under the guise of offering free education, local officials separated children from their parents, and the children were instructed to convert to Buddhism without their parents' knowledge or consent. Some groups reported that these measures decreased in the past year; however, local human rights organizations report that the practice

continues. In Chin state, there are continued reports that government authorities offered financial and career incentives to ethnic Burman Buddhist soldiers to marry Chin Christian women. Chin families who agreed to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. In February 2007, a Christian pastor was arrested for writing a letter to General Than Shwe, the chief of the military junta, urging an end to the persecution of Christians. Naga Christian refugees leaving Burma continually report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism.

In addition to denying building permits, the government of Burma continues to discriminate against members of minority religious groups in education, publishing, and access to public sector services and jobs. In public schools nationwide, all students are required to recite a daily Buddhist prayer. While some Muslim students are permitted to leave the room during this time, some schools require non-Buddhist students to recite the prayer.

According to the State Department's 2007 *Country Reports on Human Rights Practices*, even before last year's crackdown, members of the Buddhist *sangha* (community of monks) were and continue to be subject to a strict code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons or make public views critical of SPDC policies, nor are they permitted to join political parties. Military commanders retain jurisdiction to try Buddhist monks in military court for "activities inconsistent with and detrimental to Buddhism." In several instances between 1988 and 2007, monks and nuns have been defrocked or imprisoned, and an estimated 100 monks and novices remain imprisoned as prisoners of conscience related to activities dating before the September 2007 events. In May 2003, the number of Buddhist clergy in prison for supposed political activity reportedly increased when the Burmese government organized an attack on the motorcade of Aung San Suu Kyi and placed her in "protective custody." Travel restrictions, including an overnight curfew, remain in effect at several monasteries. In August 2006, authorities arrested five Buddhist monks and 15 laymen at a monastery in Rakhine state on the charge that they were allowing members of the National League for Democracy (NLD), the democratic opposition party that won the annulled 1990 parliamentary elections, to meet on monastery premises. As far as is known, the 20 monks and laymen remain in prison.

In an unprecedented unanimous resolution passed shortly after the Burmese military government's crackdown during the Saffron Revolution, members of the UN Security Council condemned the Burmese junta's violent response to the peaceful demonstrations and called for the prompt release of political prisoners and for cooperation with a UN-led effort to engage the government in dialogue on a transition to civilian rule. In a series of visits to Burma, the Secretary General's Special Envoy Ibrahim Gambari met twice with Aung San Suu Kyi. In addition, Paulo Sergio Pinheiro, UN Special Rapporteur on Human Rights in Myanmar, visited Burma for the first time in three years in mid-November. Most recently, the junta denied Mr. Gambari's request for a visa to visit Burma in February 2008, suggesting instead that the visit be postponed until April. Although the military government has appointed an envoy to facilitate communication with Aung San Suu Kyi and has allowed her to meet with members of her party twice since September 2007, they have stated clearly that there will be no role for the NLD, Suu Kyi's party, within Burma's process towards national reconciliation.

In the past year, Commission staff continued to meet with exiled Burmese ethnic and religious leaders, including Buddhists, Christians, and Muslims, and with members of congressional and international delegations that visited Burma. In February 2008, Commissioner Nina Shea made a presentation about religious freedom concerns in Burma at the "Briefing on Burma" held by the Congressional Taskforce on International Religious Freedom and the Congressional Human Rights Caucus. Commissioner Shea discussed Commission policy recommendations with Reps. Trent Frank and Joe Pitts, as well as with congressional staff.

In December 2007, the Commission convened a hearing entitled "After the Saffron Revolution: Religion, Repression and the U.S. Policy Options for Burma." The hearing included testimony from experts on U.S. and multilateral policy on human rights in Burma and Burma's ethnic minority communities. It also featured testimony from an exiled Burmese Buddhist monk and a journalist who was an eyewitness to the violent crackdown in Rangoon that followed the September 2007 demonstrations. In February 2007, Commission staff participated in a briefing convened by the Congressional Taskforce on International Religious Freedom on religious persecution in Burma, which discussed the political and religious repression of Christians and Muslims.

In addition to recommending that Burma be designated a CPC, the Commission makes the following recommendations.

The Commission recommends that the U.S. should:

I. Strengthen coordination of U.S. policy on Burma both within the U.S. government and with U.S. allies through:

- creating an interagency taskforce on Burma under the National Security Council (NSC), headed by a senior ranking official, to coordinate policy and actions on Burma throughout the U.S. government, including implementation of sanctions, humanitarian aid, democracy promotion, counternarcotics, trafficking in persons, and other policy objectives;

- appointing a Special Coordinator on Burma, with the rank of Ambassador, to coordinate multilateral and bilateral diplomatic efforts and serve as the Administration's point person for efforts to bring about political reconciliation and democratic reform in Burma; and

- organizing a coalition of democratic nations in Asia to replace the moribund Bangkok Process in order to construct a roadmap outlining concrete steps Burma needs to take in order to end economic and political sanctions, including addressing humanitarian and human rights abuses, the release of political prisoners, and a transition to civilian rule;

II. Continue to assist and support U.N. and other multilateral diplomatic efforts by:

- initiating action on a UN Security Council resolution on Burma that offers the UN Secretary General a clear mandate for his interactions with Burmese authorities, including full and unimpeded access for the UN Special Envoy on Burma and the UN Special Rapporteur on Burma; a clear timetable, with repercussions, for the Burmese government if it does not

- supporting the mission of the UN Secretary General's Special Envoy on Burma and the UN Special Rapporteur on Burma, including their unrestricted access to opposition political leaders, prisoners, independent human rights monitors, and humanitarian aid organizations in all parts of Burma; and

- seeking access to Burma by the UN Special Rapporteur on Freedom of Religion and Belief for an immediate visit with unrestricted access to religious communities and to regions where religious freedom abuses are reported;

III. In all diplomatic interactions with the government of Burma, or with Burma's closest allies, continue to press for:

- the unconditional release of all persons detained or arrested for the peaceful exercise of religious freedom and related human rights, including revealing whereabouts of people who are still detained and missing, including the more than 300 monks who led or participated in the protests during August and September, 2008;

- the unconditional release of National League for Democracy (NLD) Chair Aung San Suu Kyi and other political prisoners and direct engagement with the NLD and leaders of the country's ethnic minority groups in dialogue leading to a peaceful, time-bound, and monitored transition to democratic civilian rule;

- the issuing of public orders to security forces and local government officials to stop forcible closure of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forced promotion of Buddhism and the renunciation of other religions among ethnic minorities, and discrimination against non-Buddhist minorities;

- an end to the use of forced labor and the use of children and members of religious minorities as porters or military labor, and the active enforcement of its own Order 1/99 (May 1999) and Order Supplementing 1/99 (November 2000), which instruct SPDC officials and military commanders to refrain from employing forced labor of civilians, except in emergencies;

- the lifting of restrictions on the construction and renovation of churches and mosques and on the printing of religious literature, consistent with international standards, and an end to policies of forced eviction from, and the confiscation and destruction of, Muslim and Christian properties, including mosques, churches, religious meeting points, schools, and cultural centers;

- an end to policies that discriminate on the basis of religion in land use, education, allocation of land, job promotion, marriage, access to government services, citizenship, freedom of

movement, and marriage, and the invitation of international technical assistance to help draft laws that conform to international legal standards on these matters;

- compliance with the recommendations of UN General Assembly Resolution A/C.3/60/L.53 on the Situation of Human Rights in Burma, adopted by the General Assembly in November 2005, which includes the granting of unimpeded access to both the UN Special Rapporteur on Burma and the UN Secretary General's Special Envoy on Burma; and,

- the ratification of core international human rights instruments, including the International Covenant on Civil and Political Rights;

IV. To support local democracy efforts, continue to:

- provide assistance, through the State Department's Economic Support Fund (ESF), to empower Burmese civil society groups organizing humanitarian assistance, conducting human rights documentation efforts (particularly religious freedom abuses faced by the Muslim and Buddhist communities), and providing public advocacy, leadership, and legal training to Burmese living in and outside of Burma.

Korea, Democratic People's Republic of

The Democratic People's Republic of North Korea (DPRK or North Korea) remains a repressive and isolated regime where dissent is not tolerated and there are few, if any, protections for human rights and fundamental freedoms. Freedom of thought, conscience, and religion or belief does not exist, as the government severely represses public and private religious activities and closely controls the government-sanctioned religious practice. Unfortunately, there is no evidence that religious freedom conditions have improved in the past year. The government continues to view religious belief and practice as a potential competitor to the officially propagated cult of personality centered on North Korean leader Kim Jong Il and his late father, Kim Il Sung. In the past several years, North Korean government officials have reportedly arrested, imprisoned, tortured, and sometimes executed individuals discovered engaging in clandestine religious activity. In addition, North Korean refugees repatriated from China are frequently harassed, ill-treated, and imprisoned, particularly if it is discovered that they have had contact with South Koreans or converted to Christianity while in China, both of which are considered political offenses. Although the DPRK has claimed to various UN human rights treaty bodies that it protects religious freedom, there is little evidence that any real religious activity exists, except underground. The Commission continues to recommend that North Korea be designated a "country of particular concern," or CPC, which the Department of State has done since 2001.

Because of the North Korean government's extremely tight control over all information entering and leaving the country, detailed data about religious freedom conditions is difficult to obtain. In 2005, the Commission authorized researchers to interview 40 North Korean refugees living in South Korea. The resulting study, authored by David Hawk and entitled *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought,*

Conscience, and Religion in North Korea, shows how successive North Korean governments suppressed the country's once vibrant religious and intellectual life and put in its place a quasi-religious cult of personality surrounding the Kim family. The report also describes the survival of very limited religious activity in North Korea.

In April 2008, the Commission released an update of that report entitled *A Prison Without Bars: Refugee and Defector Testimony of Severe Violations of Religion and Belief in North Korea.* The new report incorporates the findings from 38 additional interviews with North Korean refugees and defectors living in South Korea, whose testimony confirms that Buddhist, Christian, and traditional religious practices, such as Shamanism, exist in North Korea, though practiced either clandestinely or under tightly controlled conditions in the capital city of Pyongyang. The refugees interviewed for *A Prison Without Bars* also attest to the continued vulnerability of North Korean refugees repatriated from China, who are subject to ill-treatment and likely imprisonment if they admit to having had contacts with South Korean humanitarian organizations in China or to having converted to Christianity. According to former police officials interviewed for the Commission's report, the North Korean government fears the spread of Christianity through cross-border contacts with religious groups in China and views it as a security threat. The report details new measures taken by police to halt the distribution of religious literature and uncover clandestine religious activity, including infiltrating churches in China and setting up mock prayer meetings in North Korea to entrap converts. The full report can be found at *http://www.uscirf.gov/images/A_Prison_Without_Bars/aprisonwithoutbars-final.pdf.*

In the 1980s, the North Korean government established "religious federations" for Buddhists, Chondokyists (referring to Chondokyo, or "Eastern Learning," a syncretic belief largely based on Confucianism but which also incorporates elements of Taoism, Shamanism, Buddhism, and Catholicism), and Christians. According to defector testimony, these federations are led by political operatives whose goal is to implement the government's policy of control over religious activity, as well as to gain foreign humanitarian assistance and maintain religious sites as cultural centers. For example, the official Korean Buddhist and Christian Federations restrict religious activities at monasteries, temples, and churches in North Korea. Although the religious federations maintain offices in Pyongyang and their delegates on occasion travel abroad, they have no presence in any other city or region in the country. The federations also operate churches, temples, and shrines in North Korea.

A Buddhist presence continues to survive in North Korea. Refugees have testified that quasi-functioning Buddhist shrines and temples are maintained as cultural heritage sites by caretakers (*gwalliwon*) who do not perform any religious functions. There is some testimony describing the role of government-employed monks who give lectures, lead tours, and meet foreign dignitaries. Unlike Christian churches, most of which were destroyed over the past 50 years, refugees spoke of the preservation of Buddhist temples, including the government's refurbishing of an existing site at Anbul, South Hamgyeong Province in 2000. While a Buddhist material culture survives above ground, recent refugee testimony has not provided much evidence of underground Buddhist activity. There are some indications that some kind of informal Buddhist practice remains, though evidence of this is scarce.

One Catholic and two Protestant churches were built in Pyongyang in 1988 and 1992. Services have been held in these churches since the mid-1990s in response to the growing presence of foreign aid workers in Pyongyang. Access to these church services is tightly managed and monitored, and most North Korean refugees report that they exist as showpieces for foreign visitors. Nevertheless, in addition to foreign visitors, those permitted to participate in services include some North Korean citizens whose families practiced Christianity prior to the Korean War. The absence of a priest for Roman Catholics means that mass cannot be celebrated and most sacraments cannot be performed. According to aid workers who attended the churches, it was impossible to determine if any of the North Koreans attending the churches in Pyongyang were genuine in their beliefs because of the large number of security personnel present during the services. International observers report that North Korean congregants regularly arrive and depart as a group in tour buses.

The Holy Trinity Russian Orthodox Church opened in Pyongyang in August 2006. Two North Koreans are reportedly receiving Orthodox theological training in Moscow. There are also reportedly three Buddhist temples and a Chondokyist shrine in Pyongyang. Government officials have claimed that Buddhist temples are cultural relics that need to be preserved. There is a department of religion at Kim Il Sung University, but graduates and faculty are said to be involved in training security forces to identify repatriated refugees who may have become Christian adherents during their time in China. Many graduates also reportedly work with the officially sanctioned religious federations and interact with foreign religious visitors. The Korean Presbyterian Church of South Korea reports that it has reached an agreement to build a new Protestant church in Pyongyang; however, construction plans have not progressed.

In addition to the churches in Pyongyang, the North Korean government claims that some 500 house churches operate in North Korea with official approval. Until recently, it was impossible to verify who attended the house churches and ascertain whether they existed outside of Pyongyang. South Korean scholars were recently allowed to attend house church services and they reported that participants are largely individuals whose families were Christians before 1950 and that some house churches do in fact operate outside of Pyongyang. The number or size of house churches allowed to operate in North Korea is impossible to verify. Those who have attended such gatherings report that they are very small gatherings of family members, are closely monitored by police, and operate without materials or trained leaders.

The Commission continues to receive credible reports that underground religious activity, or that which takes place outside of government sanction and control, is growing, despite pervasive suppression. According to the testimony of refugees, anyone discovered taking part in unauthorized religious activity, which includes carrying religious literature in public, distributing religious literature, or engaging in public religious expression and persuasion, is subject to severe punishment, such as long-term imprisonment in labor camps, torture, and possible execution. There continue to be reports of torture and execution of religious believers, including a January 2005 report of the execution of six religious leaders. Additionally, in March 2006, authorities in Pyongyang sentenced Son Jong Nam to death on charges of spying for South Korea. Son's conversion to Protestantism in China, his repeated attempts to seek refuge in China, and his alleged, private criticism of the North Korean regime reportedly served as a basis for the

sentence. As of this writing, it is not possible to verify whether Son Jong Nam has been executed.

The practice of imprisoning religious believers is reportedly widespread. However, neither the State Department nor any other official or non-governmental source has been able to document the number of religious detainees or prisoners. The most compelling and reliable information about prison conditions and prisoners comes from North Korean refugees who migrated through China to South Korea. According to some reports, an estimated 6,000 Christians are incarcerated in "Prison No. 15" located in the northern part of the country. According to testimony at the Commission's January 2002 hearing, prisoners held on the basis of their religious beliefs are treated worse than other inmates, a fact confirmed by refugees interviewed for both of the Commission's reports. For example, religious prisoners are reportedly given the most dangerous tasks while in prison. In addition, they are subject to constant abuse from prison officials in an effort to force them to renounce their faith. When they refuse, they are often beaten and sometimes tortured to death. North Korean refugees and refugee assistance organizations report a growing number of Christian adherents in the prison system due to a spread of Christianity from cross-border proselytizing by South Korean and Chinese missionaries in the border area.

The North Korean government forcefully propagates an ideology known as "*Juche*" or "*KimIlSungism*" centered on the personality cult surrounding Kim Il Sung and Kim Jong Il. Pictures of the "Great Leader" (Kim Il Sung) and the "Dear Leader" (Kim Jong Il) hang on the walls of every house, schoolroom, and workplace. The only exception is in the churches of Pyongyang, where crosses hang in the place of the portraits. Under threat of fines and other penalties, North Koreans are required to maintain and display the portraits of their leaders. Every North Korean wears a lapel pin of the Great Leader. Schools are required to study and memorize the "Ten Principles for the Establishment of the One-Ideology System of the Party." On several occasions throughout the past year, North Korean media sources quoted Kim Jong Il's instructions that ideological education must take precedence over academic subjects in the nation's schools. North Korean refugees report that each village contains a "Kim Il Sung Research Center" where they are required to attend weekly meetings. One scholar estimated that there may be as many as 450,000 such centers, including one in the infamous Yodok prison camp. Meetings include watching inspirational films on the Dear Leader's life, indoctrination sessions on the principles of *Juche*, and public self-criticism sessions.

The government also forcefully controls all means of transmitting information in the country, including television, radio and print media, access to the Internet, and cellular and landline phone communication. Possessing anti-state written materials, listening to foreign radio broadcasts, or altering radios so that they might receive foreign broadcasts constitute crimes punishable by long-term imprisonment, and international phone lines are available only under highly restricted circumstances. Cell phone use for the general population has been banned since 2004. In October 2007, a factory head was executed in front of a crowd of 150,000 people because he made international phone calls. There is credible evidence that public executions continue to rise as North Korean officials seek to control and prevent outside information from reaching North Korea.

As a result of the prolonged famine and the highly oppressive nature of the regime, an estimated 300,000 refugees have fled North Korea to China during the past decade. With the easing of famine conditions over the past several years, an estimated 50,000 to 100,000 remain in China today. China, according to an agreement with North Korea, considers all of these refugees to be economic migrants who are subject to forcible repatriation. According to North Korean law, leaving the country is tantamount to treason and all returnees are subject to arrest and imprisonment, often accompanied by torture. According to refugee testimony, those determined to have migrated to avoid famine conditions are sometimes released after a short period of detention or forced labor.

However, over the past few years, refugees report that repatriated North Koreans are currently facing harsher penalties upon return, with increased numbers of first-time returnees being sentenced to one to five years imprisonment, regardless of their reasons for fleeing North Korea. Anyone suspected of having contact with either South Korean humanitarian or religious organizations is extensively interrogated. Security forces try to determine if those repatriated have become adherents of Christianity or otherwise "contaminated" by their contact with South Korean or Korean-Chinese religious groups. Cross-border contact with China and the presence of foreign humanitarian and religious organizations working among North Korean refugee populations has heightened the regime's fears of the spread of new religious activity, particularly Christianity. According to refugee and defector testimony, North Korean border guards and security officials are being trained and instructed on how to identify and halt such activities, as well as the distribution of religious literature. Refugees continue to provide evidence that security forces use torture during interrogation and subject anyone found to have had contact with Protestant or other religiously-based aid organizations in China to long-term imprisonment in hard labor facilities designated for political prisoners. The North Korean government also continues to offer rewards to its citizens for providing information that leads to the arrest of individuals suspected of involvement in cross-border missionary activities or the distribution of Bibles or other religious literature.

In November 2004, the North Korea Human Rights Act was signed into law by the U.S. Congress. The legislation cites Commission findings and includes provisions reflecting several Commission recommendations, including the appointment of a Special Envoy on Human Rights in North Korea. In August 2005, President Bush appointed Jay Lefkowitz to this position. Commissioners met with Ambassador Lefkowitz in November 2005 to present the Commission's study, *Thank You, Father Kim Il Sung,* and to discuss the Commission's policy recommendations on religious freedom and other human rights issues in North Korea.

In the last year, the Commission continued to conduct activities in Washington, DC and elsewhere to raise public awareness of violations of religious freedom in the DPRK and to engage policy makers and Members of Congress in implementation of policy recommendations that would address these violations. In November 2005, the Commission released *Thank You Father Kim Il Sung* at a press conference with several Members of Congress. Commissioners and staff also briefed relevant policy makers at the National Security Council, the State Department, and in both Houses of Congress about the findings of the study. In March 2006, the Commission hosted, together with the American Enterprise Institute, a panel presentation entitled "Religious Freedom in North Korea: Update and Options," at which David Hawk, lead

researcher of the Commission's study on North Korea, gave a presentation on the findings of the study, with commentary from other panelists. Then-Commission Chair Michael Cromartie presented opening remarks and Ambassador Lefkowitz gave a keynote address.

In May 2006, in cooperation with the Asia Society and with Refugees International, the Commission co-hosted a conference in New York to discuss options for raising human rights concerns within the spectrum of security concerns involving the Korean Peninsula. Commissioner Preeta D. Bansal moderated a panel that discussed the key strategies and mechanisms needed to establish a broader security agenda for Northeast Asia that would include human rights concerns. The panel included presentations from Republic of Korea National Assembly Member Chung Eui-yong, Japan's Human Rights Ambassador Fumiko Saiga, and Brookings Institution Senior Fellow Roberta Cohen. On an earlier panel focusing on human rights issues in North Korea, David Hawk offered a presentation on the Commission's study.

Also in May 2006, the Commission hosted a briefing on Capitol Hill to discuss the situation of North Korean refugees in China. The briefing included statements from Kato Hiroshi, General Secretary of Life Funds for North Korean Refugees; Joel Charny, Vice President of Refugees International; and Marcus Nolan of the International Institute for Economics. The panelists discussed the struggles that North Korean refugees face in China, including trafficking in persons, fear of deportation, and recovery from the ordeals they faced while still inside the DPRK. Then-Commission Executive Director Joseph R. Crapa served as a moderator.

In July 2006, at a town hall meeting convened by Congressman Gary Ackerman of New York, the Commission released a Korean language version of its study, *Thank You, Father Kim Il Sung.* During the event, Congressman Ackerman moderated a panel that included presentations from then-Commission Chair Felice D. Gaer and David Hawk, lead researcher on the study.

In addition to recommending that North Korea continue to be designated a CPC, the Commission recommends that the U.S. government should:

I. Promoting Freedom of Religion or Belief

- use all diplomatic means to urge the North Korean government to undertake the following measures that would help bring the DPRK into compliance with its international legal obligations with respect to freedom of thought, conscience, and religion or belief:

Ending Abuses

--end the severe human rights violations, including imprisonment and execution on account of religion or belief, against individuals not affiliated with the state-sponsored religious federations or those North Koreans having contact with foreign religious groups in China;

--release prisoners from administrative detention in *kwanliso* political penal labor colonies, such as those reported to be in certain villages in the "total control zone" at Camp No. 15

(Yodok), as well as those who remain detained in other facilities for exercising their right to freedom of thought, conscience, and religion or belief, and rehabilitate remaining religious adherents held in lifetime detention;

--end the coercive enforcement of the official ideology, *Juche*/*KimIlSungism*, that results in discrimination and other human rights violations against adherents of other religions or belief systems;

--end prohibitions and punishments for importing religious literature from abroad;

Promoting Compliance with International Norms

--enable adherents of systems of thought and belief not covered by the existing federations, such as Confucianism, Shamanism, and other indigenous Korean belief systems, to practice their religion or belief without government interference and to form organizations for that purpose;

--implement the existing Constitutional provision allowing for the construction of places of worship outside the capital city of Pyongyang, including for religious groups who are not affiliated with the state-sponsored federations or for which there is no applicable federation;

--allow individuals and religious groups to engage in public expression of their religion or belief and to inform others of their belief systems; and

--allow clergy or religious leaders to travel abroad for higher education and/or training, and allow the residence of foreign clergy in North Korea where there are shortages.

II. Integrating Human Rights and Human Security Issues into Negotiations on Security Concerns in Northeast Asia

The U.S. government should:

- work with regional and European allies to fashion a comprehensive plan for security concerns on the Korean Peninsula that includes agreements on human rights and humanitarian concerns—modeled after the Helsinki Final Act of 1975 and the Organization for Security and Cooperation in Europe—as suggested by the Commission and in Sec. 106 of the North Korean Human Rights Act and

--in negotiations on nuclear security on the Korean Peninsula, including at the Six-Party Talks, work with regional allies to reach agreements on pressing human rights and human security concerns, including monitoring of humanitarian aid, resettlement of refugees, family reunifications, abductions, and other pressing human rights issues, including religious freedom, and linking future economic assistance and diplomatic recognition to concrete progress in these areas; and

--initiate, within the formal structure of the Six Party Talks, targeted working groups on issues of regional and international concern, including monitoring of humanitarian aid, refugees, and abductions, and fully integrate these issues into the agenda of the Six Party Talks at the earliest possible date.

III. Maintaining the Mandate of the Special Envoy on Human Rights in North Korea

The U.S. government should:

- ensure that all funds authorized under the North Korean Human Rights Act of 2004 (Public Law 108-333; 22 U.S.C. 7801) are requested and used to fulfill the purposes of the Act and that the Special Envoy on Human Rights in North Korea, appointed by President Bush in accordance with the Act, is allowed to implement the key provisions of the Act including new human rights and democracy programming, promotion of information into and out of North Korea, and discussions with foreign governments about a durable solution to the plight of North Korean refugees including seeking broader permission and greater cooperation from foreign governments on refugee protection and resettlement.

IV. Protecting and Aiding North Korean Refugees

The U.S. government should:

- urge the Chinese government to uphold its international obligations to protect asylum seekers, by 1) working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer temporary asylum on those seeking such protection and to permit safe transport to countries of final asylum; 2) providing the UNHCR with unrestricted access to interview North Korean nationals in China; and 3) ensuring that any migrants who are being returned pursuant to any bilateral agreement are not potential asylum seekers refouled in violation of China's obligations under the 1951 Refugee Convention and its 1967 Protocol;

- urge the Chinese government to allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems, abuses, and exploitation experienced by this vulnerable population and work with regional and European allies to articulate a consistent and clear message about China's need to protect North Korean refugees;

- in bilateral relations with China, Russia, Mongolia, Vietnam, Thailand, Cambodia and other countries in East Asia, continue to stress U.S. and international concerns about providing safe haven, secure transit, and clear resettlement procedures for North Koreans; and

- make every effort to ensure that its screening, processing, and resettlement of North Korean refugees are as efficient and expeditious as possible; and

- continue coordination among the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to facilitate resolution of any remaining

technical, legal, or diplomatic issues that hinder additional resettlement of North Koreans in the United States.

V. Pursuing Multilateral Diplomacy and Human Rights in North Korea

The U.S. government should:

- encourage nations with diplomatic relations with North Korea to include religious freedom and other human rights in their talks with North Korea, and to urge the North Korean government to invite UN Special Rapporteurs and other appropriate UN bodies to assess the human rights and humanitarian situation, to monitor the delivery of humanitarian assistance, and to recommend reforms and technical assistance programs;

- urge the Office of the UN High Commissioner on Human Rights to open an office in Seoul, South Korea for the purpose of initiating technical assistance programs addressing regional and transnational issues including, but not limited to, abductions, human trafficking, police and border guard training, legal reform, political prisoners, and abuses of freedom of thought, conscience, and religion or belief; and

- work with regional allies and appropriate international bodies to ensure that future economic, energy, or humanitarian assistance to North Korea will be effectively monitored to ensure that aid reaches the most vulnerable populations and is not diverted to military use.

VI. Expanding Public Diplomacy Programs for North Korea

The U.S. government should:

- continue to expand radio, television, Internet, and print information available to the North Korean people through:

  -- additional appropriations to the Broadcasting Board of Governors to allow Radio Free Asia and Voice of America to increase shortwave and medium-wave broadcasting to North Korea; and

  -- additional funding through the National Endowment for Democracy and the Department of State Human Rights and Democracy Fund to disseminate information on human rights, including religious freedom, inside North Korea in the form of written and electronic materials, DVDs, and digital programming.

In addition, the U.S. Congress should:

- create in inter-parliamentary working group that includes current and former elected officials and other experts from the U.S., Europe and Asia to discuss ways to include human rights and human security concerns in any future security arrangement in Northeast Asia, provide ideas for diplomats and policymakers, and build public and political support for creating a

framework that addresses both human rights and other outstanding security and economic concerns on the Korean Peninsula;

- continue to appropriate all the funds authorized in the North Korea Human Rights Act of 2004 for public diplomacy, refugee assistance, democratization programs, and relevant travel by the Special Envoy on North Korea and renew the Act's mandate when it expires in 2008; and,

- raise religious freedom and related human rights as a prominent concern in appropriate congressional or congressional staff visits to North Korea, including distribution of Korean language reports of the Commission, and reiterate requests seeking access for international monitors to North Korean prisons as promised by Vice Foreign Minister Kim Gye-gwan to a visiting Senate Foreign Relations Committee delegation in August 2003.

Eritrea

The government of Eritrea continues to engage in systematic and egregious violations of religious freedom, and the situation appears to have deteriorated in the past year. Current violations include arbitrary arrests and detention without charge of members of unregistered religious groups, and the torture or other ill-treatment of hundreds of persons on account of their religion, sometimes resulting in death. Other serious concerns include the prolonged ban on public religious activities by all religious groups that are not officially recognized, closure by the authorities of the places of worship of these religious groups, inordinate delays in acting on registration applications by religious groups, and the disruption of private religious and even social gatherings of members of unregistered groups. In February 2004, the Commission recommended for the first time that the State Department designate Eritrea a "country of particular concern," or CPC, which the State Department did in September 2004 and each year since then. In September 2005, Secretary of State Condoleezza Rice announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted, the first unique presidential action to be undertaken under the International Religious Freedom Act of 1998 (IRFA) in response to the CPC designation, a move commended by the Commission. Because religious freedom conditions did not change in the past year, the Commission continues to recommend that Eritrea remain a CPC.

Since gaining independence from Ethiopia in 1993, Eritrea has been ruled by the Popular Front for Democracy and Justice (PFDJ), which continues to be led by persons who came to prominence as freedom fighters in the war for independence. After an initially promising start toward democratization, the PFDJ government has become increasingly repressive. In 2001, the government suspended implementation of a democratic constitution, canceled elections, curtailed press freedom, began a crackdown on political opponents, and restricted religious groups it perceived as undermining national unity. The government is also maintaining the country on a near-war footing out of a fear of renewed hostilities with Ethiopia.

The Eritrean government officially recognizes only four religious groups: the (Coptic) Orthodox Church of Eritrea, Sunni Islam, the Roman Catholic Church, and the Evangelical

Church of Eritrea, a Lutheran-affiliated denomination. Although there is no state religion, the government has close ties to the Orthodox Church, the largest and oldest of Eritrea's Christian communities, and is suspicious of newer groups—in particular, Protestant Evangelical, Pentecostal, and other Christian denominations not traditional to Eritrea.

Although relations among the four government-recognized religious communities are generally good, leaders of the established groups, particularly the Orthodox Church, have expressed concerns about the growth of newer, more activist religious groups. Government officials have criticized "non-traditional" Christian groups for engaging in aggressive evangelism that is allegedly socially divisive and alien to Eritrea's cultural traditions. Government officials have also pointed to foreign or foreign-inspired Muslim fundamentalists as seeking to radicalize traditional Eritrean practice of Islam and thus create tensions in a society that is roughly half Christian and half Muslim. Government concerns regarding foreign backing for religious groups have resulted in strict controls both on humanitarian activities by international faith-based organizations and on foreign funding going to indigenous groups for religious or charitable activities.

In 2002, the government imposed a registration requirement on religious groups requiring each group applying for approval to provide detailed financial and membership information, as well as background on its presence in Eritrea. Affected groups included Protestant Evangelical and Pentecostal Christian denominations, as well as the Baha'is. Some of these groups have operated in Eritrea for several decades. Exempted from the new requirements for registration were the four "sanctioned" religions. Jehovah's Witnesses were not among the groups offered the opportunity to register. By stipulating that there could be no public religious activities pending registration, the decree effectively closed places of worship and prohibited public religious activities, including worship services, of all other religious communities in Eritrea. Although some groups submitted the required applications, to date, none have been approved. As a result of the registration requirement and of the government's inaction on registration applications, all of Eritrea's religious communities except the four government-sanctioned religious groups lack a legal basis on which to practice their faiths publicly. In September 2006, the government confiscated the assets and seized control of the charitable institutions, including schools and an orphanage, of one of the groups that had tried to register, the *Kale Hiwot* ("Word of Life") Protestant Church.

As part of the campaign against the religious activities of those persons not belonging to officially recognized religious denominations, Eritrean security forces have disrupted private worship, conducted mass arrests of participants at religious weddings, prayer meetings, and other gatherings, and detained those arrested without charge for indefinite periods of time. Hundreds of members of unregistered religious groups, as well as dozens of Muslims who oppose the government-appointed mufti, are believed to be detained at any given time. Because of government restrictions, it is difficult to determine the precise number of religious prisoners at any one time, and releases sometimes go unreported; however, the State Department reports that the number of long-term prisoners continued to grow in the past year. According to the State Department, at least 160 additional members of unregistered religious groups were detained without charges by Eritrean authorities in the past year.

Persons detained for religious activities often were not formally charged, permitted access to legal counsel, accorded due process, or allowed access to their families. Some prisoners were released after detentions of several days or less, but others spent longer periods in detention. The government held individuals who were jailed on account of their religious affiliation at a variety of venues, including facilities administered by the military. On December 24, 2007, Eritrean officials reportedly imprisoned 35 persons belonging to the underground Faith Missions Church following a raid on a building in the port city of Massawa, where the members of the underground church were meeting. Those imprisoned were placed in the notorious Weea Military Training Center, and reportedly are still being held there. There are credible reports that the security forces have used coercion on detainees to secure repudiations of faith; some prisoners were required to recant their religious beliefs as a precondition of release. During the past year, there have been occasional reports of deaths of religious prisoners who refused to recant their beliefs. Other religious detainees have reportedly been beaten, tortured, confined in crowded conditions, or subjected to extreme temperature fluctuations.

Government violations of religious freedom are alleged to be particularly severe in the armed forces. During the war with Ethiopia, some Eritrean soldiers accepted various forms of Protestantism, reportedly alarming government officials and leading to the banning of prayer meetings among armed forces members. Attendance at such meetings is punishable by imprisonment. Moreover, armed forces members and national service inductees reportedly face severe punishment for possession of religious literature, including Bibles.

Since 1994, the government of Eritrea has denied a range of government services and civil and political rights to members of the country's small community of Jehovah's Witnesses. Many Jehovah's Witnesses refused on religious grounds to participate in the 1993 referendum on independence or to accept the national military service required of all citizens, both male and female. The government chose to interpret these actions as a rejection of Eritrean citizenship. In accordance with a presidential decree issued in October 1994, Jehovah's Witnesses have been barred from obtaining government jobs, business licenses, and government-issued identity and travel documents. Lack of Eritrean identity cards prevents Jehovah's Witnesses from obtaining legal recognition of marriages and land purchases.

Jehovah's Witnesses who have refused to serve in the military have been imprisoned without trial, some for over a decade, even though the maximum legal penalty for refusing to perform national service is two years. These government actions, which continued in the past year, are customarily taken without due process of law or any administrative appeal. Moreover, the requirement of a military training component for secondary school graduation effectively denies educational and employment opportunities to young Jehovah's Witnesses, encouraging many to flee their homeland. Some children of Jehovah's Witnesses have been expelled from school because of their refusal to salute the flag or to pay for membership in the officially sanctioned national organization for youth and students. Individual members of the Jehovah's Witnesses are regularly arrested and imprisoned for expressing their faith to others. Some are quickly released, while others are held indefinitely without charge. Although there have been no recent reports of mass arrests, in 2003 and 2004, whole congregations of Jehovah's Witnesses were arrested while attending worship services. According to the State Department, a total of 25 members of the Jehovah's Witnesses are currently being held without charges or trial.

Since 2005, the government has increasingly interfered in the internal affairs of the Orthodox Church of Eritrea. Security forces have targeted reformist elements in the Orthodox Church, arresting religious activists and preventing their meetings. The government has also tightened its grip on the highest levels of the Church. In August 2005, the Church's Synod, allegedly acting at the government's behest, stripped Orthodox Patriarch Antonios of much of his authority, with his administrative duties being assumed by a government-appointed layperson. In January 2006, the Synod moved to depose the Patriarch. In a letter dated January 15, 2006, the Patriarch denounced the Synod's actions as illegal under canon law and announced the excommunication of the government-appointed administrator. These actions by the Patriarch, who, according to some reports, has been placed under virtual house arrest, have been ignored by Church leaders who are compliant with the government's actions. In December 2006, the government reportedly ordered that all tithes and offerings to the Church must be placed in a government account, that priests' salaries must be paid from this account, and that priests deemed by the government to be in excess of parish needs must report for military service. In May 2007, the Synod installed a new Patriarch, believed to be more compliant with government direction.

The government's concerns regarding religious activities appear to be linked to real or perceived security threats, and government spokespersons have cited Pentecostals, along with Muslim extremists, as threats to national security. Islamic militants operating out of Sudan have engaged in a low-level insurgency against the government, occasionally employing terrorism as a tactic in their campaign to establish an Islamic state. However, human rights organizations report that they consider it likely that many of the Muslim suspects detained without charge by the security forces are being held primarily for their views, including their criticism of alleged anti-Muslim discrimination or their opposition to the government-recognized leadership of the Muslim community, rather than for supporting or engaging in violence. None of the suspected Christian groups are known to have engaged in or advocated violence.

The Commission has met on a number of occasions with State Department personnel, Eritrean diplomats, religious community representatives, and others concerned with religious freedom in Eritrea. In October 2004, the Commission sent a staff delegation to Eritrea to study religious freedom conditions firsthand. During a six-day visit, the delegation discussed the religious freedom situation with senior Eritrean government officials, leaders of the four major faiths sanctioned by the Eritrean government, as well as with unregistered religious groups, representatives of non-governmental organizations, United Nations personnel, and members of the U.S. and foreign diplomatic communities. In a January 2005 letter to Secretary Rice, the Commission commended the Administration for Eritrea's designation as a CPC and recommended subsequent actions that the Administration should take, in accordance with IRFA, in response to that designation. The Commission welcomed the Secretary's announcement in September 2005 that Eritrea would be subject to the first-ever presidential action under IRFA specifically taken in response to CPC designation.

As a consequence of the designation of Eritrea as a CPC, the Commission has recommended that the U.S. government should:

- maintain the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted, as announced by the Secretary of State in September 2005;

- engage in vigorous advocacy of religious freedom and other universal human rights at all levels of involvement with the government of Eritrea and draw international attention to religious freedom abuses there, including in multilateral fora such as the United Nations; and

- review development assistance to Eritrea with the aim of redirecting such assistance to programs that contribute directly to democracy, human rights, and the rule of law; increases in other forms of development assistance should depend on measurable improvements in religious freedom. On December 31, 2005, USAID closed its offices and ended most assistance programs in Eritrea, with the exception of certain humanitarian activities. The Commission recommends that any resumption of U.S. development assistance should entail a thorough review as described.

With regard to religious freedom conditions in Eritrea, the Commission has recommended that the U.S. government should:

- urge the government of Eritrea to undertake the following actions to improve respect for religious freedom in that country by:

  --releasing detainees held solely on account of their peaceful religious activities;

  --implementing the constitution's existing guarantees of freedom of thought, conscience, and religion, including the freedom to practice any religion and to manifest such practice;

  --instituting a registration process for religious groups that is transparent, non-discriminatory, not overly burdensome, and otherwise in accordance with international standards;

  --promptly registering those religious groups that comply with the requirements issued in 2002, and not requiring religious groups to provide identifying information on individual members;

  --taking official, public action to permit religious groups to resume their public religious activities pending registration, including reopening of places of worship closed by the ban in 2002;

  --issuing a public order to the security forces reminding them that religious practice is not to be interfered with except in those circumstances permitted by international law; and

  --extending an official invitation for visits by the UN Special Rapporteur on Freedom of Religion or Belief and by the UN Working Group on Arbitrary Detention;

- encourage unofficial dialogue with Eritreans on religious freedom issues, specifically by:

--the promotion of a visit to Eritrea by U.S. leaders concerned with freedom of thought, conscience, and religion or belief in order to meet with Eritrean authorities and other opinion-makers and to facilitate dialogue among all of Eritrea's religious communities;

--the expanded use of educational and cultural exchanges, such as the Fulbright Program, the International Visitor Program, and lectures by visiting American scholars and experts, in order to introduce more Eritreans to the workings and benefits of societies in which religious freedom and other human rights are respected; and

- seek the cooperation of other countries in promoting greater understanding by Eritreans of international standards regarding freedom of religion or belief;

- intensify international efforts to resolve the current impasse between Eritrea and Ethiopia regarding implementation of the boundary demarcation as determined by the "final and binding" decision of the International Boundary Commission established following the 1998-2000 war; and

- support, and offer to provide funding for, the creation of an independent human rights commission in Eritrea, in line with the Paris Principles[1] for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

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[1] *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (*http://www.unhchr.ch/html/menu6/2/fs19.htm*).

Iran

The government of Iran engages in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. Over the past few years, the Iranian government's poor religious freedom record has deteriorated, especially for religious minorities and in particular for Baha'is, Sufi Muslims, and Evangelical Christians, including intensified harassment, detention, arrests, and imprisonment. Heightened anti-Semitism and Holocaust denial rhetoric and activities by senior government officials have increased fear among Iran's Jewish community. In early 2008, the Iranian parliament began considering a new proposal that would codify serious punishments, including the death penalty, on converts from Islam. Since the 1979 Iranian Revolution, significant numbers from religious minority communities have fled Iran for fear of persecution. Dissident Muslims also continue to be subject to abuse. Since 1999, the State Department has designated Iran as a "country of particular concern," or CPC. The Commission continues to recommend that Iran remain a CPC.

The Constitution of the Islamic Republic of Iran proclaims Islam, specifically the doctrine of the Twelver (Shi'a) Jaafari School, to be the official religion of the country. It stipulates that all laws and regulations, including the Constitution itself, be based on Islamic criteria. The head of state, Ayatollah Ali Khamenei, is the Supreme Leader of the Islamic Revolution and has direct control over the armed forces, the internal security forces, and the judiciary. The Assembly of Experts, a group of 86 Islamic scholars elected to eight-year terms by popular vote from a government-screened list of candidates, choose the Supreme Leader. The Guardian Council, half of whose members are appointed by the Supreme Leader, reviews all legislation passed by the *Majlis* (parliament) for adherence to Islamic and constitutional principles. The Constitution grants the Guardian Council the power to screen and disqualify candidates for elective offices based on a vague and arbitrary set of requirements, including candidates' ideological and religious beliefs. The 290-member *Majlis* is elected by popular vote to four year terms and candidates are screened by the Guardian Council. Five seats in the *Majlis* are reserved for recognized religious minorities: two for Armenian Christians, one for Assyrian Christians, and one each for Iranian Jews and Zoroastrians.

In recent years, hundreds of prominent Muslim activists and dissidents from among the Shi'a majority advocating political reform have been sentenced to lengthy prison terms by the Revolutionary Court on charges of seeking to overthrow the Islamic system in Iran; others have been arrested and detained for alleged blasphemy and criticizing the nature of the Islamic regime. Reformists and journalists are regularly tried under current press laws and the Penal Code on charges of "insulting Islam," criticizing the Islamic Republic, and publishing materials that deviate from Islamic standards. Prominent Iranian investigative journalist Akbar Ganji was released from prison in March 2006 after serving a six-year prison sentence on reportedly spurious charges of "harming national security" and "spreading propaganda" against the Islamic Republic. Ganji was arrested and convicted as a result of attending a human rights conference in 2000 in Germany, where he publicly expressed views critical of the Iranian regime. Following a visit to Iran, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression concluded in early 2004 that such charges brought by Iranian courts "lack any objective criteria" and are open to "subjective and arbitrary interpretation by judges implementing them."

A number of senior Shi'a religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also been targets of state repression, including house arrest, detention without charge, trial without due process, torture, and other forms of ill treatment. In October 2006, a senior Shi'a cleric, Ayatollah Mohammad Kazemeni Boroujerdi, who opposes religious rule in Iran, and a number of his followers were arrested and detained after clashes with riot police. Iranian officials charged him with "sacrilege" for having claimed to be a representative of the hidden Imam, a venerated figure in Shi'a Islam. Boroujerdi has denied these charges. While the current status of Boroujerdi and his followers is unknown, it appears that he and several of his followers remain in detention.

Muslim minorities continue to face repression. Some Iranian Sunni leaders have reported widespread abuses and restrictions on their religious practice, including detentions and torture of Sunni clerics, as well as bans on Sunni teachings in public schools and Sunni religious literature, even in predominantly Sunni areas. Sufi and Sunni Muslim leaders are regularly intimidated and harassed by intelligence and security services and report widespread official discrimination. The Sunni community still has not been able to build a mosque in Tehran. Ethnic Turkmen Sunni

Muslims from the northeastern part of Iran bordering Turkmenistan report an intense government campaign to convert them to Shi'a Islam.

In November 2007, clashes in the western city of Borujerd between security forces and followers of a mystic Sufi order resulted in dozens of injuries and the arrests of approximately 180 Sufis. The clashes occurred after authorities began bulldozing a Sufi monastery; authorities are reportedly cracking down because the number of Sufi followers is growing. It is not clear how many remain in detention or if any charges have been brought against those arrested. In May 2007, security forces arrested the leader of the Nematollahi Gonabadi Sufi order, Nurali Tabandeh; the reason for his arrest and whether formal charges have been brought against him are not known. In February 2006, Iranian authorities closed and destroyed a Sufi house of worship in the northwestern city of Qom and arrested approximately 1,200 Sufis who took to the streets in protest. Most were released within hours or days, although dozens reportedly suffered serious injuries. More than 170 Sufis were detained and reportedly tortured in order to extract confessions that would be broadcast on national television. Those who were released were forced to sign agreements saying they would not attend Sufi religious activities in Qom and would make themselves known to intelligence offices. Some were forced to sign documents renouncing their beliefs. In May, a court sentenced more than 50 Sufis to jail on various charges in connection with the February incident. According to the State Department, the defendants and their two lawyers were sentenced to a year in prison, fines, and 74 lashes. In addition, there were reports that the government is considering banning Sufism outright.

The constitution of Iran formally recognizes Christians, Jews, and Zoroastrians as protected religious minorities who may worship freely and have autonomy over their own matters of personal status (e.g. marriage, divorce, and inheritance). Nevertheless, the primacy of Islam and Islamic laws and institutions adversely affects the rights and status of non-Muslims. Members of these groups are subject to legal and other forms of discrimination, particularly in education, government jobs and services, and the armed services. Non-Muslims may not engage in public religious expression and persuasion among Muslims; some also face restrictions on publishing religious material in Persian. In 2004, the Expediency Council—an advisory body appointed by the Supreme Leader with ultimate adjudicating power in disputes over legislation between the *Majlis* and the Guardian Council—authorized collection of equal blood money for the death of Muslim and non-Muslim men. Baha'is, Sabian Mandaean men, and all women remain excluded from the revised ruling. According to the law, Baha'is can be killed with impunity.

Since August 2005, the Iranian government has intensified its campaign against non-Muslim religious minorities. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and imprisonment of, and physical attacks against, these groups indicate a renewal of the kind of oppression seen in previous years. Ayatollah Ahmad Jannati, head of the Guardian Council, has publicly attacked non-Muslims and referred to them as "sinful animals" and "corrupt." In November 2005, after publicly criticizing Ayatollah Jannati's remarks, the lone Zoroastrian member of the Iranian parliament was charged with the "dissemination of false information, slander and insult" by Iranian authorities, although the case never went to trial. In March 2006, the UN Special Rapporteur for Freedom of Religion or Belief confirmed that religious freedom conditions are worsening for all religious minorities

in Iran, particularly Baha'is. In early 2008, the Iranian parliament began considering a new law that would impose serious punishments, including the death penalty, on converts from Islam. Although the Iranian government has in the past applied the death penalty for apostasy under Islamic law, it has not been explicitly codified. If this recently proposed penal code is passed, it would seriously endanger the lives of all converts from Islam, particularly members of the Baha'i faith, who are already considered apostates, even if they are fourth- or fifth-generation Baha'i adherents.

The Baha'i community has long been subject to particularly severe religious freedom violations in Iran. Baha'is, who number approximately 300,000 – 350,000, are viewed as "heretics" by Iranian authorities, and may face repression on the grounds of apostasy. Since 1979, Iranian government authorities have killed more than 200 Baha'i leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha'is may not establish places of worship, schools, or any independent religious associations in Iran. In addition, Baha'is are barred from the military and denied government jobs and pensions as well as the right to inherit property, and their marriages and divorces are also not recognized. Baha'i cemeteries, holy places, and community properties are often seized and many important religious sites have been destroyed.

In recent years, Baha'is in Iran have faced increasingly harsh treatment. Baha'i property has been confiscated or destroyed and dozens of Baha'is have been harassed, interrogated, detained, imprisoned, or physically attacked. In 2007, Baha'i cemeteries were destroyed in Yazd and outside of Najafabad. In the past several years, a series of articles in the government-controlled newspaper *Kayhan*, whose managing editor is appointed by Supreme Leader Ayatollah Khamenei, have vilified and demonized the Baha'i faith and its community in Iran. In March 2006, the UN Special Rapporteur on Freedom of Religion or Belief revealed a confidential October 2005 letter from the Iranian Chairman of the Command Headquarters of the Armed Forces to several Iranian government agencies directing these entities to collect information on all members of the Baha'i community in Iran and to monitor their activities. An August 2006 letter from the Iranian Ministry of Interior requested provincial officials throughout the country to "cautiously and carefully monitor and manage" all Baha'i activities. Moreover, the Iranian Association of Chambers of Commerce reportedly is compiling a list of Baha'is in every type of trade and employment. In the past, waves of repression against Baha'is began with government orders to collect such information, and the new directives have created a renewed sense of insecurity and fear among Baha'i adherents.

In the past two years, dozens of Baha'is have been arrested, detained, interrogated, and subsequently released, in some cases after weeks or months in detention. Charges typically ranged from "causing anxiety in the minds of the public and of officials" to "spreading propaganda against the regime." In December 2005, Zabihullah Mahrami, a Baha'i who had been jailed for more than 10 years on charges of apostasy, died in prison under mysterious circumstances. In May 2006, 54 Baha'is, mostly young women in their teens and 20s, were arrested in Shiraz while teaching underprivileged children non-religious subjects such as math and science. In November 2007, three of the Baha'is were sentenced to four years in prison for "spreading propaganda against the Islamic Republic." According to numerous media reports, the other 51 Baha'is were given one year suspended sentences, conditional upon their attendance at courses held by the state's "Islamic Propaganda Organization," which would require them to sign

documents saying they are Muslim. They have refused to participate in these courses. Throughout the fall of 2006, several other Baha'is were arrested and released, pending trial. Approximately 150 Baha'is have been arbitrarily arrested since late 2004. Dozens are awaiting trial, while others have been sentenced to prison terms ranging from 90 days to one year. All of those convicted are in the process of appealing the verdicts. As of this writing, 10 Baha'is are in prison and there are more than 60 Baha'is awaiting trial on account of their religious beliefs.

In the past, Baha'is in Iran have not been allowed to attend university. Significantly, in the fall of 2006, because the 2006-2007 applications did not require students to list religious affiliation, for the first time in decades nearly 300 Baha'i students were admitted to a number of universities and colleges in Iran; however, the majority of those admitted were later expelled when it became known that they were Baha'is. Although more than 1,000 Iranian Baha'i students registered for the national university entrance examination in 2007, only 77 have been able to enroll during the current school year. The low number is reportedly due to the fact that more than 800 Baha'i students were only told months after they had completed the examination that their files were "incomplete." In August 2006, the Baha'i International Community received a copy of a confidential letter issued sometime in 2006 by the director general of the Central Security Office of Iran's Ministry of Science, Research and Technology, which instructs 81 Iranian universities to expel any student who is discovered to be a Baha'i, whether at the time of enrollment or in the course of his or her studies. Furthermore, during the past year, young Baha'i schoolchildren in primary and high schools increasingly have been vilified, pressured to convert to Islam, and in some cases, expelled on account of their religion. In December 2007, the UN General Assembly adopted a resolution condemning the Iranian government's poor human rights record, including its continued human rights abuses targeting religious minorities and the escalation and increasing frequency of violations against members of the Baha'i faith.

Christians in Iran, in particular Evangelical and other Protestants, continue to be subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. Iranian President Mahmoud Ahmadinejad reportedly has called for an end to the development of Christianity in Iran. Over the past few years, there have been several incidents of Iranian authorities raiding church services, detaining worshippers and church leaders, and harassing and threatening church members. According to one Christian advocacy organization, dozens of house church leaders were arrested and interrogated in the past year for engaging in religious activities in their homes. It is a common practice, particularly in cases involving offenses based on religious belief, for Iranian authorities to release prisoners but to leave the charges against them or their convictions in place in order to threaten them with re-imprisonment at any time in the future.

In December 2006, at least eight house church leaders were arrested in a sweep by authorities in four different cities. The church leaders were charged with evangelization and "acts against the national security of the Islamic Republic." All were released within days or weeks of the original arrests. According to the State Department, a Christian couple who had been arrested in September 2006 for leading a house church in Mashhad was released after almost two weeks in detention. Formal charges have still not been made against the couple, but authorities have indicated that the couple's arrest and detention were in connection with their Christian beliefs and activities. In May 2006, a Muslim convert to Christianity, Ali Kaboli, was

taken into custody in Gorgan after several years of police surveillance and threatened with prosecution if he did not leave the country. He was interrogated, held incommunicado, and released after a month. No charges have been filed against him. During the past few years, representatives of the Sabian Mandaean Association reported that even the small, unrecognized Mandaean religious community, numbering between five and ten thousand, is facing intensifying harassment and repression by authorities.

Official policies promoting anti-Semitism are on the rise in Iran, though members of the Jewish community have usually been singled out on the basis of "ties to Israel," whether real or perceived. Since coming to power, President Ahmadinejad and other top political and clerical leaders have made public remarks in the past year denying the existence of the Holocaust and stating that Israel should be "wiped off the map." In 2007, there was a rise in this officially sanctioned anti-Semitic propaganda, involving official statements, media outlets, publications, and books; anti-Semitic editorial cartoons depicting demonic and stereotypical images of Jews, along with Jewish symbols, were also published in the past year.

In the fall of 2006, in response to the Danish cartoon controversy, a prominent newspaper, *Hamshahri*, co-sponsored a cartoon contest in which the paper solicited submissions from around the world attacking Jews and the Holocaust. Iran's official Cultural Ministry awarded the contest's first prize of $12,000. In past years, several government-controlled newspapers celebrated the anniversary of the anti-Semitic publication, the *Protocols of the Elders of Zion*. In February 2006, the leader of Iran's Jewish community, Haroun Yashayaei, sent an unprecedented public letter to President Ahmadinejad expressing serious concern about the President's repeated Holocaust denial statements and the extent to which these statements have intensified fears among Iran's 25,000 – 30,000-member Jewish community. Official government discrimination against Jews continues to be pervasive. According to the State Department, despite minimal restrictions on Jewish religious practice, education of Jewish children has become increasingly difficult in recent years, and distribution of Hebrew religious texts is strongly discouraged. In December 2006, President Ahmadinejad hosted a Holocaust denial conference in Tehran. In response, UN Secretary-General Kofi Annan denounced the conference, and the UN Security Council issued a Presidential Statement condemning statements made by President Ahmadinejad denying the Holocaust.

The government's monopoly on and enforcement of the official interpretation of Islam negatively affect the human rights of women in Iran, including their right to freedoms of movement, association, and thought, conscience, and religion, as well as freedom from coercion in matters of religion or belief. The Iranian justice system does not grant women the same legal status as men; for example, testimony by a man is equivalent to the testimony of two women. Provisions of both the Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women. In April 2007, Iranian authorities arrested five women's rights activists for their involvement in collecting signatures for the Campaign for Equality, aimed at ending discrimination against women in the application of Islamic law in Iran. Some of the activists' demands included: 1) that women's testimony in court carry the same weight as that of men; 2) equality of inheritance rights between men and women; 3) eliminating polygamy; and 4) the equality of compensation payments between women and men in the event of wrongful death. Two activists were released after one day and the other three were released

on bail after nearly two weeks in detention. In October and November 2007, Hana Abdi and Ronak Safarzadeh, respectively, were arrested for activities related to the Campaign for Equality. As of this writing, they continue to be held without charge.

In March 2008, Freedom House released a study on "Discrimination and Intolerance in Iran's Textbooks." The study found that the country's textbooks published for the 2006-2007 school year, including religious subjects for grades 1 – 11, teach "the country's children to discriminate against women and minorities, to view non-Muslims with suspicion if not contempt, and to perpetuate the regime's theocratic ideology." While the study found that the textbooks did not contain any "direct hostility" toward recognized religious minorities, the textbooks include intolerant content about the Baha'i religion, including that the Baha'i faith is a "hidden" minority and a "false sect" that is used as a tool for foreign governments.

Throughout the past year, Commission staff met with members of non-governmental organizations representing various religious communities in Iran, as well as human rights groups and other Iran experts and policymakers. In February 2008, the Commission held a hearing on Capitol Hill entitled, "Advancing Religious Freedom and Related Human Rights in Iran: Strategies for an Effective U.S. Policy." The Commission hearing explored current U.S. policy toward Iran, highlighting the deteriorating religious freedom conditions and other human rights abuses taking place in Iran. In March 2008, Commissioner Nina Shea briefed Members of Congress on religious freedom conditions in Iran at a congressional Iran Working Group briefing titled "Assessing the Human Rights Situation of Ethnic Religious Groups in Iran." In January 2007, the Commission released a statement on Holocaust Remembrance Day, including a reference to the Iranian government's hosting of the December 2006 Holocaust denial conference as an example of a government that actively fuels anti-Semitism.

In August 2006, the Commission called on the National Cathedral to ensure that former Iranian President Mohammad Khatami would be questioned about his record on human rights and religious freedom during a presentation he was to make at the Cathedral in September. The Commission wrote a letter to Reverend Canon John Peterson of the National Cathedral's Center for Global Justice and Reconciliation, pointing out the irony of inviting Mr. Khatami to speak on the role of the Abrahamic faiths in the peace process when, in his own country, Mr. Khatami served as President during a time when religious minorities—including Jews, Christians, Sunni and Sufi Muslims, Baha'is, dissident Shia Muslims, and others—faced systematic harassment, discrimination, imprisonment, torture, and even execution based on their religious beliefs. In September, then-Commission Chair Felice D. Gaer and Vice Chair Nina Shea published an op-ed in the *Washington Post* pointing to this "troubling irony" of inviting President Khatami to speak at the National Cathedral on the role the Abrahamic faiths can play in shaping peace in the world. In June 2006, then-Commission Vice Chair Nina Shea testified before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations at a hearing titled "The Plight of Religious Minorities: Can Religious Pluralism Survive?" Commissioner Shea's testimony focused on religious freedom conditions in five countries—Egypt, Iran, Iraq, Pakistan, and Saudi Arabia—and presented recommendations for U.S. policy.

In addition to recommending that Iran continue to be designated a CPC, the Commission recommends that the U.S. government should:

- at the highest levels, vigorously speak out publicly about the deteriorating conditions for freedom of thought, conscience, and religion or belief in Iran, and draw attention to the need for the international community to hold authorities accountable in specific cases where severe violations have occurred, such as:

  --extremely poor treatment of the Baha'i community;

  --increasing problems facing Christians, Sufi Muslims, and dissident Muslims; and

  --state-sponsored anti-Semitism and Holocaust denial activities;

- work within its current overall policy framework to ensure that violations of freedom of religion and belief, and related human rights, are included in any multilateral or bilateral discussions with the Iranian government;

- ensure that funding budgeted to promote democracy and human rights in Iran includes support for effective initiatives advancing freedom of religion or belief, as well as ways to promote rule of law programs that specifically seek to protect religious minorities in Iran;

- adequately fund U.S. public diplomacy entities, such as Voice of America and Radio Farda, and expand and develop new programming solely focusing on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran;

- continue to support a UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Iran, and calling for officials responsible for such violations to be held accountable;

- call on the UN Human Rights Council to monitor carefully and demand compliance with the recommendations of the representatives of those special mechanisms that have already visited Iran, particularly those of the UN Special Rapporteur on Freedom of Religion or Belief (1995), the Working Group on Arbitrary Detention (2003), and the Special Rapporteur on Freedom of Opinion and Expression (2003); and

- encourage the UN Human Rights Council to continue to use its procedures to maintain oversight of conditions for freedom of religion or belief in Iran, including, as Iran has issued a standing invitation, continued visits and reporting by the Special Rapporteur on Freedom of Religion or Belief, and other relevant special rapporteurs and working groups.

Pakistan

Dramatic political events unfolded in Pakistan in the past year having a serious impact on the rule of law and human rights protections generally, though the consequences for religious

freedom conditions remain unclear. Notwithstanding the upheaval, all of the serious religious freedom concerns on which the Commission has reported in the past persist. Sectarian and religiously motivated violence continues, particularly against Shi'a Muslims, Ahmadis, Christians, and Hindus, and the government's response continues to be insufficient and not fully effective. A number of the country's laws, including legislation restricting the rights of the Ahmadi community and laws against blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. Moreover, despite some minor improvements, Pakistan's Hudood Ordinances, Islamic decrees introduced in 1979 and enforced alongside the country's secular legal system, provide for harsh punishments, including amputation and death by stoning, for violations of Islamic law. Finally, substantial evidence that the government of Pakistan has been complicit in providing sanctuary to the Taliban also mounted in the past year. In light of these persistent, serious concerns, the Commission continues to recommend that Pakistan be designated a "country of particular concern," or CPC. To date, the State Department has not designated Pakistan a CPC.

The political landscape in Pakistan has changed substantially over the past year. In March 2007, President Pervez Musharraf removed the Chief Justice of the Supreme Court, ostensibly for abusing his office for personal gain but reportedly because the President feared that the Chief Justice would oppose his maneuvers to be elected to a new term in office. The suspension resulted in large and widespread demonstrations against Musharraf and in favor of an independent judiciary. In August, the Supreme Court voted to reverse that suspension of the Chief Justice and Musharraf agreed to accept the ruling. Musharraf secured his reelection as president to another five-year term in October by ensuring that the vote was held by the outgoing National Assembly, which was dominated by his supporters, rather than after the parliamentary elections, scheduled to be held the following month. That same month, former Prime Minister Benazir Bhutto returned to Pakistan after eight years in exile.

In November 2007, President Musharraf imposed martial law, suspended the country's constitution, and disbanded the Supreme Court. His government also arrested thousands of its opponents, including judges and lawyers, human rights activists, journalists, and other leaders of civil society in Pakistan. Among those placed under house arrest was Asma Jahangir, the UN Special Rapporteur on Freedom of Religion or Belief and a noted human rights activist in Pakistan. Musharraf purportedly took these actions in part because of the dangers posed by religious extremists, yet many observers contend that it was the Musharraf government's political alliance with militant religious parties that had served to strengthen such groups and give them influence in the country's affairs disproportionate to their support among the Pakistani people. Most of those arrested were eventually released, largely because of international pressure. The state of emergency was eventually lifted, but most of its repressive provisions have been left in force under the "restored" constitution. On December 27, 2007, former Prime Minister Bhutto was assassinated. Elections were postponed until February 2008, at which time the country's two main parties long in opposition, the Pakistan People's Party and the Pakistan Muslim League, won the majority of seats, with the latter coming in second in the popular vote. Significantly, the representation of Pakistan's coalition of militant religious parties, known as Muttahida Majlis-e-Amal (MMA), fell from 56 elected seats out of 272 to just six in the new parliamentary assembly. In March 2008, Yousaf Raza Gillani of the Pakistan People's Party was elected prime minister by the new Assembly; among his first actions was to order the release of

the Supreme Court head and other judges who had been placed under house arrest by Musharraf in November. In a significant step, in April 2008, the new government of Pakistan ratified several key UN human rights documents, including the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).

It is not yet clear what impact these developments will have on religious freedom, which has been severely violated by successive Pakistani governments in the past. Discriminatory legislation, promulgated in previous decades and persistently enforced, has fostered an atmosphere of religious intolerance and eroded the social and legal status of members of religious minorities, including Shi'a Muslims, Ahmadis, Hindus, and Christians. Government officials do not provide adequate protections from societal violence to members of these religious minority communities, and perpetrators of attacks on minorities are seldom brought to justice. In some recent instances, the government of Pakistan has directly encouraged religious intolerance. In March 2006, it was reported that, in an attempt to persuade people in the regions bordering on Afghanistan not to support Islamist militants, the Pakistani military dropped leaflets claiming that those militants were fighting against Pakistan "in connivance with Jews and Hindus."

Many religious schools, or *madrassas*, in Pakistan provide ongoing ideological training and motivation to those who take part in violence targeting religious minorities in Pakistan and abroad. In mid-2005, the government of Pakistan renewed its effort to require all *madrassas* to register with the government; *madrassas* were also ordered to expel all foreign students. By that year's end, despite an outcry from some militant groups, most of the religious schools had registered. However, reports indicate that the registration process has had little if any effect on the content of the schools' curricula, which remains extremist and includes exhortations to violence, and there are still no government controls on the *madrassas'* sources of funding. It therefore continues to be doubtful whether these belated official efforts to curb extremism through reform of the country's Islamic religious schools will be accompanied by other measures to make them effective. Moreover, these efforts do not adequately address the much wider problem of religious extremism in Pakistan and the continued, unwarranted influence of militant groups on the rights and freedoms of others. By issuing proclamations that were not acted upon, the Musharraf government only strengthened sectarian and extremist forces. In addition, by arresting judges, lawyers, human rights activists, and others during the November 2007 imposition of martial law, Musharraf in fact acted against those who speak out against the very extremism he claimed to be combating. Beginning in early 2008, Pakistan has experienced an intensified bombing campaign carried out by Islamist militants seemingly intent on disrupting life in Pakistan. Hundreds of people have been killed, including in the city of Lahore, which until recently was largely unaffected by extremist violence.

The Musharraf government did take action against extremists in some instances. Perhaps the most prominent—and controversial—action taken in the last year was in July 2007, when Army and security forces launched a military operation against the Lal Masjid (Red Mosque) in Islamabad. For several months prior to the operation, militants, including young women, who took over the mosque engaged in a series of vigilante actions against brothel owners, alcohol sellers, and others, in some cases kidnapping owners and holding them hostage. Some

policemen were also held hostage in the mosque. The subsequent military operation against the mosque resulted in the deaths of 10 members of the security forces and 79 militants, including the mosque's leaders. According to the State Department, the confrontation prompted the Musharraf government to renew its efforts to curb extremist teachings in *madrassas* across the country.

Despite President Musharraf's appeals for religious moderation and tolerance, in addition to indiscriminate extremist attacks, there are chronic levels of religiously motivated violence, much of it committed against Shi'a Muslims by Sunni militants. Ahmadis, Christians, and Hindus have also been targeted by Sunni extremist groups and mob violence. In January 2008, twelve people were killed and 25 others wounded when a suicide bomber blew himself up in a Shi'a mosque in Peshawar, northwestern Pakistan. The bombing occurred during Muharram, an annual Shi'a religious holiday. In October 2007, Islamic militants threatened to bomb a Christian family in northwestern Pakistan for refusing to convert to Islam. The month before, the family had received a similar threat. In August and September 2007, three Christian ministers were murdered by "fanatics" in separate incidents. In June 2007, Christian families were forced to flee a village in Punjab province after Protestants were attacked by an armed mob of over 40 men with guns, axes, and sticks demanding that they halt their meeting. Seven persons were injured. Perpetrators of such attacks on minorities are seldom brought to justice. Hindus also faced some societal violence, including in April 2008, when dozens of Muslims at a factory in Karachi beat a Hindu colleague to death for allegedly making derogatory remarks about Islam. The body reportedly had marks indicating that the man had been tortured. An investigation into the killing revealed that the man had made no derogatory remarks at all but was only accused of doing so by a disgruntled colleague. In addition, Hindu temples have been the object of violence in the province of Baluchistan, where Hindus are the largest religious minority and where ethnic Baluchi insurgents have been waging a struggle against the central government for many years.

Ahmadis, who number between 3 and 4 million in Pakistan, are prevented by law from engaging in the full practice of their faith. Pakistan's constitution declares members of the Ahmadi religious community to be "non-Muslims," despite their insistence to the contrary. Barred by law from "posing" as Muslims, Ahmadis are also proscribed by law from many other actions. They may not call their places of worship "mosques," worship in non-Ahmadi mosques or public prayer rooms which are otherwise open to all Muslims, perform the Muslim call to prayer, use the traditional Islamic greeting in public, publicly quote from the Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public, to seek converts, or to produce, publish, or disseminate their religious materials. In September 2007, the Ahmadis in Rahim Yar Khan in the southern part of the Punjab province reported nine cases of serious harassment of members of the Ahmadi community; in one incident, clerics reportedly demanded the dismantling of the Ahmadi mosques in the area and passed an edict punishing Muslims for maintaining contacts with Ahmadis. In some of these cases, police were reportedly intimidated against investigating violence or other action against Ahmadis. Moreover, because they are required to register to vote as non-Muslims, a policy that was reaffirmed by Pakistani government officials in February 2004, Ahmadis who refuse to disavow their claim to being Muslims are effectively disenfranchised. The one potentially positive development—the December 2004 abolition of the religious identification column in Pakistani

passports, which, among other advances, enabled Ahmadis to participate in the *hajj*—was derailed in March 2005, when members of a government ministerial committee restored the column, reportedly in response to pressure from militant religious parties. As far as is known, there has never been an effort on the part of any Pakistani government to institute any reform of the anti-Ahmadi laws.

Prescribed criminal penalties for what is deemed to be blasphemy include life imprisonment and the death penalty. Blasphemy allegations, which are often false, result in the lengthy detention of, and sometimes violence against Ahmadis, Christians, Hindus, and members of other religious minorities, as well as Muslims. Because the laws require no evidence to be presented after allegations are made and no proof of intent, and contain no penalty for leveling false allegations, they are easily used by extremists to intimidate members of religious minorities and others with whom they disagree. They are also often used by the unscrupulous simply to carry out a vendetta or gain an advantage over another. Although the penalties were amended in October 2004 with the aim of reducing the more maliciously applied charges, the minor procedural changes have not had a significant effect on the way the blasphemy laws are exploited in Pakistan. The negative impact of the blasphemy laws is further compounded by the lack of due process involved in these proceedings. In addition, during blasphemy trials, Islamic militants often pack the courtroom and make public threats about the consequences of an acquittal. Such threats have proven credible, since the threats have sometimes been followed by violence. Although no one has yet been executed by the state under the blasphemy laws, some persons have been sentenced to death. Several of those accused under the blasphemy laws have been attacked, even killed, by vigilantes, including while in police custody; those who escape official punishment or vigilante attack are sometimes forced to flee the country.

According to the State Department, in 2007, at least 25 Ahmadis, 10 Christians, and six Muslims were arrested on blasphemy charges; most refused bail because of the danger of vigilante violence. In March 2008, an 80 year-old Ahmadi man was arrested for allegedly desecrating the Koran, a crime punishable by life in prison; an Ahmadi spokesman claimed that he was falsely charged and that the accuser aimed only to impugn Ahmadis. In June 2007, Younis Masih, a Christian who had been imprisoned for two years, was sentenced to death on a charge of blasphemy. Masih reportedly angered a group of Muslims by expressing concern about the noise level of their gathering; they later accused him of making derogatory remarks about Islam. As a result, a mob reportedly attacked a number of homes in the area belonging to Christians; Masih and his wife were also beaten in the attack. Also in June 2007, a group of Christian nurses in a hospital in Islamabad were charged with blasphemy; before charges were filed in that case, the women were threatened with violence. In May 2007, an 84-year old Christian man was arrested after being accused of burning a Koran; the family claimed that he was accused by someone who wanted his land. He was released soon after. There have also been some acquittals of those accused of blasphemy charges. In September 2007, a Christian teenager was acquitted of charges that he had ripped up pages containing Koranic verses after prosecution witnesses changed their original testimonies. While this and other acquittals are welcomed, in virtually all cases, those acquitted have been forced into hiding because of fears of vigilante violence against them.

Under the Hudood Ordinances, rape victims run a high risk of being charged with adultery, for which death by stoning remains a possible sentence. In October 2003, the National Commission on the Status of Women in Pakistan issued a report on the Hudood Ordinances that stated that as many as 88 percent of women prisoners, many of them rape victims, are serving time in prison for allegedly violating these decrees, which make extramarital sex a crime and adultery a criminal offense. The Hudood laws apply to Muslims and non-Muslims alike. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that stoning and amputation do constitute acts in breach of the obligation to prevent torture or cruel, inhuman, and degrading treatment or punishment under international human rights standards and treaties. Although these extreme corporal punishments have not been carried out in practice, lesser punishments such as jail terms or fines have been imposed. In a positive development, correcting one of the most heavily criticized purported crimes that were prosecuted by the standards of these religious ordinances, in December 2006, President Musharraf signed into law a bill curtailing the scope of the Hudood Ordinances regarding rape charges. The new law removed the crime of rape from the sphere of the Hudood laws and put it under the penal code, thereby doing away with the requirement that a rape victim produce four male witnesses to prove the crime. Under the new legislation, convictions for rape will be based on forensic and circumstantial evidence. This change followed another amendment to the Ordinances enacted in July 2006 allowing women convicted of purported sexual transgressions to be released on bail rather than having to remain in prison—sometimes for lengthy periods—waiting for their cases to come to trial.

In July 2005, the government of the North West Frontier Province (NWFP), then led by the MMA, passed a bill—known as the "Hasba bill"—which created a "watchdog" position to monitor the observance of "Islamic values" in public places. The bill would have enabled this person, called the *mohtasib*, to ensure that people respect the call to prayer, prevent people from doing business of Fridays, and stop unrelated men and women from appearing in public together. There were concerns that the bill also would have imposed Taliban-like restrictions on women's movement and dress. Following an outcry in other parts of Pakistan and abroad, the law was later declared to be unconstitutional by Pakistan's Supreme Court. In November 2006, the NWFP assembly again passed a revised version of the legislation, but the governor refused to sign the bill, citing its unconstitutionality. The Supreme Court again blocked the bill. It is significant to note that in the February 2008 elections, the ruling MMA government was resoundingly defeated by the Awami National Party, considered to be a nationalist, more secular party.

Finally, the government's abuse of religious freedom is not contained within Pakistan's borders; rather, under the Musharraf government, Pakistan has become a significant exporter of religious intolerance and religiously-motivated militant violence. This is evident not least in the effective sanctuary the Musharraf government has afforded the Taliban inside Pakistan; as a result, the Taliban has been able to regroup, re-arm, and intensify cross-border attacks inside Afghanistan, substantially increasing instability and violence in that country. In January 2007, a UN representative confirmed that Pakistan was harboring Taliban leaders. The State Department had named the Taliban regime of Afghanistan a "particularly severe violator" of religious freedom from 1999 until the regime was deposed in 2001.

The government of Pakistan has also extended its undemocratic practices—and its efforts to appease religious extremists—into the international arena. In March 2007, Pakistan again presented a resolution to the UN's new Human Rights Council in Geneva supporting measures to halt the so-called "defamation of religions." The backers of the resolution claimed that their aim was to promote religious tolerance, but in practice, such laws routinely criminalize and prosecute what is often deemed—capriciously by local officials in countries where such laws exist—to be "offensive" or "unacceptable" speech about a particular religion. Defamation of religion laws clearly violate principles outlined in international human rights instruments, which guarantee the right to freedom of expression, as well as freedom of thought, conscience, and religion. Moreover, they appear to grant rights to entire religions rather than to individuals. Regrettably, the resolution again passed the Council.

Throughout the past year, the Commission continued to meet with representatives of the various religious communities in Pakistan, including Muslims, Ahmadis, Christians, and Hindus, as well as with human rights organizations, academics, and other experts. In January 2008, the Commission issued a statement calling on the U.S. government to urge the government of Pakistan to put an end to vigilante violence and to provide adequate protection to human rights defenders during the time of political turbulence. In November 2007, the Commission issued a statement expressing grave concern over the introduction of martial law by President Pervez Musharraf, noting that his action damaged the legitimacy of his government and seriously threatened the future of democracy in Pakistan. The statement also noted that the continued influence of militant groups in Pakistani politics and society has severely compromised the rule of law and the protection of human rights for Pakistan's citizens, and has been particularly problematic regarding internationally guaranteed rights to freedom of religion, expression, and association. Virtually all of the country's severe religious freedom problems—including the country's blasphemy laws; the laws violating the fundamental rights of the Ahmadi community; the persistent sectarian violence targeting Shi'a Muslims, Ahmadis, Hindus, and Christians; and the Hudood Ordinances, which violate the rights of women in Pakistan—were exacerbated by religious militant groups' representation in parliament, penetration of the state security services and police force, and pressure on the judiciary.

Also in November, the Commission issued a statement deploring the placement of Asma Jahangir, the UN Special Rapporteur on the Freedom of Religion or Belief, under house arrest. The Commission called on the U.S. government, at the highest levels, to protest Ms. Jahangir's detention and to urge the government of Pakistan to release her immediately so that she may continue her important work as Special Rapporteur. Ms. Jahangir was released soon after. In June 2007, the Commission spoke out against the abuse of blasphemy laws in Pakistan, declaring them to be a severe violation of the universally guaranteed right to the freedom of thought, conscience, and religion or belief. The Commission also expressed serious concern over a draft bill that would have imposed the death penalty for apostasy, or converting from Islam to any other religion.

In March 2006, the Commission wrote to President Bush, urging him, during his meeting with President Musharraf, to indicate that improvements in religious freedom conditions in Pakistan are essential to any meaningful advances in the war on terrorism and to successes in the global promotion of democracy. In addition, then-Commission Chair Michael Cromartie,

together with Commissioner Elizabeth H. Prodromou, published an op-ed in the *Philadelphia Inquirer* on March 3, 2006 calling on President Bush to raise religious freedom concerns with President Musharraf. In January 2006, the Commission wrote again to President Bush urging him to discuss in his January meeting with Pakistani Prime Minister Shaukat Aziz the need to promote and protect religious freedom and tolerance in Pakistan.

In June 2005, the Commission held a hearing on Capitol Hill entitled, "The United States and Pakistan: Navigating a Complex Relationship," during which experts examined U.S. policy toward Pakistan, highlighting the serious religious freedom and other human rights problems in Pakistan. In July, the Commission issued a press statement expressing serious concern about the "Hasba bill."

The Commission's May 2001 report on Pakistan played a key role in highlighting to U.S. and Pakistani government officials the undemocratic nature of the Pakistani separate electorate system for religious minorities. In January 2002, the Pakistani government abolished the system of separate electorates.

In addition to recommending that Pakistan be designated a CPC, the Commission has recommended that the U.S. government should strongly urge the government of Pakistan to:

- reinforce the rule of law in Pakistan, including by strengthening protections for the freedoms of speech, association, assembly, and the media, and by restoring and resolutely defending an independent judiciary;

- make more serious efforts to combat religious extremism in that country, addressing especially the consequences of the Musharraf government's political alliance with Islamist political parties, which afforded an inordinate amount of influence to these groups, and which, in turn, had a strong negative impact on religious freedom in Pakistan;

- take active measures immediately to cease its direct and indirect toleration and support of the Taliban in the country's border regions, which has had the dire result of exporting militant violence and terrorism by enabling the Taliban to re-arm and re-establish itself across the border in parts of Afghanistan; the government's refusal to take effective measures against the Taliban in Pakistan should result in a curtailment of U.S. military assistance to that country;[*]

- halt its practice at the UN Human Rights Council and other international fora of introducing the so-called "defamation of religions" resolution, which clearly distorts and violates the internationally guaranteed rights to freedom of expression, as well as freedom of thought, conscience, and religion;

- decriminalize blasphemy and, in the interim period until that actions is taken, implement procedural changes to the blasphemy laws that will reduce and ultimately their abuse; and

[*] Commissioners Leo and Shea dissent from this recommendation. Their separate statement immediately follows this chapter.

ensure that those who are accused of blasphemy and people who defend them are given adequate protection, including by investigating death threats and other actions against them carried out by militants, and that full due process is followed;

- take more effective steps to prevent sectarian violence and punish its perpetrators, including by making greater efforts to disarm militant groups and any religious schools that provide weapons training; and

- rescind the laws targeting Ahmadis, which effectively criminalize the public practice of their faith and violate their right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

In addition, the U.S. government should:

- expand U.S. government contacts beyond the Pakistani government to include a more open and public dialogue with a variety of representatives of civil society in Pakistan, including groups and political parties that may be critical of the current government;

- give greater attention and assistance to institutions in Pakistan that are crucial to its democratic development, particularly the judiciary and the police, which are reported to be especially corrupt, ineffective, and lacking accountability, thereby contributing to violations of human rights, including religious freedom, in Pakistan; and

- in administering its education assistance to Pakistan, focus more specifically on promoting reform in the state schools, where the State Department reports that textbooks regularly present religious intolerance as acceptable and include derogatory statements about religious minorities, particularly Jews and Hindus.

Pakistan Recommendation: Separate Opinion of Commissioners Leo and Shea

"We write separately for the single purpose of taking issue with one of the Commission's recommendations—namely, that provision of U.S. military aid be curtailed in light of the 'effective sanctuary' the Pakistani government has afforded the Taliban.

"First, the report cites no evidence that military aid is actually being used to support the Taliban's efforts or to insulate them from defeat. Indeed, to the extent that military aid to Pakistan is being used to thwart Taliban efforts—and, at least some of that aid most certainly is—then cutting off the assistance might have the effect of making matters worse. A more appropriate recommendation would be to urge the U.S. government to investigate whether, as a matter of official Pakistan policy or deliberate indifference on the part of Pakistan officials, U.S. military aid is being used for any improper purposes related to the Taliban; and to undertake steps to stop the use of such funds if that is in fact the case, which could include a curtailment of military assistance.

"Second, we believe that the Commission is not in a position here to decide whether cutting off military aid is the most effective response, assuming a problem. The geopolitical

dynamics in that country are enormously complicated. The Commission has not undertaken the kind of thoroughgoing inquiry that would shed light on the issue, and, we are not certain that it ever could here."

People's Republic of China

The Chinese government continues to engage in systematic and egregious violations of freedom of religion or belief. Yet, religious communities are growing rapidly in China and the freedom to participate in officially sanctioned religious activity increased in many areas of the country over the past year. High-ranking Chinese government officials, including President Hu Jintao, have praised the positive role of religious communities in China and articulated a desire to have religious groups promote "economic and social development"—an endorsement that may open legal space for religious groups to conduct charitable, medical, and economic development activities. However, despite this growing "zone of toleration" for the worship and charitable activities of China's religious communities, the government continues to restrict religious practice to government-approved religious associations and registered religious venues and seeks to control the activities, growth, and leadership of both "registered" and "unregistered" religious groups.

Religious freedom restrictions and sometimes brutal abuses continued to target unregistered religious groups, those considered by the government to be "cults," and religious communities associated with ethnic minority groups. Severe crackdowns targeting Uighur Muslims, Tibetan Buddhists, "underground" Roman Catholics, "house church" Protestants, and various spiritual movements such as Falun Gong continued in the last year. The level of religious repression increased in Tibetan areas and in the Xinjiang Uighur Autonomous Region (XUAR). Moreover, legal reforms, which were issued in 2005 with the promise of increased religious freedom protections, have not halted abuses and are used in some cases to justify some arrests and additional restrictions. Since 1999, the Commission has recommended that China be designated a "country of particular concern," or CPC. The State Department has followed the Commission's recommendations and named China a CPC since 2000.

As in past years, the Chinese government continued to implement the National Regulations on Religious Affairs (NRRA), issued officially in March 2005. The regulations include provisions that require all religious groups and religious venues to affiliate with one of seven government-approved religious associations. When registered, religious communities can apply for permission to possess property, provide social services, accept donations from overseas, conduct religious education and training, and host inter-provincial religious meetings. Within the bounds of the Chinese legal system, the NRRA can expand protections for the registered religious communities. However, it remains the Commission's conclusion that the NRRA, by stipulating registration in government-sanctioned religious associations and requiring permission for many routine religious activities, strengthens governmental management or supervision of religious affairs, thereby offering Party officials extensive control over religious practice and related activities. In addition, the NRRA only protects what the government considers "normal" religious activity, making unregistered religious groups illegal and subject to

restriction or other punishments. Vague national security provisions in the NRRA override stated protections if a religious group is deemed to disrupt national unity or solidarity.

The Chinese government requires all religious organizations to become registered as a means for the government to manage religious activity and maintain control of independent religious practice. Some Catholics, Protestants, Muslims and members of spiritual movements have refused to join the officially-sanctioned religious organizations due to their reluctance to: 1) provide the government with the names and contact information of their followers; 2) submit leadership decisions to the government or to one of the government-approved religious organizations whose leadership they view as complicit in arrests and restrictions placed on unregistered religious activity; and 3) seek advance permission from the government for all major religious activities or theological positions or face unspecified penalties. To illustrate the last point, authorities from the Religious Affairs Bureau in Yicheng county, Hubei province, forced a registered Protestant church to close because it allowed the pastor from another province to lead services at the church without gaining prior permission. In addition, an abbot at a monastery in the Tibetan area of Golog prefecture, Qinghai province, was forced to step down in May 2007 when he refused to sign a pledge denouncing the Dalai Lama. During the past year, police have also closed registered and unregistered churches and temples, many with large memberships and networks, in the provinces of Heilongjiang, Shandong, and Tibet.

During the past year, pressure on unregistered groups to register with government-approved associations increased. Protestant "house church" groups and "underground" Catholic priests continue to experience the most intense coercion. Any religious group that refuses to register is technically illegal and subject to various forms of punishment, though in 2007, the response by local officials varied from region to region. In some areas of China, large Protestant "house church" groups met openly and with the knowledge of local officials; in other areas even small, independent gatherings faced detention, closure, beatings, confiscation of personal property, fines, or, in some cases, criminal prosecution. Though there were problems throughout China, unregistered religious groups experienced the most abuses and harassment in Anhui, Hebei, Henan, Shanxi, and Xinjiang provinces.

In Tibetan Buddhist and Muslim regions, the implementation of the NRRA has led to additional restrictions and more intense campaigns of "patriotic education" among monks, nuns, and imams. Tibetan Buddhist and Uighur Muslim religious leaders have long been required to demonstrate political loyalty, but new laws give provincial officials specific mandates to monitor the training, assembly, publications, and speeches of Muslim and Tibetan Buddhist leaders. Patriotic education campaigns are intended to quell any activities viewed as political dissent and to build up leaders who are considered "patriotic and devoted." During the Commission's visits to the XUAR and Tibet, local government leaders said that patriotic education campaigns had ended, but religious leaders made clear that "political education" still occurred on a regular basis.

In the past year, the government continued to demolish Tibetan Buddhist structures and statues, including the homes of individual monks or nuns, because they were constructed without authorization. In June 2007, authorities in Lhoka Prefecture in the Tibet Autonomous Region (TAR) carried out the demolition of a large Buddha statue at Samye Monastery. In a separate incident in September 2007, about twenty Tibetans formed a human chain to prevent the

destruction of a statue of Guru Rinpoche near Mount Kailash, which Tibetans consider sacred. The statue was completely demolished over the course of about three days. In September 2007, the government also issued a new regulation that would allow it to interfere directly in the selection of reincarnated lamas, an essential element of Tibetan Buddhist religious practice. Tibetan leaders outside China contend that the new regulations are intended to control the selection of the next Dalai Lama. The new regulations require monasteries to seek government permission to search for a reincarnated lama and maintain a reincarnated lama in residence. In addition, the government must approve the choice all reincarnated lamas and the selection process may not be influenced by any individual or entities outside the country. Depending on the importance of the reincarnation itself, candidates must receive permission from either provincial level government officials or from officials in Beijing.

The regulations on reincarnated lamas are part of the Chinese government's continued campaign to diminish the stature and influence of the Dalai Lama among Tibetans. Refusal by monks and nuns to denounce the Dalai Lama or to pledge loyalty to Chinese Communism is met with expulsion from their monasteries, imprisonment, and torture. In Sichuan province during June and July 2007, authorities required monks at Kardze monastery and neighboring Lithang Monastery to sign statements denouncing the Dalai Lama. Police also forcibly confiscated several pictures of the Dalai Lama and copies of his writings from the monks' private dormitories. On August 1, Runggye Adak, a Tibetan nomad, staged a protest calling for the Dalai Lama's return to Tibet and for the freedom of Gendun Choekyi Nyima (the Panchen Lama) at a festival in Kardze and was immediately arrested. In November 2007, Adak was sentenced to eight years imprisonment on charges of "incitement to split the country." Three others, including one monk, were also sentenced to prison terms of ten, nine, and three years for attempting to publicize the case. During the last year in Ganzi Tibetan Autonomous Region, the government forced many monks to sign statements denouncing the Dalai Lama and compelled parents to withdraw their children from education programs at monasteries. Authorities in Lhasa also warned parents about allowing their children to participate in religious holidays, including activities such as visiting or circumambulating temples and deities or wearing amulet cords. Students failing to comply with the orders were threatened with expulsion from school.

After the Dalai Lama received the U.S. Congressional Gold Medal in October 2007, Tibetans in many localities staged public celebrations. Several Tibetans were briefly detained after they set off fireworks in celebrations in Tibetan areas of Gansu Province. On October 17, when monks at Drepung monastery in Lhasa staged religious ceremonies to celebrate the award, police entered the monastery by force, closed it off to the public for at least two weeks, and detained those believed to have organized the celebrations. Nearby Nechung monastery was also reportedly closed to the public for one week. Tibetan students and government employees in Lhasa also reported that they were ordered to refrain from participating in prayer ceremonies in the weeks before and after the Dalai Lama's award. Those who refused to comply were threatened with loss of their jobs and, for retirees, with loss of retirement benefits.

On January 1, 2008, the government issued implementation guidelines for the NRRA in Tibetan Autonomous Region (TAR). The regulations continue to assert state control over all aspects of Tibetan Buddhist belief and practice, including more specific control over the movement of monks and nuns, religious training, the building or repairing of religious venues, and the conducting of large-scale religious gatherings. When the new implementation guidelines

for Tibet were issued, official media reports indicated that they were intended to "resist the Dalai Clique's separatist activities."

On March 10, 2008, monks from Drepung monastery peacefully demonstrated to protest, in part, ongoing patriotic education efforts and other religious freedom restrictions at the monastery. The Chinese government's response to the peaceful protest of monks, including sealing off monasteries and arresting monks, touched off demonstrations that led to property destruction, arrests, and numerous deaths. Demonstrations later spread to Tibetan areas outside the TAR. On April 14, Chinese soldiers fired on several hundred monks and local residents at the Tongkor monastery in Ganzi. Witnesses claim that between eight and 15 persons were killed and others arrested. Unrest in Ganzi was sparked by the Chinese government's announcement of new "patriotic education" campaigns aimed at suppressing Tibetan loyalty to the Dalai Lama. When monks at Tongkor resisted the new campaigns, police entered the monastery and destroyed pictures of the Dalai Lama and arrested several monks. The police fired on the crowd that had gathered to protest the arrests.

Monks at the Jokhang temple affirmed to foreign reporters visiting Lhasa during the demonstrations that repression of religious freedom lies at the heart of their grievances. Despite the deep resentment of this practice, Chinese officials have stepped up "patriotic education" campaigns, especially in monasteries, to pressure Buddhist monks and nuns to denounce the Dalai Lama and show loyalty to Chinese communist rule. Zhang Qingli, party secretary of the TAR, has called the Dalai Lama a "wolf in monk's robes" and "a devil with a human face but the heart of a beast" and dismissed the exiled leader's supporters as the "scum of Buddhism." Zhang ordered not just monks but students, government workers, and business people throughout Tibet to participate in patriotic education sessions and sign denunciations of the Dalai Lama.

The Chinese government acknowledges that more than 100 Tibetan Buddhist monks and nuns are being held in prison. Tibetan human rights groups claim that these prisoners are subject to torture and other ill-treatment. Following a series of high-profile releases of and reduced sentences for Tibetan Buddhists between 2001 and 2005, the Chinese government has not responded to international calls for additional releases. In February 2005, the Chinese did release Phuntsog Nyidron, a nun who had been imprisoned since 1989, but placed her under strict house arrest and surveillance. She was permitted to meet with the Commission during its 2005 trip to Tibet and later pressed the Chinese government to allow her to travel abroad for needed medical attention. The authorities later allowed her to travel to the United States in March 2006. The Chinese government continues to deny repeated international requests for access to the 19-year-old man Gedhun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. While he is technically "disappeared," government officials have claimed that he is being "held for his own safety," while also insisting that another boy, Gyaltsen Norbu, is the "true" Panchen Lama. In recent years, Chinese authorities have, on several occasions, featured Norbu in public ceremonies where he stresses the importance of loyalty to the Communist government and endorses the government's official version of Tibetan history.

In January 2003, Tibetan Buddhist monk Tenzin Delek Rinpoche was arrested on charges related to a 2002 bombing incident and later sentenced to death. U.S. officials were promised that the case would be reviewed by the Supreme People's Court. Although the review never

occurred, Tenzin Delek's death sentence was commuted to life imprisonment in January 2005. In August 2007, several units from the People's Armed Police were deployed to Kadze Tibetan Prefecture, Sichuan rovince to disperse protestors who had gathered to demand the release of Tenzin Delek and of the more recently arrested Ronggye Adak. Pawo Rimpoche, a reincarnate lama recognized by the Karmapa Lama in 1994, remains under strict surveillance and is not permitted to leave his monastery. In the last year, delegations from the United States who have requested permission to meet with him have been denied.

There are increasing and disturbing reports that China is actively seeking to prevent Tibetans from leaving the country and encouraging the forcible repatriation of asylum seekers from Nepal and India. In late September 2006, Chinese guards on the Nepalese border opened fire on a group of approximately 70 Tibetan refugees, resulting in the death of a 17-year-old nun. Members of the group, who were unarmed when soldiers fired upon them from a distance, included monks, nuns, and children who were seeking refuge in India in order to receive religious education denied them in Tibet. Following the shooting, soldiers took several members of the group into custody. Those detained were required to pay heavy fines while some were tortured with cattle prods and forced to perform hard labor. In a similar incident in October 2007, border guards fired at a group of approximately 30 Tibetans, mostly monks and nuns, who were attempting to flee in the same area on the Nepalese-Tibetan border. Although no casualties were reported in the incident, seven individuals, including three monks, were taken into Chinese custody.

In the XUAR, or Xinjiang, conditions for freedom of religion and belief are particularly poor and the provincial government intensified repression of all religious groups in the province. According to government officials, this repression is justified by its policy to "stamp out terrorism, separatism and religious extremism" in the XUAR. During the last year, Uighur Muslim clerics and students have been detained for various "illegal" religious activities, "illegal religious centers" have been closed, and police continue to confiscate large quantities of "illegal religious publications." The government continues to limit access to mosques, including the participation of women, children, communist party members, and government employees. All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces monitor imams and other religious leaders. Imams at Uighur mosques are reportedly required to meet monthly with officials from the Religious Affairs Bureau and the Public Security Bureau to receive advice on the content of their sermons. Failure to report to such meetings can result in the imam's expulsion or detention. Religious leaders and activists who attempt to publicize or criticize human rights abuses in the XUAR have received prolonged prison terms, on charges of "separatism," "endangering social order," and "incitement to subvert state power."

Officials in the XUAR continue to restrict the teaching of Islam to minors. During the Commission's visit to China, local government officials confirmed that minors were prohibited from participating in any religious activity or instruction before the completion of nine years of compulsory public education. The existence of such a policy contradicts statements made by other Chinese central government officials who claimed that no restrictions exist prohibiting the religious activities of minors. Teaching religion to minors continues to be a criminal offense in the XUAR. Aminan Momixi, a woman in a rural area of Xinjiang, was arrested and detained in August 2005 for holding religious classes for 37 students in her home. Authorities in Xinjiang

report that Momixi was released; however, they have failed to account for her whereabouts and U.S. government officials have been refused permission to meet with her. In several localities in Xinjiang, plainclothes police are reportedly stationed outside of mosques to enforce rules forbidding children and government employees from attending services. There are reports that in some areas, individuals under the age of 30 are prohibited from attending mosque. Throughout Xinjiang, teachers, professors, university students, and other government employees are prohibited from engaging in religious activities, such as reciting daily prayers, distributing religious materials, observing Ramadan, and wearing head coverings, and are reportedly subject to fines if they attempt to do so. Such standards are reportedly enforced more strictly in southern Xinjiang and in other areas where Uighurs account for a higher percentage of the population.

In the past year, authorities in the XUAR introduced regulations to ensure that the government-approved Chinese Patriotic Islamic Association controls all *hajj* pilgrimages. To fulfill these new regulations, XUAR authorities require Muslims to turn over their passports to local government offices for registration. To retrieve their passports, Muslims are required to submit information regarding their *hajj* travel plans to ascertain that they did not receive a foreign visa without authorization. Uighur human rights activists outside of China also expressed concern that the new policy may be used to identify and punish Uighurs who travel outside of the XUAR.

In response to persistent international pressure, Chinese authorities released Uighur human rights activist Rebiya Kadeer in March 2005. In June 2006, Kadeer's three sons, Kahar, Alim, and Ablikim, were detained and placed under arrest in order to prevent them from meeting with a visiting congressional delegation. In October, Kahar and Alim were tried on charges of tax evasion and Alim was later sentenced to seven years imprisonment. The two were also fined a total of over $75,000. In February 2007, Ablikim was tried in secret on charges of "subversion of state power" and later sentenced to nine years imprisonment. In December 2007, when family members were granted their first visit with Ablikim in nearly one year, the family reported that Ablikim was seriously ill, had been subjected to torture, and denied adequate medical treatment.

Relations between unregistered Roman Catholic congregations and the officially-recognized Chinese Patriotic Catholic Association (CPA) are strained, due to past government repression and the growing number of CPA bishops and priests secretly seeking ordination and approval of the Vatican. An estimated 90 percent of Catholic clergy have reconciled with the Vatican. Nonetheless, the CPA does not recognize the authority of the Holy See to appoint bishops, though, in some recent cases, the Vatican has been allowed quietly to approve bishop selections. For example, in September 2007, bishops were ordained in dioceses in Beijing and Guizhou with the approval of both Beijing and the Vatican. These ordinations reversed a recent trend of bishop ordinations occurring without Vatican approval. In 2006, three bishops were ordained without Vatican approval. In June 2007, Pope Benedict issued an open letter to Chinese Catholics. The Pope recognized that greater religious freedom exists in China today than in the past, but that "grave limitations remain," and it is unacceptable for the Church to accept undue restrictions. Nevertheless, the Pope called on Chinese Catholics to resolve past differences in an atmosphere of "respectful and constructive dialogue." The Chinese government continues to maintain that normalization of ties with the Holy See will begin only if

the Vatican revokes its diplomatic relations with Taiwan and agrees to cease its "use of religion as a means to interfere in China's internal affairs."

Harassment, surveillance, and detention of "unregistered" Catholic priests and bishops continued in the last year. In March 2007, authorities in Shaanxi province took Bishop Wu Qinjing of the Zhouzhi diocese into custody, where he remains. Bishop Wu was ordained in September 2006 with Vatican approval, but without the approval of the local CPA. He was reportedly beaten in custody and forced to sign a document promising not to participate in diocese management. In June 2007, Bishop Jia Zhiguo was detained for three weeks and beaten in custody. Bishop Jia was again detained in August and held without trial until December 2007. In July, four priests from Hebei were arrested while traveling in Inner Mongolia, reportedly for their refusal to register officially with the local patriotic religious association. In August, Bishop Yao Liang was arrested and remains in custody; no formal charges have been issued in his case. There remain at least 30 Roman Catholic bishops or priests under arrest, imprisonment, or in detention, including the elderly Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. In addition, there has been no information on the whereabouts of Bishop Shi Enxiang, who was arrested in April 2001. On August 24, 2006, An Shuxin, Bishop Su's Auxiliary Bishop, was released after 10 years of imprisonment.

Unregistered Protestant groups in China continued to face harassment, detention, fines, beatings, confiscation of property, and arrest during the last year. A secret provincial document reportedly issued in Hubei province in July 2007 reveals that the Chinese government is conducting a nationwide campaign to "normalize" unregistered Protestant churches by giving them the option of either joining the Three Self-Patriotic Association or being suppressed. In the last year, an estimated 693 Protestant leaders and adherents were arrested, 38 of whom received sentences of one or more years, including in China's infamous "re-education through labor" system. In addition, the State Department estimates that "thousands" of house church members were detained for short periods in the last year. In February 2007, police in Jiangsu province raided a prayer meeting and reportedly beat and arrested participants. In May 2007, police in the XUAR arrested 30 house church leaders who were meeting with foreign religious leaders; those arrested were mistreated or beaten in custody. Ismail Tiliwaldi, Chairman of the XUAR, urged local police and religious affairs officials to "exercise stronger management" over Protestantism and Catholicism and to guard strictly against foreign infiltration and sabotage. Police in Kashgar, XUAR arrested Alimjan Yimit, an Uighur house church leader; he remains in detention on charges reportedly related to "national security issues." Osman Imin (also known as Wusimanyiming) was arrested in November 2007 and sentenced to two years of "re-education through labor" on charges that he assisted foreigners in conducting "illegal religious activities" related to public religious expression and persuasion among the Uighur community.

Chinese officials continue to use charges of "illegal business activity" to sentence house church leaders who are involved in the printing and distribution of Bibles and other religious texts. Recent cases include Pastor Wang Zaiqing, who was sentenced to two years imprisonment in Anhui in October 2006 and Shi Weihan, who served 37 days of criminal detention in Beijing in November 2007. In June 2006, Pastor Zhang Rongliang was sentenced to seven and one half years imprisonment on charges of obtaining a false passport. Two additional house church

leaders, Chen Jiaxi from Anhui and Zhou Heng from Xinjiang, are currently facing trial on charges of "illegal business activity" under similar circumstances.

Police continued to detain current and former Falun Gong practitioners and to place them in re-education camps. Police reportedly have quotas for Falun Gong arrests and also target former practitioners. Tens of thousands of Falun Gong practitioners have been sent to labor camps without trial or to mental health institutions for re-education because of their affiliation with an "evil cult." Falun Gong practitioners claim that nearly 6,000 practitioners have been sent to prison and over 3,000 have died while in police custody. Some human rights researchers estimate that Falun Gong adherents at one time comprised up to half of the 250,000 officially recorded inmates in "re-education through labor" camps. The UN Special Rapporteur on Torture reported that Falun Gong practitioners make up two-thirds of the alleged victims of torture. Given the lack of judicial transparency, the number and treatment of Falun Gong practitioners in confinement is difficult to confirm. During the Commission's August 2005 visit, high-level Chinese government officials defended the crackdown on the Falun Gong as necessary to promote "social harmony."

In the past year, reports continued to surface regarding the re-arrest of Falun Gong members who had been released after completing prison terms. For example, Bu Dongwei, a lawyer in Beijing working on legal aid issues for the Asia Foundation, was sentenced to two and one half years imprisonment for possession of Falun Gong-related literature. In addition, the Chinese government has reportedly continued to pressure foreign businesses in China to sign statements denouncing the Falun Gong and to refuse to employ the group's followers. Numerous allegations of government-sanctioned organ harvesting from incarcerated Falun Gong practitioners have surfaced within the last year. Independent investigation into the practices of a hospital in Sujiatun, Shenyang proved inconclusive. However, based upon a report from two prominent Canadian human rights activists, international human rights organizations have called for an independent investigation and for continued international attention to allegations of organ harvesting from prisoners.

Since the banning of Falun Gong in 1999, the Chinese government has conducted a harsh campaign against "evil cults" and "heretical sects." This campaign against "evil cults" has, in recent years, expanded to include leaders of long-established Protestant groups. Over the past year, religious leaders have been imprisoned and followers detained and fined for "illegal cult activity." In June 2007, Zhang Geming and Sun Qingwen, both house church pastors in Shandong Province, were sentenced to one year of "re-education through labor" on charges of "using an evil cult to obstruct the law." In August, following a raid on a meeting of house church leaders in Hubei Province, five church leaders were sentenced to 18 months of "re-education through labor" and four other house church leaders received sentences of 12 months, all on charges of "using an illegal cult to disrupt enforcement of the law." Family members of the pastors were not notified of their sentences until over two months following their initial detention, and several pastors claimed they were beaten during interrogation. In February 2008, 21 house church leaders were sentenced to terms of one to three years of "re-education through labor" following a raid on a leadership training session in Shandong Province in December 2007, when police arrested 270 church leaders. The leaders were charged with being members of an "illegal cult" organization.

In August 2007, authorities in Hunan Province issued provincial-level regulations to administer folk religion venues. The regulations are significant because they offer protections for religious practice outside the China's five predominant religious communities (Buddhism, Daoism, Protestantism, Catholicism and Islam) and because they allow venues to register directly with provincial government officials. However, the new regulations allow registration only of existing venues and stipulate that no new sites may be built. In addition, any venue that is destroyed may not be rebuilt unless it retains "historical stature" and "great influence." The State Administration for Religious Affairs (SARA) has established a division to deal directly with the management of folk religions.

During the past year, there has been a continuing crackdown against human rights activists, lawyers, and others who attempted to use the Chinese legal system to defend the rights of Chinese citizens, including those who sought to practice their right to freedom of religion. In November 2007, human rights lawyer Guo Feixiong was sentenced to five years imprisonment on charges of "illegal business practices." Guo was closely involved in the defense of human rights lawyer Gao Zhisheng, who faced charges of subversion following his efforts to defend the human rights and religious freedom of Falun Gong practitioners. Guo had also written legal essays defending Pastor Cai Zhuohua, who served three years in prison for "illegal business practices" due to his efforts to distribute Bibles among house church Christians. In September 2007, attorney Li Hepring, a prominent religious freedom advocate, was beaten with electronic batons for nearly five hours and ordered to stop practicing law. The Commission continues to express concern that the crackdown reflects the unwillingness of the Chinese government to implement legal and political reforms that would offer Chinese citizens viable means to protect their human rights, especially their rights to freedom of speech, assembly, and religious freedom.

In August 2005, a Commission delegation made a two-week visit to China to engage senior government officials on Chinese policies and practices relating to religious freedom. During the visit, the delegation traveled to the cities of Beijing, Shanghai, Chengdu, Urumqi, Kashgar, and Lhasa. The Commission delegation raised questions about Chinese law and international human rights norms, the control and management of religious affairs, new regulations on "cults" and religious affairs, the situations in Xinjiang and Tibet, religious education of minors, and other matters relating to freedom of religion or belief, as well as the condition of North Korean asylum-seekers in China.

In March and April 2008, the Commission issued public statements condemning the Chinese government's crackdown on Tibetan Buddhist monks and calling for an end to violence and the independent monitoring of reports of arrests, disappearances, and deaths. Noting that the desire for greater religious freedom was an important demand of the protests, the Commission also publicly urged the Chinese government to resume negotiations with the Dalai Lama in order to address religious repression and other issues, including a full accounting of the Chinese government's response to the demonstrations.

In January 2007, the Commission held a public hearing on religious freedom conditions in China and to discuss policy options that the United States might pursue to improve religious freedom and related human rights conditions. Witnesses included an expert panel featuring the

former Senior Director for Asian Affairs at the National Security Council and the Executive Director of the NGO Human Rights in China. A second panel of witnesses included representatives from several major religious communities in China, including Tibetan Buddhists, Uighur Muslims, unregistered Catholics, house church Protestants, and Falun Gong. All witnesses confirmed that the implementation of the March 2005 regulations on religious affairs had not led to any improvements in religious freedom conditions for their respective religious denomination. In April 2007, then-Chair Felice D. Gaer offered testimony at a briefing before the Congressional Human Rights Caucus on religious freedom conditions in Tibet. The Special Envoy of the Dalai Lama also offered testimony at the briefing, which was scheduled to coincide with the eighteenth birthday of the Panchen Lama.

In October 2007, the Commission and the Congressional China Caucus co-hosted a roundtable discussion on current problems facing refugees and asylum seekers in China, particularly North Koreans, Uighur Muslims, and Tibetan Buddhists, for whom religious freedom is an important factor in the decision to seek asylum. The Commission hosted the briefing following reports of a second incident on the China-Tibetan border in which Chinese border guards fired on groups of unarmed Tibetan refugees. The Commission and the Caucus held the forum to encourage candid discussion between U.S. government officials, international organizations, congressional staff, and non-governmental representatives on how to engage the Chinese government to encourage treatment of refugees and asylum seekers in accordance with international standards. Commissioner Leonard Leo chaired the session and Rep. Madeline Bordallo of Guam, co-chair of the China Caucus, offered opening remarks. In follow-up to this discussion, Commission staff held meetings with the State Department's Bureau of Population, Refugees and Migration and with the Washington office of the UN High Commissioner on Human Rights to discuss specific policy recommendations.

In November 2007, the Commission issued a statement condemning the Chinese government's crackdown on human rights defenders and the so-called "campaign to root out foreign infiltration," noting that this campaign seeks to penalize communities that do not enjoy official sanction. The Commission pointed out that Chinese government leaders have used these two campaigns, which have been explicitly endorsed at the highest levels of the central government, to violate human rights, including the right to freedom of religion or belief.

In addition to recommending that China be designated a CPC, the Commission has made the following recommendations concerning U.S. policy toward China.

I. Ending Human Rights Abuses in China

The U.S. government should continue to urge the Chinese government to end severe violations of religious freedom and other human rights and continue to allow effective monitoring of international human rights norms by various United Nations bodies and the U.N. High Commissioner for Human Rights. To this end, the U.S. government should urge the Chinese government to:

- end its current crackdown on religious and spiritual groups throughout China, including harassment, surveillance, arrest, and detention of persons on account of their manifestation of

religion or belief; torture and ill-treatment of persons in prisons, labor camps, psychiatric facilities, and other places of confinement; and the coercion of individuals to renounce or condemn any religion or belief;

- release all those imprisoned or detained on account of their manifestation of religious belief in contravention of international human rights standards;

- issue a national decree that guarantees the right of minors to manifest their religion or belief and the liberty of parents to ensure the religious and moral education of their children consistent with their own beliefs;

- establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "counterrevolutionary" or "splittist" activities, or organizing or participating in "illegal" gatherings or religious activities. This mechanism should also review cases of detained or imprisoned religious leaders, many of whom have been charged with specious criminal offenses;

- extend an unconditional invitation to the UN Special Rapporteur on the Independence of Lawyers and Judges to China, and allow the Rapporteur full access in compliance with the terms of reference required by the Special Rapporteur; and

- determine dates for a visit to China by the UN Special Rapporteur on Freedom of Religion or Belief, in accordance with the terms of reference required by the Special Rapporteur.

In addition, the U.S. government should:

- raise publicly concerns about Chinese human rights abuses in multilateral fora, including at appropriate UN bodies or other international and multi-national fora, and ensure that preparations for such actions be made at appropriately high levels and with the widest possible support from other UN member states.

II. Building on Existing Efforts to Improve the Rule of Law in China

The U.S. government should make the promotion of the rule of law a greater priority of U.S. human rights diplomacy in China. To this end, the U.S. government should continue to urge the Chinese government to:

- ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998;

- amend or repeal Article 306 of the Criminal Procedure Code, which has been used against attorneys who have vigorously defended the rights of their clients;

- amend or repeal Article 111 of the Criminal Procedure Code, which labels as "state secrets" any published information deemed embarrassing to the government, and raise the issue of

China's use of "state security" as a rationale for suppressing dissent in bilateral and multilateral discussions and exchanges;

- repeal the Guiding Opinion on Lawyers Handling Collective Cases and similar local regulations that interfere with the ability of lawyers to represent the interests of their clients in collective cases, including cases involving the defense of religious freedom or related rights or violations on account of religion or belief;

- repeal Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with "evil cults," and also its associated legislation, the Decision of the Standing Committee of the National People's Congress on Banning Heretical Cult Organizations, Preventing and Punishing Cult Activities; and

- end the use of government filters on Web sites and e-mail and remove official restrictions on Internet message boards and text messaging, including the blockage of access to certain Web sites related to religion, belief, or human rights; revise the September 2000 State Council regulations on Internet Content Providers (ICPs) and offer ICPs clear and consistent guidelines for Web site content and usage to ensure that Chinese law and practice in this area conform to international standards on the freedoms of opinion and expression.

III. Building Programs to Support Chinese Rights Defenders

The U.S. government should support programs that will strengthen the ability of Chinese lawyers and activists to defend religious freedom or related rights or violations on account of religion or belief, advocate state policies that comport with international standards and support of a vibrant civil society and media. To this end, the U.S. government should support initiatives that promote the following goals:

- through the State Department's Human Rights and Democracy Fund, institute new programs that:

  --increase the capacity and networking ability of non-governmental organizations in China that address issues of human rights, including religious freedom, as well as the freedoms of expression, association, and assembly;

  --expand contacts between U.S. human rights experts and Chinese government officials, academics, representatives of both registered and unregistered religious communities, and non-governmental organizations on international standards relating to the right of freedom of religion or belief; on the importance and benefits of upholding human rights, including religious freedom; on reforms to the Chinese criminal justice system, including planned changes in the criminal procedure code; and on the role of defense lawyers; and

  --increase consultations between international human rights experts and Chinese officials, judges and lawyers on the compatibility of Chinese laws, regulations, and practices with ICCPR standards on freedom of religion or belief;

- through the newly instituted Human Rights Defenders Fund, make support available to Chinese lawyers and others who defend the internationally recognized rights of individuals and communities targeted because of their religious belief or practice.

IV. Expanding U.S. Outreach and Public Diplomacy in Tibet and Xinjiang

The U.S. government should:

- urge the Chinese government to allow a U.S. government presence, such as consulates in Lhasa, Tibet and Urumqi, Xinjiang, which could monitor religious freedom and other human rights conditions; and

- strengthen its efforts to highlight conditions faced by Uighur Muslims and Tibetan Buddhists by:

  --increasing the number of educational opportunities in the United States for religious and other leaders from these regions, in order to enhance their understanding of religious freedom and other human rights according to international standards;

  --creating legal clinics to assist those in areas of high concentrations of Uighur Muslim and Tibetan Buddhist populations to enforce their human rights under the Chinese Constitution and international law, similar to existing programs that serve other ethnic minority areas in China;

  --expanding ongoing assistance to civil society programs that promote Tibetan culture, language, and social welfare and developing similar programs for Uighurs; and

  --as the Broadcasting Board of Governors modifies its global priorities, ensuring continued availability of funds to maintain appropriate Tibetan and Uighur language broadcasting through the Voice of America and Radio Free Asia.

V. The U.S.-China Senior Strategic Dialogue and Promotion of Human Rights

Within the planning and structure of the Senior Strategic Dialogue, the U.S. government should:

- continue to prioritize human rights and religious freedom issues as key issues within the agenda of the Senior Dialogue, raise a full range of religious freedom concerns in high-level discussions at each dialogue session and, where appropriate, invite human rights experts from within the State Department and other U.S. government agencies, as well as non-governmental experts, to participate in both pre-Dialogue planning and negotiating sessions; and

- ensure that religious freedom priorities raised in the Senior Dialogues are implemented through appropriate U.S. government foreign assistance programs on such issues as legal

reform, civil society capacity building, public diplomacy, and cultural and religious preservation and exchanges.

In addition, the U.S. Congress should:

- ensure that congressional oversight of U.S.-China human rights diplomacy is maintained by requiring the State Department to submit a regular public report to the appropriate congressional committees detailing issues of concern discussed during the Senior Dialogue, or any future bilateral human rights dialogues, and describing progress made toward a series of "benchmarks" initiated by Congress.

VI. Raising the Profile of Religious Freedom and Related Human Rights Promotion through the 2008 Olympic Games in Beijing

The U.S. Congress should:

- within funds appropriated for the security of U.S. citizens in Beijing during the 2008 Olympic Games, allocate sufficient resources to ensure that training and related information materials include content that:

  -- instructs security officials, Olympic spectators, and athletes regarding China's commitments to respsect for all visitors certain internationally recognized human rights standards during the Olympic Games; and

  -- informs U.S. citizens, participants, and spectators at the Olympic games of their rights protected under international law and identifies problem areas they may encounter with Chinese authorities, relating to the freedoms of expression, religion or belief, assembly, and association, including information on Chinese law and recent human rights practices of the Chinese government on these issues;

- as part of such authorizations, designate consultations during the training process with the U.S. Commission on International Religious Freedom and relevant non-governmental organizations; and

- in order to promote a free and open environment, in concert with the principles of the International Olympic Committee (IOC) and the standards of the International Covenant on Civil and Political Rights, designate appropriate funding to independent human rights organizations to monitor and report on human rights conditions during the summer games to ensure that the Chinese government is in compliance with relevant commitments made to the IOC to uphold human rights and international standards during the Summer Olympics.

VII. Addressing the Conditions of North Koreans in China

The U.S. government should continue to urge the Chinese government to protect North Koreans in China. To this end, the U.S. government should urge the Chinese government to:

- uphold its international obligations to protect asylum seekers by (1) working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer at least temporary asylum on those seeking such protection; (2) provide the UNHCR with unrestricted access to interview North Korean nationals in China; and (3) ensure that any migrants who are being returned pursuant to any bilateral agreement are not potential asylum seekers refouled in violation of China's obligations under the 1951 Refugee Convention and its 1967 Protocol;

- allow greater numbers of North Korean migrants who desire resettlement to have safe haven and secure transit until they reach third countries;

- grant legal residence to the North Korean spouses of Chinese citizens and their children; and

- allow international humanitarian organizations greater access to North Koreans in China to address growing social problems experienced by this vulnerable population, including child and sexual trafficking and forced labor.

Sudan

The government of Sudan commits egregious and systematic violations of freedom of religion or belief in the areas under its control, particularly against Christians, Muslims who do not follow the government's extreme interpretation of Islam, and followers of traditional African religions. Due to the ongoing, severe human rights violations committed by the government throughout much of the country, the Commission continues to recommend that Sudan be named a "country of particular concern," or CPC. The State Department has repeatedly adopted the Commission's recommendation that Sudan be designated a CPC.

In the past, the Commission has identified Sudan as the world's most violent abuser of the right to freedom of religion or belief and has drawn attention to the Sudanese government's genocidal atrocities against civilian populations. As a result of the government's policies of Islamization and Arabization, more than two million people were killed and four million driven from their homes in the North-South civil war from 1983 until January 2005. The civilian victims of that conflict were overwhelmingly Southern Christians and followers of traditional African religions in contrast to the Arabic-speaking Muslims dominant in Khartoum.

Since the signing of the Comprehensive Peace Agreement (CPA) on January 9, 2005, conditions for religious freedom have improved in the South and in the contested areas in central Sudan. The Commission continues to be seriously concerned, however, about severe human rights violations being committed by the Sudanese government in other regions of the country, including against both non-Muslims and Muslims who dissent from the government's interpretation of Islam, as well as in the western region of Darfur, where the State Department has determined that acts of genocide have taken place and may still be ongoing. Continued attention and monitoring by the United States and the international community are necessary to ensure that the terms of the CPA, particularly those relating to freedom of religion or belief and other universal human rights, are implemented fully.

The CPA followed and subsumed a series of partial and preliminary agreements addressing the relationship of state and religion, the national capital, power-sharing, wealth-sharing (i.e., of oil revenue), and security. The CPA affirmed the Machakos Protocol of July 2002, which established a number of principles regarding freedom of religion or belief, and the Protocol on Power-Sharing of May 2004, which committed the parties to respecting a range of human rights. Moreover, the Protocol on Power-Sharing states explicitly that "The Republic of Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which it is or becomes a party."

The CPA committed the parties to a number of interim measures for the governance of Sudan during a six-year Interim Period, to end in July 2011. According to the CPA:

- a referendum will be held at the end of the Interim Period to determine whether the South stays within a united Sudan or becomes independent;

- the 10 Southern states would be exempt from sharia (Islamic law), which, however, would continue to prevail in the North, and special provision would be made to protect the rights of non-Muslims in the national capital;

- the National Congress Party in power in Khartoum and the Sudan People's Liberation Movement/Army (SPLM/A) dominant in the South would form a Government of National Unity, with the SPLM/A having a minority share of offices; the SPLM/A would assume responsibility for the government of Southern Sudan;

- local autonomy would be granted to the contested areas of the Nuba Mountains and Southern Blue Nile State, which would, however, remain part of the North, and a special administration would be established in the oil-rich area of Abyei, whose boundaries would be determined by an independent commission; a popular referendum would determine whether Abyei continues to have a special status in the North or becomes part of the South;

- elections for President of Sudan, President of Southern Sudan, the national legislature, state governors, and all state legislatures would be held "not later than the end of the fourth year of the Interim Period" (i.e. by July 2009); and

- constitutional arrangements for the Interim Period would be according to an Interim National Constitution and an Interim Constitution for Southern Sudan.

Since July 2005, Sudan's current Government of National Unity has officially governed under the Interim National Constitution, which contains provisions guaranteeing universal human rights, including freedom of religion or belief. As of this writing, however, many of these provisions, including those advancing human rights, have yet to be fully implemented. To protest the National Congress Party's apparent lack of commitment to CPA implementation, the SPLM/A suspended its participation in the Government of National Unity at the ministerial level for more than two months, from October 11 to December 27, 2007.

Last year, movement finally began on the constitutionally-required Commission on the Rights of Non-Muslims in the National Capital. In February 2007, a chairman was appointed, who later selected 28 commissioners from the judiciary and the Ministry of Justice, as well as from among representatives of the Islamic, Christian, and other religious communities. The Commission has met once since that time. In August 2007, the Commission on the Rights of Non-Muslims reportedly approved plans for subcommittees, including one on religious education; however, no further efforts have been made. The National Human Rights Commission, called for in Sudan's Interim Constitution, has yet to be created. In the now-autonomous South, the Interim Constitution of Southern Sudan, adopted in December 2005, separates religion and state and contains provisions for freedom of religion and for equality before the law regardless of religious belief. The Government of Southern Sudan has established a human rights commission for the South, as well as a special court to prosecute crimes committed for religious reasons, including crimes against members of the South's Muslim minority.

In government-controlled areas of the North, the religious freedom and other human rights protections agreed to in the CPA and enshrined in Sudan's Interim National Constitution have not yet resulted in significant changes to the government's practice of enforcing its interpretation of Islam to the detriment of those holding other views. Muslims reportedly receive preferential access to limited government services and preferential treatment in court cases involving Muslims against non-Muslims. All Sudanese in the North, including Christians and followers of traditional African religions, are subject to sharia. Corporal punishments adopted from sharia are imposed on both non-Muslims and on Muslims who did not traditionally follow such practices. There is discrimination in granting governmental approvals required for the construction and use of places of worship. Although permits are routinely granted to build mosques, permission to build churches is often difficult to obtain. The State Department reports that since 2005 the government has issued three permits for new churches in the Khartoum area; permits for church construction were last issued in 1975. However, two of the permits were never formally received by the communities and Christian leaders remain skeptical that any actual construction will be permitted by government authorities. Churches built without such official permission by owners who register land for personal rather than church use exist at the authorities' sufferance.

Church-owned properties that are legally recognized are nevertheless vulnerable to seizure in a legal atmosphere in which government action is not constrained by an independent judiciary. Prior to the establishment of the Government of National Unity, governments confiscated church property in the North and adequate compensation has yet to be provided. Reportedly, the National Unity government is pressuring some churches and other Christian facilities to move from central Khartoum to less prominent locations outside of the capital. In addition, for the first time since the signing of the CPA, there are reports that police disrupted a religious gathering. In January 2007, police raided the Episcopal Church of Sudan Diocese of Khartoum's New Year prayer service using tear gas, injuring six worshippers.

Public religious expression and persuasion of non-Muslims by Muslims is allowed, but that of Muslims by non-Muslims is forbidden. In May 2006, four Sudanese Christians, including an Episcopal priest, were detained following contact with a Muslim woman who may have been

interested in converting to Christianity. As the woman was estranged from her family and in hiding, the police acted under cover of a "kidnapping" investigation. Although all the detained Christians were released after a few days, three of them reportedly had been beaten while in custody. The woman was returned to her family and no further legal action was taken.

Conversion from Islam is a crime legally punishable by death. In practice, suspected converts are subjected to intense scrutiny, intimidation, and sometimes torture by government security personnel who act with impunity. Converts to Christianity from Islam face societal pressures and harassment from the security services to the point that they typically cannot remain in Sudan. The law against apostasy is also of concern to Muslims; the last instance in which the death penalty was applied was to a Muslim reformer in 1985.

In contrast, government policies and societal pressure favor conversion to Islam. During the North-South civil war, some children from non-Muslim families who were captured and sold into slavery by pro-government militias were reportedly forced to convert. Reports continue of coerced conversion in government-controlled camps for internally displaced persons, as well as among prison inmates, Popular Defense Force trainees, and children in camps for vagrant minors. The government has also allegedly tolerated the use of humanitarian assistance to induce conversion to Islam. In government-controlled areas, children who have been abandoned or whose parentage is unknown are considered by the government to be Muslims and may not be adopted by non-Muslims.

The government also harshly punishes those it claims are engaged in alleged "blasphemy." In November 2007, a British teacher was arrested for "abuse of religion" under sharia law for permitting her 7-year old students to name a teddy bear "Muhammed." In December, she was convicted of blasphemy, inciting religious hatred, showing contempt for religious beliefs, and insulting Islam. She was subsequently pardoned and immediately deported. The school at which the teacher worked, a 105-year old British international school with more than 700 students, suspended its operations for several months after the incident, out of fear of reprisals. Additionally, throughout 2007, the Government of National Unity continued to ban all independent reporting on the 2006 beheading by persons unknown of Mohamed Taha Mohamed Ahmed, the editor-in-chief of *Al-Wafaq*, who had been arrested and charged with blasphemy for publishing an article in 2005 claimed by some to be disrespectful of the Prophet Muhammed.

Although relative North-South peace has brought improvement in human rights conditions in the South and in the Nuba Mountains, in the western region of Darfur, government forces and "Janjaweed" soldiers (government-backed militias from Arab tribes) since 2003 have employed abusive tactics and brutal violence against African Muslim civilians, tactics similar to those used previously against non-Muslim Africans during the North-South civil war. Serious human rights abuses have included aerial bombardment of civilians, forced starvation as the result of deliberate denial of international humanitarian assistance, and the forcible displacement of civilian populations.

To date, efforts by the international community to protect Darfur's civilian population have been wholly inadequate. Throughout 2007, Khartoum successfully delayed the full deployment of a joint UN-African Union (AU) peacekeeping force, as mandated by the UN

Security Council, by imposing different limitations on the composition and independence of the forces. On January 1, 2008 the joint UN-AU force took over from the AU force; however, only one-third of the promised 26,000 soldiers and police officers have been deployed. With villages destroyed and lives at risk from further attack by government-supported Arab militiamen, many civilians remain in camps, unable to return home to raise crops and thus end their dependence upon international humanitarian assistance.

The perpetrators of these crimes, both members of the Sudanese armed forces and allied militias, have acted with impunity. In May 2007, the International Criminal Court (ICC) issued warrants for crimes against humanity and war crimes against Minister of State for Humanitarian Affairs Ahmad Harun and Janjaweed commander Ali Muhammad Ali Abd-Al-Rahman (also known as Ali Kushayb). Khartoum has refused to hand the two men over, claiming there is no evidence against them and that the ICC has no jurisdiction in Sudan. In September 2007, Harun, the former State Minster for the Interior in charge of the "Darfur Security Desk," was appointed co-president of the national committee charged with investigating human rights violations in Darfur. Kushayb was reportedly imprisoned in November 2006 on "suspicion of violating Sudanese law" for acts committed in south and west Darfur; however, Amnesty International reported witnesses having seen him move freely in Darfur under police protection. On October 1, 2007, he was reportedly released from custody. This lack of accountability and the persistent use of such methods by the government of Sudan raise serious questions about the government's commitment to abide by the terms of the CPA.

Actions resulting in mass killings by the government of Sudan against its own citizens have been repeatedly condemned as genocide. In the Sudan Peace Act of 2002, Congress found that the Sudanese government had committed acts of genocide during the civil war. By concurrent resolution in July 2004, Congress found the atrocities being committed in Darfur to constitute genocide. In congressional testimony delivered in September 2004, then-Secretary of State Colin L. Powell announced that the State Department "had concluded that genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility—and genocide may still be continuing." In a statement issued by the White House the same day, President Bush urged the international community to work with the United States to prevent and suppress acts of genocide in Darfur. In April 2007, in an address announcing new sanctions against Sudan and individuals responsible for the violence in Darfur, President Bush once again referred to actions in Darfur as genocide.

The government's genocidal actions stem in part from a policy of the governing elite in Khartoum forcibly to advance an Arab and Muslim identity in all parts of Sudan. This policy effectively relegates non-Arabs and non-Muslims to a secondary status and, moreover, conflicts with the reality that Sudan is a religiously diverse country with a large minority of Christians and followers of traditional African beliefs, as well as Muslims from a variety of Islamic traditions. Opposition to this coercive policy has fueled support for armed resistance by non-Muslim and non-Arab populations in the South, the Nuba Mountains, and elsewhere. During the North-South civil war, the current regime in particular used appeals to Islam, including calls by senior government officials for *jihad*, to mobilize northern Muslim opinion. Religious incitement by government officials contributed to the horrific human rights abuses perpetrated by government security forces and government-backed militias.

The Plight of Sudan's Internally Displaced Persons and Refugees

One of the major issues facing Sudan is the situation of the refugees and internally displaced persons (IDPs). The North-South civil war and the conflict in Darfur have together driven approximately 7 million people from their homes, including 5.4 million currently internally displaced from the two conflicts, making Sudan the locus of the largest IDP crisis in the world. Sudan's total population today is just over 40 million. Most of the 4 million displaced from the North-South civil war are internally displaced, having fled to other parts of Sudan, particularly to the North. Of the 4 million, 500,000 became refugees in the Central African Republic, the Democratic Republic of Congo, Ethiopia, Egypt, Kenya, or Uganda. The overwhelming majority of those who fled as a result of the North-South civil war are Christians or followers of traditional African religions. Since 2003, the Darfur conflict has produced an additional two million internally displaced persons and sent another 250,000 into neighboring Chad and the Central African Republic as refugees. Unlike those who fled the North-South civil war, the Darfurians are almost all Muslims, members of tribes identified as African rather than Arab.

The UN High Commissioner for Refugees (UNHCR) oversees refugee returns, and the International Organization for Migration (IOM), in collaboration with Southern and central Sudanese authorities, coordinates IDP returns in Sudan. Both agencies emphasize that all returns by refugees and IDPs must be voluntary. Surveys indicate that most Southerners indeed wish to return to the South because of a desire to return to areas of origin, to take part in a new Southern Sudan, and to leave some of the harsh or restrictive living conditions in camps. IDPs living in the Khartoum area, for example, have limited access to employment or basic services and continue to face discrimination and harassment based on religious identification. They have also been subject to forced relocations as the Khartoum government has demolished IDP camps in the capital city several times. There have been allegations that school enrollment for Sudanese refugee children in Kenya has recently been limited in order to encourage their families to return to Southern Sudan. Rising costs for food and fuel constrain international efforts to assist refugees and IDPs, increasing hardships faced by these vulnerable populations.

Since the signing of the CPA in 2005, more than 250,000 refugees have returned to the South; 100,000 organized by UNHCR and the rest "self-assisted." In addition, more than 1.4 million IDPs have returned to their homes, although only 140,000 have been assisted. The IOM plans to assist 400,000 IDPs in Khartoum to return to the South in 2008. Returnees assisted by the UN or IOM receive a reintegration kit, which includes food rations for three months, cooking utensils, agricultural tools, landmine protection kits, and applications for micro-credit schemes to support the local economy. Those who return on their own, however, receive little assistance, either in transit or in their destination community. Most of the returnees are settling in urban areas, either because rural areas lack the services required to integrate the incoming population, or because after years of living in urban-like camp settings or Khartoum, the refugees and IDPs have become accustomed to urban living. This has led to a significant "squatter" problem, increased competition for overtaxed resources, and in some cases, discrimination against returnees.

The return of refugees and IDPs to the South is important for the planned 2009 elections and 2011 referendum in which millions of displaced persons are an important constituency and

the votes of those who decide to return may be decisive. A much-delayed national census was finally conducted at the end of April 2008, despite SPLM objections that IDPs and refugees who had not yet returned to the South were not to be included in the count. However, Southern Sudan faces major challenges in its capacity to absorb and provide services to the large number of returnees. Years of civil war have devastated the South, making infrastructure, including the development of mass communications, schools, health clinics, and water and sanitation facilities, one of the steepest challenges to be met by the new government. Returnees also face obstacles, including limited employment opportunities, continuing security concerns, restitution of displaced persons' land and property, potential communal tension, and unmet funding needs, which have limited the amount of assistance given to returnees and hindered development projects. The challenges that returnees face in the South, coupled with unmet high expectations for the what many Sudanese feel should be a faster pace of development for the South, have led many IDPs to return to Khartoum, despite pressure from authorities there and terrible camp conditions.

Commission Actions on Sudan

Sudan was one of the first countries to be a focus of attention by the Commission. Since its inception, the Commission has met with a broad range of government officials, religious leaders, human rights monitors, civil society representatives, and others knowledgeable about Sudan; has held public events to focus attention on religious freedom abuses in Sudan; has testified on Sudan at congressional hearings; and has visited Sudan to see the situation on the ground, traveling most recently to Khartoum, Kadugli in the Nuba Mountains and Juba, as well as to Nairobi and Lokichokio in Kenya in January 2006. In March 2006, the Commission issued *Policy Focus: Sudan* at a press conference with Members of Congress. In March 2007, the Commission co-sponsored a Capitol Hill event with the Hudson Institute's Center on Religious Freedom and the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, to highlight congressional efforts on human rights and religious freedom in Sudan, in particular the work of the Congressional Human Rights Caucus's Task Force on International Religious Freedom. The same day, the Commission sent a letter to President Bush urging renewed U.S. leadership to achieve implementation of the Comprehensive Peace Agreement and to advance UN protection efforts in Darfur.

The Commission has made a series of recommendations regarding U.S. policy toward Sudan. In September 2001, following a Commission recommendation that the U.S. government appoint a nationally prominent individual to bring about a peaceful and just settlement of the North-South civil war in Sudan, President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the peace process. In September 2006, President Bush appointed former USAID Administrator and Special Humanitarian Coordinator for Sudan Andrew Natsios as Special Envoy for Sudan, again following a Commission recommendation. On January 10, 2008, Richard "Rich" Williamson succeeded Andrew Natsios in this position. Other U.S. actions have followed Commission recommendations, including the Administration's decisions to give peace in Sudan a higher priority on its foreign policy agenda, engage actively to move the warring parties toward peace, monitor progress toward implementation of a series of partial and preliminary peace agreements, limit the impact of U.S. Sudan sanctions on the South and other areas that have suffered from Khartoum's abuses, and use U.S. assistance more

effectively in alleviating the suffering of the Sudanese people and in aiding development in Southern Sudan.

In addition to recommending that Sudan continue to be designated a CPC, the Commission urges the U.S. government to remain engaged at the highest levels in bringing about a just and lasting peace for all of Sudan. In April 2007, in a major policy address on Sudan, President Bush announced that should diplomacy on Darfur continue to fail to secure Khartoum's compliance with UN Security Council resolutions, the Administration would impose stronger measures on Khartoum, several of which the Commission recommends below. The Commission believes that the normalization of relations with Sudan and the lifting of U.S. sanctions must be preceded by concrete action and demonstrated progress by Khartoum in ending abuses, cooperating with international peacekeeping and humanitarian assistance operations in Darfur, and fully implementing the CPA.

I. Coalition-Building

The U.S. government should:

- build on the Special Envoy's efforts by lending the President's personal prestige to enlist international support, including from the European Union, Sudan's neighbors, and nations such as China and India that have major economic investments in Sudan, to press Khartoum to end its delaying tactics on CPA implementation;

II. CPA Verification and Follow-through

The U.S. government should:

- continue to press for the complete and timely implementation of the CPA's human rights, power-sharing, revenue-sharing, and security arrangements, compliance that must include 1) Khartoum's unconditional acceptance of the ruling of the Abyei Boundary Commission, which the U.S. government has a special obligation to enforce and see through to its implementation, 2) the verifiable termination of all support for militias or elements of the Ugandan insurgent Lord's Resistance Army operating in the South, and 3) the lifting of restrictions on peaceful political activities throughout the country in advance of elections;

- hold both the Northern leadership and the SPLM/A to the current schedule for elections and referenda, ensuring that these are true expressions of popular will and that their results are accepted and implemented;

- investigate and publicly report to the Congress every six months on the status of implementation of the CPA, with a particular focus on violations, assessing responsibility and indicating what actions are to be taken by the U.S. government in response; violations to be investigated should include the role of the Sudanese Armed Forces and associated militias in the November 2006 fighting in Malakal, and Khartoum's possible continued support for the Lord's Resistance Army; and

- consider new sanctions as needed to respond to non-compliance with the terms of the CPA, including targeted sanctions such as asset freezes and travel bans against individuals and institutions, e.g., the National Congress Party, identified as responsible for serious human rights abuses or for impeding CPA implementation.

III. Southern Sudan

The U.S. government should:

- continue to support and strengthen the Government of Southern Sudan, assisting in the development of institutions and infrastructure necessary to protect human rights, deter a resumption of civil war, support the return of refugees and internally displaced persons, and prepare the South for the 2011 referendum on the South's political future;

- alleviate the impact of remaining U.S. sanctions on all areas under the control of the Government of Southern Sudan and local institutions in the border areas of Abyei, Southern Blue Nile, and the Nuba Mountains, including sanctions on communications equipment; and

- provide, well in advance of the 2011 referendum, specific security guarantees for the South in the event that Khartoum seeks to renew the North-South civil war or otherwise impose its will by force in violation of the CPA.

IV. Promotion of Human Rights, including Freedom of Religion or Belief

The U.S. government should:

- use U.S. bilateral discussions with Sudan, as well as UN mechanisms and bilateral discussions with third countries with influence in Sudan, to urge Sudan's Government of National Unity to:

  --allow all religious groups to conduct their activities without harassment, discrimination or undue interference, including activities such as publishing or importing religious literature, building, repairing, and operating houses of worship, and operating social service programs;

  --repeal laws that punish changing one's religion or encouraging another to do so; end official accusations of blasphemy, apostasy, "offending Islam," or similar charges used to stifle public debate or restrict the right to freedom of expression;

  --dismantle the burdensome bureaucratic obstacles the government places on international humanitarian assistance; remove the state security services from their current role in regulating humanitarian assistance;

  --establish an independent and impartial national Human Rights Commission as called for in the Interim National Constitution and in accordance with the international standards[1] for

such bodies in terms of independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief;

--abandon efforts to force religious organizations to register as non-governmental organizations under regulations that give government officials effective control over their activities;

--permit relations between national religious communities and their co-religionists abroad in accordance with universal human rights norms;

--reform the state security services to be representative of all Sudanese and ensure that all national institutions such as the military, law enforcement agencies, and the highest levels of the judiciary are representative and equally protective of all Sudanese regardless of religious affiliation or belief;

--end the impunity with which members of the security forces and others acting as agents of the government have engaged in human rights abuses; urge the establishment of effective mechanisms for accountability for past abuses; and in the absence of such bodies, provide full cooperation with international institutions, including those mandated by the UN Security Council;

--cease using government-controlled media for messages of intolerance and discrimination against non-Muslims;

--exclude negative stereotyping in school textbooks; include in school curricula, in textbooks, and in teacher training the concepts of tolerance and respect for human rights, including freedom of religion or belief; history texts should reflect the religious and cultural diversity of Sudan's past;

--undertake a comprehensive review, in collaboration with Sudanese civil society and independent international experts, to bring Sudanese law into compliance with Sudan's international human rights obligations; and

--cooperate fully with international mechanisms on human rights issues, including inviting further visits by the UN Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Situation of Human Rights in Sudan, the UN Working Group on Arbitrary Detention, and the UN Human Rights Council's High-Level Mission on the Situation of Human Rights in Darfur and comply with the Mission's recommendations.

V. Personnel Resources

The U.S. government should:

- ensure that the Special Envoy has the personnel and other support needed to fulfill his mandate of facilitating the implementation of the CPA and pursuing peace in Darfur;

- appoint a high-level official to ensure that U.S. resources and influence are used effectively to assist the safe and voluntary return of Sudan's refugees and internally displaced persons; and

- strengthen the capability of the U.S. Embassy in Khartoum to monitor implementation of the crucial human rights provisions of the CPA and to report on human rights abuses, including religious freedom in the North, as well as to advance the U.S. human rights agenda in Sudan by appointing a ranking official reporting to the Ambassador and working full-time on human rights.

VI. U.S. Foreign Assistance

The U.S. government should:

- ensure that USAID, the State Department's Human Rights and Democracy Fund, and other providers of U.S. government assistance develop a strategy and fund specific programs to 1) promote implementation of the human rights and religious freedom provisions of the CPA, and 2) advance legal protections and respect for freedom of religion or belief throughout Sudan, in recognition of (a) the central role of religion as a factor in the North-South civil war, and (b) the emphasis within the CPA on religious freedom concerns; the programs funded by USAID's Office of Transition Initiatives should also be expanded;

- adopt as specific objectives for these U.S. programs:

  --improved citizen awareness and enforcement of the legal protections for human rights included in the CPA, the Interim National Constitution, the Interim Constitution of Southern Sudan, and the international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party;

  --grassroots reconciliation and "peace through dialogue" among Sudanese, including building on steps USAID has already taken to promote reconciliation among Southern Sudanese, recognizing that participants in such programs must be transported, housed, and fed; participants should specifically include religious and other civil society leaders from Sudan's diverse religious and ethnic communities;

  --greater capacity of those elements of civil society throughout Sudan (i.e. the North, the South, and the transitional areas) that promote religious tolerance, respect for human rights, and the peaceful resolution of conflicts, to advance those goals on both the national and the local levels; and

  --development of an independent and impartial judiciary in Southern Sudan, including through training of judges, prosecutors, court administrators, and support personnel, with the aim to ensure international standards of due process, fair trial, and non-discrimination;

- expand the use of educational and cultural exchanges, such as the Fulbright Program, the International Visitors Program, and lectures by visiting American scholars and experts, in

order to introduce more Sudanese to the experience of societies in which religious freedom and other human rights are protected by law; preference should be given to programs that bring together leaders from various religious and ethnic backgrounds from the North, South, and the transitional areas;

- expand international radio broadcasting to Sudan to provide objective sources of news and information and to improve awareness of the CPA and its implementation, including specific programming promoting grass-roots reconciliation and respect for freedom of religion; support independent television and radio broadcasting, including in the South, to the same end; and

- promptly dispense financial assistance for humanitarian purposes, to build civil society, and to promote economic development in Southern Sudan, including in the area of an independent telecommunications network.

VII. Refugees and Internally Displaced Persons

The U.S. government should:

- increase support to UN agencies and their NGO partners in facilitating the spontaneous—as well as organized—voluntary return of refugees and the internally displaced, including through intensified efforts to monitor spontaneous or "self-assisted" returns to the South, provide safer modes of transportation, de-mine roadways, and develop a comprehensive return and reintegration strategy, as well as development plans, to enhance the capacity of Southern Sudan to absorb large numbers of IDPs and refugees;

- increase technical assistance programs to assist the Government of Southern Sudan to develop and provide for basic services, including education, health, and water sanitation, to the returnees;

- work with UN agencies and NGO partners to ensure that the populations that remain in refugee and IDP camps continue to receive at least the same level of humanitarian assistance as before, so they are not unduly pressured into making "voluntary" returns; and

- work with other resettlement countries, UNHCR, and its NGO partners to ensure that UNHCR expeditiously identifies those refugees for whom repatriation is not an appropriate or imminent solution to their displacement, including those who have suffered from past persecution; secure, as appropriate, timely local integration in countries of first asylum or resettlement to third countries for such refugees; and promptly devise a strategy to achieve this concurrent with efforts to repatriate refugees to Sudan.

VIII. Victims of Slavery and Human Trafficking

The U.S. government should:

- urge Sudan's Government of National Unity to prosecute strictly the crime of abduction into slavery, most of whose victims are women and children taken during the North-South civil war or in Darfur by government-sponsored militias, and ensure the speedy identification, voluntary return, and family reunification of victims, as well as measures for their rehabilitation and reparation.

IX. Peace in Darfur

The U.S. government should:

- closely monitor the Sudanese government's compliance with UN Security Council resolutions addressing the conflict in Darfur;

- support a stronger international presence in Sudan sufficient to protect civilian populations and to monitor compliance with the peace accords and Security Council resolutions, including by:

  -- urging the United Nations-African Union Mission in Darfur (UNAMID) to protect civilians in accordance with the highest international standards for peacekeeping operations;

  --providing resources such as improved communications equipment, reliable vehicles and helicopters, and logistics assistance to enable peacekeepers to move quickly to places where abuses are occurring;

  --bringing in advisers on civilian protection issues in armed conflict to train and work with international force commanders;

  --ensuring that there is a secure environment for the delivery of humanitarian aid and the return of refugees and the internally displaced; providing an early warning system with GPS (global positioning system) capability to warn camps and villages of approaching forces;

  --supporting the assignment of designated protection teams to camps for internally displaced persons;

  --supporting the active enforcement of the aerial "no-fly" zone already specified in Security Council Resolution of March 29, 2005, which calls for the immediate cessation of "offensive military flights in and over the Darfur region";

  --taking measures to prevent—and providing aid to those victimized by—widespread sexual violence and rape in Darfur, including by training advisers for the international forces in Darfur and by encouraging participating nations to include female troops and female police officers in their deployment to handle rape cases effectively; and

  --supporting a substantial increase in the number of human rights monitors from the UN Office of the High Commissioner for Human Rights and in the number of international peacekeepers deployed in Darfur;

- prevail upon the government of Sudan to provide needed humanitarian access to international relief organizations;

- continue efforts to aid the suffering civilian population of Darfur, including by seeking an end to killing, to ethnic cleansing and forced displacement, and to Sudanese government impediments to the distribution of international humanitarian assistance; assisting refugees and internally displaced persons to return home in safety; and promoting a ceasefire as well as a peaceful and just resolution of the grievances that underlie the crisis; and

- urge the Sudanese authorities to cooperate with the international prosecution of those accused of violations of international humanitarian law and human rights law in connection with the events in Darfur since July 1, 2002, in accordance with Security Council Resolution 1593 of March 31, 2005, by handing Ahmad Harun and Ali Muhammad Ali Abd-Al-Rahman (also known as Ali Kushayb) over to the International Criminal Court.

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[1] *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (*http://www.unhchr.ch/html/menu6/2/fs19.htm*, accessed April 3, 2008).

Uzbekistan

Since Uzbekistan gained independence in 1991, fundamental human rights, including freedom of religion or belief, have been under assault. A restrictive law on religion severely limits the ability of religious communities to function in Uzbekistan, facilitating the Uzbek government's exercise of a high degree of control over religious communities and the approved manner in which the Islamic religion is practiced. The Uzbek government has continued to arrest Muslim individuals and harshly repress the activities of groups and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This policy has resulted in the imprisonment of thousands of persons in recent years, many of whom are denied the right to due process, and there are credible reports that many of those arrested continue to be tortured or beaten in detention. Though security threats do exist in Uzbekistan, including from members of *Hizb ut-Tahrir* and other groups that claim a religious linkage, these threats do not excuse or justify the scope and harshness of the government's ill-treatment of religious believers. The Commission recommends that the Secretary of State continue to designate Uzbekistan a "country of particular concern," or CPC. The Commission's CPC recommendation for Uzbekistan should not be construed as an exculpatory defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred of the West, moderate Muslims, Jews, and others. In 2006, the State Department followed the Commission's recommendation and named Uzbekistan a CPC.

Despite the constitutional separation of religion and state, the Uzbek government strictly regulates Islamic institutions and practice through the officially sanctioned Muslim Spiritual Board (the Muftiate). In 1998, the Uzbek government closed down approximately 3,000 of the

5,000 mosques that were open at that time. In 2007, however, the State Department noted that a few unofficial, independent mosques were allowed to operate quietly under the watch of official imams. In the Ferghana Valley, viewed as the country's most actively religious region, the state has confiscated a number of mosques and used them as warehouses or for other state purposes. Uzbek human rights defenders reported that as of late 2006, the Uzbek government had introduced various administrative and other obstacles to daily prayer practice in the Ferghana Valley. For example, in the Andijon region, the regional head of administration introduced restrictions on Islamic practice, such as bans on the five daily public calls to prayer from mosques and on the preaching by mullahs at weddings. Despite the presence of a Shi'a minority in the country, there is no training for Shi'a religious leaders. Nor does the government recognize foreign Shi'a religious education, although the State Department reports that Shi'a imams are sometimes educated in Sunni *madrassas*, which offer some courses in Shi'a jurisprudence.

The state fully controls the training, appointments, and dismissals of Muslim leaders through the official Muftiate. There are 10 state-controlled *madrassas* (including two for women), which provide secondary education in Uzbekistan. In addition, the official Islamic Institute and Islamic University in Tashkent provide higher educational instruction. The State Department reported in 2006 that regional leaders in Uzbekistan have been instructed that children should not attend mosque; in the city of Bukhara, police have reportedly prevented children from doing so. The state also closes or confiscates privately-funded religious schools for its own purposes. For example, in Margilan and Andijon the government in 2004 and 2005 confiscated two *madrassas*, reportedly built with community funds. The state-controlled Muslim Board publishes some books and periodicals, as does the independent former Chief Mufti, Muhamad Sadyk Muhamad Yusuf.

Over the past decade and particularly since 1999, the Uzbek government has arrested and imprisoned, with sentences of up to 20 years, thousands of Muslims who reject the state's control over religious practice, or who the government claims are associated with extremist groups. As of 2007, according to a State Department estimate, there were at least 5,000 – 5,500 such persons in prison, including individuals sent to psychiatric hospitals. According to Uzbek human rights activists, in the past year, the number of arrests and detentions linked to religious convictions has risen sharply in the Uzbek capital Tashkent and its surrounding region. These Uzbek sources also estimate that during the first half of 2006, an estimated 150 Muslims were arrested and sentenced on charges related to their religious beliefs.

Most of those arrested have no political connections, Uzbek human rights activists claim, and their only "crime" is performing their daily prayers and learning about Islam. According to the State Department in 2007, the Uzbek government has instructed some neighborhood committees and imams to identify local residents who might become involved in extremist activity or groups, using those who prayed daily or were overtly devout as criteria. Moreover, "authorities made little distinction between actual members [of the extremist group *Hizb ut-Tahrir*] and those with marginal affiliation with the group, such as persons who had attended Koranic study sessions with the group." Human rights organizations report that many of those in detention were arrested on false drug charges or for possession of literature of a banned organization. Once arrested, they often are denied access to a lawyer or are held

incommunicado for weeks or months. Many of those imprisoned or detained for charges related to religion are treated particularly harshly; prisoners who pray or observe Muslim religious festivals are by many accounts subjected to further harassment, beatings, and other torture in an effort to force them to renounce their religious or political views.

The use of torture continues to be widespread in Uzbekistan, despite promises from the government to halt the practice. The UN Special Rapporteur on Torture, in his February 2003 report on Uzbekistan, concluded that "torture or similar ill-treatment is systematic" and that the "pervasive and persistent nature of torture throughout the investigative process cannot be denied." Even after the publication of the Rapporteur's report, reliance on the use of torture in detention did not significantly decrease, despite the Uzbek Supreme Court's 2004 decree banning the use of evidence obtained by torture or other illegal means. The UN Committee against Torture also confirmed that there were numerous, on-going, and consistent allegations in the past year that torture continues to be used during criminal procedures, often before formal charges are brought. The Uzbek government has taken some limited steps to eliminate torture in detention, but there were numerous reports that ill-treatment remained routine and systemic. According to the State Department's 2007 *Country Report on Human Rights Practices*, "police, prison officials, and the [security services]... reportedly also used methods of abuse including suffocation, electric shock, deprivation of food and water, and sexual abuse in addition to beatings. Torture and abuse were common in prisons, pretrial facilities, and local police and security service precincts. Informants reported several cases of medical abuse, including forced psychiatric treatment on political grounds." It has been reported that as many as 20 individuals in Uzbek prisons died as a result of ill-treatment in October and November 2007. Convictions in the cases described in the above paragraph are based almost entirely on confessions, which, according to the State Department and many human rights organizations, are frequently gained through the use of torture. The human rights organization Human Rights Watch reported in November 2007 that particularly since the 2005 Andijon events (see below), it has become much more difficult to verify independently government claims of combating torture and improving prison conditions.

The government of Uzbekistan does face threats to its security from certain extremist or terrorist groups that claim religious links, including the Islamic Movement of Uzbekistan, which has used violence but whose membership reportedly declined after U.S. military action in Afghanistan in late 2001 killed its leaders. Uzbekistan continues to be subject to violent attacks; there were several incidents in 2004, although the motivation of those involved is difficult to determine. In the city of Andijon in May 2005, there were daily peaceful protests in support of 23 businessmen on trial for alleged ties to Islamic extremism. A small group reportedly seized weapons from a police garrison, stormed the prison holding the businessmen, released the defendants, and attacked other sites in the city. In connection with these events, on May 13, after several thousand mostly unarmed civilians gathered on the central square, Uzbek armed forces fired indiscriminately and without warning into the crowd. Estimated fatalities range from an official total of 187 to over 700, according to the Organization for Security and Cooperation in Europe (OSCE); some reports of non-governmental organizations (NGOs) say as many as 1,000 men, women, and children were killed. During 2007, the Uzbek government continued to reject repeated calls from the United States, the European Union (EU), the OSCE, and the UN High Commissioner for Human Rights for an independent international investigation into these events.

In the aftermath of Andijon, Uzbek authorities jailed hundreds of local residents, human rights activists, and journalists on suspicion of involvement in the events. One Uzbek human rights NGO compiled a list of arrestees totaling 363 persons, in addition to those already convicted by the end of 2005, including dozens of people who had spoken to the press or reported on the events. Relatives of human rights defenders have also been targeted in attempts to pressure activists to stop speaking out about human rights violations; relatives of human rights activists have reportedly been threatened, dismissed from their jobs, beaten, and sometimes arrested, prosecuted, and imprisoned on fabricated criminal charges. In January 2006, one arrestee, human rights activist Saidjahon Zaynabitdinov, with whom a Commission delegation met in October 2004, was convicted of extremist activity and other offenses and sentenced to seven years in prison. He had shown journalists bullet casings reportedly used by the Uzbek authorities against the Andijon demonstrators. In February 2008, Zaynabitdinov was one of five Uzbek political prisoners released the day before the Uzbek government met with officials from the EU. The State Department reported that in several cases, the Uzbek government has pressured other countries forcibly to return Uzbek refugees who were under the protection of the Office of the UN High Commissioner for Refugees (UNHCR). In 2007, the UN Committee against Torture pointed to reports that some persons who had sought refuge abroad and were returned to Uzbekistan were kept in isolation in unknown places, and possibly subjected to breaches of the Convention against Torture.

Hizb ut-Tahrir, banned in most Muslim countries, purports not to engage in violence but is intolerant of other religions and has in some circumstances sanctioned violence. The group calls for a worldwide caliphate to replace existing governments and for the imposition of an extremist interpretation of Islamic law. Although it does not specify the methods it would use to attain those goals, it does, according to the State Department's religious freedom report, reserve the "possibility that its own members might resort to violence." In addition, the State Department reports that *Hizb ut-Tahrir* material includes "strong anti-Semitic and anti-Western rhetoric." Alleged members of *Hizb ut-Tahrir* comprise many of the thousands in prison; in most cases, however, Uzbek authorities have failed to present evidence to the court that these persons have committed violence. Many of those arrested and imprisoned are not affiliated with *Hizb ut-Tahrir* but are wrongfully accused of membership or association, sometimes due to alleged—or planted—possession of the group's literature at the time of arrest. The State Department reported in 2007 that as many as 4,500 of the estimated 5,000 to 5,500 political prisoners being held in detention were imprisoned based on alleged *Hizb ut-Tahrir* membership. It was also reported that in November 2007, three men who had been convicted of membership in *Hizb ut-Tahrir* died at a prison in Andijon; the bodies of Fitrat Salakhiddinov and Takhir Nurmukhammedov reportedly showed signs of torture and the third, unnamed prisoner, died later in the month. According to the State Department, local human rights activists reported in the past year that police and security service officers, acting under pressure to break up *Hizb ut-Tahrir* cells, frequently detained family members and close associates of suspected members.

After the May 2005 Andijon events, the number of court cases against independent Muslims in Uzbekistan reportedly increased markedly. Before May 2005, the authorities often accused arrested Muslims of being members of *Hizb ut-Tahrir*; since that time, however, arrested Muslims are usually accused—frequently without evidence—of being "Wahhabis" or members

of another banned Islamist group, *Akromiya*, which played an important role in the Andijon events. "Wahhabi" is a term that usually refers to followers of a highly restrictive interpretation of Sunni Islam practiced in Saudi Arabia. In Uzbekistan, however, "Wahhabi" is a catchphrase used to refer to a range of Muslim individuals and groups, such as genuine extremists, those that oppose the Karimov regime, and those who practice Islam independently of government strictures. For the Uzbek authorities, all these groups and individuals are equally suspect and subject to government repression. The Uzbek criminal code distinguishes between "illegal" groups, which are not properly registered, and "prohibited" groups, such as *Hizb ut-Tahrir*, *Tabligh*, a Muslim missionary movement which originated in South Asia in 1920, and *Akromiya*, a group based on the 1992 writings of an imprisoned Uzbek mathematics teacher, Akram Yuldashev, which, according to human rights defenders in Uzbekistan, espouse charitable work and a return to Islamic moral principles. According to the State Department, the Uzbek government has pressured and prosecuted members of *Akromiya* (also known as *Akromiylar*) since 1997, claiming that the group is a branch of *Hizb ut-Tahrir*, and that it attempted, together with the Islamic Movement of Uzbekistan, to overthrow the government through an armed rebellion in May 2005 in Andijon. The charges against the 23 local businessmen on trial in Andijon in May 2005 included alleged membership in *Akromiya*.

In June 2006, police confiscated a copy of the Koran, the *hadith* (sayings attributed to the prophet Muhammad), other religious books, and tape recordings of the exiled mullah Obid kori Nazarov and his pupil Hairullah Hamidov, the Human Rights Initiative Group in Uzbekistan reported. The items were seized as material evidence against two men who were arrested and accused of "Wahhabism," although reportedly they only sought independent religious education. Human rights sources indicate that Nazarov, who had been forced to flee the country after the authorities branded him a "Wahhabi" leader, was not promoting extremism, but simply operating outside of government strictures. The State Department reported that in September 2006, Ruhitdin Fakhrutdinov, a former imam of a Tashkent mosque, was sentenced in a closed trial to 17 years in prison. During his trial, which involved clear violations of due process, the independent imam was accused of being an extremist and charged with involvement in a 1999 car bombing in Tashkent, although no evidence was presented to the court of his involvement in violent acts. Fakhrutdinov was delivered in 2005 to the Uzbek authorities from his place of asylum in Kazakhstan, allegedly with the assistance of the Kazakh authorities.

Uzbekistan's Law on Freedom of Conscience and Religious Organizations, passed in May 1998, severely restricts the exercise of religious freedom. Through regulations that are often arbitrarily applied, the law imposes onerous hurdles for the registration of religious groups, particularly minority religious groups, such as stipulating that a group must have a list of at least 100 members who are Uzbek citizens and a legal address; criminalizing unregistered religious activity; banning the production and distribution of unofficial religious publications; prohibiting minors from participating in religious organizations; prohibiting private teaching of religious principles; and forbidding the wearing of religious clothing in public by anyone other than clerics. Only six entities meet the law's requirement that religious groups must have a registered central administrative body so as to train religious personnel. The law also limits religious instruction to officially sanctioned religious schools and state-approved instructors, does not permit private instruction, and levies fines for violations. There are reports that Uzbekistan may be planning to change its religion law, although a written draft has not yet been made available.

In October 2007, the Religious Affairs Committee deputy chairman reportedly sent letters to religious associations with nationally registered central administrations, giving them a two-day deadline to suggest possible changes to the current religion law.

In December 2005, the government modified the country's criminal and administrative codes to introduce heavier fines for repeated violations of rules on religious meetings, processions, and other religious ceremonies, as well as for violations of the law on religious organizations. The religious freedom news organization Forum 18 reported in September 2007 that the Uzbek National Security Service (NSS or secret police), particularly its Department to Fight Terrorism, enforces controls on all religious activity and cracks down on certain activities in a manner reminiscent of the Soviet period. Forum 18 also reported last year that an official Andijon regional government document revealed that a regional branch of the Muftiate and the state Religious Affairs Committee were ordered "to bring under constant close observation" all registered religious organizations and "strengthen the struggle with individuals conducting illegal religious education and organizing small religious gatherings." In addition, the Uzbek police and secret police conduct extensive surveillance on various religious denominations, including by stationing NSS agents in and around places of worship, planting hidden microphones in houses of worship, and recruiting spies within communities.

The law's effects on minority religious groups are apparent. According to the State Department in 2007, churches whose registration requests have been repeatedly refused included Bethany Baptist Church in the Mirzo-Ulugbek District of Tashkent, the Pentecostal Church in Chirchik, Greater Grace Christian Church in Samarkand, Emmanuel Church of Nukus, Karakalpakstan, the *Mir* (Peace) Church of Nukus, the Hushkhabar Church in Guliston, the Pentecostal Church in Andijon, and the Baptist Church in Gazalkent. All Protestant churches in the autonomous region of Karakalpakistan had lost their registration appeals by September 2005, and Karakalpakistan authorities also continued to exert pressure on the Hare Krishna community. Reportedly, the sole Hare Krishna advocate in the city of Urgench was harassed in 2007 as a supposed "enemy of the people." The Uzbek government continues to threaten to halt the practicing of the country's last registered Jehovah's Witnesses community. According to Forum 18, two years after they applied for legal status, Jehovah's Witnesses in the town of Kagan near Bukhara have not been granted registration; instead, this community has faced harassment, including a police raid in August 2007. In October 2007, 10 Jehovah's Witnesses were threatened with death and each fined the equivalent of five years' minimum wages. The state-run media also sometimes engages in harassment of religious minorities. Two prime-time Uzbek-language programs, broadcast on state TV in late 2006, claimed that Protestants and Jehovah's Witnesses turned people into "zombies." Protestant leaders have reported fears that these programs were part of a campaign to prepare the Uzbek population for further repression of minority religious communities.

In past years, Christian leaders have reportedly been detained in psychiatric hospitals, severely beaten, and/or sentenced to labor camps. Some Christian communities continue to have their churches raided, services interrupted, Bibles confiscated, and the names of adherents recorded by Uzbek officials. In September 2007, police raided a gathering of Protestants near the southern town of Termez and took all those present to the police station, reportedly because of a police "work plan" for arrests. According to Forum 18, 12 individuals face prosecution

under the administrative code and for the illegal distribution of religious literature, as well as for taking part in an illegal worship meeting. In February 2008, the Grace Presbyterian Church in Tashkent was ordered to cease all activities because it had lost its legal status for allegedly violating laws on public religious expression.

In late 2006, the Uzbek authorities stepped up their campaign against the leaders of several unregistered and even some registered Protestant communities, and in 2007, these Protestants continued to experience heavy fines and other official harassment. In November 2007, Forum 18 reported that a Baptist pastor, Nikolai Zulfikarov, who heads a five-member unregistered congregation in Khalkabad, had been sentenced to two years correctional labor for "teaching religious doctrines without special religious education and without permission from a central organ of administration of a religious organization, and for teaching religion privately." In March 2007, a court in Andijon sentenced local Protestant pastor Dmitry Shestakov to four years internal exile for "illegal" religious activity; in December 2007, although he was eligible for release under the terms of a general prisoner amnesty, he was not released. Government harassment of Shestakov dates back almost a decade, reportedly because he had been involved in the conversion of some ethnic Uzbeks to Christianity. In February 2008, a Baptist in the city of Ferghana was fined the equivalent of nine months' average wages for holding an unauthorized prayer meeting at his house, and a Pentecostal pastor near Tashkent was fined over two months' average wages for violating the rules on teaching religion, although his congregation is part of a registered community.

According to most reports, it has become even more difficult to secure permission to publish religious literature in the past year. Permission is still required from the state Committee for Religious Affairs and the state-controlled Muftiate, but reportedly, a secret instruction was issued in 2006 limiting publications to less than 1,000 copies of any single religious book. Amendments to the criminal and administrative codes, which came into force in June 2006, instituted new penalties for the "illegal" production, storage, import, and distribution of religious literature, with penalties of up to three years' imprisonment for repeat offenders. Reportedly, the chairman of the Committee for Religious Affairs has said that the import of foreign literature for Muslims had practically ceased. Fines for violations of these codes can be up to 100 – 200 times the minimum monthly wage, or "corrective labor" of up to three years. Religious materials produced outside Uzbekistan are treated in a similar fashion under Article 19 of the religion law. The Committee for Religious Affairs has the authority to determine if religious literature is "acceptable"; if not, it can be confiscated and destroyed. In the past year, Uzbek authorities continued to seize and destroy religious literature from numerous religious groups, including Muslims, Protestants, Hare Krishna adherents, and Jehovah's Witnesses. Even legally imported literature is confiscated in police raids.

The Russian Orthodox Church publishes a newspaper and a journal (both in Russian) and maintains a Web site. The Catholic Church in Tashkent maintains an Internet news agency. Various Christian churches have set up a Bible Society in Tashkent, which produces limited supplies of Christian books, but the Religious Affairs Committee must approve each edition. Other religious minorities are almost entirely banned from producing religious literature in Uzbekistan, especially in the Uzbek language. The Jehovah's Witnesses note that they cannot print or import their religious literature in Uzbek; the Religious Affairs Committee limits imports

of Russian-language literature to registered congregations, making imports to the many unregistered Jehovah's Witnesses' communities prohibited.

For many years, the Uzbek government has allowed only 20 percent of the country's quota of pilgrims to make the religious *hajj* to Mecca, a number estimated by the State Department to be approximately 25,000 pilgrims, or 1,000 pilgrims for every 1 million of the population. In 2007, only 5,000 were permitted to undertake the *hajj*; pilgrims must be approved by local authorities, the secret police, and the Hajj Commission under the state Religious Affairs Committee, as well as the state-controlled Muftiate. Furthermore, *hajj* pilgrims reportedly must travel on state-run Uzbekistan Airlines and pay the equivalent of 200 times the monthly wage.

Since May 2005, the Uzbek government has intensified its efforts to isolate the people of Uzbekistan. It has cracked down on both domestic and foreign-based NGOs in order to minimize Western influence; according to the State Department, after many audits targeting a number of international, human rights-oriented NGOs, almost three-fourths of these organizations were closed in 2006. Other elements of this campaign include: the detention and deportation in 2005 of a Forum 18 reporter and the demand, in March 2006, that the UNHCR close its office within one month. Although the NGO Human Rights Watch was able to re-establish an office in Tashkent in early 2008, Uzbek authorities have put its Uzbek translator, Umida Niyazova, on trial for allegedly storing "extremist materials" on her computer—material that was in fact the organization's report on the Andijon events. In May 2007, she was given a suspended seven-year prison sentence and in February 2008, the day before a meeting between EU and Uzbek officials, Niyazova was "amnestied."

Throughout the past year, Commission staff met with NGOs representing various religious communities in Uzbekistan, as well as human rights organizations, academics, and other Uzbekistan experts. In October 2004, the Commission traveled to Uzbekistan and met with senior officials of the Foreign, Internal Affairs, and Justice Ministries, the Presidential Administration, the Committee on Religious Affairs, and the Parliamentary Ombudsman's office. The delegation also met with the members of the Muslim, Jewish, and Christian communities, as well as other religious groups, Uzbek human rights activists and lawyers, alleged victims of repression and their families, western NGOs active in Uzbekistan, and U.S. Embassy personnel. In November 2006, the Commission issued a press statement welcoming the designation of Uzbekistan as a CPC.

Commission staff continues to take part in meetings with delegations of Uzbek religious leaders, human rights groups and academics from Uzbekistan, and U.S.-based experts and activists concerned with Uzbekistan. In January 2008, Commission staff made a presentation in Brussels on the status of freedom of religion or belief in Central Asia at events sponsored by the NGO European Platform on Religious Intolerance and Discrimination. In December 2007, staff gave a talk in Berlin on Uzbekistan and the CPC process at the Forum on Freedom of Religion or Belief, a private organization comprised of international legal specialists. In January 2007, the Commission co-sponsored an event entitled "Religious Freedom and State Policy in Central Asia," together with the Center for Strategic and International Studies (CSIS), to discuss religious freedom conditions in Uzbekistan, Turkmenistan and other Central Asian states. In July 2005, the Commission held a public briefing on "U.S. Strategic Dilemmas in Uzbekistan

and Turkmenistan," also with CSIS. At a June 2005 Carnegie Endowment roundtable on Andijon, the Commission released its Policy Focus on Uzbekistan, which includes numerous policy recommendations. In May 2005, then-Commission Chair Michael Cromartie testified on Uzbekistan at a hearing of the U.S. Commission on Security and Cooperation in Europe.

Language reflecting a Commission recommendation on Uzbekistan was included in the Consolidated Appropriations Act of 2005. The Congress conditioned funds to Uzbekistan on its "making substantial and continuing progress in meeting its commitments under the 'Declaration of Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America,'" such as respect for human rights, including religious freedom. The Commission's recommendation to re-open the Voice of America's (VOA) Uzbek Service was adopted in June 2005, but the U.S. Board for Broadcasting Governors and the President's Budget request for fiscal year 2008 have again proposed the closure of the VOA's Uzbek Service.

I. The U.S. government should ensure that it speaks in a unified voice in its relations with the Uzbek government. To that end, the U.S. government should:

- ensure that U.S. statements and actions are coordinated across agencies to ensure that U.S. concerns about human rights conditions in Uzbekistan are reflected in all dealings with the Uzbek government;

- following the European Union's October 2005 decision, reduce aid and arms sales to Uzbekistan and ban visits by high-level Uzbek officials in response to the Uzbek government's refusal to allow an independent investigation into the violence in Andijon in May 2005;

- ensure that U.S. assistance to the Uzbek government, with the exception of assistance to improve humanitarian conditions and advance human rights, be made contingent upon establishing and implementing a specific timetable for the government to take concrete steps to improve conditions of freedom of religion or belief and observe international human rights standards, steps which should include:

  --ending reliance on convictions based solely on confessions, a practice that often is linked to ill-treatment of prisoners, and implementing the recommendations of the UN Committee Against Torture (June 2002) and the UN Special Rapporteur on Torture (February 2003);

  --establishing a mechanism to review the cases of persons previously detained under suspicion of or charged with religious, political, or security offenses, including Criminal Code Articles 159 (criminalizing "anti-state activity") and 216 (criminalizing membership in a "forbidden religious organization"); releasing those who have been imprisoned solely because of their religious beliefs or practices as well as any others who have been unjustly detained or sentenced; and making public a list of specific and detailed information about individuals who are currently detained under these articles or imprisoned following conviction;

--implementing the recommendations of the Organization for Security and Cooperation in Europe (OSCE) Panel of Experts on Religion or Belief to revise the 1998 Law on Freedom of Conscience and Religious Organizations and bring it into accordance with international standards;

--registering religious groups that have sought to comply with the legal requirements; and

--ensuring that every prisoner has access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments, and allowing prisoners to practice their religion while in detention to the fullest extent compatible with the specific nature of their detention;

- ensure that U.S. security and other forms of assistance are scrutinized to make certain that this assistance does not go to Uzbek government agencies, such as certain branches of the Interior and Justice Ministries, which have been responsible for particularly severe violations of religious freedom as defined by the International Religious Freedom Act of 1998 (IRFA); and

- use appropriate avenues of public diplomacy to explain to the people of Uzbekistan both why religious freedom is an important element of U.S. foreign policy, and what specific concerns about violations of religious freedom exist in their country.

II. The U.S. government should encourage greater international scrutiny of Uzbekistan's human rights record. To that end, the U.S. government should:

- work with other governments to urge the UN Human Rights Council to reverse its recent decision to end human rights scrutiny of Uzbekistan under confidential resolution 1503 and to address this situation in a public country resolution at the Council;

- encourage scrutiny of Uzbek human rights concerns in appropriate international fora such as the OSCE and other multilateral venues, and facilitate the participation of Uzbek human rights defenders in multilateral human rights mechanisms; and

- urge the Uzbek government to agree to a visit by UN Special Rapporteurs on Freedom of Religion or Belief and the Independence of the Judiciary and provide the full and necessary conditions for such a visit.

III. The U.S. government should support Uzbek human rights defenders and religious freedom initiatives. To that end, the U.S. government should:

- respond publicly and privately to the recent expulsions of U.S. non-governmental organizations and the numerous new restrictions placed on their activities; unless these restrictions are rescinded, the U.S. government should make clear that there will be serious consequences in the U.S.-Uzbek bilateral relationship, including a ban on high-level meetings;

- continue the careful monitoring of the status of individuals who are arrested for alleged religious, political, and security offenses and continue efforts to improve the situation of Uzbek human rights defenders, including by pressing for the registration of human rights groups and religious communities;

- support efforts to counteract the Uzbek government's blockade on information into the country by increasing radio, Internet, and other broadcasting of objective news and information on issues relevant to Uzbekistan, including education, human rights, freedom of religion, and religious tolerance;

- reinstate funding for the Voice of America (VOA) Uzbek Language Service to the fiscal year 2007 level of $600,000 so as to meet the Broadcasting Board of Governors' stated goal of outreach to the Muslim world; reinstatement of the VOA Uzbek Service would reach the news-deprived population of Uzbekistan, in addition to the large Uzbek diaspora in Afghanistan and other neighboring countries;

- increase foreign travel opportunities for civil society activists, religious leaders, and others in Uzbekistan concerned with religious freedom to permit them to take part in relevant international conferences;

- continue to attempt to overcome the objections of the Uzbek government in order to develop assistance programs for Uzbekistan designed to encourage the creation of institutions of civil society that protect human rights and promote religious freedom, programs that could include training in human rights, the rule of law, and crime investigation for police and other law enforcement officials; since such programs have been attempted in the past with little effect, they should be carefully structured to accomplish, and carefully monitored and conditioned upon fulfillment of, these specific goals:

  --expanding legal assistance programs for Uzbek relatives of detainees, which have sometimes led to the release of detainees;

  -- expanding "train-the-trainer" legal assistance programs for representatives of religious communities to act as legal advisers in the registration process;

  --specifying freedom of religion as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development and the Democracy Commission Small Grants program administered by the U.S. Embassy; and

  --encouraging national and local public roundtables between Uzbek officials and representatives of Uzbek civil society on freedom of religion; and

- increase opportunities in its exchange programs for Uzbek human rights advocates and religious figures, and more specifically:

  --expand exchange programs for Uzbek religious leaders to include representatives from all religious communities; and

--ensure that the U.S. Embassy vigorously protests cases when an Uzbek participant in an exchange program encounters difficulties with the Uzbek authorities upon return to Uzbekistan, and if such difficulties continue, inform the Uzbek authorities that there will be negative consequences in other areas of U.S.-Uzbek bilateral relations, including a ban on high-level meetings.

COUNTRIES ON THE COMMISSION'S WATCH LIST

Afghanistan

Conditions for freedom of religion or belief in Afghanistan have become increasingly problematic in recent years. The failure of the new constitution to protect individuals from within the majority Muslim community to dissent from the prevailing orthodoxy regarding Islamic beliefs and practices continues to result occasionally in serious abuses, including criminal court cases that are in violation of the rights of the accused. In addition, the failure or inability of the Afghan government to exercise authority over much of the country outside Kabul contributes to a progressively deteriorating situation for religious freedom and other human rights in many of the provinces. Although the status of religious freedom has improved since the fall of the Taliban regime, these developments indicate that religious extremism, including through the return of the Taliban, is an increasingly viable threat once again in Afghanistan. In light of these very real dangers to the declared U.S. goal of instituting democracy and human rights protections in Afghanistan, the Commission has determined that Afghanistan should remain on its Watch List. Since the United States has a crucial role to play, the Commission will continue carefully to monitor the regrettably deteriorating situation in Afghanistan.

In January 2004, Afghanistan adopted a new constitution. The constitution contains an explicit recognition of equality between men and women and a reference to Afghanistan's commitment to abide by its international human rights obligations. However, though the Constitution provides for the freedom of non-Muslim groups to exercise their various faiths, it does not contain explicit protections for the right to freedom of religion or belief that would extend to every individual, particularly to individual Muslims, the overwhelming majority of Afghanistan's population. Other fundamental rights, such as the right to life and free expression, can be superseded by ordinary legislation. This omission is compounded by a repugnancy clause that states that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam," as well as by provisions for a judicial system empowered to enforce the repugnancy clause and apply Hanafi jurisprudence to cases where there is no other applicable law.

The absence of a guarantee of the individual right to religious freedom and the inclusion of a judicial system instructed to enforce Islamic principles and Islamic law mean that the new constitution does not fully protect individual Afghan citizens who dissent from state-imposed orthodoxy against unjust accusations of religious "crimes" such as apostasy and blasphemy. There are also fewer protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and religious minorities, and to question interpretations of Islamic precepts without fear of retribution or being charged with "insulting Islam." There is concern that these constitutional deficiencies could permit a harsh, unfair, or even abusive interpretation of religious orthodoxy to be officially imposed, violating numerous human rights of the individual by stifling potential dissent within the Afghan population.

In the past few years, several very troubling cases exemplifying the constitution's inadequacies came before the courts. The most recent example is the case of Parwiz Kambakhsh, who in January 2008 was sentenced to death for blasphemy in the northern Balkh province for circulating a document with opposing views about women's rights in Islam. A

panel of three judges ruled that because the article he circulated was "blasphemous," he must receive the death penalty in accordance with sharia. Kambakhsh reportedly did not have a lawyer or a public trial. Although an influential council of religious scholars has pressed for the execution to be carried out, others—including several human rights and other civic organizations and groups of journalists—have led protests in his defense. As of this writing, Kambakhsh remains under a death sentence and has appealed his case. In December 2007, a government press aide was arrested and almost lynched for circulating a translation of the Koran in the Dari language that had not been approved by senior religious scholars. He is reportedly still in prison and awaiting trial.

In March 2006, Abdul Rahman, an Afghan citizen, was arrested and threatened with execution on the charge of changing his religion. His offense, according to a public prosecutor in Afghanistan, was "rejecting Islam." Rahman was to face the death penalty if found guilty of apostasy. The prosecutor in the case called Rahman "a microbe [who] should be cut off and removed from the rest of Muslim society and should be killed." The judge overseeing the trial publicly affirmed that if Rahman did not return to Islam, "the punishment will be enforced on him, and the punishment is death." Within a few weeks, in the face of a massive international outcry about the case, the court dismissed the charges against him, citing lack of evidence and suspicions about his mental state, but concerns about his personal safety forced him to seek asylum abroad. In October 2005, Afghan journalist and editor Ali Mohaqiq Nasab was imprisoned after being found guilty of charges of blasphemy and "insulting Islam." The purported "crime" of Nasab, editor of the journal *Haqooq-i-Zan* (Women's Rights), was to question discrimination against women and the use of certain harsh punishments under traditional Islamic law, including amputation and public stoning. Although Nasab, who is also an Islamic scholar, was initially sentenced to two years of hard labor, the prosecutor in the case reportedly intended to seek the death penalty against him. In December, Nasab's term was reduced to a six-month suspended sentence, but only after he apologized to the court.

All of these cases, involving Muslim individuals exercising their internationally guaranteed rights, indicate that the inadequate guarantees for individual human rights in the constitution represent a significant problem for Afghanistan's development as a democratic, rule of law-based state where fundamental human rights are protected. According a 2007 report from the UN Development Program and Kabul University, this problem has been exacerbated by the persistent weakness of the country's central judicial system more generally, which continues to face substantial challenges that include mounting insecurity, a lack of basic infrastructure, massive corruption, an expanding illegal drug trade, and the unresolved human rights violations from previous conflicts that have given rise to a "climate of impunity" in many parts of the country.

These constitutional pitfalls have been extended to other legislation also, and journalists and others, including publishers, sometimes face severe legal consequences for writing or disseminating material that is deemed "un-Islamic." The current media law prohibits publication or broadcast of information that insults "the sacred religion of Islam and other religions." According to the State Department, the vagueness in the definition of what constitutes offensive material allows for the potential abuse of this clause with the aim of limiting freedom of the press and intimidating journalists. Indeed, this sort of abuse has already occurred. In November

2007, the popular "Tolo TV" was criticized by the country's Culture Ministry and key Muslim clerics for broadcasting western-style programs. This and other such incidents are thought to be part of a growing "backlash" by Afghanistan's powerful traditionalist religious forces against the liberalization that occurred after the fall of the Taliban. In January 2006, the Afghan Minister of Information, Culture, and Tourism declared that though Afghan law allows citizens access to a free press, there are limitations that are "not imposed by the government but are in line with Islamic and national principles." That same month, cable television was shut down in Balkh province for broadcasting films and music that were "against Islam and Afghan culture." In February 2006, the Afghan government, through a special media commission, imposed a fine on Afghan TV, one of four private stations in Kabul, for broadcasting "un-Islamic materials."

In July 2006, there were reports that Afghanistan's Ulema, or council of Muslim clerics, proposed the establishment of a Department for the Promotion of Virtue and Prevention of Vice, an organization troublingly reminiscent of a similarly named body used by the Taliban to enforce its strict religious codes through public beatings, imprisonment, torture, and execution, including stoning to death. At the time, Afghanistan's Deputy Minister for Religious Affairs was quoted as stating that the new Vice and Virtue agency will not be the same as that under the Taliban but would instead be aimed at promoting religious values through "education, preaching, and encouragement." The proposal has reportedly been referred to the country's parliament, but as of this writing, had not yet been enacted.

In May 2007, the General Directorate of Fatwas and Accounts under the Supreme Court issued a ruling on the status of the Baha'i religion and declared it distinct from Islam and a form of blasphemy. The ruling also noted that Baha'is would therefore be treated similarly to Christians and Jews. According to the State Department, while the ruling is not expected to affect the expatriate Bahai'is in Afghanistan, it may create problems for the country's tiny (approximately 400) Baha'i community, primarily in issues involving marriage. Many Afghan Baha'is are married to Afghan Muslims, and the ruling could invalidate those marriages. Converts to the Baha'i religion would face the same consequences as other converts from Islam.

These religious freedom concerns take place in a context of declining democracy more generally, including with regard to freedom of speech and the press. In addition to cases involving views on religious interpretation, journalists in Afghanistan are coming under increasing pressure—and facing legal consequences—for criticizing political leaders, powerful local politicians, drug dealers, or warlords. In July 2007, an Afghan journalist who was critical of the government was released after four days detention on undisclosed charges. Another journalist, who reprinted extracts of an essay critical of President Karzai, remains in detention. According to a December 2007 report from the Institute for War and Peace Reporting, five staffers from *Cheragh*, an Afghan daily newspaper, were arrested and interrogated after security forces objected to a letter to the editor that had been published. The five were released only after the editor agreed to publish an apology. The office of another newspaper, *Erada*, was raided by armed men seeking to arrest the editor after he published an analysis deemed unacceptable. Similar attacks on media freedom are reportedly occurring with increasing frequency.

The security situation continues to deteriorate. Some experts claim that Afghanistan is at risk of collapsing into chaos due to the resurgence of the Taliban, the failure of reconstruction

efforts, and record-level opium production. Due to the continued security problems, the government of President Karzai does not exercise full control over the country. As a result, the situation for religious freedom and other human rights is increasingly both precarious and problematic in many parts of the country. Concerns that the government of Pakistan has been providing sanctuary to the Taliban intensified in the past year, as the Taliban stepped up attacks inside Afghanistan, posing a threat to the stability of the government. In addition, the illegal militias have not been disarmed. According to the UN, there are hundreds of illegally armed groups, some of them nominally allied with the government, that continue to exercise power throughout the country and often perpetrate human rights abuses. These abuses include political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls, sometimes with the active support of the local courts and police. In some areas of Afghanistan, there is reportedly now a "parallel Taliban state," and Afghans are increasingly receptive to Taliban courts, as they are, once again, seen as less corrupt than those administered by the tribal warlords. These substantial security threats, which have increased in the past year, present a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan.

As far back as 2002, the Commission raised strong concerns about the decision not to extend the international security presence outside of Kabul and the repercussions that could potentially ensue as a consequence of this decision. In its report from that year, the Commission recommended that the "U.S. government should actively support expanding the international security presence beyond Kabul, as there [is] an urgent need to expand security in order to safeguard the process of political reconstruction in the country and to protect religious freedom and other human rights for all Afghans both in the near term and into the future." It seems clear that the political reconstruction process has indeed become seriously threatened as a result of the alarming and deteriorating security conditions.

The rights of women were severely and egregiously violated in the name of religion by the Taliban regime. Since then, rights for women have improved significantly, especially in light of the fact that Afghan society has hardly ever experienced the notion of gender equality. There are a number of women serving in the parliament and on provincial councils. However, recent reports indicate that women's inclusion in the government has been regressing. In 2006, President Karzai dropped all three female ministers from his cabinet. Under the previous Chief Justice, the Supreme Court sometimes ruled against women's rights, including by banning women from singing on television and arresting a scholar who questioned polygamy. (The new make-up of the Court is seen as a positive development.) In addition, reports indicate that women in Afghanistan are frequently denied equal access to legal representation and due process, especially in rural areas, where rule of law is rare and justice is instead meted out by traditional councils. In August 2006, the UN released a report indicating that violence again women, particularly domestic violence, remains widespread in Afghanistan. A later report from January 2008 describes the persistently common practice of child marriages and the fact that girls are frequently sold into marriages in which they are ill-treated. There are few avenues for redress.

Despite these concerns, some religious freedom problems have diminished since the rule of the Taliban. For example, the active persecution of Afghanistan's Shi'a minority

(approximately 15 percent of the population) that was perpetrated by the Taliban has largely ended, and Shi'as are once again able to perform their traditional processions and to participate in public life. In January 2005, President Karzai appointed a Shi'a scholar to the country's Supreme Court, the first Shi'a scholar ever to be appointed to that body. The State Department reports that in February 2006, six people were killed during a Shi'a Ashura procession in Herat, though some consider the violence to have been politically rather than strictly religiously motivated. Most Shi'a are from the Hazara ethnic group, which has traditionally been harshly discriminated against and segregated from the rest of society due to a combination of political, ethnic, and religious reasons. The situation of Afghanistan's religious minorities, which include small communities of Hindus and Sikhs, has also improved since the fall of the Taliban, as there is no longer any official discrimination, though societal violence against both groups, particularly in the areas outside of government control, continues to be a concern. Although there are no churches, expatriate Christians are reportedly able to meet for private worship services in Kabul and one or two other major urban centers. However, some religious advocacy organizations are reporting instances of societal intolerance of and violence against persons who have converted to Christianity.

In the past year, the Commission continued to speak out about the deteriorating situation in Afghanistan. In January 2008, the Commission wrote to Secretary of State Condoleezza Rice about the Kambakhsh case, noting that Kambakhsh's conviction and sentencing on a spurious allegation of blasphemy was a clear violation of Afghanistan's commitments under international human rights laws and an alarming signal of deteriorating conditions for the freedom of religion or belief and other human rights in the country.

In July 2006, the Commission issued a statement raising several concerns about the proposed creation of a Department for the Promotion of Virtue and Prevention of Vice. The Commission noted that the creation of such a government institution in Afghanistan charged with the promotion of religious adherence to state-imposed orthodoxy could amount effectively to a religious police force that could: violate Afghan citizens' universal right to freedom of thought, conscience, and religion or belief, including the right to be free from state compulsion with regard to religious worship and practice; abridge the human rights of Afghan women and girls; impose political conformity and stifle political debate about human rights and political freedom in Afghanistan, as well as the role of religion in Afghan law and society; and arbitrarily determine the "correct" nature of religious adherence and what constitutes a "violation"—a significant problem given the wide variety of doctrines and practices that exist within the majority Muslim community in Afghanistan.

In March 2006, the Commission wrote to President Bush expressing its concern about the trial and threatened execution of Abdul Rahman on charges of apostasy. In April, then-Commission Vice-Chair Felice D. Gaer testified on behalf of the Commission before a Congressional Human Rights Caucus Members' Briefing on "Anti-Conversion Laws and Religious Freedom in South Asia and the Middle East: The Case of Abdul Rahman." In her testimony, Commissioner Gaer described the weak state of human rights protections in Afghanistan today, and cautioned that freedom and democracy are still in peril in that country. In October 2005, the Commission issued a statement condemning the arrest and trial of Ali Mohaqiq Nasab on charges of blasphemy and "insulting Islam." In December, the Commission wrote to the State Department asking that it urgently communicate with the German government

to prevent the imminent involuntary deportation of thousands of particularly vulnerable asylum seekers from Germany to Afghanistan, including Hindu refugees who face the threat of violence upon return to Afghanistan.

During the period that the constitution was being drafted, the Commission met with numerous high-ranking U.S. government officials to articulate the importance of institutionalizing human rights guarantees in the document that adequately protect the rights of each individual. The Commission also briefed Members of Congress and relevant committee staff on its policy findings and recommendations. In January 2003, the Commission held an international forum, *"Reconstructing Afghanistan: Freedom in Crisis?"* in cooperation with George Washington University Law School, which brought together Afghan leaders, U.S. policymakers, and other experts to discuss ways of integrating adequate human rights protections into judicial and legal reform processes. The Commission also raised the issue of religious freedom in numerous public statements, as well as in two separate opinion-editorial articles, in *The Washington Post* and *The New York Times*, authored by Commissioners Michael K. Young, Felice D. Gaer, and Preeta D. Bansal. In late 2003, the Commission was cited on this issue in over a dozen editorials in major newspapers worldwide.

In August 2003, a Commission delegation visited Afghanistan for an intensive series of discussions with senior officials of the Transitional Administration, U.S. officials, representatives of non-governmental organizations and of Afghan civil society, former President Burhanuddin Rabbani, religious leaders, and members of the diplomatic community, including the United Nations Assistance Mission in Afghanistan (UNAMA). In September 2004, the Commission issued a press release criticizing the Supreme Court Chief Justice's attempt to stifle freedom and electoral democracy by calling for the disqualification of a candidate who made comments of which Chief Justice Shinwari did not approve.

The U.S. government should provide greater leadership and resources needed to secure freedom for all in Afghanistan, which regrettably appears to be reverting more and more to Taliban-like practices. The U.S. government should therefore step up its leadership and engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, since the United States has been so directly involved in the country's political reconstruction. Failure will leave Afghanistan not only less free but also more unstable, thereby contributing to regional insecurity and potentially serving again as a future haven for global terrorism that threatens U.S. interests.

With regard to Afghanistan, the Commission has also recommended that the U.S. government should:

I. On Promoting the Individual Right to Religious Freedom and Other Human Rights

- vigorously support respect for the right of every individual to freedom of thought, conscience, and religion or belief in Afghanistan, and be prepared to make great efforts to ensure protection of fundamental human rights, including freedom of conscience and the equal rights of women, as outlined in international human rights instruments to which Afghanistan is a party;

- use its influence to protect freedom of expression against charges that may be used to stifle debate, such as blasphemy, “offending Islam,” apostasy, or similar offenses, including expression on sensitive subjects such as the role of religion in society and the rights of women and members of minority groups;

- act to bolster the position of those reformers who respect, and advocate respect for, human rights, since those persons in Afghan society who would promote respect for internationally recognized human rights are currently on the defensive and are threatened, and these people need U.S. support to counter the influence of those who advocate an Islamic extremist agenda;

- amplify the voices of political reformers and human rights defenders by, among other things, encouraging President Karzai to appoint independent human rights defenders to the country’s independent national human rights commission;

II. On Addressing the Deteriorating Security Conditions

- make greater efforts to improve security outside Kabul in order for Afghanistan’s political reconstruction to succeed, because without adequate security, the warlords will continue to hold sway over much of the country, undermining the rule of law and Afghanistan’s nascent democratic institutions;

- direct measurable, concrete support and benefits, including the improved, country-wide security referred to above, to the Afghan people, which, in turn, will enable the Karzai government and other moderates to make the hard choices necessary to oppose religious extremism;

III. On Advancing Institutional Reform

- ensure that programs, administered by the U.S. Agency for International Development, to help develop primary and secondary education, including through the printing of textbooks, and to provide civic education, incorporate, as part of the content, education on international standards with regard to human rights, including freedom of religion or belief, and religious tolerance;

- strengthen efforts to reform the judicial system, including through helping to develop sorely needed infrastructure and through strongly supporting the reconstruction in Afghanistan of a judicial sector operating under the rule of law and upholding civil law and international standards of human rights, and work to ensure that all judges and prosecutors are trained in civil law and international human rights standards, women are recruited into the judiciary at all levels, and all Afghans have equal access to the courts; and

- assist legal experts in visiting Afghanistan, engaging their Afghan counterparts, and providing information to the Afghan public on the universality of human rights and the compatibility of Islam and universal human rights, including freedom of religion and belief, and expand existing programs to bring Afghans to this country to experience how Islam and other faiths may be practiced in a free society.

Bangladesh

Since the declaration of a state of emergency in January 2007, Bangladesh has been in the throes of a political and constitutional crisis, the resolution of which will determine whether religious freedom and other universal human rights will be protected by democratic institutions and the rule of law, or whether the country will continue on a downward spiral toward authoritarianism, militarization, and intolerance. Since January 2007, previously scheduled national elections have been postponed, political freedoms severely curtailed, and human rights abused with impunity by the security forces. These deviations from democratic norms under the current "caretaker government" raise troubling questions about the future prospects for respect for a range of freedoms, including potentially freedom of religion or belief. The Commission placed Bangladesh on its Watch List in 2005 due to a number of concerns, some of which have increased in severity in the past year:

- Islamist radicalism and violence that often targets non-governmental organizations (NGOs), women, and the judiciary, as well as the previous Bangladesh Nationalist Party (BNP) government's initial downplaying of the problem;

- the anti-minority, particularly anti-Hindu, violence that occurred following the last general election in 2001 and the failure to investigate and hold perpetrators accountable for that violence and other instances of violence against members of religious minorities;

- the ongoing seizure of minority-owned land;

- discrimination against members of religious minority communities in their access to government services and public employment, including in the judiciary and other high-level government positions;

- the intimidation and arrest of, as well as sometimes fatal attacks against, journalists, authors, and academics for debating sensitive social or political issues or expressing opinions deemed by radical Islamists, or by the caretaker government under Islamist pressure, to be offensive to Islam; and

- the inadequate police response to the sometimes violent campaign against the minority Ahmadi religious community.

These concerns led the Commission to visit Bangladesh in February – March 2006 and to hold a public forum on Bangladesh the following October. Although the political context has been altered considerably with respect to the ongoing suspension of democracy, the Commission finds that religious freedom remains under threat in Bangladesh. If left unchecked, current trends toward greater intolerance and religiously-motivated violence, particularly toward Hindus, non-Muslim tribal residents, Ahmadis, and Christians, could further undermine human rights protections for all Bangladeshis. Accordingly, the Commission continues to place Bangladesh on its Watch List.

Between 1991 and January 2007, notwithstanding difficult economic conditions, pervasive corruption, and devastating natural disasters, Bangladesh had a representative government, regular changes of power through free elections, a judiciary that sometimes ruled against those in authority, a lively press often critical of government policies, active participation of women in the workplace, and a functioning civil society with active human rights groups, women's organizations, and numerous NGOs. However, democratically-elected governments in office since 1991 left untouched and, in some cases, supported overtly Islamic elements introduced in the constitution by previous military regimes, including the establishment of Islam as Bangladesh's official religion, as described below.

Following independence from Pakistan in 1971, Bangladesh was established as a secular state in which national identity was based on Bengali language and culture. The 1972 constitution contained strongly-worded guarantees for freedom of religious belief and practice, as well as equal treatment by the government for citizens regardless of religious affiliation. Subsequent military regimes amended the constitution, however, to introduce Islamic elements, including the affirmation that "absolute trust and faith in Allah" is to "be the basis for all actions" by the government. Although not judicially enforceable, this change in the constitution has been cited by minority rights advocates as diminishing the status of non-Muslims as equal members of Bangladeshi society. Islam was made Bangladesh's state religion in 1988 under the military dictatorship of H.M. Ershad.

Aided by the expansion of Islamic schools (*madrassas*), charities, and other social welfare institutions, many of which receive foreign funding with varying degrees of government oversight, Islamist activists have gained significantly in political, economic, and social influence in Bangladesh in recent years. Since independence, those associated with Islamist political parties seeking to replace secular law with sharia (Islamic law) have generally been outside the political mainstream because of their support for Pakistan in Bangladesh's 1971 war for independence. In the 2001 national elections, Islamist political parties, including the now-prominent Jamaat-e-Islami, were courted by and subsequently supported the center-right Bangladesh Nationalist Party (BNP). Members of Jamaat allegedly then used their positions in the BNP-led government to deny funding to or otherwise disadvantage groups viewed as opposing the Islamist political and social agenda championed by Jamaat. Although some of those who call for a more Islamist Bangladesh engaged in peaceful political and social activities, others adopted a more violent approach towards perceived opponents of Islam.

The 2001 elections occasioned the most serious episode of anti-minority violence since independence, with killings, sexual assaults, illegal land-seizures, arson, extortion, and intimidation of religious minority group members, particularly Hindus, because of their perceived allegiance to the Awami League. The new BNP-led government essentially denied the scope of these abuses and few perpetrators were brought to justice.

This lack of accountability for anti-minority violence associated with the 2001 election led the Commission, minority advocates, and many others to be concerned that Bangladesh's next national elections would also result in anti-minority violence. Some individuals with whom the Commission met during the February – March 2006 visit to Bangladesh were themselves experiencing difficulties in becoming registered. Others claimed that locations dominated by

minority voters had not been visited by registration officials or, on the other hand, alleged that non-citizens believed to favor Islamist parties were being registered. Widespread concerns regarding the registration process were underscored by a U.S. National Democratic Institute study that found 13 million more individuals on the voter rolls than would be eligible according to Bangladesh's census.

On January 11, 2007, threats by the main opposition party to boycott the national elections, alongside the ongoing controversy over voter registration and the impartiality of the electoral process, prompted the caretaker government to declare emergency rule and indefinitely suspend the national elections that were scheduled for later in the month. President Iajuddin Ahmed resigned, under opposition pressure, from his controversial position as Chief Advisor to the caretaker government charged with administering the country during the national election period. Under the supervision of Chief of Staff Moeen U Ahmed, the military was given sanction to enforce emergency rule, which included the suspension of the freedoms of speech and assembly, and due process, among other rights. Fakhruddin Ahmed (no relation), the head of the current caretaker government and a former World Bank official, has publicly declared his intention to hold "free, fair, and participatory" elections "within the shortest possible time," pending correction of deficiencies in the electoral process, including the voter rolls.

Although the caretaker government has undertaken some needed measures, such as the January 2007 separation of the judiciary from the executive branch and the March 2008 decision to provide mobile phone coverage to the Chittagong Hill Tracts, home to many non-Bengali indigenous tribal groups, these actions also signal the tendency of the caretaker government to take actions well beyond its role of facilitating the resumption of democracy. More importantly, despite the caretaker government's repeated public promises to uphold human rights, there have been numerous reports detailing serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, curbs on press freedom, and violations of the right of due process. Many of the reported abuses have been associated with the high-profile anti-corruption campaign spearheaded by the military and the Anti-Corruption Commission, which have arrested thousands of individuals since January 2007, many of whom have been detained in harsh conditions without due process. Current detainees include former Prime Ministers Sheikh Hasina and Khaleda Zia, as well as other senior members of both parties. Sheikh Hasina, current leader of the Awami League, has been incarcerated since July 2007 on charges of extortion, and Khaleda Zia, current leader of the BNP, has been jailed since September 2007 on accusations of graft.

The role of the military under the current caretaker government raises questions about the future of democracy, rule of law, and respect for human rights in Bangladesh. These institutions, important guarantors for religious freedom, could be further eroded if the country's caretaker government prolongs its tenure in office by impeding efforts to prepare for the free and fair election of a national government truly representative of the popular will, such as by refusing to lift the state of emergency. The Election Commission, a non-governmental entity charged with organizing voter registration, has maintained since April 2007 that emergency restrictions on the freedom of political assembly seriously hinder the preparation of new voter rolls. Party leaders expressed concern in March 2008 that the Election Commission was unable to meet its internal deadlines for voter registration due to these constraints, raising doubts over the legitimacy of the

proposed election timetable. Elections are currently scheduled to occur at the end of 2008. On the positive side, unlike the anti-minority violence surrounding the 2001 national elections, the political turmoil that led to the postponement of the January 2007 elections has not resulted in widespread anti-minority, particularly anti-Hindu, attacks.

Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremist groups to expand their influence. Due to a weak legal system and corrupt law enforcement, gangs employed by politicians and armed groups of Islamist or freelance vigilantes have engaged in criminal activities, particularly in rural areas, with relative impunity. Authors, journalists, and academics expressing opinions allegedly offensive to certain interpretations of Islam are subject to violent, sometimes fatal, attacks. Extremists oppose NGOs that promote the economic betterment of women and protection of women's rights. Some such organizations have been bombed, presumably by these extremists.

Since the onset of the state of the emergency, Islamist groups have risen in political prominence and public visibility. In September 2007, restrictions on assembly under the emergency rules were apparently waived to allow Jamaat and other Islamist group supporters to burn effigies and stage widespread public protests against the publication of a newspaper cartoon they believed mocked an element of Bangladeshi Islamic culture. The newspaper *Prothom Alo* was pressured into firing a deputy editor, and the cartoonist, Arifur Rahman, was jailed without charge until his March 2008 release, following a global campaign by human rights and legal activists. In March 2008, restrictions on assembly were again lifted to allow protests by Islamic groups against a policy proposed by a consortium of women's organizations to strengthen the constitutional provision for the equal rights of women.

Bangladesh has the unusual distinction of having its two major parties, the BNP and the Awami League, led by women, both whom have served as Prime Minister, yet religious extremism, mostly among Muslims, victimizes Bangladeshi women of all faiths. Some Muslim clerics, especially in rural areas, have sanctioned vigilante punishments against women for alleged moral transgressions. Rape is also reportedly a common form of anti-minority violence, and incidents regarding Hindu women were reported in 2007. The government commonly fails to punish the perpetrators of these acts against women, since the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference.

Politically-motivated bombings, assassinations, and other terrorist acts, often ascribed to Islamist militants, have exacerbated partisan tensions and increased the vulnerability of minority communities. In August 2004 and January 2005, such attacks resulted in the deaths of prominent opposition political figures. In February 2005, the government banned two militant groups implicated in a series of bomb attacks on NGOs. Militants have been blamed for a coordinated wave of almost simultaneous bomb attacks, numbering in the hundreds, carried out in all but one of Bangladesh's 64 districts on August 17, 2005. Militants were also implicated in a series of bomb attacks on Bangladesh's judiciary in October-November 2005. Among the victims was one of the country's few judges from a religious minority community, a Hindu. The bomb attacks were accompanied by militant demands to substitute sharia law for Bangladesh's current system of secular jurisprudence, and by threats against courts and judges who do not apply

sharia. The then-government of Prime Minister Khaleda Zia responded with a campaign of arrests of militants suspected of involvement in the bombings and in other violent incidents. As a result of arrests made during this campaign, more than 30 suspected militants were detained and later sentenced to death. In March 2007, six members of the Islamist militant group Jamaat-ul-Mujahideen Bangladesh (JMB), including JMB leader Sheikh Abdur Rahman and notorious Islamist vigilante Siddiqul Islam, better known as "Bangla Bhai," were executed for their involvement in bombings that took place in 2005.

Despite constitutional protections, Hindus and other non-Muslims in Bangladesh face societal discrimination and are disadvantaged in access to jobs in the government, armed forces, and police, as well as public services and the legal system. Religious minorities are also underrepresented in elected political offices, including the national parliament. Minority group advocates claim that religion plays a role in property and land disputes, pointing to expropriations of Hindu property since the Pakistan era and the gradual displacement of non-Muslim tribal populations by Bengali Muslims in the Chittagong Hill Tracts and other traditionally indigenous areas. Such disputes occasionally result in violence.

The Commission was told on its visit to Bangladesh that Hindus have left the country in large numbers in recent decades because of the atmosphere of uncertainty and fear under which religious minorities must live. Hindus, Christians, and representatives of other minority religious communities continue to express concerns regarding the safety of their co-religionists, citing the growth in Islamist radicalism and instances of violence, including fatalities, in which the victims' religious affiliation or activities may have been factors. In June 2005, there were arson or bombing attacks against Ahmadi mosques in three locations. In July 2005, two Bangladeshis working for a Christian NGO were murdered, allegedly for showing a film depicting the life of Jesus. There are also occasional reports of violence by members of the majority religious community against individuals who convert from Islam to Christianity

In addition to incidents of violence, the Vested Property Act (VPA), a pre-independence law enacted in 1965 in the wake of the India-Pakistan war, continues to be used as justification by some Muslims to seize Hindu-owned land. The 2007 report of the prominent Bangladeshi human rights organization Ain O Salish Kendra (ASK) stated that in 2006 there were 54 seizures by Muslim individuals of Hindu-owned land and 43 attacks against Hindu temples by Muslims. The VPA's implicit presumption that Hindus do not really belong in Bangladesh contributes to the perception that Hindu-owned property can be seized with impunity.

The most serious and sustained conflict along ethnic and religious lines has been in the Chittagong Hill Tracts, located on Bangladesh's eastern border with India and Burma. The varied but wholly non-Bengali/non-Muslim indigenous peoples in this formerly autonomous area (often referred to collectively as *Adivasis* or *Paharis*) had opposed inclusion in East Pakistan during the partition of 1947, due to their identification with other tribal groups in northeast India. After Bangladesh won its independence in 1971, Bangladeshi authorities ignored appeals for restoring local autonomy in the Hill Tracts and indeed promoted an acceleration in Bengali settlement. The resulting armed indigenous people's insurgency ended in December 1997 with the signing of the Chittagong Hill Tracts Peace Accords. Resentment remains strong, however, over settler encroachment, human rights abuses by the Bangladeshi military, and the slow pace

of the government's implementation of the peace agreement. Muslim Bengalis, once a tiny minority in the Chittagong Hill Tracts, now reportedly equal or outnumber members of indigenous groups. In 2007, Bangladesh human rights organizations reported a surge in Bengali settlements on tribal land in the Chittagong Hill Tracts.

Islamist extremists in Bangladesh have also engaged in a public campaign against the Ahmadi community, which is viewed as heretical by many Muslims. The Ahmadis, also referred to as Ahmadiyya, are estimated to number about 100,000 in a population of 150 million. Anti-Ahmadi demonstrators have called on the government of Bangladesh to declare Ahmadis to be "non-Muslims," as was done in Pakistan, and subsequently used in Pakistan to justify a range of legal limitations on the Ahmadi community and individual Ahmadis. The demonstrators have also called for curbs on Ahmadi missionary activity to the broader Muslim community. Although Bangladesh has thus far refused to declare Ahmadis to be non-Muslims, in January 2004, the then BNP-led government bent to militant pressure and banned the publication and distribution of Ahmadi religious literature. Police seized Ahmadi publications on a few occasions. The ban was stayed by the courts in December 2004, with further legal action still pending. Although the ban is not currently being enforced, it was not withdrawn by the BNP-led government before leaving office in October 2006, or by the subsequent caretaker government.

Anti-Ahmadi activists object to Ahmadi houses of worship being called "mosques" and on a number of occasions have organized mass demonstrations in order to occupy or attempt to occupy the sites. In several instances, anti-Ahmadi activists have forcibly replaced signs identifying Ahmadi places of worship as mosques, putting in their place anti-Ahmadi signs warning Muslims away, sometimes with the assistance of the police. In some instances, the anti-Ahmadi agitation has also been accompanied by mob violence in which Ahmadi homes have been destroyed and Ahmadis held against their will and pressured to recant. Although the campaign against the Ahmadis has continued, the violence has diminished due to improved and more vigorous police protection. In February 2007, Ahmadis in Brahmanbaria were able to hold a major convention, which they had been unable to do for over a decade because of hostility from anti-Ahmadi militants.

The Commission visited Bangladesh February 26 – March 2, 2006 at the invitation of the government of Bangladesh. The Commission delegation met with a broad range of individuals, including government officials, political leaders, human rights monitors, journalists, women's rights advocates, Muslim religious leaders, leading members of the Ahmadi, Hindu, Buddhist, and Christian communities, and civil society representatives. The government of Bangladesh received the delegation at a high level, including individual meetings with four members of the Cabinet: the Foreign Minister; the Minister for Law, Justice, and Parliamentary Affairs; the Minister of Education; and the Minister of Industries, who heads Jamaat-e-Islami Bangladesh. The delegation also met with the Minister of State for Religious Affairs and with the Secretary for Home Affairs, whose responsibilities include law enforcement.

The Commission also has met on a number of occasions during the past year with human rights monitors, representatives of religious communities, Bangladeshi diplomats, and others to discuss religious freedom in Bangladesh. In October 2006, with the participation of the International Republican Institute and the National Democratic Institute for International Affairs,

the Commission held a public forum in Washington, D.C. on the topic "The Bangladesh Elections: Promoting Democracy and Protecting Rights in a Muslim-majority Country." Coincident with the forum, the Commission issued a *Policy Focus* on Bangladesh that included several policy recommendations. In April 2004, the Commission, together with Congressman Joseph Crowley, a member of the House Committee on International Relations, held a public hearing in Flushing, New York, on "Bangladesh: Protecting the Human Rights of Thought, Conscience, and Religion."

With regard to Bangladesh, the Commission makes the following recommendations.

I. Urgent Measures to Prevent Anti-Minority Violence in the Upcoming Elections

In light of Bangladesh's upcoming national elections, currently scheduled for December 2008, the Commission recommends that the U.S. government should:

- urge Bangladesh's caretaker government to adhere strictly to the publicly announced timetable for undertaking all necessary actions to safeguard the voting rights of all Bangladeshis in the national elections, and to ensure that those elections are held freely and fairly and at the earliest practical date by:

  --restoring public confidence in the non-partisan and independent character of both the Election Commission and the caretaker government;

  --making every effort to prevent violence before and after the election, including instructing law enforcement bodies to ensure the security of all Bangladeshi citizens throughout the voting process;

  --ensuring that the registration process will facilitate the enrollment of the maximum number of eligible voters before the election, in a manner that does not discriminate on the basis of perceived religious or political affiliation or ethnic background, deleting names of extra or ineligible voters, ensuring the inclusion of minority voters, and investigating and resolving complaints about the registration process fairly, promptly, and well in advance of the actual election; and promptly and thoroughly investigating any claims that registration efforts carried out thus far have not met such criteria;

  --using all practical technical means of ensuring the security of the ballot, including the use of "transparent" and numbered ballot boxes;

  --permitting and facilitating international and domestic non-governmental monitoring of the entire electoral process; Bangladesh should be encouraged as a member of the United Nations and of the Commonwealth to use the resources of these and other international organizations with experience in assisting member states in conducting credible elections;

  --satisfying the requirements of monitors from the U.S. National Democratic Institute, the U.S. International Republican Institute, and the European Union, as well as election experts

from the UN, all of whom refused to offer legitimacy to the severely flawed election scheduled for January 2007; and

--investigating fully the acts of violence committed in the aftermath of the 2001 elections and holding the perpetrators to account, with the aim of preventing similar recurrences in 2008 and during any other election period in the future;

- encourage Bangladeshi authorities, and in particular the caretaker government overseeing the election period, to ensure that the elections are not marred by violence by:

  --deploying security forces to work to identify and prepare against specific threats to vulnerable localities and communities, including religious and ethnic minorities, such as residents of the Chittagong Hill Tracts region;

  --publicly ordering that the security forces undertake a maximum effort to prevent and punish election-related violence, particularly violence targeting members of minority religious communities, whether during the election campaign, on election day, or in its aftermath; and

  --publicly condemning, outlawing, and swiftly responding to anti-minority violence and discrimination in advance of the election and ensuring, through legislation if necessary, that election-related violence will be thoroughly investigated and that those responsible will be brought to justice;

- prepare and publicize a comprehensive pre- and post-election analysis of the election process with recommendations for needed reform;

- provide for official U.S. government monitors in advance of, and in connection with, the upcoming elections in addition to those already planned by the National Democratic Institute for International Affairs and the International Republican Institute; and

- urge other states and international organizations to work together to increase monitoring and other efforts to forestall violence, with the assistance of indigenous human rights and other civil society organizations, and coordinate actions in support of a peaceful, free, and fair election in Bangladesh with other countries and international organizations.

II. Urgent Measures to Protect Those Threatened by Religious Extremism

The Commission recommends that the U.S. government should urge the government of Bangladesh to:

- investigate and prosecute to the fullest extent of the law perpetrators of violent acts, including future acts and those already documented, against members of minority religious communities, non-governmental organizations (NGOs) promoting women's human rights, and all those who oppose religious extremism;

- rescind the January 2004 order banning publications by the Ahmadi religious community, continue to reject extremist demands to declare Ahmadis to be non-Muslims, protect the places of worship, persons, and property of members of this religious community, and fully investigate and promptly bring to justice those responsible for violence against Ahmadis; and

- protect women from vigilante or anti-minority violence, combat claims of religious sanction or justification for violence against women, and vigorously investigate and prosecute the perpetrators of such violent incidents.

III. Urgent Measures to Condemn the State of Emergency

The Commission recommends that the U.S. government should call on Bangladeshi authorities, particularly the caretaker government and the military, to:

- lift the state of emergency;

- cease harassment of journalists and academics and ensure due process and equal treatment under the rule of law for all suspects, witnesses, and detainees; and

- lift restrictions on political activity both in and outside Dhaka, including undue restrictions on the location, type, and size of political gatherings, to promote accurate and thorough voter registration and to ensure that all parties have access to the right to assembly that has been implicitly granted to Islamist groups that were allowed to participate in protests and other gatherings in the past year. At the same time, security must be maintained for all of Bangladesh's citizens, especially the vulnerable members of Bangladesh's religious minority communities.

IV. Longer-Term Measures to Protect Universal Human Rights

The Commission recommends that the U.S. government should urge the government of Bangladesh to:

- ensure that decisions on public employment in national institutions such as the civil service, the military, law enforcement agencies, and the judiciary, including at the highest levels, do not discriminate on the basis of religious affiliation, belief, or ethnic background; conduct and publicize the results of a comprehensive survey of minority representation in the public service;

- establish effective, legally transparent mechanisms for handling complaints regarding discrimination in public employment;

- ensure that law enforcement and security services are equally protective of the rights of all, regardless of political or religious affiliation or belief, including due process for those accused of crimes, according to Bangladesh's own constitution and relevant international standards;

- continue to support the independence of the judicial system from the executive in order to prevent political interference in the judicial process and to ensure that the courts afford equal access and equitable treatment to all citizens;

- include in all school curricula, in school textbooks, and in teacher training for both public schools and government-regulated *madrassas* information on tolerance and respect for human rights, including freedom of religion or belief;

- promote the use of history and social studies texts in public schools that reflect the country's religious diversity and are reviewed by an independent panel of experts to exclude language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on religion or belief;

- repeal the Vested Property Act, discriminatory legislation that has been used unjustly to seize Hindu-owned property in the decades since Bangladesh's independence and has continued to be used under successive governments to reward well-connected members of the majority community in Bangladesh;

- ensure that publicly-funded support for domestic faith-based charitable, humanitarian, developmental, or educational activities be awarded on a non-discriminatory basis;

- permit NGOs to conduct legitimate humanitarian and developmental activities without harassment, undue interference, or discrimination and ensure that they are protected from extremist intimidation or violence;

- guarantee the right of human rights defenders to receive funding from foreign sources, as set forth in the relevant UN instruments[1], without harassment, unless such foreign funding incites or supports religious extremism, hatred, or the destruction of the rights and freedoms guaranteed to Bangladeshi citizens.

V. U.S. Assistance to Promote Human Rights, Including Freedom of Religion or Belief

The Commission recommends that the U.S. government should:

- make greater use of existing avenues of public diplomacy, including international exchange programs, to bolster the position of Bangladesh's voices of moderation and of those reformers who respect, and advocate respect for, internationally recognized human rights, including the human rights of women and of members of minority religious communities;

- assist Bangladeshi educational authorities in improving and expanding public education in order to enhance the availability and quality of education of all Bangladeshis, regardless of faith, gender, or ethnicity, and support non-governmental review of curricula and textbooks of public schools and *madrassas* in particular, as many *madrassas* receive foreign funding and are subject to little or no government oversight;

- support efforts to improve the human rights performance and professional competence of the security forces so that they can better protect all Bangladeshis from violence and intimidation by extremists;

- act to counter the extremist assault on Bangladesh's secular legal system, including by (1) strengthening U.S. assistance to promote the rule of law and to enhance access to the legal system by women and members of religious minorities, and (2) informing Bangladeshis, through educational and cultural exchanges, broadcast and print media, and other means of public diplomacy, on the universality of human rights and the compatibility of Islam and universal human rights, including freedom of religion or belief; and

- support, and provide technical assistance for, the creation of an independent national human rights commission in Bangladesh able to investigate, publicize, and bring to the courts all categories of human rights abuses, including violence and discrimination against religious minorities, in accordance with international standards[2] for such organizations, i.e., independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

Belarus

Belarus has a highly authoritarian government, with almost all political power concentrated in the hands of President Aleksandr Lukashenko and his small circle of advisors. The Lukashenko regime has engaged in numerous serious human rights abuses, including involvement in the "disappearances" of several key opposition figures, the imprisonment of political opponents and journalists, and strict controls on the media. Human rights conditions deteriorated further after the March 2006 presidential elections, which observers from the Organization for Security and Cooperation in Europe (OSCE) and other organizations deemed fraudulent. The government of Belarus also continues to commit serious violations of the right of its citizens to freedom of thought, conscience, and religion or belief. Religious freedom conditions, which had already declined as a result of the strict law on religion passed in October 2002, deteriorated further in 2007. The Commission continues to place Belarus on its Watch List, and will maintain scrutiny throughout the year to determine whether the government's record has deteriorated to a level warranting designation as a "country of particular concern," or CPC.

According to the U.S. Department of State's 2007 *Country Reports on Human Rights Practices*, the human rights record of the Belarus government "remained very poor and worsened in some areas, as the government continued to commit frequent serious abuses." The State Department reports that the Belarus government continued to engage in arbitrary arrests, detentions, and imprisonment of citizens for political reasons, such as for criticizing officials or participating in demonstrations. Court trials, whose outcomes were usually predetermined, were often conducted behind closed doors without an independent judiciary or independent observers.

The State Department also reported that respect for religious freedom worsened in the past year, citing, among other factors, that authorities continued to harass and fine members of certain religious groups, especially those whom officials regard as linked to foreign cultures or

having political agendas. Government structures to control and restrict religious groups are extensive and intrusive, leading some human rights groups to compare the situation for religious freedom in Belarus to that under the former Soviet regime. For example, Belarus has maintained its Soviet-era religious affairs bureaucracy, which includes a Plenipotentiary for Religious and Nationality Affairs, which was known until July 2006 as the State Committee for Religious and Nationality Affairs. The Plenipotentiary maintains a staff in Minsk as well as several officials in each of the country's six regions. According to the Forum 18 News Service, the six regions have 20 districts, with each district having a Department for Relations with Religious and Social Organizations as well as a Commission for Monitoring Compliance with Legislation on Religion.

The country's religion law, passed in October 2002, led to greater restrictions on religious freedom in Belarus. The law codified the activities of the official Committee of Religious and Nationality Affairs (since renamed) of the Council of Ministers (CRNA) and set up severe regulatory obstacles and major bureaucratic and legal restrictions on the activities of many religious communities. Essentially, the 2002 religion law prohibits: all religious activity by unregistered groups; any activity of religious communities except in areas in which they are registered; foreign citizens from leading religious activities; and unapproved religious activity in private homes, with the exception of small, occasional prayer meetings. The law set up a three-tiered system of registration, and particularly restricts the activities of groups on the lowest tier. The law also mandated that all existing religious communities in Belarus re-register with the CRNA by November 2004. Most previously registered groups were re-registered, but the law was viewed as a strengthening of the government's opportunities to deny registration to disfavored groups.

In the past year, thousands of individuals from various Christian and other religious communities signed a petition to the Belarusian government to protest the country's repressive 2002 religion law and other restrictions on religious freedom. In July 2007, Belarusian police in Minsk and at a Catholic pilgrimage site in Budslav detained 19 persons who were collecting signatures on a petition to reform the 2002 law. Arrestees included the secretary of the Belarusian Christian Democracy movement. Police confiscated literature, including 7,000 newsletters and several hundred copies of a booklet, "Monitoring Violations of the Rights of Christians in Belarus in 2006." Fourteen were detained for three hours without charge by district police in Budslav. A protocol was drawn up against the petition organizer, claiming he had distributed literature without publication details; he was warned to expect prosecution in Minsk, although as of this writing, he has not been contacted. (In Belarus, a person may legally distribute up to 300 copies of a piece of literature without publication details.) According to the news agency Forum 18, Belarusian Deputy Prime Minister Aleksandr Kosinets, speaking at an unprecedented roundtable of religious leaders in Minsk in September 2007, rejected the possibility that legal amendments to the law would be accepted. Kosinets also reportedly rejected Protestant leaders' suggestion to introduce a category of "religious group" that would not need state registration. In March 2008, the petition gained the necessary 50,000 signatures and was submitted to the Constitutional Court, parliament, and Presidential Administration; the Court replied that appeals should be submitted via President Lukashenko, parliament, or other authorized state bodies. However, Forum 18 reported that later that month, government agencies rejected the mass petition, claiming that reports of religious freedom violations "do not correspond with reality."

Since coming to power in 1994, President Lukashenko has openly favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church, resulting in a privileged position for the BOC. This relationship was codified in June 2003, when the Belarus government and the BOC signed a concordat setting out the Church's influence in public life, which has contributed to the difficulties for many religious minorities (see below). In March 2004, the Belarusian government granted the BOC the exclusive right to use the word "Orthodox" in its title. Several "independent" Orthodox churches that do not accept the authority of the Orthodox Patriarch in Moscow have been denied registration, including the Belarusian Autocephalous Orthodox Church (BAOC) and the True Orthodox Church, a branch of the Orthodox Church that rejected the compromise with the Soviet government made by the Russian Orthodox Church in the 1920s. Authorities have warned a priest from the unregistered Russian Orthodox Church Abroad (ROCA) that he could be jailed and fined for conducting "illegal religious activities," including small gatherings in private homes. In November 2005, authorities denied registration to a ROCA parish in Ruzhany; a religious affairs official in Brest reportedly told ROCA members to worship at the BOC. In recent years, ROCA members have been fined four times, for a total of over $2,000, for worshiping in private homes. The community has more than once applied for registration, but in October 2006, there were reports that BOC officials were pressuring parishioners to withdraw their signatures from registration applications. Even the BOC is sometimes subject to government harassment. Forum 18 reported that in March 2007, the Committee for State Security (KGB) raided a prayer meeting of the BOC Transfiguration Fellowship in the city of Gomel, in the first known instance since the Soviet period of BOC adherents being targeted in Belarus for their religious activity.

Some religious groups have been consistently denied registration, particularly Protestant groups. Forum 18 reported in January 2008 that a secret ruling by the State Committee for Religious and Ethnic Affairs allegedly denied state registration to 12 "destructive sects"; included in that group were not only Aum Shinrikyo and Satanists, but also Ahmadiya Muslims. One frequent basis for registration or re-registration denials has been the failure to provide a valid legal address, although, in some cases, registration is required before such an address can be obtained. Another basis is the alleged failure to limit activities to a specified location. In many cases, officials do not provide any reason for the denial of re-registration requests. In 2006, the Belarus government rejected the UN Human Rights Committee's decision that it had violated religious freedom by refusing to register a nationwide Hare Krishna association. The authorities maintained that their refusal was "justified" because it was in accordance with Belarusian law, but they failed to address the UN Committee's finding that a requirement for state-approved physical premises to gain legal registration is "a disproportionate limitation of the Krishna devotees' right to manifest their religion" under the International Covenant on Civil and Political Rights. In June 2006, a Minsk court deregistered the Christ's Covenant Reformed Baptist Church for lack of legal addresses.

Without state registration, religious communities can be liable for fines levied under a Soviet-era provision of the Administrative Violations Code. Evidence indicates that since 2004, the Belarus authorities have increased the amount of the fines as well as expanded the range of religious groups that are subject to them. Until two years ago, such fines were usually approximately $15, and most often imposed on Council of Churches Baptist congregations,

which refuse on theological grounds to register with any state authorities. Since 2006, fines have increased, in some cases dramatically. Forum 18 reported that in January 2008, the Baranovichi Emergencies Department fined the pastor and administrator of the New Life Pentecostal Church a total of $228 for fire safety violations, which is the equivalent of almost three weeks' average wages. Pastor Kabushko suggested that the fire safety demands were an indirect way of putting pressure on his church. The Baranovichi congregation was first fined for fire safety violations a year ago and a major outlay of funds have been spent to meet the state authorities' requirements. The previous year, the same church was fined a total of $5,455 for "unsanctioned" religious activity. A court also ordered fines totaling $386 for three Baptist Council of Churches members in the same town in December 2007. Also in December 2007, members of a church in Grodno complained of an "illegally imposed fine" of $64 handed down to their pastor by a Grodno Court for holding an unregistered Harvest Festival service.

In addition to fines, the Belarusian authorities appear to be adopting tougher sanctions, such as short-term detentions and imprisonment, against church leaders and parishioners who take part in unregistered religious activity. In March 2006, the pastor of the Minsk-based Christ's Covenant Reformed Baptist Church received a 10-day prison term for conducting religious worship in his home. It was the first time in 20 years that a religious leader had been sentenced to imprisonment in Belarus. The church's re-registration request had previously been denied. Pentecostal Bishop Sergey Tsvor faced similar charges, but they were dropped because of technical errors made by the police. Also in March 2006, authorities sentenced human rights lawyer Sergey Shavtsov to 10 days in detention for conducting an unsanctioned interdenominational seminar in a private cafe. In June 2007, one week after being fined for leading Sunday worship in John the Baptist Pentecostal Church in Minsk, Pastor Antoni Bokun was given a three-day prison term for leading a service; making him the third known person to be given short-term detention in post-Soviet Belarus for religious activity.

While re-registered religious organizations, including Muslims, Lutherans, and Baha'is, have held worship services at residential addresses without prosecution, the Administrative Violations Code (Article 167) and the 2002 religion law forbid most religious activity outside designated houses of worship without advance approval from state authorities. A first offense is punishable by a warning, a fine of between 20 and 150 times the minimum monthly wage, or three to 15 days' imprisonment. A second violation within one year is punishable by a fine of between 150 and 300 times the minimum monthly wage or 10 to 15 days' imprisonment. While the law permits persons to gather in private homes to pray, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes. In addition, the 1998 Civil Code and the 1999 Housing Code do not allow a religious organization to be located at a residential address unless it has been re-designated as non-residential. Although the 2002 religion law allows a religious organization to meet at free-standing residential premises if local authorities approve, in practice, this process is largely left to individual officials who usually prevent religious communities from meeting for worship in residential buildings. Strict interpretation of the law may result in fines for worshippers. For four years, Protestant leaders have been trying to have this situation addressed, and in spring 2007, Adventist, Baptist, and Pentecostal leaders appealed to President Lukashenko. The Presidential Administration's Department for Communication with Citizens confirmed that religious organizations may legally meet in private homes if local state authorities agree. Yet, police continued to interfere with

religious meetings in residences several times in 2007, sometimes fining participants. In particular, Baptists, Pentecostals, and other Protestants were warned or fined for illegally conducting and hosting religious services.

In addition to problems for home worship, the government continued to limit the ability of a number of groups to own or use property for religious purposes. The government permits the use of residential property for religious services only after it has been formally converted from residential use. This interpretation of the law effectively requires all religious organizations to re-register their properties as religious properties. However, authorities continued to reject requests for property registration from many Protestant churches, as well as from other religious groups new to Belarus. The State Department reports that in 2006 and 2007, the Living Word Church in the city of Grodno tried and failed at least seven times to rent meeting space from state proprietors. Minsk authorities informed the unregistered John the Baptist Church that it could not rent space at the state Trade Unions House in June 2007, allegedly due to "scheduling conflicts." Moreover, Protestants in particular have expressed concern that securing permission to build new churches is almost impossible. In Minsk, city planners reportedly will not grant any such permits until 2030. Protestant churches also report being viewed as commercial organizations with regard to the Minsk Development Fund; those seeking property permits must pay a sum set by Minsk authorities that may be as high as hundreds of thousands of dollars.

In addition, Forum 18 reports that some of the smaller religious communities continued to face great difficulties in rebuilding premises for worship in the past year. For example, the Grodno region Baptist congregation has been denied permission to rebuild its wooden 1920s church building. A related problem is the extreme difficulty in gaining official, legal re-designation of property for worship purposes, a situation affecting mainly Protestant communities, as unlike the Orthodox and Catholics, they are much less likely to own worship buildings. In February 2008, in response to the indefinite adjournment of a court case on the fate of their church building, the New Life Church in Minsk opted for civil disobedience, refusing to allow state inspectors who can impose fines onto church property; its pastor is currently threatened with a fine. The impasse appeared linked to uncertainty regarding which state body should resolve the issue. In late 2006, Grodno authorities granted permission to the Roman Catholic Blessed Virgin Mary Mother congregation to build a church for its 8,000 members; the parish had been worshipping in a wooden house that could hold only 300. Twelve members of the church had launched a hunger strike in early December 2006 until authorities acceded to their eight year long request.

Various other laws, regulations, and directives also restrict the activities of registered religious communities. For example, groups are not allowed to function outside their geographic area of registration. If a registered religious community does not qualify as a "central association"—meaning it has not been legally recognized for over 20 years or it does not have enough members—it cannot own media outlets or invite people from outside Belarus to work with the community, as in the case of the Greek Catholic Church. The Society for Krishna Consciousness also does not qualify as a central association and therefore cannot rent a hall or produce a publication with a print run of over 300.

All religious literature is subject to compulsory government censorship. Religious publishing is restricted to religious groups that have 10 registered communities, including at least

one that was in existence in 1982. This requirement is onerous, since the cut-off date of 1982 goes back to the Soviet period of religious repression when few religious groups could operate. Some members of religious communities are harassed, fined, and detained for "illegally" distributing religious literature. For example, the government continued to harass and fine Hare Krishnas for distributing religious literature. According to the State Department, in January 2007, authorities confiscated 14 books from a Hare Krishna who was fined $15 (32,000 rubles) for illegally distributing religious material.

Although religious groups considered "new" to Belarus face many of the most serious problems, religious groups, such as Catholics and Jews, which are viewed by the government as more "traditional," were also not exempt from offensive remarks by government officials or state media. For example, President Lukashenko himself is reported to have made public anti-Semitic comments. In October 2007, he referred to the Belarusian town of Babruysk as a "pigsty," and "mainly a Jewish town—and you know how Jews treat the place where they are living." His comments were broadcast live on national radio. President Lukashenko has also made anti-Semitic statements in the past, such as comparing dishonest oligarchs with Jews and likening his critics to people with "hooked noses." In June 2007, the state newspaper *Respublika* published an article that compared contemporary Catholic missionary activities to the Crusades and branded the involvement of Pope John Paul II in the fall of communism as a "devilish enterprise," alleging his collaboration with the CIA. The Polish community in Belarus called for criminal charges against the article's author as well as the newspaper's editor, and the paper later issued an apology.

Despite an order by the Prosecutor General and the Ministry of Information to remove from circulation the anti-Semitic and xenophobic newspaper *Russki Vestnik*, distribution of the newspaper resumed through the state-distribution agency. As in previous years, anti-Semitic literature continued to be sold at the National Academy of Sciences, and anti-Semitic literature is openly sold at several Belarusian Orthodox book fairs. The Roman Catholic Church reported that anti-Catholic literature is also sold at places linked to the Orthodox Church. Anti-Semitic and Russian ultra-nationalist newspapers and books are still sold at Pravoslavnaya Kniga (Orthodox Bookstore), a store that sells Orthodox literature and religious paraphernalia. The official Belarusian Orthodox Church (BOC) prayer calendar, printed in Minsk, continued to mark May 20 as the anniversary of the 1690 death of a young child who was alleged to have been murdered by Jews. The May 20 prayer refers to Jews as "real beasts" who allegedly kidnapped and murdered the child for religious purposes; a link on the BOC Web site listed the child as one of the Church's saints and martyrs.

The Belarus government continued to demonstrate a lax attitude towards the problem of societal anti-Semitism and has not responded adequately to find and hold accountable those responsible for vandalism against Jewish memorials, cemeteries, or other property. According to the State Department, acts of anti-Semitic vandalism increased in 2007. In February 2007, neo-Nazi activists attacked Larissa Shukailo, who is the Jewish director of the Mogilyov branch of the Belarusian Association for Victims of Political Repression. Shukailo filed an official complaint, but no suspects had been identified several months later. In March, independent media reported two acts of vandalism of sites commemorating the killing of Minsk ghetto Bremen Jews; also in that month, vandals damaged the Star of David on a memorial in Kurapaty honoring Jewish victims of Stalinism. In May 2007 in the city of Borisov, police opened a

criminal case in connection with the vandalism of the local Jewish cemetery, but several months later no suspects had been identified. In June, local Jewish leaders reported that a Jewish cemetery had been vandalized in Mogilyov; relatives appealed to the police, one of whom claimed that the tombstones may have been knocked down by a wind storm. As of mid-2007, there were three acts of vandalism against the monument to the victims of the Brest Jewish ghetto; police opened a criminal case but did not identify any suspects. The State Department reported that Jewish leaders petitioned the government in 2007 to investigate neo-Nazi activities, citing continued vandalism, anti-Semitic graffiti, and threats to civil society and religious congregations. Authorities responded with sympathetic letters but did not open any criminal cases in connection with these complaints.

The Belarusian authorities also continued in 2007 to use textbooks that promoted intolerance, particularly towards "non-traditional" religions. Leaders of Protestant groups criticized the chapter entitled "Beware of Sects," which includes a paragraph on Seventh-Day Adventists, and Jehovah's Witnesses. The Ministry of Education continued to use another textbook which labels Protestants and Hare Krishnas as "sects," although according to the State Department, the authorities promised to change the language in the books' next edition. State-controlled print and broadcast media has also promoted intolerant views of "new" religious groups. In May 2007, the pastor of God's Grace Head Church received a letter from the state-controlled Lad television channel denying any wrongdoing after a broadcast that referred to the community as a "totalitarian and destructive sect." In June 2007, state television channel ONT ran a news review item on "neo-Pentecostal sects." A summary of that program claimed that Jehovah's Witnesses and neo-Pentecostals, "with the aid of psychotechnology...drive people out of their minds"…and that they were the ones behind the Orange Revolution in Ukraine.

Because the 2002 religion law states that religious organizations do not have priority in reclaiming property confiscated in Soviet times if a former worship building is now used for culture or sports activities, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country's independence in 1991. In another property dispute, the St. Joseph Catholic community in Minsk continued its campaign for the government to return a former Bernardine church and its monastery buildings, currently housing the state archives and slated to be converted into a hotel and entertainment center. In March 2007, the government made public new development plans; in response, the community launched a petition drive, which by March 2008 had reportedly garnered as many as 50,000 signatures.

In January 2008, Belarus issued a decree that further tightened strict government regulations on foreign religious workers. The Plenipotentiary for Religious and Nationality Affairs is now given sole discretion to rule on the necessity of religious work by foreign citizens. Moreover, the Plenipotentiary is not required to give reasons for refusing a foreign religious worker's visit, and he may shorten a visit "if the period of time required for realization of the aims for which the foreign citizen is invited does not correspond to that requested." Under the religion law, foreign religious workers must be invited by registered religious associations. In addition, the application procedure for foreign religious worker invitations is now much more detailed and must include relevant work experience, the timetable and syllabus of the relevant religious educational institution, and proof of knowledge of Belarusian and Russian. Approval for visits by foreign religious workers often involves a lengthy bureaucratic process, as the law requires one-year, multiple-entry "spiritual activities" visas for foreign missionaries and clergy.

An organization inviting foreign clergy must make a written request to the Office of the Plenipotentiary Representative for Religious and Nationality Affairs (OPRRNA) including the proposed dates and reason for the requested visit. Even if the visit is for charitable activities, representatives must obtain a visa and permission from OPRRNA, which then has 20 days to respond; there is no appeal provision.

After its post-1991 revival, the Roman Catholic Church has experienced a shortage of qualified native clergy. Seven Polish Catholic priests and five nuns were expelled in late 2006; among other reasons, a reported factor was their "youth" and the fact that their alcohol rehabilitation meetings were open to everyone. A reported 12,000 people protested their expulsion, including several Catholic bishops. The Belarusian Consulate in Warsaw has warned priests on short visits not to engage in any religious activity. In late 2007, 700 Catholics protested the government's order that the Polish priest of the Gomel region's Holy Trinity Church leave Belarus by March 2008; the denial of the priest's annual visa may have been linked to his negative comments about Belarus in a 2007 interview in a Polish newspaper.

According to the State Department's religious freedom report, legislation prohibits "subversive activities" by foreign organizations and the setting up of offices by foreign organizations that incite "national, religious, and racial enmity" or "have negative effects on people's physical and mental health." In May 2007, a Polish citizen, an unofficial pastor of the John the Baptist Church, was fined $15 for holding unauthorized religious services at a fellow pastor's home. He was ordered to leave the country by June 7 for "repeated violations of the regime governing the presence of foreigners" and barred from reentry for five years; authorities also canceled his residency permit due to his alleged involvement in "activities aimed at causing damage to the national security." Moreover, if foreign citizens have not explicitly stated that they plan to participate in religious activities in Belarus, they can be reprimanded or expelled. In February 2007, the Belarus government deported seven U.S. citizens and banned them from the country for two years for "illegal teaching and illegal religious activities," charging the group with administrative violations and fining them because they had not obtained permission from the Education Ministry before teaching English at a house of worship in Mogilyov. In June 2007, however, a court reversed the order. In another case involving an American citizen, in March 2007 the residence permit of a U.S. Protestant humanitarian aid worker in Minsk was cancelled and he was deported. Belarusian officials claimed he was involved in activities "aimed at causing damage to national security" but did not define the alleged threat. Members of the Hare Krishna community continued to report that existing legislation prevents them from inviting foreign clergy to participate in religious activities.

In contrast to the harsh measures described above, Lukashenko signed a law in late 2005 that exempted from tax the land and property of many religious organizations. The list of eligible religious organizations includes those denied re-registration but not yet liquidated by court order, such as the Minsk-based New Life Church and the Minsk Society for Krishna Consciousness. However, the recently liquidated Minsk-based Belarusian Evangelical Church and Belarusian Evangelical Reformed Union reportedly are not included.

The Commission traveled to Belarus in 2003 and met with officials of the State Committee on Religious and Nationalities Affairs as well as with representatives of various religious and human rights groups. The Commission released a report on Belarus in May 2003

with recommendations for U.S. policy, reflecting the findings from its visit to that country. The Commission welcomed passage of the 2004 Belarus Democracy Act as well as President Bush's reauthorization of that Act in January 2007. This legislation reflected certain Commission recommendations regarding freedom of religion in Belarus.

Throughout the past year, Commission staff has met with independent human rights activists from Belarus, including the author of the "White Book," an extensive report on religious persecution in that country. In the past year, the Commission continued to take part in meetings of the Organization for Security and Cooperation in Europe, presenting information on freedom of religion in Belarus and meeting with Belarusian officials. In January 2008, Commission staff spoke in Brussels about U.S. policy promoting freedom of religion or belief at events sponsored by the non-governmental organization European Platform on Religious Intolerance and Discrimination.

Regarding multilateral approaches and international organizations, the Commission recommends that the U.S. government should:

- use every measure of public and private diplomacy to advance the protection of human rights, including religious freedom, in Belarus, including enhanced monitoring and public reporting by the U.S. Department of State and the appropriate international organizations;

- coordinate with the European Union on the application of financial sanctions and visa bans on high-ranking Belarusian officials, particularly those who are directly responsible for or who have carried out the government's abuses of religious freedom;

- undertake efforts to prevent Belarus from gaining membership in the new UN Human Rights Council; and

- urge the Belarus government to issue invitations to the UN Special Rapporteur on the Situation of Human Rights in Belarus; the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief, as well as the Working Group on Enforced and Involuntary Disappearances.

Regarding its bilateral relations with Belarus, the U.S. government should:

- urge the Belarus government to take immediate steps to end repression, including:

  --repealing the highly repressive religion law;

  --ending the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;

  --providing the right to conduct religious education and distribute religious material;

--halting government attacks on the persons and property of minority religious groups;

--ensuring a greater effort on the part of government officials to find and hold to account perpetrators of attacks on the persons and property of members of religious minorities; and

-- providing free access by domestic and international human rights groups and others to sites of religious violence or the destruction of places of worship;

- urge the Belarus government to ensure that no religious community is given a status that may result in or be used to justify impairment of the rights of members of other religious groups;

- urge the Belarus government to publicly condemn, investigate, and prosecute criminal acts targeting Jews and the Jewish community, as well as members of other ethnic and religious communities;

- continue to support, publicly and privately, persons and groups engaged in the struggle against repression in Belarus, including the group of religious and opposition activists who make up the Freedom of Religion Initiative that published the "White Book"; and

- organize roundtables inside Belarus between members of registered and unregistered religious communities and international experts on freedom of religion.

Regarding U.S. programs and policies, the U.S. government should:

- institute fully the measures set forth in the 2007 Belarus Democracy Reauthorization Act, which expresses the sense of Congress that sanctions be applied against the government of Belarus until the U.S. president "determines and certifies to the appropriate congressional committees that the government of Belarus has made significant progress" in meeting human rights conditions designated in the bill, including: the release of individuals who have been jailed on account of their political beliefs; the withdrawal of politically motivated charges against opposition figures; a full accounting of the "disappearances" of noted opposition leaders and journalists; and the cessation of all forms of harassment of independent media, non-governmental organizations, opposition groups, and religious organizations; specific sanctions would include: the denial of entry into the United States to high-ranking Belarusian officials, and the prohibition of strategic exports and U.S. government financing to the Belarusian government, except for humanitarian goods and agricultural or medical products;

- ensure that the activities to promote democracy authorized by the Belarus Democracy Act include the right to freedom of religion or belief and the promotion of religious tolerance;

- urge Congress and the State Department to ensure that U.S. government-funded radio broadcasts to Belarus, including those of Radio Free Europe/Radio Liberty, continue at least at their present levels and that efforts are made to secure sufficient transmission capacity to ensure reliable reception throughout that country; and

- provide increased international travel opportunities, particularly to attend international conferences, for Belarusian civil society leaders, including representatives of human rights groups and religious leaders, and others who defend freedom of religion in that country.

Cuba

Religious belief and practice continue to be tightly controlled in Cuba. Religious freedom conditions have been affected in part by the ongoing government crackdown on democracy and free speech activists, resulting in a generally deteriorating situation for human rights, including religious freedom. A 2005 law on religion meant to "legalize" house churches has reinforced the government's efforts to increase control over some religious practice. The Commission continues to place Cuba on its Watch List, and will monitor conditions of freedom of religion or belief in Cuba to determine if they rise to a level warranting designation as a "country of particular concern," or CPC.

Cuba's human rights record, which deteriorated significantly in 2003, continued to be poor in 2007. Cuba remains a Communist Party-dominated dictatorship. After seizing power in 1959, President Fidel Castro maintained a strong, centralized control of all facets of life in Cuba. In July 2006, Fidel Castro became ill and turned power over to his brother Raul Castro. In February 2008, Fidel resigned as head of state and five days later, on February 24, the National Assembly voted Raul officially as the next head of state of the Cuban government. Accepting the position, Raul stated that he would continue to consult with his brother on issues important to the future of Cuba. However, since becoming president, Raul Castro has lifted several restrictions, allowing for more private business transactions, greater freedom of movement inside the country, and more communication with the West. Cubans can now legally own cell phones, stay at luxury hotels, visit beach resorts previously reserved only for tourists, rent cars, buy DVD players, and cultivate coffee and tobacco on unused state land. The government has also announced plans to allow Cubans to purchase computers, freely travel throughout the country, and start their own small businesses. These changes, however, while potentially positive steps, have not addressed restrictions on freedom of religion or belief, freedom of assembly, or freedom of speech.

Parliamentary, judicial, and executive institutions continue to exist in name only in Cuba and there is no legal or political avenue of dissent. Individuals who engage in dissent are harassed, jailed, and mistreated in prison. In February 2003, the Cuban government initiated an extensive crackdown on democracy activists, including those supporting the Varela Project, a referendum calling for economic and political reforms submitted to the Cuban government in 2002 and 2003, and the Christian Liberation Movement. Since that time, the crackdowns have continued and several more human rights activists have been imprisoned since Fidel transferred power to Raul in 2006. In response to the Varela Project, the Cuban National Assembly unanimously passed an amendment making socialism the irrevocable basis of the constitution.

Since 1959, the communist government has sought to suppress religious belief and practice because it was "counterrevolutionary." During the early years of the Castro regime, government and Communist Party officials forced priests, pastors, and other religious leaders

into labor camps or exile and systematically discriminated against those who openly professed religious belief by excluding them from certain jobs or educational opportunities. In the past decade, however, the state instituted a limited rapprochement with religious believers, and it seemed as though conditions might improve. For example, the government abandoned its official policy of atheism in the early 1990s. Castro welcomed a visit from Pope John Paul II in 1998 and visited Havana's Jewish Community Center for its Hanukah celebration that same year. In 2000, official recognition of religious holidays was reinstated, and members of Cuba's Jewish community were allowed to emigrate to Israel. The Pope's visit, in particular, sparked great hopes within the religious communities in Cuba, as well as among democracy activists, who viewed these steps as a softening of past government policies.

Yet, despite optimism that religious freedom conditions would improve, violations and restrictions have continued, as has the government's strong degree of control and generally hostile attitude toward religion. Although the Cuban government seeks to project the image that the right to religious freedom is respected, in fact, government authorities continue to view the influence of religion as a threat to the ideology of Castro's revolution. In early 2001, the Communist Party in Havana prepared a report that criticized inroads made by churches, particularly the Roman Catholic Church, into Cuban society, and asserted that the social work of the churches violated the law. Communist Party officials reportedly apologized to the Catholic Church hierarchy after the report became public. Nevertheless, Havana's Catholic Cardinal, Jaime Ortega y Alamino, gave an interview in 2003 in which he asserted that "restrictions on religious freedom are returning" in Cuba, and that they represent a "return to the ideology of repression." The crackdowns on the freedoms of speech, assembly, and association in Cuba since 2003 have affected religious freedom conditions also. In 2004 there were reports that a marked shift in government propaganda had taken place favoring strict interpretations of communist orthodoxy, including an assault on religious freedom and related human rights, a policy that reportedly continues.

The government's main interaction with, and control of, religious denominations is through the Office of Religious Affairs of the Cuban Communist Party. The Cuban government also requires churches and other religious groups to register with the relevant provincial office of the Registry of Associations within the Ministry of Justice. According to the State Department, the Cuban government is most tolerant of those religious groups that maintain "close relations" with the state or those who "often [support] government policies." Currently, there are approximately 50 state-recognized religious groups, primarily Christian denominations, half of which are members of the government-recognized Cuban Council of Churches (CCC). In recent years, the government had not granted recognition to any relatively new denominations; however, in March 2007, several denominations were granted full legal recognition, including some Yoruba and other Santeria, Greek and Russian Orthodox, Baptist, Buddhist, and Islamic religious groups. There are also small Jewish communities. The government has not prevented activities of the Baha'is and the Church of Jesus Christ of Latter-day Saints (Mormons), groups that are not officially registered, and has registered groups that do not belong to the CCC, including the Jehovah's Witnesses. In the past, there were reports that conditions for Jehovah's Witnesses had improved substantially; however, in the past year, there has been harassment of and discrimination against members of this group by local Communist Party and government officials. In 2007, Ray Luciano Lopez Morence, a Jehovah's Witness, was detained for three days for refusing to fulfill the compulsory military service before being sanctioned and fined.

In recent years, the Cuban government has rarely permitted the construction of new places of worship, and the government did not grant permission for the construction of any new worship buildings in 2007. However, according to the CCC, many churches expanded in 2007 without government permission. Many religious groups, registered and unregistered, hold services in private homes or similar accommodations, commonly known as "house churches." There are reports that at least 10,000 house churches exist nationwide, the majority of which are technically illegal. Permission for meetings in house churches is frequently denied to those outside the recognized religious faiths and to those the government deems to be "an independent religious movement" (i.e. not recognized or hostile to government policies). If a complaint is made against a house church meeting, it can be broken up and the attendees imprisoned. Since 2005, several house churches from registered and unregistered denominations have reportedly been confiscated or destroyed. In many of these cases, local authorities told house church leaders and members that their buildings were "unsuitable" and then appropriated the buildings. One non-governmental organization reports that some of the churches were bulldozed, some remain vacant, and at least one was turned into a school.

A September 2005 law requires all house churches to register. In order to receive legal registration, the law requires that there be no more than three meetings per week; that a house church cannot be within two kilometers of another house church of the same denomination; and that detailed information on the number of members, when services will be held, and the names and ages of the inhabitants of the house be provided. The requirements also prohibit the participation of foreign citizens without government permission and the presence of such individuals in the mountainous regions. Put into effect as Directive 43 and Resolution 46, these requirements have increased concerns primarily among Protestant and Santeria religious groups, many of which hold unauthorized religious meetings in private homes several times per week. If the registration application is refused, the members of the house church are not permitted to meet. There are reports that at least one house church was demolished, several threatened with demolition, and several were shut down or confiscated since Direction 43 and Resolution 46 were promulgated. There are also reports of individual worshippers receiving citations and some churches repeatedly being forced to pay large fines. However, there is no evidence that the new legislation has resulted in a systematic crackdown on house churches.

In the past year, both registered and unregistered religious groups continued to experience varying degrees of official interference, harassment, and repression. The State Department reports that Cuban Interior Ministry officials regularly engage in efforts to monitor and control the country's religious institutions, including through surveillance, infiltration, and harassment of religious clerics and laypersons. In January 2004, a Ministry of Interior official revealed in an interview that government infiltration of civil and religious organizations remains widespread.

There have been reports of religious leaders being attacked, beaten, or detained for opposing certain actions of the local or state government. Priests who use sermons to criticize the government's human rights record have been put under surveillance, threatened, and beaten. Religious leaders who refuse to express support for government programs or act as informants are reportedly harassed in ways that have included mob protests. Some pastors from denominations registered with the CCC who call for increased separation of church and state

report harassment and threats by the government. In February 2006, Church of God Reverend Carlos Lamelas, an advocate for religious freedom and a critic of the state's interference in the church, was arrested and held for four months, although he was never formally charged. He was not brought to trial until December, and then on human trafficking charges. However, a new prosecutor dropped the charges days later due to lack of evidence. Since his release, Lamelas has not been permitted to resume his leadership position of his church, a CCC member, despite his congregation's support.

Some Protestant house churches continued to be harassed and evangelical denominations reported evictions from houses used for worship (most of which were unauthorized and thus illegal). Because an estimated 70 percent of the Afro-Caribbean population engages in at least some religious practice, which is viewed as presenting a potential grassroots threat to the government, religious groups in these communities are more heavily targeted than political opposition organizations. According to the State Department, in the past year, independent Santeria priests have been threatened and pressured to assimilate into the government-sanctioned Yoruba Cultural Association.

Political prisoners and human rights and pro-democracy activists are increasingly being limited in their right to practice their religion. Religious leaders report pressure, sometimes blatant, by the government to expel pro-democracy or human rights activists from their church and some activists have, in response, been asked by church leaders to distance themselves from the congregation. On Dec. 6, 2007, security officers forcefully entered the Santa Teresita de Nino Jesus Roman Catholic Church in Santiago and beat several human rights activists attending mass. Additionally, political prisoners report being denied the right to receive visits from clergy members, having Bibles and rosaries confiscated, and being prevented from attending religious services with other prisoners. The State Department reports that human rights activist Diosdado Gonzalez Marrero submitted 67 requests to allow a Catholic priest to visit him in prison, but was never granted a visit.

Family members of these prisoners are also affected. In many churches, security officials reportedly continue to monitor sermons and sit behind the wives of political prisoners in order to intimidate them. March 18 marks the anniversary of "Black Spring," the day in 2003 when 75 human rights activists, independent journalists, and opposition political figures were arrested on various charges. Every Sunday since 2003, wives of those arrested, known as the Ladies in White because they wear only white, attend mass at Santa Rita Church in Havana and then walk down Havana's embassy row, protesting their husbands' imprisonments. The Ladies in White organization was the joint winner of the European Parliament's 2006 Sakharov Prize for Freedom of Thought. In March 2007, government-directed mobs physically prevented wives of human rights activists, many from the "Ladies in White" organization, from traveling to Havana for mass at Santa Rita Catholic Church. The State Department also reports that several other political prisoners' wives were warned they would be arrested if they attempted to join the other wives at mass.

All publications are required to be registered with the Ministry of Culture. However, the Cuban Conference of Catholic Bishops has refused to register its publications, arguing that such registration would mean a loss of content and format control. Although the government has not

blocked the printing or publication of Catholic publications, increased government pressure in recent years, sometimes in the form of blocking the distribution of supplies, has led to the shutting down of several publications. In April 2007, *Vitral* magazine, an independent Catholic magazine that in the past has published articles critical of the Cuban government, announced that due to a lack of paper, ink, and Internet access, it would shut down. However, the magazine resumed publication in June 2007 under new management.

Other means by which the government restricts religious practice include: enforcement of a regulation that prevents any Cuban or joint enterprise, except those with specific authorization, from selling computers, facsimile machines, photocopiers, or other equipment to any church other than at the official—i.e. exorbitant—retail prices; an almost total state monopoly on printing presses; a prohibition on private religious schools; limitations on the entry of foreign religious workers; denial of Internet access to religious organizations; restrictions on making repairs to church buildings; and the denial of religious literature such as Bibles to persons in prison. Additionally, there is a requirement that religious groups receive permission from local Communist Party officials prior to holding processions or events outside of religious buildings. Refusal of such permission is often based on the decision of individual government officials rather than the law. According to the State Department, in 2005, the Catholic Church decided to stop seeking permits for religious processions in some areas. The State Department reports, however, that small, local processions occurred in provinces in 2007. For Easter, large processions were permitted in Camaguey and Santa Clara, and 800 youth participated in a special Easter observance outside Havana.

On the tenth anniversary of Pope John Paul II's trip to Cuba, Vatican envoy Cardinal Tarcisio Bertone traveled to Cuba in February 2008 and met with newly appointed Cuban President Raul Castro. Cardinal Bertone called for improved relations between the government and the Church and for increased openness in the state-controlled media, where the Catholic Church would like to have more religious services and events shown on government TV and radio. Unlike Pope John Paul, Cardinal Bertone did not call for the release of political prisoners.

With regard to Cuba, the Commission recommends that the U.S. government should:

- use all diplomatic means to urge the Cuban government to undertake the following measures aimed at bringing Cuba into compliance with its international legal obligations with respect to freedom of thought, conscience, and religion or belief:

  --order, publicly and officially, the state security agencies to end: the instigation of mob violence against religious persons and other human rights activists, including those recently released from prison; the mistreatment of indigenous religious communities; and the harassment of the spouses of imprisoned human rights activists during religious services and hold those involved in any further incidents accountable for their conduct;

  --revise government Directive 43 and Resolution 46 restricting religious services in homes or on other personal property, as well as other national laws and regulations on religious activities, to bring them into conformity with international standards on freedom of religion or belief;

--cease, in accordance with international standards, interference with religious activities and the internal affairs of religious communities, such as denials of visas to religious workers, limitations on freedom of movement of religious workers, infiltration and intimidation of religious communities, the arbitrary prevention of religious ceremonies and processions, and the attempted interference in the elections in religious bodies; and

--take immediate steps to end restrictions on religious activities protected by international treaties and covenants, including:

- ending the practice of arbitrarily denying registration to religious groups, as well as detaining or harassing members of religious groups and interfering with religious activities because of that unregistered status;

- issuing permits for construction of new places of worship;

- ending the practice of evictions and requisition of personal property of religious individuals or communities without due process, restitution, or provision of alternative accommodation;

- securing the right to conduct religious education and distribute religious materials; and

- lifting restrictions on humanitarian, medical, charitable, or social service work provided by religious communities and protecting persons who conduct such activities under Cuban law.

Egypt

Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as non-conforming Muslims, remain widespread in Egypt. Over the past few years, the Egyptian government has adopted several measures to acknowledge the religious pluralism of Egyptian society, including increased efforts to promote interfaith activity. Yet the government has not taken sufficient steps to halt the repression of and discrimination against religious believers, including the indigenous Coptic Orthodox Christians, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. The government also has not taken adequate steps to combat widespread and virulent anti-Semitism in the government-controlled media. On a positive note, in January 2008, Cairo's Court of Administrative Justice overturned the ban on providing official identity documents to members of the Baha'i faith by allowing Baha'is to put "other," dashes (--), or not list their religious affiliation at all on their identity documents. There was also increased public space to discuss and debate a wide range of religious freedom concerns in the media and other public fora, which, in previous years, was discouraged and prevented by Egyptian authorities. Nevertheless, due to persistent, serious concerns, Egypt remains on the Commission's Watch List and will continue to be monitored to determine if the situation rises to a level that warrants designation as a "country of particular concern," or CPC.

Egypt has a poor overall human rights record that includes repressive practices that seriously violate freedom of thought, conscience, and religion or belief. The government maintains tight control over all Muslim religious institutions, including mosques and religious endowments, which are encouraged to promote an officially sanctioned interpretation of Islam. According to Egyptian officials, the government regulates these Muslim institutions and activities as a necessary precaution against religious extremism and terrorism. The state appoints and pays the salaries of all Sunni Muslim imams, all mosques must be licensed by the government, and sermons are monitored by the government.

Human rights organizations inside the country are seriously concerned that Islamist extremism is advancing in Egypt, with detrimental effects on the prospects for democratic reform, religious tolerance, and the rights of women, girls, and members of religious minorities. Some believe that the government is not acting to its fullest ability to counteract this problem, especially in the areas of public education and the media, where extremist influence is growing.

There is continued prosecution in state security courts and imprisonment for those accused of "unorthodox" Islamic religious beliefs or practices that insult the three "heavenly religions": Judaism, Christianity, and Islam. Article 98(f) of the Penal Code, which prohibits citizens from "ridiculing or insulting heavenly religions or inciting sectarian strife," has been applied to prosecute alleged acts by purportedly "unorthodox" Muslims. These include Muslim groups, such as the Koranists—a very small group in Egypt that does not accept as authentic neither *hadith*, the oral traditions of the life of the Prophet Muhammad, nor *Sunna*, accounts of the way the Prophet Muhammad lived his life—who are accused of practicing beliefs thought to deviate from Islamic law. In May 2007, five members of an extended family belonging to the Koranists were arrested in Cairo. The detainees included Abdellatif Muhammad Said, who had been working on a Web site promoting reformist views of Islam, and Amr Tharwat, an employee of a pro-democracy center headed by one of Egypt's most well-known human rights and political reform advocates, Saad Eddin Ibrahim. One of the detainees claimed physical abuse while in detention. In October 2007, all five men were released. The government never stated precisely the charges against them, although a press report said that they had faced charges of "denigrating religions."

In February 2007, a court in Alexandria convicted and sentenced Abdel Karim Suleiman, a 22 year-old Internet blogger and former student at Al-Azhar University, to four years in prison, including three years for blaspheming Islam and inciting sectarian strife and one year for criticizing Egyptian President Hosni Mubarak. Suleiman had used his blog to criticize some activities of Al-Azhar University and the attacks on Coptic Christians in Alexandria in October 2005. In March 2007, an appeals court upheld his sentence. In December 2004, 13 "unorthodox" Muslims were referred to trial by a State Emergency Court on charges of "insulting heavenly religions"; their status remains unknown.

The Emergency Law, which has been in effect since 1981 and was renewed for another two years in May 2006, restricts many human rights, including freedom of religion or belief as well as freedom of expression, assembly, and association. The law must be extended again before May 2008 or it will expire. During his 2005 presidential campaign for a fifth six-year term, President Mubarak had pledged to rescind the law; in late December 2006, Mubarak stated

that he intended to replace the Emergency Law with new anti-terror legislation. Under the Emergency Law, the security forces mistreat and torture prisoners, arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, and occasionally engage in mass arrests. Thousands of persons have been detained without charge on suspicion of illegal terrorist or political activity; others are serving sentences after being convicted on similar charges. Egyptian and international human rights groups have asserted that the primary purpose of the State Emergency and Military Courts is to punish political activism and dissent, even when that dissent is peaceful. These courts are also used to detain and try individuals deemed by the state to have "unorthodox" or "deviant" Islamic or other religious beliefs or practices. In 2005, Egypt's National Human Rights Commission formally called for the Emergency Law to be lifted.

Members of Egypt's non-Muslim religious minorities, particularly Christians and Baha'is, report discrimination, interference, harassment, and surveillance by the Egyptian state security services. Over the past two – three years, there has been an upsurge of attacks targeting Coptic Orthodox Christians. In some cases, perpetrators have been arrested and convicted. In December 2007, Muslims and Christians clashed in the upper Egypt town of Esna, where Muslim rioters vandalized a Christian church and set fire to shops owned by Coptic Christians. Local Egyptian authorities responded by arresting more than a dozen alleged perpetrators; however, rather than charging those responsible, the authorities subsequently released them and instead provided compensation to victims of the destroyed property. In June 2007, Muslim rioters attacked two Coptic Orthodox churches, damaged Christian-owned shops, and injured seven Christians near Alexandria. In this instance, there is no indication that authorities pursued charges against those responsible. In May 2007, Egyptian security forces arrested 59 Muslims who had been accused of setting fire to Christian homes and shops in clashes over church construction. Prosecutors reportedly ordered the arrests after taking the testimony of 12 Coptic Christians who were injured in the clashes in the village of Behma, south of Cairo, in which hundreds of Christians and Muslims fought with sticks and hurled bricks and firebombs at one another. The 59 Muslims were charged with arson and spreading sectarian strife. In the weeks following the May events, the local authorities sought to arrange several reconciliation meetings but had not pursued formal charges against or prosecutions of those responsible for the violence. According to the State Department, police responded quickly in that incident to contain the violence.

In addition, Coptic Orthodox and other Christian denominations face societal intolerance and violence by Muslim extremists. Egyptian authorities have been accused of being lax in protecting the lives and property of these groups, as well as prosecuting those responsible for violent acts against them. In October 2005, Christians in Alexandria were the targets of rioting by extremists angered by the distribution of a DVD; resulting clashes left three Muslims dead and a Christian nun wounded. In February 2006, a criminal court in Alexandria sentenced a man to three years in prison for physically attacking the nun. In January 2006 near Luxor, more than a dozen Christians and Muslims were injured after clashes broke out when Muslim youths torched a house that Coptic Christians had been using as a makeshift church. According to the State Department, several Muslims involved with the Luxor violence were arrested and investigated by Egyptian authorities, although all were released without charges in May 2007.

In April 2006, three Coptic Christian churches in Alexandria were attacked on Palm Sunday by a Muslim man, resulting in the death of one Christian and the wounding of approximately a dozen others. In the three days of demonstrations that followed the attacks, rioting broke out, leaving one Muslim man dead and almost 40 Christians and Muslims injured. Some groups blamed excessive police force for some of the injuries to both Muslims and Christians. According to the Interior Ministry, the man who attacked the churches was caught and is being held; he is believed to be "mentally unstable." At least 100 persons were detained in response to these events, some for questioning and others on suspicion of incitement to riot and taking part in the riot. A People's Assembly fact-finding committee was formed to investigate the incident and report its findings; as of this writing, the committee had not yet released its findings publicly.

Violent attacks on Christian communities over the years have resulted in very few prosecutions of perpetrators, including the 2004 Court of Cassation decision to uphold the acquittal of 94 of 96 suspects who were charged with various offenses in connection with the killing of 21 Christians in Al-Kosheh in late 1999 and early 2000. Some Egyptian human rights advocates believe that Egyptian authorities should investigate claims of police negligence and inadequate prosecution of those involved in the violence.

In addition to violence, Christians face official and societal discrimination. Although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces *de facto* discrimination in appointments to high-level government and military posts. There are only a handful of Christians in the upper ranks of the security services and armed forces. There is one Christian governor out of 26, one elected member of parliament out of 444 seats, no known university presidents or deans, and very few legislators or judges. According to the State Department, public university training programs for Arabic-language teachers exclude non-Muslims because the curriculum involves the study of the Koran. Under Egyptian law, Muslim men can marry Christian women but Muslim women are prohibited from marrying Christian men. Romantic relationships across this divide are often a source of tension between Muslim and Christian communities in Egypt. In February 2007, Muslim groups reportedly set fire to several Christian-owned shops in southern Egypt due to rumors of a relationship between a Muslim woman and a Coptic Christian man. Seven Muslims and one Coptic Christian were arrested on suspicion of taking part in arson attacks on Christian-owned stores and property.

For all Christian groups, government permission must still be sought to build a new church or repair an existing one, and the approval process for church construction is time consuming and inflexible. President Mubarak continues to have the authority to approve applications for new construction of churches and more than 100 applications to build new churches await his decision. Though most of these applications were submitted more than five years ago, the majority have not received a response. Even some permits that have been approved cannot, in fact, be acted upon because of interference by the state security services at both the local and national levels. In December 2005, President Mubarak signed Decree 291 transferring authority for renovating or repairing existing churches from the president to the country's 26 governors. Although initially viewed as a welcome step, more than two years later,

several churches continue to face significant delays in receiving permits and some local authorities continue to prevent maintenance and renovation of existing churches.

Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the State Department has observed that the Egyptian government uses the Penal Code to discourage proselytizing by non-Muslims. Article 98(f) of the Code is used frequently to prosecute alleged acts of proselytism by non-Muslims. Known converts from Islam to Christianity generally receive attention from the state security services; most conversions are therefore reportedly done privately. Egyptian government officials have stated that no law prevents conversion, but some individuals have been arrested for falsifying identity documents following conversion. In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, reportedly have altered their own identification cards and other official documents to reflect their new religious affiliation.

In February 2008, in an important case, Egypt's highest court reversed a lower court's ruling prohibiting citizens from returning to Christianity after converting to Islam. However, in this case of 12 people allowed to return to Christianity, the court ruled that while their religious affiliation on identity documents can be changed to "Christian," the documents must also refer to each individual as a "formerly declared Muslim," thus potentially opening a new justification for police harassment and/or continued prejudicial treatment by officials responsible for providing public services, as well as societal violence. This potentially positive development may be short-lived, however. In March 2008, an Egyptian judge appealed the February ruling to the Supreme Constitutional Court to review the constitutionality of Article 47, which guarantees "freedom of opinion," the law cited by the Supreme Administrative Court that allowed the 12 converts to Islam to return to Christianity. The appeal requests that the Constitutional Court rule on whether or not Article 47 contradicts Article 2, which makes Islamic law the principal source of legislation. As of this writing, the appeal is pending.

In contrast to these re-conversion cases, the Egyptian government generally does not recognize conversions of Muslims to other religions. In a ruling in January 2008, an Egyptian court denied the right of Mohammed Hegazy to change his identity card to reflect his conversion to Christianity from Islam. Citing Article 2 of the Egyptian constitution, which says that Islamic law is the principal source of legislation, the judge ruled that since Hegazy was born Muslim and Islam is the "final and most complete religion," he could not convert to another, allegedly less "complete" belief, such as Christianity. Hegazy, who has been subjected to death threats for trying to exercise the right to choose his religion freely, is the first convert to Christianity to sue the Egyptian government for officially rejecting his application to change his religious affiliation on identity documents.

In other developments, in late November 2007, police in Qena arrested Siham Ibrahim Muhammad Hassan al-Sharqawi, a Muslim convert to Christianity who had been in hiding since 2003. She was interrogated for four days and threatened with beatings. According to press reports, her whereabouts have been unknown since November 27, though she may have been released and gone into hiding. In August 2007, two representatives of the Canadian-based Middle East Christian Association (MECA) were detained and charged with insulting Islam and tarnishing Egypt's reputation abroad. One of those detained had apparently conducted an online

interview with Muhammad Hegazy, the above-mentioned convert from Islam to Christianity, only days before his arrest. The two men were eventually released after 90 days in detention. In early November, three other employees of MECA were detained after they were reportedly investigating the death of a Christian man allegedly killed by Egyptian police. They were released without charge in late December. In April 2007, Egyptian authorities released Baha Al-Accad, a citizen who was born Muslim but converted to Christianity. Accad was detained in April 2005, acquitted by a court for "contempt of religion," subsequently released, detained again in 2006, and transferred to a prison in Wadi Natroun, where he was held for more than two years without charge. He was reportedly threatened by authorities upon his release.

All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is are unable to meet and engage in group religious activities. Over the years, Baha'is have been arrested and imprisoned because of their religious beliefs, often on charges of insulting Islam. Almost all Baha'i community members are known to the state security services, and many are regularly subject to surveillance and other forms of harassment. Al-Azhar's Islamic Research Center has issued *fatwas* (religious edicts) in recent years urging the continued ban on the Baha'i community and condemning Baha'is as apostates. There has been increased intolerance of Baha'is in both the independent and government-controlled media in recent years.

In a positive development, in January 2008, Cairo's Court of Administrative Justice overturned the ban on providing official identity documents to members of the Baha'i faith by allowing Baha'is to put "other," dashes (--), or not list their religious affiliation at all on identity documents. The Egyptian government's requirement that religious affiliation be included on national identity cards has particularly affected the Baha'i community, as it has been the case up until this ruling that only the three "heavenly religions" (Islam, Christianity, and Judaism) are recognized and protected under the Constitution. Although no such limitation appears in the Constitution itself, the state has interpreted the text in this way because only three religions are recognized in Islam. Since "Muslim, Jew, or Christian" are the only choices, Baha'is have been prevented from obtaining identity cards, which are needed for many basic transactions, such as opening a bank account, buying a car, or obtaining a driver's license. Moreover, the Egyptian government has made it illegal to be in public without an identity card. Because the Baha'i faith is banned, the community also has difficulty obtaining birth and death certificates, as well as obtaining or renewing passports. If fully implemented, this new ruling could potentially address one of the longstanding discriminatory polices related to freedom of religion or belief for Baha'is in Egypt. In April 2008, a press report indicated that the Egyptian Ministry of Interior decided not to appeal the January verdict, but planned to weaken it such that Baha'is would have the option only of putting dashes (--) in the religious affiliation section, and not writing "other" or leaving the section blank.

There have been attempts in the past to address this issue. In April 2006, a lower Egyptian administrative court ruled that a Baha'i couple should be permitted to identify their religious affiliation on official government documents. This positive development proved short-lived, as the Interior Ministry appealed the ruling following the advice of religious authorities and some parliamentary members. A higher court suspended the original decision in May 2006, creating a renewed sense of insecurity in the Baha'i community. In August 2006, Egypt's

National Council for Human Rights (NCHR), a government-appointed advisory body, held an unprecedented public symposium in Cairo focused solely on the Egyptian government's policy requiring citizens to list their religion on national identification cards. At the symposium, human rights and civil society groups testified that the Egyptian government should reverse its policy. Nevertheless, in December 2006, the Supreme Administrative Court upheld the Egyptian government's discriminatory policy of prohibiting members of the Baha'i community from obtaining national identity cards. Because Baha'is were forced to choose between claiming adherence to a religion other than their own or foregoing an identity card and other official documents, the court's ruling effectively denied Egyptian Baha'is their rights as citizens of Egypt and subjected them to particular hardship in obtaining education, employment, and social services. The recent law requiring all citizens to carry new, computerized identity cards means that those who do not carry them face detention and arrest. Although no such arrests have been made, in 2005 – 2006, a Baha'i was dismissed from a job and at least two Baha'is (a student and lecturer) were expelled from universities because they were unable to obtain identity cards.

Material vilifying Jews—with both historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes anti-Semitic cartoons, television programming such as a 24-part series based on the notorious anti-Semitic "Protocols of the Elders of Zion," and spurious Holocaust denial literature. Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media, despite official claims that they have advised journalists to avoid anti-Semitism. Human rights groups also cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamist extremists, a development the Egyptian government has not adequately addressed. The small Jewish community maintains and owns its property and performs required maintenance largely financed through private donations. In November 2007, the American Jewish Committee announced that representatives had recently met in Cairo with Egyptian government officials to discuss the preservation of Jewish heritage in Egypt. Egyptian authorities, including the Minister of Culture and the head of the Ministry's Supreme Council of Antiquities, pledged to move forward over the next few years with the restoration of the seven synagogues under the Council's supervision as well as the possible development of a Jewish museum in Egypt.

After several years of close surveillance, authorities increased repressive measures in late 2005 and early 2006 against the small community of Jehovah's Witnesses, who are not recognized by the Egyptian government. After a period of improved conditions and a significant decrease in harassment and abuse by government officials in 2006, the number of interrogations by Egypt's state security services of Jehovah's Witnesses increased in 2007 and early 2008. In particular, one member of the state security services in Cairo has increasingly used intimidation and threats of physical abuse to extract information about co-religionists. Jehovah's Witnesses in Egypt continued to pursue legal recognition but have not made any significant progress with Egyptian authorities in the past year.

The Muslim Brotherhood and other Islamist political groups, which advocate or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law, are considered illegal organizations by the Egyptian government under a law prohibiting political parties based on religion. Despite these restrictions, the Muslim Brotherhood has become more visible in Egypt's political landscape. In fact, more than 100 members of the Muslim Brotherhood ran as

independent candidates in the December 2005 parliamentary elections and won 88 seats, up significantly from their previous 15. The Muslim Brotherhood and other Islamist political groups have used violence in the past to achieve their aims, including the assassination of President Anwar al-Sadat in 1981 and attacks on foreign tourists. Some of these groups persist in advocating violence. Egyptian security forces continue to arrest hundreds of suspected Islamists every year, and some are subject to torture and/or prolonged detention without charge. According to Egyptian and international human rights groups, at any given time, there are several thousand political detainees, including members of the Muslim Brotherhood and other Islamist political groups, in administrative detention and their cases are not being investigated. Most groups that closely monitor the detention of such individuals claim that the vast majority of these prisoners are in prison as a result of their political beliefs or activities, and not on the basis of religion.

On a positive note, in November 2005, the National Council for Human Rights (NCHR) announced the formation of a sub-group, the "Citizenship Committee," to focus on religious freedom issues. As a result, the NCHR's 2006 and 2007 annual reports contained increased reporting on religious freedom concerns. Issues addressed in the most recent report included the situation of Baha'is, problems facing Jehovah's Witnesses, violence targeting Christians, and the need for the government to pass a law on the construction of new places of worship for all religious groups.

Throughout the past year, the Commission continued to meet with representatives of the various religious communities in Egypt, as well as with human rights organizations, academics, and other experts. In July 2004, a Commission delegation traveled to Egypt. While there, the delegation met with senior government officials, religious leaders, human rights groups, scholars, educators, legal specialists, and others active in civil society. In June 2005, the Commission released a *Policy Focus* brief on Egypt at an event at the Woodrow Wilson Center in Washington, DC. The *Policy Focus* on Egypt provided details about the Commission's visit to Egypt and presented recommendations for U.S. policy.

In February 2008, the Commission issued a statement calling on the Egyptian government to respect the judicial rulings on identity cards for Baha'is and Christian converts, as discussed above. In June 2007, the Commission issued statements expressing concern about the May and June detention of five Koranists, and an appeal to the highest Egyptian court by 45 Coptic Christians requesting that their national identity cards officially recognize their return to Christianity. In May 2007, the Commission met in Washington, DC with the Deputy Chair of the Egyptian National Council for Human Rights to discuss ongoing religious freedom concerns in Egypt. Also in May, then-Commission Vice Chair Nina Shea testified at a Members' briefing of the Task Force on International Religious Freedom of the Congressional Human Rights Caucus entitled "Religious Freedom in Egypt: Recent Developments."

In November 2006, the Commission issued a statement calling for the Egyptian government to reverse its discriminatory policy on national identity cards. In December, the Commission expressed deep regret over a decision by the Supreme Administrative Court of Egypt to uphold the Egyptian government's discriminatory policy of prohibiting Baha'is from obtaining national identity cards. In January 2006, the Commission wrote to Secretary of State

Condoleezza Rice requesting that the United States urge President Mubarak to prevent the imminent deportation of hundreds of refugees and asylum seekers back to Sudan, where many of them reportedly faced religious persecution. Approximately 3,000 Sudanese had been staging a peaceful protest in Cairo since September 2005. In late December 2005, Egyptian police attempted to disperse the assembly by firing water cannons at the protesters and beating many; at least 25 men, women, and children died.

In July 2005, then-Commission Vice Chair Felice D. Gaer testified before a Members' Briefing of the Congressional Human Rights Caucus entitled, "The Human Rights Situation in Egypt: An Overview." In November 2005, Commissioner Elizabeth H. Prodromou testified before the Congressional Human Rights Caucus at a hearing entitled "Religious Freedom in Egypt." Also in July 2005, House Resolution 413 was introduced, expressing the concern of the House of Representatives that the amount of U.S. foreign assistance provided to Egypt over the past 25 years has increased despite the lack of any meaningful political reforms by the government of Egypt. The resolution contains a significant number of the Commission's recommendations with regard to Egypt.

I. Taking Most Responsibility for Religious Affairs Out of the Hands of the Egyptian Security Services

The Commission recommends that the U.S. government urge the Egyptian government to:

- remove *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence or the advocacy of violence;

- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;

- implement procedures that would ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance, and take special measures to preserve Coptic Orthodox and other Christian properties and antiquities, which too often are subject to societal violence and official neglect;

- repeal Article 98(f) of the Penal Code, which "prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife"; allow for full access to the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Article 98(f); and release Internet blogger Abdel Karim Suleiman and other individuals convicted under Article 98(f) on account of their religion or belief.

II. Implementing Additional Reform in Order to Comply with International Human Rights Standards

The U.S. government should also urge the Egyptian government to:

- repeal a 1960 presidential decree banning members of the Baha'i community from practicing their faith;

- exclude from all educational textbooks any language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on faith, gender, ethnicity, or nationality, and include in school curricula, textbooks, and teacher training the concepts of tolerance and respect for human rights, including religious freedom, ensuring that textbooks meet the standards set out in the Universal Declaration of Human Rights;

- cease all messages of hatred and intolerance, particularly toward Jews and Baha'is, in the government-controlled media and take active measures to promote understanding and respect for members of these and other minority religious communities;

- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;

- fully implement the January 2008 ruling of Egypt's Court of Administrative Justice, which overturned the ban on providing official identity documents to members of the Baha'i faith by allowing Baha'is to put "other," dashes (--), or not list their religious affiliation at all;

- remove the designation "formerly declared Muslim" from identity cards for those Christians who have converted back to Christianity from Islam, which makes the persons involved vulnerable to official harassment and societal violence;

- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either to (a) omit mention of religious affiliation from identity documents, or (b) make optional any mention of religious affiliation on identity documents, since currently, individuals must identify themselves as adherents of one of the three faiths recognized by the state—Islam, Christianity, or Judaism—or, as a result of the January 2008 ruling, put dashes (--) in the religious affiliation section;

- more actively investigate religious-based violence against Egyptian citizens, particularly Coptic Christians, prosecute perpetrators responsible for the violence, and ensure compensation for victims;

- investigate claims of police negligence and inadequate prosecution of those involved in the Al-Kosheh case, as well as other past instances of violence targeting individuals on account of their religion or belief, particularly members of the vulnerable Coptic Orthodox Christian community;

- request the National Council for Human Rights to investigate allegations of discrimination against Coptic Orthodox Christians as a human rights issue and to publish its findings and recommendations; and

- implement the 2002 recommendations of the UN Committee Against Torture, as well as other relevant international human rights treaties to which Egypt is a party.

III. Ensuring that U.S. Government Aid Promotes Prompt and Genuine Political and Legal Reforms and is Offered Directly to Egyptian Civil Society Groups

In addition, the Commission recommends that the U.S. government should:

- establish a timetable for implementation of political and human rights reforms, including steps described in the recommendations above; if deadlines are not met, the U.S. government should reconsider the appropriate allocation of its assistance to the Egyptian government;

- continue direct support for human rights and other civil society or non-governmental organizations (NGOs) without vetting by the Egyptian government;

- urge the Egyptian government to ensure that NGOs engaged in human rights work can pursue their activities without undue government interference, and monitor and report to what extent this is accomplished; and

- expand support of initiatives to advance human rights, promote religious tolerance, and foster civic education among all Egyptians, including support for:

  --civic education and public awareness programs that reflect the multi-confessional nature of Egyptian society and the diversity of Egypt's religious past;

  --efforts by Egyptian and international NGOs to review Egyptian educational curricula and textbooks for messages of hatred, intolerance, and the advocacy of violence, and to monitor equal access to education by girls and boys regardless of religion or belief; and

  --preservation of Egyptian Jewish properties and antiquities in a publicly accessible site, such as in a museum, so that all Egyptians can better understand past and present Jewish contributions to their history and culture.

In the context of the annual congressional appropriation for U.S. assistance to Egypt, Congress should require the State Department to report to it annually on the extent to which the government of Egypt has made progress on the issues described in this chapter, as well as on the progress of the U.S. government on offering funding directly to Egyptian NGOs without prior Egyptian government approval.

Indonesia

Indonesia's transition to democracy since 1998 has contributed to a gradual improvement in conditions for human rights, including religious freedom. The majority of Indonesia's diverse religious communities operate openly and without many restrictions, though religious groups outside of the six officially-recognized religions (Islam, Protestantism, Catholicism, Hinduism,

Buddhism, and Confucianism) face some restrictions and discrimination. President Susilo Bambang Yudhoyono's government continues to take positive steps to address terrorism and past sectarian violence and to bring peace to the region of Aceh. The Commission remains concerned, however, about continued instances of communal violence, the forcible closures of places of worship belonging to religious minorities, the growing political power and influence of religious extremists, the human rights abuses perpetuated by the military and police, and the harassment and arrest of individuals considered "deviant" under Indonesian law. Moreover, various segments of the Indonesian government sometimes tolerate discrimination and abuse of religious minorities by extremist groups. Because of these persistent concerns, the Commission continues to place Indonesia on its Watch List.

Islam in Indonesia is known historically for its tolerance and its assimilation and accommodation of a variety of indigenous cultural traditions. Over the past decade, there has been a revival of Islamic awareness and piety, previously repressed by the former military government. The wearing of Islamic dress has re-emerged as an outward sign of devotion; the number of Islamic banks, businesses, and publications is growing; and Islamic-themed art and fiction are becoming more popular. Indonesian Muslim leaders have engaged in vibrant discussions on the nature of democracy and pluralism, the separation of religion and state, women's rights, and human rights more generally. There are numerous religious political parties and the role of Islam in politics and society, as well as the growth of terrorism justified on religious grounds, are topics discussed widely on television and radio and in numerous public fora, including during the 2004 presidential debates.

The revival of Islamic piety, coupled with Indonesia's new democratic openness, has strengthened Indonesia's moderate Muslim institutions, but it has also nurtured religious groups espousing intolerance and extremism under the banner of Islamic orthodoxy. There continue to be a disturbing number of instances where allegedly heterodox Muslims and some non-Muslims face intimidation, arrest, or other violence for "denigrating religion," "deviancy," or "blasphemy." If radical religious groups were to build a unified political base, there would be legitimate fears that Indonesia's culture of pluralism, moderation, and tolerance would be eroded. Given the upcoming 2009 Presidential election, the full protection of religious freedom, for all of Indonesia's diverse religious communities, will be an important bellwether of Indonesia's commitment to democracy.

In 2002, the Commission placed Indonesia on its Watch List after sectarian violence in Central Sulawesi and the Malukus claimed thousands of lives and displaced tens of thousands of others. Religiously-motivated violence has declined sharply since that time and police have arrested—and local courts have sentenced—some individuals responsible for those acts of violence. While sectarian tensions remain tense in some places, local religious leaders and government officials, including Vice President Josef Kalla, have worked to promote reconciliation and defuse tensions in former conflict areas. Local governments have instituted interfaith development projects to rebuild churches, mosques, and homes destroyed in past violence. According to the State Department's 2007 *Country Reports on Human Rights Practices*, police have arrested dozens of suspects, both Christians and Muslims, for past involvement in sectarian violence. Significantly, there have no deaths or injuries related to communal or sectarian violence in the Malukus during the past two years.

Nevertheless, mob violence, terrorist acts, and sectarian tensions continue to be problems in Central Sulawesi, despite active efforts by local authorities to promote reconciliation and by police and security forces to apprehend perpetrators. Extremist groups continue to train, recruit, and operate in Central and South Sulawesi, and these groups have frequently been responsible for attacks on members of religious minorities and police, instigating mob actions to restrict religious activities, and organizing political efforts to segregate Central Sulwesi into Muslim and Christian enclaves. In 2005, extremists beheaded three Christian girls, shot two others waiting for a school bus, attacked Protestant religious leaders and services, and bombed a pork market and a Hindu temple in Poso and Palu, Central Sulawesi. Local religious leaders condemned the attacks as the work of "outside extremists" seeking to undermine interfaith reconciliation efforts. Police arrested the individual who planned the beheadings of the schoolgirls in Poso. In March 2007, the purported mastermind of the attacks was given a 20-year sentence and his accomplices were given14-year sentences. In addition to these arrests, police also apprehended at least 10 others who confessed to participating in various bombings, beheadings, and shootings in Central Sulawesi over the past two years. Police in Central Sulawesi claim that they have arrested or killed 18 of the 29 individuals "most wanted" for sectarian violence, including two individuals accused of the 2006 assassination of Reverend Irianto Kongkoli.

Despite some successes, police tactics and alleged judicial favoritism have combined sometimes to exacerbate communal tensions. For example, in September 2006, Fabianus Tibo, Dominggus da Silva, and Marianus Riwu were executed for their alleged roles in the 2000 killings of 191 Muslims at a local boarding school. Despite evidence that called into question the case against the three, including the public reservations of Poso's former Chief of Police, subsequent higher courts allowed the execution to proceed. The executions led to violence in areas of East Nusa Tenggara Province, where the three men were born, and in Central Sulawesi. In Flores, East Nusa Tenggara, 3,000 Christians rioted and burned down government buildings. In Kefamananu and Atambua, West Timor, between 3,000 and 5,000 persons, largely Christians, rioted, destroying government buildings, homes, and vehicles. In Central Sulawesi, on the same day as the executions, a mob beat two Muslims to death in the predominately Christian village of Taripa. Police arrested 17 people for participating in the killings; all of them admitted their involvement. Several other incidents occurred following the executions, including three small bombings, attacks on both Muslim and Christian targets, and an attack on the new Central Sulawesi police chief. Local religious leaders report that police continue to protect churches during services.

In 2006, Vice President Kalla met with community and religious leaders in Central Sulawesi to urge reconciliation and assured residents that security personnel would remain in Poso to help resolve local conflicts. Some local religious leaders contend that that tactics used by counterterrorism units and police investigators sent from Jakarta, including a counter-terrorism unit called Detachment 88, a group partially trained and equipped by U.S. foreign assistance grants, have the potential to exacerbate problems further in Central Sulawesi. In the months following the executions of Tibo, da Silva, and Riwu, Detachment 88 units moved aggressively to arrest Muslim individuals suspected of participating in sectarian violence. In three separate raids during January 2007, police killed at least 16 people and captured 28 other

suspects. During the funerals for two of those killed in the raids, mobs rioted, killing three people, including a local policeman. A week later, bombs exploded in the Ecclesia Poso Church, though there were no casualties. Local religious leaders report that extremists are now portraying the police as *thoghut* (anti-Muslim forces). There are concerns that the harsh tactics used by Detachment 88 will increase sympathy for extremists in Central Sulawesi, attract religious militants from other regions to Sulawesi, and eventually lead to a backlash against local Christians. Many grievances remain about the sectarian conflict that occurred in 1999-2001, including fears that few of those responsible for instigating the violence will be held accountable. An estimated 35,000 people continue to live in camps for the internally displaced. Extremist groups, such as *Mujahidin Kompak* (MK) and *Tanah Runtuh*, continue to train and operate in Sulawesi. The June 2007 arrest of suspected terrorist leader Abu Dujana confirmed that terrorist networks are aiming to stoke sectarian tensions in Central Sulawesi by planning bombings and assassinations of religious leaders.

The Indonesian government continues to make notable progress in capturing and prosecuting persons accused of specific terrorist activities. Over the past several years, the government has prosecuted six individuals responsible for the suicide attack on the Australian Embassy in 2004, and three individuals who planned and implemented the 2005 Bali bombing. In 2007, police also arrested 17 *Jemaah Islamiyah* (JI) suspects for planning new terrorist operations in Central Sulawesi**.** In April 2008, an Indonesian court officially declared JI a terrorist organization and sentenced its military commander, Abu Dujana, to 15 years imprisonment for stockpiling weapons, harboring fugitives, and committing terrorist violence. The Court's decision could pave the way for the banning of JI in Indonesia, something that the Indonesian government has heretofore been reluctant to do.

Religious extremists are a very small but still influential minority in Indonesia. Moderate Muslim leaders and members of religious minorities report that they continue to face pressure, intimidation, or sometimes violence from protests organized by extremist groups. According to the Indonesian Institute on Democracy and Peace (SETARA), communal violence and the arrest and detention of predominantly Muslim individuals considered "deviant" under Indonesia law have risen during the past year. In most cases, extremists groups instigated mob violence or pressured local officials to make arrests or close religious venues. The epicenter of most religious freedom restrictions and abuses is in the region of West Java, with important cases occurring in East Java, West Nusa Tenggara, Jakarta, and Yogyakarta.

Over the past several years, members of such groups as Islamic Defenders Front (FPI), the Indonesian Council of Martyrs (MMI), the Alliances for Anti-Apostates (AGAP), the Islamic Umat Forum (FUI), and *Laskar Jundullah* have used pressure, intimidation, or violence against those whose views or actions they found unacceptable. Their actions have included intimidating judges and local officials; vandalizing and destroying buildings belonging to religious minorities, including Christian churches, Hindu temples, and Ahmadiyah mosques; threatening moderate Muslims or those considered "deviant"; and forcing the closure of some non-Muslim businesses during Ramadan. These actions have continued in the last year. The offices of the Liberal Islam Network (JIL), whose appeals for pluralism and tolerance in Indonesia angered extremist groups, were attacked by mobs in August 2005. Police prevented the mobs from destroying the JIL offices, but JIL leaders continue to face pressure and some threats. In February 2006, hundreds

of protesters closed down a home used as a Hindu temple in Tangerang City, Banten Province; the protestors claimed that no Hindus lived in the region. In March 2006, members of *Laskar Jundullah* accused two foreign university linguists living in South Sulawesi of translating the Bible into the local dialect and demanded that the two long-time residents be deported. Police dispersed the crowd, but allowed some in the group to ransack the couple's home. In October 2006, a mob in Bogor, West Java beat to death Muslim cleric Alih bin Hadi, who was accused of holding heretical views, including that the *hajj* to Mecca was unnecessary, that *zakat* could be paid later than is customary, and that religious services could be held late at night. Previously, Alih had agreed to leave Bogor and stop preaching, but he returned a month before he was beaten to death. Three men are currently being held in custody for allegedly planning Alih's murder.

In the past year, according to Indonesian religious groups and human rights activists, there have been over 35 incidents of mob action targeting the worship activities or venues of religious minority groups, a figure slightly lower than in previous years. In March, 2007, over 200 FPI members attacked the Arastamar School of Theology in East Jakarta, demanding that the school be closed down. Police intervened to stop vandalism of the property and the school remains open. In April 2007, dozens of individuals associated with the Anti-Apostasy Division (DAP) picketed a church in Bandung, West Java and demanded its closure for allegedly seeking to convert local Muslims, though church leaders denied these allegations. In June 2007, a militant group vandalized a Protestant church in Bandung Regency, West Java. Two weeks later, demonstrators picketed a nearby church and housing complex demanding that worship in private homes be stopped. In both cases, worship activity was halted.

In September 2007, a mob attacked and tried to destroy a church in Bandung, West Java, complaining that the noise made in worship disturbed the local community. In September 2007, a large crowd burned down a church in Siompi, Aceh and confronted worshippers during a meeting. Police briefly detained the pastor, allegedly because there were death threats made against him. At this time, the church has disbanded. In November 2007, individuals claiming to represent local villagers pressured provincial authorities in Duri Selatan village, Tambora district, West Jakarta to close a Catholic church. Also in November, members of several Muslim organizations pressured provincial officials to cancel building permits for a large Hindu temple in Bayan district, West Lombok, West Nusa Tenggara. In December, government officials successfully averted an attack on a Shi'a mosque in Mataram, West Nusa Tenggara, but later banned the Shi'a group's activities in the city. Several Shi'a communities in East Java and Madura faced attacks, vandalism, threats, and legal action beginning in December 2007. In January 2008, a mob burned the Sangkareang Hindu temple, destroying the building and its contents, in Keru district, West Lombok.

Police rarely arrest those responsible for vandalizing or destroying property of religious groups, but have intervened in some cases to prevent property destruction and to disperse crowds. Local government officials have sought to mediate between militant groups and religious minorities in some cases, but most often acquiesce to pressure from militants and revoke permits for longstanding places of worship or allow the destruction of religious venues operating without permits. In response to persistent criticism from religious minorities and international observers over the number of religious venues closed or destroyed in Indonesia, the

Ministry of Religion issued Joint Ministerial Decree 1/2006 to replace a previous, vaguely-worded decree that required religious groups to gain "community approval" before they could expand, renovate, or open new religious venues. Decree 1/2006 requires a religious group with a membership of more than 90 persons to obtain the support of 60 local residents for any plans to build or expand a religious venue. That petition must then be sent to the Joint Forum for Religious Tolerance (FKUB), a provincial panel of religious leaders chosen proportionally by the number of religious adherents in the province. If there remains strong community opposition to the religious venue, the FKUB can find an alternative location.

Observers claim that the new decree is designed to stop the proliferation of "house churches" and small Hindu temples (fewer than 90 members) and to remove permit decisions from local authorities who are subject to intimidation and corruption. Prominent Muslim religious leaders have stated publicly that the new decree is more restrictive than the previous one and might violate Article 18 of the International Covenant on Civil and Political Rights. It is too soon to evaluate fully whether Decree 1/2006 will reduce the number of forced closures of religious venues. In December 2007, the government announced its intention to "crack down" on mob violence targeting the worship venues of religious minorities. Nonetheless, Christian and Hindu groups continue to report discrimination or vandalism, despite having obtained the necessary signatures. For example, five Protestant churches in North Bekasi, Jabotabek region, East Jakarta continue to face vandalism and sporadic protests from the group Musholla (Cooperating Bureau of Mosques and Praying Rooms) because they meet in private homes and dwellings. Although they continue to worship and police protect their activities, local political leaders have not given permission for the churches to build permanent structures, despite the 2006 Ministerial Decree. The Commission will continue to monitor the decree, instances of forced closure of religious venues, and the ability of the Indonesian government to hold accountable groups that perpetrate violence and intimidation against members of religious minorities.

Violence and legal restrictions targeting Ahmadiyah Muslims have risen dramatically since the July 2005 *fatwa* by the Indonesian Ulemas Council (MUI) that condemned the Ahmadiyahs as a heretical sect. The MUI *fatwas* do not carry the force of law; however, police and prosecutors in some areas reference MUI edicts when making arrests and detentions of so-called "deviant" sects. In addition, the Indonesian government has not publicly distanced itself from recent MUI edicts. In the past two years, there have been numerous attacks by militant groups on mosques, properties, and individuals associated with Ahmadiyah. Police and local government authorities sometimes assisted mob violence or otherwise condoned militants' activities.

In February 2006, an Ahmadiyah housing complex in Gegerungan, Lombok was attacked; six persons were injured and 25 homes were destroyed. Reports indicate that police knew of the attack beforehand but were unable or unwilling to stop the violence. Although police briefly arrested several participants in the Gegerungan attack, they were quickly released when a mob protested at the police station. In March 2006, members of the Anti-Ahmadiyah Alliance destroyed homes of Ahmadiyah members in Prapen, Lombok; there were no arrests after this attack. As of this writing, 181 Ahmadiyah residents of Lombok were living in an internally displaced persons (IDP) camp in Mataram; they have not been allowed to return to or

rebuild their homes. In South Sulawesi province, mobs closed and vandalized Ahmadiyah mosques and threatened Ahmadiyah followers in February, April, and October 2006. No arrests were made in any of these attacks. In October 2006 in Bogor, West Java, a mob damaged an Ahmadiyah mosque and the house of a local resident; no arrests were made in this case. In addition, some local governments continue to ban the activities of Ahmadiyah and other "messianic" Islamic sects, as well as some non-Muslim groups. The province of West Nusa Tenggara issued a ban on 13 religious sects, including Ahmadiyahs, Jehovah's Witnesses, Hare Krishnas, and nine forms of indigenous beliefs as alleged deviations from Islam, Christianity, and Hinduism. Reports indicate that the real targets of the legislation were Ahmadiyah and a messianic Islamic sect called Jamaah Salyifiah. Local bans on Ahmadiyah practice were extended or remain in force in parts of West Java and West Nusa Teggara.

Ahmadiyah religious leaders and Indonesian human rights groups report that 15 incidents occurred in 2007 involving property destruction, intimidation of worshippers, and continued closure of religious venues. In June 2007, FPI staged two anti-Ahmadiyah demonstrations at a mosque in Tasikmalaya, West Java. The protestors demanded that the mosque be closed, vandalized the building, and circulated a petition demanding that the regional parliament dissolve the Ahmadiyah community. The Parliament of Taskimalaya refused to consider this petition, claiming that such a decision must be made by the central government. In November 2007, mobs attacked and destroyed Ahmadiyah mosques and properties in West Sumatra and West Java and threatened followers in Central Jakarta. In December, a series of mob attacks in Kunnigan, West Java spread to other localities in West Java, including the villages of Manis Lor and Sukajaya, destroying homes and two mosques. In response to the December attacks, Vice President Kalla issued a statement that Muslims who attack members of "deviant" Islamic sects would face "tough" police action and asked provincial leaders to "unseal [allow to reopen]…Ahmadiyah places of worship."

Despite Vice President Kalla's public statements, there continue to be efforts to ban the Ahmadiyah in Indonesia. In April 2008, the government's Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem) recommended that the Ahmadiyah community be disbanded because it "continues to follow activities that deviate from mainstream Islamic teachings." Following Bakor Pakem's recommendation, the Ministry of Religious Affairs and the Home Ministry drafted a joint decree to outlaw the Ahmadiyah as a "heretical" sect. Leaders from Nahdlatul Ulama (NU) and Muhammadiyah, Indonesia's two largest Muslim organizations, claimed that while the government has the authority to "outlaw" the group, they did not counsel such a move, instead proposing "elegant discourse" with Ahmadiyah leaders. Other prominent Indonesian religious leaders, including former President Gus Dur, former Muhammadiyah chairman Syafii Ma'arif, and noted Islamic scholar Azyumardi Azra, strongly condemned the draft joint decree, stating that such a move violated the Constitution's guarantee of freedom of religion and reflected "extremist" elements in Islam rather than more "moderate" traditions that promote "peace, tolerance, and respect for religious difference." President Yudhoyono's spokeman stated publicly that there was little support for the joint decree within the Presidential Advisory Council and claimed that the President himself believed that a ban would be a "bad precedent" for freedom of religion in Indonesia. As of this writing, no further action has been taken, but the draft decree has not been withdrawn, and radical groups have been threatening to take action if the government does not implement the joint decree.

The potential ban on Ahmadiyah reflects a larger trend in Indonesia, as provincial government arrest and sentence allegedly hereterodox Muslims for "deviancy." Since 2005, over 150 individuals have been arrested or briefly detained under Article 156 and 156a of the criminal code, according to which "expressing feelings of hostility, hatred or contempt against religions" and "disgracing a religion" are punishable by up to five years in jail. Arrests, detentions, and re-education programs for "deviancy" continued in the past year. In 2006, Lia Eden, leader of the messianic Muslim sect Jamaah Alamulla, was sentenced to two years in jail for "denigrating religion." In November 2007, Lia Eden's deputy, Abdul Rachman, was sentenced to three years in prison for "blasphemy."

In 2005, Iman Muhammad Yusman Roy was sentenced to two years in jail in East Java's Malang District Court for reciting prayers in the Indonesian language, which local officials claimed tarnished the purity of Islam. Sumardi Tappaya, a Muslim high school religious teacher on Sulawesi, was sentenced to six months in jail in June 2006 on charges of heresy. A relative had accused him of whistling during prayers, and local religious officials declared that whistling was "deviant." A foreign citizen and an Indonesian were sentenced to five months and two and one half years in prison, respectively, for "proselytizing" and "denigrating religion" while working as humanitarian aid workers on the island of Madura in November 2006. Six counselors at an East Java drug and cancer treatment center were arrested and sentenced to between three and five years in jail for allegedly violating key precepts of Islam; local religious leaders characterized their rehabilitation center's teachings as heretical. Rus'an, a lecturer at the Muhammadiyah University in Palu, Central Sulawesi, was charged with heresy and sentenced to house arrest for publishing an article entitled "Islam, A Failed Religion," about corruption in the Ministry of Religious Affairs. He was arrested after 2,000 people protested and closed the Palu paper where the article had been published. The lecturer was later released from house arrest and fired by the University.

In the last year, according to reports from SETARA and the Wahid Institute, police have detained, held for re-education, or plan to pursue legal action against followers of a sect called Al-Qiyadah al-Islamiyah, a group with approximately 40,000 followers whose leader claims to be a prophet. In October and November 2007, police detained 125 members of Al-Qiyadah during raids in West Lombok, Yogyakarta, East Lombok, and Central Java. Ninety-six members of Al-Qiyadah publically signed documents renouncing their beliefs, including the sect's leader Ahmad Moshaddeq. Despite his recantation, Moshaddeq was sentenced to four years in prison in April 2008 for "violating the criminal code by committing blasphemous acts." Provincial leaders stated that charges against other members of Al-Qiyadah are forthcoming. In the past year, several other small, primarily "messianic" Muslim groups were labeled "deviant" and faced government harassment or communal violence including Dzikir Asmaul Husa, Dayak Segandhu Losarang Indramayu, Tarekat Naqsabandiyah, Islam Model Baru, Hidup di Balik Hidup, and Nural Yaqin.

In the past, Indonesia's "deviancy laws" have primarily targeted small groups regarded as heterodox by Muslim religious leaders. However, in April 2007, police in Malang, East Java arrested eight Protestants for disseminating a "prayer" video that allegedly instructs individuals to put the Koran on the ground and pray for the conversion of Indonesia's Muslim political

leaders. Later in the same month, an additional 33 people were detained under Article 156. In September 2007, a local court found all 41 guilty of "insulting religion" and sentenced each to five years in prison. An appeal of the convictions is pending in the East Java High Court. Prosecutors claim to be seeking at least 60 other individuals associated with the production and dissemination of the video.

Three Protestant women sentenced to three years in jail under the Child Protection Law for allegedly attempting to convert Muslim children at their daycare center and youth recreation programs were released on parole in June 2007. The women claimed that family members had given permission for their children to attend the event and that no proselytizing had occurred. Witnesses failed to support the women during the trial because of alleged intimidation from members of local militant groups. The judge at the trial also admitted to being intimidated by extremist group members who attended the trial.

The Commission continues to monitor the implementation of sharia in Aceh. In August 2005, the Indonesian government concluded a comprehensive peace agreement with the insurgent group Free Aceh Movement (GAM), ending a 30-year conflict that had resulted in significant human rights abuses. The agreement has recently led to a newly elected government and hope for a region hard hit by the tsunami and decades of civil conflict. However, neither the peace agreement nor the elections overturned Presidential Decree 11/2003, which allowed the province to establish and implement sharia law and establish sharia courts. Since the end of the civil war, sharia courts and their vice patrols, locally known as the *Wilayatul Hisbah*, have taken on a more prominent public position. For example, in 2007, 25 persons were caned for consuming alcohol, 59 people for gambling, and 32 people for being alone with persons of the opposite sex, comprising a total number that is slightly fewer than for the previous year. Public canings have sometimes drawn crowds in the thousands. Though religious leaders insist that public caning is supposed to be a method of "shame not pain," there are reports that some persons required hospitalization. The jurisdiction of sharia courts and the power of the *Wilayatul Hisbah* are controversial issues for the new Acehnese government. Local non-governmental organizations (NGOs) in Aceh report that government oversight of *Wilayatul Hisbah* has improved recently, making the vice patrols less intrusive than in the past. In addition, the new Acehnese government disbanded vice patrols in the city of Banda Aceh.

However, the expansion of sharia in Aceh has influenced local initiatives elsewhere in Indonesia. Efforts to implement sharia provisions nationally have consistently been defeated by a coalition of the largest Muslim organizations together with religious minorities. However, some provinces and localities are enforcing Islamic law at the municipal and regional levels. Indonesian NGOs estimate that at least 66 *perda syaria*, or local sharia laws, have been promulgated and enforced in the past four years. In South Sulawesi, Madura, and Padang, West Sumatra, local authorities issued laws extending sharia provisions to all Muslims, including enforcement of Islamic dress, prohibition on alcohol, and caning punishments. In Madura and South Sulawesi, civil servants are required to cease work activities during the call to prayer and recitation of the Koran is reportedly being required for promotion. In Padang, West Sumatra, the local mayor instructed all Muslim women to wear a headscarf and in Bulukumba Regency, women can be denied government services if they are not wearing headscarves. Similar laws have already been implemented in parts of West Java, including Cianjur, Tasikmalaya, and

Garut. In the city of Tangerang, Banten Province, local laws have banned public displays of affection, alcohol consumption, and prostitution. In this case, the laws apply to both Muslims and non-Muslims. The anti-prostitution ban is being challenged in Indonesian courts because it defines a prostitute as anyone who draws attention to him or herself by attitude, behavior, or dress. In the past year, according to the State Department, 31 women were arrested as prostitutes, including a married mother waiting at a bus stop during the early evening. Fifty-six Indonesian parliamentarians issued a petition calling for a review of local sharia legislation to determine if the laws conflicted with constitutional protections and national laws. The petition was later dropped, and no review was instituted. Indonesian human rights advocates have expressed fears that local *perda syaria* legislation is a backdoor attempt to implement sharia nationally and may be used to mobilize political support for the more extremist Muslim parties during the 2009 elections.

The Commission regularly meets with Indonesian political leaders, human rights activists and defenders, journalists, and religious leaders, including representatives of Muslim, Christian, and Hindu communities from the regions of Aceh, Papua, Sulawesi, Java, Bali, and the Malukus, as well as others.

U.S. government assistance to Indonesia currently supports programs in conflict resolution, multi-religious dialogue and tolerance, pluralism, and education, programs that are in line with previous recommendations by the Commission.

The Commission recommends that the U.S. government urge the government of Indonesia to:

- disarm fully and disband all outside militia forces in Sulawesi, the Malukus, and Papua, such as Laskar Jundullah, Mujahidin Kompak, Tanah Runtuh, and Laskar Merah Putih;

- continue efforts to bring to justice those who participated in, or are responsible for, sectarian and ethnic violence in Central Sulawesi, the Malukus, and Papua, by providing fair and transparent trials;

- provide protection for religious venues, as well as restitution to religious communities whose venues have been destroyed or closed due to mob violence or protests, and ensure that those responsible for such acts are prosecuted;

- establish an independent commission, composed of prominent persons in Poso, with a presidential mandate to question civilian and military authorities about police and military activities during the violence in 2000-2001, to examine grievances from the 2000-2001 conflict and suggest ways to address them, and to make recommendations about civilian and police activities to address current communal and terrorist activities;

- commit sufficient resources for the resettlement of all of the internally displaced persons (IDPs) in Central Sulawesi and the Malukus, who are a reminder of the 1999-2002 sectarian violence and a potential recruitment pool for extremists;

- publicly address the July 2005 Indonesian Ulamas Council (MUI) *fatwas* prohibiting interfaith prayer, interfaith marriage, interfaith inheritance, religious pluralism, liberalism, and secularism, as well as the decisions condemning the Ahmadiyah community, as contradicting the ideals of religious freedom and tolerance in Indonesia's constitution, and condemn publicly the communal violence and harassment that followed the issuance of the *fatwas* targeting moderate Muslim organizations, such as the Liberal Islam Network (JIL), as well as Ahmadiyah mosques and religious centers;

- withdraw the draft joint decree put forward by the Ministry of Religious Affairs banning Ahmadiyah in Indonesia as a "deviant sect," protect Ahmadiyah religious practice from communal violence, and re-open Ahmadiyah religious venues closed in past communal violence;

- amend the Joint Ministerial Decree No. 1/2006 (Regulation on Building Houses of Worship) to bring it into compliance with the Indonesian constitution's protection of religious freedom as well as international standards, and remove any restrictive barriers on building and re-furbishing places of worship for all religious groups in Indonesia; and

- transfer or remove from Papua any security, police, and militia personnel who were indicted for activities related to serious human rights abuses and war crimes by the UN's Serious Crimes Investigation Unit (SCIU) and the Ad Hoc Human Rights Court for East Timor in Jakarta.

In addition, the Commission recommends that the U.S. government should:

- commend the government of Indonesia for its efforts to curb terrorism, establish peace in Aceh, and promote inter-religious understanding, conflict mitigation, and a vibrant discussion among members of civil society on the role of Islam in supporting human rights, democracy, and pluralism;

- consistent with the National Security Strategy of the United States (2006), continue to expand U.S.-Indonesian cooperation in economic development, democracy, education, good governance, pluralism, and rule of law programs by:

  --supporting Indonesia's evolving legal and human rights reform agenda by providing training, capacity building, and targeted exchanges with Indonesian government agencies, legal and judicial institutions and legal and human rights-focused civil society organizations, including the National Human Rights Commission (Komnas HAM), the Supreme Court, and the Directorate General of Human Rights in the Ministry of Justice and Human Rights;

  --expanding exchange programs that bring Indonesian scholars, judges, lawyers, and activists to the United States to initiate discussions with governmental, academic, and non-governmental experts on human rights, including religious freedom, rule of law, and the relationship between religion and the state;

--establishing programs and working with allies in Europe and elsewhere to support monitoring of the implementation of sharia law in Aceh and other parts of Indonesia to determine if individual rights and freedoms, including religious freedom, are being guaranteed for all citizens, and making sure that U.S. humanitarian and foreign assistance programs do not support sharia police or courts in Aceh or other municipalities in Indonesia;

--monitoring and publicly reporting on the impact of U.S.-funded humanitarian relief and post-conflict development programs on the promotion of religious freedom and other human rights, monitoring that should include, for example, a report to the appropriate congressional committees;

--establishing programs that promote training and capacity-building for Indonesian human rights-focused civil society organizations involved in conflict resolution, inter-religious dialogue, reconciliation, public interest law, and economic and social development in areas of communal and sectarian conflict;

--prioritizing support for non-governmental organizations (NGOs) and human rights-focused civil society organizations pursuing programs on inter-religious economic development, conflict prevention and social cohesion, and the resettlement of internally displaced persons in potential flashpoint areas such as Central Sulawesi, the Malukus, Papua, or parts of West Java;

--expanding U.S. government support for the promotion of religious pluralism in Indonesia by supporting seminars and conferences, international exchanges, intra-religious dialogue, and new radio, television, and publishing activities of interfaith and private organizations that promote respect for religious freedom and human rights; and

--expanding support for media, dialogue, and publishing ventures of Indonesian organizations seeking to promote intra-Muslim dialogue on the compatibility of Islam and human rights, democracy, and pluralism, including the translation of books by prominent Indonesian scholars into, as appropriate, Arabic, Urdu, Persian, Turkish, and English; and

- ensure that any ties with the Indonesian military and police should include, as priorities:

-- reform of the Indonesian military, including transfer to civilian control, training in international human rights standards, and technical assistance in military law and tribunals;

--dedicated funds for training Indonesian police in counter-terrorism techniques and protecting human rights in areas of sectarian conflict, including fellowships to the International Law Enforcement Academy (ILEA) in Bangkok, Thailand and participation in UN Police training programs (UNPOL); and

--denial of U.S. assistance to any police or military unit found to engage in a pattern of violations of human rights.

Nigeria

The response of the government of Nigeria to persistent religious freedom concerns continues to be inadequate. These concerns include an ongoing series of violent communal

conflicts along religious lines; the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims. In addition, there are reports of foreign sources of funding and support for Islamic extremist activities in northern Nigeria, activities that threaten to fracture the already fragile relations between the two main religious groups. However, in recent years, Nigerian security forces have responded more quickly to quell sectarian violence and have taken steps to address the activities of Islamic extremist groups. Because of persistent concerns, the Commission continues to place Nigeria on its Watch List.

Over the last year, Nigeria continued to experience incidents of violent communal conflict along religious and ethnic lines, which are often intertwined. The popular movement in 12 northern Nigerian states to expand the legal application of sharia to criminal matters continues to spark communal violence and is an ongoing source of volatility and tension between Muslims and Christians at both the national and local levels. Serious outbreaks of Muslim-Christian violence in the last few years threaten to divide further the populace along religious lines and to undermine the democratic transition and the foundations of freedom of thought, conscience, and religion or belief in Nigeria. Social, economic, and political conditions have not improved in the country, fostering a climate of even greater tension among ethnic and religious communities.

In April 2007, Umaru Yar'Adua was elected President in elections that were widely characterized by international and domestic observers as fraudulent. Reports of vote-rigging and political violence also emerged in some areas. In advance of the April elections, the Christian Association of Nigeria (CAN) and the National Supreme Council for Islamic Affairs issued joint statements urging adherents of the Christian and Muslim communities to exercise vigilance and tolerance. Many observers contend that these statements, among other actions, contributed to the fact that election-related violence along religious lines was minimal.

Since 1999, more than 10,000 Nigerians have been killed in sectarian and communal attacks and reprisals between Muslims and Christians. The most serious of these clashes occurred in Kaduna state (February and May 2000 and November 2002); Jos, Plateau state (September 2001); Kano state and Yelwa, Plateau state (February-May 2004); and in northern and southeastern Nigeria, in the wake of the controversy over depictions of the Prophet Muhammad in the Danish press in February 2006 (see below).

Ethnic and religious violence continued throughout the past year, although the number of deaths resulting from the violence decreased compared to previous years. Dozens of people were killed and dozens of churches and mosques were destroyed in communal violence in several towns and villages in southeastern Nigeria, the Middle Belt region, and northern Nigeria. In September 2007, rioting in the northern state of Kano resulted in the deaths of 10 Christians and the destruction of at least nine churches. At least 60 people were injured and more than 500 displaced. The rioting started after Muslim students from a public high school claimed that a Christian student had drawn a cartoon of the prophet Muhammad on the wall of the school's mosque. A Kano state committee investigating the September attacks stated in November that 19 Christians were killed, not 10 as previously reported. In December 2007, at least 10 people were killed, more than 30 injured, and three churches burned in the northern state of Bauchi. Some 3,000 people fled their homes in the area of the clashes. According to press reports, the

violence started after a dispute over the planned construction of a mosque at a secondary school in Yelwa, in a mixed Muslim and Christian neighborhood of the city. Muslim students reportedly began to riot after unidentified individuals pulled out two foundation blocks of the mosque under construction. In February 2008, also in Bauchi, a violent clash between a Muslim mob and the police over a woman accused of blaspheming the prophet Mohammed left at least one person dead and five seriously injured. Muslim youth torched a police station and looted homes of Christians and of the police. Also in February, in the state of Kano, a policeman was killed and two Christian youth were injured when Muslim high school students started rioting over claims that a Christian student had written an article blaspheming the prophet Muhammad.

In February 2006, approximately 50,000 people were displaced and at least 150 Muslims and Christians were killed in four days of sectarian violence across Nigeria, particularly in the cities of Onitsha, Maiduguri, Katsina, and Bauchi, after protests over caricatures of the Prophet Muhammad fueled underlying religious and ethnic tensions. Independent reports indicate that both Muslim and Christian groups initiated attacks on each other and reprisal attacks followed. Unlike in the past, the Nigerian government eventually raised the security alert level and directed law enforcement agents to deal decisively with eruptions of violence in any part of the country. At least 400 people were arrested. In March 2006, the Nigerian Information Minister stated publicly that there were continuing efforts by some individuals, groups, and organizations to instigate "further violence and mayhem" in many northern and southern states and that those "already arrested for their roles in the violence will be fully prosecuted." Widespread destruction of property took place, and numerous churches, mosques, and homes were burned down. To date, it is not clear if any perpetrators of the violence have been prosecuted.

There is sectarian violence within the Muslim community also. In July 2007, in the northern city of Sokoto, five Shi'a Muslims were killed and several houses burned in violence between Sunni and Shi'a Muslims over the murder of a Sunni cleric. The Sunni cleric was shot and killed while leaving a mosque after preaching. The predominantly Sunni population claimed the attack was planned by the minority Shi'a community. According to the State Department, more than 100 people were detained by Nigerian authorities and the investigation is ongoing. Relations had deteriorated between the two religious communities following violent clashes over the right to worship in the city's central mosque in 2005. Shi'a Muslims claimed the murdered Sunni cleric spearheaded the attack against the Shi'a Muslims during the 2005 clashes.

Despite the ongoing nature of sectarian violence, the number of those killed decreased in the past year due to a more rapid and effective response by security authorities. However, prosecution of those accused of instigating sectarian violence remains inadequate. Moreover, many Muslims and Christians have been identified as perpetrators of violence over the years, but very few, if any, have been prosecuted or brought to justice. At the same time, security and police forces have sometimes been accused of using excessive force, including extrajudicial killings, to curb communal violence. In previous years, former President Olusegun Obasanjo was criticized both inside and outside Nigeria for not responding more decisively to the violence and the communal tensions brought about by the sharia controversy, and for generally urging political negotiations rather than ordering the government to intervene to stop or prevent further violence. After becoming president, President Yar'Adua publicly stated his intent to create an

interfaith advisory council of prominent Muslim and Christian leaders to assist the government in maintaining peace among its various religious communities.

After her visit to Nigeria in February-March 2005, the UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, stated that the Nigerian government should ensure that investigations of communal and sectarian violence are thorough, including through the identification and prosecution of the alleged perpetrators. In addition, the Nigerian government "should take very firm positions whenever religion is at the origin of human rights violations, regardless of which religious community is concerned." In October 2006, the Sultan of Sokoto, Muhammadu Maccido, widely regarded as the spiritual leader of Nigerian Muslims, died in an airplane accident. In past years, Maccido had frequently spoken out in an effort to end sectarian and communal violence between Muslims and Christians in Nigeria. In November 2007, the newly-installed Sultan of Sokoto, Sa'ad Abubakar, principal leader of Nigeria's 70 million Muslims, traveled to Washington, DC and publicly expressed his commitment to improving Muslim-Christian relations in Nigeria. As one of the new co-chairs of the Nigerian Inter-religious Council (NIREC), composed of 25 Muslim and 25 Christian leaders in Nigeria, Abubakar has expressed support for further addressing the issue by opening NIREC offices at the state and local levels to promote dialogue and greater understanding between Muslims and Christians, a standing USCIRF recommendation.

Since October 1999, 12 northern Nigerian states have extended or announced plans to expand the application of sharia in the state's criminal law; however, there have not been further enactments in the past year. Although the particulars vary from state to state, each has adopted, or reportedly plans to adopt, a sharia-based penal code and provisions to extend the jurisdiction of sharia courts beyond personal status matters to include sharia crimes and punishments for Muslims only. Punishments include amputation, flogging, or death by stoning, often after trials that fall short of basic international legal standards. Defendants have limited rights of appeal and sometimes have no opportunity to seek legal representation. Women have faced particular discrimination under these codes, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt, and allegations of rape and sexual violence are rarely investigated by judges. In addition to criminal code changes that purportedly apply only to Muslims, some states have instituted or tolerated discriminatory practices based on religious precepts such as banning the sale and consumption of alcohol and disadvantaging women in education, health care, and public transportation. These practices affect Muslims and non-Muslims alike. For example, in July 2005, the state government in Kano banned women from riding in the same buses as men and from riding behind men on motorcycles. Moreover, a few northern Nigerian states—Kano, Zamfara, and Niger—have sanctioned quasi-official *Hisbah* (religious police) to enforce sharia violations and other discriminatory practices.

In past years, there have been several cases in which sharia courts have handed down sentences of death by stoning to Muslims for various offenses. In 2003, several such cases were overturned and thrown out on appeal; stoning sentences remain in several other cases, pending appeal. However, to date, no stoning punishments have ever been carried out in Nigeria. Nevertheless, in the past, sentences involving amputation and flogging have been carried out, although none in the past three years; several cases of this kind have been reversed on appeal, are in the process of appeal, or are awaiting sentencing. There are pending amputation and/or

stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states, though many of these cases have been delayed continuously for various reasons.

Sharia punishments such as death by stoning and amputation have been topics of a national debate in recent years on whether these punishments constitute torture or inhumane or degrading treatment under the Nigerian Constitution. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that flogging, stoning, and amputation do breach the prohibition against inhuman or degrading treatment under international human rights standards and treaties. On this issue, the UN Special Rapporteur stated that the Nigerian government should ensure that practices and codes of all states are in compliance with international human rights conventions and it should conduct an "assessment of all the laws in force and analyze their compatibility with international human rights law."

In addition to the sharia controversy and the violence it incites, Nigeria is plagued by a number of other serious problems regarding freedom of religion or belief. Christians in the northern states complain of what they view as discrimination at the hands of Muslim-controlled governments and describe their communities as having the status of "second-class citizens." Most complaints predate the recent initiatives regarding sharia, and include allegations of official discrimination in the denial of applications to build or repair places of worship, access to education and state-run media, representation in government bodies, and government employment. Muslim communities in southeastern Nigeria, where Muslims are a small fraction of the population, echo some of the complaints of minority Christian communities in northern Nigeria. Southern Muslim leaders report official or officially sanctioned discrimination in the media, education, and representation in government institutions. Although proselytizing is permitted by the Constitution, several northern states continue to ban some public religious activities to address public safety and security concerns.

Since 2003, there have been a number of small, vocal Muslim groups in northern Nigeria that advocate strict application of sharia, and which, some argue, are helping create a haven for radical Islamic militants from outside Nigeria. Though not organized as a nationwide movement, some of these groups advocate a more forcible Islamization of all Nigerian society, regardless of religious affiliation. In recent years, Nigerian security forces have dealt more decisively with Islamic extremist groups, resulting in a decrease in the number of incidents related to these groups' activities, a positive development. However, in April 2007, 12 Nigerian police officers were killed after Islamist extremists attacked a police station in Kano. Nigerian security forces responded by killing at least 25 of the self-styled "Taliban" militants, who Nigerian authorities said came into Nigeria from neighboring Chad.

Several observers inside and outside Nigeria have reported that financial support from Libya, Saudi Arabia, and Sudan has been used to build mosques and Islamic religious schools in northern Nigeria. Some have suggested that the extreme interpretation of Islam being preached in these mosques and religious schools is not a form of Islam that is traditional to Nigeria. Also, there are reports that an increasing number of Nigerian Islamic scholars and clerics are being trained in Saudi Arabia and return with a politico-religious ideology that explicitly promotes hatred of, and violence against, non-Muslims.

Throughout the past year, Commission staff met with members of non-governmental organizations representing various religious communities in Nigeria, as well as human rights organizations, academics, and other Nigeria experts. The Commission has traveled twice to Nigeria, most recently in August 2003. In August 2004, the Commission issued a *Policy Focus* on Nigeria, which included recommendations for the U.S. government in relation to communal and sectarian violence, the expansion of sharia law in the north, discrimination against religious minorities, and increasing Islamic extremist activity.

With regard to Nigeria, the Commission recommends that the U.S. government should:

- urge the Nigerian government to address the sharia controversy, oppose religious extremism, and hold accountable perpetrators of religious violence by:

  --ensuring that sharia codes, as applied, uphold the principle of equality under the law between men and women and between Muslims and non-Muslims, and do not result in violations of international human rights standards with regard to freedom of religion or belief, due process of law, equal treatment before the law, freedom of expression, and discriminatory practices against women;

  --ensuring that sharia criminal codes do not apply to non-Muslims or to individual Muslims who do not wish to go before sharia courts, and preventing law enforcement activities in northern states by any quasi-official or private corps of sharia enforcers;

  --taking effective steps to prevent and contain acts of sectarian and communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice; and

  --ceasing immediately any official support for the so-called "religious police," or *Hisbah*, and ensuring that state governments make greater efforts to halt the activities of these vigilante groups, including prosecuting those found to have taken the law into their own hands;

- expand U.S. presence and outreach efforts, primarily in northern Nigeria, by:

  --opening a consulate or other official presence in Kano or elsewhere in the north;

  --providing adequate Embassy and Consulate staff with appropriate local language skills, and requiring political and public affairs officers to regularly travel throughout Nigeria;

  --increasing the capacity of the Hausa Service of the Voice of America to report fair and balanced views on communal conflict and human rights; and

  --sponsoring several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights that target religious leaders, human rights advocates, government officials, and northern Nigerians;

- expand U.S. support for communal conflict prevention and mitigation, through U.S. foreign assistance programs or otherwise, by supporting:

--Nigerian non-governmental organizations working on communal conflict prevention and mitigation, emphasizing capacity-building at the local level;

--human rights defenders, including legal aid groups that defend the constitutional and internationally recognized rights of individuals, especially women, who are impacted by sharia-based criminal codes;

--human rights defenders responding to credible allegations of religious discrimination in any part of Nigeria;

--funds for the expansion of training for the Nigerian federal police in human rights protection;

--programs and institutions, particularly where communal violence has occurred, that promote objective, unbiased, and non-inflammatory reporting, consistent with the right to freedom of expression; and

--the expansion of Nigeria's Inter-Religious Council, formed to promote dialogue between Christians and Muslims, and replicate the Council at the state and local levels;

- continue to support and adequately fund the Trans-Sahara Counterterrorism Initiative, a regional U.S. security partnership, succeeding the previous Pan-Sahel Initiative and comprised of African and Maghreb countries, including Nigeria, which helps to identify, publicize, and counter foreign sources of terrorism and religious extremism.

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[1] Article 13 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, passed in 1998, states that "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means…"

[2] Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (*http://www.unhchr.ch/html/menu6/2/fs19.htm*, accessed April 3, 2008).

OTHER COUNTRIES CLOSELY MONITORED

The Russian Federation

Since its inception in 1999, the Commission has reported on the situation in Russia. In recent years, the Commission's reporting on religious freedom conditions in Russia has included information on the sharp rise in violent crimes against persons on account of their religion or ethnicity. Although the Commission has not recommended that Russia be named a "country of particular concern," or CPC, for the most severe violations of religious freedom, the Commission is concerned that the country's increasingly fragile human rights situation, which directly affects the status of religious freedom, warrants close scrutiny, not least because Russia is a model and bellwether for other countries in transition, especially from the former Soviet Union. Moreover, Moscow has rallied other countries with questionable human rights practices to oppose efforts to draw attention to human rights violations by terming such efforts "meddling" by the international community.

Under President Vladimir Putin, Russia has steadily retreated from democratic reform, endangering significant gains in human rights made since the end of the Soviet era, including in the areas of freedom of religion or belief. Evidence of this retreat includes increasing limitations on media freedom and on the role and independence of political parties; tighter controls on non-governmental organizations (NGOs), religious communities, and other civil society groups; harassment of human rights organizations; legal restrictions on freedom of assembly; and constraints on the use of popular referenda. The sharp deterioration in the human rights climate over the past few years appears to be a direct consequence of the increasingly authoritarian stance of the Russian government, as well as the growing influence of chauvinistic groups in Russian society, which seem to be tolerated by the government.

Unlike under the Soviet regime, most people in Russia today are generally able to profess and practice the religion of their choice. Nevertheless, minority religious groups continue to face some restrictions on religious activities, especially at the regional and local levels, stemming from a variety of factors, including Russia's weak judicial system, inconsistent adherence to the rule of law, and local officials' sometimes arbitrary interpretations regarding the status of the so-called "traditional" religions (see below). These problems include denials of registration (status of legal person) requests; refusals to allot land to build places of worship; restrictions on rental space for religious activities and lengthy delays in the return of religious property; and attacks in the state-controlled media that incite intolerance. Since the Russian government has not promulgated a clear and consistent policy on religious affairs, the status of freedom of religion or belief varies dramatically from region to region across the country. One of the key factors in determining respect for the rights of a given religious community is its personal relationship with individual state officials.

In 1997, Russia passed a new law on religion. Requiring registration at both federal and local levels, the law creates difficulties for previously unregistered as well as new religious groups. At the federal level, the majority of religious organizations have been registered under the law by federal officials and the Russian Constitutional Court. Religious groups that have

taken their cases to court to overturn denials of registration have often been successful; however, administrative authorities have sometimes proved unwilling to implement court decisions. For example, the Salvation Army has not been re-registered in the city of Moscow, despite a 2002 Russian Constitutional Court ruling in its favor and an October 2006 ruling by the European Court for Human Rights (ECtHR). In addition, Russian authorities have denied registration to certain religious communities based on the allegedly insufficient time they have existed, despite a 2002 Russian Constitutional Court decision confirming that an active religious organization registered before the 1997 law could not be deprived of legal status for failing to re-register. The problem is particularly acute at the local level, since local officials sometimes either refuse outright to register groups or create prohibitive obstacles to registration. According to the State Department, a January 2006 amendment to the law requires that all registered local religious organizations notify the Federal Registration Service (FRS) within 36 hours of any change in its leadership or legal address. If a local organization twice fails to meet this requirement, the FRS may file suit with a court to have it dissolved.

The 1997 religion law gives a minimum of 10 citizens the right to form a religious association, which, in turn, provides them the legal right for a house of worship. Yet, despite this legal guarantee, building or renting worship space continued to be a problem in the past year for a number of religious groups. For example, local authorities in Kaliningrad, Sochi, and St. Petersburg have not responded to longstanding requests from Muslim communities for permission to build mosques. Roman Catholics, Protestants, Old Believers, Molokans, and other alternative Orthodox communities have also reported difficulties in obtaining permission to build houses of worship. During 2007, the SOVA Center, a leading Russian human rights NGO, reported that Russian authorities, especially on the local level, have continued in their efforts to confiscate houses of worship already in use**.** In October 2007, a Russian law came into effect setting out the conditions and procedures for state-owned land appropriation that permits religious organizations to retain their current land plots for unlimited use until January 1, 2010. Until the 2007 amendment, the SOVA Center noted, there had been no legal mechanism for religious organizations to privatize land plots. In 2007, the ECtHR ruled in favor of two religious organizations that brought cases against Russia. In January, it ruled that the 2002 abrogated rent contract with the Jehovah's Witnesses in the city of Chelyabinsk was in violation of the European Convention on Human Rights and in July, it ruled that the 2003 ban by Chekhov city authorities on prayer meetings of the Evangelical Christian "Divine Grace" Church was illegal.

Many of the problems faced by Russia's diverse minority religious communities stem from the notion set forth in the preface to the 1997 religion law that only four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have "traditional" status in that country. The Russian Orthodox Church (ROC), which has played a special role in Russian history and culture, receives the bulk of state support, including subsidies for the construction of churches, although other so-called "traditional" religious communities also sometimes benefit from such subsidies. The ROC also has agreements with a number of government ministries on guidelines for public education, religious training for military personnel, and law enforcement decisions.

ROC officials also sometimes use their influence with regional authorities to restrict the activities of other religious groups. There are frequent reports, particularly on the local level,

that minority religious communities must secure ROC permission before officials allow them to build, buy, or rent a house of worship and that local authorities sometimes deny registration to minority groups at the behest of local ROC officials. For example, the religion news service Forum 18 reported in March 2008 that a court in the city of Smolensk deprived a United Methodist congregation of its legal personality because it ran a Sunday school, thereby violating the law against unlicensed Sunday school education; reportedly, the investigation began after a complaint by a local ROC bishop.

The ROC proposal to add a voluntary course on the "Foundations of Russian Orthodox Culture" in the national education curriculum has also been viewed as an example of the ROC's assertion of preferential status. Representatives of the four "traditional" religions reportedly favor religious instruction as part of the state curriculum, but only on a voluntary basis and making it available to members of all religious communities based on the number of participating students. However, several Muslim, Jewish, and Protestant leaders have objected to the proposal to introduce even voluntary Orthodox culture courses because they imply that one religious tradition constitutes the foundation of Russian culture. As of October 2007, the Russian Federation Human Rights Ombudsman (RFHRO) had received numerous complaints from 16 Russian regions concerning the introduction of these classes in schools, according to Mikhail Odintsov, the head of the RFHRO's Freedom of Conscience Section. The most high-profile protest against the Orthodox culture class was a July 2007 open letter from 10 members of the Russian Academy of Sciences, who expressed concern over the "growing clericalization of Russian society" and "the ROC's active penetration into all spheres of public life." The letter was a response to proposals to make the class an official and required course in the general Russian Federation school curriculum.

In January 2006, President Putin signed a restrictive new law on non-governmental organizations (NGOs) that also affects the rights of religious communities. The law enables the Ministry of Justice's Federal Registration Service (FRS) to interfere with the activities of NGOs and deny the registration of groups that do not meet certain requirements, including minor or trivial ones. The Federal Registration Service (FRS) established as a department in the Ministry of Justice in late 2004, is charged with enforcement of the NGO law, as well as the registration of all political parties and real property in Russia. Under the new law, FRS officials can order an examination of an organization's documents, including financial information, as well as attend its events, without the group's consent or a court order. If violations are found, the FRS can call for court proceedings against the group, possibly resulting in the group's eventual liquidation. Moreover, the FRS has almost complete discretion to cancel programs and ban financial transactions by the Russian branches of foreign organizations. Although the law provides only the vaguest guidance on procedural and legal norms, it also establishes extensive and onerous reporting requirements. NGOs are required to submit detailed annual reports regarding all of their activities, the composition of their governing bodies, and documentation of expenditure and the use of other property, including assets acquired from foreign sources. NGOs have expressed concern about the administrative and financial burdens of these requirements.

In April 2007, the Russian authorities simplified reporting requirements for religious organizations under the amended 2006 NGO law, after numerous protests, including from the ROC. According to Forum 18, under these eased reporting requirements, income from Russian

and foreign legal entities, foreign states, any enterprises, and "other" sources must be provided, but the requirement to report income from the Russian state or citizens has been dropped. Other reporting requirements that have been removed include providing information on religious congresses, conferences, or governing body meetings or the number of participants. Nevertheless, each religious organization must still supply the complete names, addresses, and passport details of its governing body, although centralized religious organizations may submit this data for their affiliate communities.

The SOVA Center reports that increased FRS activity in 2007 in various parts of Russia may result in the liquidation under the NGO law of the legal status of numerous religious organizations. For example, in the Tyumen Oblast alone, the FRS successfully initiated cases in 2007 resulting in the denial of continued legal status to 25 Muslim, and several Protestant organizations, as well as one Russian Orthodox and one Roman Catholic group, all for minor failures to comply with reporting requirements. In the republic of Chuvashia, the FRS has filed 11 petitions to courts asking for the liquidation of the legal status of religious organizations and issued 28 warnings of non-compliance. In Nizhny Novgorod Oblast, 55 religious organizations were issued official warnings for non-compliance, including for missing reporting deadlines and digressing from their charters. In the city of Balashovo, Saratov Oblast, the FRS and the Tax Inspectorate ordered the denial of continued legal status to the Church of Evangelical Christian Baptists for failing to file tax returns; the church had not received any official warning of its legal infringement. In Yaroslavl, a district Tax Inspectorate retroactively revoked the registration of an Old Believer community.

In addition, as a result of this law, religious education is coming under increasing bureaucratic scrutiny and restriction. According to Viktor Korolev, the official in charge of the FRS section on religious organizations, there is a distinction between the religious educational activity of a licensed religious educational institution, which includes a paid teaching staff, special premises, and a three-year curriculum, and elementary instruction about religion, which does not require a special license. Several religious educational institutions were liquidated in 2007 although they had operated for years without education licenses, including a *madrassa* affiliated with the Muslim Spiritual Authority in Mordovia, a branch of the Saifulla Kadi Islamic University in Dagestan, and a Biblical Center of Evangelical Christians (Pentecostals) in Chuvashia. In March 2008, it was reported that the FRS for the first time had published a list of seven religious educational organizations against which the FRS plans to file lawsuits to liquidate their legal entities, allegedly because they failed to provide required information. The list included the Moscow Higher Spiritual Islamic College, the Biblical College of Evangelical Christians, the Institute of Contemporary Judaism, the Biblical Missionary Academy of Full Gospel Christians, the Academy of the Union of Evangelical Churches, the Theological Academy of Presbyterian Christians, and the Extramural Theological Institute of Christians of Evangelical Faith.

Russian law has several provisions that address crimes motivated by ethnic or religious hatred. For example, Article 282 of the Russian Criminal Code forbids the incitement of ethnic and religious hatred. Unfortunately, Russia's law enforcement agencies and judicial system have a history of infrequent, inconsistent, and even arbitrary and inappropriate application of these provisions. In all too many cases, particularly those involving members of Russia's ethnic and

religious minorities, Russian authorities have not treated hate crimes in a serious and consistent manner. In what could perhaps be seen as an acknowledgement of the problem, in March 2008 Interfax reported that the Investigation Committee of the Prosecutor General's Office planned to set up a national agency to investigate extremism-related crimes. Also, in December 2007, Moscow police took part in an OSCE-sponsored seminar on ways to combat hate crimes.

Although no official Russian government statistics are available, the SOVA Center reported that in January – September 2007 in Russia, there were 230 racially and religiously motivated attacks affecting a total of 409 people, including 46 fatalities. In the same period the previous year, there were 180 attacks with 401 victims, and 41 deaths. The Center is concerned that such violence, often the result of attacks by racist groups usually referred to as "skinheads," is growing dramatically. People from the former Soviet republics of Central Asia, who are predominantly Muslim, remained the main at-risk group, with 23 killed and 36 injured. Moreover, persons or groups who have investigated or been publicly critical of hate crimes in Russia continue to be subject to violent attacks. Nikolai Girenko, a St. Petersburg expert on xenophobia who often testified in trials concerning hate crimes, was gunned down in June 2004. Local police claimed in May 2006—two years after the murder and shortly before the meeting of the G-8 countries in July 2006—to have found the five men guilty of the killing, but some who were familiar with the case questioned whether these were the real perpetrators. In addition, several judges who have ruled against skinheads have received death threats. In October 2006, prominent Russian journalist Anna Politkovskaya, who reported extensively on the situation in Chechnya, was murdered in Moscow in a crime that prosecutors have reportedly linked to her work. Her name was among those on "hit lists" of liberals that had appeared on ultranationalist Internet sites in Russia.

In the months of late 2007 and early 2008, the SOVA Center documented at least 22 acts of violence in 14 Russian regions affecting the property of religious and ethnic minorities. The trend of these attacks was similar to that in previous years: of the 22 affected sites, seven were Jewish, four were Moslem, three were Protestant, two were Roman Catholic, one were Russian Orthodox, and another Armenian. Moreover, RFHRO confirmed in 2007 that inter-religious violence and religiously-based vandalism remained serious problems. While illegal activities motivated by religious hatred receive the attention of law enforcement agencies and they initiate investigations with appropriate charges, the RFHRO noted that there are very few cases resulting in the conviction of the guilty individuals. As a result, members of religious communities often view themselves as lacking protections even during religious services, and express valid concerns about the security of their organizations' property.

Most officials and NGOs agree that many of these attacks are motivated largely by ethnic intolerance, although religious and ethnic identities often overlap. Nevertheless, attacks such as those noted above have occurred against members of Muslim, Jewish, Protestant, and other religious communities and are explicitly motivated by religious factors; leaders of the three afore-mentioned communities have expressed concern about the growth of chauvinism in Russia. They are also apprehensive that Russian government officials have provided tacit or active support for a view held by many ethnic Russians that their country should be reserved for them and that Russian Orthodoxy is the country's so-called "true religion." Officials link this view to a perception that Russian identity is currently threatened due to a demographic crisis stemming

from a declining birthrate and high mortality among ethnic Russians. In a legal reflection of this perception as well as the palpably growing nationalist atmosphere, a new government decree went into effect prohibiting foreigners from holding retail jobs in Russia as of April 2007. President Putin lent his voice to the nationalist campaign, saying it was necessary to protect the rights of Russia's "indigenous" population on the labor market.

Russian officials also display an inconsistent—and often inadequate—record in responding to media attacks and violence associated with anti-Semitism. Vandals desecrated several synagogues and Jewish community centers in 2007, the State Department reported, including in Saratov, Lipetsk, Borovichy, Murmansk, Nizhniy Novgorod, Taganrog, Samara, Petrozavodsk, Perovo, Baltiisk, Kurgan, Khabarovsk, Vladivostok, Tomsk, and Kaliningrad. *Kommersant* reported that during a Moscow rally of several hundred nationalists in April 2008, in addition to expressions of hatred of Jews, there were calls for the murder of some Jewish government officials, but police reportedly did not react.

Moreover, there are at least 80 Russia-based anti-Semitic Web sites and, in various regions of Russia, approximately 100 small, ultranationalist newspapers that regularly print anti-Semitic, anti-Muslim, and other religiously and ethnically-based intolerant content. Particularly on the local level, officials often make an insufficient effort to pursue or punish perpetrators. For example, in May 2007, a court sentenced a man convicted of fire-bombing the Jewish center in Ulyanovsk to a two-year suspended sentence for inciting ethnic hatred. Nevertheless, there are some reported cases when hate crimes legislation has been properly applied. For example, according to the State Department, a court in Novosibirsk sentenced the publisher of a local newspaper to two years in prison in June 2007 for inciting anti-Semitism for publishing articles that openly called for violence against Jews.

Russian rights advocates say that President Putin and senior members of his administration have not spoken out strongly enough in support of the multi-ethnic and multi-confessional nature of the Russian state and society. In fact, some western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes. The Kremlin is believed, for example, to have supported the formation of the ultra-nationalist *Rodina* political party—and then to have been unprepared for its popularity—as well as the politically active nationalist youth movement *Nashi*. Others have observed that the Kremlin, by issuing certain nationalistic statements as well as demonstrating a tendency to blame non-Russians for crime, has encouraged intolerant attitudes toward non-Russians and people who do not identify with the Russian Orthodox Church. President Putin has on occasion affirmed the value of pluralism, for instance at the meeting of the G-8 countries in July 2006, and has also on occasion decried anti-Semitism and hate crimes. Nevertheless, in the Commission's view, more can and should be done to ensure that Russian law enforcement agencies recognize hate crimes for what they are—human rights abuses—and to prevent and punish such crimes, including those involving ethnicity and religion.

Protestant groups in Russia are frequent victims of hostile media attacks. According to the SOVA Center, media outlets in Tula Oblast were particularly aggressive in attacks against Protestants in 2007. Journalists frequently seek advice from the Orthodox Church when preparing articles about Protestants; as a result, media tends to reflect the ROC outlook on Protestants as dangerous "sectarians." Moreover, pro-Kremlin nationalist youth movements

have staged so-called "anti-sectarian," i.e., anti-Protestant, public protests. In 2007, the *Mestnye* movement organized a public protest entitled "No to Sects in the Russian Land!" outside Moscow and *Nashi* held an "anti-sectarian" picket in St. Petersburg, while the Young Guard picketed against Mormons in Saratov. In recent years, Evangelical Protestants and members of other minority Christian communities have also been targeted in violent attacks, to which local authorities reportedly have not adequately responded.

Foreign religious workers continued to encounter visa restrictions in the past year. As in previous years, the Russian Foreign Ministry in 2007 continued its refusal to issue a visa to the Dalai Lama. A conference of Russian Catholic bishops expressed concern in October 2007 over entry visa restrictions faced by Roman Catholic priests, many of whom were issued only one 90-day visa during a six-month period, causing major difficulties for their work in Russia. According to a report by the Slavic Centre for Law and Justice, in October 2007, the Russian government imposed a 90-day limit for visas for foreign religious workers; for longer periods of residence, a more complex and lengthy procedure is now required.

In July 2006, Putin signed an amended version of the 2002 law on countering extremism. Going beyond the law's original definition of racial, ethnic, and religious motivations for crimes, it adds political motivation, allowing citizens to be charged with extremism if they are alleged, within the context of extremism, to have committed public slander of government officials, although these charges must be proven in court. A new version introduced in summer 2007 further widened the number and definitions of offenses that are punishable by the law, thus significantly expanding the law's application even to people with only tangential or circumstantial connections with alleged extremist offenses.

As is the case in many other countries, the Russian government does face major challenges as it addresses extremism and acts of terrorism that claim a religious linkage, while also protecting freedom of religion or belief and other human rights. The rapid post-Soviet revival of Islam, along with the ongoing war in Chechnya and growing instability in the North Caucasus, compound difficulties for the Russian government in dealing with its 20 million strong Muslim population, the country's second largest religious community. Security threats from domestic terrorism, particularly those related to the conflict in Chechnya, are genuine. The North Caucasus region faces chronic instability due to a variety of factors: severe economic dislocation, especially among young men; the effects of the violence in Chechnya; some radical foreign influences on indigenous Muslims; and local grievances, particularly in Ingushetia. All these factors have combined to fuel volatile, and increasingly widespread, expressions of popular dissatisfaction by Muslims with the Russian government.

Yet human rights groups are concerned that the methods used by the Russian government to address security threats could increase instability and exacerbate radicalism among Russia's Muslim community. NGOs and human rights activists have provided evidence of numerous cases of Muslims being prosecuted for extremism or terrorism despite having no apparent relation to such activities. These included dozens of cases of individuals detained for possessing religious literature, such as the Koran, or on the basis of evidence—including banned literature, drugs, or explosives—allegedly planted by the police. The Commission has been informed of at

least 200 cases of Muslims imprisoned on what reportedly are fabricated criminal charges of possession of weapons and drugs.

According to human rights groups, a 2003 Russian Supreme Court decision to ban 15 Muslim groups for alleged ties to international terrorism has made it much easier for officials arbitrarily to detain individuals on extremism charges for alleged links to these groups. Police, prosecutors, and courts reportedly have used the decision to arrest and imprison hundreds of Muslims. It was not until July 2006 that the official government newspaper *Rossiiskaya gazeta* published a list of terrorist-designated organizations drawn up by the Federal Security Service (FSB)—a necessary step to give the ruling legal force—and the list afterward contained the names of two additional groups, without any supporting explanation for their inclusion.

The Russian human rights group Memorial reports that men with long beards, women wearing head scarves, and Muslims perceived as "overly devout" are now viewed with suspicion. Such individuals may be arrested or "be disappeared" on vague official accusations of alleged Islamist extremism or for allegedly displaying Islamist sympathies, particularly in the volatile North Caucasus region. According to a February 2008 report by the Institute for War and Peace Reporting, in Ingushetia, more than 150 people have been abducted by the Russian authorities or had been "disappeared" in recent years, including many who had no relationship to Islamist militancy. In early 2008, outside Ingushetia's largest city, Nazran, three men were shot without warning by security forces for being alleged extremists. Persons suspected by local police of involvement in alleged Islamist extremism have also reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps.

Muslim leaders have also been targeted by Russian officials. For example, a leading Muslim activist in the southern region of Astrakhan was charged with incitement to religious hatred by the regional authorities, although according to Forum 18, his lawyer from the Slavic Legal Center insisted that the charges are "very crudely falsified." In another incident, after a court in the North Caucasus republic of Adygea rejected a case brought against a local imam for "incitement of hatred or hostility by insulting human dignity" under Article 282.1 of the Russian Criminal Code in March 2006, officials filed an administrative suit against the imam the following September—for the "illegal sale of spoiled butter." In May 2007, Said Baburin, an imam in Ufa, Bashkortostan, was arrested after police claimed to have found explosives, a detonator, and heroin in his car. Although these charges were later withdrawn, the imam nonetheless went on trial in November 2007 on accusations of "extremist activity." In Ufa, there have reportedly been three local protests to ask for the imam's release and find those responsible for his unlawful arrest.

Under new amendments to the anti-extremism law, those who are alleged to have defended, or even expressed sympathy with, individuals charged with extremism are themselves liable to the same charges, resulting in a chilling effect on freedom of expression in Russia. According to the SOVA Center, in Adygeya, the prosecutor, without a court decision, banned two books in 2007, including a primer on Islam written by the Adygeya Muslim Spiritual Authority. In September 2007, a Moscow court upheld a lower court decision to declare as "extremist" Russian translations of the books of prominent Turkish Muslim theologian Said Nursi. As a result of this court decision, distribution of Russian translations of Nursi's writings

became illegal in Russia, because, in the court's opinion, Nursi's 14-part commentary on the Koran and Islam "aims to incite religious hatred." An expert study commissioned by the RFHRO concluded, that Nursi's works did not appeal to religious hostility or intolerance; in Turkey, Nursi's books are in public circulation. According to the RFHRO's 2007 report, the court ignored the expert opinions of religious and secular specialists. The Ombudsman had unsuccessfully appealed to the court that since this case affects religious rights it required "particular attention."

This hostile atmosphere is also affecting Muslims' ability to open and maintain mosques. The SOVA Center reported that in October 2007, the Russian Council of Muftis published a list of 13 cities in the Moscow region where local officials have prevented Muslim communities from obtaining construction permits for mosques. In August 2006, the Russian Supreme Court upheld a lower court decision ordering that the local Muslim community pay for the demolition of its new mosque in the city of Astrakhan on the Caspian Sea. In May 2007, the Supreme Court agreed to reconsider the case. Allegedly, the city's Muslim community had not received all the required building permits, although construction of this mosque had been partly funded by previous regional and city governments. In July 2007, the European Court of Human Rights decided to prioritize the case application from the Astrakhan mosque; as of this writing, the case is still under consideration.

In March 2007, a group of more than 3,000 Muslims, including four prominent imams, published an unprecedented open letter to President Putin in asking him to intervene and stop the repression of Muslims in the name of the struggle against terrorism. The letter, published in the *Izvestia* daily, complained of what it called Muslim prisoners of conscience, including an arrested imam in the southern city of Pyatigorsk, who, they alleged, was only guilty of the conversion of non-Muslims to Islam. The imam, Anton Stepanenko, received a suspended one-year sentence that same month for "inciting inter-ethnic and inter-religious hatred" and for "arbitrariness." The letter also protested the case concerning Nursi's writings, saying it could become "a precedent for practically all literature that cites the Koran to be outlawed in Russia." Russian officials have consistently denied discriminating against Muslims.

A Commission delegation traveled to Russia in June 2006, visiting Moscow, St. Petersburg, and Kazan, the capital of the Republic of Tatarstan. The Commission met with Russian government officials from the National Security Council, the Presidential Administration, the Ministry of Foreign Affairs, the FRS, and the Presidential Council on Religious Affairs, as well as with the President of the Republic of Tatarstan and other regional and local officials and legislators. The delegation also met with representatives from a wide range of Russia's religious communities, as well as academics, legal advocates, and representatives of human rights organizations. The visit, the Commission's second to Russia, was prompted by the passage of the new law governing the work of NGOs out of concern that the legislation would have deep repercussions for civil society and a harmful impact on the protection of freedom religion or belief in Russia. In July 2006, the Commission issued a press release with recommendations to the G-8 after the Commission's visit and that month it also hosted a public meeting with an official from Russia's Federal Registration Service. Later in 2006, the Commission released a Policy Focus with findings and recommendations based on the Commission visit to Russia earlier that year.

In January 2008, the Commission co-sponsored a presentation at the Kennan Institute for Advanced Russian Studies of the Woodrow Wilson Center on "The Putin Government's Responses to Increased Xenophobia," featuring Aleksandr Verkhovsky, a leading Russian expert on xenophobia and freedom of religion, and director of the SOVA Center. In May 2007, the Commission co-sponsored an event at the Congressional Human Rights Caucus on the status of Islam in the north Caucasus featuring Grigory Shvedov, director of the "Caucasian Knot" information agency and a board member of the Russian "Memorial" Society. In March 2007, the Commission released a report, *Challenge to Civil Society: Russia's Amended Law on Noncommercial Organizations*, which provided the first detailed legal analysis of the legislation and its impact. Russian translations of the two recent Commission reports are available on the Commission Web site. Later in March, Commission staff discussed the findings of the Policy Focus as well as the NGO report at two public events held at Radio Free Europe/Radio Liberty (RFE/RL); the Commission also co-sponsored an event with RFE/RL featuring Aleksandr Verkhovsky, who discussed Russia's new anti-extremism law.

In February 2006, Commissioner Elizabeth Prodromou traveled to Moscow to make a presentation on "Human Rights and Tolerance in Today's Russia: an International View" at a conference in Moscow held by the Russian Presidential Administration Training Academy for state officials responsible for the regulation of religious affairs in Russia. The Commission also made a similar presentation at a conference on religion in Russia at the Moscow Humanities University. During the visit, Commissioner Prodromou met with representatives of human rights organizations and academic experts on freedom of religion in Russia. Also in February 2006, the Commission held a roundtable at the Carnegie Endowment for International Peace, at which several experts discussed U.S. human rights policy towards Russia.

In February 2005, the Commission held a joint briefing with the Kennan Institute for Advanced Russian Studies on "Russia: Religious Communities, Extremist Movements and the State" chaired by Commissioner Felice D. Gaer, which presented expert views on the status of Muslims, Christians, and Jews, as well as on increased ethnic and religious extremism. Also in February, the Commission issued a press statement calling on President Bush to raise with President Putin the state of freedom of religion or belief in Russia at their then-upcoming meeting. In April 2005, the Commission held a briefing with Oleg Mironov, the former Human Rights Ombudsman of the Russian Federation, and Mufti Ismagil Shangareev, director of the Islamic Human Rights Defense Center in Russia. Also in that month, Lyudmila Alekseeva, head of the Moscow Helsinki Group, discussed religious freedom and other human rights concerns in Russia. In May 2005, Verkhovsky discussed religious extremism in Russia at an event co-sponsored with Radio Free Europe/Radio Liberty.

The Commission has advocated continued inclusion of the "Smith Amendment" in the Foreign Operations Appropriations bill. The Smith Amendment conditions foreign assistance to the Russian government on the President certifying that the Russian government has not implemented any statute, executive order, or regulation that discriminates against religious groups or religious communities, in violation of international norms on human rights and religious freedoms to which the Russian Federation is a party. Congress included this provision in the Consolidated Appropriations Act of 2005.

Commission Recommendations

I. Combating Xenophobia, Intolerance, and Hate Crimes

The U.S. government should urge the Russian government to:

- condemn specific acts of xenophobia, anti-Semitism, and intolerance, as well as incidents of hate crimes, and to make clear that such crimes are to be treated by officials as human rights abuses, not "hooliganism," and that they will be fully and promptly investigated and prosecuted;

- while vigorously promoting freedom of expression, take steps to discourage rhetoric that promotes xenophobia or intolerance, including religious intolerance;

- provide special training and other programs for law enforcement officers and other officials to address ethnic hatred and promote tolerance;

- establish a special nationwide anti-discrimination body, as recommended by the Council of Europe's European Commission Against Racism and Intolerance;

- implement the numerous specific recommendations made by Russia's Presidential Council on Human Rights, the official Russian Human Rights Ombudsman, and the Council of Europe's Commission against Racism and Intolerance to address anti-Semitism and xenophobia and prevent and punish hate crimes, including full implementation by regional and local law enforcement personnel of criminal code provisions prohibiting incitement and violence motivated by ethnic or religious hatred, in accordance with standards established by the European Court of Human Rights (ECtHR); and

- report, as required, to the Organization for Security and Cooperation in Europe (OSCE) on the specific measures that have been undertaken on a national level to address hate crimes, including maintaining statistics on these crimes, and strengthening legislative initiatives to combat them, and to take advantage of relevant OSCE training programs for Russian law enforcement and judicial officials.

II. Reforming or Withdrawing the 2006 Russian Law on Non-Commercial Organizations

The U.S. government should:

- establish a program to monitor implementation of Russia's law on non-governmental organizations (NGOs), including its impact on religious organizations;

- encourage the Russian government to withdraw or substantially amend the NGO law; failing that, the government should be urged to develop regulations that clarify and sharply limit the state's discretion to interfere with the activities of NGOs, including religious organizations. These regulations should be developed in accordance with international standards and in conformance with international best practices;

- encourage the Russian government to publish precise and transparent statistical data on a regular basis regarding the Ministry of Justice's Federal Registration Service (FRS) activities related to implementation and enforcement of the NGO law; and

- devote added resources to legal training for Russian NGOs, giving them the tools to defend the civil society they have built, and speak out in support of defense attorneys who are harassed and threatened for defending their clients, including human rights defenders and religious groups.

III. Ensuring the Equal Legal Status and Treatment of the Members of Russia's Religious Communities

The U.S. government should encourage the Russian government to:

- ensure that law enforcement officials vigorously investigate and prosecute acts of violence, arson, and desecration perpetrated against members of any religious community, their property, or houses of worship; set up a review mechanism outside the procuracy to ensure that government authorities and law enforcement personnel are investigated and sanctioned, as appropriate, if they are found to have encouraged or condoned such incidents;

- affirm the multi-ethnic and multi-confessional nature of Russian society;

- affirm publicly that all religious communities in Russia are equal under the law and entitled to equal treatment, whether registered or unregistered; publicly express opposition to any legislation that would grant preferences to the purported "traditional" religions over other groups; and direct national government agencies to address and resolve continuing violations of religious freedom at the regional and local levels, including by:

  --issuing instructions to local law enforcement, prosecutors, and registration officials as well as publicly affirming that members of all religious communities are to be treated equally under the law;

  --enforcing non-discriminatory, generally applicable zoning and building codes, and ordering an end to the practice of using local public opinion surveys that serve as a basis to deny land and building permits to minority religious communities; and

  --deleting from the preface to the 1997 Law on "Freedom of Conscience and Religious Organizations" the reference to the four "traditional" religions—Russian Orthodoxy, Islam, Judaism, and Buddhism, as that reference, although it does not have legal standing, implicitly contradicts the Russian constitutional provision that "religious associations are separate from the state and are equal before the law" and has led Russian officials to establish inappropriate limits or demands against members of Russia's other religious communities;

- denounce media attacks on any religious community and adopt administrative measures against government officials who fuel them;

- cease all forms of interference in the internal affairs of religious communities;

- avoid taking steps that could exacerbate religious extremism by (1) developing policies and strategies to protect the religious freedom and other human rights of the members of Russia's Muslim community and (2) reviewing past cases of alleged arbitrary detention or arrest of members of this community;

- distribute on a regular basis updated information on freedom of religion or belief, as well as on Russian constitutional provisions and jurisprudence on separation of church and state and the equal status of religious denominations, to the Russian judiciary, religious affairs officials at all levels of government, the FRS, the procuracy, and all law enforcement bodies;

- extend the current annual training program for regional and local religious affairs officials to include their counterparts in the judiciary, procuracy, law enforcement agencies, and to the FRS;

- direct the Russian Federation Human Rights Ombudsman to set up a nationwide monitoring system on the status of freedom of religion or belief in the 84 regions of Russia; and

- accept a site visit to Russia from the UN Special Rapporteur on Freedom of Religion or Belief and grant her unrestricted access to religious communities and to regions where religious freedom abuses are reported.

IV. Strengthening Attention to the Issue of Freedom of Religion or Belief in U.S. Diplomacy

The U.S. government should:

- ensure that the U.S. Congress maintain a mechanism to monitor publicly the status of human rights in Russia, including freedom of religion or belief, particularly in the case of any repeal of the Jackson-Vanik amendment with respect to Russia, and maintain the Smith Amendment as U.S. law;

- urge the government of the Russian Federation to invite each of the three OSCE Personal Representatives on combating intolerance as well as the UN Special Rapporteur on Freedom of Religion or Belief to visit the Russian Federation during 2008-2009;

- ensure that U.S. Embassy officials and programs (a) engage with regional and local officials throughout the Russian Federation, especially when violations of freedom of religion occur, and (b) disseminate information to local officials concerning international legal norms on freedom of religion or belief, including the rights of unregistered religious communities;

- ensure that the issue of human rights, including freedom of religion or belief, be raised within the context of negotiations on Russian accession to the World Trade Organization; and

- work with the other members of the G-8 to ensure that the issue of human rights, including the human rights aspects of migration and protecting human rights in the context of counter-terrorism, are raised at all bilateral and multilateral meetings.

V. Strengthening U.S. Programs on Promoting Religious Freedom and Combating Religious Intolerance

The U.S. government should:

- ensure that U.S. government-funded grants to NGOs and other sectors in Russian society include the promotion of legal protections and respect for religious freedom as well as methods to combat xenophobia, including intolerance based on religion, and ensure that solicitations and requests for proposals should include these objectives;

- support programs developed by Russian institutions, including universities, libraries, NGOs, and associations of journalists, particularly those who have engaged in the activities described in the above recommendation, to organize conferences and training programs on issues relating to freedom of religion or belief, as well as on promoting inter-religious cooperation, encouraging pluralism, and combating hate crimes and xenophobia;

- support programs to train lawyers to contest violations of the rights to freedom of religion or belief as guaranteed in Russian law and under its international obligations both in Russian courts and before the ECtHR;

- translate, where necessary, into Russian and print or otherwise make available to Russian citizens relevant documents and materials, including:

  --hate crimes guidelines developed by the U.S. Federal Bureau of Investigation, as well as U.S. Department of Justice expertise on combating hate crimes and religiously-motivated attacks; and

  --international documents and materials generated by Russian institutions relating to freedom of religion or belief, xenophobia, and hate crimes, as well as relevant U.S. Department of State and Commission reports, posting such documents on the U.S. Embassy Web site;

- ensure that Russia's citizens continue to have access to alternative sources of information through U.S.-government-funded radio and TV broadcasts, as well as Internet communications, and that these broadcasts include information about freedom of religion or belief and the need to combat xenophobia and hate crimes; in particular by:

  --restoring the funding of Russian-language radio broadcasts of Voice of America and Radio Free Europe/Radio Liberty (RFE/RL) to the levels of fiscal year 2007, restoring the broadcast hours that have been cut and planned staff reductions, and considering new vehicles for delivery of broadcasts; and

--increasing funding for radio broadcast programs in minority languages spoken in Russia, including the RFE/RL Tatar and North Caucasus services, which are often the primary source of independent broadcast media in regions of Russia with majority Muslim populations;

- include in U.S.-funded exchange programs a wider ethnic and religious cross section of the Russian population, with particular focus on educational and leadership development programs for students from the North Caucasus, Tatarstan, and other regions of Russia with sizeable Muslim and other religious and ethnic minority populations; and

- initiate International Visitor's Programs relating to the prevention and prosecution of hate crimes for Russian officials and other relevant figures.

VI. Addressing the Crisis in Chechnya and the North Caucasus

The U.S. government should:

- ensure that the continued humanitarian crisis in Chechnya and allegations of human rights abuses perpetrated by the Russian military there and in other North Caucasus republics remain a key issue in U.S. bilateral relations with Russia;

- urge the Russian government to end and vigorously prosecute all alleged acts of involuntary detention, torture, rape, and other human rights abuses perpetrated by members of the Russian security services in Chechnya, including those by pro-Kremlin Chechen forces;

- urge the Russian government to abide by all resolutions passed by the Parliamentary Assembly of the Council of Europe relating to the human rights and humanitarian situation in the North Caucasus, and reinstate regular on-site visits by the Council of Europe's Special Rapporteur for Chechnya;

- urge the Russian government to accept a site visit to Chechnya from the UN Special Rapporteur on Extrajudicial Executions and to reconsider the October 2006 decision to deny access to the UN Special Rapporteur on Torture;

- work with other OSCE Member States to ensure that issues related to human rights abuses in the North Caucasus play a more prominent role in OSCE deliberations, and encourage the OSCE to raise humanitarian and other forms of assistance to the civilian populations affected by the decade-long conflict in Chechnya; and

- ensure that U.S.-funded conflict resolution and post-conflict reconstruction programs for the North Caucasus also fund credible local partners in Chechnya, Ingushetia, and Daghestan.

Countries Previously on the Comimssion's Lists: Georgia, India, and Laos

Georgia

Religious freedom conditions in Georgia continued to improve in the past year. Under the government of President Mikheil Saakashvili, the number of reported incidents of violence against minority religious communities has markedly decreased, a trend that continued in the past year. Many of the leaders of the vigilante violence have been sentenced to prison for their involvement in the attacks. In the past year, President Saakashvili and the country's Human Rights Ombudsman made numerous speeches and appearances in support of minority religious groups. While the Georgian Orthodox Church (GOC) remains the only religious group with formal legal status as a religious organization, most religious communities are able to operate in Georgia. These and other improvements in religious freedom conditions led the Commission to remove Georgia from its Watch List in 2004.

Under the government of former President Eduard Shevardnadze, members of minority religious groups, including Baptists, Roman Catholics, Hare Krishnas, Jehovah's Witnesses, and members of Orthodox churches that do not accept the primacy of the GOC Patriarchate, were subjected to over 100 violent vigilante attacks. Jehovah's Witnesses, as well as members of independent Orthodox churches, were particularly targeted. Local police were implicated in these attacks, as they often refused to intervene to protect the victims. What began in 1999 as a series of isolated attacks in the capital of Tbilisi escalated by 2002 into a nationwide scourge of widely publicized mob assaults against members of religious minorities. However, according to the State Department, increased investigations and prosecutions of the perpetrators of the violence, who included some GOC priests reportedly supported by others in the GOC hierarchy, led to improvements in the status of religious freedom. In late 2004, Georgian officials permitted the Jehovah's Witnesses to operate legally in the country for the first time. Under a new registration process established by parliament in April 2005, 14 religious communities were able to obtain legal status as non-commercial organizations.

Despite improvements, however, religious freedom concerns remain. Although the primary leaders of the violent mob attacks against members of religious minorities have been convicted, many others accused of participating in this violence—including local police officials—have not been held to account by the Georgian authorities, reportedly due to fears of offending the GOC hierarchy. Moreover, occasional mob attacks on religious minorities still occur, particularly against members of the Jehovah's Witnesses.

There are also concerns about the status of the GOC, to which 65 percent of the country's population claims adherence. In October 2002, the Georgian government signed a "concordat" with the GOC, granting the Church some authority over state school textbooks, the construction of religious buildings, and the publication of religious literature by other religious groups. Although the agreement was reaffirmed in January 2005, a new law the following April provided for the separation of state schools and religious teaching and narrowed the application of the concordat, such as limiting teaching by the GOC to after-school hours and eliminating school and teacher involvement. Nevertheless, public schools reportedly do offer an elective course on religion, which deals only with the theology of Orthodox Christianity. In response, the Ministry of Education is developing new textbooks that will discuss various religions in a neutral way.

Reports continue, however, of societal pressure against students who are members of "non-traditional" religious minorities. The Georgian Human Rights Ombudsman reported that public school teachers sometimes offer Orthodox prayers in classrooms and display Orthodox icons in schools. The Education Ministry has formed a General Inspection Department to deal with complaints of inappropriate teacher behavior, and in 2007, the Ministry was also drawing up guidelines for periodic teacher recertification in this regard. The General Inspection Department reported that 15 complaints of violations of religious freedom were filed in the first half of 2007, most of them concerning verbal abuse.

According to the State Department, the Roman Catholic Church, Armenian Apostolic Church, and several Protestant denominations continued to have difficulty obtaining permission to build new churches, due in part to the reluctance of local authorities to antagonize local GOC supporters. However, the GOC reportedly did not oppose new church construction by other religious groups when such construction did not obstruct or otherwise affect GOC sites. In past years, Assyrian Chaldean Catholics, Lutherans, Muslims, Old Believers, Jehovah's Witnesses, and Roman Catholics had stated that the GOC Patriarchate had often acted to prevent them from acquiring, building, or reclaiming places of worship. In addition, Roman Catholics, Baptists, Pentecostals, the Armenian Apostolic Church, and the True Orthodox Church reportedly also faced GOC pressure, condoned by government officials, preventing them from building houses of worship.

In April 2005, a new law was passed allowing religious communities to register as non-commercial organizations, since the GOC was the only religious community to have legal status in Georgia. As a result, the Church of Jesus Christ of Latter Day Saints (Mormons), Seventh Day Adventists, and 12 other religious denominations have been approved for registration. While this remedy generally is considered a satisfactory mechanism to grant legal personality to most religious groups, Muslims, the Roman Catholic and Armenian Apostolic churches, and some other groups reportedly are trying to devise a different arrangement with the government to accommodate their internal hierarchical structures. The leaders of other religious minority groups are also still seeking recognized legal status, a prerequisite for the community to own property collectively or organize most religious activities. The absence of formal legal status, however, generally has not prevented most religious communities from functioning through affiliated, registered non-governmental organizations.

Members of various religious minority communities have noted the positive role played by the government's Human Rights Ombudsman in advancing their rights in accordance with international law. In December 2005, for example, the Human Rights Ombudsman issued a report calling for equal recognition under the law for all religions, a suggestion to which some Members of Parliament reportedly objected due to the historic role of the GOC.

Despite general tolerance toward minority religious communities viewed as traditional to Georgia, opinion polls and views expressed in the Georgian media reflect significant societal intolerance towards Protestants and other religions seen as relatively new to Georgia. There were reports of societal abuses or discrimination based on religious identity in the past year; however, the State Department reported that the non-GOC religious minorities noted significant decreases in incidents of harassment, violence, or other direct pressures. None alleged continuing organized campaigns of physical abuse.

With regard to Georgia, the Commission recommends that the U.S. government should:

- encourage the Georgian government to continue to investigate and prosecute those individuals, including local officials, who are alleged to have been complicit or engaged in violence against members of religious minority communities;

- encourage the Georgian government to establish a mechanism to enable all religious communities to gain legal personality under Georgian law in a manner that reflects internal structural characteristics of the communities and is consistent with international human rights standards;

- fund programs in Georgia for journalists, religious leaders, and members of non-governmental organizations to promote religious tolerance and provide education on international standards on freedom of religion or belief; and

- encourage the Organization on Security and Cooperation in Europe (OSCE), the OSCE Field Presence in Tbilisi, and the OSCE Panel of Experts on Religion and Belief to conduct activities in Georgia, including seminars on the OSCE's "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools," to increase public and official awareness of the importance of freedom of religion or belief and tolerance.

India

The positive developments in India affecting freedom of religion or belief that began in 2004, when parliamentary elections resulted in installation of a coalition government led by the Congress Party, continued in the past year. Under the previous leadership of the Bharatiya Janata Party (BJP), the Commission in prior years found the Indian government's response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In response, from 2002 – 2004, the Commission recommended that India be designated a "country of particular concern," or CPC. As a result of the changes that took place in India after the 2004 elections, the Commission in 2005 no longer recommended that India be designated a CPC.

Unlike many of the other countries that draw Commission attention, India has a democratically elected government, is governed generally by the rule of law, and has a tradition of secular governance that dates back to the country's independence. India has a judiciary that is independent, albeit slow-moving and frequently unresponsive, but which can work to hold the perpetrators of religious violence responsible; an active civil society with many independent non-governmental human rights organizations that have investigated and published extensive reports on the rise of religiously motivated violence; and a free press that has widely reported on and strongly criticized the situation on the ground and the growing threats in the past decade to a religiously plural society.

Despite this, religious minorities in India have been the victims of violent attacks by fellow citizens, including killings, in what is commonly called "communal violence." In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and

destruction of property. Those responsible for communal violence were rarely held responsible for their actions, helping to foster a climate in which it was believed that attacks on religious minorities could be carried out with impunity. The increase in such violence in India coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of organizations that view non-Hindus as foreign to India and aggressively press for governmental policies to promote a Hindu nationalist agenda. Although it was not directly responsible for instigating the violence against religious minorities, the BJP-led national government clearly did not do all in its power to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility against these minority groups, especially at the state and local levels.

Of particular concern to the Commission were the February 2002 events in the state of Gujarat, when, after a fire on a train resulted in the death of 58 Hindus, hundreds of Muslims were killed across Gujarat by Hindu mobs. In addition, hundreds of mosques and Muslim-owned businesses and other kinds of infrastructure were looted or destroyed. More than 100,000 people fled their homes and, in the end, as many as 2,000 Muslims were killed. India's National Human Rights Commission (NHRC), an official body, found evidence of premeditation in the killings by members of extremist groups espousing Hindu nationalism, complicity by Gujarat state government officials, and police inaction in the midst of attacks on Muslims. Christians were also victims in Gujarat, and many churches were destroyed.

In August 2004, the Supreme Court ordered the Gujarat government to reopen its investigation of the 2002 violence, criticizing the local police officials for poor investigative practices and inadequate follow-up. In July 2006, a report from a committee attached to the Prime Minister's office again chastised the Gujarat government for failing to improve the situation for Muslims in that state, noting that a "state of fear and insecurity" still existed for many Muslims there. In the past year, efforts to pursue the perpetrators have continued, albeit slowly, though human rights groups reported that many cases would likely continue to be closed or result in acquittals, due to lack of evidence or insufficient effort on the part of local police officials. In March 2007, the government announced that it would pay approximately $8,000 in additional compensation to the next of kin of persons killed in the Gujarat violence.

In June 2004, a government-appointed committee of historians was tasked with removing the "distortions and communally-biased portions" of textbooks issued under the BJP government; they were replaced in 2005 with more moderate editions. The State Department reported in 2007 that during the past year, the National Council of Education Research and Training "acted systematically" to remove "tainted" textbooks with communal bias from schools and introduce more secular and objective school textbooks that seriously address atrocities committed against national minorities in India.

Since taking office, the Congress Party coalition government has acted decisively to prevent communal violence in situations where it has erupted in the past. In February 2006, a mass rally of Hindu nationalists was held in the Dangs district of Gujarat calling on members of the indigenous "tribal" people to "reconvert" to Hinduism. Extremist groups had issued a number of highly inflammatory statements, particularly against Christians, and violence against local Christian communities was feared, as has happened in the past. However, the military was sent into the area to maintain peace; riot police were reportedly posted outside churches and temples and no violence occurred. In March 2006, after bombs exploded in the Hindu holy city

of Varanasi killing 20 persons, allegedly instigated by Islamist groups, authorities reportedly acted swiftly to prevent retaliation against Muslims. Prime Minister Singh appealed for calm, and soldiers and police were deployed at holy sites across the country. In July 2006, after reports implicated Muslim extremists in train bombings in Mumbai (Bombay) in which more than 200 people were killed, successful efforts were made to prevent anti-Muslim rioting.

According to the State Department's 2007 religious freedom report, minority rights groups reported that incidents of communal violence had decreased in the past year. The State Department also reported that speeches by the prime minister and some state government officials in the past year regularly promoted communal harmony. In November 2006, a central government-appointed panel known as the Sachar Committee acknowledged that Muslims in India face discrimination and other hardships. In response to the report's findings, Prime Minister Singh pledged to do more to "address the imbalances." In January 2007, based on this report, the national government directed all banks to provide preferential loans to minorities. In April 2007, Prime Minister Singh stated that efforts would be made to ensure that women and minorities were "properly represented" at all levels of government. Finally, in November 2007, the government adopted new rules enabling members of all religious communities to adopt children, ending a long era in which only Hindus were given this right.

Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by individuals associated with Hindu nationalist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. Dozens of violent attacks carried out or incited by Hindu extremist groups against Christian institutions and persons continued throughout the past year. Among the most serious attacks occurred on December 24, 2007, in the state of Orissa, where clashes erupted between Hindus and Christians. According to some sources, hundreds of members of a Hindu extremist group, demanding that Christmas celebrations be halted, attacked Christian individuals, churches, offices, and residences, destroying homes, looting shops, and injuring a number of individuals. At least six persons were killed. Those actions were reportedly followed by retaliatory actions by Christians against Hindus. Other sources indicate that violence erupted after Christians attacked a Hindu leader or erected religious statues at a Hindu religious site.

Regardless of the initial instigators of the violence, during the subsequent three days of rioting, 20 churches and an untold number of prayer houses and private residences belonging to both Hindus and Christians were destroyed. According to a January 2008 report of India's National Commission for Minorities, although "the reasons for the outbreak of violence...are more varied than was apparent from media reports, there is no doubt that the Christian community and its places of worship were the principal target of attack. They bore the brunt of [the] violence and suffered the maximum damage. As a result, the Christian community continues to live in fear and feels insecure and unsafe."

In November 2007, a mob of 150 members of a Hindu extremist group attacked a church in the state of Chhattisgarh, destroying the church building, beating the pastor, and kidnapping a young member of the church, who was later found dead. Despite the fact that the police were provided with the names of the attackers, officials reportedly waited until the following day to file a complaint. In January 2008, also in Chhattisgarh, more than 80 people were injured in an

attack on a large Christian meeting carried out by extremists. The attackers reportedly beat the Christian worshippers and vandalized the makeshift church structure. In December 2007 and February 2008, there were incidents in the state of Karnataka in which churches were desecrated and the pastors assaulted. Similar attacks occur, sometimes in greater numbers, every month, particularly in states where the BJP heads the state government, including in Rajasthan, Madhya Pradesh, Gujarat, Chhatisgarh, and Jharkhand. In some instances, the police respond appropriately; in others, however, the police reportedly look the other way or even appear to be complicit in the attacks.

Several of the BJP-led states have laws against "forced" or "induced" religious conversions, which require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or "inducement" to convert another. Reports of persons having been arrested or prosecuted under these laws are not common. Nevertheless, concerns have been raised that these laws can sometimes result in a hostile atmosphere for religious minorities, as states in which these laws exist tend to be those in which attacks by extremist groups are more common—and often happen with greater impunity—than elsewhere in India. For example, the state of Madhya Pradesh, which is headed by the BJP, was the scene of an increasing number of attacks in the past year. In June 2006, a report by the Indian national government's National Commission for Minorities (NCM) found that Hindu extremists had frequently invoked the state's anti-conversion law as a pretext to incite mobs against Christians. The NCM report also found that police in Madhya Pradesh were frequently complicit in these attacks. Similarly, the NCM report on the December 2007 violence in Orissa concluded that an important factor behind the attacks was the "anti-conversion" campaign carried out by groups associated with the Sangh Parivar. According to the report, the campaign against conversions "created an atmosphere of prejudice and suspicion against the Christian community..." and that "the role of the Sangh Parivar activists and the anti-conversion campaign in fomenting organized violence against the Christian community deserves close scrutiny."

Throughout the past year, Commission staff conducted personal interviews with members of non-governmental organizations representing various religious communities in India, as well as human rights organizations, academics, and other India experts. In January 2008, the Commission issued a press statement expressing serious concern about the riots between the Hindu and Christian religious communities in Orissa, noting that the violence had had particularly severe consequences on the minority Christian community. In March 2005, the Commission issued a statement encouraging the Department of State to prevent the planned visit to the United States of Gujarat State Minister Narendra Modi, citing evidence presented by India's NHRC and numerous domestic and international human rights investigators of the complicity of Gujarat state officials, led by State Minister Modi, in the February 2002 mob attacks on Muslims.

With regard to India, the Commission recommends that the U.S. government should:

- press the government of India to make more vigorous and effective efforts to halt the violent attacks against religious minorities that continue to occur with troubling regularity in India and to hold state governments and state government officials accountable for the violence and other unlawful acts that occur in their states; and

- urge the Indian government to continue its policies aimed at returning the country to its tradition of religious tolerance, including by:

  --continuing to pursue, investigate, and lay charges against the perpetrators of the killings in Gujarat;

  --taking steps to prevent and punish communal violence, including by following through on a pledge made in 2004 to enact a law criminalizing inter-religious violence; and

  --continuing the kinds of measures that have successfully prevented outbreaks of violence in high-tension situations, and engaging in pre-planning to ensure that the police and other law enforcement agencies have the resources necessary to avert communal violence in the future.

Laos

The Commission removed Laos from its Watch List in 2005, citing steps taken by the Lao government to address religious freedom concerns. Conditions continued to improve for Laos's Buddhist population and for non-Buddhist groups in the major urban areas. However, ethnic minority Protestants continue to face restrictions and some abuses in provincial areas, including arrests, short detentions, forced renunciation of faith, and forced evictions from villages. Though progress in some areas remains encouraging, the persistent religious freedom abuses and restrictions are troubling, particularly since the government had been moving in a positive direction in previous years. The Commission continues to monitor closely the actions of the Lao government with regard to religious freedom to determine if a return to the Watch List is warranted.

The government continues to incorporate Theravada Buddhist rituals and ceremonies into state functions and ceremonies and Buddhism is largely exempt from the legal restrictions imposed on religious minorities. In major urban areas, non-Buddhist religious leaders continue to report few restrictions on their worship activities, and the government has allowed them to re-open, build, expand new places of worship, and/or carry out charitable work in recent years. Over the past two years, the Catholic Church was permitted to ordain five priests and a deacon, the first such ordinations since 1975. The government also allowed the building of a Catholic church in the northern province of Sayaboury and provided the Bishop of Luang Prabang more freedom to visit Catholics in the northern provinces, areas where both Protestant and Catholic religious practices were once severely restricted. Four new Protestant churches were built in the former Saisomboun Special Zone and Bolikhamsai province and churches formerly closed or destroyed were permitted to re-open in Bolikhamsai, Vientiane, and Bokeo provinces. The small Baha'i community was allowed to reclaim property in two provincial areas.

Theravada Buddhism is closely associated with the dominant "lowland" Lao culture, which makes up approximately 50 percent of Laos's population. However, the rapid growth of Protestantism among Laos's many ethnic minorities is a constant cause of concern for Communist government officials. Authorities continue to view the spread of Christianity among ethnic minorities as an "American import" that poses a potential threat to the Communist political system, particularly as some ethnic minority groups have long resisted government

control. Over the past several years, however, the Lao Front for National Construction (LFNC), the agency that oversees religious policy and regulates religious activities, has publicly called for greater religious reconciliation and tolerance, and reportedly intervened with provincial officials arresting and harassing ethnic minority Protestants—though with few measurable results. Nevertheless, troubling reports persist that provincial and village-level officials confiscate the property of religious groups, arrest and detain persons, and otherwise harass individuals for participating in religious activities. Because the Lao government decentralized power to provinces and district leaders, its control over the actions of provincial-level authorities has weakened significantly in recent years. In some provincial areas, Protestant groups have been denied permission to hold religious services in homes, conduct public ceremonies, build permanent structures, import religious materials, or affiliate outside of the officially-recognized group, despite legal protections found in Decree 92, Laos' law on religion.

In the past year, Lao authorities continued to arrest and detain individuals for their religious activities. Currently, there are at least five individuals imprisoned or detained for activities related to religious belief and practice, including a man abducted by police in Luang Namtha province. Six other individuals remain unaccounted for from a group of 27 ethnic Hmong Protestants detained after being repatriated from Thailand. The government released 21 from the group after almost 15 months in detention; six remain in detention and their whereabouts are unknown. Reports indicate that religious affiliation is at least part of the reason for the group's detention. In addition, over the past two years, 11 individuals were detained for periods between two weeks and six months on charges related to constructing a church building without permission, engaging in public religious expression, or refusing to recant their beliefs. Most of these cases involved ethnic minority Protestants; however, in February 2007, two Buddhist monks were arrested and briefly detained for being ordained without government permission. Recent arrests and detentions occurred most often in Oudomsai, Luang Namtha, Savanakhet, and Salavan provinces.

The number and frequency of reports of coerced renunciation of religion have diminished significantly in the past several years. Nonetheless, there continue to be instances in which ethnic minority Protestants face land confiscation, forced relocation, detention, or disappearances in provincial areas. Most reports occur in Oudomasai, Salavan, Bolikhamsai, and Luang Namtha provinces. In late 2005, authorities in the Muang Phin District of Savannakhet province detained 24 ethnic Brou Protestants for several days in order to force them to renounce their beliefs. All but two of the men recanted, and they remain in prison. In April 2006, officials in Salavan province reportedly arrested a village leader and expelled two families for refusing to renounce their religion. The village leader was held under house arrest until July 2006. In January 2007, police reportedly abducted an ethnic Thai Dam resident of Oudomsay province who had been an active leader in the Muang Houn Christian community. Also in January, Protestant families in Luang Namtha province were threatened with expulsion if they did not renounce their beliefs. In March 2007, there were similar reports in Bolikhamsai and Huaphanh provinces.

Another ongoing concern of the Commission is the potential for restrictions and other abuses through Decree 92, the government's 2002 decree on religious activities. Decree 92 legitimized activities previously regarded as illegal, such as public religious persuasion, printing religious material, owning and building places of worship, and maintaining contact with overseas

religious groups. There also continue to be credible reports that the LFNC uses Decree 92 to facilitate religious practice in some areas and to promote cooperation among religious communities. However, through Decree 92, the Lao government continues to provide officials with a potential legal basis for control of, and interference in, religious activities. For example, the government requires most religious groups, with the exception of the Buddhists, to report their activities to the LFNC. Religious leaders in Laos also claim that there continue to be restrictions on the publication of religious materials or public religious expression and persuasion, despite provisions in Decree 92. In addition, many religious activities can be conducted only with government approval, and the decree contains vague national security provisions that prohibit activities that create "social division" or "chaos," reiterating Article 9 of the Lao Constitution and Article 66 of the criminal code, used in the past by government officials to arrest and detain arbitrarily ethnic minority Christians.

In the past year, the Commission and its staff have met with Lao government officials and religious leaders, domestic and international human rights activists, academics and other experts on Laos. The Commission traveled to Laos and issued a report on its findings in February 2003.

With regard to Laos, the Commission has recommended that the U.S. government should:

- make clear to the government of Laos that continued improvements in the protection of freedom of thought, conscience, and religion or belief, including legal reforms, political accountability for government officials who perpetrate religious freedom abuses, and the release of any prisoner of concern detained because of religious affiliation or activity, is essential to further improvements in, and expansion of, U.S.-Laos relations;

- establish measurable goals and benchmarks, in consultation with the Commission, for further human rights progress in Laos as a guide for diplomatic engagement between Laos and the United States or for initiating a formal human rights dialogue with the government of Laos, addressing such human rights issues as ethnic and religious discrimination, torture and other forms of ill-treatment in prisons, unlawful arrest and detention, the absence of due process, and practical steps to ensure the right to freedom of expression, association, and assembly;

- expand Lao language broadcasts on Voice of America (VOA) and Radio Free Asia (RFA) while ensuring that the content of the Lao language broadcasts on VOA and RFA includes adequate information about the importance of human rights, including religious freedom, within Laos; and

- initiate and expand technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:

  --rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations;

--human rights and religious freedom training programs for specific sectors of Lao society, including government officials, religious leaders, academics, lawyers, police, and representatives of international non-governmental organizations;

--training, networking, and capacity-building for Lao groups that carry out charitable, medical, and development activities;

--educational initiatives to combat intolerance of religious and ethnic minorities and to promote human rights education; and

--the expansion of the number and funding of educational, academic, government, and private exchange programs with Laos that will bring a wide cross-section of Lao society to the United States.

Other Countries under Review: Kazakhstan, Malaysia, and Turkey

Kazakhstan

Kazakhstan is defined in its constitution as a secular state that provides for freedom of religion. Religious communities worship largely without government interference, though foreign religious associations are required by the constitution to conduct their activities, including, according to the State Department, appointing the heads of religious associations, "in coordination with appropriate state institutions." The government has exempted registered religious organizations from taxes on collections and income from certain religious activities. The government has also donated buildings, land, and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

Under the 2005 amendments to the country's religion law, religious organizations must register both with the national and regional Ministry of Justice offices. Unregistered religious activity is an administrative offense. To register, a religious organization is required to have at least 10 members and to submit an application to the Ministry of Justice; registration may be denied if the organization does not have enough members or if its charter violates the law. If literature has not been vetted during the registration process, it is deemed illegal. Foreigners are permitted to register religious organizations, but Kazakh citizens must comprise the majority of the 10 founders. The 2005 amendments also incorporated aspects of administrative code Article 375, allowing authorities to suspend the activities or to fine the leaders of unregistered groups.

Under the Law on Public Associations, which applies to registered religious groups, a court may suspend all activities of a registered organization for up to six months if it is found to have violated the Constitution, any laws, or its own charter and bylaws. The State Department reports that police, procurators, and citizens may petition a court to suspend a registered organization for failure to correct such violations. If suspended by court order, the organization is banned from holding meetings, gatherings, or services.

Under the religion law, a religious organization whose charter includes religious education may be denied registration if it does not obtain approval from the Ministry of Education. Religious instruction is not permitted in public schools, but parents may enroll children in supplemental religious education classes provided by registered religious organizations. Neither law nor regulation prohibits foreign missionary activity, though under the amended religion law, foreign missionaries are required to register annually with the Justice Ministry and provide data on religious affiliation, geographic area, and duration of stay, as well as on all religious literature.

Muslims

The national Administration of Muslims in Kazakhstan (SAMK), headed by the chief mufti, exerts significant influence over the country's practice of Islam, including the construction of mosques and the coordination of *hajj* travel. In 2002, the Kazakh Constitutional Council ruled against a proposed legal requirement that SAMK must approve the registration of any Muslim group. Reportedly, however, SAMK occasionally pressures non-aligned imams and congregations to join SAMK. Nevertheless, the State Department reported in 2007 that the Kazakh government continues to register some mosques and Muslim communities not affiliated with SAMK.

In the western city of Atyrau, however, a court ruled in July 2007 that the recently registered Darussalam Muslim community functioned "illegally" and ordered that the mosque, built with community funds, be given to the city Muftiate. Reportedly, shortly after the mosque was registered, the community was pressured by local authorities to accept an SAMK-affiliated mufti. According to the religious freedom news service Forum 18, two members of the Atyrau mosque wrote an open letter in December 2007 complaining that imams are appointed without the community's consent.

The Law on Extremism, effective since February 2005, gives the government wide latitude to identify and designate religious or other groups as extremist organizations, to ban a designated group's activities, and to criminalize membership in a banned organization. Government officials have expressed concern about possible political and religious extremism, particularly in southern Kazakhstan, where many Uzbeks reside. The Committee for National Security (KNB) stated in 2006 that the struggle against "religious extremism" is its top domestic priority.

The Kazakh government has penalized some Muslim groups, including some that espouse extremist political agendas. Human rights groups have expressed concern that due process is not being followed in many of these actions and that police, investigatory, and judicial officials have not provided public access either to trials or to information about these cases. According to some leading Kazakh human rights activists, there may be as many as 300 Muslim individuals imprisoned in Kazakhstan on religion-related charges. Due to the lack of information, however, it is impossible to ascertain the veracity of these claims. As of late 2006, members of the *Tabligh Jama'at*, an international Islamic missionary organization, reportedly faced fines in various regions of Kazakhstan for giving sermons in unregistered mosques. According to Forum 18, government officials deny that they regard the group as "extremist," claiming instead that its members are penalized for unregistered religious activity.

In 2007, there were two trials in northern Kazakhstan of a reported 40 members of two banned Islamic groups. The first trial, in the city of Karaganda against 30 members of the Islamic group *Hizb ut-Tahrir*, began in August. The defendants were charged with forming a criminal group, fomenting religious hatred, and carrying out extremist activities. In the city of Stepnogorsk, 10 people, officially described as inspired by Wahhabist teachings, went on trial in July for organizing and operating a terrorist group, the sale and possession of weapons and explosives, and igniting inter-ethnic hatred in society. In both instances, human rights groups raised concerns about the apparent lack of due process, including the fact that the trials were closed. In the southern city of Shymkent, 15 Muslims were arrested in April 2007; 14 were convicted on charges of terrorism and given sentences of up to 15 years at a closed trial in February 2008. Human rights activists told Forum 18 that at least 14 are believed to be innocent of the charges and that the police planted narcotics and extremist literature on them at the time of arrest. Relatives of those imprisoned claimed that the secret police had punished the men for their independent views.

Non-Muslim Groups

In practice, most minority religious communities registered with the government without difficulties, although some Protestant groups and other groups viewed by officials as non-traditional have experienced long delays. For example, the Grace Presbyterian Church and a Pentecostal church in Atyrau reported in late 2007 that no reasons were given for the repeated denials—since 2002—of their registration applications to the Justice Department. Two leading Kazakh civil society groups, the Almaty Helsinki Foundation and the Kazakhstan International Bureau for Human Rights and Rule of Law, have provided legal assistance to religious groups in the registration process. Although local officials may attempt to limit the practice of religion by some "non-traditional" groups, higher-level officials or courts, at least until recently, have usually overturned such attempts.

Last year, there were signs that the government's position toward religious freedom was becoming more restrictive. Two official documents issued in April 2007 gave rise to concern: the "State Program of Patriotic Education," approved by presidential decree, and a Justice Ministry booklet, "How Not to Fall Under the Influence of Religious Sects." The Justice Ministry document includes the claim that "transferring to other religious faiths represents treason to one's country and faith." Furthermore, in January 2008, President Nazarbayev reportedly told a meeting of the only political party represented in parliament that illegal religious movements in Kazakhstan should be suppressed, that the "unchecked activity" of tens of thousands of missionaries should not be allowed in Kazakhstan, and that Kazakhstan should not become "the dumping ground for religious movements."

In other actions described by police as "part of the fight against terrorism and religious groups without registration," raids and other harassment of various minority religious communities increased in 2007. Unregistered religious groups have reported more court actions and greater fines for non-registration in the past year. The 100 congregations of the Council of Churches, which reject registration as a matter of principle, continue to refuse to pay court-ordered fines for unregistered religious activity. The Grace Presbyterian Church in the city of Karaganda—which had been subjected to a 15-hour police raid in August 2007—also faced

treason investigations from the National Security Committee (KNB), or secret police; in September 2007, its members faced questioning by the tax police, including questions about why they attend a church and not a mosque. Reportedly, local police have also disrupted meetings of unregistered groups in private homes.

Kazakhstan's human rights record has come under increasing international scrutiny, particularly because it will serve as Chair of the Organization for Security and Cooperation in Europe (OSCE) in 2010. In March 2008, the Baptist pastor of an unregistered church in Temirtau was threatened with arrest; according to Forum 18, the head of the Justice Department's Religious Affairs Unit warned him that he should not appeal to the OSCE.

Although the Hare Krishna movement is registered at the national and local levels, its leaders reported continuing local harassment in 2007 over a lengthy land dispute. In April 2006, an appeals court upheld a lower court decision that the land in question should revert to the county government, allegedly due to a faulty land title dating from 1999. In November 2006, a police action demolished the homes of 26 members of the Hare Krishna farm. Members of the Hare Krishna community near Almaty were subjected to a raid by migration police during a religious festival in September 2007. In January 2008, Forum 18 reported that the directors of the Society for Krishna Consciousness met with the regional governor about the official order to demolish their temple in the agricultural community, but the order reportedly still stands.

The national Jehovah's Witnesses Religious Center alleges that local officials have harassed local communities. For example, an unregistered Jehovah's Witness community in the western city of Atyrau was subject to a police raid in August 2007. For seven years, the Justice Ministry in Atyrau has reportedly used minor technical infractions to deny repeated registration applications of this Jehovah's Witness community.

There were no reported incidents of official anti-Semitism. In April 2004, the Ministry of Internal Affairs invited the country's Chief Rabbi to hold seminars for police officers on respect for religious minorities. Non-governmental organizations (NGOs) provided human rights training to law enforcement officers, including on religious freedom.

Malaysia

Religious freedom is a highly contentious political issue in Malaysia that is debated openly by politicians, human rights activists, lawyers' groups, journalists, and other sectors of civil society. Many non-Muslims express concern about the Muslim majority's commitment to religious freedom and freedom of expression and call for interfaith dialogue; many Muslims perceive these concerns as an attack on Islam's officially respected position. Although religious freedom concerns are debated openly and actively in Malaysia, there have been few political resolutions, as Malaysia's courts and parliament have failed to address some of the most problematic issues.

The Constitution of Malaysia formally proclaims the state to be secular and guarantees "every person the freedom to practice his or her religion in peace and harmony." At the same time, the document also recognizes Islam as the "religion of the Federation," defines Malays as

Muslims, and limits the "propagation" of other faiths. Sunni Muslims are free to practice their religious beliefs with few limitations, but those deviating from accepted Sunni beliefs face some discrimination or other restrictions, including being subject to arrest and "rehabilitation."

For the most part, non-Muslims are free to practice their religious beliefs with few restrictions. In states where Muslims are a majority, local governments carefully control the building of non-Muslim places of worship, the allocation of land for non-Muslim cemeteries, and the distribution of religious materials. Approvals are needed for building religious venues and printing religious materials—approvals that are often granted slowly or through corruption. In peninsular Malaysia, the federal government restricts the distribution of books, movies, Web sites, and music it alleges might incite racial or religious disharmony. This ban does not extend to eastern Malaysia, where there are Chinese and Indian majorities.

In recent years, however, ethnic Malay Christians and ethnic Indian Hindus have faced various problems that reflect the country's long-contested political issues, including the viability of Malaysia's dual legal systems (civil and sharia), the definition of who is a Muslim in Malaysia, and the many special privileges afforded ethnic Malay Muslims. Buddhist, Christian, and Hindu leaders are currently offering cautious support for Malaysia's "secular" Constitution and an end to the positive discrimination policies benefiting Malay Muslims at the expense of other ethnic minorities. In the March 2008 elections, opposition parties scored important gains in the Parliament and gained control of several state-level governments. At least one state won by the opposition, Penang, announced that it will end all economic, educational, and political privileges reserved for ethnic Malays, sparking several small Malay protests.

Civil Courts vs. Sharia Courts

Malaysia maintains two parallel justice systems: the secular court system based on parliamentary law and a sharia court system based on Islamic law. Sharia, enacted and enforced at the state rather than the federal level, applies only to Muslims, but legal problems have emerged when ethnic Malays convert to another religion or in family disputes between Malays and non-Malays. Where sharia court decisions affect a non-Muslim, he or she can seek recourse in the secular courts that, in theory, can overrule the sharia courts. For most of Malaysia's history, there have been few jurisdictional battles between the two court systems. However, in recent years, questions of apostasy, conversion, divorce, child custody, and burial rights—and the interplay between sharia and civil courts—have become major legal and political issues.

Under sharia law, Malaysians wishing to renounce Islam in order to profess another belief are subject to criminal sanctions, including being sentenced to "rehabilitation." In 1998, after a controversial incident involving a Muslim converting to Christianity, the government stated that "apostates" would not face government punishment as long as they did not defame Islam after their conversion. However, the issue of which court—civil or sharia—would make the decision on conversions was not clarified. After the 1998 ruling, enforcement of apostasy laws has occurred only occasionally, and almost entirely among Muslims considered to be "deviant." In 1999, the Malaysian State Court ruled that secular courts have no jurisdiction to hear applications by Muslims to change religion. In May 2007, the Federal Court, Malaysia's

Supreme Court, supported this ruling and stated further that Malaysians wishing to convert from Islam to another religion must obtain an order from the sharia court.

In March 2007, the Court of Appeals upheld a previous Federal Court ruling that allowed Muslims (or recent Muslim converts) to initiate divorce or child custody proceedings against a non-Muslim spouse in sharia courts. There are also sporadic cases in which provincial or local officials have intervened in family law matters; the most prominent cases involved marriages between Hindus and Muslims. In several other cases, state religious authorities detained and attempted to "rehabilitate" Muslim spouses who sought to renounce Islam or who married non-Muslims in a temple. Such marriages are not legally recognized. In one case, the child resulting from an interfaith union was removed from parental custody, pending "rehabilitation" of the detained Muslim parent. Lawyers and human rights advocates have spoken out about these practices and several cases remain under review at the Court of Appeals and the Federal Court.

In 1999, Azlina Jailani, also known as Lina Joy, a Muslim who converted to Christianity, went to court to take "Muslim" off her identity card in order legally to marry another Christian. The 1976 Law Reform Act prohibits a Muslim from solemnizing a marriage under civil law with a non-Muslim. Subsequent local court decisions have contended that as an ethnic Malay, Joy's constitutional right to religious freedom was limited by Article 160 of the Constitution, which states that all Malays are Muslims. A lower court hearing the Joy case decided that as a Muslim, her appeal should be decided by sharia courts. However, Joy refuses to acknowledge the standing of the sharia court over her case, claiming that sharia courts are for deciding personal status issues for Muslims. In September 2005, the Court of Appeals ruled that the sharia court had to settle Joy's appeal to have "Muslim" removed from her identify card. On May 30, 2007, the Federal Court backed the Court of Appeals decision.

Problems for Ethnic Indian Hindus

The majority of Hindus face few restrictions on the practice of their religion. However, disputes over the presence or expansion of Hindu religious sites have added to already tense ethnic relations and resulted in claims of discrimination. After a violent conflict in Penang between Hindus and Muslims in March 1998, the government announced a nationwide review of "unlicensed" Hindu temples and shrines. Although implementation was not vigorous, beginning in 2005, state and local governments started to demolish "unlicensed" Hindu temples to make way for other development projects, claiming that the temples were located on government land.

The Hindu temple and shrine destructions are spurred by ethnic and political competition in the countryside and battles over eminent domain in urban areas. Lawyers for the Hindu communities have had some success in raising the issue with national politicians; however, they have succeeded only in slowing—but not stopping—shrine and temple destruction, particularly outside of Kuala Lumpur. In October 2007, authorities demolished the 100-year-old Maha Mariamman Hindu Temple and reportedly assaulted its Chief Priest. In December 2007, the Sri Periyachi Amman Temple in Tambak Paya, Malacca was demolished by local authorities to make way for a development project, despite having received a "stay order" from state officials.

Defining "Deviancy"

The government continues to publish a list of groups with "deviant" interpretations of Islam, maintaining that those groups endanger national security or cause divisions among Muslims. Fifty-six deviant teachings have been identified and prohibited, including Shi'a Islam, the Baha'i religion, the Ahmadi religion, transcendental meditation, and some messianic sects of Islam. The government has established guidelines on what constitutes "deviant" behavior, and practitioners of religions so deemed may be arrested or detained with the consent of the sharia court, in order to "rehabilitate" them and return them to the "true path of Islam." According to the State Department's 2007 religious freedom report, although the small Shi'a community is listed as a "deviant" sect, its members are allowed to worship and operate openly. However, Shi'a Muslims face discrimination in employment and are closely monitored by the government.

In November 2006, Malaysian police detained 107 persons, including several children, during a raid in Kuala Lumpur against suspected followers of the banned al Arqam Islamic group. While all the detainees were subsequently released, Malaysian police stated that their intention to press charges in a sharia court against six of the arrested individuals. The government had banned al Arqam in 1994, labeling it a "deviant" sect. Ashaari Muhammad, the leader of the group's approximately 10,000 followers, subsequently spent 10 years under house arrest. In June 2007, authorities announced that they were seeking Ayah Pin, the leader of a non-violent religious group in Terengganu known as the Sky Kingdom, for supporting "deviant" religious practices. In 2005, at the instruction of state officials, police arrested approximately 70 Sky Kingdom members and destroyed all non-residential buildings on the group's compound. One of the 70 arrested agreed to undergo religious rehabilitation; the cases against the other Ayah Pin followers were pending. In July 2004, the Federal Court dismissed an appeal by four followers of Ayah Pin seeking a statutory declaration that Sky Kingdom followers have the right to practice the religion of their choice. The Federal Court held that their attempt to renounce Islam did not free them from the jurisdiction of the state sharia court.

Turkey

According to the State Department's 2007 *Annual Report on International Religious Freedom*, the constitution of Turkey "provides for freedom of religion and the government generally respects this right in practice." The Commission traveled to Turkey in November 2006. Throughout its visit, people of almost every tradition stated that, despite serious problems regarding the opening, maintaining, and operation of houses of worship, they were free to gather and worship as provided for in the country's constitution. Moreover, most groups reported that conditions for religious freedom had improved in the past decade and particularly due to the reforms undertaken by the government during the accession process to the European Union (EU). However, the Commission also learned of significant restrictions on religious freedom for Muslims as well as for religious minority communities, including state policies and actions that effectively prevent non-Muslims from sustaining themselves by denying them the right to own and maintain property, to train religious clergy, and to offer religious education above high school. This has led to the decline—and some cases, virtual disappearance—of some of these religious minorities on lands they have inhabited for millennia.

Secularism and Nationalism

Turkey's constitution establishes the country as a "secular state," according to the policy defined by the country's founder and first president, Mustafa Kemal Ataturk. Because Ataturk believed that religion was the primary cause for the Ottoman Empire's lag in modernization vis à vis Europe, he and most of Turkey's subsequent political leaders were determined to remove the influence of religion, including even expressions of personal belief, from public life in Turkey and to subject religion to state control. As such, the Turkish government's concept of secularism differs from the American version of separation of religion and state, as it reflects state control over—and even hostility toward—religious expression in the public sphere. Many contend that the Turkish state's interpretation of secularism has resulted in religious freedom violations for many of Turkey's citizens, including the majority and minority religious communities.

The absence of religion from public life has remained controversial for many Turks and at several times in the ensuing decades they elected governments that were less rigid on policies toward religious expression for Muslims. The Turkish military, which is constitutionally identified as the guardian of Ataturkist secularism, ousted those governments, in part because the military determined that secularism was under threat. Turkey's current governing party, the Justice and Development Party (known by its initials in Turkish, the AKP, or the AK Party), has roots in this movement for greater public religious expression. The AK Party won a plurality of 34 percent of the vote in national elections in November 2002, campaigning on a platform of Turkey's accession to the EU and the reintegration of Islam into public life in a manner consistent with modernity and democracy. Following his declared aim to pursue EU membership, Prime Minister Recep Tayyip Erdoğan instituted a number of democratic reforms, many of which have dealt with some of Turkey's most notoriously undemocratic practices.

After elections in July 2007 returned the AK Party to power with a stronger plurality, the Turkish Parliament voted to change the 1982 constitution to, in effect, allow women with scarves to attend university. Viewing this as a blatant strike against Turkish secularism, in March 2008, a public prosecutor filed a lawsuit with the Constitutional Court seeking to shut down the AK Party and ban Erdoğan and other AK officials from politics for five years. The Court agreed to hear the case, setting the stage for an historic confrontation between the secularist establishment, which, until the success of the AK Party, had been used to governing Turkey, and the newer elites, represented by the AK Party. The EU and the U.S. government have criticized the lawsuit, describing it as an attempt to overthrow the democratic order in Turkey.

In addition to the strict notion of secularism, the origins of the Turkish Republic left the Turkish political and military establishment with a highly nationalistic and narrow understanding of Turkish identity, which has also influenced the state's view of religious freedom and minority rights. Built into the founding of Turkish identity was the implicit understanding that non-ethnic Turks residing in Turkey are potentially suspect, since they allegedly harbor a secret desire to secede from and hence, dismember the country. This fear of territorial dismemberment, linked to a strain of virulent nationalism in Turkey, still holds sway in some sectors of society, resulting in state policies that undermine ethnic and minority religious communities.

The January 2007 murder of Hrant Dink, a Turkish citizen and respected journalist of Armenian ethnicity, is just one example of such extreme nationalism. Dink had been convicted under Article 301 of the Turkish Penal Code for "insulting" the Turkish state because of his use of the term "Armenian genocide" in public, although his conviction was converted to a suspended sentence following EU and other international pressure. Some reports suggested that the perpetrator targeted Dink because he was not a Muslim, indicating that for some, religious extremism has fused with the extreme nationalism. A trial began in July 2007, but is closed because the purported assailant is a minor; a total of 19 suspects are on trial. An Istanbul court is also looking into allegations of official negligence or collusion, as Amnesty International reported in January 2008 that Dink had reported threats to his life to the Public Prosecutor but that steps were not taken to ensure his protection. According to that indictment, one of the defendants also acted as a police informer and told police months in advance of plans to assassinate Dink. Two gendarmerie officers have since been charged with dereliction of duty; however, lawyers for Dink's family have called for more law enforcement officers to be brought to justice.

Muslims

The state carries out its management role with regard to the majority Muslim community through the Directorate of Religious Affairs, or the *Diyanet*. The state, through the *Diyanet*, controls and supervises the religious institutions of the Sunni Muslim population, managing all 80,000 mosques in Turkey and employing all imams as state functionaries. Religious practice and education (compulsory in the state schools for all Muslim children, though religious minorities are exempted) exclusively follow the Hanafi Sunni doctrine, although up to 20 percent of Turkey's Muslims are Alevis. Although Turkey is renowned for its Sufi orders and they continue to exist in Turkey, they have been officially prohibited since the 1920s.

Until recently, religious dress, including the wearing of a head scarf, was banned in all public institutions, including government buildings, universities, and schools. The state prosecutor's lawsuit against the AK government indicates the extent to which the "headscarf issue" is the most politically and popularly charged issue in Turkey today, reflecting this persistent tug of war between those promoting Ataturk's secularist legacy and those pressing for greater public expression of religion through religious symbols and clothing. Women wearing headscarves and their advocates have both lost their jobs in the public sector, including as nurses or teachers, and students wearing headscarves were not officially permitted to register for classes, even at private institutions. Members of the military have been charged with "lack of discipline" for performing Muslim prayers or being married to women who wear headscarves.

After the July 2007 elections, the Turkish Parliament approved constitutional changes to guarantee all citizens the right to attend university regardless of dress, stating that "no one can be deprived of his/her right to higher education." The change states that only traditional scarves—tied loosely under the chin—will be allowed; headscarves that cover the neck, as well as the full veil, would still be banned, as would all headscarves in government buildings.

Alevis, an offshoot of Shi'ism that many Sunnis—and even many Shi'a Muslims—view as heretical, are a minority Muslim community in Turkey that make up anywhere from 15 to 25

percent of the population. Alevis are reportedly currently able to practice their beliefs relatively freely and build *cem evleri* or "gathering houses," though there continue to be cases in which Alevis have been denied permission to build their meeting houses. However, none of the budget of the *Diyanet* goes to the Alevi community. Moreover, Alevi children must undergo the same compulsory religious education as all Muslims, which involves instruction only about Sunni Islam. A member of the Alevi community in Turkey took this issue before the European Court of Human Rights (ECtHR), which in October 2007 issued a ruling in favor of the Alevis, declaring that by making this religious education compulsory for all Muslims in Turkey, Alevis were being denied the "right of parents to ensure education in conformity with their own religious convictions." It remains now for the Turkish government to implement this decision.

The Recognized Religious Minorities

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for non-Muslim religious minorities in Turkey, which has since been interpreted by the Turkish government to refer only to the Greek Orthodox, Armenian Orthodox, and Jewish communities. Yet legal recognition of these and other religious minority communities has not been implemented in Turkish law and practice. The absence of legal personality has over the decades resulted in serious problems with regard to their right to own, maintain, and transfer property as a community and as individuals and to train religious clergy, leading in some cases to a critical decline in these communities on their historic lands. As noted above, the problems for the minorities stem in part from the fact that most are not only religious but also ethnic minorities, and have thus faced some suspicion about their loyalty from the majority community.

At the time Turkey was founded in 1923, there were approximately 200,000 Greek Orthodox Christians in the country. In 1955, by which time the number had fallen to 100,000, violent riots broke out targeting the Greek Orthodox community, resulting in the destruction of private and commercial properties, desecration of religious sites, and killings. Due to the fallout from those riots and other difficulties for the Greek Orthodox minority, the number of Orthodox Christians has fallen to its current level of about 2,500. In addition, though the Ecumenical Patriarchate's constituencies extend to Orthodox communities in the United States, Europe, and Australia, the Turkish authorities do not allow the Patriarch to use the term "ecumenical" in his title, recognizing him only as the head of Turkey's small (and decreasing) Greek Orthodox community. As a result, the government maintains that only Turkish citizens can be candidates for the position of Ecumenical Patriarch and for membership as hierarchs in the Church's Holy Synod. Yet, since the Turkish state does not allow the Greek Orthodox minority to train its clergy, the very survival of the Ecumenical Patriarchate and the Greek Orthodox community in Turkey are today at risk.

After the military coup in 1971, the Turkish state nationalized all private institutions of higher learning, including those for religious training. One result was the closure of the Halki School of Theology, which is the theological seminary on the island of Heybeli that, since the nineteenth century, had trained religious leaders of the Ecumenical Patriarchate and Orthodox Christian communities worldwide. Despite repeated government promises, the Halki Seminary remains closed.

The Armenian Patriarch, head of the Armenian Orthodox Church, similarly has no legal personality and there is no seminary in Turkey to educate clerics. As with the Ecumenical Patriarch, the Armenian Patriarchate experiences direct interference in the selection of its religious leadership, and the Turkish state also prevents Armenian Christians from operating an independent seminary to train new clergy members.

Many Jews report that the situation for Jews in Turkey is better than in other majority Muslim countries, as they are generally able to worship freely and their places of worship receive government protection when it is required. In addition, Jews operate their own schools, hospitals, and welfare institutions, as well as a newspaper. Nevertheless, there are concerns about attacks on synagogues and anti-Semitism in the media. In November 2003 and August 2004, synagogues were bombed by terrorists associated with al-Qaeda; 27 people were killed. The Turkish state took prompt action to arrest the perpetrators, reportedly carried out by a Turkish al-Qaeda cell. There is also increasing anti-Semitism in some media sectors that is generally coupled with anti-Americanism, particularly in media viewed as either nationalist or religious extremist. There are a growing number of specious stories about Israeli and U.S. misdeeds in Iraq, as well as pieces containing more conventional anti-Semitic stereotyping. All of these factors have resulted in an increasing sense of fear and insecurity among members of the Jewish community that had generally not been present before in Turkey.

Property Issues and the Law on Foundations

Many of the most serious problems faced by religious minorities in Turkey involve property rights and ownership. While the *Diyanet* runs Sunni Muslim affairs, another government agency, the General Directorate for Foundations (*Vakiflar*), regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. The establishment of a foundation is the mechanism through which a minority religious community can own property, including worship buildings, schools, and other institutions, given their lack of legal status in Turkey. While a foundation enables a religious community to become a collective legal entity, the rules governing the foundations have been found to be intrusive and in many cases, onerous.

Over the previous five decades, the state has, using convoluted regulations and undemocratic laws, confiscated hundreds of religious minority properties, primarily those belonging to the Greek Orthodox community, although Armenian Orthodox, Catholics, and Jews also reported such expropriations. In 1936, the government required all foundations to declare their sources of income; in 1974, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those listed in those 1936 declarations. Particularly since that time, the government has seized control of hundreds of properties acquired after 1936; religious minority foundations that are recognized by the state can acquire property, but previously appropriated property cannot be reclaimed. There is also no right to appeal these government actions.

In November 2006, the Turkish government, as part of the ninth reform package on EU accession, passed a new law governing foundations, making it easier to form a foundation and

allowing non-Turkish citizens in Turkey to open foundations. The bill also enabled religious minorities to recover appropriated property, though it did not enable foundations to regain property that the state had sold to third parties, a category that reportedly involves a considerable amount of property. Then-President Ahmet Necdet Sezer vetoed the legislation. In February 2008, the newly elected Parliament passed a similar law that would return confiscated properties. Like the earlier version, this new law, while considered a positive first step, still does not apply to property sold to third parties.

Other Religious Minorities

Syriac Christians experience problems similar to those of the Greek and Armenian Orthodox, particularly in obtaining permission to maintain ancient sites. The number of Syriac Christians in the southeastern part of the country was once much higher, but government pressure and the war between the government and secessionist Kurdish forces have resulted in the migration of significant numbers. Roman Catholics have also had their property confiscated by the government. From 1993 – 1996, the Turkish government held political consultations at the Vatican, which concluded in an agreement between the University of Ankara and the Jesuit Consortium Gregorianum and the reopening of the chapel at Tarsus; however, in most cases the state has taken possession of Catholic property or prohibited its use for other purposes.

Roman Catholics, as well as Protestants, are also sometimes subject to violent societal attacks. In February 2006, an Italian Catholic priest was shot to death in his church in Trabzon, reportedly by a youth angered over the caricatures of the Muslim prophet in Danish newspapers. Government officials strongly condemned the killing. A 16 year-old boy was subsequently charged with the murder and sentenced to 19 years in prison. Also in February 2006, a Slovenian Catholic monk was attacked in Izmir. In December 2007, a 19 year-old stabbed a Catholic priest outside a church in Izmir; the priest was treated and released the following day.

Protestants in Turkey, who number approximately 3,000, are primarily converts from other religions and are predominantly Turks by ethnicity. Protestant Christians often meet in the churches of other denominations, private homes, and in other places. Police sometimes bar Protestant groups from holding services in private homes and have detained and prosecuted individual Protestants for holding unauthorized gatherings. One of the most violent societal attacks occurred in April 2007, when three employees of an Evangelical Protestant publishing house in the city of Malatya were brutally murdered, reportedly by youths associated with a nationalist group. Five persons suspected of committing the murders were arrested soon after the attack, and five others were detained days later. Later evidence indicated that the five confessed murderers had links with local political officers, members of the special military forces, and regional members of Turkey's nationalist political party. Turkey's Interior Ministry in December 2007 opened a judicial investigation into the alleged collusion of public officials in these murders. In January 2008, one of the five on trial denied that the group intended to kill the three Christians, and blamed another suspect as the "ringleader" of the attack, who, he said, had "close relations" with the local police chief. The trial is continuing.

THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

The International Religious Freedom Act of 1998 (IRFA) specifically cites U.S. participation in multilateral organizations as a way to advance respect for freedom of religion or belief, which is enshrined in numerous international human rights declarations and conventions. The 56 participating States of the Organization for Security and Cooperation in Europe (OSCE), comprising East and West Europe and the states of the former Soviet Union, along with the United States and Canada, have committed themselves to uphold extensive standards to protect freedom of religion or belief and to combat discrimination, xenophobia, intolerance, and anti-Semitism. Freedom of thought, conscience, and religion or belief is singled out in the OSCE founding document, the 1975 Helsinki Final Act. After the fall of the Soviet Union, the OSCE has continued to be an important forum in which participating States have been held accountable for their human rights commitments. Moreover, the OSCE since its inception has involved non-governmental organizations (NGOs) as partners in its review of members' human rights practices.

In recent years, however, some participating states have sought to curtail the organization's human rights activities. Russia, in particular, has often protested that the OSCE focuses too much of its criticism on the countries of the former USSR, while downplaying human rights problems in the West.[1] Russia has withheld needed consensus approval for the OSCE budget in the past, thereby putting in jeopardy many of the OSCE's human rights activities. These activities are particularly important at a time when the governments of Russia and many other countries of the former Soviet Union are demonstrating an increasing lack of commitment to their human rights obligations, including efforts to combat racism, xenophobia, and other forms of intolerance and discrimination. In October 2007, Russia, purportedly aiming to "improve" OSCE procedures, put forth several proposals that would have significantly increased government control over the civil society groups that could take part in OSCE meetings and activities, but the U.S. led a successful effort against this Russian proposal. The OSCE, citing an agreement made in Moscow in 1991, has reiterated that OSCE participating States have "categorically and irrevocably" declared that the "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."

Background on Racism, Xenophobia, Discrimination, and Intolerance

The past few years have witnessed a rise in incidents of racist discrimination, xenophobia, and intolerance toward members of religious and ethnic minorities in the OSCE region, including, for example, in Russia, Ukraine, and Kazakhstan, as well as in such democratic countries as France, Germany, and the United Kingdom. Extremist rhetoric that goes uncontested by political and societal leaders has also promoted an environment of intolerance toward members of various ethnic and religious minorities. Indeed, officials and state-run media

[1] Yet, on the invitation of the United States, the OSCE deployed an Election Assessment Mission for the U.S. November 2006 Congressional elections; in November 2006, ODIHR also sent an Election Assessment Mission to the parliamentary elections in the Netherlands

are sometimes involved in efforts to inflame public opinion against minority groups in some parts of the OSCE region.

Anti-Jewish or anti-Semitic views and actions also continue to be problems in many OSCE participating States and officials often fail to hold the perpetrators of anti-Semitic attacks to account. Anti-Zionism and vilification of Israel can also mask anti-Semitism. Reportedly, many of the recent anti-Semitic incidents in western Europe have been committed by marginalized young North African Muslim immigrants. In 2006, the most recent year for which comprehensive statistics are available, monitoring organizations reported that there were twice as many physical assaults on Jews in comparison with 2005, with the greatest increases in the United Kingdom, Canada, and France. A disturbing number of anti-Semitic incidents were recorded also in Norway, Belgium, Germany, and Ukraine. Those monitoring these incidents find, as has the OSCE's ODIHR, that when tensions escalate in the Middle East, anti-Semitic incidents increase worldwide. Opposition to the existence of Israel and political resentment regarding the conflict in the Middle East can cross the line into anti-Semitic acts.

"Skinhead" gangs and neo-Nazi groups are other sources of hate-filled rhetoric and violence in many countries in the OSCE region. Migrants and members of various ethnic and religious minorities, including Muslims and Jews, are targeted. Vandalism against religious and other property is also on the rise. Violent acts are often well documented, but they are rarely investigated and prosecuted as hate crimes. Instead, officials, prosecutors, and judges often trivialize such violence by treating it as "hooliganism," particularly in Russia. When burnings, beatings, and other acts of violence target members of a particular group because of who they are and what they believe, such acts should be viewed not merely as police problems, but as human rights violations that require an unequivocal response.

The OSCE Response

In the last few years, the OSCE has set up several mechanisms to address intolerance and related human rights issues as mandated by the 2003 OSCE Ministerial Meeting. As a result of U.S. diplomatic leadership on this issue, since 2003 the OSCE has convened 10 high-level and expert conferences to address anti-Semitism and other tolerance-related issues. As the Commission recommended, in late 2004, the OSCE Chairman-in-Office appointed three Personal Representatives to promote tolerance. The OSCE also became the first international organization to name a prominent independent appointee specifically to examine anti-Semitism. At the same time, it established a Personal Representative monitoring intolerance toward Muslims, and a third who tracks other forms of intolerance, including xenophobia, racism, and intolerance against Christians and members of other religions. Finally, a new Tolerance Program within the OSCE's Office of Human Rights and Democratic Institutions (ODIHR) was set up in late 2004 to monitor and encourage compliance with OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia, as well as to promote freedom of religion or belief.

Several OSCE institutions expressed concern in 2006 over increased intolerance and discrimination in the OSCE region, particularly the OSCE Brussels Ministerial Council decision in December 2006 on measures to combat intolerance and discrimination and promote mutual respect and understanding.

OSCE Meetings on Tolerance and Related Topics

The OSCE Ministerial Council in 2003 mandated a major international conference to address anti-Semitism in the then-55 states of the OSCE region. The Berlin Conference on Anti-Semitism in April 2004 was attended at the ministerial level and by 600 officials from 55 nations and by hundreds of NGOs. The conference recommended specific steps to fight anti-Semitism, including collecting and regularly reporting on hate crimes data, bolstering national laws, promoting educational programs, and combating hate crimes fueled by racist propaganda in the media and on the Internet. In the 2004 Ministerial Council, the participating States authorized the OSCE Chairman-in-Office to appoint three Personal Representatives to coordinate and highlight OSCE activities in this field.

The 2005 Ministerial Council in Ljubljana called for OSCE activities in 2006 to concentrate on thematic, implementation-focused meetings, including tolerance-related topics. In June 2006, Kazakhstan hosted the first OSCE Tolerance Implementation Meeting in Almaty, followed by a meeting on Holocaust education, hosted by Croatia, and a meeting on hate crimes data, hosted by Austria. The annual Human Dimension (HDim) meeting in Warsaw, Europe's largest conference involving the NGO community, draws a wide variety of religious and ethnic groups, including from Muslim minority communities. In 2007, there were two other tolerance-related OSCE events: in June, the Romanian government hosted a high-level conference on Combating Discrimination and Promoting Mutual Respect and Understanding, and in October, the Spanish OSCE Chair hosted a conference on Intolerance and Discrimination Against Muslims.

These conferences have mobilized political support within OSCE participating States to address anti-Semitism and other forms of intolerance in a sustained manner and have raised awareness among NGOs and the public regarding anti-Semitism, discrimination against Muslims, and other tolerance-related issues in the OSCE region. The challenge remains, however, for the OSCE and its 56 members to act on the ideas that have emerged from these conferences and reports and to translate them into activities and programs that will combat these forms of intolerance in all the OSCE participating States.

OSCE Personal Representatives

In December 2004, the 55 OSCE participating States authorized the then-Chairman-in-Office (CiO), Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance. Anastasia Crickley of Ireland, Chair of the European Monitoring Centre on Racism and Xenophobia, was appointed as the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions; Gert Weisskirchen, German parliamentarian and professor of higher education, was named the Personal Representative on Combating Anti-Semitism; and Omur Orhun, former Turkish Ambassador to the OSCE, was appointed the Personal Representative on Combating Intolerance and Discrimination against Muslims. These appointments have been re-confirmed by each subsequent CiO, namely, Slovenia, Belgium, and Spain, and will extend at least through the end of 2008. The mandates of these Representatives include the promotion of better coordination of the implementation of

decisions by the OSCE Ministerial and Permanent Councils on Tolerance and Non-discrimination as well as cooperation between the CiO and the ODIHR.

The mandates of the three Personal Representatives address separate but interrelated issues that call for distinct, yet coordinated, responses. The persons selected by the OSCE CiO for these part-time and unpaid positions come from a variety of backgrounds. The 2007 Spanish OSCE CiO has expressed the view that the Personal Representatives should coordinate with the various relevant OSCE institutions and among themselves to fulfill their mandates and that their mandates should be better defined and their political profiles and resources increased.

Indeed, the Commission is concerned that the work of the Representatives has been hampered by inadequate funding for staff and travel expenses, as well as other demands on their time and attention. The Commission also recommended that the activities of the Personal Representatives should be given more prominence in the work of the OSCE. For example, they should report in person to the annual ministerial meetings and their reports should be published and disseminated throughout and beyond the OSCE system. In addition, the OSCE CiO should invite them on some of his visits, refer to their work and conclusions in speeches, and encourage OSCE participating States and the 18 OSCE Field Presences to invite them on official visits. Such measures could help enhance not only the profile of the Personal Representatives on Tolerance, but also increase the impact of their findings and recommendations.

During 2007, the Personal Representatives made contributions to various relevant OSCE meetings. These include the Warsaw HDim, the Bucharest June conference, and the Cordoba October conference hosted by the Spanish OSCE Chair, as well as meetings with the ODIHR, the Permanent Council, and the CiO. During 2007, Crickley made a presentation at the Warsaw OSCE Migration Seminar in May, Weisskirchen took part in the July Kiev OSCE Parliamentary Assembly meeting, and Orhun participated in the May ODIHR Human Dimension Seminar on Effective Participation and Representation in Democratic Societies.

Country visits have played a key role in the work of the Personal Representatives and in their regular reports to the OSCE Permanent Council. They have all visited the United States. Orhun has held numerous meetings in Turkey and in earlier years made visits to the Netherlands, Denmark, Great Britain, Germany, and France. In 2007, he paid official visits to Ireland, Switzerland, Slovenia and Norway, and also made presentations at conferences sponsored by the Organization of the Islamic Conference, the Council of Europe, the UN Human Rights Council, and UNESCO. Crickley also met with the UN in Geneva and has visited Great Britain and Austria, and has consulted with the European Union. Weisskirchen has held numerous conferences in Germany, has visited Russia, and in 2007 paid an official visit to Croatia. According to the 2007 report of the OSCE CiO, invitations from additional participating States to the Personal Representatives would enable them to meet with relevant government officials and raise key issues of concern directly with them, as well as to meet with NGOs and community and religious leaders without interference.

The Commission also encourages each of the three Personal Representatives to undertake events with relevant NGOs as well as with the media. In 2006,Weisskirchen held roundtables on the issue of anti-Semitism involving the civil society sector in Germany, the United Kingdom

and Canada; in 2007, together with the German delegation to the OSCE Parliamentary Assembly, he convened an expert meeting on anti-Semitism; and in October, he took part in a roundtable with Baltic and Scandinavian civil society representatives. In the past year, Orhun, working with the ODIHR, has taken part in numerous meetings with representatives of Muslim communities across the OSCE region, including in France, Spain, the United States, Slovenia, and Portugal. At one of his earlier meetings in 2006, attended by NGOs and media experts, the portrayal of Muslims in public discourse was addressed. Based on the recommendations formulated at this meeting, the ODIHR announced in 2006 that it would develop a resource guide on improving reporting on Islam and Muslim communities in OSCE States.

The Office of Democratic Institutions and Human Rights Tolerance Program

One of the major institutional responses of the OSCE to growing concerns regarding religious intolerance was to set up a new Tolerance Program within the ODIHR in late 2004. The mandate of the Tolerance Program includes OSCE efforts to promote tolerance and to combat intolerance and xenophobia, as well as to advance freedom of religion or belief. The United States has been a strong advocate for the establishment of the program and for sufficient funding for its activities. The Tolerance Program staff includes specialists on the issues of anti-Semitism, Islamophobia, xenophobia, and racism, as well as on freedom of religion or belief. These specialists monitor and conduct research, write reports, conduct programs, and provide staff expertise for the three Personal Representatives and the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief. The Tolerance Program was charged with setting up a database of information, as well as projects on such issues as data collection for hate crimes legislation, police training on hate crimes, and Holocaust education in specific countries.

In accordance with a decision by the 2003 OSCE Ministerial Council, many of the Tolerance Program's activities have centered on gathering and publicizing information related to tolerance and non-discrimination. The Program's Web site, *http://www.osce.org/odihr/16431.html*, which became operational in 2006, brings together previously hard-to-find material that is directly relevant to addressing discrimination and to combating intolerance by providing access to information from OSCE participating States, NGOs, and inter-governmental organizations on international standards and instruments. The Web site also references Legislationline, ODIHR's online database, and the Human Rights Information and Documentation Systems International index to 3,000 NGO Web sites, and provides customized access to more than 1.5 million documents. The Tolerance Program has developed a "Web site Guide to Tolerance Education" and a curriculum unit on "Holocaust Education and Anti-Semitism." The Tolerance Program has also issued several useful publications on addressing priorities in various OSCE States, including "Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives"; "Education on the Holocaust and on Anti-Semitism: An Overview and Analysis of Approaches"; Holocaust Memorial Days in the OSCE Region: an Overview of Good Governmental Practices" (January 2008); and "Addressing Anti-Semitism: Why and How? A Guide for Educators" (December 2007). The latter, prepared by the ODIHR and Yad Vashem, offers guidelines for schools.

In 2006, the ODIHR published further information on tolerance-related topics, including "Teaching Materials on the History of Jews and Anti-Semitism in Europe," in cooperation with experts from seven pilot countries: Croatia, Denmark, Germany, Lithuania, Poland, the Netherlands, and Ukraine. This publication includes material on the history of anti-Semitism, contemporary forms of anti-Semitism, including as a form of discrimination, and a teaching guide on the subject. The ODIHR also produced two publications related to the struggle against hate crimes: "Challenges and Responses to Hate-motivated Incidents in the OSCE Region for the Period January-June 2006," and a fact sheet on the ODIHR Law Enforcement Officer Program on Combating Hate Crime, issued in English, Russian, Polish, and Serbian. In 2006, , the Tolerance Program translated many of its key publications into the Russian language—particularly useful in light of the rising levels of xenophobia, racism, and various forms of intolerance in Russia and other former Soviet republics. However, that translation program did not continue in 2007, perhaps due to budget constraints.

To date, the ODIHR's Tolerance Program has emphasized activities with external organizations, although the Program could further expand its work with the 18 OSCE Field Presences and other OSCE institutions. The 2003 OSCE Ministerial Council also tasked the Tolerance Program with acting as a focal point for the various national contact points on hate crime set up by the OSCE participating States. Information about practical initiatives from participating States, NGOs, and other institutions can also be submitted online. In December 2007, for example, the Tolerance Program ran a special program in the Russian Federation to train police on ways to combat hate crimes.

As mentioned above, part of the Tolerance Program's current mandate is to address freedom of religion or belief. Responsibility for the issue of religious freedom was removed from the ODIHR Human Rights Department when the issue was assigned to the Tolerance Program in late 2004. The Commission is concerned that as a result of this bureaucratic reassignment, freedom of religion or belief will be relegated as a corollary to tolerance work and will no longer be included in the ODIHR human rights programs. Instead, it should be anchored in the Human Rights Department and cooperate with the activities of the Tolerance Program. Furthermore, only one staff person in the Tolerance Program is assigned part-time to the issue of freedom of religion or belief since that person is also assigned to work with NGOs; in 2007, this position was removed from the unified budget, thus endangering its permanent status and changing its recruitment basis. In 2007, the ODIHR held workshops on freedom of religion issues with NGOs, religious communities, and government officials in Kazakhstan and Tajikistan. However, little news and information about those meetings was available in the out-of-date and sparse freedom of religion section of the ODIHR Tolerance Program Web site.

OSCE Venues for Addressing Freedom of Religion or Belief Issues

Freedom of religion or belief is affirmed as a basic human rights principle in the 1975 Helsinki Final Act. Since then, the issue has been addressed in various ways by the OSCE: through the periodic OSCE and later ODIHR conferences to review implementation of human rights commitments by the 56 participating States; during several conferences that specifically addressed these issues, such as the Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism, held in Vienna in July 2005; in the structure of the ODIHR, where, until the Tolerance Program was set up, freedom of religion or belief was part of the

Human Rights Department portfolio; through the 18 OSCE Field Presences, where freedom of religion or belief can also be the subject of monitoring, reports, and related activities; and through the consideration of the views of relevant international, regional, and non-governmental human rights organizations.

Under the auspices of the ODIHR, the OSCE also convenes an annual conference, traditionally held in Warsaw in October, to review implementation by the 55 OSCE participating States of their OSCE human rights commitments, including freedom of religion or belief. Known as the Conference on the Human Dimension (HDim), these 10-day meetings bring together diplomats and representatives of other international organizations, and reportedly is the largest European human rights conference. These conferences have been criticized, however, for the failure of participating States to respond—either in words or in deeds—to criticism of their human rights records voiced at the HDim.

The ODIHR Advisory Panel of Experts on Freedom of Religion or Belief was re-organized in 2004 and expanded to a total of 58 persons nominated by countries from throughout the OSCE region, including an Advisory Council of 15 members. The Panel functions primarily as a consultative body for the governments of participating States considering new or amended legislation affecting freedom of religion, as well as for expert opinions on individual cases. The Panel reviews both proposed and enacted legislation under guidelines developed by the ODIHR and the Council of Europe Venice Commission based on international conventions and OSCE commitments. The Panel then issues recommendations to the participating States on bringing such legislation into conformity with international human rights standards.

Two publications relating to the work of the OSCE Panel of Experts were issued in 2007. One was a factsheet on freedom of religion or belief, released in June, and the other a curriculum guideline for teaching about religion and religious freedom issued in November. Developed in cooperation with education experts and aimed at legislators and schools, the Panel of Experts produced the "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools," based on human rights principles and approaches. The human rights approach of the "Toledo Guiding Principles" offers a possible method to frame discussions about teaching about religion or belief in public schools, a controversial issue in many countries.

The Panel has advised the governments of Macedonia, Romania, and Serbia on legislation and the panel's recommendations on relevant legislation have been taken into consideration by the governments of Kazakhstan, Kyrgyzstan, and Bulgaria. In the case of Uzbekistan, however, the government has not responded to the Panel's recommendations for revisions of its religion laws. In two recent examples of expert opinions on individual cases, the Panel determined that the situation of Jehovah's Witnesses in Moscow is illustrative of problems in other post-Soviet countries, where registration requirements are being used to control religious groups. The Panel has also been critical of official threats to destroy Hare Krishna property in an agricultural cooperative in Kazakhstan, and in November 2006 offered its assistance in resolving this dispute. The Commission has observed that the activities of the Panel could be better known and more transparent, in particular with respect to those governments that ignore its recommendations. In addition, every year the Panel should hold at least one meeting of its entire membership.

Commission Activities

Since 2001, the Commission has participated with and often been members of U.S. delegations to OSCE meetings and has made extensive recommendations relating to the work of the OSCE on protecting freedom of religion or belief and on combating intolerance and anti-Semitism in the OSCE region. Then-Commission Vice Chair Felice D. Gaer made public statements on behalf of the Commission at the first-ever special meeting on anti-Semitism in June 2003, as well as at the ODIHR HDim meeting the following October. In July 2004, the Commission recommended that the U.S. government should advocate an active role for NGOs in monitoring religious intolerance. In September 2004, at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia, and Discrimination (Brussels), Vice Chair Gaer stressed the importance of freedom of religion or belief in the OSCE region. At the October 2004 OSCE HDim, the Commission made certain that public information on the status of freedom of religion or belief in various OSCE states and the Commission's concerns about religious freedom were included in the concluding intervention by the U.S. delegation to the HDim meeting.

At the OSCE Conference on Anti-Semitism and Other Forms of Intolerance, held in Cordoba in June 2005, then-Commission Vice Chair Nina Shea spoke at the Panel of Experts Workshop on Promoting Tolerance and Ensuring Freedom of Religion and Belief on restrictive registration practices. Serving as official advisers to the U.S. delegation to the Cordoba meeting, then-Commission Chair Michael Cromartie and Vice Chair Shea met with various diplomats and NGO representatives. During the 2005 OSCE HDim meeting in Warsaw, Commissioner Gaer served as a member of the U.S. delegation and made a plenary statement on the problems faced by ethnic minorities, including anti-Semitism. Commission staff also took part in a roundtable discussion on intolerance and discrimination against Muslims and made a presentation on how the Commission has addressed these issues. During the 2006 OSCE HDim, Commissioner Gaer, as Chair of the Commission, served as an official member of the U.S. delegation and presented a plenary statement on freedom of religion. Commission staff also made a presentation on freedom of religion in Turkmenistan during an event at this meeting.

In 2007, Commissioner Gaer served on the official U.S. delegation to the HDim conference, during which she met with various delegations, the Personal Representatives on Tolerance, and ODIHR staff. In October 2007, Commission staff served on the official U.S. delegation to a Conference on Intolerance and Discrimination against Muslims hosted by the Spanish OSCE Chair.

The Commission was one of the first official bodies to speak out against the rise in anti-Semitic violence in Europe; it has also addressed anti-Semitism and related issues in countries such as Belarus, Belgium, Egypt, Iran, France, Russia, Saudi Arabia, Uzbekistan, and Pakistan. The U.S. Congress introduced and unanimously passed resolutions in the Senate and the House on the rise of anti-Semitism in Europe. The Senate version cited the Commission's findings and urged the Commission to continue documenting the issue. In February 2008, Commissioner Gaer testified at a hearing of the Commission on Security and Cooperation in Europe (the Helsinki Commission) entitled, "U.S. and Civil Society Efforts to Combat Anti-Semitism." In her testimony, Gaer addressed Commission concerns about the rise of anti-Semitism, racial discrimination, xenophobia, discrimination, and intolerance in the OSCE region, the OSCE's

efforts to deal with these problems, and the record of the U.S. government on combating anti-Semitism and other forms of intolerance through OSCE mechanisms.

The Commission has recommended that the U.S. government work with the OSCE and the U.S. delegation to ensure that separate attention is paid to anti-Semitism in the region and successfully advocated for the OSCE's first special meeting on anti-Semitism. During preparations for that meeting, Commissioner Gaer stressed that acts of anti-Semitism must not be seen as hooliganism, but as human rights abuses that States should combat by robust implementation of their international human rights commitments. Participating on the U.S. delegation at the Berlin meeting, then-Vice Chair Gaer discussed anti-Semitism in the OSCE region and met with a wide variety of delegations and NGOs. During the Berlin conference on anti-Semitism, the Commission brought to the attention of the U.S. delegation the key role played by NGOs in monitoring anti-Semitism, intolerance, and discrimination, and this language was included in the delegation's concluding speech. The resulting OSCE "Berlin Declaration" on anti-Semitism has served as a precedent for the UN in organizing its own public event on combating anti-Semitism.

Commission Recommendations:

I. Supporting the OSCE

With regard to the institution of the Organization for Security and Cooperation in Europe (OSCE), the Commission recommends that the U.S. government should:

- express strong support for the OSCE at the highest levels of the U.S. government in the face of attacks led by the Russian government, particularly on the OSCE's human rights and tolerance activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR);

- authorize and appropriate specially designated funds in addition to 2007 U.S. contributions to the OSCE for the purpose of expanding programs that combat anti-Semitism, xenophobia, and discrimination against Muslims, Christians, and members of other religions, and of developing ways to advance freedom of thought, conscience, and religion or belief.

- hold regular briefings at the State Department for members of the U.S. government and NGO community concerned with OSCE issues and make efforts to expand the number and scope of invitees;

- recommend that the State Department routinely include in U.S. OSCE delegations representatives of relevant U.S. government agencies, such as Homeland Security and the Justice Department, as well as expand the number and range of civil society groups involved in the OSCE process; and

- ensure that U.S. OSCE delegations organize regular informational briefings for the civil society groups at OSCE meetings.

III. Promoting Religious Freedom and Tolerance Within the OSCE's Participating States

With regard to freedom of thought, conscience, and religion or belief and the promotion of tolerance, the Commission has recommended that the U.S. government urge that OSCE participating States undertake the following steps:

--ensure that they are complying with their commitments to combat discrimination, xenophobia, and anti-Semitism, as detailed in the 1990 Copenhagen Document on the Human Dimension, including adopting laws against incitement to violence and ensuring effective remedies for acts of discrimination;

--engage in a regular public review of compliance with OSCE commitments on freedom of religion or belief, on racial and religious discrimination, and on anti-Semitism, including by facilitating a more active role by NGOs as part of that process;

--commit to condemn promptly, publicly, and specifically hate crimes and to investigate and prosecute their perpetrators;

--take all appropriate steps to prevent and punish acts of anti-Semitism, such as to condemn publicly specific anti-Semitic acts, to pursue and prosecute the perpetrators of attacks on Jews and their communal property, and, while vigorously protecting freedom of expression, to counteract anti-Semitic rhetoric and organized anti-Semitic activities;

--condemn in a public fashion, while vigorously protecting freedom of expression, attacks targeting Muslims and pursue and prosecute the perpetrators of such attacks;

--ensure that efforts to combat terrorism not be used as an unrestrained justification to restrict the human rights, including freedom of religion or belief, of members of religious minorities;

--bring national legislation and practice, as well as local laws, into conformity with international human rights standards and OSCE commitments by: permitting all religious groups to organize and conduct their activities without undue interference; discontinuing excessive regulation of the free practice of religion, including registration or recognition requirements that effectively prevent members of religious communities from exercising their freedom to manifest religion or belief; and permitting limitations on the right to freedom of religion or belief only as provided by law and consistent with participating States' obligations under international law;

--monitor the actions of regional and local officials who violate the right to freedom of religion or belief and provide effective remedies for any such violations; and

--establish mechanisms to review the cases of persons detained under suspicion of, or charged with, religious, political, or security offenses and to release those who have been imprisoned solely because of their religious beliefs or practices, as well as any others who have been unjustly detained or sentenced.

II. Promoting Religious Freedom and Tolerance Through the OSCE's Institutional Mechanisms

With regard to freedom of religion or belief and the promotion of tolerance, the Commission recommends that the U.S. government urge the OSCE to:

- ensure, as a matter of priority, the reappointment of the three Chairman-in-Office Personal Representatives on tolerance issues;

- make the country-specific reports of the three Personal Representatives available to the public;

- request that the three Personal Representatives report in person to the annual OSCE ministerial meetings;

- request the OSCE Chairman-in-Office to invite the three Personal Representatives to participate on his or her official visits and refer to their work and conclusions in speeches and other presentations;

- encourage OSCE participating States and the 18 OSCE Field Presences to invite the Personal Representatives on official visits;

- convene on a regular basis public review meetings to assess compliance by OSCE participating States of their commitments to combat discrimination, xenophobia, and anti-Semitism;

- ensure that all participating States individually are taking concrete actions to live up to their commitments to combat discrimination and intolerance, in particular to combat anti-Semitism, as detailed in the 1990 Copenhagen Document, action which should include adopting laws to protect against incitement to violence based on discrimination, including anti-Semitism, and providing the individual with effective remedies to initiate complaints against acts of discrimination;

- convene expert conferences on anti-Semitism and freedom of religion or belief, as well as other tolerance issues, during 2008 and 2009;

- consider holding the Human Dimension Implementation Meeting (HDim) in September and October in several geographic areas in the OSCE region, preferably in areas with major OSCE Field Presences;

- consider reorganization of the HDim conference, including, for example, thematically-linked issues, such as Rule of Law (Elections; Judiciary; Penal System), Fundamental Freedoms (Religion, Expression/Media, Assembly/Association, Movement), and Tolerance and Non-Discrimination (Gender and Minorities—Religious, Ethnic, Economic);

- assist ODIHR in making it possible for the OSCE Field Presences and the ODIHR to hold public roundtables with local government officials, NGOs, and community leaders to discuss the concept and definition of hate crimes and the implementation of hate crimes legislation;

- encourage the ODIHR Tolerance Program staff take part in ODIHR training of Field Presences and other OSCE staff;

- provide voluntary, extra-budgetary funding for added staff to deal with freedom of religion or belief, working within the ODIHR Human Rights Program;

- provide the ODIHR the necessary mandate and adequate resources to hire as part of the Unified Budget experienced staff at the working level, to direct the Tolerance Program, to monitor compliance with OSCE obligations on freedom of religion or belief, and to combat discrimination, xenophobia, and anti-Semitism;

- provide funding for the translation of additional ODIHR Tolerance Program reports into OSCE languages, particularly Russian, and for one ODIHR Tolerance Program staffer with Russian-language capability;

- consider ways to attract more public attention to the activities of the OSCE Panel of Experts on Freedom of Religion or Belief, such as by bringing greater transparency to its activities and providing funds to enable the Panel to hold training seminars, including in the Mediterranean Partner States, about pertinent information on freedom of religious or belief;

- encourage the convening of an annual meeting of the OSCE Panel of Experts on Freedom of Religion or Belief that is open to its entire membership; and

- consider opening the sessions of the OSCE Permanent Council to members of the press and public and/or webcast the proceedings of its sessions.

APPENDIX 1

BIOGRAPHIES OF MEMBERS OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Michael Cromartie, Chair

Michael Cromartie, Chair of the Commission, is Vice President of the Ethics and Public Policy Center in Washington, D.C., where he directs the Evangelicals in Civic Life and the Media and Religion programs. The Ethics and Public Policy Center was established in 1976 to clarify and reinforce the bond between the Judeo-Christian moral tradition and domestic and foreign policy issues. Cromartie is also a Senior Advisor to The Pew Forum on Religion and Public Life in Washington and a Senior Fellow with The Trinity Forum.

Mr. Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture*, *The Washington Post*, *The Washington Times*, *The Reformed Journal*, *Insight*, *Christianity Today*, *Stewardship Journal*, and *World*. He is the editor of 16 books on religion and politics including, most recently, *Religion, Culture, and International Conflict: A Conversation*; *Religion and Politics in America: A Conversation*; and *A Public Faith: Evangelicals and Civic Engagement*. He is an advisory editor at *Christianity Today* and an adjunct professor at Reformed Theological Seminary, and was an advisor to the PBS documentary series "With God on Our Side: The Rise of the Christian Right in America."

Frequently asked to comment on the dynamics between religious faith and political convictions, Mr. Cromartie has been interviewed on numerous radio and television programs, including National Public Radio, CNN, ABC News, The News Hour with Jim Lehrer, MSNBC, and PBS. He has been quoted frequently in the *Washington Post*, *New York Times*, *The New Republic*, *Christianity Today*, *Time*, the *National Catholic Reporter* and *U.S. News and World Report*. He holds an M.A. in Justice from The American University and a B.A. from Covenant College in Georgia.

Commissioner Cromartie was appointed by President George W. Bush.

Preeta D. Bansal, Vice Chair

Preeta D. Bansal is a lawyer whose career has spanned government service and private practice. A partner at the international law firm of Skadden, Arps, Slate, Meagher & Flom LLP, Ms. Bansal heads the appellate litigation group. She regularly represents major Wall Street and corporate clients on significant issues of law before the federal and state appellate courts, including the United States Supreme Court. A member of the Council on Foreign Relations, she also serves on the advisory boards of several leading human rights and civil rights organizations, including Human Rights Watch, the Lawyers' Committee for Civil Rights Under Law, and the National Women's Law Center.

Ms. Bansal served as the Solicitor General of the State of New York from 1999 through 2001. The New York Times called her a "legal superstar" and the New York Law Journal referred to her as "one of the most gifted lawyers of her generation, who combines a brilliant analytical mind with solid, mature judgment."

Ms. Bansal is a *magna cum laude*, Phi Beta Kappa graduate of Harvard-Radcliffe College, and a *magna cum laude* graduate of Harvard Law School, where she was Supervising Editor of the *Harvard Law Review*. She served as a law clerk to Justice John Paul Stevens of the United States Supreme Court (1990-1991) and to Chief Judge James L. Oakes of the United States Court of Appeals for the Second Circuit (1989-1990). She served as Counselor in the U.S. Justice Department and as Special Counsel in the Office of the White House Counsel from 1993-1996. She has taught constitutional law, and was a Visiting Fellow at the Institute of Politics at Harvard University's John F. Kennedy School of Government.

Ms. Bansal was appointed to the Commission by former Senate Minority Leader Thomas Daschle (D-SD), and reappointed by Senate Majority Leader Harry Reid (D-NV). She served as Chair of the Commission in 2004-2005.

Dr. Richard D. Land, Vice Chair

Dr. Richard Land has served as president of the Southern Baptist Convention's Ethics & Religious Liberty Commission since 1988. During his tenure as representative for the largest Protestant denomination in the country, Dr. Land has represented Southern Baptist and other Evangelicals' concerns in the halls of Congress, before U.S. Presidents, and in the media.

As host of *For Faith & Family*, *For Faith & Family's Insight*, and *Richard Land Live!*, three nationally syndicated radio programs, Dr. Land has spoken widely on the social, ethical, and public policy issues facing the United States. He is also Executive Editor of *FFV*, a national magazine dedicated to coverage of traditional religious values, Christian ethics, and cultural trends.

Dr. Land was featured in *Time Magazine* in 2005 as one of "The Twenty-five Most Influential Evangelicals in America." The previous year, he was recognized by the *National Journal* as one of the 10 top church-state experts "politicians will call on when they get serious about addressing an important public policy issue."

Dr. Land's latest book is *The Divided States of America? What Liberals and Conservatives are Missing in the God-and-Country Shouting Match*. Dr. Land has also recently authored *Imagine! A God-Blessed America* (2005) and *Real Homeland Security* (2004). He earned his A.B. *magna cum laude* at Princeton University and his D.Phil. at Oxford University.

Then-Senate Majority Leader Bill Frist reappointed Dr. Land to the U.S. Commission on International Religious Freedom in 2005. President Bush selected him for his two previous terms at the Commission (September 2001 to September 2004).

Dr. Don Argue

Don Argue, Ed.D., was appointed Chancellor of Northwest University in Kirkland, Washington, on August 15, 2007, after serving as President of Northwest for nine years. During his tenure as President, Northwest experienced substantial growth, including an increase in the number of faculty and the addition of 14 new buildings, including the Center for Graduate and Professional Studies and the Health and Sciences Center. During his tenure, enrollment also grew by 52 percent.

Dr. Argue previously served as president of the National Association of Evangelicals (NAE). The NAE is comprised of approximately 42,500 congregations nationwide from 51 member denominations, and individual congregations from an additional 26 denominations, as well as several hundred independent churches.

He also served as President of North Central University in Minneapolis, Minnesota, for 16 years. Under his leadership, the university received the *Christianity Today* "Decade of Growth Award" in recognition of being the fastest-growing college of its kind in the nation.

Dr. Argue earned a Bachelor's degree at Central Bible College in Springfield, Missouri, a Master's degree at Santa Clara University in Santa Clara, California, and a Doctorate in Education at the University of the Pacific in Stockton, California.

President Bill Clinton and Secretary of State Madeleine Albright invited Dr. Argue to serve on the President's Advisory Committee on International Religious Freedom, for which he chaired the subcommittee dealing with international religious persecution.

President Clinton appointed Dr. Argue, Theodore Cardinal McCarrick (Washington, D.C.) and Rabbi Arthur Schneier (New York City) to the first official delegation of religious leaders from the United States to visit The People's Republic of China to discuss religious freedom and religious persecution with high-ranking officials including President Jiang Zemin.

Dr. Argue has served as pastor of churches in Missouri and California.

Commissioner Argue was appointed by Senate Majority Leader Harry Reid (D-NV).

Imam Talal Y. Eid

Imam Talal Y. Eid is Founder and Executive/Religious Director of the Islamic Institute of Boston. He is also the Muslim chaplain at Brandeis University and at the Massachusetts General Hospital. A native of Lebanon, he served as Imam at Al-Naaser Mosque in Tripoli for six years and as Imam and Religious Director of the Islamic Center of New England (MA) for 23 years. Imam Eid earned a Master of Theological Studies (MTS) in 1991 from Harvard Divinity School, where he also earned his Doctor of Theology (Th.D.) in Comparative Religion in 2005. He wrote his thesis on "Marriage, Divorce, and Child Custody as Experienced by American Muslims: Religious, Social, and Legal Considerations." Imam Eid also holds a degree in Islamic Law (sharia), which he received in 1974 from Al-Azhar University in Cairo, Egypt.

Imam Eid is a well-known Muslim scholar, activist, and lecturer on Islam and Muslims, and on Christian, Jewish, and Muslim relations in North America. He promotes the knowledge of Islam through local and national radio and television programs, and through articles published in local and national magazines. He is a marital and family therapist and acts as an expert consultant on Islamic law, including on issues of marital dispute, marital violence, divorce, and child custody.

Imam Eid has served for a period of 20 years as the Chairman of Majlis Ash-Shura (Committee on Islamic Consultation) of the Islamic Council of New England in Massachusetts. He is also a member of the Quincy and Boston Clergy associations. He co-chaired the *Archives for Historical Documentation* of Boston, Massachusetts. He has received recognition awards from many local and national institutions, including the Massachusetts State Senate; the office of the District Attorney of Norfolk, Massachusetts; the Quincy (MA) City Council; the Quincy Human Rights Commission, Partners in Excellence Award (MGH); and Toastmasters International.

Commissioner Eid was appointed by President George W. Bush.

Felice D. Gaer

Felice D. Gaer directs the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, which conducts research and advocacy to strengthen international human rights protections and institutions.

Ms. Gaer is the first American to serve as an Independent Expert on the UN Committee against Torture. Nominated by the Clinton Administration and renominated by the Bush Administration, she has served on the Committee since 2000, including as Vice Chair (2004-2006), as General Rapporteur (2006-2008), and as year-round Rapporteur on Follow-up to Country Conclusions (2003 to present).

A member of the Council on Foreign Relations, Ms. Gaer serves on the advisory committee of Human Rights Watch/Europe and Central Asia and is Vice President of the International League for Human Rights. *Encyclopedia Judaica* describes Ms. Gaer as having "played the key role in assuring passage by consensus of the UN General Assembly's first-ever condemnation of anti-Semitism" in 1998, and being an "architect of many initiatives linking women's rights to human rights."

Ms. Gaer writes and lectures widely on U.S. and UN human rights policy, addressing issues including protecting civilians under threat, advancing the human rights of women, eradicating religious persecution abroad, resolving ethnic conflicts, and preventing genocide. One of the first to call for the issue of rape in armed conflicts to be addressed by the international war crimes tribunal on former Yugoslavia, she was a key negotiator on the U.S. delegation to the Beijing World Conference on Women. Most recently, her article "Echoes of the Future? Religious Repression as a Challenge to US Human Rights Policy" appears in the volume, *The Future of Human Rights: US Policy for a New Era*, published in April 2008 by the University of Pennsylvania Press.

Ms. Gaer was a public member of nine U.S. delegations to UN human rights negotiations in the 1990s and has served on several OSCE delegations since then in her capacity as Chair and Vice Chair of the U.S. Commission. She serves on the board of the Andrei Sakharov Foundation, the Eleanor Roosevelt Center and the Franklin and Eleanor Roosevelt Institute. In 2002 and 2003 she was cited in the annual *Forward 50* list of Jewish Americans who are making a difference.

Ms. Gaer is a graduate of Wellesley College, from which she received the Alumni Achievement Award in 1995. She also received advanced degrees from Columbia University.
Ms. Gaer, who has served on the Commission since 2001, including two terms as Chair, three terms as Vice Chair, and one term on the Executive Committee, was appointed by Speaker Nancy Pelosi (D-Calif.).

Leonard A. Leo

Leonard A. Leo serves as the Executive Vice President of the Federalist Society for Law & Public Policy Studies, an organization of over 40,000 conservatives and libertarians dedicated to limited, constitutional government and interested in the current state of the legal order. He manages the projects, programs and publications of the Lawyers Division. He also helps manage the Federalist Society's government, media, and corporate relations, as well as special initiatives such as the organization's Supreme Court Project and International Law Project.

Mr. Leo has participated actively in a number of international forums. He served as a U.S. delegate to the U.N. Commission on Human Rights in 2005, has been an observer to the World Intellectual Property Organization, participated in two World Health Organization delegations in 2007, and is involved with the U.S. National Commission to UNESCO.

Mr. Leo has published articles on religious liberty under the U.S. Constitution, presidential war powers, executive privilege, legislative responses to judicial activism, property rights, and several federal civil procedure issues. With James Taranto of the Wall Street Journal, he is the co-editor of *Presidential Leadership: Rating the Best and Worst in the White House* (Simon & Shuster, 2004).

Mr. Leo received his undergraduate degree with high honors from Cornell University in 1987 and his law degree from Cornell Law School with honors in 1989.

Mr. Leo is active in the affairs of the Catholic Church, serving as a member of the Sovereign Military Order of Malta and a member of the board of the National Catholic Prayer Breakfast.

Commissioner Leo was appointed by President George W. Bush.

Dr. Elizabeth H. Prodromou

Dr. Elizabeth H. Prodromou is Assistant Professor in the Department of International Relations at Boston University, where she is also a Research Associate at the Institute on Culture, Religion and World Affairs. She has published widely on issues of religion and human rights, democracy,

and security in Europe and the United States. Her publications have appeared in scholarly and policy journals such as *European Journal of Political Research, Social Compass, Journal of the American Academy of Religion, Orbis,* and *Survival*, as well as in numerous anthologies on Southeastern Europe and religion, democracy, and world affairs.

A regional expert on Southeastern Europe and the Eastern Mediterranean, Dr. Prodromou has been an invited policy consultant in the United States and Europe, and has received academic awards and grants from Harvard University, New York University, Princeton University, and the Commission of the European Union; she was recently awarded a Distinguished Service Award by the Tufts Alumni Association.

She is the editor, co-editor, or author of forthcoming books on religion and world affairs, on issues of*: Church-State Relations in Greece: European Enlargement, Democracy, and Religion*; and *Thinking through Faith: Perspectives from Orthodox Christian Scholars*.

Dr. Prodromou holds a Ph.D. and an M.S. in political science from the Massachusetts Institute of Technology (MIT), as well as an M.A.L.D. from The Fletcher School of Law and Diplomacy and a B.A. in International Relations and History from Tufts University. She has served as consultant at the U.S. State Department, the Foreign Affairs Training Center of the Foreign Service Institute, the U.S. Defense Intelligence Council, the U.S. Central Intelligence Agency, and the Council on Foreign Relations.

Commissioner Prodromou was appointed to the Commission by then-House Minority Leader Nancy Pelosi (D-CA) in October 2004. She served as Commission Vice Chair in 2007, and is currently in her second term on the USCIRF.

Nina Shea

An international human-rights lawyer for 25 years, Nina Shea joined Hudson Institute as a senior scholar, where she directs the Center for Religious Freedom, in November 2006.

For the 10 years prior to joining Hudson, Ms. Shea worked at Freedom House, where she directed the Center for Religious Freedom, an office which she had helped found in 1986 as the Puebla Institute.

Ms. Shea has served as a Commissioner on the U.S. Commission on International Religious Freedom since its founding in 1999. She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations.

For over a decade, she has worked extensively for the advancement of individual religious freedom and other human rights in U.S. foreign policy as it confronts Islamist extremism, as well as authoritarian regimes. For seven years, until 2005, she helped organize and lead a coalition of churches and religious groups that worked to end a religious war against Christians, traditional African believers, and dissident Muslims in southern Sudan; in 2004 and 2005, she contributed to the drafting of the Iraqi Constitution's religious freedom provision; and she authored and edited two widely acclaimed reports, *Saudi Arabia's Curriculum of Intolerance* (2006) and *Saudi*

Publications on Hate Ideology Invade American Mosques (2005), both of which translated and analyzed Saudi governmental publications that teach hatred and violence against the religious "other." She regularly presents testimony before Congress, delivers public lectures, organizes briefings and conferences, and writes frequently on religious freedom issues. Her 1997 book on anti-Christian persecution, *In the Lion's Den*, remains a standard in the field.

Ms. Shea is a member of the bar of the District of Columbia. She is a graduate of Smith College and American University's Washington College of Law.

Commissioner Shea was appointed to the Commission by then-Speaker of the House Dennis Hastert (R-IL).

APPENDIX 2

THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998[1]

Selected Provisions

Section 3. DEFINITIONS (22 U.S.C. § 6402)

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term ``particularly severe violations of religious freedom" means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term ``violations of religious freedom" means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;

(ii) speaking freely about one's religious beliefs;

(iii) changing one's religious beliefs and affiliation;

(iv) possession and distribution of religious literature, including Bibles; or

(v) raising one's children in the religious teachings and practices of one's choice; or

(B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

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[1] P.L. 105-292, as amended, 22 U.S.C. § 6401, et seq. The full text of IRFA can be found on the Commission's Web site, www.uscirf.gov.

Section 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM (22 U.S.C. § 6442)

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.— Not later than September 1 of each year, the President[2] shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

Section 405. DESCRIPTION OF PRESIDENTIAL ACTIONS (22 U.S.C. § 6445)

[With respect to each country named a "country of particular concern" (CPC), the President shall, according to section 402(c)(1)(a) and, in general, following an attempt to carry out consultations with the foreign government in question, carry out one or more of the actions described in paragraphs (9) through (15) of section 405(a), as determined by the President. The President may substitute a commensurate action. IRFA § 405(b).]

405(a)(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961;

405(a)(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

405(a)(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961;

405(a)(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

[2] The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

405(a)(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services;

405(a)(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402; and/or

405(a)(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

[In lieu of carrying out action as described above, the President may conclude a binding agreement with the respective foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. IRFA § 402(c)(2). Moreover, "[a]t the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection." IRFA § 402(c)(5).]

Section 407. PRESIDENTIAL WAIVER. (22 U.S.C. § 6447)

(a) In General.--Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that--

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional Notification.--Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

APPENDIX 3

INTERNATIONAL HUMAN RIGHTS STANDARDS: SELECTED PROVISIONS ON FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION OR BELIEF

This document sets forth the relevant provisions of international instruments, as well as further information concerning international standards concerning the protection of freedom of thought, conscience, and religion or belief.

A. EVERYONE HAS THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION

- **Universal Declaration of Human Rights 1948** (UDHR), Art. 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.

- **International Covenant on Civil and Political Rights 1966** (ICCPR), Art. 18:

  1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
  2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.
  3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
  4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

  - In general, according to the UN Human Rights Committee (HRC), The treaty body that reviews compliance with the ICCPR, Article 18 of the ICCPR protects:

    > theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.
    >
    > *—Human Rights Committee (HRC) General Comment No. 22*

- **European Convention for the Protection of Human Rights and Fundamental Freedoms 1950** (ECHR), Art. 9:

  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 worship, teaching, practice and observance.

- **Helsinki Final Act 1975**, Principle VII:

  The participating States will respect human rights and fundamental freedoms, including the freedom of though, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

- **UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981** (UN 1981 Dec.), Art. 1:

  (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or belief in worship, observance, practice and teaching. (2) No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. (3) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Components of the right to freedom of thought, conscience, and religion or belief include:

1. Freedom to Change One's Religion or Belief
[UDHR, Art. 18, ECHR, Art. 9(1), OSCE Copenhagen Document, Art. 9(4)]

2. Freedom to Have or to Adopt a Religion or Belief of One's Choice
[ICCPR Art. 18(1)]

- Necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief;
- No limitations permitted on this freedom; and
- No individual shall be compelled to reveal his or her thoughts or adherence to a religion or belief.

—HRC General Comment No. 22 (paras. 3, 5)

3. Freedom From Coercion Which Would Impair an Individual's Freedom to Have or To Adopt a Religion or Belief of His or Her Choice
[ICCPR, Art. 18(2) and UN 1981 Dec. Art. 1(2)]

- No limitations are permitted on this freedom.
- The same protection is enjoyed by holders of all beliefs of a non-religious nature.

- Examples of impermissible coercion that would impair the right to have or adopt a religion or belief include:
  (a) The use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to specific beliefs and congregations, to recant their religion or belief, or to convert; and
  (b) Policies or practices having the same intention or effect, such as, for example, those restricting political rights protected under article 25 of the ICCPR or access to education, medical care or employment
  –Human Rights Committee (HRC) General Comment No. 22 (para. 5)

4. Freedom to Manifest Religion or Belief in Worship, Observance, Practice, and Teaching
[UDHR, Art. 18, ICCPR, Art. 18(1), UN 1981 Dec., Art. 1, OSCE Vienna Document, Art. 16(d)]

- This freedom may be exercised in public or in private, individually or in community with others.
- This freedom, at a minimum, encompasses the following freedoms:
  (a) To worship or assemble in connection with a religion or belief, and to establish and maintain, including the building of places of worship, freely accessible places for these purposes;
  (b) To establish and maintain appropriate charitable or humanitarian institutions, and seminaries or religious schools;
  (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief, including the use of ritual formulae and objects, the display of symbols, observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group;
  (d) To write, issue and disseminate relevant publications in these areas;
  (e) To teach a religion or belief in places suitable for these purposes;
  (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
  (g) To organize, train, appoint, elect, designate by succession, or replace appropriate leaders, priests and teachers called for by the requirements and standards of any religion or belief;
  (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; and
  (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.[4]

5. Permissible Limitations on the Freedom to Manifest Religion or Belief
[ICCPR, Art. 18(3) and UN 1981 Dec., Art. 1(3)]

[4] See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document.

Freedom to manifest religion or belief may be subject to only such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

- No derogation[5] may be made from freedom of thought, conscience and religion, even during "time of public emergency which threatens the life of the nation." *(ICCPR, Art. 4(2) and UDHR, Arts. 29 & 30)*
- Limitations must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18.
- Paragraph 3 of article 18 is to be strictly interpreted: limitations are not allowed on grounds not specified there, even if they would be allowed as limitations to other rights protected in the Covenant (for example, a limitation based on national security is impermissible).
- Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.
- Limitations may not be imposed for discriminatory purposes or applied in a discriminatory manner.
- Limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition or religion.
- Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.

  —HRC General Comment No. 22 (para. 8)
- Nothing in the UDHR shall 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 therein.

  — UDHR Art. 30

B. PERSONS BELONGING TO RELIGIOUS MINORITIES SHALL NOT BE DENIED THE RIGHT, IN COMMUNITY WITH OTHER MEMBERS OF THEIR GROUP, TO PROFESS AND PRACTICE THEIR OWN RELIGION

[ICCPR, Art. 27, OSCE Vienna Document Art. 19, OSCE Copenhagen Document, and UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, Arts. 1-2 and 4]

- In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the

[5] Derogation of rights is different than a limitation. Under the ICCPR, a state can, in a case of war or serious public emergency, take measures that limit the applicability of certain rights for the period of the emergency. Such measures could go well beyond the scope of limitations to rights that are permissible at any other time.

other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language

—ICCPR, Article 27

- States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, shall encourage conditions for the promotion of that identity, and shall adopt appropriate legislative and other measures to achieve those ends.

—UN Declaration on the Rights of Minorities

- The State "will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others."

—OSCE Vienna Document

C. EVERYONE HAS THE RIGHT TO EQUAL AND EFFECTIVE PROTECTION AGAINST DISCRIMINATION ON THE BASIS OF RELIGION OR BELIEF

[ICCPR, Arts. 2(1) and 26, OSCE Vienna Document, Art. 16(a), and OSCE Copenhagen Document, Art. 40(1-2)]

This right includes the following components:

1. States Undertake to Respect and to Ensure for All Individuals Within its Territory and Subject to its Jurisdiction the Rights Recognized in the ICCPR Without Distinction of Any Kind, Including Religion
[ICCPR Art. 2(1)]

2. All Persons Are Equal Before the Law and Are Entitled Without Any Discrimination to the Equal Protection of the Law.
[ICCPR, Art. 26]

3. The Law Shall Prohibit Any Discrimination and Guarantee to All Persons Equal and Effective Protection Against Discrimination on Any Ground, Including Religion.
[ICCPR, Art. 26]

- The application of the principle of non-discrimination contained in article 26 of the ICCPR is not limited to those rights which are provided for in the Covenant, and extends to prohibit discrimination in law or in fact in any field regulated and protected by public authorities;
- The term "discrimination" as used in the ICCPR should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms;

- The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance;
- The principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the ICCPR; and
- Not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the ICCPR.

—HRC General Comment No. 18 (paras. 7, 8, 10, 12, 13)

4. Protection Against Discrimination by Any State, Institution, Group of Persons or Person on the Grounds of Religion or Other Belief
[UN 1981 Dec., Arts. 2(1) and 4]

- States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
- States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination.
- States shall take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

—UN 1981 Dec., Arts. 4(1) and 4(2)

- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups ….

—UDHR Art. 26(2)

- State parties will "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers."

—OSCE Vienna Document, principle 16b

D. STATES SHALL PROHIBIT BY LAW ANY ADVOCACY OF NATIONAL, RACIAL OR RELIGIOUS HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE

[ICCPR, Art. 20]

- No manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination; hostility or violence… [and] States parties are under the obligation to enact laws to prohibit such acts.

—HRC General Comment No. 22 (para. 7)

- State parties should take the measures necessary to fulfill the obligations contained in article 20 of the ICCPR, and should themselves refrain from any such propaganda or advocacy.

—HRC General Comment No. 11 (para. 2)

- Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.

—United States reservation to ICCPR Art. 20

- States will take effective measures, including the adoption of laws, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism.

—OSCE Copenhagen Document

- States commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

—OSCE Copenhagen Document

E. THE RIGHTS OF PARENTS IN RELATION TO FREEDOM OF RELIGION OR BELIEF

[ICCPR Art. 18(4), OSCE Vienna Document Art. 16(f) and 16(g)]

- State Parties undertake to respect the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

—ICCPR Article 18(4)

- The liberty of parents and guardians to ensure religious and moral education cannot be restricted.
- Public school instruction in subjects such as the general history of religions and ethics is permitted if it is given in a neutral and objective way.
- Public education that includes instruction in a particular religion or belief is inconsistent with ICCPR Art. 18 (4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

—HRC General Comment No. 22 (paras. 6 & 8)

- Parents or legal guardians have the right to organize family life in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief.

- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1(3) of the present Declaration.

—UN 1981 Dec., art. 5

F. FURTHER ELABORATION ON SELECTED TOPICS

1. Obligation to Ensure Rights/Provide Remedies for Violations

[ICCPR Arts. 2(2) and 2(3), UDHR Art. 8, UN 1981 Dec. Art. 7]

The ICCPR requires State parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. This obligation includes ensuring:

- effective remedies for any person whose rights or freedoms are violated;
- that such remedies are determined by competent judicial, administrative or legislative authorities; and
- that such remedies are enforced when granted.

2. Relationship Between Religion and the State

- The fact that a religion is recognized as a state religion or established as official or traditional, or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the ICCPR, nor in any discrimination against adherents to other religions or non-believers.
- In particular, measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to them, or imposing special restrictions on the practice of other faiths are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under ICCPR article 26.
- If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the ICCPR nor in any discrimination against persons who do not accept the official ideology or who oppose it.

—HRC General Comment No. 22 (para. 9)

- State parties are required to grant communities of believers, practicing or prepared to practice their faith within constitutional boundaries, "recognition of the status provided for them in their respective countries."

—OSCE Vienna Document

3. Women's Equal Right to Freedom of Religion or Belief

- The principle of non-discrimination is so basic that each State party is obligated to ensure the equal right of men and women to the enjoyment of the rights set forth in the ICCPR.

—HRC General Comment No. 18 (para. 2)

- Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all ICCPR rights.
- State parties should report and provide data on a number of issues related to religion and women's rights, including:
    - pregnancy- and childbirth-related deaths of women, as well as gender-disaggregated data on infant mortality rates;
    - information on the extent of any practice of genital mutilation, and on measures to eliminate it;
    - measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings;
    - regulation of clothing to be worn by women in public; and
    - whether women may give evidence as witnesses on the same terms as men; whether measures are taken to ensure women equal access to legal aid, in particular in family matters; and whether certain categories of women are denied the enjoyment of the presumption of innocence.
- Freedoms protected by article 18 must not be subject to restrictions other than those authorized by the ICCPR and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion;
- The commission of so-called "honor crimes" which remain unpunished constitutes a serious violation of the ICCPR and laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment.

—HRC General Comment No. 28 (paras. 5, 10, 11, 13, 18, 21, 31)

- Certain religious practices have an adverse effect on women's rights. These practices include :
    - cultural stereotypes, including preference for male children, religious extremism, and regulation of women's clothing;
    - discrimination in medical well-being, including genital mutilation, traditional childbirth practices, and dietary restrictions;
    - discrimination resulting from the condition of women within the family, including practices related to marriage and divorce (e.g.: polygamy, family planning, division of responsibilities);
    - discrimination related to transmission of nationality;
    - discrimination related to inheritance and independent management of finances;
    - discrimination related to right to life, including infanticide, cruel treatment of widows, and honor crimes,
    - attacks on dignity, including sexual abuse;
    - social ostracism, including denial of the right to education, and denial of access to professional fields such as politics and religion; and

- aggravated discrimination against women who also are members of a minority community.

To ensure that freedom of religion does not undermine the rights of women, it is essential that this freedom not be understood as a right of indifference with respect to the status of women.

—UN Special Rapporteur on Freedom of Religion or Belief, Study on Freedom of Religion or Belief and the Status of Women with Regard to Religion and Traditions (Amor Report)[6]

[6] Commission staff translation.