ANNUAL REPORT OF THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

MAY 2006

U.S. Commission on International Religious Freedom
800 North Capitol Street, NW
Suite 790
Washington, DC 20002
202-523-3240
202-523-5020 (fax)
www.uscirf.gov

United States Commission on International Religious Freedom

Commissioners

Michael Cromartie

Chair

Felice D. Gaer

Nina Shea

Vice Chairs

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Preeta D. Bansal

Archbishop Charles J. Chaput

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Dr. Elizabeth H. Prodromou

Bishop Ricardo Ramirez

John V. Hanford, III, *ex officio*

Joseph R. Crapa

Executive Director

United States Commission on International Religious Freedom

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Tina Ramirez, Human Rights Researcher
Allison Salyer, Government Affairs Assistant
Stephen R. Snow, Senior Policy Analyst

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, May 1, 2006

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, 2006

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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Washington, DC, May 1, 2006

Hon. DENNIS HASTERT
Speaker of the House
U.S. House of Representatives

DEAR MR. SPEAKER: 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, 2006

Hon. TED STEVENS
President Pro Tempore
U.S. Senate

DEAR MR. STEVENS: 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
Chair

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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 is 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 2005 through April 2006. In June of 2005 Preeta D. Bansal completed her term as the Chair of the Commission, and Felice D. Gaer and Nina Shea served as Vice Chairs. In July 2005, Michael Cromartie became Chair, and Felice D. Gaer were re-elected to serve as Co-Vice Chairs. Each member of the Commission is currently serving a two-year term and can be reappointed. Terms are staggered, with some having begun on May 15, 2004 and others on May 15, 2005.

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

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, ABC World News, CNN, 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.

2006 ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

May 2006

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INTRODUCTION

The United States Commission on International Religious Freedom was created by Congress to advocate within U.S. policy a prominent place for the promotion of religious freedom and other freedoms throughout the world. Now in its seventh year of operation, the Commission is drawing the attention of the policy community to the growing strategic importance of the protection of religious freedom to U.S. national interests, raising greater public awareness as to why religious freedom is a critical component of how countries treat their own people and deal with the world around them, and working with Members of Congress in a truly bipartisan effort to promote religious freedom abroad.

This annual report of the Commission provides a comprehensive review of the Commission's activities—its findings, recommendations, and achievements—during the past year to promote the universal right to freedom of thought, conscience, and religion or belief. This report describes conditions for religious freedom and inter-related human rights in the countries of concern to the Commission, highlights key findings, reports on the actions the Commission has taken to raise the public's awareness of persistent religious freedom violations, refers to the Commission's efforts to keep Congress informed of religious freedom conditions throughout the world, and presents the Commission's U.S. policy recommendations to ensure that the promotion of freedom of religion or belief becomes a more integral part of U.S. foreign policy. In the seven years of its operation, many of the Commission's recommendations concerning countries which violate international norms of freedom of religion or belief have been implemented by the President, the State Department, and Congress, and have had a significant impact on the protection of human rights, including religious freedom, in those countries.

Through its focus on critical foreign policy concerns of the day, especially in China, Iraq, Afghanistan, North Korea, and Sudan, and its ongoing work of drawing attention to religious freedom conditions worldwide, the Commission has sought to promote a foreign policy that furthers our nation's humanitarian as well as national security interests.

Focusing on Critical Foreign Policy Concerns

China

In August 2005, the Commission made an official two-week delegation visit to China, traveling to the cities of Beijing, Urumqi, Kashgar, Chengdu, Lhasa, and Shanghai. In November 2005, the Commission released *Policy Focus on China* at a bi-partisan press conference in the Capitol. The release of *Policy Focus on China* and its recommendations for U.S. policy were especially timely in light of President George W. Bush's November 14 meeting in Beijing with Chinese President Hu Jintao. *Policy Focus on China* includes recommendations for U.S. policy as a result of the findings from that visit. More on those findings and recommendations can be found in the country chapter on China and the special report on the Commission's visit to China in this report, as well as in *Policy Focus on China* on the Commission's web site, *www.uscirf.gov*.

During its visit, which followed three years of diplomatic effort by the U.S. government, the Commission engaged senior Chinese officials, including Vice Premier Hui Liangyu, at the national, provincial, and local levels who are responsible for the management of religious affairs and the protection of human rights. In addition, the Commission met with Chinese academics and lawyers, UN officials, and representatives of government-sanctioned Buddhist, Catholic, Taoist, Islamic, and Protestant religious organizations.

The Commission raised questions on Chinese law and international human rights norms, the management of religious affairs in China, Chinese policies concerning the religious education of minors and unregistered religious organizations, new regulations on cults and religious affairs, conditions in Tibet and Xinjiang, and the situation for North Korean asylum-seekers in China. The Commission also raised specific cases of concern with law enforcement officials and was allowed to meet with Tibetan Buddhist nun Phuntsog Nyidron during its visit to Lhasa.

Phuntsog Nyidron was permitted to leave China in March 2006, and that same month, the Commission participated in an event in Washington sponsored by The International Campaign for Tibet and The Capitol Area Tibetan Association welcoming her to the United States. The Commission had worked with Congress, the White House, the State Department, U.S. Ambassador Clark Randt, and the U.S. Embassy in Beijing, as well as with the International Campaign for Tibet and other groups, on her behalf.

In April 2006, the Commission co-sponsored an event with the National Endowment for Democracy on "Religion and Rule of Law in China." In March 2005, China's State Council enacted Regulations on Religious Affairs, stressing that they would offer increased protection for domestic religious practice. One year after the enactment of these regulations, and shortly before President Hu Jintao's visit to the United States in April, the roundtable offered an opportunity to assess the impact of these regulations on religious freedom in China.

North Korea

In November 2005, the Commission released a study, *"Thank You, Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience and Religion in North Korea"* at a bi-partisan Capitol Hill press conference. The Commission's study, led by human rights expert David Hawk, author of *The Hidden Gulag: Exposing North Korea's Prison Camps*, presents evidence based on extensive, in-depth interviews with North Korean refugees and escapees on the policies used by the North Korean government to stamp out religious faith and practice, including eyewitness accounts of public executions of religious believers and indoctrination sessions at "Kim Il Sung Revolutionary Research Centers." The study is the first of its kind by a U.S. government agency and reports on the forceful suppression of North Korea's once vibrant religious and intellectual life, the establishment of a quasi-religious cult of personality centered on Kim Il Sung and his son Kim Jong Il, and the survival of limited religious activity in North Korea. The study and its findings and recommendations for U.S. policy were discussed at an on-the-record event co-sponsored with the American Enterprise Institute in March 2006.

As the international community deals with North Korea's nuclear aspirations, human rights objectives should not be put aside. Negotiations to end nuclear proliferation should include religious freedom, as well as issues such as family reunification, abductions, rule-of-law development, market reforms, needs-based food distribution, and economic development.

More details of the study can be found in the special section on the study in this report and in *"Thank You, Father Kim Il Sung": Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience and Religion in North Korea,"* which can be found on the Commission's web site.

Sudan

In January 2006, the Commission undertook a two-week delegation to Sudan to assess the state of religious freedom and the implementation of the Comprehensive Peace Agreement that ended a two-decades long civil war between the North and South. The delegation traveled to Khartoum, Southern Sudan, and Nairobi, Kenya. The following March, the Commission released *Policy Focus on Sudan* at a bi-partisan press conference in the Capitol with Members of Congress.

Sudan is a nation where U.S. influence has already made a difference and should continue to do so. Since its inception, including after the signing of the Peace Agreement, the Commission has determined that Sudan should be designated as a "country of particular concern," or CPC. The State Department has repeatedly adopted this recommendation. In the past, the Commission has identified Sudan as the world's most violent abuser of the right to freedom of religion and belief and has drawn attention to the Sudanese government's genocidal atrocities against civilian populations, including in Darfur. As a result of the government's policies of Islamization and Arabization, 2 million people, mostly Christians and followers of traditional African religions in southern and central Sudan, died in the now-concluded North-South civil war.

The Commission also has made a series of recommendations regarding U.S. policy toward Sudan, including that the U.S. government appoint a nationally prominent individual to bring about a peaceful and just settlement of the war in Sudan. In September 2001, President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the Sudan peace process. The Commission's consistent advocacy of strong U.S. pressure on the Khartoum regime also was reflected in the Comprehensive Peace in Sudan Act of 2004, signed by President Bush on December 23, 2004.

Policy Focus on Sudan includes new recommendations for U.S. policy as a result of the findings from the Commission's trip. More on those findings and recommendations can be found in the chapter on Sudan in this report and in *Policy Focus on Sudan* on the Commission's web site.

Drawing Attention to Religious Freedom Violators

One of the Commission's chief statutory responsibilities is to make recommendations to the Secretary of State on countries whose governments have engaged in or tolerated systematic

and egregious violations of the universal right to freedom of religion or belief. Under the International Religious Freedom Act of 1998 (IRFA), those countries that meet the statutory criteria must be designated by the Secretary of State as CPCs. In May 2006, concurrent with the release of this report, the Commission wrote to Secretary of State Condoleezza Rice to recommend that 11 countries be designated as CPCs this year. It recommended that eight countries remain on the CPC list: Burma, China, the Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Saudi Arabia, Sudan, and Vietnam. It also identified three countries not previously designated by the U.S. government: Pakistan, Turkmenistan, and Uzbekistan. The Commission has also drawn attention to the Secretary of State's responses to the CPC designations of Saudi Arabia, Vietnam, and Eritrea, three countries that require direct responses by the Secretary under IRFA as none is subject to pre-existing sanctions.

In addition to CPC recommendations, the Commission wrote that it was adding Afghanistan to its Watch List. Bangladesh, Belarus, Cuba, Egypt, Indonesia, and Nigeria would remain on the Watch List. More information about the 2006 CPC designations and Watch List countries can be found in this report.

Raising Public Awareness

Over the past year, the Commission has held numerous public events highlighting critical religious freedom concerns, in addition to the events with the American Enterprise Institute and the National Endowment for Democracy noted above. In June 2005, the Commission released two policy briefs at events co-sponsored by Washington policy think tanks. The first event was held at the Woodrow Wilson International Center for Scholars for the release of *Policy Focus on Egypt*. Commissioners were joined by prominent Egyptian human rights activist Saad Eddin Ibrahim, who was the commentator and endorsed the Commission's work on Egypt. The second event was held at the Carnegie Endowment for International Peace for the release of *Policy Focus on Uzbekistan*. The Commission was joined by Robert Templer, Director of the Asia Program at the International Crisis Group, who presented Crisis Group's report, "Uzbekistan: the Andijon Uprising." The roundtable was chaired by Dr. Martha Brill Olcott, Senior Associate at Carnegie.

Also in June, the Commission presented the findings of its March 2005 comparative study of the constitutions of 44 predominately Muslim countries at an event at Radio Free Europe/Radio Liberty on "Religion and Iraq's Permanent Constitution: Constitutional Models of Predominantly Muslim Countries." In addition, the Commission held a hearing on Pakistan on Capitol Hill titled "The United States and Pakistan: Navigating a Complex Relationship." Witnesses provided testimony about the situation in Pakistan and made recommendations for U.S. policy. Transcripts of this and other Commission hearings can be found on the Commission's web site.

In February 2005, the Commission released the findings of its *Report on Asylum Seekers in Expedited Removal* and recommendations for the Department of Homeland Security (DHS) and Department of Justice. Congress authorized the Commission to appoint experts to conduct a study examining how expedited removal is implemented and if the process offers sufficient protection to legitimate asylum seekers. Congress asked for the study to examine whether asylum seekers subject to expedited removal are being detained under inappropriate conditions

and whether they are being returned to countries where they might face persecution. Included in the study's recommendations was the recommendation that Homeland Security Secretary Michael Chertoff appoint a Senior Refugee and Asylum Policy Advisor. The Commission welcomed Secretary Chertoff's February 2006 announcement of the appointment of Igor Timofeyev as DHS's first Senior Refugee and Asylum Policy Advisor. The Commission had urged Secretary Chertoff to establish such a post when it met with him in April 2005.

At the end of June, the Commission traveled to Salt Lake City, Utah, to receive the 2005 Arthur C. Helton Human Rights Award from The American Immigration Lawyers Association (AILA). The AILA presented the award to the Commission, its Expedited Removal Study experts, and their team of researchers. The Award was established in 1983 to recognize outstanding service in advancing the cause of human rights and was being presented to the Commission in recognition of the Expedited Removal Study and the Commission's efforts to promote the protection of asylum seekers who flee to the United States.

In July 2005, Commissioner Preeta D. Bansal spoke on the role that international religious freedom plays in U.S. foreign policy at the Chautauqua Institution's summer lecture series. This summer series is an annual event that brings together a wide variety of individuals to discuss issues ranging from faith and politics to the law in religion and society.

In September, Commission Chair Michael Cromartie and Commissioner Richard Land traveled to Houston, Texas, to address the conference "Tolerance and Its Limits" at the Boniuk Center for the Study and Advancement of Religious Tolerance at Rice University. Commissioners also met with the Editorial Board of *The Houston Chronicle*.

In February 2006, the Commission held an on-the-record roundtable at the Carnegie Endowment for International Peace assessing U.S. policy towards the human rights situation in Russia. The roundtable reviewed how the U.S. government should be responding to the rollback in human rights, including religious freedom, in Russia and increasing Russian nationalism.

Commission members also pressed issues of concern to the public through several appearances on television and radio broadcast programs and interviews with the print media, including appearances on ABC World News, CNN, and National Public Radio. In addition, the Commission had opinion-editorials in *The Washington Post, Dallas Morning News*, *The New York Sun*, and *The Philadelphia Inquirer*.

Assessing Religious Freedom First Hand

As part of its annual deliberative process, the Commission assesses religious freedom conditions first hand. As noted earlier, in August 2005, the Commission sent an official two-week delegation to China and in January 2006, the Commission traveled to Sudan. In February 2006, the Commission traveled to Sri Lanka and Bangladesh. In each country, Commission delegations met with a broad range of individuals including senior government officials, human rights organizations and other non-governmental organizations, religious leaders, scholars, educators, legal specialists, and others. The Commission consulted with these individuals on human rights concerns, including freedom of religion or belief, as protected in the Universal

Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other instruments.

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 organized by the Russian Presidential Administration Training Academy. The conference brought together scores of national, regional, and local government 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 several representatives of human rights and other civil society organizations, as well as academic experts, concerned with freedom of religion and growing intolerance in Russia.

In addition, the Commission has participated through the U.S. delegations in various meetings of the Organization for Security and Cooperation in Europe (OSCE). In June 2005, Commissioner Archbishop Charles J. Chaput was named by Secretary of State Condoleezza Rice as a member of the nine-member U.S. delegation to the Conference on Anti-Semitism and on Other Forms of Intolerance sponsored by the OSCE, which was held in Cordoba, Spain. Commission Vice Chair Nina Shea and Commissioner Michael Cromartie were named as advisors to the U.S. delegation. The Cordoba conference focused on practical steps to combat intolerance, including discrimination against religious and other minorities, building on the OSCE's 2004 Conference on Anti-Semitism in Berlin and the Conference on Racism, Xenophobia and Discrimination in Brussels.

In October 2005, Commission Vice Chair Felice D. Gaer was an official member of the U.S. delegation to the OSCE's Human Dimension Implementation Meeting in Warsaw, Poland. The annual Warsaw meeting is Europe's largest human rights conference, and the OSCE's most important human rights event of the year. Its purpose is to examine implementation of the human rights commitments in OSCE's founding document, the 1975 Helsinki Final Act, and other commitments made since then. Participants from government and civil society devoted special attention to future planning to combat intolerance and discrimination, including anti-Semitism, discrimination against Muslims, xenophobia and related intolerance, including Christianophobia. These topics have been a special focus of Commission concern in the OSCE. The OSCE consists of 55 nations, including the nations of Europe and Eurasia, the United States, and Canada.

Keeping Congress Informed

In Washington, Commissioners testified before Congress addressing a number of Commission concerns. In May 2005, Commissioner Michael Cromartie testified at a briefing of the U.S. Commission on Security and Cooperation in Europe, or Helsinki Commission, on "Unrest in Uzbekistan: Crisis and Prospects." In June 2005, Commission Vice Chair Shea testified before the House International Relations Committee (HIRC) Subcommittee on Africa, Global Human Rights, and International Organizations at a hearing on human rights and religious freedom in Vietnam. In July 2005, Commission Vice Chair Gaer testified before the Congressional Human Rights Caucus Members' Briefing titled, "The Human Rights Situation in

Egypt: An Overview." In October 2005, Commission Chair Cromartie testified before a joint members' briefing of the Congressional Caucus on Vietnam and the Congressional Human Rights Caucus to examine the ongoing religious freedom violations in Vietnam. In November 2005, Commission Chair Cromartie testified at a hearing on the State Department's 2005 *International Religious Freedom Report* and its designation of CPCs held by the HIRC Subcommittee on Africa, Global Human Rights and International Operations. Also in November, Commissioner Elizabeth Prodromou spoke before the Congressional Human Rights Caucus (CHRC) at a briefing titled "Religious Freedom and Democracy in Egypt: The Role of Coptic Christians and Muslims." In March 2006, Commission Chair Cromartie testified before the HIRC Subcommittee on Africa, Human Rights, and International Organizations at a hearing titled "The Human Rights Dialogue with Vietnam: Is Vietnam Making Significant Progress?" In April 2006, Commission Vice Chair Gaer testified before the CHRC at a briefing titled "Anti-Conversion Laws and Religious Freedom in South Asia and the Middle East: The Case of Abdul Rahman." The individual country chapters in this report contain more information about these events as well as other Commission activities. All Commission testimony can be found on the Commission's web site.

In addition to testifying before Congress, the Commission held congressional staff briefings and worked with a number of individual congressional offices to include its findings and policy recommendations in almost two dozen bills and resolutions, including religious freedom conditions and U.S. policy in Afghanistan, China, Egypt, India, Saudi Arabia, and Uzbekistan. On several occasions, the Commission's findings and recommendations were also cited in congressional letters and statements.

Through its activities and publications, the Commission seeks positive ways to protect freedom of thought, conscience, and religion or belief globally. In the coming year, the Commission will continue to work with policymakers, the public, the non-governmental community, religious communities, the media, and others to promote universal rights and fundamental freedoms.

IRAQ: HUMAN RIGHTS IN JEOPARDY

The Iraqi people face considerable human rights challenges as their political leaders continue to try to forge a new government to advance the political process, and as U.S. coalition forces and their Iraqi counterparts address serious, ongoing security concerns. In the last year, there has been a grave escalation of Sunni-Shi'a violence, and religiously motivated violence at the hands of insurgents and Islamic militants continued unabated. These attacks have had an impact on all elements of Iraqi society, including ChaldoAssyrians, Sabean Mandaeans, and Yazidis—non-Muslim groups targeted on account of their religion—as well as secular Muslims, Sufi Muslims, Roma, women, homosexuals, and others. As the U.S. Department of State acknowledged in its 2005 *International Religious Freedom Report*, "While the general lawlessness that permitted criminal gangs and insurgents to victimize citizens with impunity affected Iraqis of all ethnicities and religions, many individuals were targeted because of their religious identity or secular leanings."

The Commission has concluded that because the United States has been so directly involved in Iraq's political reconstruction, it has a special obligation to act vigorously, together with the Iraqi leadership, to identify and promptly remedy the systemic flaws which continue to undermine the protection of universal human rights in Iraq. Specific policy recommendations for the U.S. government are presented at the end of this chapter.

Sunni-Shi'a Sectarian Violence and Intra-Shi'a Strife

There has been an escalation in the level of sectarian violence between Sunni and Shi'a Muslim factions, which some observers liken to a so-called civil war either already in progress or increasingly inevitable. The Commission has previously called attention to the danger posed by sectarian violence. In early 2006, there was a dramatic spike in these attacks and reprisals, particularly following the bombing of Samarra's Askariya shrine, or Golden Mosque, a site revered by Shi'a Muslims. In retaliation for this attack, media sources reported that mobs struck 27 Sunni mosques in the capital, killing three imams and kidnapping a fourth. The UN Assistance Mission for Iraq (UNAMI) reported at the end of February 2006 that violence following the destruction of the Askariya shine resulted in "hundreds of cases of killings, torture, illegal detention and displacement," and cited figures provided by the Sunni Muslim Iraqi Islamic Party reporting damage to 106 mosques and the assassination of 20 imams and sheikhs.[i] At the time of this writing, murderous attacks by insurgent groups and sectarian militias continue on an almost daily basis. Moreover, there are reportedly mounting intra-Shi'a tensions, including the recent flare-ups of violence between the country's two largest Shi'a militias, the Supreme Council for Islamic Revolution in Iraq's (SCIRI) Badr Brigade and Moqtada al-Sadr's Mahdi Army.

The growing level of sectarian tension is exacerbated by reports of related human rights abuses, including the unlawful abduction, torture, and extrajudicial killing of Sunni Arabs at the hands of Iraqi Security Forces, including the Ministry of Interior's (MOI) Quick Reaction Forces (Wolf Brigade), and others.[ii] Likewise, Sunni insurgents and other forces were responsible for the kidnapping and killing of Shi'a Muslims. Although the MOI announced it would launch

investigations into these incidents, according to the State Department, no information regarding such investigations had been released to the public. Human rights organizations have asserted that the Iraqi government has failed to establish an effective mechanism for monitoring abuses by law enforcement personnel or the armed forces, and for bringing those accused of such offenses to justice.

Throughout the past year, there were numerous bombings targeting worshippers at mosques, as well as assassinations of clerics and other community leaders. Additionally, UNAMI and media sources reported that Shi'a and Sunni families are being forcibly evicted from their homes in certain neighborhoods,[iii] and Sunni Muslims arbitrarily detained and arrested, "often on the basis of their Sunni-sounding last names."[iv]

The Future of Religious Minorities Hangs in the Balance

Amid this growing cycle of sectarian violence, religious minorities in Iraq continued to suffer a disproportionate burden of violent attacks and other human rights abuses. Minority communities, including Christian Iraqis, are forced to fend for themselves in an atmosphere of impunity, and lack any tribal or militia structure to provide for their security. The result is that members of these communities continue to flee the country in the face of violence, in an exodus that may mean the end of the presence in Iraq of ancient Christian and other religious minority communities that have lived on those same lands for 2,000 years.[v] The UN has reported on "an explosion of Islamist extremist movements and militias which target, among others, members of religious minorities," concluding that religious minorities "have become the regular victims of discrimination, harassment, and at times persecution, with incidents ranging from intimidation and threats to the destruction of property, kidnapping and murder," and that "members of the Christian minority…appear to be particularly targeted."[vi] As discussed below, this violence is also directed against women, including non-Muslim women, who are deemed as not complying with Islamic strictures, which are being imposed unlawfully.

The indigenous, ancient Iraqi Christian community has been the target of coordinated bombing attacks. At the end of January 2006, five simultaneous bombings targeted two churches in Baghdad, two churches in Kirkuk, and the Vatican embassy. According to press reports, 16 people were killed and 20 injured in these coordinated attacks, prompting Archbishop Fernando Filoni, the apostolic nuncio in Iraq, to conclude that the situation in Iraq:

> is insecure and continues to be difficult, very, very difficult. It has worsened because of the fact that threats against Christians, against ecclesiastics, are increasing. Kidnappings continue to take place. All this makes the situation totally precarious.[vii]

During the past year, as a consequence of this constant threat of violence, many worshippers reportedly did not attend religious services or participate in religious events. In addition, the destruction and looting by Islamic extremists of businesses deemed un-Islamic resulted in approximately 95 percent of stores that sell alcohol being closed, according to Iraqi officials. As traditional owners of these establishments, this violence has had a disproportionate

economic and social impact on Christian and Yazidi communities in Baghdad, Mosul, and Basrah, among other places.

Reports also alleged that the Kurdish Regional Government (KRG) engaged in discriminatory behavior against religious minorities. According to the State Department, Christian and other minorities "living in areas north of Mosul asserted that the KRG confiscated their property…without compensation and…Assyrian Christians also alleged that the Kurdish Democratic Party-dominated judiciary routinely discriminated against non-Muslims.[viii] Additional reports alleged that reconstruction assistance for ChaldoAssyrian communities was being diverted and/or controlled by the KRG without input from legitimate community leadership.

Sabean Mandaean organizations continue to report that extremist Islamic elements are targeting individual members of the Iraqi Sabean community, solely on the basis of their religious belief. In a number of instances, attackers reportedly attempted to forcibly convert their victims before murdering them, sometimes going so far as to leave the victims' valuables behind to underscore the religious motivation for their acts. Other violence directed against the Sabean community reportedly included kidnapping, rape, immolation, and the gouging of eyes. According to the Germany-based Society for Threatened Peoples, 17,000 of the 30,000 Mandaeans have already fled Iraq in the wake of this violence. According to sources cited by the UN, Iraqi religious leaders issued several *fatwas* during the past year which "have provided Islamic fundamentalists with the religious justification for acts carried out against the Mandaeans, and have accentuated the level of fear among the Mandaean community."[ix]

A 1970 law still on the books in Iraq effectively outlaws the Baha'i religion in the country and criminalizes any Baha'i activities.[x] Despite constitutional protection of the religious freedom for all Iraqis, to date no action has been taken by the Iraqi government to repeal this law.

Religiously Motivated Abuses Against Women in Iraq

The security situation for women in Iraq continued to deteriorate because of the actions of extremist Islamic elements. Over the past year, the Commission has called attention to the fact that women are being forced to contend with the unlawful imposition of Islamic laws and principles by grassroots vigilante groups, as well as by the operation of illegal courts that seek to impose an extremist version of Islamic law on all Iraqis, regardless of their beliefs. The UN Special Rapporteur on Freedom of Religion or Belief received similar reports during this period concerning religious groups targeting women perceived to be politically active, and the issuing of death threats by these groups against women pursuing advocacy or other political work.[xi]

In the past year, religiously motivated attacks on women continued, including acid attacks, kidnappings, and killings. Attackers reportedly sprayed or threw acid onto women, including their face and eyes, for being "immodestly" dressed. Widespread reports also continued of both Muslim and non-Muslim women being compelled to wear headscarves or veils in order to protect themselves from such attacks. Among other reports, according to the State Department, education officials in Basrah have instituted a policy requiring all females in the

schools to cover their heads, and "all female university students in Mosul, even non-Muslims, were required to wear the *hijab*, or headscarf." This manner of dress was not forced, required, or even expected of women under the previous regime. The UN Special Rapporteur on Freedom of Religion or Belief concluded that these developments "led to a reduction in the number of girls and women attending schools and universities," reporting that Iraq's "Ministry of Higher Education and Scientific Research had been informed of 3,000 cases of women and girls who had requested postponement of their studies as a result of the security situation linked to this matter."[xii]

Stalled Formation of a National Unity Government and Implementation of the Constitution

The escalation in sectarian violence and continued deterioration in security conditions have obstructed efforts of the Iraqi government to consolidate control over law and order in the country. Militia groups, insurgent elements, and religious extremist groups continue to commit human rights abuses with impunity. As noted above, severe human rights violations by Iraqi security forces continue without an effective response by the government.

As of this writing, despite certification of the election results, a new government has yet to be formed, in part due to Shi'a infighting and other disagreements among the main political parties. Due to the delay in setting up a new government, plans for an expected constitutional amendment process have been set back. This, in turn, has stalled implementation of the new constitution, as well as legal, judicial, and other institutional reforms necessary to implement human rights protections.

An Ambiguous Permanent Constitution

In the face of continuing religiously motivated violence in Iraq, the Commission strongly reiterates its longstanding recommendation that Iraq's government be urged to incorporate—into both the constitution and related implementing legislation—clear protections for the individual right to freedom of thought, conscience, and religion or belief in accordance with the international standards Iraq has pledged to uphold, as well as strong protections for related human rights.

While international standards explicitly bestow upon every individual the right to freedom of thought, conscience, and religion or belief, this right has all too frequently been diluted or misconstrued. For example, international attention typically is directed toward protecting the freedoms of religious groups or communities, including their freedom to worship, educate, and organize affairs according to their own doctrines. As important as these communal aspects of freedom of religion are, particularly for religious communities themselves, protecting religious freedom extends beyond guaranteeing the freedom of groups to engage in religious activities.

Advancing the right to freedom of religion or belief in a manner that fully comports with international standards requires that protection from repression by the majority not be limited to members of religious minorities. Rather, freedom of religion or belief also entails protection for individual members of a majority religion from those who use prevailing religious orthodoxy as

a weapon to stifle political dissent and democratic debate. In other words, the right to religious freedom ought to include the freedom of every Iraqi, including individual Muslims, not only to worship and to practice his or her faith, but also the right to debate and dissent from state-imposed orthodoxy on issues related to religion.

Given the content of Iraq's new constitution, this undertaking remains in jeopardy. Although the new constitution incorporates positive provisions related to human rights protections, the Commission has concluded that several provisions remain cause for concern and may threaten to compromise the scope and extent of human rights protections. Specifically, the Commission remains troubled by the constitution's overarching ambiguities and contradictions, and particularly by references to Islam which ultimately may be interpreted to negate these guarantees and to discriminate against and repress non-Muslims and non-conforming Muslims alike. Furthermore, sectarian tension between Shi'a and Sunni Muslims is also liable to be exacerbated by the interpretation and application of sharia in favor of the dominant sect's beliefs. In its discussions with senior Iraqi leaders, the Commission was concerned that these leaders did not appreciate fully the distinction between the individual right of freedom of religion or belief and the collective or communal aspect of the right to freedom of worship; questions the Commission raised with regard to individual rights for all Iraqis were met with answers focused only on the rights of collective entities—religious minority groups.

The constitution's contradictions underscore two competing visions of Iraq, and leave up to the future how—if at all—these visions may be reconciled. On the one hand, the constitution promises a country based on protections for individual freedoms and rights, and on the other, augurs a country where every Iraqi is required to conform to the religious strictures of one group. If Iraq is to indeed become a state that genuinely respects fundamental freedoms, including freedom of thought, conscience, and religion or belief, and the principles of equality and non-discrimination, the scales must be tipped more decisively in favor of individual human rights guarantees. All ambiguity and contradictions with respect to these rights should be clarified to leave no uncertainty regarding the supremacy of human rights.

Commission Activities on Iraq

During the course of the year, the Commission met with senior U.S. officials, Iraqi political leaders, congressional staff, representatives from religious groups, and others concerning matters related to Iraq's constitution, conditions for religious minorities, and the promotion of international human rights standards. In addition to meeting with President Bush, the Commission briefed Zalmay Khalilzad, U.S. Ambassador to Iraq; David Welch, Assistant Secretary of State for Near Eastern Affairs; Richard Jones, Senior Advisor to the Secretary of State and Coordinator for Iraq; and Meghan O'Sullivan, Deputy National Security Adviser for Iraq and Afghanistan, on its concerns and recommendations.

In June 2005, Commission Vice Chair Felice D. Gaer and staff met with senior Iraqi leaders attending the International Donors' Conference in Brussels, including the National Security Advisor, the Ministers of Justice and Interior, the Chair of the Constitutional Drafting Committee, and senior representatives of several political parties. Then-Commission Chair Preeta D. Bansal and staff also participated in international conferences held in Jordan designed

to bring Iraqis and international experts together for discussions concerning the constitution. In August 2005, Commissioner Bansal and Vice Chair Nina Shea published an op-ed in *The Washington Post*, calling attention to some of the existing shortcomings in Iraq's draft constitution and recommending steps for ensuring the final document's compliance with international human rights standards.

Throughout the May–October 2005 constitution-drafting period, the Commission worked closely with the State Department and the White House to make recommendations on constitutional drafts, among other things, assessing how draft articles measured up to human rights norms. In addition, the U.S. Embassy in Baghdad and others involved in the constitutional drafting process widely disseminated the Commission's comparative analysis of the constitutions of predominantly Muslim countries.[xiii] Following ratification of the Iraqi constitution in October 2005, the Commission published its analysis of articles identified as being of potential concern to the future status of individual human rights and freedoms in Iraq, as well as recommendations for potential modifications to be considered by the constitutional amendment committee in 2006. This analysis was subsequently translated into Arabic and has been distributed to U.S. policymakers, international experts, and others. The Commission's constitutional analysis and recommendations were also adopted by a number of Iraqi non-governmental organizations, including "The Pledge for Iraq," a nationwide campaign organized by Iraqi activists and organizations seeking to ensure protections for human rights, rights for women, and political freedoms in Iraq's emerging political order.

During the year, the Commission also served as an information resource for Members of Congress, holding a number of private meetings, as well as larger briefings with congressional staff and the Congressional Working Group on Religious Freedom. The Congress has explicitly endorsed a key Commission recommendation that the U.S. Embassy in Baghdad increase efforts directed towards the promotion of human rights in Iraq. In the Conference Report attached to H.R. 2862, Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, the conferees expressed their expectation that:

> [W]ithin the planned personnel complement for Baghdad, Iraq, that one Senior Foreign Service Officer who reports directly to the Ambassador will be assigned as the lead human rights official in Baghdad. This officer should be tasked with encouraging incorporation of human rights principles during Iraq's constitutional and legal reconstruction, and especially to secure for all individuals strong human rights provisions, including freedom of thought, conscience, religion or belief, and due process of law, through the Iraqi legal system and the implementation of the Iraqi constitution.[xiv]

It remains up to the State Department to implement this recommendation by selecting and appointing the appropriate candidate, which the Commission hopes will occur without delay.

Commission Recommendations

In order to advance protections of human rights, including freedom of thought, conscience, and religion or belief, for all Iraqis, the U.S. government should:

- speak out at the highest level against religiously motivated violence, including violence targeting women and members of religious minorities, as well as efforts by local officials and extremist groups to enforce religious law in violation of the Iraqi constitution and international human rights standards;

- take steps, in cooperation with Iraqi law enforcement, (a) to enhance security at places of worship, particularly in areas where religious minorities are known to be at risk, and (b) to locate and shut down illegal courts unlawfully imposing an extremist version of Islamic law;

- immediately appoint and dispatch a senior Foreign Service officer to the U.S. Embassy in Baghdad to report directly to the Ambassador and to serve as the lead human rights official in Iraq, as endorsed by the Congress;

- urge Iraqi leaders, with direct U.S. government support, to:

  --establish effective Iraqi institutions to protect human rights in accordance with international standards, including the establishment of an independent and adequately financed national human rights commission;

  --undertake transparent and effective investigations of human rights abuses, including abuses stemming from sectarian, religiously motivated, and other violence by Iraqi security forces and others; and

  --enhance efforts to bring perpetrators of such abuses to justice;

- immediately appoint one or more U.S. advisors under the Department of State's Iraq Reconstruction Management Office (IRMO) to serve as liaisons to the Iraqi Ministry of Human Rights;

- advocate constitutional amendments to strengthen human rights guarantees, including the specific recommendations formulated by the Commission in its analysis of the constitution;[xv]

- urge Iraq's new government and Council of Representatives to include underrepresented religious minorities, i.e. Sunnis and Christians, in the work of the constitutional amendment committee;

- give clear directives to U.S. officials and recipients of U.S. democracy building grants to assign priority to projects that seek to encourage the inclusion of effective human rights guarantees for every Iraqi in the permanent constitution and its implementing legislation, and also emphasize projects that promote multi-religious and multi-ethnic efforts to address religious tolerance and understanding, as well as knowledge among Iraqis about universal human rights standards;

- re-allocate Iraq Relief and Reconstruction Fund[xvi] money to support human rights by:

--directing unobligated Iraq reconstruction funds to deploy a group of human rights experts for consultations with the Iraqi Council of Representatives and the constitutional amendment committee, and to assist with legal drafting and implementation matters related to strengthening human rights provisions, including freedom of thought, conscience, and religion or belief;

--declaring a proportional allocation of funds for ChaldoAssyrian communities, ensuring that the use of these funds are determined by independent ChaldoAssyrian national and town representatives, and establishing direct lines of input by such independent ChaldoAssyrian structures into the allocation process of the Iraqi central government in Baghdad, separate from the Kurdish Regional Government;

--funding workshops and training sessions on religion/state issues for Iraqi officials, policymakers, legal professionals, representatives of non-governmental organizations (NGOs), religious leaders, and other members of key sectors of society who will have input on constitutional amendments and implementation; and

--establishing an Iraqi visitors program through the State Department to focus on exchange and education opportunities in the United States related to freedom of religion and religious tolerance for Iraqi officials, policymakers, legal professionals, representatives of NGOs, religious leaders, and other members of key sectors of society;

- ensure that U.S. funding and other forms of support are not going to Iraqi political parties or other organizations that advocate or condone policies at odds with Iraq's international human rights obligations, or whose aims include the destruction of such international rights guarantees;

- address with regional Kurdish authorities reports of attacks on religious and other minorities and the expropriation of ChaldoAssyrian property, and seek the return of property or restitution, as well as assurances that there will be no official discrimination practiced against minority communities; and

- urge the Iraqi government to reconsider and revise a proposed new law regulating NGOs, drafted by the Ministry of Civil Society, which reportedly imposes harsh restrictions on both national and international NGOs; any such regulations should comport with international human rights standards.

In addition, the U.S. Congress should:

- ensure continued funding through Fiscal Year 2007 for democracy and governance programs in Iraq, including the specific programs discussed above; and

- invite Iraqi legislators to visit the United States to interact with U.S. legislators, government officials, and civil society leaders on human rights protections and religion/state issues.

[i] UN Assistance Mission for Iraq (UNAMI), "Human Rights Report," (1 January-28 February 2006), pp. 1-2 (*http://www.uniraq.org/aboutus/HR.asp*).
[ii] See U.S. Department of State, *International Religious Freedom Report 2005*. These allegations are reinforced by the UNAMI, which recently reported that "extra-judicial executions [carried out by forces linked to the Ministry of Interior] underline a deterioration in the situation of law and order." UNAMI, "Human Rights Report," (1 July – 31 August 2005), p. 2.
[iii] UNAMI, "Human Rights Report," (1 January-28 February 2006), p. 4.
[iv] Sabrina Tavernise, "As Iraqi Shiites Police Sunnis, Rough Justice Feeds Bitterness," *The New York Times*, February 6, 2006 (*http://www.nytimes.com/2006/02/06/international/middleeast/06enforcers.html?ex=1296882000&en=3679c6a4af45c6a4&ei=5088&partner=rssnyt&emc=rss*).
[v] According to the UNHCR, "Iraqi Christians continue to arrive in Syria and Jordan, however, in smaller numbers than in 2004." UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers* (October, 2005), p. 9 (*http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=RSDLEGAL&id=4354e3594&page=publ*).
[vi] Ibid.
[vii] Zenit News Agency, "Nuncio in Iraq: The Situation is Insecure," February 1, 2006.
[viii] U.S. Department of State, *2005 Country Reports on Human Rights Practices*.
[ix] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers* (October, 2005), p. 11.
[x] Official Gazette of Iraq No. 1880, May 18, 1970. Among other things, Law 105 outlawed the approval or promotion of the Baha'i faith, as well as association with any Baha'i organization; banned the sale, distribution, printing, and possession of Baha'i literature; ordered all Baha'i institutions shut down; and seized properties and assets associated with these institutions. Anyone found in violation of the law was originally subject to a minimum ten-year imprisonment. Law No. 141 of 1979 increased the penalty to life imprisonment and, in some cases, the death penalty. Official Gazette of Iraq No. 2741, Nov. 19, 1979 and Decree No. 1447 of 1979 of the Revolutionary Council.
[xi] UN Special Rapporteur on Freedom of Religion or Belief, "Addendum: Summary of Cases Transmitted to Governments and Replies Received," March 27, 2006, UN Doc. E/CN.4/2006/5/Add.1, p. 50.
[xii] Ibid.
[xiii] Tad Stahnke and Robert C. Blitt, "The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries," 36 GEO. J. INT'L L. 947-1078 (*http://www.uscirf.gov/countries/global/comparative_constitutions/03082005/03082005_study.html*).
[xiv] Available at *http://www.rules.house.gov/109/text/hr2862cr/109_hr2862cr.htm*.
[xv] The analysis of the Iraq constitution and related recommendations, in English and Arabic, is available on the Commission's website, *www.uscirf.gov*.
[xvi] Pub. Law 108-106, 117 Stat. 1209 (November 6, 2003).

CHINA: COMMISSION MAKES FIRST OFFICIAL VISIT

In August 2005, the Commission traveled to China for the first time. The purpose of the visit was to engage senior officials responsible for the management of religious affairs and the protection of human rights in discussions on Chinese policies and practices relating to religious freedom. The Commission's visit to China followed several years of diplomatic effort by the U.S. government. An invitation was first promised during the 2002 U.S.-China human rights dialogue; however, two subsequent attempts to travel to China were postponed due to unacceptable conditions placed on these trips by Beijing, including denial of access to Hong Kong by the Chinese government.[xvii] Following further requests by the U.S. State Department, congressional leaders, and the White House, the Chinese government issued another invitation to the Commission in 2005.

The Commission delegation was led by Chair Michael Cromartie and Vice Chair Felice D. Gaer and included Commissioners Preeta D. Bansal, Archbishop Charles Chaput, Dr. Richard Land, Dr. Elizabeth Prodromou, and Bishop Ricardo Ramirez. During the two week visit, the Commission traveled to the cities of Beijing, Shanghai, and Chengdu, Urumqi and Kashgar in Xinjiang, and Lhasa in Tibet. The delegation met with Chinese Vice-Premier Hui Liangyu, senior officials from the Foreign, Justice, and State Ethnic Affairs Ministries, the National People's Congress, the Supreme People's Procuratorate, and the State Administration on Religious Affairs, as well as provincial and local officials from the various Religious and Ethnic Affairs and other relevant bureaus. The Commission also met with Chinese academics and lawyers, UN officials, and representatives of the government-sanctioned Buddhist, Catholic, Islamic, Protestant, and Taoist religious organizations.

During the visit, the Commission raised questions on Chinese law and international human rights norms, the management of religious affairs, Chinese policies concerning unregistered religious organizations and the religious education of minors, new regulations on cults and religious affairs, the situations in Tibet and Xinjiang, and the conditions facing North Korean asylum-seekers in China. The Commission also raised several specific cases of concern with law enforcement officials and others. Notably, when in Lhasa, the delegation was allowed to meet briefly with Tibetan Buddhist nun Phuntsog Nyidron, who had recently been released after 15 years in prison and who, at that time, remained restricted in her movements by the Chinese authorities. (In March 2006, she was allowed to go to the United States.)

The Commission appreciated the opportunity to gain familiarity with several places in China, including Xinjiang and Tibet, as well as the efforts of its Chinese hosts, the State Administration on Religious Affairs and the Ministry of Foreign Affairs, to arrange meetings with a range of senior national and local officials. Nevertheless, virtually all of the delegation's interactions and activities were monitored and controlled by government representatives.

Commissioners sought to have candid, comprehensive, and constructive discussions on international human rights norms and Chinese law and practice. The delegation recognizes the effort of several Chinese officials to respond to the Commission's questions. Unfortunately, however, discussions were often far from candid. Chinese government officials were present at

all meetings, including those with religious leaders and others who were not part of the government. At one meeting, the Catholic Bishop from Shenyang, affiliated with the government approved Catholic Patriotic Association, responded to a Commission question stating that he was aware of the harassment and arrest of neighboring Bishop Wei Jingyi, who was associated with the unregistered Catholic Church. Chinese officials present at the meeting did not allow the remarks to be translated and immediately ended the Bishop's presentation.[xviii] Moreover, the delegation was not able to meet and talk freely and privately with interlocutors of its own choosing. The Commission's requests for access to prominent religious prisoners were denied.

For a summary of religious freedom conditions in China, as well as recommendations to advance U.S. human rights diplomacy with China, see the country chapter on China in this report.

The "Patriotic Religious Associations"

The Commission met with representatives of the five officially recognized "patriotic" religious organizations, visited various religious sites associated with these organizations, and observed their use. Chinese government officials and religious leaders told the Commission delegation that the number of religious believers associated with the five recognized groups was growing steadily.

In order to operate legally, all religious organizations and "venues" for religious activities must be registered with the appropriate government agency. In order to do so, they must be affiliated with one of the five officially recognized religious organizations. Registration is thus limited in practice to the five recognized religions—Buddhism, Catholicism, Islam, Protestantism, and Taoism. In response to Commission inquiries as to whether the Chinese government would allow other religious communities to register organizations or sites for religious activities, Chinese officials told the delegation that they are considering accepting registration from Orthodox Christians, Jews, Mormons, and Baha'is. The Commission was unable to verify with leaders from these communities whether Chinese officials have approached them to discuss this possibility.

Registered religious organizations submit to government monitoring of their activities and the requirement of government approval of several religious activities—such as selecting a leader, printing materials, building or renovating religious venues, inviting religious leaders from other provinces, or holding a joint religious ceremony—that are explicitly protected from government interference under international human rights standards. In addition, most religious activities can only be conducted at registered venues. Religious groups that are legally registered in China have also accepted restrictions on what doctrines and traditions can be conveyed and taught. There are numerous credible reports, for example, of Christian leaders having to refrain from teachings involving the second coming of Jesus, divine healing, the practice of fasting, and the virgin birth because these doctrines or practices are considered by the government to be superstitious or contrary to the Chinese Communist Party's social policies.[xix]

In meetings with government officials in attendance, religious leaders in the government sanctioned religious organizations denied that any restrictions were placed on what they could preach or teach. They claimed, however, that direct criticism of government policy was disruptive to "social harmony," and that they tried to emphasize the aspects of their faith traditions that, in their view, "strengthened socialistic society." This is in line with official Chinese policy that religion must adapt to the development of a socialist society.

Over the last decade, the Chinese government and the Communist Party have made some accommodation for the spiritual aspirations of the people of China, and have openly praised the contributions to society of government sanctioned religious organizations. The Commission was able to observe a "zone of toleration" where members of the approved religious organizations, working within the limitations described above, are given some latitude to practice their religion. The delegation was told that Chinese law now protects the property of registered groups, allows them to bring charges against abusive government officials, and permits them to perform some charitable and social service work in local communities. Religious leaders from the government approved organizations believed that these legal reforms were beneficial, though most could not be independently verified by the delegation. Commissioners met with religious leaders conducting social welfare work, noting that several programs of this nature have been started or are under development.

Government relations with the five patriotic religious associations appear to differ from religion to religion and region to region. For example, official tolerance for Buddhism (among Han Chinese) and Taoism appears to be greater than for other groups in China. Religious leaders from these communities claimed that they face few restrictions. Nevertheless, Tibetan Buddhists and Uighur Muslims have more difficulties than their religious counterparts in other parts of the country, despite being affiliated with the government sanctioned religious organizations.

Commissioners were able to gain some insight into the relationship between the Catholic patriotic religious organization and the Chinese government through their discussions with representatives of the government sanctioned Catholic Patriotic Association. Commissioners were told there was a growing communion between the Vatican and the clergy of the officially sanctioned church. At recent ordination ceremonies, clergy from the government approved church openly pledged fidelity to the Holy See. Catholic religious leaders in China told Commissioners that, though difficulties and suspicions remain, there was some reconciliation between the officially registered church and unregistered Catholics. However, most unregistered Catholics will not worship in churches of the Catholic Patriotic Association unless the bishop or priest is known to be in communion with Rome. The Chinese government does not allow Catholics to run schools or recognize openly the authority of the Papacy in many fundamental matters of faith and morals.

The Chinese government continues to insist, as a precondition for establishing diplomatic relations, that the Vatican renounce the Papal role in the selection of bishops and break all relations with Taiwan. The Commission was told that the Chinese government's insistence on approving and selecting bishops has made the ordination process very slow. At least twelve bishops are needed to fill current openings. The Commission learned that in the last year, the Chinese government has quietly arranged for the ordination of at least some bishops approved by

the Holy See. In Shanghai and Xi'an, auxiliary bishops from the "unregistered" Catholic Church were chosen with the full right of succession and with the approval of both the Chinese Catholic Patriotic Association and the Vatican. During its meeting with two bishops of the Catholic Patriotic Association in Shanghai, the Commission was told that the Chinese government and the Holy See cooperated quietly to reconcile the registered and unregistered Catholic communities in the Shanghai diocese.

Also in Shanghai, the Commission was told of improved educational and spiritual formation opportunities for clergy and nuns and of expanding Catholic social service programs. The Commission was shown a new government sanctioned Catholic seminary in Beijing and was told that it would expand the number and quality of clergy. The Commission noted, however, that the Chinese government monitors and inspects all the registered seminaries and has severely restricted foreign professors from teaching at these institutions. In addition, the transmission of traditional Catholic moral teaching on such subjects as abortion, contraceptives, and divorce is forcefully suppressed as contradicting official Communist Party policy.

The Problem of the Unregistered

Most of China's religious practice occurs outside the system of government approved religious organizations. Yet, the Chinese government actively seeks to control and suppress the activities of "unregistered" religious organizations to prevent the rise of sources of authority outside the control of the government and the Communist Party. The Commission raised concern over these practices with Chinese government officials, but did not seek to meet with leaders of "unregistered" religious groups because concerns were raised regarding their safety and their continued ability to operate in the country.

Chinese law bans unregistered religious organizations and provides severe penalties for engaging in unregistered religious activities. The Commission pointed out to government officials that under international human rights standards, failure to register cannot alone justify government imposed limitations on religious activities, or the harassment, detention, and imprisonment of members of unregistered religious groups. A senior official with the Communist Party's United Front Works Department said that because the process of registering all religious groups under the new Regulations on Religious Affairs (see below) would take time, he did not think unregistered groups should be harassed or punished during that process. Nevertheless, Chinese officials confirmed that unregistered activity was illegal and would continue to be suppressed.

Tibet and Xinjiang

Tibetan Buddhists and Uighur Muslims face serious restrictions on the free practice of their respective religions and severe abuses of their human rights. China's policies on religious affairs have produced ongoing tensions between the government and these religious communities in regions where they predominantly reside, including the Tibet Autonomous Region (TAR or Tibet) and Sichuan province for Tibetans and the Uighur Autonomous Region, or Xinjiang, for Uighurs. Because the Chinese government fears secessionist activities and recent calls for greater autonomy in these regions, crackdowns on religious activities in Xinjiang, Sichuan, and

the TAR are often harsher than in other parts of China. Although religion is an important aspect of ethnic identity for both Tibetans and Uighurs, Chinese government officials told the Commission that fervent religious practice among these groups was an impediment to economic modernization and an organizational pole around which terrorists or "splittists" may gather.

There are similarities in the methods used by the Chinese government to control the practice of religion by Uighur Muslims and Tibetan Buddhists. The Commission delegation was told that "patriotic education" of religious leaders continues to occur in both Tibet and Xinjiang. Muslim imams and Tibetan monks and nuns are required to attend patriotic education sessions, all religious publications are controlled, and there are tight restrictions on religious celebrations, the religious education of minors, as well as the number of religious venues and religious leaders. In Xinjiang, even government officials must participate in "patriotic education." The Commission was told that government officials dealing with religious affairs in Xinjiang must complete political education to avoid "paralyzed thinking" and to "distinguish between normal and illegal religious activities" and, as in all other areas of China, are required to be atheists.

Xinjiang

In Xinjiang, all collective home worship services, after-school religious instruction, and other unauthorized religious instruction are strictly prohibited. The Commission was informed that Uighur Muslims have not received permission to build new mosques for the past six years. The Commission was also told that all imams are required to undergo yearly political training seminars in order to retain their licenses. Commissioners learned of the existence of an "Islamic Affairs Steering Committee," which is reported to author and approve sermons and censor religious texts and any material with religious content. The purpose of such oversight by the government is to create Muslim religious leaders who will "ardently love their country."[xx]

Chinese authorities in Xinjiang use the "war on terror" as a pretext to monitor and control Uighur Muslim religious activity. This manipulation of terrorist concerns was evident during the Commission's visit. Upon arrival in Xinjiang, provincial officials announced to the Commission delegation that "elements of Al-Qaeda" were targeting the Commission itself during its visit. The Commission requested that such threats be reported through official channels, and the unspecified threat, found later not to be credible by U.S. and Chinese security officials in Beijing, seemed to have been issued to restrict Commission activities and to monitor its contact with local people not approved by government officials. Commission requests to visit specific mosques, imams, and churches in Xinjiang were subsequently denied. There was particularly tight control on Commission movement during its visit to the city of Kashgar.

In March 2005, the Chinese government issued a press statement declaring that Chinese law does not prohibit the religious education of minors. Yet in Xinjiang, the Commission was told by provincial officials that the religious education of minors in mosques, *madrassas*, or any type of multi-family setting was prohibited until the child has completed the requisite nine years of compulsory general education. Officials stated that minors who have completed their education but were not selected to attend university could receive religious training and attend mosque, and that parents could give private religious instruction to their children. While the Commission delegation was in China, security forces arrested a woman in Xinjiang for teaching

a religious class on the Quran. She was reportedly detained for "illegally possessing religious material and subversive historical material."

The Commission noted that the Chinese government does allow some Muslim groups in Xinjiang to engage in social welfare programs. Commissioners met with imams who participate in alcohol, drug, and HIV/AIDs education programs. The Chinese government has praised the positive contributions of such officially approved religious organizations in meeting China's growing social welfare and medical needs.

Tibet

The Chinese government continues to control tightly religious activity, including education and places of worship, in Tibet. Although the Commission was able to observe instances of private religious devotion at Tibetan Buddhist temples and monasteries, the activities and education of monks and nuns are closely monitored, monasteries are governed by government approved management committees, and the Communist Party continues to insist on approving the designation and training of all reincarnate lamas. In addition, Commissioners learned that monks and nuns are required to renounce the Dalai Lama as the spiritual leader of Tibetan Buddhists. When asked why this is required, government officials answered either that the Dalai Lama supported independence or "splittist" activities, or that continued public religious devotion to the Dalai Lama and his "clique" was a hindrance to economic modernization. Government officials claimed that the Dalai Lama's influence had to be eliminated to protect "social harmony" and to raise the standard of living in Tibet and other regions with Tibetan Buddhist populations.

Commissioners asked whether Tibetans were permitted to own or display pictures of the Dalai Lama or his chosen Panchen Lama, Gendun Choekyi Nyima, or hold prayer ceremonies for them. Religious leaders responded that Tibetans may own pictures of the Dalai Lama and hold private devotions for him, but that they may not publicly display or distribute the portrait or engage others in their ceremonies. In a separate meeting, public security officials agreed that private ownership of his portrait was not a punishable offense, only its public display was. Security officials conceded that no provision of Chinese law specifically prohibited arranging a prayer for the Dalai Lama, but told the Commission that the Dalai Lama's political activities rendered any public recognition of him a threat to public order and social harmony and thus was prohibited. Owning pictures or holding ceremonies for the Dalai Lama's chosen Panchen Lama was prohibited, they stated.

During its visit, the Commission asked to meet with the Dalai Lama's chosen Panchen Lama. The young man has not been seen in more than a decade after being kidnapped by Chinese officials upon receiving recognition by the Dalai Lama. The Commission's request was denied. Chinese government officials claimed that he was safe and studying Tibetan Buddhism but that his family was "unwilling for him to have a public life." The Commission urged Chinese officials to end restrictions on access to the young man and his family and to allow them to receive visits from international representatives.

On the subject of the religious education of minors in Tibet, Commissioners were told that, with the exception of boys approved by the government and formally designated as reincarnate lamas, persons under the age of eighteen were not permitted to receive religious education. Tibetan children must spend their time in public education and there was no time for both. When pressed on this issue by the delegation, one Chinese official said that "Tibet cannot be developed by chanting." Yet, religious education of minors apparently goes on in some places despite official prohibitions. There have been reports of monastic schools in some remote parts of the TAR and other provinces with significant Tibetan populations. Government officials insisted, however, that such schools were prohibited from teaching religious subjects to minors.

During a visit to Drepung monastery in Lhasa, one of the largest in Tibet, the Commission was able to observe that a monk, sitting near where the delegation passed, was visibly younger than the other monks. When questioned in private by a Tibetan-speaking member of the delegation, the monk acknowledged that he was 14 years old. He also said that he was a full-time monk and had been at Drepung for "a few years," and that there were some twenty monks under the age of 18 at the monastery. Religious leaders at the monastery did not have any insight on the apparent discrepancy between official pronouncements on religious education of minors and monastery practice.

Despite some ambiguity regarding the religious education of minors in Tibet, it is the Commission's conclusion that Chinese government controls on religious practice in Tibet and Xinjiang contravene both China's own constitution and its international human rights obligations. Policies enforced by Chinese officials that restrict human rights in order ostensibly to protect "national unity" or "national security" exceed those restrictions permitted under international standards and override other protections in Chinese law. Like other governments, the Chinese government does have a duty to protect its nationals from terrorist attacks, but it too often conflates peaceful political opposition or efforts to maintain religious and ethnic identity with violent separatist activity, extremism, and terrorism.

The National Regulations on Religious Affairs

In March 2005, the Chinese government officially implemented new National Regulations on Religious Affairs. The regulations were introduced in order to clarify a patchwork of laws, ordinances, and regulations regarding religious practice. Chinese leaders heralded the regulations as "a significant step forward in the protection of Chinese citizens' religious freedom." However, when the new regulations were officially implemented, a senior official from the State Administration of Religious Affairs emphasized that the primary goal of the new regulations was to help expand government management of religious affairs.[xxi]

The new regulations have not been in place long enough to assess their implementation and actual impact. However, it is important to note that one year prior to the announced implementation of the present regulations and until the present, the crackdown targeting unregistered Christians intensified in several parts of China. It is the Commission's position that until it is clear how the provisions of the new rules are interpreted and implemented, the new regulations threaten the rights and security of religious believers and are not fully consistent with international norms on freedom of thought, conscience, and religion or belief.

The new regulations contain provisions that could be used to limit the activities of registered religious groups and punish those who engage in unregistered activities. For example, criteria for the approval of registration of a site for religious activities includes an official determination that there is a "need" for local religious practitioners to "frequently carry out collective religious activities," as well as that the site is "rationally located without interfering with the normal production and livelihood" of the local area.[xxii]

The new regulations also make clear that religious activities on a national level can only be conducted by registered religious bodies at approved religious sites.[xxiii] As noted above, Chinese officials confirmed to the Commission that religious activities conducted by unregistered groups are illegal under the new regulations,[xxiv] which provide for civil fines for individuals who engage in such activities.[xxv] The Public Security Bureau is also authorized to impose penalties if religious activity is being carried out at a venue that has not been properly registered with the relevant authorities.[xxvi] In addition, the Religious Affairs Department is authorized to disband any religious group that fails to gain official approval for its leadership, membership or management procedures; accepts donations without receiving prior approval; or refuses "to accept supervision and administration conducted by the Religious Affairs Department according to law." [xxvii] Individuals who participate in religious activities not authorized under the new regulations are subject to criminal punishment.[xxviii]

In discussions with Chinese officials, the Commission raised questions about the clarity of the registration requirements in the regulations, the language used in regulating religious publications, and the official oversight required with regard to leadership decisions.

The new regulations do include several provisions that are, on their face, potentially significant advances. These include establishing conditions under which religious organizations can provide social services in local communities, protect their property, bring complaints against abusive government officials, accept donations from overseas religious groups, and receive prompt responses from government agencies on registration applications. However, a group must be registered in order to engage in these activities or take advantage of the provisions under the regulations.

It may be a positive step that the planned release of implementation guidelines for Shanghai was withdrawn, reportedly so that Chinese government officials could study reservations raised by the Commission and other international legal scholars and commentators. The Commission plans to offer Chinese officials a detailed analysis of the new regulations and to compare them with international human rights standards regarding the freedom of thought, conscience, and religion or belief.

The Rule of Law

Although Communist Party leaders have made it clear that they intend to strengthen the one-party state, they have also promised to move toward a system governed by the rule of law. Similar promises were expressed in almost all of the Commission's meetings with Chinese government officials. However, although many statements have been made about legal reform

and establishing the rule of law in China, few concrete steps have actually been taken, particularly in the area of protecting the rights of the individual. Thus, despite promises of legal reform, redress for violations of human rights by government officials is not available on a consistent basis.

There has been some discussion by Chinese officials of extending greater legal protections to individuals. In 2002, the Chinese government called for a complete review of its civil, administrative, and criminal procedure codes. In recent years, the Chinese government has also shown a willingness to permit some independence of the courts in cases involving official corruption, to hold qualifying examinations to raise the competency level of judges, and to consider amending laws to protect detained suspects. Notably, in March 2004, China amended its Constitution to include a provision that the state should protect human rights. This last measure is largely symbolic because the Constitution is not enforceable in Chinese courts, but it signals, at the very least, a growing awareness in official circles of human rights concerns. It represents an important commitment, but at present there is no way to require its implementation.

In the last year, the Chinese government has permitted public criticism of the criminal justice system after cases of wrongful prosecution and death in police custody became national scandals. In response to the scandals, the Supreme People's Procuratorate has taken steps to investigate cases of illegal detentions and to punish law enforcement officers who use torture to extract confessions. It is hoped that these reforms will bring more transparency and accountability into legal proceedings.

Yet, Chinese legal reforms appear to be hindered by widespread and persistent corruption and lack of official accountability. The Chinese legal system does not provide individuals the means to seek full or fair redress for human rights violations though the courts. In addition, the criminal system still relies on confessions, which are frequently obtained through torture; lawyers who are outspoken in defense of defendants' rights are themselves often threatened, disbarred, or imprisoned. Too often, the law is used as a tool of repression to harass, detain, and imprison dissidents, religious practitioners, the disadvantaged, or the politically suspect. For example, vague criminal law provisions prohibiting acts "endangering national security," "subversion," or "inciting splittism" are often used to detain individuals for political offenses.

One of the more significant steps that could be taken by the Chinese government to provide legal protections for human rights would be to ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which was signed by China in 1998. In response to questions about the status of ratification, the Commission delegation was told that, while China intended to ratify the ICCPR at some point, changes to the legal system had to be considered first in order to bring Chinese law into line with international standards. The parameters of needed legal reforms are, the Commission was told, currently under study by the National People's Congress and others. Despite specific questions, no one could identify for the Commission the points in need of further study or provide a timetable for the ratification process.

The Commission is convinced that many reforms are needed to bring Chinese law in the areas of religious affairs and protections for human rights into conformity with international standards. China's Constitution, its new regulations on religious affairs, and its Criminal Code

are all at odds with standards set forth in the ICCPR. Prompt legal reforms in these areas, rather than being delayed for further discussion, should be implemented. Prompt ratification of the ICCPR would demonstrate China's commitment to protecting the rights of individuals.

The Commission discussed the issue of arbitrary detention and the use of torture to gain confessions with senior officials of the Justice Ministry and the Supreme People's Procuratorate. The Commission discussed potential changes to Article 306 of the Criminal Procedure Code, which provides penalties for lawyers whose clients are accused of perjury and has been used to curtail the active legal defense of individuals accused of political crimes. Noting allegations of irregular trial procedures and/or reported evidence of torture in the cases of Pastor Gong Shengliang of the South China Church and Tibetan Buddhist Tenzin Delek Rinpoche, the Commission reiterated requests by the U.S. government and others in the international community for a review of the cases by the Supreme People's Court. The Justice Ministry and the SPP agreed to accept further evidence from the Commission in these two cases. One senior official stated that investigations should be opened if there was evidence of torture and legal irregularities in these cases.

Meeting with Phuntsog Nyidron and Cases of Special Concern

During its visit to China, the Commission raised a number of individual cases with Chinese authorities of alleged arbitrary detention or "enforced disappearance" on account of religious belief or practice or of other religious freedom violations in China. The Commission discussed in detail with Chinese officials a list of known religious prisoners, including Buddhists, Muslims, Protestants, Catholics, and members of the Falun Gong. The delegation asked for information on the current status of these cases and requested they be considered for immediate review and/or release. The Commission also asked to meet with several prominent religious figures whose detention or disappearance has raised international concern, including the Dalai Lama's chosen Panchen Lama, Gendum Choekyi Nyima; Catholic Bishops Su Zhimin and An Shuxin; Tibetan Buddhist monk Ngawang Phuljung; Protestant "house church" leader Cai Zhuohua; and Uighur historian Tonti Tunyaz. The Commission also asked to meet with former Tibetan nun Phuntsog Nyidron, in light of reports that her freedom of movement and association remain highly restricted, despite her release from prison a year earlier.

The Commission's requests to meet with all but one of these prisoners were denied. In addition, the information that Chinese government eventually formally transmitted to the Commission on the status of the individuals on its list was cursory, adding nothing to previous statements by the Chinese government on the status of these persons. The Commission also did not receive any information on the list of Uighur prisoners it submitted to Chinese officials. In a formal response to the Commission, the Chinese government continued to claim that "no one has ever been punished by law or put into prison for his/her religious belief" and that information on "criminals involved in separatist activity…was an internal affair" of China. Such responses clearly indicate that Chinese law and practice do not fully allow for religious activities that are protected by international human rights treaties to which China is a signatory, not least because such activities are often interpreted by the government as illegal political acts of subversion or separatism. The Commission called on the Chinese government to release all those imprisoned or detained on account of the manifestation of religious belief in contravention of international

human rights standards, and to establish a mechanism for a full and fair review of cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "counterrevolutionary" or "splittist" activities, or organizing "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 related to national security.

The Commission was granted a brief interview with Phuntsog Nyidron in the presence of Chinese officials, who denied the Commission's request to conduct the interview in private. In 1989, Phuntsog Nyidron was sentenced to nine years in prison for holding a peaceful demonstration celebrating the Dalai Lama's Nobel Peace Prize award. Her sentence was extended by eight years after she recorded songs about Tibet and the Dalai Lama that were smuggled from prison. According to numerous witnesses, Phuntsog Nyidron and the other nuns imprisoned with her were beaten during their imprisonment.

During the interview, Phuntsog Nyidron told the Commission that she had debilitating health problems that required special medical attention and limited her ability to make a living as a farmer in the village where she now resides. She was unable to address these health concerns, however, because of a lack of money and restrictions on her movement. In response to the Commission's question of whether a passport might facilitate needed medical treatment, she said that it was impossible for her to travel because of her conviction on "counter-revolutionary crimes." She also stated that due to her status as a "counter-revolutionary criminal," security officials accompany her at all times. She did not discuss whether she was subjected to other restrictions.

The day after the meeting, ostensibly to "clarify" Phuntsog Nyidron's statements, government officials told Commissioners that public security officials no longer accompany her because her parole was completed in February 2005. Commissioners were also told that she was now "free to travel." The Commission is pleased to note that in March 2006, she was in fact permitted to leave Tibet for the United States.

Bishop Su Zhimin

Background: Unregistered Catholic bishop arrested in 1996 along with auxiliary Bishop An Shuxin. Neither have been seen publicly since 1997, nor has the Chinese government offered information on their status or whereabouts.

Chinese response: Relevant departments have taken no coercive action to punish the Bishops and they are not under Chinese government control.

USCIRF Assessment: Response from the Chinese government includes no new information. Both Bishop Su and Bishop An were detained without trial and have been in custody without acknowledgement by the Chinese government for nearly a decade. Commission requests to meet with them were denied. Bishop Xin of Shanghai told the USCIRF delegation that Bishop Su was in good health and was being held in a government rest home in Hebei.

Gedun Choekyi Nyima

Background: Recognized by the Dalai Lama on May 14, 1995 as the Panchen Lama. Chinese officials denounced the choice as "illegal and invalid" and named another boy as Panchen Lama. Gedun Choekyi Nyima and his parents were taken into Chinese custody on May 17, 1995 and remain in incommunicado detention. The Chinese government has not revealed the precise location where they are being held, nor has anyone been permitted to meet with them.

Chinese response: Request to meet with him denied. The boy's parents do not want him to have a public life. The boy, age 16, is studying and in the care of his parents.

USCIRF Assessment: Response from the Chinese government includes no new information. Continues pattern of repeated denials for access by international observers to Gedun Choekyi Nyima. Shows government interference with leadership decisions of a religious community, as well as the rights of Gedun Choekyi Nyima.

Liu Fenggang

Background: House Church leader arrested and tried in secret on charges of "gathering and illegally providing state intelligence to foreign entities." Sentenced to three years imprisonment in 2004.

Chinese government response: Liu Fenggang was imprisoned on charges related to "spying." The trial was conducted in secret in accordance with PRC criminal law regarding national security cases.

USCIRF assessment: Response from the Chinese government includes no new information. Implies evidence of the use of national security provisions to quell information that may be deemed embarrassing to the government. Liu Fenggang was actually arrested for publishing a story about church destructions in Zhejiang province. Using such vague definitions of "state secrets," authorities can charge persons with criminal activity for virtually anything that the government does not want people to know or to discuss.

Wei Yumei and Wei Yufen

Background: Sisters and Falun Gong practitioners. Arrested in May 2004 after they were found producing and distributing Falun Gong literature. Both were convicted of "using a cult to undermine implementation of the law" and sentenced to ten years imprisonment.

Chinese response to USCIRF: Both taken into custody "on suspicion of committing a crime" and sentenced to ten year terms on charges as specified above.

USCIRF Assessment: Response from the Chinese includes no new information. Fails to detail the justification for the government's restriction on the manifestation of religion or belief, Chinese criminal law contains vague restrictions related to so-called "cults."

Tothi Tunyaz

Background: Uighur historian sentenced in 1999 to eleven years imprisonment on charges of inciting splittism and illegally acquiring state secrets for compiling documents used in his thesis on Chinese government policies towards ethnic minorities. In 2001, the UN Working Group on Arbitrary Detention ruled that the detention of Tohti Tunyaz was arbitrary.

Chinese Response to USCIRF: Regarding this case and all other enquiries involving Uighurs, the Chinese government gave no response, continuing a policy of failure to comment on Uighur prisoners.

USCIRF Assessment: Policies that restrict human rights in order to protect "national unity" or "national security" in Xinjiang Uighur Autonomous Region exceed international standards and often override other protections in Chinese law. The Chinese government should establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "splittist" activities, or organizing or participating in "illegal" gatherings or religious activities.

North Korean Asylum-Seekers

The Commission raised with Chinese officials the status of North Koreans in China, who, after fleeing starvation and persecution, face harsh conditions when they cross the border into China. Many have been forcibly repatriated to North Korea, where they face severe penalties upon their return.

The Chinese government refuses to allow representatives of the UN High Commissioner for Refugees (UNHCR) to interview North Koreans. China views North Koreans as "economic migrants" and therefore does not recognize them as asylum-seekers under international law. This policy, coupled with China's active repatriation of North Koreans to their country of origin where they face reprisals, contravenes China's obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol which states that "no Contracting States shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."[xxix] Forced return to a country where they face a risk of torture would also contravene the Convention against Torture to which China is a party. In addition, Chinese policy violates the 1995 UN-Chinese Agreement stating that "UNHCR personnel may at all times have unimpeded access to refugees and to the sites of UNHCR projects in order to monitor all phases of their implementation."[xxx]

Chinese security forces reportedly guard the UNHCR office in Beijing and a number of foreign consulates in order to prevent North Koreans from entering them and seeking asylum. Chinese officials told the Commission that they must repatriate North Koreans under terms of a 1961 agreement with North Korea.[xxxi] Commissioners responded that repatriated North Koreans face harassment, mistreatment, detention, torture, and possible execution. Chinese officials claimed that they had no evidence of such conditions and have repeatedly asked North Korean

officials not to mistreat those repatriated. Some officials suggested that the fact that North Koreans often enter and re-enter China numerous times was evidence that they did not face bodily harm if repatriated.

The Commissioners reiterated to Chinese officials that North Koreans in China should be considered refugees, either as persons who have a well founded fear of persecution had they remained in North Korea, or as persons who may not have fled persecution in the first place but who nonetheless are refugees because they risk persecution upon return to their country of origin. In addition, Commissioners offered to provide Chinese government officials with evidence that significant numbers of North Koreans face persecution because of their family connections, political views, or religious beliefs. The Commissioners also discussed the ways in which the vulnerable status of North Koreans in China encourages human smugglers, trafficking in women and children, and a host of other social problems. At least one Chinese official, Minister Li Dezhu of the State Ethnic Affairs Commission, acknowledged in a meeting with the Commission the growing problems associated with North Korean asylum-seekers in China and expressed the need to find humane solutions to these and other problems occurring on the border.[xxxii] Nevertheless, Commissioners pressed Chinese officials on the need for representatives of the UNHCR to be allowed access to North Koreans in China and for unimpeded humanitarian assistance to the affected regions.

Human Rights and the U.S.-China Relationship

The space for political openness, public activism, and greater civil and individual freedoms is narrowing in China. Over the past year, the Communist Party has tightened its control over religious leaders as well as journalists, intellectuals, the Internet, and non-governmental organizations. President Hu, in a speech to the Central Committee in September 2004, warned against "hostile forces" seeking to undermine the Party by "using the banner of political reform to promote…parliamentary democracy, human rights, and the freedom of the press." The Chinese President warned that the Soviet Union fell because of the policies of "openness and pluralism" and because of "international monopoly capital with the United States as its leader."[xxxiii] Chinese political leaders view pressure to guarantee individual and political rights as evidence of a "strategic plot to Westernize and split China." From the Chinese perspective, global concerns regarding human rights are at worst subversive and at best peripheral to improving economic ties.

In the past, Chinese officials have argued that slow progress on civil and political rights was a temporary trade-off to achieve economic modernization. Given China's impressive economic growth, this argument can no longer be sustained. The Chinese government has embraced some of the benefits of the free market with dramatic results. The Chinese people now have greater mobility, increased property rights, and somewhat greater access to information than in the past. These advances have raised the aspirations of the Chinese people and the international community, but fulfilling these hopes will require a commitment to respect civil and political rights, in addition to economic and social rights. It will also require an acknowledgement that human rights are indeed universal and are currently not protected in Chinese law and practice, despite the Chinese government's international commitments in this regard.

Respect for human rights is also important for regional security and prosperity, both in China and throughout the region. Such respect is a critical element in any peaceful outcome to the Taiwan issue, successful management of Hong Kong under Beijing's control, and final resolution of security concerns on the Korean peninsula. Any social or political crises in these areas will certainly involve Western and other actors in spheres which at present, China considers its exclusive national domain.

Human rights concerns remain on the agenda of U.S.-China bilateral relations. In the past, critics of a vigorous human rights diplomacy have argued that economic liberalization would eventually lead to political change. This has not happened. Although China has gotten richer, economic freedom has not led to political liberalization. China's achievements in the economic sphere represented a key component in Beijing's successful bid to host the Olympic Games in 2008. After securing the right to host the games, Chinese officials made promises to create an open and free environment. The Chinese government should now be held to those promises. Clearly, reliance on market forces alone will not secure progress toward human rights and political openness. Given the chronic critical human rights problems in China, the Commission concludes that these concerns must be raised at the highest levels and that U.S. officials should provide a consistent, candid, and coordinated message about human rights, including religious freedom, in their interactions with Chinese officials. The U.S. government should therefore continue to pursue broad-ranging policy options and discussions to ensure that progress on human rights and the rule of law remain core components of its bilateral relationship with China.

How the Chinese government responds to the aspirations of its own people is important for the future of China itself, for the flexibility and scope of future U.S.-China relations, and for China's standing in the international community. The United States should continue to help foster political, economic, and legal reforms in China. To this end, the Commission presents the following recommendations for U.S. policy to strengthen the protection of human rights, in particular the freedom of thought, conscience, and religion or belief, in China.

[xvii] The Commission traveled to Hong Kong in January 2004, at the invitation of the Hong Kong government.

[xviii] Attempts by Commissioners to gain further information about this incident were rebuffed. The Commission remains concerned about the safety and independence of Bishop Wei and other Chinese bishops and will continue to monitor this situation closely.

[xix] United States Commission on International Religious Freedom, *Annual Report 2001,"China,"* May 2001.

[xx] "PRC: Qinghai Enhances Religious Work to Guard Against Separatist Infiltration," *Qinghai Daily*, September 8, 2004 (FBIS, 11 January 2005); Ma Pinyan, "The Implementation of the Party's Religious Policy in Xinjiang," Xinjiang Social Sciences, no. 1, 2005, pp. 49-55.

[xxi] Nailene Chou Wiest, "Religious Groups Get More Room to Move," *South China Morning Post*, October 20, 2004; Wang Zuoan, "Establish the Idea of Managing Religious Affairs According to Law," Chinese Religions, February 26, 2005 (FBIS 26 February 2005).

[xxii] See Regulations on Religious Affairs, Article 14.

[xxiii] See Regulations on Religious Affairs, Article 20.
[xxiv] The only exceptions were ad hoc home meetings among family members that occurred on an irregular basis to read the Bible and sing hymn. The precise description of what was permitted varied and was not included in the new Regulations or otherwise committed to written law or other regulations.
[xxv] See Regulations on Religious Affairs, Articles 43, 44, 45. See also Congressional Executive Commission on China, "China's New Regulations on Religious Affairs; A Paradigm Shift," Transcript of Congressional testimony from March 14, 2005.
[xxvi] See Regulations on Religious Affairs, Articles 41, 43, 46.
[xxvii] See Regulations on Religious Affairs, Articles 39, 43.
[xxviii] Criminal law provisions regularly used to prosecute those associated with unregistered religious activity include the Regulations on the Registration and Management of Social Organizations; the Law on Assembly, Procession and Demonstration, Regulations on Public Order Control and Punishment; the Law on Protecting State Secrets; and Chinese Criminal Code Articles 111, 277, 282, 300, 398. See: Human Rights Watch. "Appendix II: Laws and Regulations to Crackdown on Falun Gong," from *Dangerous Minds: China's Campaign Against the Falun Gong*, January 2002 (*http://hrw.org/reports/2002/china/China0102-09.htm*).
[xxix] *The Status of North Korean Asylum Seekers and the U.S. Government Policy Towards Them*, Report issued by the U.S. Department of State Bureau of Population, Refugees and Migration pursuant to section 301 of the North Korean Human Rights Act of 2004 (P.L. 108-333) (March 11, 2005).
[xxx] Agreement Between the Government of the People's Republic of China and the Office of the United Nations High Commissioner for Refugees on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (December 1, 1995), (United Nations Treaty Series Vol. 1899-1-32371).
[xxxi] 1961 China-DPRK agreement entitled "Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas."
[xxxii] Minister Li invited the Commission to travel to the China-North Korea border on a return visit and provide him with information on both humanitarian need and ongoing human rights abuses.
[xxxiii]Philip Pan, "Hu Tightens Party's Grip on Power," *Washington Post,* April 24, 2005.

SUDAN: WEAK IMPLEMENTATION OF THE PEACE AGREEMENT IMPERILS HUMAN RIGHTS

Sudan is in the midst of an historic transition. The six-year Interim Period, which began in 2005, is scheduled to end with a referendum on whether the South will remain within a united Sudan or become an independent country. Whatever the South's choice, this phase in Sudan's political development will determine the future of the largest country—in terms of land mass—in Africa and in the Arab world, with potential ramifications beyond Sudan's borders, since Sudan is only one of several African countries with large Muslim and Christian populations. Peace, largely brokered by the United States, has created an opportunity for significant change.

The North-South peace brought by the Comprehensive Peace Agreement (CPA)[xxxiv] signed January 9, 2005 brought to an end one of Africa's longest running conflicts, with more than two million killed and four million driven from their homes. The civilian victims of that conflict were overwhelmingly Christian Africans and the followers of traditional African religions in contrast to the Arab Muslims dominant in Khartoum. That peace is fragile, however, and does not extend throughout the country.

In January 2006, a year after the signing of the peace agreement ending the North-South civil war, a Commission delegation visited Khartoum, Juba, and Kadugli in Sudan and Nairobi and Lokichokio in Kenya to discuss the impact of recent developments on religious freedom conditions in Sudan. Meetings included cabinet-level members of the Government of National Unity, lead negotiators for both sides, the retired Kenyan general who had mediated the North-South peace negotiations, opposition politicians, civil society activists, religious leaders, and representatives of international humanitarian organizations. A visit to the Jebel Aulia Internally Displaced Persons (IDP) Camp outside Khartoum provided an opportunity to hear directly from individuals displaced by the civil war.

Traveling to Sudan, the Commission found that the CPA's arrangements for the protection of human rights are vulnerable to erosion and manipulation. There have been significant delays and shortcomings in the CPA's implementation, raising questions regarding the sincerity of the commitment of the National Congress Party in the Government of National Unity. Moreover, the Commission found that 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 in practice in government-controlled areas of the North. The institutions intended to protect human rights are not yet functioning, while an authoritarian security system remains in place, and the attitude of impunity for human rights abuses shows little sign of change.

The United States has an opportunity to influence this process for the better. Sudan is a strategic nation where U.S. influence has already made a difference and should continue to do so. Unlike in Afghanistan and Iraq, Sudan's equivalent of the Taliban and of Saddam Hussein's Ba'athists have not been removed from power, but remain the major political force in the country, requiring close monitoring to ensure their compliance with commitments made to abide by international human rights standards. Moreover, the United States has a formal role on the

Assessment and Evaluation Commission, a body established by the CPA to monitor its implementation.

The Commission concludes that continued U.S. leadership, resolve, and resources are needed to ensure that a stable and just peace is sustained in Sudan, that institutional development in the South brings stability and progress to that devastated region, and that Sudan's millions of refugees and Internally Displaced Persons (IDPs) can be assisted to return home in safety or to resettle elsewhere. The United States, through its expenditure of massive humanitarian relief and the investment of considerable political capital, has a huge stake in peace in Sudan, a country that has been a source of regional instability and a haven for Islamic extremists and international terrorists.

Conditions in Sudan, particularly in the North, warrant the Commission's recommendation that Sudan continue to be designated by the Secretary of State as a "country of particular concern" for particularly severe violations of religious freedom. Sanctions should remain an essential element of U.S. human rights policy toward Sudan, but should not preclude U.S. support for economic and political development in the South, as well as educational exchanges and specific programming throughout Sudan to promote religious freedom by assisting those, including in the Government of National Unity, favoring greater protection of human rights, the establishment of rule of law, and the development of truly accountable and democratic governmental institutions. The lifting of current U.S. sanctions should be conditioned on proven performance, in terms of CPA implementation, an end to the genocide in Darfur, and improvement in religious freedom conditions in the North.

Problematic Implementation of the Peace Agreement

Although Sudan's North-South civil war (1983-2005) had many contributing causes, religious factors were key: 1) the effort of the Islamist government in Khartoum to extend sharia, or Islamic law, as well as Arabic language and culture, to the African Christians and the followers of traditional African religions in the South; and 2) Khartoum's efforts to impose an extremist interpretation of Islam on all Sudanese Muslims. With neither side securing victory, the civil war ended in a set of compromises and mutual concessions, contained in the CPA. Among the most important of these was the agreement that sharia would not apply in the southern part of the country, but would continue to apply in the North, with special provisions for non-Muslims in Khartoum, the national capital, from being automatically subject to its punishments.

The final resolution of a number of important issues has been left to an array of commissions and administrative arrangements. The Commission delegation learned that there have been significant delays and shortcomings in the implementation of the CPA. These developments raise questions regarding the sincerity of the commitment of the National Congress Party leadership, who still hold the major levers of power in the new Government of National Unity. Northern politicians have a long history of broken promises in respect to the rights of Southern Sudanese.

The CPA's arrangements for the protection of rights are vulnerable. Key bodies have either not yet been established, are only beginning to function, or have yet to prove their worth. At the time of the visit, the Assessment and Evaluation Commission, on which the United States is represented, was just beginning its vital work. Southerners reported to the delegation that revenue-sharing was being implemented in a way that lacked transparency, making it difficult to determine if the South was actually receiving its agreed share of Sudan's current oil revenues.

The delegation was told that there are four competing drafts for the functioning of the yet to be formed national Human Rights Commission as provided by the interim constitution. Not all of these drafts were in accord with international standards relating to the independence and mandate of such commissions.[xxxv] The Commission delegation also learned that the National Constitutional Review Commission charged with ensuring the creation, on a proper legal basis, of the various bodies necessary to implement the CPA, had been dormant for most of the past year. The establishment of the Special Commission for the Protection of the Rights of Non-Muslims in the National Capital had only just been announced.[xxxvi] Special provisions for non-Muslims appeared to amount to little more than promises of judicial discretion and training to make the police more culturally sensitive, which Christians in Khartoum believed were inadequate to protect their rights. Ominously, President Omar El Bashir has rejected the findings of what was supposed to be a binding decision by the Abyei Boundary Commission.[xxxvii]

There are also questions about the depth of the commitment of the Sudan People's Liberation Movement/Army (SPLM/A) to its former leader Dr. John Garang's vision of a united Sudan. Moreover, the ability of the SPLM/A to hold its former Sudanese government adversaries to the letter, much less the spirit of the CPA, is limited by the SPLM/A's own limited institutional capacities. The SPLM/A faces the triple challenge of participating in the Government of National Unity, of establishing the new regional government of Southern Sudan which it leads, and of transforming its armed wing from a rebel movement to a standing army, all without Garang's leadership.[xxxviii] On a positive note, there was a smooth transition by the Government of National Unity and the SPLM/A to Dr. John Garang's successor, Salva Kiir, as First Vice President of Sudan, President of Southern Sudan, and leader of the SPLM/A.

Finally, as the Commission's delegation learned during its visit to Juba, the SPLM/A must accomplish this Herculean task in one of the most impoverished and least developed areas of the world, a region devastated by more than 20 years of warfare and suffering from decades of neglect by the Northern-dominated national government in Khartoum.[xxxix] The South's lack of infrastructure was underlined when the Commission delegation found itself in a meeting with one of the Ministers of the new Government of Southern Sudan in the tent city in which he was living, due to the lack of housing in the new Southern capital.

A year after the CPA's signing, it continues to be necessary to educate the Sudanese in a more systematic manner about the terms of the agreement, including the protection of freedom of religion or belief. For people to assert their rights, they need to know them. It is troubling that little effort has been made to inform the Sudanese people about the CPA or the Interim National Constitution.

Although efforts are continuing to broaden participation in the Government of National Unity, significant political opposition exists to the current power-sharing arrangement, including parties that represent both of Sudan's main Islamic sectarian movements and the followers of Hassan al-Turabi, who provided the ideological foundation for the former regime. To ensure that elections called for by the CPA are free and fair, the government will need to take considerable steps, for which external assistance and international monitoring may be necessary. If they are not taken, the protections for individual rights, including freedom of religion or belief, enshrined in the CPA and in the Interim National Constitution, may well remain just words on paper, like those in previous Sudanese constitutions.

Religious Freedom Still Limited in the North Despite Promised Safeguards

The Commission delegation found that 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 in practice:[xl]

- All Sudanese in the North, and specifically in the national capital area, including Christians and followers of traditional African religions, are subject to sharia. Contrary to the understanding even of some Sudanese, the CPA and the Interim National Constitution's special provision for the rights of non-Muslims in the national capital does not exempt Christians and followers of traditional African religions from sharia. Rather, it proposes to mitigate the impact of its application by providing for alternatives to the punishments prescribed for Muslims, at the court's discretion.

- Government approval is required for the construction and use of places of worship. Although permits are regularly granted to build mosques, permission to build churches is routinely denied. For over 30 years, the government has denied permission to construct Roman Catholic churches in areas under its control. Unauthorized church construction does occur, on land registered for personal use rather than for public worship. There were some indications, however, of a recent loosening of bureaucratic restrictions on church ownership of property, e.g., the authorities have in three instances permitted land purchased by a church to be registered in the name of the church as an institution rather than in the name of a church official. Property registered in the name of an individual rather than an institution is more vulnerable to legal problems.

- Churches built without official permission exist at the authorities' sufferance. Those constructed in squatter settlements or IDP camps have often been razed. Church-owned properties that are legally recognized are nevertheless vulnerable to seizure in a legal atmosphere in which government action is not effectively constrained by an independent judiciary. The most glaring example was the government seizure of a Roman Catholic recreational facility, taken not for a public purpose but for the use of the National Congress Party.

- Although not applied in recent years, the legal penalty of death for apostasy from Islam remains the law of the land. Converts to Christianity from Islam face societal pressure 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.[xli]

- The government supervises and controls most Muslim religious institutions in order to enhance a militant interpretation of Islam that promotes intolerance and undermines the rights of Muslims who adhere to other interpretations, as well as the rights of non-Muslims and women.

- Government agencies in the North continued to show a preference for Islam, including in education and the government-controlled media, reinforcing the message that Christians and non-Muslims are not equal members of society. History books reportedly ignore the Christian and other non-Muslim societies that existed in what is now Sudan for centuries before the Islamic conquest. In addition, Quranic verses are found throughout school texts, even in mathematics and geography. All law students in the North, whether Muslim or non-Muslim, must be competent in sharia.

- Freedom of the press is limited, although there are some courageous independent voices testing those limits.

- The activities of both indigenous and international humanitarian and other non-governmental organizations (NGOs) are subject to harassment and interference by the security services, even under the Government of National Unity.

Religious Freedom Conditions Have Improved in the South and in the Formerly Contested Areas

In the South, the Nuba Mountains, and other transitional areas formerly contested by government and Southern rebel forces, religious freedom conditions have significantly improved since the signing of the CPA. North-South peace has dramatically decreased the severe abuses of religious freedom and of other universal human rights that characterized military operations by Sudanese government forces and pro-government militias in the South and other areas of fighting during the civil war. Christian leaders in the major southern center of Juba reported a general lifting of the climate of fear of government security forces that had prevailed in the city during the war. A major Christian religious event was being advertised publicly during the Commission visit. On the down side, Muslims with whom the delegation met in Juba expressed concern about their prospects, especially in light of the anti-Muslim and anti-Northern violence that followed the announcement of Dr. John Garang's death.

Representatives of international NGOs working in the South reported to the delegation that since the signing of the CPA, there has been a decrease, although not a total cessation, in reports of the heinous crime of abduction into slavery, a tactic employed by government-supported militias against Southerners during the North-South civil war. Khartoum has established a mechanism for assisting victims of abduction, the Committee for the Eradication of Abduction of Women and Children (CEAWAC). Estimates of the number of victims vary enormously, but there is a general consensus that a majority of victims, numbering in the thousands, remain unidentified and that those responsible for their enslavement have not been

held to account. CEAWAC lacks funds to return home even those whom it has documented as victims. The lack of action of Sudan's legal system toward the perpetrators is inexcusable. Clearly more needs to be done to eliminate abduction into slavery, to prosecute the violators, and to ensure the rights of victims.[xlii]

Considering the poverty and lack of infrastructure in the South, as well as the general devastation there and in the formerly contested areas, peace may well be unsustainable without development and security. Community leaders told the Commission delegation that tangible "peace dividends" such as schools, clinics, and jobs are needed in order to provide alternatives to young people who only have known years of warfare.

Insecurity also presents a major concern, whether from banditry or from continued attacks by the Lord's Resistance Army (LRA).[xliii] Reporting to the UN Security Council in December 2005, Under Secretary General for Humanitarian Affairs Jan Egeland declared that the "LRA continues to maintain bases and moves relatively freely throughout the region" comprising southern Sudan, northern Uganda, and neighboring portions of the Democratic Republic of Congo. According to Egeland, LRA attacks, including on humanitarian workers, have had a "dramatic" impact on UN humanitarian operations and have "severely hampered the preparation for the return of refugees" to southern Sudan.[xliv] During the North-South civil war, the LRA was supplied and sheltered by the Sudanese military. In return, the LRA cooperated with Sudanese government forces and government-supported militias against the SPLM/A. More recently, as Khartoum moved to distance itself from international terrorism following 9/11, such support was not only curtailed but Khartoum permitted Ugandan government forces to enter Sudan to pursue the LRA. Suspicions remain, however, that at least some elements in the Sudanese military or security services that remain in the South continue to aid the LRA.[xlv]

The Plight of Sudan's Internally Displaced Persons and Refugees: Greater Resources Needed

In terms of the number of civilians displaced by conflict, no country comes close to Sudan. There are more than 600,000 refugees and four million IDPs from the North-South civil war, and more than 200,000 refugees and two million IDPs from Darfur, for a total of seven million displaced Sudanese from a population of 40 million. In the Khartoum area alone, there are 255,000 IDPs residing in official camps, and an additional 1.7 million living in unofficial squatter settlements. The overwhelming majority of the nearly five million displaced as a result of the North-South civil war are Christians or followers of traditional African religions; those displaced from Darfur are Muslims who are members of tribes identified as African as distinct from Arab.

Sudanese of all walks of life who met with the Commission delegation made clear that they want peace and are weary of the many conflicts that they have lived through since independence. One of the surest signs of the hunger for peace is that approximately 500,000 IDPs and 50,000 refugees already have returned to the South and transitional areas. Preparations are being made for still others to return home with assistance, an effort to which the United States is the largest contributor. Southerners living in Khartoum overwhelmingly told delegation

members that they plan to return to the South, even those who had lived for many years in the North and had secure jobs.

The UN High Commissioner for Refugees (UNHCR) oversees refugee returns, and the UN Office for the Coordination of Humanitarian Affairs (OCHA) is the coordinating agency over IDP returns in Sudan. Both agencies have emphasized that all returns of refugees and IDPs must be voluntary. This has been memorialized in recent tripartite agreements between the UNHCR, Sudan, and major host countries of Sudanese refugee camps.

The international community has acknowledged that the infrastructure of Southern Sudan is so frail and overstretched that it can support only a relatively small number of returns at this time. This obstacle is compounded by serious protection concerns, as well as a total lack of safe transportation options from the IDP camps to the places from which the IDPs fled. According to UNHCR, land mines and unexploded ordinances are "omnipresent" along the feeder roads that would be used by returning refugees and IDPs. By early 2006, the UN had expected to have had 23 way stations in place to assist spontaneous returnees en route, but had only two. As a result, while all returns must be "voluntary," many individuals who wish voluntarily to return home have no way of doing so at this time.

Indeed, according to IDP community leaders with whom the Commission delegation met, most of Sudan's internally displaced would like to return home without further delay. In spite of difficult conditions, these displaced persons would rather work to rebuild their country than continue to be confined to IDP camps under deteriorating conditions. The community leaders indicated that the reason so few had returned was because they could not afford to pay for the dangerous, weeks-long journey home to the South or the transitional areas. On the other hand, as Walter Kalin, the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, recently reported, many IDPs in and around Khartoum are "badly or not at all informed about conditions in their places of origin."

The journey itself is, indeed, very arduous. The trip begins with a 220 mile ride packed into a truck from Khartoum to Kosti. Once in Kosti, the IDPs must wait in the outdoors for up to a month to catch a barge for a journey which can take between 5 and 25 days, in a boat with no guardrails, sanitation, or cooking facilities. This water route is necessary because travel by road is not feasible, as the few passable roads in existence are laden with landmines. From the port, returnees must find their way home, often on foot.

Of the nearly 4 million IDPs resulting from the North-South Civil War, 1,260,000 were expected to return in 2005 and 2006, and UNHCR expected to repatriate 140,000 of the refugees by May 2006, out of a population of more than 400,000 refugees. UNHCR and U.S. officials now concede, however, that the actual number of returns will likely be much smaller. At this rate, voluntary returns will take several years.

Moreover, once home, the returnees will likely remain without shelter, sufficient food, potable water, or access to schools or medical services. Many, particularly the elderly, women, and female-headed households, face serious security risks as well. Nor are there any state structures to support speedy resolution of land disputes or other conflicts.

The numbers of potential returnees are so great and the infrastructure in the South so lacking that the return effort will necessarily be massive, requiring a concomitant response by the United States and other donors. Particular emphasis will need to be placed on developing safe and regular transportation options by river and by air while the roads are de-mined, as well as a general commitment among the U.S. Agency for International Development (USAID), OCHA, and UNHCR more closely to coordinate development efforts to support returns of IDPs and refugees. The resources of the Southern Sudanese churches and other private groups engaged in humanitarian and development assistance in the South are already considerably strained. Moreover, increased international attention to Darfur and to reconstruction in the South has meant that fewer resources, such as food and medical services, are going to the IDP camps around Khartoum and the refugee camps in neighboring countries such as Kenya. Those remaining camp residents are often those with the least. If conditions in these camps continue to deteriorate, the refugees and IDPs within them may feel compelled to return to an area where they will face serious dangers en route and more dangers upon arrival.

The Sudanese authorities, the donors, and the international community need to accelerate efforts to enhance the capacity of the South and transitional areas to absorb large numbers of IDPs and refugees. Otherwise, significant dangers will be faced, not only by the individuals who choose to return, but also to the peace process itself and to the development prospects for the region. Without adequate preparation, large scale influxes would likely result in additional tensions within overstretched local communities, due to competition over scarce resources and services. This could result in further conflict and diversions of funding from recovery and development to pay for emergency humanitarian assistance.[xlvi]

Darfur Threatens Sudan Peace, Must be Resolved within a National Context

Since 2003, Sudanese government forces and "Janjaweed" (government-backed militias from Arab tribes) have carried out a campaign of ethnic cleansing against African Muslim civilians in the western region of Darfur, similar to Khartoum's previous tactics against Christians or followers of traditional African religions in the North-South conflict. The government's culpability in the killings of an estimated 400,000 persons, the destruction of 90 percent of Darfur's villages, and the widespread torture, rape, and abduction of civilians is well documented. President Bush, the Congress, and the State Department have termed Darfur an instance of genocide.[xlvii] Abundant evidence demonstrates that the Sudanese government has directly overseen and organized Darfur's destruction.[xlviii] UN reports have cited the government as "largely responsible" for the humanitarian disaster caused by the Darfur conflict and have cited the Sudanese armed forces and government-backed militias for "serious violations of international human rights and humanitarian law," including the killings of civilians and rape and sexual violence against women.[xlix] Despite international pressure, the perpetrators of these crimes, both members of the Sudanese armed forces and allied militias, have not been brought to account, either by the efforts of domestic or international bodies.

According to UN Secretary General Kofi Annan, there has been a marked deterioration in the situation in Darfur since September.[l] With villages destroyed and lives at risk from further attack by government-supported Arab militiamen, many thousands of civilians remain in camps,

either as IDPs in Sudan or as refugees in Chad. Despite the presence of African Union forces in Darfur, these traditionally self-reliant African villagers are unable to return home to raise crops and are now dependent upon international humanitarian assistance, with the United States and other foreign donors funding the relief effort necessitated by Khartoum's actions.

Recognizing the extraordinarily pressing need for U.S. and international action on Darfur, the Commission nonetheless concludes that more can still be done to assist the rest of the country. Urgent efforts to end the killing and atrocities in Darfur and to resolve the problems facing IDPs and refugees are needed, along with international attention and resources devoted to severe problems in other parts of Sudan affected by the delays and shortcomings in the implementation of the CPA.

Moreover, the conflict in Darfur is yet another illustration of Sudan's broader political pattern of deliberate marginalization and resource-deprivation of all of Sudan's regions with non-Arab or non-Muslim populations. Full implementation of the CPA, with its provisions for democratic elections, human rights guarantees, revenue-sharing, and state governments with significant powers, both North and South, hold promise for overcoming the internal tensions that have torn Sudan since independence. Although resources are admittedly limited, the Commission concludes that ways must be found to continue U.S. leadership. Engagement on both Darfur and the implementation of the CPA is critical to help the Sudanese secure the peace they overwhelmingly desire.

Commission Work on Sudan

Sudan was one of the first countries to be a focus of attention by the Commission. The Commission found religion to be a major factor in Sudan's long-running North-South civil war because of Khartoum's coercive policies of Arabization and Islamization. That war's victims, over two million killed and four million driven from their homes, were overwhelmingly Christians and followers of traditional African religions. Its victims also included Muslims, particularly in the Nuba Mountains, condemned for opposing the Islamist regime in Khartoum.

The Commission, which has reported extensively on Sudan since the Commission's inception, has repeatedly recommended that Sudan be designated a "country of particular concern" (CPC) under the International Religious Freedom Act of 1998 (IRFA). The Commission has frequently testified at congressional hearings, has held a full-day public hearing of its own on Sudan, and has issued numerous press statements drawing attention to the situation in Sudan. In 2000, in the midst of the North-South civil war, the Commission conducted a site visit to Southern Sudan.

Over the years, the Commission has made a series of recommendations regarding U.S. policy toward Sudan, including that the U.S. government appoint a nationally prominent individual to bring about a peaceful and just settlement of the war in Sudan. In September 2001, President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the Sudan peace process. Other U.S. actions followed Commission recommendations, including the Administration's decisions to give peace in Sudan a higher priority on its foreign policy agenda, to engage actively to move the warring parties toward peace, to monitor progress toward implementation of a series of partial and preliminary peace

agreements, and to use U.S. assistance more effectively in alleviating the suffering of the Sudanese people and in aiding development in southern Sudan. The Commission's consistent advocacy of strong U.S. pressure on the Khartoum regime, including economic sanctions, was also reflected in the Comprehensive Peace in Sudan Act of 2004, signed by President Bush on December 23, 2004.

Recommendations for U.S. Policy

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.

I. U.S. Diplomacy

The U.S. government should:

- appoint a nationally prominent individual who enjoys the trust and confidence of the President and the Secretary of State and whose sole responsibility is to coordinate U.S. efforts toward the complete and timely implementation of the Comprehensive Peace Agreement (CPA) and the securing of a just and lasting peace for all of Sudan, including in Darfur;

- assign a ranking official to the U.S. Embassy in Khartoum with a mandate to advance the human rights aspects of CPA implementation, including coordination of U.S. engagement with the various mechanisms established by the CPA, the Interim National Constitution, and the Interim Constitution of Southern Sudan, as well as U.S. foreign assistance to support these mechanisms and to promote human rights, including religious freedom, as recommended below; and

- in support of the ranking official, provide more adequate U.S. Embassy and Consulate staff with appropriate rank, training, and language skills to strengthen reporting on human rights conditions and advocating for human rights protections, and require political and public affairs officers to travel regularly throughout Sudan to monitor and examine human rights concerns.

II. Implementation of the Comprehensive Peace Accords

The U.S. government should:

- report publicly every six months, through the State Department or the U.S. Embassy in Khartoum, on the status of implementation of the CPA and the return of IDPs and refugees; this reporting should include information on CPA mechanisms to protect human rights as well as significant obstacles to CPA implementation and the return of IDPs and refugees; and

- take a leadership role within the Assessment and Evaluation Commission to ensure the timely, transparent, and complete implementation of the CPA's power-sharing, revenue-sharing, and security arrangements in order to prepare the way for the agreed-upon referenda and for free and fair elections at all levels.

III. Sanctions

The U.S. government should:

- maintain existing U.S. sanctions on Sudan until particularly severe violations of freedom of religion or belief throughout Sudan and the genocidal atrocities in Darfur are ended; and

- ensure that sanctions do not preclude U.S. support for (a) development projects in Southern Sudan, including with the participation of the government of Southern Sudan; (b) programming in Sudan, whether in the North, the South or elsewhere, to advance implementation of the human rights aspects of the CPA, other protections for human rights, the rule of law, and the development of truly accountable and democratic governmental institutions; and (c) educational exchanges between Sudan and the United States.

IV. 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 civil war, and (b) the emphasis within the CPA to religious freedom concerns; the programs funded by USAID's Office of Transition Initiatives, should be expanded;

- adopt as specific objectives for these U.S. programs:

  --improved citizen awareness of 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, and 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 network of telecommunications.

V. Refugees and IDPs

The U.S. government should:

- appoint a high-level "Special Representative" or "Coordinator" to Refugees and IDPs of Sudan to ensure that U.S. resources and influence are effectively applied to facilitate voluntary returns as soon as they can be done in safety and in dignity; to coordinate IDP and refugee returns with reconstruction efforts in Southern Sudan; and to ensure that those refugees who need a durable solution other than repatriation are not left to languish in camps;

- provide additional assistance—and urge other countries to follow suit—to expedite development efforts in the South. Although the United States has been the leading donor to these efforts, Congress funded Southern Sudan humanitarian and development assistance at $63 million less than the $100 million requested by the Administration. Without a significant increase in the commitment by the U.S. and other donors to develop the South, safe IDP and refugee returns—and the peace brought by the CPA—may not be sustained;

- urge UN agencies and their NGO partners to focus urgently on practical, community-based solutions to providing returnees with basic infrastructure and health and education services;

- urge OCHA and UNHCR to strengthen their efforts to disseminate information to IDPs and refugees about return and reception conditions, including expanding "look and see" trips by refugees and IDPs to review conditions and report back to their camps so that individuals can make informed choices about returns; and urge that OCHA and UNHCR also track returns more closely;

- lend and operate safer modes of transportation, including planes and river vessels, to facilitate spontaneous—as well as organized—voluntary refugee and IDP returns; de-mining efforts of roadways should continue and be intensified;

- encourage OCHA to move quickly to establish the 21 remaining "way stations" on the return route to Southern Sudan which, according to its own plans, should have been in place by now;

- work with UN agencies and NGO partners to ensure that the populations which 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.

VI. Freedom of Religion and Belief and Related Human Rights Concerns

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 as well as building, repairing, and operating houses of worship and 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[li] 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 of 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 messages of intolerance and discrimination against non-Muslims in the government-controlled media;

--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, and by the UN Working Group on Arbitrary Detention.

VII. Victims of Slavery and Human Trafficking

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 prosecute strictly the crime of abduction into slavery, most of whose victims were women and children taken during the North-South civil war or in Darfur by government-sponsored militias; and

- ensure that the existing mechanisms accomplish speedy identification, voluntary return, and family reunification of victims as well as measures for their rehabilitation and reparation.

VIII. Darfur

The U.S. government should:

- closely monitor compliance by the government of Sudan 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 expansion of the mandate for international peacekeepers in Darfur—whether United Nations, African Union, or some combination of the two—explicitly to include active protection of civilians and preventative protection;

  --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 advisors 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 1591 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 advisors 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.

[xxxiv] The CPA affirmed a series of prior agreements, including 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 addresses a number of human rights and fundamental freedoms. 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." For the text of the CPA and the preliminary agreements it subsumed, see United States Institute of Peace, Peace Agreements Digital Collection: Sudan, "Comprehensive Peace Agreement," March 16, 2005 (*http://www.usip.org/library/pa/sudan/cpa01092005/cpa_toc.html*, accessed February 22, 2006).

[xxxv] 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 February 14, 2006). These are commonly referred to as "the Paris Principles."

[xxxvi] ReliefWeb, United Nations Office for the Coordination of Humanitarian Affairs, United Nations Country Team in Sudan, "United Nations Sudan Situation Report 3 January 2006," (*http://www.reliefweb.int/rw/RWB.NSF/db900SID/KHII-6KW3AF?OpenDocument,* accessed February 17, 2006).

[xxxvii] In the CPA, "the government and southern representatives agreed to the establishment of the Abyei Boundary Commission (ABC) and tasked it with evaluating historical and conflicting claims to the land and demarcating a border between the groups. The final report of the ABC was completed in July 2005, but the Government of Sudan has yet to publicly release the document or accept its findings, as stipulated in the CPA. The Sudan People's Liberation Movement (SPLM), in contrast, supports the release of the ABC's findings." U.S. Institute of Peace, "Resolving the Boundary Dispute in Sudan's Abyei Region," October 2005 (*http://www.usip.org/pubs/usipeace_briefings/2005/1026_sudan.html*, accessed February 17, 2006).

[xxxviii] Dr. John Garang died in a helicopter crash shortly after the Government of National Unity was formed. The timing of his death, just weeks after he was sworn in as First Vice President of Sudan, aroused suspicions among many Southern Sudanese, resulting in rioting both in Khartoum and in the South.

[xxxix] Sudan ranks 141st on the United Nations Human Development Index of 177 countries surveyed. The index is available on-line at *http://hdr.undp.org/statistics/data/indicators.cfm?x=1&y=1&z=1*.

[xl] See UN Special Rapporteur on the situation of human rights in Sudan, *Statement by Ms. Sima Samar to the UN General Assembly*, 60th Session, October 27, 2005. "Since the formation of the Government of National Unity, the people of Sudan have seen little change in their everyday life – the emergency laws are still in place in Darfur and the East and are also applied in Khartoum, people are arbitrarily arrested or held incommunicado by security forces; torture, ill-treatment and killings of civilians continue. Discrimination and marginalization of groups continue and basic rights such as access to food, shelter, health and education are not guaranteed."

[xli] Mahmud Muhammad Taha, a Sudanese Muslim who called for debate about the role and content of sharia, was convicted of apostasy and executed on January 18, 1985. Taha was the only individual executed on this charge following Sudanese President Jaafar Muhammad al-Nimeiri's implementation of sharia.

[xlii] For the most comprehensive and authoritative background information on the abduction and slavery issue see U.S Department of State, *Report of the International Eminent Persons Group: Slavery, Abduction and Forced Servitude in Sudan*, May 22, 2002 (*http://www.state.gov/p/af/rls/rpt/10445.htm*, accessed February 22, 2006).

[xliii] The Lord's Resistance Army (LRA) is a Ugandan rebel group notorious for its brutal human rights abuses, including its practice of kidnapping children to use as child soldiers. For a description of the religious/ideological background of the cult-like LRA see World Vision, *Pawns of Politics: Children, Conflict and Peace in Northern Uganda*, 2004 (*http://www.worldvision.org/worldvision/imagelib.nsf/main/pawns/$file/Pawns_Of_Politics.pdf*, accessed April 6, 2006), pp. 13-15.

[xliv] United Nations Office for the Coordination of Humanitarian Affairs, *Statement by Jan Egeland, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator to UN SC Meeting 19 Dec 2005*, December 19, 2005 (*http://www.reliefweb.int/rw/RWB.NSF/db900SID/SODA-6KA4FX?OpenDocument*, accessed April 6, 2006).

[xlv] For further background on the LRA and its involvement in southern Sudan see Human Rights Watch, *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern* Sudan, March 2006 (*http://hrw.org/backgrounder/africa/sudan0306/sudan0306.pdf*, accessed April 6, 2006), pp. 25-26; International Crisis Group, *A Strategy for Ending Northern Uganda's Crisis*, January 11, 2006 (*http://www.crisisgroup.org/library/documents/africa/central_africa/b035_strategy_for_ending_northern_uganda_s_crisis.pdf*, accessed April 6, 2006), 4-5; Human Rights Watch, *Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda*, September 2005 (*http://hrw.org/reports/2005/uganda0905/uganda0905.pdf*, accessed April 6, 2006) , pp. 11-12; International Crisis Group, *Building a Comprehensive Peace Strategy for Northern Uganda*, June 23, 2005 (*http://www.crisisgroup.org/library/documents/africa/central_africa/b027_building_a_comprehensive_peace_strategy.pdf*, accessed April 6, 2006) , pp. 4-5.

[xlvi] See comments of Walter Kalin in United Nations Press Release, *Much More Needs to Be Done to Ensure Protection of Internally Displaced of Southern Sudan, Rights Expert Says*, October 14, 2005, (*http://www.brook.edu/fp/projects/idp/20051017sudan.htm*), accessed February 27, 2006).

[xlvii] 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, Secretary of State 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 an open letter dated April 1, 2006 and issued on the occasion of the "Week of Prayer and Action for Darfur," President Bush declared "Our Nation is appalled by the

genocide in Darfur, Sudan." See also Sue Pleming, Reuters, "US's Rice says genocide continues in Darfur," February 17, 2006; Glenn Kessler and Colum Lynch, WashingtonPost.com, "U.S. Calls Killings In Sudan Genocide: Khartoum and Arab Militias Are Responsible, Powell Says," September 10, 2004 (*http://www.washingtonpost.com/wp-dyn/articles/A8364-2004Sep9.html*, accessed February 17, 2006).

[xlviii] UN Security Council, *Report of the Panel of Experts*, UN Doc. S/2006/65, January 30, 2006.

[xlix] UN Special Rapporteur on Extrajudicial, summary or arbitrary executions, *Report of the Special Rapporteur Mission to Sudan*, E/CN.4/2005/7/Add.2, August 6, 2005; UN Special Rapporteur on the situation of human rights in the Sudan, *Report of the Special Rapporteur on the situation of human rights in the Sudan*, E/CN.4/2006/11, January 11, 2006; Report of the International Commission of Inquiry on Darfur, *Report to the Secretary-General*, January 25, 2005; UN News Centre, "Security Council Refers Situation in Darfur, Sudan, to Prosecutor of International Criminal Court," March 31, 2005 (*http://www.un.org/News/Press/docs/2005/sc8351.doc.htm*, accessed February 17, 2006).

[l] UN News Centre, "Despite forceful Security Council moves, atrocities continue in Sudan's Darfur region – UN report," December 29, 2005 (*http://www.un.org/apps/news/story.asp?NewsID=17064&Cr=Sudan&Cr1=Darfur#*, accessed February 17, 2006); Monthly Report of the Secretary-General on Darfur, UN Doc. S/2005/825, December 23, 2005.

NORTH KOREA: COMMISSION STUDY PROVIDES EVIDENCE OF SEVERE RELIGIOUS FREEDOM VIOLATIONS

The Commission Study

The international community is growing accustomed to reports of government imposed excess and horror from the Democratic People's Republic of Korea (DPRK or North Korea), including reports of extensive prison camps, the arbitrary detention of dissidents extending to three and four generations of their families, forced abortions, and people beaten down by constant suspicion, propaganda, and violence. Yet, concrete documentary evidence of human rights violations in North Korea is scarce, particularly testimony about violations of the freedom of thought, conscience, and religion or belief. It is only recently that interviews with former North Koreans are being undertaken by human rights researchers in any systematic way.

In an attempt to address this dearth of information, the Commission undertook a study in 2005 to gain a more tangible understanding of conditions for human rights, particularly religious freedom, inside North Korea. The resulting report, entitled *Thank You, Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience, and Religion in North Korea,* was published in November 2005. The study was conducted by David Hawk, veteran human rights expert and author of the study *The Hidden Gulag: Exposing North Korea's Prison Camps.* The Commission also employed two respected academics, Jae Won Chun and Philo Kim, to manage the study's progress in South Korea. Through in-depth interviews with North Koreans who have fled their country, the study allowed former North Koreans to speak openly about conditions in North Korea. It also offered historical and comparative analysis to help define the nature and scope of religious freedom abuses over the past 50 years.

Forty former North Koreans were interviewed extensively regarding conditions of freedom of religion or belief in North Korea. *Thank You, Father Kim Il Sung* reports on the forceful suppression of North Korea's once vibrant religious and intellectual life, the establishment of a quasi-religious cult of personality centered on Kim Il Sung and his son Kim Jong Il, and the survival of very limited religious activity in North Korea. The former North Koreans offer trenchant testimony on the role and character of the Kim Jong Il government and the extent to which it controls the thoughts and beliefs of the North Korean people. The thick curtain of secrecy that has shrouded the "hermit kingdom" was thus pulled back—if only a bit—by the testimony of former North Koreans.

"Thank you, Father Kim Il Sung" is the first phrase North Korean parents are instructed to teach to their children. From cradle to grave, North Korean citizens are surrounded by the all-encompassing presence of the "Great Leader" and his son, the "Dear Leader" Kim Jong Il. The Kim dynasty is much more than an authoritarian government; it also holds itself out as the ultimate source of power, virtue, spiritual wisdom, and truth for the North Korean people. Heterodoxy and dissent are repressed, quickly and efficiently, with punishments meted out to successive generations of the dissident's family. In this environment, it is hard to imagine any independent religious belief or practice surviving openly unless it serves the government's larger purpose.

Eliminate Religious Adherence: a Deliberate Policy of the North Korean Regime

From its inception, the brutal suppression of religious activity and rival systems of thought and belief was a systematic policy of the DPRK government. In the early twentieth century, religious life flourished in North Korea. In fact, religious organizations provided the key organizational links in the fight against Japanese colonialism. Thus, it is not surprising that religious groups were viewed as one of the chief political competitors of Kim Il Sung's Korean Workers Party. When Kim Il Sung came to power, religious adherents and their families were labeled as "counter-revolutionary elements" and targeted for repression. Recalling his policies to diminish the power of religion in North Korea, Kim Il Sung admitted that:

> We [could not] turn into a Communist society along with the religious people. Therefore, we purged the key leaders above the rank of deacons in Protestant or Catholic churches and the wicked among the rest were put on trial. The general religious people were…put into prison camps [and given a chance to reform]…. We learned later that those of religion can do away with their old habits only after they have been killed.[lii]

After Kim Il Sung consolidated his hold on power, North Korean officials stratified society on the basis of family background and perceived loyalty to the state. Religious adherents who remained in North Korea, as well as their descendents, were eventually classified on the lowest strata of this complex system of 51 social categories, receiving fewer privileges and opportunities in such areas as education and employment. An extensive report by Amnesty International in 2003 details evidence that persons in lower categories have, in some cases, been forcibly relocated to remote and desolate areas of the country and then systematically denied access to food aid and left to starve. Those in the lowest strata were deemed the "irredeemables" who gained the implacable hostility of the state and unyielding harassment of the security forces.[liii] Thus, it is not surprising that only a few interviewees report first-hand awareness of religious activity in Kim Il Sung's DPRK. They may remember a few religious structures in Pyongyang and clandestine religious activity by a small remnant of believers—but these latter recollections are mostly of suspicion, fear, and death.

In the most unique and compelling part of the study, the persons interviewed testified to the total veneration of the Kim family and the institutionalization of the *Juche* ideology. Schooled as they were from birth to venerate Kim Il Sung and his son Kim Jong Il, these interviewees often expressed astonishment that anyone in North Korea would practice a belief-system challenging the reigning cult of personality. The religious cult around the Kims touches every individual and every province in the DPRK. Students are required to memorize the "Ten Principles for the Establishment of the One-Ideology System of the Party," and every North Korean is expected to attend one or more of an estimated 450,000 "Kim Il Sung Revolutionary Research Centers" at least weekly for instruction, inspiration, and self-criticism.[liv]

It is now known that every home in the country has a portrait of the "Great Leader" Kim Il Sung and the "Dear Leader" Kim Jong Il. Inspectors visit homes to hand out fines and admonishments if the portraits are not well kept. Every government building and subway car displays the two portraits, and every adult citizen wears a button of Kim Il Sung. Movies and

propaganda constantly proclaim the blessings bestowed on them by the two Kims.[lv] The veneration required is so complete that the former North Koreans interviewed for this report did not believe that religious activity was permitted because, among other reasons, it would be perceived as a threat to the government's authority.

Religious activity survives nonetheless, whether in government approved religious organizations operating a handful of places of worship in Pyongyang or in more clandestine venues. In recent years, the government has formed several "religious federations" to interface with co-religionists abroad. Three churches, two Protestant and one Catholic, were opened in Pyongyang between 1988 and 1992. Only a few interviewees were even aware of these churches, and even they believed that these churches operated as showcases for foreign visitors. However, according to South Korean religious leaders conducting exchanges with North Korea, these religious venues are open weekly and some genuine religious practice does take place among North Koreans at the churches. There are also reportedly three Buddhist temples and a Chondokyo shrine in Pyongyang. Although some of the interviewees had seen or were aware of Buddhist temples in North Korea, none had seen religious practice in these temples.

The study provides interesting evidence that some North Koreans are testing prohibitions against religious activity. Fortune-telling, a remnant of Korean Shamanism, is re-surfacing. Several of those interviewed for this study claim that faith in the "Dear Leader" is not as strong as it was before the famine of the 1990s, having been shaken by the crushing economic and other deprivations in North Korea. The Commission's study reveals that Kim Jong Il fears that cross-border contacts will puncture the hermetic seal that he has tried, with considerable success, to place around North Korea—the seal that preserves the Kim dynasty and its "divinity." Anything that casts doubt on the beneficence or omnipotence of the "Dear Leader" has to be repressed. That is why there is renewed government interest in ensuring that North Koreans coming back from China are not "infected" either by South Korean democracy or any form of religious belief. As one interviewee explained after her encounter with North Korean border guards, the DPRK government fears that "*Juche* will be toppled by Christianity."

All of those interviewed left North Korea through China. They fled due to persecution, disillusionment, hunger, and severe deprivation. Refugees have flooded across the border with China for the past decade. Even after the famine eased a few years ago, an estimated 30,000 to 100,000 North Korean refugees still remain in China. Under the terms of an agreement with North Korea, the Chinese government considers all such refugees to be economic migrants who are subject to forcible repatriation. Moreover, the North Korean authorities consider migration illegal, and returnees are subject to harassment, arrest, imprisonment, and often torture. New laws have eased penalties for "economic crimes," but there is growing evidence that North Koreans repatriated from China are interrogated to determine if they have converted to Christianity or had contact with South Korean Christians. If they answer affirmatively, they may face lengthy prison terms with hard labor, among other punishments.

Thank You, Father Kim Il Sung illustrates the need for concerted action to address the widespread denial of basic human rights in North Korea and to seek effective solutions for North Koreans seeking refuge in China. This study also confirms that the human rights and humanitarian disasters perpetuated by the DPRK government profoundly threaten security on the

Korean peninsula. Therefore, as regional powers grapple with the DPRK's nuclear aspirations, human rights objectives should not be given short shrift. Negotiations to end nuclear proliferation should include issues such as family reunification, abductions, rule-of-law development, market reforms, needs-based food distribution, economic development and protections for religious freedom and other human rights. Pursuing both nuclear and human security is not mutually exclusive. In fact, examples of dual-track diplomacy can be found in both Soviet-American and Chinese-American relations.

North Koreans have suffered through five decades of failed social, economic, and political policies, as well as grave human rights abuses. The extent of the depredation is staggering. This study provides compelling evidence of the systematic denigration of religious life in North Korea and of ongoing abuses of the freedom of thought, conscience, and religion or belief. It also shows how religious freedom concerns are linked directly to the other human rights and security concerns that have dominated international attention. This study thus sheds further light on the often perplexing situation in North Korea, offers some insight into the daily lives of ordinary North Koreans, and raises international awareness of the appalling human rights situation faced by North Koreans in the DPRK and in China.

The Study's Findings

For a summary of religious freedom conditions in North Korea, as well as Commission recommendations for U.S. policy, see the country chapter on Korea, People's Democratic Republic of, in this report.

North Korean Law and Practice Restricting Freedom of Religion

- Although the North Korean government has formally subscribed to international standards with regard to freedom of religion or belief through its accession to international human rights treaties, based on the information gathered for this report, it is evident that the DPRK government has committed—and continues to commit—severe human rights violations in this area.

- Article 68 of the DPRK Constitution states that "citizens have freedom of religious beliefs." However, despite the DPRK government's assertion to the UN Human Rights Committee that there are no limitations on religious practice, Article 68 also has provisions on "drawing in foreign forces" and "harming the state or social order," provisions that could lead to potentially severe limitations that could easily result in the arbitrary application of the constitutional provision on "freedom of religious beliefs."

- Article 67 of the DPRK Constitution provides for "freedom of speech, of the press, demonstration and association." However, as is the case with "freedom of religious beliefs," these freedoms are seriously—if not entirely—limited and circumscribed by other constitutional provisions, including that "the State shall adhere to the class line, strengthen the dictatorship of people's democracy"; "the State shall oppose the cultural infiltration of imperialism"; and "the State shall eliminate the way of life inherited from the outmoded society and establish a new socialist way of life in every sphere."

- Those interviewed for this study claimed that there are four mutually reinforcing reasons for the lack of religious freedom in North Korea:

  --the intensive and continuous anti-religious propaganda by the government;
  --the banning of religious activity, as revealed in the fact that none of the interviewees was aware of any authorized religious activity inside North Korea;
  --the severe persecution of persons caught engaging in religious activity, which most interviewees had either heard about or personally witnessed; and
  --the fact that *Juche*, the official state ideology of Kim Il Sung Revolutionary Thought, was the only officially permitted system of thought or belief in North Korea.

The Institutionalization of Juche Ideology: Anti-Religious Propaganda and Veneration of the Kim Family

- Article 3 of the DPRK Constitution sets out the guiding role for *Juche* as an official system of thought or belief. Kim Jong Il, as a precursor to his succession, merged the *Juche* ideology with the ideology of Kim Il Sung known officially as "Kimilsungism." This merged ideology is presented by the state as a "monolithic" or "unitary" ideological system, and it is the basis for the cult of personality, pre-1945 Japanese-style "emperor worship," or semi-deification that surrounds the memory of North Korea's Great Leader, Kim Il Sung.

- According to those interviewed, North Korean propaganda continually portrays religion as "opium"—the term used by virtually all of the interviewees. Television programs also regularly denigrate religion. North Koreans are exposed to this anti-religious propaganda in youth groups, political education sessions, and neighborhood or workplace study groups where attendance is mandatory. These sessions included indoctrination on the principles of *Juche*/*Kimilsungism* as a religious ideology to the exclusion of other religious beliefs and practices.

- Virtually all interviewees described the life-long system of ideological propagation and indoctrination. This starts with children learning to say "Thank you father Kim Il Sung" when learning to talk, and continues with ongoing, mandatory adult education classes in the workplace or in shrine-like "Kim Il Sung Revolutionary Idea Institutes," "Study Halls," or "Research rooms. The institutions are described as venues for education and for veneration of the Kim family and its political philosophy. Interviewees describe the experience as "solemn," "divine," and "holier than the churches of South Korea." The interviewees also reported that the formal "studies" are supplemented by other forms of Workers Party control and education efforts, particularly Party-led weekly, obligatory small group discussions, held either at work or in residential neighborhoods through which the population would be kept on the correct path of revolutionary thought.

Awareness of or Participation in Religious Activities

- Most respondents said that they had never seen or encountered any religious activity, places of worship, religious literature, or clerical officials prior to fleeing to China. Some were

aware of former Buddhist temples or shrines in the mountains that were preserved as "cultural relics," but to their knowledge there were no Buddhist monks or worship practiced at these places. A few interviewees had knowledge of religion because their parents or grandparents had been believers, and they remembered it from their childhood. Many more knew of religion from the anti-religious propaganda at school or from the North Korean state-controlled media. Others knew of religious activity from witnessing or hearing about the public executions of religious believers.

Alternative Systems of Thought or Belief

- The interviews revealed the widespread re-emergence in North Korea of a remnant element of Shamanism, the ancient pan-Asiatic animistic belief system: "fortune telling," or the belief that one's destiny or fate is not under one's own control (as in *Juche*), but lies in the stars or other natural phenomena. All the persons interviewed described fortune telling as an illegal activity. However, all said it was much too widespread for the authorities to eliminate it, and that even North Korean officials utilized the services of fortune tellers. Many interviewees associated the re-emergence of fortune telling with the onset of the famine and the severe deterioration in social conditions in the mid-1990s.

- Only a handful of persons interviewed had ever heard about the three—soon to be four—Christian churches that operate in Pyongyang. Nor had any interviewees heard about or encountered any of the 500 "house churches" or home worship services that the DPRK has claimed in its reports to the UN are operational in North Korea. With one exception, the interviewees simply did not believe that such activities were permitted by the authorities.

- On the basis of the information obtained through this study, it is not possible to corroborate claims about the existence of a substantial underground Christian church in the DPRK. Fully half of the interviewees said simply "no" when asked if they had ever seen or encountered underground churches or non-recognized, unofficial religious activities in North Korea. Others also replied "no," but then went on to describe acts of persecution against religious believers or those involved in presumed religious activity, such as the possession of a Bible. Only two interviewees said they were aware of an unofficial or underground church network.

Penalties for Religious Activity

- Two interviewees provided graphic and detailed eyewitness testimony of the summary executions of individuals accused of engaging in unauthorized religious activities. Another interviewee said that her brother was executed for involvement in such activities, but that she had not personally witnessed the execution. One additional interviewee had heard of executions of North Koreans involved in unauthorized religious activities, and as a police official had been involved in two separate cases resulting in the arrest of eleven individuals accused of involvement in such religious activities. Of the eleven arrested, two died during interrogation; the interviewee believed that the other nine had been executed. Others mentioned executions they had heard about but had not witnessed themselves.

- Several interviewees described instances where possession of a Bible or other religious text was an offense punishable by imprisonment or execution. One interviewee, imprisoned following repatriation to North Korea, met a fellow prisoner who was imprisoned because a Bible had been found in his home.

Religious Persecution along the North Korean-Chinese Border

- Despite international human rights agreements that provide for the freedom to leave one's country of origin, leaving North Korea without the authorization of the DPRK authorities is a violation of the North Korean penal code. Despite the UN's contention that these North Koreans in China should be considered refugees, the Chinese police regularly apprehend large numbers of them and forcibly repatriate them back to the DPRK, in violation of Article 33 of the 1951 Convention Relating to the Status of Refugees.

- Following sometimes extremely brutal interrogation by North Korean police officials, repatriated North Koreans are apparently sent in large numbers to the *jipkyulso* misdemeanor level provincial incarceration facilities, and to shorter-term small, local mobile labor detention facilities.

- From interviewee responses it can be determined that religion is a factor in the process of interrogation and meting out punishment. One interviewee reported that while detained following repatriation from China, six other detainees were sent to a prison camp for political prisoners after confessing that they were "followers of Jesus." Another interviewee reported that he was severely beaten upon repatriation from China because, after repeated questioning, he admitted to studying in a Korean-Chinese church.

- Two-thirds of the interviewees had been forcibly repatriated from China. Virtually all of these interviewees report that after being asked preliminary questions about how they had fled to China, where they had crossed the border, and where they went and what they did in China, they were specifically asked (1) if they had attended Korean-Chinese churches, and (2) if they had had any contact with South Koreans in China (some of whom are representatives of religious organizations doing charitable and humanitarian work in the border area). Contact with Korean-Chinese believers, and, more certainly, contact with South Koreans is considered a political offense. Several of the interviewees described the ways they had been persecuted as a result of their contacts with churches in China.

Existing Religious Life in North Korea

- By the 1960s, the King Il Sung regime had suppressed and eliminated virtually all public observance of religion, substituting *Juche*/*Kimilsungism* in its place. However, due to a changed international environment in the 1970s, the regime decided to allow the re-emergence of a highly circumscribed and controlled public religious practice. It is this revival of highly circumscribed and tightly monitored and controlled religious practice, organized and supervised through a series of religious "federations" for Buddhism, Chondokyo, and Protestant, Catholic and, most recently, Orthodox Christianity, that is cited by DPRK authorities to indicate that North Korea respects religious freedom.

- Religious believers inside North Korea today generally fit into one of three general categories: 1) People who participate in the officially sanctioned religious federations and who are described as "old society, pre-WWII" religious adherents and their children; 2) pre-WWII religious adherents who, along with their children, worship clandestinely outside of the officially sanctioned system; and 3) religious adherents who maintain religious beliefs in secret, but who acquired these beliefs from exposure to co-religionists in China, either by crossing the border themselves or through correspondence with others who cross the border and return. Persons in category three are not tolerated.

- This study reveals that the two Protestant churches and one Catholic church in Pyongyang, while under tight control of the government, are able to conduct some genuine religious activities. Worshipers at these churches as of 2005 are mostly old society, pre-WWII Christians and their children who use this opportunity to profess their faith openly and worship in the presence of other believers. These churches have, at least since 1995, held activities regularly, although under consistent government monitoring. Membership in, and attendance at, the churches in Pyongyang are controlled by the Korean Workers Party, and there is reportedly a lengthy waiting list.

- South Koreans and others interviewed for this study reported on their visits to eight officially sanctioned "house churches" in North Korea, including five in Pyongyang, one in Kaesong, one in Sungchon, and one in South Hwanghae Province. Attendees at these gatherings were consistently identified as old-generation Christians and their children who gather to pray, read scriptures, and sing hymns, often from memory. The number of officially sanctioned house churches in North Korea could not be verified in the course of this study.

- There are no Roman Catholic priests in North Korea, and the one Catholic church in the country has no direct relationship with the Vatican.

- Leaders of the Chondokyo religion in South Korea state that while it is possible to study the religion at Kim Il Sung University, there is no freedom to propagate Chondokyo beliefs in North Korea. The number of Chondokyo adherents and "preaching rooms" could not be confirmed from the information gathered for this study.

- Many of the interviewees knew of the existence of some of the more famous mountain-top Buddhist temples in North Korea, but surmised that these temples were maintained as "cultural heritage sites." None had seen a temple open for public religious activities or for residence of Buddhist monks. The extent to which worship, study, and meditation is carried out at Buddhist temples could not be ascertained during the course of this study.

- Despite North Korean government assertions that the state and religion are separate, religious activities in the DPRK are clearly under the auspices of government-sponsored religious federations that could more accurately be described as emanations of the North Korean party-state. The religious activity that is allowed takes place under the authority and control of the corresponding religious federation. The religious federations are members of, and controlled by, the National United Front for the Unification of the Fatherland, which is in turn

controlled by the Korean Workers Party, the ruling arm of the regime. Under the federation structure, there is no apparent mechanism, procedure, or structure for allowing belief systems and forms of worship that are not covered by an appropriate federation.

- Interaction between North Korea federation churches and churches in South Korea is used as a medium of Korean reconciliation. Religious interaction between North Koreans and religious adherents outside North Korea that takes place outside of the supervision of the religious federations is not permitted.

[lii] Goh Tae Woo, *Bukhanui jonggyo jeongchaek* (North Korea's Policies on Religion), Minjokmunhwasa, 1989, pp. 79-80.
[liii] Kee Hang Gu, "Bukhaniu jonggyo tanapgwa sing-ang saenghwal," (Religious Repression and Religious Life in North Korea), in *Hyeonsil chojeom* (Reality Focus), 1990 Summer Issue, p. 111.
[liv] Philo Kim, "New Religious Policy and the State of Reliigous Freedom in North Korea," paper given at 5th International Conference on North Korean Human Rights & Refugees, February 29—March 1, 2004, Warsaw Poland.
[lv] Bradley K. Martin, *Under the Loving Care of the Fatherly Leader: North Korea and the Kim Dynasty*, (St. Martins Press, 2004).

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.

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 unimplemented—nearly eight years after IRFA's enactment. The Commission continues to urge the State Department and other relevant agencies to implement completely IRFA's Title VI provisions, and welcomes remarks in November 2005 by the Chair and Ranking Members of the House Subcommittee on International Operations, Human Rights, and Africa on the need for greater congressional oversight in this area.

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

- In February 2006, Homeland Security Secretary Michael Chertoff appointed a Senior Refugee and Asylum Policy Advisor, a move he indicated was in response to a key recommendation of the Commission's report on the expedited removal process (see below).

- Congress included a provision in the North Korean Human Rights Act of 2004 (P.L. 108-333) implementing a policy recommendation of the Commission that the U.S. Refugee Program provide—in its annual report to Congress—descriptions of how access to the Program is facilitated for those who flee "countries of particular concern," or CPCs, whose governments perpetrate systematic, ongoing, and egregious violations of religious freedom.

- Congress renewed the Specter Amendment, adopting a Commission recommendation to promote consistent adjudications by the U.S. Refugee Program for members of religious minorities from Iran (P.L. 109-102).

- The Departments of Justice and Homeland Security, citing evidence provided by the Commission, reversed their positions in the case of *Li v. Gonzales* before the U.S. Court of Appeals for the Fifth Circuit, leading to the vacating of a decision by the Court. The Commission had expressed its concern that the original decision by the Fifth Circuit adopted arguments by the Department of Justice (DOJ) that contradicted international human rights law and undermined U.S. human rights policy, which has opposed China's criminalization of unregistered religious activity.

- Senators Joseph Lieberman and Sam Brownback introduced legislation—to be known as the Safe and Secure Detention and Asylum Act of 2006—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 with roles in the asylum and refugee adjudication processes, including the Office of Immigration Litigation in the DOJ, the Immigration Judges and the Board of Immigration Appeals (BIA) at the Executive Office for Immigration Review in the DOJ, the Refugee Corps of the U.S. Citizenship and Immigration Services in the Department of Homeland Security (DHS), and the Overseas Processing Entities under contract with the Department of State to prepare refugee applications overseas.

Li v. Gonzales: Commission Cooperates with Department of Justice on Asylum Matter to Correct Inaccurate Depiction of Religious Freedom Issues in China

The Commission does not intervene in individual asylum cases. However, over the last year, the Commission has worked with the DOJ to respond to the concerns expressed by the Commission in one particularly problematic case, *Li v. Gonzales*, before the U.S. Court of Appeals for the Fifth Circuit. The Commission wrote the DOJ in this matter because the position argued by the DOJ was at odds with efforts to advance freedom of religion or belief in China by the President, the Secretary of State, and the U.S. Embassy in Beijing.

In this case, the Fifth Circuit, deferring to arguments advanced by the DOJ, misconstrued religious freedom conditions in China, as well as international human rights law. The U.S. Court of Appeals for the Fifth Circuit ruled in August 2005 in *Li v. Gonzales* to uphold the order to remove a Chinese man who had been arrested, beaten, fired, and charged with the "crime" of organizing an unregistered house church in China. In so holding, the Fifth Circuit ruled that Mr. Li had been subject to prosecution for failing to register his church—not persecuted on the basis of his religious beliefs. The Fifth Circuit held, deferring to arguments advanced by the DOJ and adopted earlier in the case by the BIA, that China has the "sovereign right" to regulate unregistered religions, and that China's treatment of unregistered churches is an issue for "moral judgment—not a legal one." Subsequently, the Commission wrote to and met with officials at the DOJ to make clear that the Chinese government's control over registered churches—and its

prosecution of individuals for engaging in "unauthorized" religious activity—are clearly in violation of international law with regard to freedom of religion or belief.

On November 1, 2005, the Fifth Circuit vacated the decision after the DOJ, citing the letter written by the Commission, changed its position on removing Mr. Li to China.

U.S. foreign policy toward China and other authoritarian regimes has been clear on this point: it is not permissible under international law to criminalize religious activity on the sole basis that such activity is "unregistered" or "unauthorized." Section 3 of IRFA explicitly defines arbitrary religious registration requirements as a "violation of the internationally recognized right to religious freedom." As a precedent, *Li v. Gonzales* would have undermined the international leadership of the United States in protecting asylum seekers and advancing the right to freedom of religion or belief in China.

The Fifth Circuit's order to vacate ensures that the original decision in *Li v Gonzales* cannot be cited as legal precedent to remove other asylum seekers accused of participating in the "crime" of unregistered religious activity. Had the decision been allowed to stand as precedent, it could have seriously limited the ability of the United States to protect religious adherents fleeing the increasing tendency in certain countries to criminalize unregistered religious activity, countries that include China, Belarus, Burma, Eritrea, and Vietnam, among others.

To prevent a recurrence of the *Li* case, the Commission has recommended enhanced training on freedom of religion and greater coordination between the departments of State, Justice, and Homeland Security. Sections 602 and 603 of IRFA require training on religious persecution issues for immigration judges, asylum and refugee officers, and immigration officers exercising expedited removal authority. The *Li* case demonstrates the desirability of extending such training to the BIA attorneys in the Office of Immigration Litigation (OIL) at the DOJ, as well as immigration trial attorneys at the DHS. Following the *Li* case, the Commission was invited to participate in such trainings by the BIA and OIL. The Commission urges that such trainings become a regular part of their training curricula, and that DHS follow suit for its immigration court attorneys. Indeed, in response to section 603 of IRFA, the DHS has already developed a training program on religious freedom issues for its asylum officer corps. This training should be extended to DHS trial attorneys as well.

In addition, the Departments of Justice and Homeland Security have long required that all asylum applications be forwarded to the Office of Asylum and Country Reports in the Department of State. At its option (generally when it concludes that the case involves issues not adequately covered in its human rights reports), the Department of State replies with an assessment on the extent to which the claim is consistent with country conditions. Asylum officers and immigration judges also may request specific comments regarding individual cases or types of claims under consideration. Such consultations with the Department of State, however, have not been undertaken after the Immigration Judge or the BIA has reached a decision on the matter. Consultations with the Department of State on the depiction of country conditions by the immigration judge or the BIA prior to litigation in the federal courts will help ensure that the description of country conditions and the positions taken by DOJ on appeal are consistent with U.S. policy on matters of international human rights law. Such a procedure could

help prevent the DOJ from spending its litigation resources on defending positions—as it did in *Li*—which contradict U.S. human rights policy.

The Commission continues to monitor developments in asylum case law for consistency with the principles of religious freedom and other human rights, and has raised additional concerns with the DOJ concerning more recent asylum claims from China and Iraq.

Study on Asylum Seekers in Expedited Removal, as Authorized by Section 605 of IRFA

In addition to several refugee and asylum provisions specifically related to those who fled religious persecution, IRFA also authorized the Commission to appoint experts to conduct a study to determine whether certain legislative changes to immigration, enacted in 1996, were impairing America's obligation—and founding tradition—of offering refuge to those suffering persecution. That study, entitled *Report on Asylum Seeks in Expedited Removal* and released in February 2005, examined how the new immigration procedure—known as "expedited removal"—was affecting asylum seekers, regardless of whether or not the claim was based on religion, race, nationality, membership in a particular social group, or political opinion.

As the Commission reported last year, the study found that expedited removal, a process implemented in 1997 to "expeditiously remove" certain improperly documented aliens without a hearing, was intended by Congress to protect the integrity of our borders while also protecting *bona fide* asylum seekers. The study, however, identified serious implementing flaws that place legitimate asylum seekers at risk of being returned to countries where they may face persecution. The study also found that *bona fide* asylum seekers were almost certain to be detained inappropriately by the DHS under jail-like conditions and in actual jails. In some facilities, asylum seekers slept alongside convicted criminals or criminal aliens awaiting deportation. Since the release of the study, the DHS has expanded expedited removal to cover the entire perimeter of the United States, yet has not corrected any of the flaws identified that place those asylum seekers at risk.

While identifying these problems and urging the Departments of Justice and Homeland Security to take corrective measures, the study also noted that there was no individual at the DHS—outside of the Secretary or the Deputy Secretary—with authority to coordinate such reforms among the three agencies within the Department. These agencies, Immigration and Customs Enforcement, Customs and Border Protection, and Citizenship and Immigration Services, did not report to the Secretary through a unified chain of command, and no official had the authority to coordinate policy across the three entities. The study urged the appointment of an official with authority to coordinate refugee and asylum matters across the three agencies.

When meeting with the Commission in April 2005, Secretary Chertoff indicated that he had already planned to establish a Policy Department at DHS with coordinating authority, and agreed to appoint a Senior Refugee and Asylum Advisor within that Department. In February 2006, the DHS announced the appointment. The Commission has urged that the Advisor act quickly to consider the findings and implement the recommendations of the Commission's study.

In January 2006, the U.S. Attorney General announced a comprehensive review of the immigration court system. Commission staff and study experts have met with the leadership of the review team to advise them on the concerns raised by the study on the uneven treatment of asylum seekers who appear before immigration judges. The Commission hopes that these initiatives are the first step toward improving the expedited removal process to ensure that it works as intended—namely, to secure U.S. borders without undermining the national commitment to protecting those who flee severe violations of religious freedom and other human rights.

While none of the recommendations of the study require legislation to be implemented, in April 2006, Senators Lieberman and Brownback introduced the "Safe and Secure Detention and Asylum Act of 2006," which would implement many of the study's recommendations relating to expedited removal and detention. In addition, in June 2005, the American Immigration Lawyers Association presented the Commission and its expedited removal study team with the Arthur C. Helton Award for the Advancement of Human Rights, in recognition of the accomplishments of the Commission's study on expedited removal.

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 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.[lvi] This information was included for the first time in the Proposed Refugee Admissions for Fiscal Year 2006 Report to Congress, which was released in August 2005.

The Congress also renewed for fiscal year 2006 the Specter Amendment, which provides relief to religious minority refugee applicants from Iran by clarifying the adjudication standards specific to their claims.[lvii] The Commission recommends that Congress and the President continue to extend the Specter 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 an authorized ceiling (for fiscal year 2006) of up to 70,000 refugee admissions. With more than 9 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 which has been deemed a "processing priority" by the Secretary of State. In theory, 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, Mandaeans, Yazidis and other religious minorities who 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. The Department of State has not yet acted on or responded to these recommendations, and the Commission renews its call that access to the U.S. Refugee Program be facilitated for members of these groups. 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.

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

The Commissions is concerned that it has become more difficult for legitimate asylum seekers who flee CPCs to gain access to the Refugee Program. Specifically, 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.[lviii] Essentially, an alien is now held inadmissible if he or she provides 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 is provided under duress, or is directed toward a group supported by the U.S. government.

As an example of how this provision has affected efforts to resettle refugees fleeing religious persecution, in 2005, the U.S. Refugee Program launched a cooperative effort with UNHCR to resettle 9,500 Burmese Chin Christian refugees in Malaysia and in the Tham Hin Camp in Thailand. This operation, as well as the processing of a number of Vietnamese Montagnard refugees in Cambodia, has been suspended indefinitely because applications from these refugee applicants—who fled countries which have been designated by the Secretary of State as CPCs— have been held in abeyance by the DHS because the Administration has yet to make a decision on the application of the material support bar.

The Departments of Justice, State, and Homeland Security may waive the material support bar under certain circumstances. After four years of placing refugee cases on indefinite hold, however, the Administration has not yet developed any policy or taken any action on such waivers.

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 such as the Burmese Chin and the Montagnards from Vietnam should not continue to be barred from the United States if they represent no genuine security threat.

Problems in Implementation of Title VI of IRFA

The Commission remains concerned that the refugee, asylum, and immigration provisions of IRFA continue to be under-implemented by the Departments of State and Homeland Security. Each of these concerns are detailed below.

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. However, the training of State Department consular officers in the Refugee Program continues to fall short of the IRFA requirements in that the training concentrates on only one narrow aspect of the Refugee Program. Although consular officers do not adjudicate refugee applications, they are authorized to refer individuals in need of protection to the Refugee Program.[lix] Such referrals rarely take place. A recent 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.[lx] 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.

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 a 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.[lxi] 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.

Inadmissibility of Religious Freedom Violations

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.

[lvi] 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.

[lvii] Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102).

[lviii] *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).
[lix] 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.
[lx] 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*).
[lxi] See Martin, p. 143.

THE STATE DEPARTMENT'S
ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM

With the passage of the International Religious Freedom Act of 1998 (IRFA), Congress declared that it was the policy of the United States to stand with the victims of repression and promote respect for religious freedom by all governments and peoples. The yearly release by the State Department of the *Annual Report on International Religious Freedom* provides an opportunity to learn more about and address some of the important challenges the United States faces as it pursues this important foreign policy goal.

The State Department's Annual Report, together with the work of the Commission, demonstrate that religious freedom concerns cut across the many critical issues in U.S. foreign policy. From constitutional developments in Iraq, to the propagation and export of religious extremist ideology by Saudi Arabia, to the persistence of religious freedom abuses in China, to the repressive nature of the governments in potentially destabilizing countries such as Iran, Uzbekistan, and North Korea, to the promotion of democracy and the fight against extremism in the Middle East, protecting the right to freedom of religion or belief is indispensable to advancing American interests. It has become increasingly clear that promoting religious freedom and other human rights abroad is vital to U.S. foreign policy and to U.S. strategic, as well as humanitarian, interests. When it is observed, religious freedom is one of the keystones of stable, democratic, productive societies in which the rule of law and human rights are accorded value.

Each year since its inception, the Annual Report's role in the process of promoting religious freedom throughout the world has grown. As the only U.S. government publication devoted especially to religious freedom conditions worldwide, the Annual Report remains a unique—and crucial—reporting tool. In addition to providing a detailed description of country conditions, IRFA requires that the Annual Report fully describe the active steps the U.S. government is taking or has taken to promote religious freedom and to respond to religious freedom violations in all countries where such violations occur.

The Annual Report continues to be an important achievement that consistently demonstrates the substantial efforts of the foreign-service officers in our embassies around the world, as well as the Ambassador at Large for International Religious Freedom and his staff at the State Department's Office of International Religious Freedom. The 2005 Annual Report was no exception.

Individual Country Reports

As in the past, many of the individual country reports in the 2005 Annual Report were excellent—thorough and accurate. However, the Commission is concerned about a number of informational inaccuracies and troubling conclusions in several important reports.

Although the achievements that have occurred in **Afghanistan** since the institution of the government of President Hamid Karzai should be recognized, the Commission continues to find that the Afghanistan country report does not adequately address the problems faced by individual

Muslims in that country, as a result in part of the insufficient protection for freedom of religion and other human rights afforded to individual Muslims in the constitution passed in January 2004. These constitutional pitfalls, including the repugnancy clause that states that "no law can be contrary to the beliefs and provisions of Islam" and the fact that the Supreme Court is empowered to make this determination, have negatively influenced other legislation also, including legislation on press freedom. The report did mention that the vagueness in the wording of the clause prohibiting materials "offensive to Islam" in the press law could lead to potential abuse, but it did not give sufficient weight to the significance of this problem.

Events in the past year have demonstrated that these concerns are not merely theoretical, as several very troubling cases exemplifying the constitution's inadequacies came before the courts. In one case, an editor was found guilty of blasphemy and "insulting Islam" for questioning discrimination against women and the use of certain harsh punishments under traditional Islamic law. He was eventually released, but only after apologizing to the court for his "crime." In another incident, an Afghan citizen was arrested and threatened with execution on the charge of changing his religion. In this case, too, the court eventually 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 both cases, the essential problem was only side-stepped and not resolved. Clearly, despite some of the advances there in democratic development, it remains clear that today in Afghanistan, protections for human rights and democracy remain under threat from sources of religious extremism, even from within the Afghan government.

The report on **China** was quite positive about the new National Regulations on Religious Affairs implemented in March 2005, saying that they have the "potential to improve respect for religious freedom, to enhance legal protection for religious groups, and to strengthen the process of governing religious affairs according to law." The Commission believes that the Regulations do include several provisions that may be important advances for religious freedom in China.

However, contrary to the impression left by the report, the Regulations are not the "paradigm shift" promised by Chinese officials. In fact, given the vague and sometimes contradictory language of the Regulations, the Commission believes that they do not adequately protect the human rights and security of religious adherents and are not fully consistent with international norms. For example, permission is now required for a number of commonplace religious activities, including holding meetings outside a place of worship, inviting a special speaker or teacher, printing religious material, or instituting a change in leadership. The Regulations also threaten criminal punishments and civil fines for "unregistered" religious activities. In fact, at the time of the Annual Report's publication, "unregistered groups" had reported increased harassment, arrests, and detentions since the Regulations were implemented. From March 2005 to the time of the Report's release, there had been four large scale arrests of "house church" Protestant leaders, apprehending over 500 religious practitioners, arrests that were noted in the report.

Second, the China report tended to focus the primary blame for religious freedom abuses on "local officials" in China. Although the Commission continues to recognize as a result of its recent visit that religious freedom conditions do vary from province to province, it is

unmistakable that recent campaigns to "halt foreign influence," "strike hard against religious extremism," "stamp out evil cults," "promote atheism," and "eliminate the influence of the Dalai Lama" have all emanated directly from Beijing and are approved by top Communist Party leaders. Furthermore, Commissioners observed that local officals referred (and deferred) to central authorities regarding the policies they follow. Clearly, religious freedom abuses do not stem only—or even primarily—from local corruption or provincial officials misinterpreting the law.

The Commission welcomes the inclusion of a country report on **Iraq** in this year's Annual Report. The report offered a thorough summary of religious freedom conditions in Iraq and highlights areas of particular concern. However, in addressing religious freedom violations, the report tended to classify all abuses as stemming from "terrorist organizations," a generalized term that conflates the various groups in Iraq that seek to impose Islamic rule with terrorist groups that support the insurgency, and plays down the support the former may have in Iraq, particularly within the provincial and municipal government structures. For example, the report failed to mention the deteriorating situation in Basra, where local Islamic groups—not connected to the insurgency—are imposing a strict version of Islamic law that has resulted in human rights violations as severe as extra-judicial killings. The report made no mention of the implications of these developments for religious freedom in Basra, its surrounding areas, and Iraq more generally. In addition, though the report noted that Law No. 105 of 1970 prohibits the Baha'i faith, it failed to make clear if any efforts had been made on the part of the U.S. government to encourage the Iraqi government to repeal this discriminatory law. The report also did not mention other difficulties faced by the the Baha'i community, including the fact that the Baha'i faith cannot currently be listed as a religion on Iraqi national identity cards. Finally, the report omitted mention of religiously motivated attacks targeting the Roma and Sufi Muslim communities in Iraq.

The **Russia** report provided a wealth of information on the complex status of religious freedom in that country, including more attention to a wider range of religious groups. Yet, the report should have drawn more attention to the increasingly troubling situation faced by the country's largest religious minority: Muslims. Thus, while it gave admirably detailed coverage of the recent legal problems of the Jehovah's Witnesses and the Church of Scientology, no mention was made of a secret Supreme Court decision which outlawed 15 Muslim organizations for alleged ties to terrorism. This secret decision reportedly has led to the prosecution of several hundred Muslim individuals and groups in various parts of Russia, based on accusations that human rights groups in Russia consider unsubstantiated. In addition, Muslims increasingly face instances of workplace and other discrimination and widespread media attacks.

The report on **Saudi Arabia** was more comprehensive than in previous years, highlighting the problems of the Shi'a population and non-Muslim guest workers. However, as in past years, the report disturbingly continued to omit any mention of the Saudi export of a highly intolerant and hate-filled ideology, despite the fact that this issue was mentioned publicly by the Ambassador at Large for Religious Freedom and other U.S. officials on several occasions during the past year. The subject was also mentioned at the press conference releasing the 2005 Annual Report.

One of the most troubling country reports in the 2005 Annual Report was the report on **Turkmenistan**, which made the startling claim that "the status of Government respect for religious freedom improved during the period covered by this report." Even more disturbing was that Turkmenistan was listed in the Executive Summary as one of the countries which had seen "significant improvements in the promotion of religious freedom." This conclusion seemed to contradict the State Department's recent human rights reports, which clearly state that the government's human rights record remained "extremely poor," and that the government continued to commit "serious abuses." The claim of the 2005 Annual Report was also regarded as erroneous not only by the Commission but by most human rights organizations and other expert observers of Turkmenistan. Indeed, a number of U.S. and international human rights organizations issued a statement when the report was released expressing their strong objection to the report's assessment of the situation in Turkmenistan and providing details of other inaccuracies in the Turkmenistan report.

The conclusion of the Annual Report was based largely on the Turkmen government's recent registration of nine extremely small religious communities, even though their registration has not ended police harassment and tight government control of them and other groups. The report argued that these insignificant improvements—on paper—for these small groups overshadowed the worsening situation for the country's majority religious group, the Muslims. The report also did not mention the growing problems for the Russian Orthodox Church, the country's second largest group. Even more troubling, however, was that the report did not devote sufficient attention to President Niyazov's quasi-religious, all-pervasive personality cult. The report did not mention the Turkmen government's refusal to respond to repeated requests by the UN Special Rapporteur on Freedom of Religion or Belief for an invitation to visit Turkmenistan. Moreover, at the event marking the report's release, the Ambassador at Large claimed that all religious prisoners in Turkmenistan had been released; yet the report noted that the former Grand Mufti remains incarcerated for his refusal to elevate the Turkmen president's book of "spiritual thoughts" to equal prominence with the Quran.

The 2005 Annual Report claimed that the status of religious freedom had also improved in **Vietnam** over the course of the past year. It is true that after Vietnam was designated as a CPC in 2004, the Vietnamese government released some prominent religious prisoners and issued new ordinances regarding religion. It also made promises to improve conditions for its ethnic and religious minorities—promises that, at the time of the Report's publication, however, had not yet been translated into concrete changes.

In fact, after the public announcement of a May 2005 binding agreement on religious freedom concerns between the United States and Vietnam, reports about restrictions and other abuses continued to surface, particularly against the country's religious and ethnic minorities. In congressional testimony in June 2005, the Commission described evidence of forced renunciations of faith occurring in the northwest provinces and central highlands. Although the State Department stated that "a few" such renunciations occurred in the last year, the Commission submitted 21 police summons to the International Relations Committee from only one community in Vietnam. What is more, the Commission has reliable information on the arrests and detention of Hoa Hao and Protestant religious leaders and continued harassment of the Unified Buddhist Church of Vietnam (UBCV), all in the past year. Finally, the report also

stated that "almost all" the churches and meeting points closed in the Central Highland since 2001 had been reopened. Yet, at the time the Annual Report was published, 432 churches and meeting points reportedly remained closed in that region.

Religious Persecution and the U.S. Refugee Program

Section 601 of IRFA specifically directs that the *Annual Report on International Religious Freedom* serve as a resource for refugee and asylum adjudicators. In that sense, the Annual Report plays an important role not merely in documenting religious freedom violations, but in facilitating refuge for those who are fleeing religious persecution.

Appendix E of the 2005 report, the Overview of Refugee Policy, continued to improve, with more comprehensive coverage of religious persecution and the Refugee Program than in past years. Once again, however, the 2005 report contained little acknowledgment of the serious problem of intra-religious persecution, but instead focused almost exclusively on the persecution of religious minorities by a majority religious community. Moreover, this section contained no mention of significant refugee-source countries such as Afghanistan, Eritrea, or Iraq, where serious religious freedom problems persist. Indeed, the Secretary of State has designated Eritrea a CPC, and problems in Iraq—particularly with regard to the security of religious minority communities—are severe.

The Overview of Refugee Policy section did cite Saudi Arabia, a CPC, as well as Pakistan, which the Commission has recommended be designated a CPC, for their mistreatment of religious minorities. The Overview failed, however, to indicate how the U.S. Refugee Program has been responsive to this mistreatment.

In its Report to Congress on Refugee Admissions for FY2006, the Department of State provided a more complete description of the way in which it is facilitating access to the Refugee Program, at least for those asylum seekers who have fled CPCs. The Report to Congress is required to include such information under Section 304 of the North Korea Human Rights Act of 2004. Such information should be in the *Annual Report on International Religious Freedom* as well, even if not required by law.

The Commission does remain concerned that other refugee and asylum provisions of IRFA have been unevenly implemented. For example, Appendix D of the Report, "Department of Homeland Security (DHS) and the International Religious Freedom Act," accurately described the measures taken by the Asylum and Refugee Corps to train its refugee and asylum adjudicators in international religious freedom, as required by sections 602 and 603 of IRFA. Yet, this section made no mention of the training—if any—on international religious freedom undertaken by DHS Border Patrol agents and inspectors exercising Expedited Removal authority, even though such training is also required under IRFA. Nor did the report mention the efforts by the Department of Justice to ensure that immigration judges comply with IRFA training requirements.

The importance of such training has been underscored by positions advanced in the past year by the Department of Justice and initially adopted by the Federal Court of Appeals for the Fifth Circuit in *Li v Gonzales*. *Li* involved a Chinese Christian who claimed persecution—

including arrest, detention, beatings, loss of employment, and forced labor—for organizing an unregistered church. An immigration judge granted the asylum seeker protection from removal, finding his claim to be credible and consistent with country conditions in China. The Department of Justice Board of Immigration Appeals (BIA), on a motion from the Immigration and Naturalization Service (INS), reversed the decision and ordered that Mr. Li be removed to China. When Mr. Li appealed the decision to the Fifth Circuit, the Department of Justice continued to argue that Mr. Li should be removed because he had been subject to prosecution for violating China's religious registration laws—not persecution for his religious beliefs. The Fifth Circuit agreed with the Department of Justice.

The Commission wrote the Department of Justice to make it clear that U.S. foreign policy has long maintained that China's control over registered churches—and its prosecution of individuals like Mr. Li for engaging in "unauthorized" religious activity—are clear violations of international law with regard to freedom of religion or belief. The Departments of Justice and Homeland Security were receptive to the Commission's concerns, and the Fifth Circuit subsequently vacated its original decision. Although immigration judges are already required by IRFA to have training on religious freedom, other relevant entities are not: the BIA, the trial attorneys who work for Immigration and Customs Enforcement (ICE) in DHS, as well as those who work for the Office of Immigration Litigation (OIL) in the Department of Justice. The BIA and OIL have recently invited the Commission to participate in training its attorneys. The Commission urges ICE to do the same. To ensure that they are fully informed about and sensitive to the ways in which individuals are in fact subjected to persecution because of religion or belief, all of these entities should make religious freedom a regular component of their training curricula, whether mandated by IRFA or not. The Commission also urges that the Departments of Homeland Security, Justice, and State better coordinate their efforts to ensure that legal positions on asylum which are advanced in court by these agencies do not set legal precedents which could undermine longstanding positions of the United States on international human rights.

Finally, section 602(b) of IRFA requires that all consular officers be trained in refugee law and policy. Although consular officers do not adjudicate refugee applications, they are authorized to refer refugee applicants to the Department of Homeland Security for adjudication, since the vast majority of asylum seekers are not permitted to apply to the Refugee Program without a referral from a U.S. embassy or the UN High Commissioner for Refugees (UNHCR). Appendix C of the Annual Report, "Training at the Foreign Service Institute Related to the International Religious Freedom Act," stated that consular training "includes a lecture on Immigrant Visa (sic) that incorporates discussion of refugee and asylum issues as they pertain to consular officers. The subject is covered in further detail in the Self-Instruction Guide (SIG) on immigrant visa processing." Based on inquiries made by the Commission, however, it appears that the only training received by consular officers relevant to the Refugee Program is on the processing of immediate relative petitions filed by refugees and asylees. Such training does not even begin to comply with the broad requirements of section 602(b).[lxii] Consequently, the Commission is concerned that consular officers remain unaware of their ability to facilitate access to the resettlement program for asylum seekers in need of protection. Once again, the Commission urges the Department of State to comply with this training requirement, which

could save the lives of bona fide refugees, particularly those who may have access to a U.S. consulate but not UNHCR.

Commission Recommendations

With regard to the State Department's *Annual Report on International Religious Freedom*, the Commission has recommended that:

- the State Department should expand and strengthen its reporting on specific U.S. policies and actions to advance religious freedom;

- the Annual Report should describe the policies that the U.S. government has adopted and is implementing to oppose religious freedom violations, as well as to promote religious freedom, on a worldwide, regional, and individual country basis, including policies regarding foreign aid, public diplomacy, multilateral organizations, and international financial institutions;

- the Annual Report should specify, for each foreign country in which religious freedom violations occur: the U.S. government's objectives to advance religious freedom; U.S. policies that have been adopted and are being implemented to advance religious freedom; the religious freedom concerns that the U.S. government has raised with the foreign government, and the response of that government, including any specific actions taken; and the results, or lack thereof, of the actions taken by the U.S. government;

- the State Department should describe in the Annual Report the specific actions taken pursuant to the International Religious Freedom Act in response to the designation of a country as a "country of particular concern" (CPC) or in response to a finding that a foreign government has engaged in or tolerated a violation of religious freedom;

- where appropriate, activities designed to promote rule of law, effective law enforcement, and accountability for religious freedom and related human rights violations should be a significant component of U.S. efforts to promote religious freedom, and they should be described in the Annual Report; and

- the Annual Report should describe in detail what measures have been taken to facilitate access to the U.S. Refugee Program for individuals fleeing from countries where religious freedom violations occur, including from countries designated as CPCs.

[lxii] Section 602(b) of IRFA holds that "(t)he Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer…."

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 and other freedoms 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."[lxiii] 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.[lxiv]

Countries of Particular Concern: Commission Recommendations

One of the Commission's chief responsibilities in the process of promoting religious freedom as required by IRFA is to draw the U.S. government's attention to those countries whose governments have engaged in or tolerated systematic and egregious violations of religious freedom and recommend that they be designated as CPCs. The designation of CPCs not only puts a spotlight on those countries where the most severe violations take place, but also lays the groundwork for important decisions in U.S. relations with these countries.

As required by IRFA, the Commission has assessed the facts and circumstances regarding violations of religious freedom around the world. As a result of this review process, and in furtherance of the Commission's statutory responsibility, the Commission wrote to Secretary of State Condoleezza Rice in May 2006 recommending that she 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**.

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
Vietnam	Vietnam	
	Pakistan	
	Turkmenistan	
	Uzbekistan	

Re-Designation of Severe Religious Freedom Violators

In September 2005, Secretary Rice re-designated **Saudi Arabia**, **China, North Korea, Sudan, Iran, Vietnam, Eritrea,** and **Burma** as CPCs. The Commission concluded that there have been no changes substantial enough to warrant the removal of these eight countries from the list of CPC designations.

- Despite the Department's contention in its 2005 religious freedom report that there were some slight improvements in Saudi government efforts to foster religious tolerance in Saudi society, the report again concluded that freedom of religion "does not exist" in **Saudi Arabia**. The Commission also finds that there is no religious freedom in Saudi Arabia. The government of Saudi Arabia persists in banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam and forcefully represses private religious practice. The government also continues to be involved in financing activities throughout the world that support extreme religious intolerance, hatred, and, in some cases, violence toward non-Muslims and disfavored Muslims.

- In **China**, where the Commission made its first official visit last year, the government continues to be responsible for pervasive and severe violations of religious freedom and related human rights. Every religious community in China is subject to serious restrictions, state control, and repression. The most severe religious freedom abuses are directed against Tibetan Buddhists, Uighur Muslims, Roman Catholics, house church and unregistered Protestants, and spiritual groups such as the Falun Gong—abuses involving imprisonment, torture, and other forms of ill treatment. Though the Chinese government issued a new Ordinance on Religion in March 2005, its provisions, in fact, restrict rather than protect religious freedom, offering Party leaders more extensive control over all religious groups and their activities. Prominent religious leaders and others continue to be confined, imprisoned, tortured, "disappeared," and subjected to other forms of ill treatment on account of their religion or belief. What is more, the Chinese government, in its treatment of refugees from North Korea, continues to disregard its international obligations to protect those who face persecution on their return. For more information on all of these concerns, see the chapter on the Commission's visit to China in this report.

- There are virtually no personal freedoms in **North Korea** and no protections for universal human rights. In pursuit of absolute control of all facets of life, the government under dictator Kim Jong Il has created an environment of fear in which dissent of any kind is not tolerated. Freedom of thought, conscience, and religion or belief does not exist, as the government severely represses public and private religious activities and maintains a policy of tight control over government-sanctioned religious practice. As confirmed by the Commission's important new study based on interviews with North Korean refugees, religious belief of any kind is viewed by the government as a potential competitor to the forcefully propagated cult of personality centered on Kim Jong Il, and his late father, Kim Il Sung. In the past several years, North Korean government officials have arrested, imprisoned, tortured, and sometimes executed those discovered engaging in clandestine religious activity.

- In **Sudan**, which the Commission visited earlier this year, an authoritarian government that has pursued coercive policies of Arabization and Islamization resulting in genocide severely restricts the religious freedom and other universal human rights of an ethnically and religiously diverse population. Sudanese security forces, and the senior officials responsible for their actions, have not been held to account for the human rights abuses committed during Sudan's North-South Civil War, most of whose victims 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, during its trip to Sudan, the Commission found that peace in Sudan is very fragile and that there are serious problems with implementing the CPA, including its arrangements for the protection of human rights. The CPA has not yet resulted in significant changes in practice in government-controlled areas of the North, where government agencies continue to harass and discriminate against Christians, other non-Muslims, and Muslims who dissent from the government's views. In prisons and vagrant camps, non-Muslims are pressured to convert to Islam. Apostasy is legally punishable by death. Permission to build churches is routinely denied. The government's actions with regard to the continuing genocide in Darfur, as well as its failure to cooperate with the Security Council-mandated investigation by the International Criminal Court of alleged war crimes, impugns the

commitment of Sudanese leaders to support human rights guarantees. What is more, at least some elements in the Sudanese military or security services that remain in the South may be aiding the Lord's Resistance Army, a Ugandan rebel group notorious for its brutal human rights abuses and known to have received safe haven and other support from Khartoum in the past.

- The government of **Iran** engages in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions. Over the past year, the Iranian government's poor religious freedom record deteriorated, especially for religious minorities and for Baha'is and Jews in particular. All minority groups faced intensified harassment, detention, arrests, and imprisonment. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and, in some cases, imprisonment of, and physical attacks against, members of such groups indicate a renewal of a level of oppression not seen since the years after the 1979 revolution. President Ahmadinejad's repeated threats to destroy Israel and denials of the Holocaust have intensified fears among Iran's Jewish community. Dissidents and political reformers continue to be imprisoned on criminal charges of blasphemy and criticizing the nature of the Islamic regime.

- The government of **Vietnam** continues to harass, detain, imprison, and discriminate against leaders and practitioners of all religious communities. In response to its designation as a CPC, the Vietnamese government has released a number of prominent religious prisoners, re-opened some churches in the Central Highlands, officially outlawed forced renunciations of faith, and issued new guidelines to help speed the process of registration of religious congregations. Nevertheless, serious abuses of religious freedom continue to occur, particularly against Montagnard and Hmong Protestants, Vietnamese Mennonites, followers of Hoa Hao Buddhism, and leaders of the Unified Buddhist Church of Vietnam (UBCV). In addition, reports of forced renunciation of faith continue to emerge, the number of religious venues re-opened is low relative to the number that were closed, and new detentions continue to occur.

- Religious freedom conditions deteriorated in the past year in **Eritrea**, where the government continues to engage in systematic and egregious religious freedom violations. These violations include: a prolonged ban on public activities by all religious groups that are not officially recognized; closure of places of worship; inordinate delays in acting on registration applications by religious groups; disruption of private religious and even social gatherings of members of unregistered groups; arbitrary arrests and detention without charge of their members; and the mistreatment or torture of religious detainees, sometimes resulting in death. Hundreds of members of unregistered churches are believed to be detained at any given time, typically without charges, even for extended periods.

- Serious human rights abuses perpetuated by the military regime in **Burma** continue to be widespread, including systematic and egregious violations of religious freedom. According to the State Department, the Burmese government's extremely poor human rights record deteriorated in the past year, with increasing hostility directed at ethnic minorities, democracy activists, and international humanitarian agencies. The military junta uses a

pervasive internal security apparatus to monitor the activities of all religious organizations. 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 forcefully promoted Buddhism over other religions. Ethnic minority Christians and Muslims have encountered severe difficulties in recent years.

Responding to the CPC Designation

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.[lxv] 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.[lxvi]

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.

Until 2004, the Secretary of State had continually named as CPCs Burma, China, Iran, North Korea (beginning in 2001), and Sudan, countries that had been, and continue to be, subject to multiple sanctions that predate the CPC designation. Until September 2005, the only official action taken by the U.S. government with respect to the CPCs had been to invoke those already existing sanctions, rather than to take additional measures pursuant to IRFA. Until that time, as permitted by Section 402 (c)(5) of IRFA, the Secretary had determined that the following pre-existing sanctions satisfied the IRFA requirements:

Burma	22 CFR 126.1: prohibition on exports or other transfers of defense articles and defense services pursuant to §§ 2, 38 and 42 of the Arms Export Control Act.
China	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, P.L. 101-246: restriction of exports of crime control and detection instruments and equipment.
Iran	Arms Export Control Act, §40: restrictions on United States security assistance.
North Korea	Trade Act of 1974, §§402 and 409 (the Jackson-Vanik Amendment): restrictions on normal trade relations and other trade benefits.
Sudan	International Financial Institutions Act, §1621: use of the voice and vote of the United States to oppose any loan or other use of the funds of the International Financial Institutions to or for Sudan.

Last year, the State Department announced its decisions on three serious religious freedom violators, Saudi Arabia, Vietnam, and Eritrea, in fulfillment of statutory obligations outlined in IRFA. In September 2005, Secretary 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. This was the first unique presidential action to be undertaken under IRFA as a result of CPC designation. The Commission commended this action and has recommended subsequent actions that the Administration should take, in accordance with IRFA, in response to that designation.

Nevertheless, the U.S. government's continued general reliance on pre-existing sanctions has provided little incentive for the other CPC governments to reduce or end egregious violations of religious freedom. While the reliance on pre-existing sanctions may be technically correct under the statute, it is unacceptable as a matter of policy. The designation of an egregious religious freedom violator as a CPC, followed by the implementation of a clear and directed policy response, is an essential tool to promote religious freedom, and one explicitly required by IRFA. The failure to take additional action under IRFA suggests that nothing further can, or will, be done by the U.S. government with respect to those countries that commit severe violations of freedom of religion or belief. This is the case with the five countries listed above.

Vietnam: May 2005 Agreement Only a First Step

In February 2005, in accordance with its statutory obligations, the Commission wrote to Secretary Rice and recommended the following actions by the U.S. government in response to the designation of Vietnam as a CPC. In doing so, the Commission emphasized that the recommended actions were only initial steps that should be taken, in concert with diplomatic efforts at all levels, to urge the government of Vietnam to abide by its international human rights commitments and cease severe violations of freedom of religion or belief. The Commission also

recognized that IRFA authorizes more stringent actions that could be taken should severe violations continue.

1) The U.S. government should identify those Vietnamese agencies and officials who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Vietnam, rendering inadmissible for entry into the United States any Vietnamese government official who was responsible for, or directly carried out, such violations.

2) The U.S. government should dedicate no less than $1 million for FY 2005 and FY 2006, if discretionary funds are allocated to Vietnam above its annual earmark, to programs that will directly promote freedom of religion and belief and related human rights in Vietnam.

In May 2005, the State Department announced it had reached a binding agreement with the government of Vietnam, in accordance with IRFA, on steps that would be taken to improve religious freedom. The Department also said that the U.S. government would consider taking Vietnam off the CPC list if certain conditions are met. It is the Commission's view that, as of the time this report went to print, Vietnam's record on fulfilling this agreement has been mixed at best. As noted above, there has clearly not yet been enough tangible progress on religious freedom concerns in Vietnam to warrant removal of the CPC designation.

Saudi Arabia: the Need to Take Action

In its February 2005 letter to Secretary Rice, the Commission recommended the following actions by the U.S. government in response to the designation of Saudi Arabia as a CPC. As in the case of Vietnam, the Commission emphasized that the following recommended actions were only initial steps that should be taken, in concert with diplomatic efforts at all levels, to urge the government of Saudi Arabia to abide by its international human rights commitments and cease severe violations of freedom of religion or belief. The Commission also recognized that IRFA authorizes more stringent actions that could be taken should severe violations continue.

1) The U.S. government should identify those Saudi agencies and officials thereof who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Saudi Arabia, rendering inadmissible for entry into the United States any Saudi government official who was responsible for or directly carried out such violations.

2) The U.S. government should issue a proclamation, under the President's authority pursuant to section 212(f) of the Immigration and Nationality Act (8 USC 1182(f)), to bar those Saudi government officials from entering the United States who have been responsible for propagating globally an ideology that explicitly promotes hate, intolerance, and human rights violations.

3) The U.S. government should issue a demarche urging the government of Saudi Arabia to cease funding or other support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations, including the distribution of such materials in the United States and elsewhere outside of Saudi Arabia.

4) The U.S. government should order the heads of appropriate U.S. agencies, pursuant to section 405(a)(13) of IRFA, not to issue any specific licenses and not to grant any other specific authority for the export of any item on the U.S. Commerce Control List of dual-use items [Export Administration Regulations under part 774 of title 15] to any agency or instrumentality of the government of Saudi Arabia that is responsible for committing particularly severe violations of religious freedom. In FY 2004, the Commerce Department approved approximately $67 million worth of such articles for Saudi Arabia, including, for example, thumbcuffs, leg irons, shackles, and other items that could be used to perpetrate human rights violations.

In September 2005, one year after the designation of Saudi Arabia, Secretary Rice approved a temporary 180-day waiver of further action, as a consequence of CPC designation, to allow for continued diplomatic discussions with the Saudi government and "to further the purposes of the International Religious Freedom Act." The waiver expired in late March 2006. As of the time this report went to print, no action with regard to Saudi Arabia had been announced by the U.S. government. Given the extent of religious freedom violations in Saudi Arabia, the Commission urged the Secretary to consult with Congress and other parts of the U.S. government, including the Commission, during its discussions with the Saudis, and to make any agreement reached with the Saudi government public in the interest of the accountability that results from transparency. Since religious freedom conditions in Saudi Arabia have not substantially improved in the last year, the U.S. government must not hesitate in taking aggressive action as suggested above which meets the requirements of IRFA to demonstrate that it will not disregard the persistent and egregious religious freedom violations committed by the Saudi government.

Countries that Should be Added to the CPC List

In addition to the eight countries previously designated by Secretary Rice as CPCs, the Commission continues to find that the governments of **Uzbekistan**, **Turkmenistan**, and **Pakistan** have engaged in or tolerated particularly severe violations of religious freedom, and recommends that they be designated as CPCs this year.

- The overall situation for human rights in **Uzbekistan** deteriorated in the past year, particularly after the events in Andijon last May, when government troops fired on a crowd of demonstrators, killing hundreds. In addition to a restrictive law on religion that severely limits the ability of religious communities to function in Uzbekistan, the Uzbek government continues to exercise a high degree of control over the manner in which the Islamic faith is practiced. Government authorities also continue to crack down harshly on Muslim individuals, groups, and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political groups. This has resulted in the imprisonment of thousands of persons in recent years, most 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's CPC recommendation for Uzbekistan should not in any way be

construed as an exculpatory defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred of moderate Muslims, the West, Jews, and others.

- President Saparmurat Niyazov's monopoly of power and absolute control over Turkmen society render any independent religious activity impossible in **Turkmenistan**. The president is also imposing an increasingly oppressive personality cult, now effectively a state-imposed religion, that impinges on all aspects of public life in the country. Even the majority Muslim community faces repression; in July 2005, Niyazov ordered the publication of a list of religious rituals common to all Turkmens. It is reported that secret police attend mosques to identify Muslims who perform religious rites in a way that differs from this officially prescribed Turkmen practice. In the past two years, the government has made small, purportedly positive legal adjustments to the laws that restrict religious practice; however, these changes have done little or nothing to alter the overall repressive situation. The decree on registration cited in the 2005 *International Religious Freedom Report* as evidence of "improvement" in fact resulted in the registration of only nine small groups and even they report continued difficulties. Credible reports indicate that registration is becoming a method of more pervasive state control over religious communities. The Commission regrets that a few insignificant developments in Turkmenistan that in no way change the fundamental absence of any freedom, including religious freedom, enable that country to evade the State Department's designation as a CPC which it so unequivocally deserves.

- Sectarian and religiously motivated violence persists in **Pakistan**, particularly against Shi'as, Ahmadis, Hindus, and Christians, and the government's response to this problem, though improved, continues to be insufficient and not fully effective. In addition, a number of the country's laws, including legislation restricting the Ahmadi community and laws against blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. These religious freedom concerns persist amid the wider problem of the lack of democracy in Pakistan, an obstacle the current government has done little to address. The absence of any meaningful democratic reform has been exacerbated by the current government's political alliance with militant religious parties, which has served to strengthen these groups and give them influence in the country's affairs disproportionate to their support among the Pakistani people. Given the importance of Pakistan in the U.S. government's efforts against terrorism, the failure of the Pakistani government to implement genuine religious freedom reforms is a cause for serious concern.

Countries Requiring Close Monitoring: 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**, where the former Taliban regime was once designated under IRFA as a particularly severe violator, has been added to the Commission's Watch List this year, joining **Bangladesh**, **Belarus, Cuba, Egypt, Indonesia,** and **Nigeria**. The Commission is concerned about the serious abuses in these countries, and that the governments have either not halted repression and/or violence against persons amounting to severe violations of freedom of religion, or failed to punish those responsible for perpetrating those acts. The

Commission urges the Department of State to pay particular attention to the poor situation for religious freedom in these countries.

Though improved since the fall of the Taliban regime, conditions for freedom of religion or belief in **Afghanistan** became increasingly problematic in the past year. Flaws in the country's new constitution, which does not contain clear protections of the right to freedom of religion or belief for individual Afghan citizens, resulted in a growing number of criminal prosecutions and other official actions against individuals for exercising their rights. The defects in the constitution are compounded by the current role and power of the country's Supreme Court, which continues to be headed by a Chief Justice who disavowed to the Commission his support for core international human rights standards. As a consequence of his actions, a sitting Minister in the interim Afghan government was forced to resign after being charged with blasphemy for questioning the role of Islamic law in Afghanistan, journalists have been jailed on charges of offending Islam, and during the October 2004 presidential elections, a presidential candidate was threatened with disqualification for purported "anti-Islamic remarks" on women's rights and family law. 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. These developments indicate that religious extremism—even in official circles—is an increasing threat to democratic consolidation in Afghanistan. In light of the very real dangers to the U.S. goal of instituting democracy and human rights protections in Afghanistan, the Commission has decided to place the country on its Watch List. The Commission will carefully monitor the situation in Afghanistan, in whose political development the United States should remain closely engaged.

In **Bangladesh**, where the Commission traveled in March 2006, there is concern that democratic institutions and constitutional guarantees of freedom of religion continue to be threatened by the growth of religious extremism amidst the country's chronic political strife. Islamic militants have been implicated in violent attacks on politicians, members of religious minorities, particularly Ahmadis, Hindus, and Christians, authors who promote different interpretations of Islam, and non-governmental institutions promoting the empowerment of women and human rights. There is also concern that the next national elections in 2007 might result in the kind of violence seen following the 2001 elections, when Hindus were particularly targeted for attacks. Although the perpetrators of these crimes have largely gone unpunished, the Commission notes that the government's efforts to combat extremist violence have had some notable successes in the past year, including the arrests of two militant leaders, Siddiqul Islam, better known as "Bangla Bhai," and Sheikh Abdur Rahman.

In **Belarus**, violence after the March 2006 presidential elections has resulted in a deteriorating situation for all human rights. The highly authoritarian government persists in enforcing the harsh 2002 law on religion, resulting in calculated and serious regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. In the past year, the Belarusian authorities appeared to be adopting even tougher sanctions against religious leaders and others who take part in unregistered religious activity. Moreover, the government refuses to acknowledge anti-Semitism and does not prosecute those responsible for vandalism against Jewish memorials, cemeteries or other property. Anti-Semitic literature continues to be sold in government buildings, in stores, and at events directly and indirectly connected with the Belarusian Orthodox Church.

Religious belief and practice continue to be tightly controlled in **Cuba**, where the government rarely permits the construction of new places of worship. A new law on religion, adopted last year and meant to "legalize" certain religious activity, actually reinforces the government's efforts to maintain control over religious practice. Reports indicate that at least three Protestant house churches have been closed, confiscated, and/or demolished since the new law went into effect. In the past year, both registered and unregistered religious groups continued to experience varying degrees of official interference, harassment, and repression.

The Commission traveled to **Egypt** in 2004 and found that discrimination, intolerance, and other human rights violations affect a broad spectrum of religious groups in that country. Serious violations affect Coptic Orthodox Christians, Jews, and Baha'is, as well as members of minority Muslim communities. The Egyptian government has adopted some measures in recent years to acknowledge certain aspects of the religious pluralism in Egyptian society; however, more can and should be done by the government to protect the right to religious freedom, to punish those responsible for a rise in religiously motivated violence over the past year, and to combat widespread and virulent anti-Semitism and other intolerance in the media and in the education system. Just last month, three Coptic Christian churches were attacked by a Muslim man, resulting in the death of one Christian and the wounding of approximately a dozen others. Three days of rioting followed the attacks, leaving one Muslim killed and almost 40 injured.

In **Indonesia**, though the situation has continued to improve since 2002, the Commission remains concerned about ongoing sectarian violence and the Indonesian government's inability or unwillingness to hold those responsible to account; the forcible closures of worship buildings belonging to religious minorities; and the growing political power and influence of religious extremists, who harass and sometimes instigate violence against moderate Muslim leaders and members of religious minorities. In the past year, a Hindu temple was bombed in Central Sulawesi and mobs attacked an Ahmadiyah compound in West Java several times.

Despite some improvement in the past year, including more decisive government action to quell sectarian violence and address the activities of Islamic extremist groups, the response of the government of **Nigeria** to persistent religious freedom concerns continues to be inadequate. This is particularly the case with regard to an ongoing series of violent communal conflicts along religious lines; the controversy over the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims.

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.

[lxiii] IRFA § 402 (b)(1)(A).
[lxiv] IRFA § 3(13).
[lxv] The authority to make these decisions has been delegated by the President to the Secretary of State.
[lxvi] IRFA § 402(c)(5).

COUNTRY REPORTS: AFRICA

Eritrea

The government of Eritrea continues to engage in systematic and egregious violations of religious freedom. Current violations include a 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, disruption of private religious and even social gatherings of members of unregistered groups, arbitrary arrests and detention without charge of their members, and the mistreatment or torture of religious detainees, sometimes resulting in death. In February 2004, the Commission recommended that the State Department designate Eritrea a "country of particular concern," or CPC, which the State Department did in September 2004. Secretary of State Rice in September 2005 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 CPC designation. The Commission recommends that Eritrea remain a CPC.

The Eritrean government officially recognizes the Orthodox Church of Eritrea (Coptic Orthodox), Sunni Islam, the Roman Catholic Church, and the Evangelical Church of Eritrea, a Lutheran-affiliated denomination that provides an umbrella for some other small Protestant groups. 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, in particular 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 alien to Eritrea's cultural traditions and socially divisive. Government officials have also pointed to foreign or foreign-inspired Muslim fundamentalists, including Wahhabis and the Muslim Brotherhood, as seeking to radicalize Eritrea's traditional, popular Islam and thus to 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.

Jehovah's Witnesses were the first religious group to experience official persecution. For over a decade, the government of Eritrea has denied a range of government services and civil and political rights to members of this small community. Many of Eritrea's 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 by Jehovah's Witnesses as a rejection of Eritrean citizenship. In

accordance with a Presidential decree issued 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 effectively denies Jehovah's Witnesses a range of government services, including 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. 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.

Some of the government's concerns regarding religious activities are linked to real or perceived security threats, and government spokespersons have cited Pentecostals, along with Muslim extremists, as a threat 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 it is 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 suspect Christian groups is known to have engaged in or to have advocated violence.

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" faiths. 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. To date, no other religious groups have gained government registration, even though some groups submitted applications over three years ago. 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.

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 churches and suspect Muslims are believed to be detained at any given time, typically without charges, even for extended periods. Among those detained have been elderly individuals and persons in poor health. Following Eritrea's designation as a CPC,

the government's religious crackdown intensified, with a series of arrests and detentions of clergy and hundreds of others. There are credible reports that the security forces have used coercion on detainees to secure repudiation of their faith. Some religious detainees have reportedly been beaten, tortured, confined in crowded conditions, or otherwise subjected to harsh conditions resulting in death.

Government violations of religious freedom are alleged to be particularly severe in the armed forces. During the war with Ethiopia, many 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.

During the past year, even the Orthodox Church was not spared official government interference in internal church affairs. Security forces acted against reformist elements in the Orthodox Church, arresting religious activists and preventing their meetings. The government of Eritrea has also reportedly moved to tighten its grip on the highest levels of the Church. In August 2005, the Church's Synod, allegedly acting on the government's behest, stripped the Orthodox Patriarch 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.

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 first hand. 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 of State Condoleezza 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 believes 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:

  --implementation of the Constitution's existing guarantees of freedom of thought, conscience, and religion, including the freedom to practice any religion and to manifest such practice;

  --institution of a registration process for religious groups that is transparent, non-discriminatory, not overly burdensome, and otherwise in accordance with international standards;

  --prompt registration of those religious groups that comply with the requirements issued in 2002; religious groups should not be required to provide identifying information on individual members;

  --official, public action by Eritrean authorities to permit religious groups to resume their public religious activities pending registration, including reopening of places of worship closed by the ban in 2002;

  --issuance of 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;

  --release of detainees held solely on account of their peaceful religious activities; and

  --increased engagement by the Eritrean authorities with the international community regarding respect for freedom of religion or belief, including by making 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

--support for a conference that would bring together international experts, government officials, and representatives of international organizations, religious communities, and civil society to discuss international human rights standards and best practices related to a) the registration of religious organizations and b) conscientious objection to military service;

- 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[2] for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

Nigeria

The response of the government of Nigeria to persistent religious freedom concerns in that country continues to be inadequate. These concerns include an ongoing series of violent communal conflicts along religious lines; the controversy over 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 the past year, 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 these 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

[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 January 31, 2005).

12 northern Nigerian states to expand the legal application of sharia to criminal matters has continued 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.

Since President Olusegun Obasanjo came to power through popular elections in 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 have 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 most recently, in northern and southeastern Nigeria, in the wake of the controversy over depictions of the Prophet Muhammad in the Danish press (February 2006).

Ethnic and religious violence continued throughout the past year. Hundreds of people were killed, and dozens of churches and mosques destroyed, in communal violence in several towns and villages in southeastern Nigeria, the Middle Belt region, and northern Nigeria. In April and May 2005, at least 17 people were killed in the central state of Benue as a result of sectarian violence and reprisals between Muslims and Christians. From February to May 2005, in the northern state of Sokoto, at least seven people were killed and dozens injured in fighting between groups of Sunni and Shi'a Muslims. Shi'as claimed their public commemoration of Ashura was attacked in an attempt to stop their procession.

In February 2006, at least 120 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. The reports of human rights groups and others indicate that both Muslim and Christian groups initiated attacks on the other and responded with reprisal attacks. 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 have since been arrested. In early March, the Nigerian Information Minister stated publicly that there are 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."

President Obasanjo has been criticized both inside and outside Nigeria for not responding more decisively to religious violence and the communal tensions brought about by the sharia controversy. He has primarily played a mediating role, stressing political negotiations rather than ordering the government to intervene to stop or prevent further violence. Moreover, many Christians and Muslims have been identified as perpetrators of violence over the years, but very few, if any, have been prosecuted or brought to justice. In fact, security and police forces have sometimes been accused of using excessive force, including extrajudicial killings, to curb communal violence. In an unprecedented admission, in August 2005, President Obasanjo stated publicly that the Nigerian police force had been guilty of torture and extrajudicial killings in

numerous instances, and vowed to enforce adherence by police to international human rights standards. After her visit to Nigeria in February-March 2005, the UN Special Rapporteur on Freedom of Religion or Belief 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."

Since October 1999, 12 northern Nigerian states have extended or announced plans to expand the application of sharia in the state's criminal law. 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, oftentimes after trials that fall short of basic international legal standards. Defendants have limited rights of appeal and sometimes no legal representation. Women have faced particular discrimination under sharia, 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. Some states have instituted or tolerated, as a result of these imposed codes, discriminatory practices disadvantaging women in education, health care, and public transportation. 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 Katsina – have sanctioned quasi-official *Hisbah* (religious police) to enforce sharia violations.

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. No stoning punishments have been carried out as of the time of this report. Nevertheless, sentences involving amputation and flogging have been carried out in recent years. Although no amputations have taken place in the past year, several cases of this kind are in the process of appeal, or awaiting sentencing. There are pending amputation and/or stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states.

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 stoning and amputation do constitute 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 has incited, 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 religious institutions, access to education and state-run media, representation in government bodies, and government employment. In August 2005, there were reports of the forcible closure by local police and the *Hisbah* of 15 churches in Kano state. 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.

Over the past few years, there have been an increasing number of small, vocal Muslim groups in northern Nigerian 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 of Nigerian society, regardless of religious affiliation. In late 2003 and early 2004, a wave of extremist activities, including attacks on police stations and churches, resulted in at least 18 deaths in Yobe state in northeastern Nigeria. A group of about 200 young militants killed two policemen and seized guns and ammunition. Police responded by killing dozens of militants. A UN press report stated that a Sudanese man was arrested for spearheading the insurrection and that the Islamic foundation he headed, which builds new mosques in Nigeria, was funded by Saudi nationals. The man who heads the militant group reportedly fled to Saudi Arabia. Similar militant activity, resulting in more than a dozen deaths and kidnappings of Christians, continued in late 2004 in Borno and Jigawa states. In a positive development, in the past year, 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.

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 strict 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 have brought back with them a politico-religious ideology that explicitly promotes hatred of, and violence against, non-Muslims.

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. In addition, 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.

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 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;

  --ensuring that sharia codes, where applied, 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;

  --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;

  --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 require 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;

  --expand in northern Nigeria the American Corners program; and

  --sponsor several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights, targeting 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 identifying and 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, 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; and

- 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.

COUNTRY REPORTS: EAST ASIA

Burma

Serious human rights abuses perpetuated by Burma's military regime continue to be widespread, including systematic and egregious violations of religious freedom. According to the State Department's 2005 Country Reports on Human Rights Practices, the Burmese government's extremely poor human rights record deteriorated in the past year, with increasing hostility directed at ethnic minorities, democracy activists, and international humanitarian agencies. 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. In the past year, the SPDC moved the country into a position of further isolation by transferring the capital from Rangoon to a remote provincial city of Pyimma, telling diplomats that they could reach the new government capital only by fax. 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 forcefully promoted Buddhism over other religions. Ethnic minority Christians and Muslims have encountered the most difficulties in recent years.

The SPDC remains locked in a decades-long conflict with the pro-democracy opposition in the cities and armed groups of ethnic minorities in the countryside. The military junta continues to be suspicious of all organized, independent religious activity, in part because some clergy and followers of Buddhism and members of minority religions are politically active in opposition to the regime. This includes persons from among the ethnic minorities, for whom religion is often a defining feature. There have been some attempts in recent years to reach peace accords with armed militias and produce a "Seven-Step Roadmap to Democracy," but these efforts have not produced an improvement in the overall conditions for human rights, including religious freedom, in Burma. In fact, renewed 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. Because opposition political parties have been excluded from the roadmap process, religious leaders suspected of supporting the National League for Democracy (NLD) or those critical of SPDC policies have been harassed, arrested, and detained.

Members of minority religious groups, especially Muslims and Christians, face serious abuses of religious freedom and other human rights by the military that continued in the past year. 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 serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries. In January 2006, military forces

destroyed a fifty foot cross on a hillside in Chin State and forced Christians to erect Buddhist shrines in its place.

Tensions between the Buddhist and Muslim communities has resulted in outbreaks of violence over the past several years, some of it instigated by Burmese security forces against ethnic minority Muslims. In 2003, Buddhists attacked shops, restaurants, and homes owned by Muslims in Irrawaddy Division. In 2004, at least seven Muslims were killed and two mosques destroyed in Mandalay. 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 addition to violence, overt discrimination against Muslims, particularly ethnic Rohingya Muslims, is widespread and severe. The government has denied citizenship to Rohingya Muslims on the grounds that their ancestors allegedly did not reside in the country prior to British colonial rule. Without citizenship, Rohingya face restrictions on their freedom of movement. They also may not be able to own property legally or reside in certain townships or attend 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. Enforcement of this policy 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.

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 children to Islam by offering private courses. Additionally, in Rangoon, eight Muslims were arrested for holding prayers at the home of a local imam. They remain detained, pending trial. Authorities also forbid ceremonies for Eid al-Adha in Rangoon.

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 and among Protestants in Karen state. In Rangoon in 2001-2002, authorities closed more than 80 Protestant house churches because they did not have proper authorization to hold religious meetings. Few of these churches have since been reopened. Additional reports of church closings in Rangoon have been received within the last year.

Among the Chin and Naga ethnic minorities, there are credible reports that government and military authorities made active efforts to convert Christians to Buddhism. The State Department's 2004 *Annual Report on International Religious Freedom* reported that under the guise of offering free education, local officials have separated children from their parents, with

the children instructed to convert to Buddhism without their parents' knowledge or consent. However, Christian groups reported that these measures decreased in the past year. 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. Among Naga Christians, refugees leaving Burma report that members of the army, together with Buddhist monks, closed churches in local villages and attempted to force adherents to convert to Buddhism.

In addition to 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.

The SPDC shows public preference for Theravada Buddhism; however, even the majority Buddhist religion is not immune from government repression. According to the State Department's 2005 human rights report, members of the Buddhist "sangha" are 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. Military commanders retain jurisdiction to try Buddhist monks in military court for "activities inconsistent with and detrimental to Buddhism." Over the past several years, monks and nuns have been defrocked or imprisoned, and an estimated 300 monks and novices remain incarcerated.

The government also prohibits all monks from being members of a political party. Since the 1990s, some Buddhist monks have been active in the pro-democracy movement, resulting in the imprisonment of more than 100 Buddhist monks for advocating democracy and encouraging dialogue between the government and pro-democracy forces. The number of Buddhist clergy in prison for supposed political activity has risen since May 2003, 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 March 2005, Senator Gordon Smith introduced S. Res. 91, a resolution to urge the European Union (EU) to maintain its arms embargo on China. The resolution cited Commission findings on the role of the Burmese military in perpetuating religious and ethnic conflict in that country, in which China has played a role as a key supplier of weapons materials. The resolution, using language suggested by the Commission, also recommended greater cooperation between the EU and the United States to bring "a permanent and verifiable end to the ongoing proliferation by state and non-state owned entities and individuals of the People's Republic of China of munitions materials, and military equipment and trade in such items involving countries, such as Burma and Sudan, whose armies have played a role in the perpetration of violations of human rights and of humanitarian law against members of ethnic and religious minorities."

In 2005, Commission staff met with exiled Burmese ethnic and religious leaders, including Buddhists, Christians, and Muslims, and with members of congressional and international delegations that visited Burma.

In addition to recommending that Burma be designated as a CPC, the Commission has recommended that the U.S. Government should urge the government of Burma to:

- halt the arrest and detention of persons solely on the basis of religion or belief and immediately and unconditionally release any person who has been detained for the peaceful exercise of the right to religious freedom, including an estimated 300 Buddhist monks and novices;

- publicly and officially order security forces to end violations of religious freedom, including compulsory contributions by non-Buddhists to the construction of pagodas, the closure of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forcible promotion of Buddhism among ethnic minorities, and forced renunciation of belief;

- end policies of forced eviction from, followed by the confiscation and destruction of, Muslim and Christian properties, including mosques, churches, religious meetings points, schools and cultural centers;

- end 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 invite international technical assistance to help draft laws that conform to international legal standards on these matters;

- end the use of forced labor and the use of children and members of religious minorities as porters or military labor, and actively enforce 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;

- accept 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;

- allow unrestricted access of independent human rights monitors and humanitarian aid organizations to all parts of Burma;

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

- immediately and unconditionally release National League for Democracy Chairman Aung San Suu Kyi and engage in meaningful dialogue with the democratic opposition leading to a peaceful transition to civilian rule.

China

The Chinese government continues to engage in systematic and egregious violations of freedom of religion or belief. Although the number of professed religious adherents has expanded in recent years, conditions for religious freedom have nevertheless remained poor. Moreover, ongoing efforts to implement certain legislative and economic reforms have not rectified the fundamental failures in the legal system that perpetuate religious freedom abuses. Chinese government officials continue to control, monitor, and restrain the activities of all religious communities, including Uighur Muslims, Tibetan Buddhists, various spiritual movements such as the Falun Gong, "underground" Roman Catholics, and "house church" Protestants. Prominent religious leaders and laypersons alike continue to be confined, tortured, "disappeared," imprisoned, and/or subjected to other forms of ill treatment on account of their religion or belief. Since 1999, the Commission has recommended that China be designated as a "country of particular concern," or CPC. The State Department has followed the Commission's recommendations and named China a CPC.

In August 2005, a Commission delegation made an unprecedented two-week visit to China to engage senior government officials on Chinese policies and practices relating to religious freedom. The trip followed three years of diplomatic effort by the U.S. government. 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, Chinese policy toward unregistered religious communities, and other matters relating to freedom of religion or belief, as well as the condition of North Korean asylum-seekers in China. The Commission also raised specific cases of concern with law enforcement officials. For a full discussion of this visit, see the chapter entitled, "China: Commission Makes First Official Visit" in this report.

In March 2005, the Chinese government promulgated the National Regulations on Religious Affairs, which replaced previous regulations issued in 1994. Though Chinese leaders heralded the regulations as "a significant step forward in the protection of religious freedom," the bulk of the regulations in fact codify provisions previously scattered through several sets of laws, ordinances, and regulations. Provisions in the 2005 regulations specify conditions with which registered religious organizations must comply in order to gain permission to provide social services in local communities, accept donations from overseas, and host inter-provincial religious meetings. Several of the protections laid out in the new regulations, such as the protection of "normal" religious activities, safeguards of religious properties, and democratic election for management committees of religious venues, have been part of Chinese law for several years. Yet, these provisions in the past have failed adequately to protect religious organizations from harassment, intimidation, and interference from state authorities.

After studying the matter, consulting with experts, and discussing the issue in China, the Commission concludes that the new regulations were issued in large measure to regularize the management of religious affairs, thus offering Party leaders more extensive control over all religious groups and their activities. Under the new rules, success with regard to implementation

is measured according to the number and proportion of unregistered religious organizations and sites that local officials can succeed in bringing into the structure of officially registered religious groups. Any religious activity outside this official structure is illegal and subject to restriction. Local Religious Affairs Bureaus (RAB) pressure unregistered groups to become registered or to merge with existing registered groups. Groups that persistently resist pressure to register have been shut down and their leaders detained or fined, and in some cases, made to face criminal prosecution.

In practice, the process for registration requires religious groups to affiliate with one of the seven government-sanctioned "patriotic religious organizations." Some groups have resisted such an affiliation due to requirements that they 1) provide the government with the names and contact information of their congregants; 2) receive approval from the relevant patriotic religious organization on leadership decisions; and 3) inform that organization about religious activities and programs. Some religious leaders also report that the patriotic religious organizations sometimes interfere in doctrinal decisions and require them to refrain from teaching on certain subjects or presiding over certain religious rituals. Officials from China's State Administration on Religious Affairs have remarked that while religious organizations and religious venues are required to register, registration is not necessary for small groups of families and friends meeting to worship in private homes. During its visit to China in August 2005, the Commission received varying answers from numerous officials regarding the definitions of what would constitute "small groups of families and friends." Some officials stated that only larger groups and groups that meet on a regular, permanent basis would be required to register; however the criteria continues to be vague, and individuals have still been detained because of worship ceremonies conducted in unofficial settings.

Within the last two years, Chinese leaders have continued a campaign to root out what they view as "foreign infiltration," a campaign that has, in some cases, targeted religious organizations that attempt to maintain affiliation with co-religionists abroad, although such contact is specifically affirmed in the UN Declaration on the Elimination of Intolerance. The campaign originates from Politburo level leadership and has been carried out more intensively in areas with a greater presence of unregistered religious activity and in certain ethnic minority areas, such as the Tibet Autonomous Region (TAR) and the Xinjiang Uighur Autonomous Region (XUAR). In fall 2005, reports indicated that Chinese officials considered the case against Protestant house church Pastor Cai Zhuohua, discussed further below, an important part of the campaign to root out "foreign infiltration."

In the largely Muslim XUAR, freedom of religion or belief continues to be severely curtailed by the government, which often conflates peaceful Uighur political opposition with violent separatist activities, extremism, and/or terrorism. The already poor situation deteriorated further in the past year, as a campaign against "terrorism, separatism and religious extremism," perpetuated through orders originating from China's Politburo, targeted politically, socially and religiously active members of Uighur society. Since September 11, 2001, the government has used concerns about international terrorism as a pretext to monitor and control Muslim religious activities. 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." Some religious leaders and activists who attempt to

publicize these and other abuses have received prolonged prison terms, or even death sentences, on charges of "separatism" and "endangering social order." All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces maintain a dossier on them to make sure they meet political requirements.

In response to concerted and persistent pressure from the U.S. and European Union governments, Chinese authorities released Uighur businesswoman Rebiya Kadeer in March 2005. Kadeer was arrested in 1999 for trying to deliver a letter to a visiting staff delegation from the U.S. Congressional Research Service. The letter was critical of the Chinese government's policies in Xinjiang, including its suppression of Islam. Since Ms. Kadeer's exile, her family members in Urumqi have been harassed and placed under surveillance. Two of her business associates were taken into custody in June 2005. The authorities have charged the two with tax evasion but have presented no evidence that any crime was committed. In August 2005, Wang Lequan, Chairman of the XUAR and Member of the Chinese Politburo, accused Ms. Kadeer of meeting with terrorist organizations in a plot to sabotage the upcoming celebration of the fiftieth anniversary of the XUAR.

During the Commission's visit to China in August 2005, religious affairs officials in Xinjiang confirmed to Commissioners the existence of a policy that forbids minors from participating in any religious activity before completing nine years of compulsory education. During that same month, human rights groups reported that Aminan Momixi, a woman in a rural area of Xinjiang, was arrested and detained for holding religious classes for 37 students in her home. 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, and observing Ramadan, as well as wearing head coverings, and are reportedly subject to fines if they attempt to do so.

The Chinese government retains tight control over religious activity and places of worship in the TAR. The religious activities of monks and nuns are highly controlled, monasteries are administrated by government-approved management committees, and the Communist Party insists in approving the selection and training of reincarnate lamas. 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. There have been some high-profile early releases or reduced sentences of Tibetan Buddhists in the past several years. In February 2004, authorities released Phuntsog Nyidron, a nun who had been held in Drapchi Prison since 1989. Phuntsog Nyidron remained under constant surveillance and her freedom of association was extremely limited until she was permitted to leave Tibet for the United States in March 2006. Nevertheless, neither recent prisoner releases nor renewed contact between China and the Dalai Lama's epresentatives have brought any significant changes to the government's overall policy of strict control over religion in Tibet.

The Chinese government continues to deny repeated international requests for access to the 17-year old boy whom the Dalai Lama designated as the 11th Panchen Lama. Government officials have stated that he is being "held for his own safety," while also claiming that another boy, one of their choosing, is the "true" Panchen Lama. In January 2003, 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 evidence used to convict Tenzin Delek would be reviewed by the Supreme People's Court. After more than two years, the case has never been reviewed, though Tenzin Delek's death sentence was commuted to life imprisonment in January 2005. Additionally, Pawo Rimpoche, a reincarnate lama recognized by the Karmapa Lama in 1994, remains under strict surveillance and is not permitted to leave his monastery.

Reports indicate that official campaigns to promote "patriotic education" in Tibet, and especially in Lhasa, have intensified in the past year. In July 2005, 18 monks were expelled from Sera Monastery in Lhasa for refusing to participate in "patriotic education" sessions. Additionally, 40 nuns were expelled from Gyarak Nunnery in October for similar reasons. In November, five monks from Drepung Monastery in Lhasa were arrested and detained after they, along with several other monks, refused to renounce their loyalty to the Dalai Lama. During the Commission's visit to Lhasa, Tibetan officials in charge of religious affairs and of public security informed the Commission that although it is not illegal for citizens to possess pictures of the Dalai Lama, it is illegal to distribute them or to display them, since that could be interpreted as incitement to separatist activities. In January 2006, authorities in Shigatse Prefecture reportedly arrested Phuntsog Tsering, the chant master of Magar Dhargyeling Monastery, on charges of possessing a portrait of the Dalai Lama. In April 2005, the Tibet Information Network reported raids in a Tibetan border town in which officials reportedly entered the homes of Tibetan residents and confiscated pictures and books that contained speeches of the Dalai Lama.

Beginning with the banning of Falun Gong in 1999, the Chinese government has conducted a campaign against what it calls "evil cults" and "heretical sects." Tens of thousands of Falun Gong practitioners have been sent to labor camps without trial or sent to mental health institutions for re-education due to their affiliation with an "evil cult." Falun Gong practitioners claim that between 1,000 to 2,000 practitioners have been killed as a result of police brutality. Given the lack of judicial transparency, the number and treatment of Falun Gong practitioners in confinement is difficult to confirm. Nevertheless, there is substantial evidence from foreign diplomats, international human rights groups, and human rights activists in Hong Kong that the crackdowns on the Falun Gong continue to be widespread and violent. During the Commission's August 2005 visit, several high level Chinese government officials reiterated official support for these crackdowns and defended labeling Falun Gong an "evil cult." In the past year, a growing number of reports have surfaced regarding the re-arrest of Falun Gong practitioners who have been released after completing terms of imprisonment originating from the original crackdown in 1999 and 2000. 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 emply the group's followers.

The campaign against "evil cults" has, in recent years, expanded beyond the Falun Gong and similar groups to those religious communities that have refused to register and become part of the system of officially-sanctioned religious organizations. This campaign has targeted leaders and members of newer, as well as long-established, Protestant and Catholic groups which, for various reasons, have not registered with the government. Religious leaders have been imprisoned and followers detained and fined for "cultist activity." Many of the congregants of the unregistered South China Church, including its pastor, remain in jail facing serious charges and are allegedly subject to torture and other ill treatment in prison. In August 2005,

about 40 members of the South China Church were reportedly detained in Hubei when they met to receive religious training from expatriate co-religionists. In March 2006, 17 leaders of the Three Grades of Servant Church, which the government has labeled an "evil cult," were tried on charges of murder and fraud after authorities accused them of killing members of the Eastern Lightening Sect. Lawyers in that case claim that confessions from the 17 men were coerced through torture.

The Chinese government also continues its repression of the unregistered Roman Catholic Church in China, which maintains its allegiance to the Vatican. There are at least 40 Catholic bishops or priests under arrest, imprisoned, or detained, including 74-year old Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. Bishop Su's Auxiliary Bishop, An Shuxin, has not been seen since he was detained in 1996, although Bishop Jin of Shanghai reported to the Commission in August 2005 that he had been permitted to visit Bishop An in Hebei in 2001. In August 2004, Bishop Gao Kexian died of unknown causes in a prison where he had been since 1997. In March 2005, Bishop Zhao Zhendong of Hebei was detained along with two other priests. Their current whereabouts remain unknown. Clergy in Hebei, Fujian, and Shaanxi provinces were harassed, detained, and arrested during the past year. In November 2005, authorities in Hebei arrested six priests who serve with underground Bishop Jia Zhiguo, who himself remains under house arrest. Also in November, at least 16 nuns were beaten in Shaanxi province in attempts to prevent the demolition of a Catholic school. One of the nuns was paralyzed in the incident. In December, police reported that 11 people had been arrested and charged in the beatings, although the nuns claim that at least 40 persons were involved.

Despite tensions in some parts of the country, an ongoing effort continues for reconciliation between registered and unregistered communities of Catholics. In late 2005, at ordination ceremonies for two auxiliary bishops, one in Shanghai and one in Xian, the candidates publicly stated their allegiance to Rome during the ceremony with no reported repercussions from the government. The Vatican claims that Pope Benedict had played a role in the appointment of these two bishops, although the Chinese government refuses publicly to acknowledge such a role. In October 2005, three Chinese bishops were denied permission from the Chinese government to attend a Vatican Synod in Rome.

Conditions for unregistered Protestant groups in China remained poor during the last year. According to the State Department, in some regions of China, members of Protestant house church groups that refuse to affiliate with the national patriotic religious association on either theological or political grounds, are subject to intimidation, extortion, harassment, detention, and the closing of their churches. In the last year, the Chinese government continued to carry out large-scale raids on several meetings of house church pastors in various parts of the country. In January 2006, a well-established house church that has been meeting for several years in Beijing was raided by police. Authorities reportedly cited the March 2005 Regulations on Religious Affairs and declared the venue an "illegal religious gathering." In addition, in the past year, dozens of pastors were arrested, detained, and, in some cases, released in Hebei, Hubei, Henan, Xinjiang, and Anhui provinces. At least 15 pastors remain in custody from this series of mass arrests. In March 2006, a registered church in Henan was reportedly raided and three of its leaders taken into custody because it was conducting activities outside the framework

of an official agreement with the Three Self Patriotic Movement of Protestant Churches, considered the sole body through which Protestant congregations may worship and engage in religious activities. However, in some parts of the country, unregistered house churches with hundreds of members meet openly, with the full knowledge of local authorities. For example, in Yanbian Korean Autonomous Prefecture, Protestant leaders report that unregistered house churches are able to maintain their activities without interference from authorities.

In September 2005, house church historian Zhang Yinan was released from a reeducation-through-labor facility in Henan Province after completing his two year sentence. In the past year, Xu Yonghai and Zhang Shengqi, house church activists who had been sentenced to prison in August 2004 for sending materials on the persecution of Christians in China to organizations in the United States, were both released. However, their colleague, Liu Fenggang, who was also arrested at that time, reportedly continues to be ill treated inside the prison. The UN Working Group on Arbitrary Detention has examined the cases of Zhang Yinan and Liu Fenggang and has determined that both cases were arbitrary detentions. In November 2005, House Church pastor Cai Zhuohua received a three year sentence on charges of "illegal business" after authorities confiscated over 200,000 copies of the Bible and other religious books from his storage facility in Beijing. Three of Cai's relatives received lesser sentences in this case. In September 2005, Tong Qimiao was reportedly beaten at a public security substation in Kashgar, Xinjiang while police interrogated him regarding the activities of house churches in the region. In June 2004, a local Chinese newspaper reported that a woman, Jiang Zongxiu, detained in Guizhou for distributing Bibles, died in police custody and that her body showed signs of torture.

In November 2005, the Commission held a press conference with Members of Congress to release the Commission's findings and recommendations resulting from its August 2005 visit to China. In addition to its visit in August 2005 and its earlier visit to Hong Kong in January 2004, the Commission has carried out a number of activities on China. In November 2005, several Members of Congress released a letter urging the Chinese government to issue all necessary documents and facilitate procedures for the travel to the United States of Tibetan nun and former political prisoner Phuntsog Nyidron, with whom the Commission met in Lhasa in August. At that time, the Commission pressed the Chinese government to allow her to travel abroad to seek medical attention. The Commission was the first group to be allowed to see Phuntsog Nyidron following the UN Working Group on Arbitrary Detention in February 2004. In April 2006, Commission Chair Michael Cromartie offered remarks at a reception held by the International Campaign for Tibet to welcome Phuntsog Nyidron to the United States following her arrival in Washington in March.

In October 2005, the Commission wrote a letter to Attorney General Alberto Gonzales expressing its concern over the decision by the U.S. Court of Appeals for the Fifth Circuit in the case *Li v. Gonzales*, which involved an asylum claim by a Chinese Christian who organized an unregistered house church in China. The Commission remained active in correspondence with the Justice Department regarding this case until the court's decision was vacated in November. Detailed information about the Commission's actions on the *Li* case can be found in the chapter on "IRFA and the U.S. Refugee and Asylum Programs" in this report.

S. Res. 91, introduced in March 2005 and passed by unanimous consent in the Senate, contains Commission findings that the People's Republic of China remains a primary supplier of weapons to countries such as Burma and Sudan, where the military has played a key role in the suppression of religious and ethnic minorities.

In April 2006, the House passed H. Con. Res. 365, which urges the Chinese government to lift restrictions on and end harassment of Chinese lawyers defending individuals whose freedom of religion or belief has been violated, as well as human rights activists. The Resolution includes several of the Commission's recommendations for improving religious freedom and expanding the rule of law in China.

In addition to recommending that China be designated a CPC, the Commission offers the following recommendations concerning U.S. policy toward China.

I. Ending Human Rights Abuses in China

The U.S. government should urge the Chinese government to end severe violations of religious freedom and other 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; the detention, 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; and

- 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.

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

- fully implement the March 2005 bilateral agreement between the Chinese Ministry of Foreign Affairs and the U.S. Department of State. To this end, the U.S. government should urge the Chinese government to:

--issue a national decree guaranteeing 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 in conformity with their own convictions;

--undertake measures to ensure that this decree is implemented fully and fairly in all regions of the country and among members of all religious groups;

--provide a clear definition of "religious gatherings at home," including the circumstances under which such gatherings are required to register as religious venues; and

--determine dates for a visit to China by the new UN Special Rapporteur on Freedom of Religion or Belief, in accordance with the terms of reference required by the Special Rapporteur.

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 discussion;

- investigate allegations of abuses of power by law enforcement officials and the use of torture to extract confessions in criminal cases, including the cases raised by the Commission with the Ministry of Justice and the Ministry of Foreign Affairs, report publicly on the results of the investigations, and punish those found responsible for such abuses; 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 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 (ICP) 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.

In addition, the U.S. government should:

- appoint a new Counselor for Human Rights and the Rule of Law at the U.S. Embassy in Beijing and ensure that U.S. funded programs advance the priorities of U.S. human rights diplomacy, including the promotion of religious freedom, with China; and

- vigorously promote international human rights norms in legal reform and religious affairs by supporting:

  --programs with U.S. human rights experts and Chinese government officials, academics, representatives of religious communities, and non-governmental organizations on international standards relating to the right of freedom of religion or belief, and the importance and benefits of upholding human rights, including freedom of thought, conscience, and religion or belief;

  --programs with international human rights experts and Chinese scholars, judges, attorneys, and government officials on reforms to the Chinese criminal justice system, including planned changes in the criminal procedure code, the role of defense lawyers, and international norms on criminal justice standards; and

  --consultations between international human rights experts and Chinese officials and others on the compatibility of Chinese laws, regulations, and practices with ICCPR standards on freedom of religion or belief. These consultations should occur within the 2006 calendar year.

The U.S. Congress should authorize the State Department's Human Rights and Democracy Fund to initiate new human rights and rule of law programs on freedom of religion or belief, targeting both religious and ethnic minorities in consultation with the Commission and with the Ambassador at Large for International Religious Freedom.

III. Strengthening International Coordination for Technical Assistance Programs

The U.S. government should**:**

- encourage international coordination of internationally funded technical assistance programs in China to ensure that programs advance 1) Chinese compliance with its international human rights commitments, and 2) the objectives of the bilateral and multilateral human rights initiatives with China.

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 would be able to monitor religious freedom and other human rights conditions; and

- strengthen its efforts to highlight conditions faced by Uighur Muslims and Tibetan Buddhists by:

--addressing religious freedom and other human rights concerns in bilateral discussions;

--increasing the number of educational opportunities in the United States that are available to 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, building on 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;

--increasing the number and frequency of broadcasts in the Tibetan and Uighur languages by the Voice of America and Radio Free Asia; and

--using official U.S. delegations traveling in the region and other means to disseminate among local populations documents on international human rights standards in local languages.

V. Enhancing the U.S.-China Bilateral Human Rights Dialogue

The U.S. government should:

- ensure that congressional oversight of U.S.-China Bilateral Human Rights Dialogue is maintained by requiring the State Department to submit an annual public report to the appropriate congressional committees detailing issues discussed at the previous year's U.S.-China human rights dialogue and describing progress made toward a series of "benchmarks" specified by Congress.

VI. 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 by:

--upholding its international obligations to protect asylum seekers by (1) working with the United Nations High Commissioner for Refugees (UNHCR) to establish a mechanism to confer at least temporary asylum on those seeking such protection; (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;

--granting legal residence to the North Korean spouses of Chinese citizens and their children; and

--allowing 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;

- place a higher priority on working with China and other countries in the region to provide safe haven, secure transit, and clear resettlement procedures for North Koreans; and

- ensure that the Department of State and the Department of Homeland Security work with China, South Korea, and other countries in the region to resolve quickly the remaining technical and legal issues surrounding the resettlement of North Koreans in the United States and other countries.

Indonesia

Indonesia's transition to democracy since the end of military rule in 1998 is a notable achievement. The majority of Indonesians have embraced democracy, religious tolerance, and religious pluralism. In addition, a vibrant civil society has initiated public discussions on the nature of democracy, the separation of religion and state, women's rights, and human rights more generally. These developments have contributed to a gradual improvement in conditions for human rights, including religious freedom, over the past few years. Nevertheless, the Commission remains concerned about ongoing communal violence, the forcible closures of places of worship belonging to religious minorities, the growing political power and influence of religious extremists, and the lack of civilian control over the military. Religiously motivated violence in Central Sulawesi, the Malukus, Papua, and parts of West Java continued in the past year, including murders, bombings, and mob violence. In some of these regions, militant Islamist groups appear to operate with relative impunity. Moderate Muslim leaders and members of religious minorities face pressure, intimidation, or sometimes violence from protestors organized by extremist groups, government officials, or members of the police and military. In addition, the government continues to restrict the construction and expansion of places of worship. 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 of a variety of indigenous cultural traditions. With the end of authoritarian rule, there has been a revival of Islamic awareness and piety, once repressed by the government. The wearing of Islamic dress has re-emerged as an outward sign of devotion; the number of Islamic banks, businesses, and magazines is growing; and Islamic-themed art and fiction are becoming more popular. The role of Islam in politics and society, as well as the growth of terrorism, are discussed widely on television and radio and in numerous public fora, including during the last presidential debates. At the same time, there are also concerns that more extremist strains of Islam are finding converts, gaining political strength in some local areas, and stoking communal violence and terrorism.

Religious extremist groups in Indonesia continue to be responsible for harassment, intimidation, and acts of violence. Members of these groups intimidate judges and local officials and vandalize and destroy buildings belonging to religious minorities, including Christian churches, Hindu temples, and Ahmadiyah mosques and religious centers. In September 2005, the Islamic Defender Front (FPI) organized protests and intimidated lawyers and judges during the trial of three Christian women who were being tried for allegedly "proselytizing" to Muslim children. Through the intimidation of government officials and the instigation of mob violence, the FPI and another group, the "Alliance for Anti-Apostates," effectively closed at least 50 Protestant churches in West Java during 2005, a significant increase from the previous year; churches were burned or destroyed by mobs or closed by government officials after intense community pressure. In some cases, police did little to stop the violence and on occasion, even participated in it. In January 2005, six Hindu temples in Bali were vandalized. In March 2006, a Hindu temple was bombed in Central Sulawesi. Twice in July 2005, mobs attacked the Ahmadiyah compound in Bogor, West Java. Despite the presence of security forces, several buildings were burned. No assailants were arrested in these attacks. In September 2005, mobs attacked Ahmadiyah mosques and other property in Cianjur, West Java. Police did arrest 45 suspects in that attack and are pursuing prosecution against 12 of those arrested. However, as a purported protective measure, local government officials banned all Ahmadiyah activities in Cianjur. In March 2006, there were reports that mobs attacked the homes and private property of Ahmadiyah members in Prapan and Ketapang, Lombok. At least 132 people were expelled from their homes. In addition to violence against members of and property belonging to religious minorities, extremist groups also harass and close down nightclubs, bars, and cafes.

Attacks on Ahmadiyah religious communities followed the issuing of a *fatwa* in July 2005 by the Indonesian Ulemas Council (MUI) condemning Ahmadiyahs as "deviants" from Islam. In addition to the Ahmadiyah *fatwa*, the MUI issued religious edicts banning interfaith prayer, marriage, and inheritance, as well as the notions of pluralism, liberalism, and secularism. According to Indonesian human rights groups, the MUI *fatwas* undermined public support for projects of interfaith dialogue and public discussions on the compatibility of Islam, democracy, and human rights. Intellectuals, scholars, and activists engaging in these activities have been intimidated and their lives and property threatened. Though the MUI is not a government entity and its *fatwas* do not carry the force of law, the Indonesian government has not publicly addressed the MUI edicts or distanced itself from their content. However, the Indonesian government has consistently refused calls for an outright ban on the Ahmadiyah religion and publicly supports constitutional guarantees to freedom of religion for that community.

The Indonesian government continues to restrict the construction and expansion of houses of worship. In the past, Joint Ministerial Decree 1/1969 ("Regulation on Building Houses of Worship) required "community approval" for the expansion of existing or the building of new religious venues. In areas where Christians, Hindus, or Muslims were the minority, new building permits were often difficult, if not impossible, to obtain. In addition, in some places, extremists pressured local government officials to revoke permits of longstanding places of worship and destroyed those operating without permits. In response to public criticism, the Ministry of Religious Affairs issued a new Decree (Joint Ministerial Decree 1/2006), which appears to impose new restrictions and make it even more difficult to obtain a permit. In replacing the

vague "community approval" standard, the new decree requires religious groups with 90 or more members to circulate a petition and get 60 local residents to support the building or expansion of their religious venue. The petition then has to gain majority approval from both district and provincial panels of religious leaders. The membership of the panels will be chosen proportionally by the number of religious adherents in the region.

Protestant and Buddhist leaders oppose the measure because many of their religious venues have fewer than 90 members. Other religious leaders believe that extremist groups will intimidate anyone who signs his or her name to a public petition. In addition, critics of the new decree argue that the proportional membership of the district and provincial panels does not protect the rights of religious minorities and opens the permit process to corruption. Muslim leaders are divided about the new decree's impact. Hazim Muzadi, head of the Nahdatul Ulama (NU), Indonesia's largest Muslim organization, declared that the new decree was "more restrictive" than the previous one. However, the Chairman of the National Assembly, Hidayat Nur Wahid, pointed out that "restrictive regulation…is needed to avoid sectarian conflicts among religious communities." The Commission will continue to monitor the implementation of the new decree in the coming year.

Although the annual number of dead and injured continues to decrease, communal violence in Central Sulawesi and the Malukus continued in the last year, threatening to re-ignite Christian-Muslim conflict that claimed thousands of lives between 1999 and 2001. At least 13 people were killed and 80 injured in the Malukus last year in separate attacks on a marketplace, a crowded bus, and a police station. In March 2005, a hand grenade exploded in a Muslim neighborhood in Ambon. In retaliation, Muslim residents attacked a bus carrying Christians. In August 2005, a bomb exploded in an Ambon market, injuring bystanders and destroying property. Police wounded two suspects in this bombing. In Central Sulawesi, at least 37 people were killed and 104 injured in communal violence in the past year. In May 2005, two bombs exploded in a central market in the predominately Christian town of Tentena, killing 24 people. In October and November 2005, eight Christian girls and one Muslim girl who was mistaken for a Christian from Poso were killed in three separate attacks. Three of the girls were beheaded. In January 2006, a bomb exploded at a "pork butcher" in the city of Palu, killing several customers. Local religious leaders condemned the attacks as the work of "outside extremists" and expressed continued support for expanded security and reconciliation efforts.

President Susilo Bambang Yudhoyono publicly condemned the violence in Central Sulawesi and sent police investigators from Jakarta to coordinate investigations. However, no arrests have been made in any of the cases of communal violence that occurred in the past year. Some local leaders in Central Sulawesi laud recent efforts by local police to investigate, arrest, and prosecute those involved in past violence. At the same time, they are critical of security forces for not taking more effective measures to prevent the violence. Extremist groups, including members of Mujahadin Kompak (MK), a militant offshoot of Jemaah Islamiyah, are known to operate in Central and South Sulawesi. These militant groups were frequently responsible for attacks on religious minorities and for instigating mob actions to restrict religious activities. It is widely believed that concerted government efforts to reduce the activities and influence of militant groups would do much to improve religious freedom conditions in Indonesia.

The Indonesian government has made some progress holding accountable those responsible for past communal violence in Central Sulawesi and the Malukus. Suspects in the May 2005 Tentena bombing and the shooting of a local minister have been detained, though no arrests have been made in these cases. According to the State Department, Central Sulawesi government officials have called for the investigation of members of the security forces involved in religious violence during the 1999-2001 period and have named a senior police officer as a suspect in a 2004 church bombing. There remain concerns, however, about judicial independence and the disparate sentences given Muslim and Christian defendants in cases of past religious violence. Such disparities continue to fuel grievances that exacerbate religious tensions.

Human rights organizations have been critical of the role played by the Indonesian armed forces (Tentara Nasional Indonesia, TNI) in regional conflicts throughout Indonesia. The TNI operates independently of civilian political control and only 30 percent of its revenue is allocated by the National Assembly, the Indonesian legislature; the other 70 percent comes from the TNI's private business investments and other ventures. The TNI held expansive political and economic power during the former Suharto regime, though they have recently relinquished their reserved seats in the National Assembly. President Yudhoyono has cautioned that a move to assert civilian control of the TNI too quickly could have negative consequences for democratic stability in Indonesia. Nevertheless, reigning in the TNI's power and holding its senior officers accountable for human rights violations is a critical element of addressing ongoing sectarian violence and other human rights problems in Indonesia.

The State Department's 2005 human rights report states that in the past year, the TNI continued to prosecute junior officers and enlisted men for human rights violations. However, senior officers are rarely held accountable for abuses against civilians, including extrajudicial executions, forced disappearances, beatings, arbitrary arrests and detentions, and drastic limits on freedom of movement and association. For example, senior officers escaped with small sentences, most of which were overturned on appeal, for the atrocities committed in 1999 in what is now independent East Timor.

Some of the very officers indicted for human rights abuses in East Timor, including Timbul Silaen and Eurico Guterres, now hold similar positions of authority in the eastern region of Papua. Papua's population has swelled in recent years, due to large flows of economic migrants and other civilians fleeing conflict elsewhere in Indonesia. Indigenous Papuans are predominantly rural and Christian, while the migrant groups are predominantly urban and Muslim, creating a volatile mix similar to that found in Central Sulawesi and the Malukus at the time those violent sectarian conflicts erupted. The presence of Silaen and Guterres in the area has raised fears that additional sectarian conflict and human rights abuses will occur in Papua.

Last year, the United States restored military-to-military relations with the TNI, which had been suspended because of the TNI's role in perpetuating violence in East Timor during 1999 and allegations of its involvement in the killing of two American teachers in Papua in 2002. In November 2005, the United States started a small International Military Education Training (IMET) program and a Foreign Military Financing (FMF) program in order to boost the

TNI's counter-terrorist capabilities. In the past, the Commission recommended that any renewed military assistance give priority to reform of the Indonesian military, including human rights training and technical assistance for legal tribunals and other mechanisms to hold military officers accountable for human rights abuses. It is too soon to evaluate the effectiveness of U.S. military assistance on these priorities. The Commission will continue to monitor U.S. military assistance to Indonesia and its relation to the general situation for human rights, including religious freedom, in that country.

In August 2005, the Indonesian government concluded a comprehensive peace agreement with the insurgent group Free Aceh Movement (GAM). The agreement ended a thirty year conflict that had resulted in significant human rights abuses. As of this writing, the agreement remains in place and there is optimism that a lasting peace is possible in Aceh. However, the peace agreement does not overturn Aceh's special autonomy status, which allowed the province to establish and implement sharia law. In 2001, sharia police, locally know as *Wilayatul Hisbah*, were set up to enforce religious norms. Initially, these "police" were often confined to mosques and other religious institutions. Since the peace agreement was signed, however, sharia police have become more visible. There are reports of sharia police issuing fines and meting out other punishments to Muslims found gambling or consuming alcohol, unmarried couples found engaging in "immoral" behavior, or women found without headscarves. Public caning punishments are now commonplace in some towns, particularly for gambling. Non-Muslims are exempt from sharia provisions in Aceh.

A vocal and influential minority of Indonesians continues to call for implementation of sharia law throughout Indonesia. An August 2002 proposal to implement sharia at the national level was withdrawn from consideration by the National Assembly because it did not have sufficient support to pass and was opposed by the country's two largest Muslim organizations. Efforts to revive the legislation continue and could reemerge during the current National Assembly session. In addition, there are efforts to enforce Islamic law at the municipal and regional levels. In South Sulawesi, Madura, and Padang, West Sumatra, local authorities required women to wear headscarves and men to follow traditional Islamic rituals on Fridays. Similar practices were already put in place in parts of West Java, including Cianjur, Tasikmalaya, and Garut. In August 2005, a court in Surabaya issued a two-year sentence to a man who offered a public prayer in Indonesian instead of Arabic, after religious leaders argued that the prayer insulted Islam. Municipal governments in Kendari, Medan, and Palembang closed discos, massage parlors, bars, and karaoke establishments during Ramadan. Non-Muslims were exempt from the new laws. Muslim women's groups, however, expressed fear of reprisals if women in these areas chose not to comply with the laws.

In June 2003, the National Assembly passed an education bill, which, if enforced, would require both public and private schools to provide religious instruction to their students. In the last year, the government had still not implemented the most controversial provisions of the law.

The Indonesian government continues to encourage inter-religious tolerance and cooperation. Some Indonesian government officials pursued ongoing work with local Muslim and Christian community leaders to diffuse tensions in conflict areas. There are also a growing

number of inter-religious non-governmental organizations initiating discussions on pluralism, democracy, religious tolerance, and human rights.

U.S. government assistance 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 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.

The Commissions recommends that the U.S. government should 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, and Laskar Merah Putih;

- continue efforts to bring those who participated in or are responsible for sectarian and ethnic violence in Central Sulawesi, Malukus, and Papua to justice, by providing fair and transparent trials;

- provide protection for religious venues, as well as restitution to religious communities whose venues are destroyed or closed due to mob violence or protest, and ensure that those responsible for such acts are prosecuted;

- 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 violating the rights of the Ahmadiyah community, as contradicting the ideals of religious freedom and tolerance found 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;

- amend the Joint-Ministerial Decree No. 1/2006, (Regulation on Building Houses of Worship) in such a way that it is consistent with the Indonesian constitution's protection of religious freedom and removes restrictive barriers on building and re-furbishing places of worship for all religious groups in Indonesia; and

- transfer or remove from Papua 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;

  --establishing 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;

  --monitoring 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 1) transfer to civilian control, 2) training in international human rights standards, and 3) technical assistance in military law and tribunals; and

  --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).

Korea, Democratic Republic of

By all accounts, there are virtually no personal freedoms in the Democratic People's Republic of North Korea (DPRK or North Korea) and no protection for universal human rights. In pursuit of absolute control of all facets of politics, society, and the flow of information, the government headed by Kim Jong Il has created an environment of fear in which dissent of any kind is not tolerated. Freedom of thought, conscience, and religion or belief does not exist, as the government severely represses public and private religious activities and maintains a policy of tight control over government-sanctioned religious practice. Religious belief of any kind is viewed by the government as a potential competitor to the officially propagated cult of personality centered on Kim Jong Il, and his late father, Kim Il Sung. In the past several years, North Korean government officials have arrested, imprisoned, tortured, and sometimes executed those discovered engaging in clandestine religious activity. There is no evidence that religious freedom conditions have improved in the past year. The Commission continues to recommend that North Korea be designated a "country of particular concern," or CPC, which the State Department 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. More information about the study and its findings can be found in the chapter entitled "North Korea: Commission Study Provides Evidence of Severe Religious Freedom Violations" in this report.

The government has allowed Buddhist, Chondokyist (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 Christian "religious federations" to operate in Pyongyang to project a presence of religious observance to outsiders. However, these federations are often 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. The federations also operate churches, temples, and shrines in North Korea. One Catholic and two Protestant churches, built between 1988 and 1992, operate in Pyongyang. 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 controlled 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 who were known to practice 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 South Korean pastors operating exchanges with the Korean Christian Federation, although some fraction of North Koreans who attend services at the churches in Pyongyang are genuine in their faith, more people reportedly attend services to monitor and report to the government on church activities.

A Russian Orthodox Church under construction since 2003 remains unfinished. 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; however, 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.

The North Korean government reports that some 500 house churches operate in North Korea with government approval. Until recently, it was not possible to verify who attended these house services and whether they existed outside of Pyongyang. Reports, including the Commission's study, are emerging that indicate that house church participants are largely made up of individuals whose families were Christians before the Korean War and that some do in fact operate outside of Pyongyang. It is impossible to ascertain the number of operating house churches or the extent of their activities and membership, as visiting religious leaders and scholars are repeatedly denied access to such gatherings in rural areas. The Commission has received credible reports that underground religious activity is growing, despite pervasive suppression by North Korea's all-encompassing security apparatus, although there is no reliable estimate of the number of religious believers practicing underground.

Anyone discovered taking part in such 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. Although the practice of imprisoning religious believers is apparently

widespread, the State Department has been unable to document the number of religious detainees or prisoners. According to press reports, an estimated 6,000 Christians are incarcerated in "Prison No. 15" located in the northern part of the country. According to testimony heard at the Commission's January 2002 hearing, prisoners held on the basis of their religious beliefs are treated worse than other inmates. 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 of 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 the churches of Pyongyang, where crosses hang in their place. Under threat of fines and other penalties, North Koreans are required properly 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." 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.

North Korean officials have stratified society on the basis of family background and perceived loyalty to the regime into 51 specific categories. Religious adherents are by definition relegated to a lower category, receiving fewer privileges and opportunities, such as education and employment, than others. An extensive report by Amnesty International in 2003 details evidence that persons in lower categories have, in some cases, been forcibly relocated to remote and desolate areas of the country and then systematically denied access to food aid and therefore left to starve.

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 over the past eight years. With the easing of famine conditions, an estimated 50,000 to 100,000 remain in China today. China, according to an agreement with North Korea, considers all the 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 often released after a short period of detention. Anyone suspected of having contact with either South Korean humanitarian or religious organizations is reportedly extensively interrogated. Security forces try to determine if those repatriated have become adherents of Christianity or otherwise "contaminated" by their contact with South Koreans.

Reports from those repatriated claim that security forces use torture during interrogation and anyone deemed to have had such contact is subject to a long prison term with heavy labor.

In November 2004, the North Korea Human Rights Act was signed into law. 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 recently released study and to discuss Commission policy recommendations on religious freedom and human rights issues in North Korea.

In July 2005, Commission Vice Chair Nina Shea and Commissioner Richard Land spoke on a panel titled "Interfaith Action Panel on Human Rights in North Korea," as part of a larger conference on human rights and religious freedom in North Korea.

In November 2005, the Commission released its study *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience, and Religion in North Korea* 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 2005, Commissioners Michael Cromartie and Felice D. Gaer presented the study's preliminary conclusions at the 61st Session of the UN Commission on Human Rights. The U.S. Ambassador hosted a meeting with country representatives who had voted against or abstained from previous motions regarding North Korea. In Geneva, Commissioners also met with the UN Special Rapporteur on Human Rights in North Korea and the acting UN High Commissioner for Refugees to discuss preliminary findings on the situation of North Korea. In anticipation of the release of the study, Commissioners again met with the UN Special Rapporteur on Human Rights in North Korea in October 2005 in New York to discuss the study's final findings and recommendations.

In November 2005, Commissioners met with the representative of the UN High Commissioner on Human Rights in Beijing to discuss the situation of North Korean refugees in China. Commissioners also inquired about North Korean refugees and voiced concern for their situation in meetings with several Chinese officials during the Commission's visit to China in August 2005.

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. Commission Chair Michael Cromartie presented opening remarks and Jay Lefkowitz, the Special Envoy on Human Rights in North Korea, gave a keynote address at the event.

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

- 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:

  --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 *kwan-li-so* 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;

  --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;

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

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

  --allow religious groups to operate religious education programs for young persons and adults;

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

  --distribute widely Korean language translations of and other information on the Universal Declaration of Human Rights and the international human rights treaties to which North Korea is a party;

- work with regional and European allies to fashion a comprehensive plan for security concerns on the Korean peninsula—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

--consider, with this model, expanding the Six-Party talks on nuclear security to include separate discussions on issues related to human rights and human security, using ongoing security negotiations to press North Korea for improvements in areas of mutual concern, including monitoring of humanitarian aid, resettlement of refugees, family reunifications, abductions, and other pressing human rights issues, including religious freedom;

- ensure that the Special Envoy on Human Rights in North Korea, appointed by President Bush in accord with the Envoy's mandate in the North Korea Human Rights Act of 2004, retains full authority to move forward on assistance to North Korean refugees, new human rights and democracy programming, and expanded public diplomacy programs;

- 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) 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;

- in bilateral relations with China, Russia, Mongolia, and other countries in the region, place a higher priority on working to provide safe haven, secure transit, and clear resettlement procedures for North Koreans;

- promote further cooperation among the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to resolve quickly the remaining technical or legal issues surrounding the resettlement of North Koreans in the United States and other countries;

- urge the Chinese government to allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems experienced by this vulnerable population;

- 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;

- continue to use appropriate international fora to condemn egregious human rights abuses in North Korea and seek protections and redress for victims, including by co-sponsoring and working for passage of a resolution on North Korean human rights practices at appropriate UN bodies; and

- expand radio, television, Internet, and print information available to the North Korean people through:

  --the expansion of appropriations to the Broadcasting Board of Governors earmarked to allow Radio Free Asia and Voice of America to increase shortwave and medium-wave broadcasting to North Korea to provide a total of 12 original hours of daily broadcasting; and

  --the funding of programs through the National Endowment for Democracy and the Department of State Human Rights and Democracy Fund that 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, Congress should fund a regional task force involving prominent political, academic, religious, and other non-governmental experts from Asia and the United States to raise the public profile of North Korea's human rights and human security concerns and to make recommendations to regional governments for establishing a permanent framework that addresses both human rights and other outstanding security and economic concerns on the Korean Peninsula. Congress should also: (a) continue to appropriate funds authorized in the North Korea Human Rights Act for public diplomacy, refugee assistance, and democratization programs; (b) establish a congressional caucus to focus specifically on North Korean human rights and refugees and to explore new ideas for establishing an "Helsinki Option" for security talks on the Korean Peninsula; and (c) urge congressional delegations that visit North Korea to seek access for international monitors to North Korean prisons as promised by Vice-Premier Gew Yan-un to a visiting Senate Foreign Relations Committee delegation in 2004.

Laos

The Commission removed Laos from its Watch List in 2005. In taking this action, the Commission cited the fact that positive steps had been taken by the Lao government to address the religious freedom concerns expressed by the Commission and the international community. For example, over the past two years, the government of Laos has released all but two of its religious prisoners, re-opened most of its closed churches, and issued a public condemnation of forced renunciation of faith. In addition, there were reports that government authorities had taken active steps to address the concerns of Lao religious minorities, intercede with provincial officials when religious leaders were detained, and promote interfaith cooperation.

In view of the Lao government's continued poor overall human rights record, there remains a possibility that past religious freedom abuses could reemerge. The Commission therefore maintains its scrutiny of the actions of the Lao government with regard to religious freedom to determine whether developments continue to move in a positive direction or if a return to the Watch List is warranted. Although religious freedom conditions are better now than in the past, the Commission is concerned that progress has stalled over the past year. In addition, the Lao government appears unable or unwilling to curtail the actions of some provincial authorities who continue to restrict the religious practices of ethnic and religious minorities.

Since the end of 2002, religious groups, particularly in the largest cities and districts of Laos, report steadily improving religious freedom conditions, including a more constructive relationship with the Lao government. The government remains wary of religious traditions other than Theravada Buddhism, particularly the various forms of Protestantism found among some ethnic minority groups. However, there are encouraging reports that the Lao Front for National Construction (LFNC), the agency that oversees religious policy and regulates religious activities, has sought to promote reconciliation and tolerance among religious groups and has intervened with provincial officials in cases where minority religious practitioners have been harassed, threatened, or detained. In the past, the LFNC was reluctant to intervene in local disputes, due to the significant measure of power given provincial governors in the Lao system of government. The LFNC continues to cooperate with the U.S. Embassy in Laos in organizing, participating in, and conducting seminars on human rights, including religious freedom.

In most parts of the country, adherents from all religious communities are allowed to practice their religion with few restrictions. There continue to be reports, however, that provincial and local officials harass individuals, confiscate property, and, on occasion, detain persons for participating in religious activities. In the past year, these problems were concentrated in parts of Savannakhet, Luang Prabang, and Bokeo provinces, where 35 Christians were briefly detained, a pattern similar to that of the previous year. Persons were reportedly arrested in order to halt the importation of Bibles, worship activities, and the building of churches.

The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo provinces were allowed to meet in homes, though no priests were available in these areas. The Lao government did grant permission for a Catholic community in Sayaboury province to construct a new church. In addition, the bishop of Vientiane announced the ordination of the country's first new priest in 30 years. The ordination, however, has been postponed by the Lao government. Followers of the Baha'i faith continued to face restrictions from local authorities in Savannakhet province, though they were able to meet in urban areas.

Between 1999 and 2002, the State Department reported that campaigns of coerced renunciation of faith occurred in nearly every Lao province. These reports have diminished significantly in the past several years. Moreover, there have been no recent reports of incidents where security forces required the ritualistic drinking of animal blood mixed with alcohol, which was the primary method used in past renunciation campaigns. However, in the past year, authorities in Savannakhet Province, detained 24 ethnic Brou Christians and held them for several weeks until most members of the group agreed to cease their religious activities. There are also reports that provincial officials threaten to withhold government identification cards and household registers and deny government services or benefits to those who do not give up their religious beliefs.

According to the State Department, between 1999 and 2001 local authorities closed approximately 20 of Vientiane province's 60 Protestant churches, primarily those in Hin Hoep, Feuang, and Vang Vieng districts, and approximately 65 Protestant churches in Savannakhet and Luang Prabang provinces. Many of these churches were allowed to reopen in the past eighteen months, especially in Vientiane and Luang Prabang provinces. Six of Savannakhet's 40

churches remain closed, though recently, officials in Kengkok returned property seized in 1999 to a small Protestant congregation. In the past year, disputes in Bokeo province between officials and ethnic Protestants led to the burning of a local church.

Another ongoing concern is the potential for abuses through the implementation of Decree 92, the Lao government's 2002 decree on religious activities. During its visit to Laos in February 2002, the Commission was assured that passage of the decree would improve religious freedom in Laos by legalizing religious activities, protecting the religious practices of ethnic minorities, and providing guidelines to local and provincial officials to ensure that abuses by those officials would cease. Nevertheless, the decree provides government officials with a potential legal basis for control of, and interference in, religious activities. Many religious activities can be conducted only with government approval, and the decree contains a prohibition on activities that create "social division," or "chaos," reiterating parts of the Lao's criminal code, including Article 66, used in the past by government officials to arrest and detain arbitrarily ethnic minority Christians. Thus, Decree 92 and several provisions of the criminal code could be used to restrict and suppress religious activities, rather than protect and promote the freedom of religion or belief. However, there are credible reports that the government is using the Decree to facilitate religious practice in some areas and to promote cooperation among religious communities. At the same time, in the past year, religious groups report that the government has not given them permission to import, print, and distribute non-Buddhist religious materials. The Commission will continue to monitor how the decree is implemented and whether the central government has made progress in controlling the alleged abusive acts of local officials.

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 has traveled to Laos and issued a report on its findings in February 2003.

In 2003, Resolution 402 was introduced in the House, stating the sense of Congress that the U.S. government should work to implement the Commission's recommendations on Laos. Commission findings and accompanying recommendations were also cited in several letters from Members of Congress to the Administration regarding human rights in Laos in 2004.

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 is essential to further improvements and in expansion of U.S.-Laos relations, and urge Lao officials to:

  --ratify the International Covenant on Civil and Political Rights and invite the UN Special Rapporteur on Freedom of Religion or Belief and other relevant UN mechanisms to visit the country;

  --halt any harassment and detention of persons on account of their religion by local government officials and hold any such officials responsible for violations of the religious

freedom of Lao citizens, particularly in such provinces as Savannakhet, Attapeu, Luang Prabang, and Bokeo;

--criminalize forced renunciations of faith by passing a law in the National Assembly providing for specific penalties for those who carry out such practices;

--repeal or amend Article 66 of the Lao Criminal Code so that it cannot be used to arrest or detain individuals for engaging in religious activities that are protected by the Lao Constitution and under international law;

--amend those elements of Decree 92 on religious activities that are inconsistent with international human rights law;

--respect and fully implement the freedom of individuals and organizations to engage in social, humanitarian, and charitable activities, free from undue government interference; and

--provide access to all parts of Laos by foreign diplomats, humanitarian organizations, and international human rights and religious organizations, in particular, to Savannakhet, Attapeu, and Saisomboune Special Zone;

- establish measurable goals and benchmarks, in addition to those listed above, 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 adequately includes 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, police, and representatives of international non-governmental organizations;

  --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.

Vietnam

The government of Vietnam continues to commit systematic and egregious violations of freedom of religion or belief. Vietnam's human rights record remains poor, and the freedoms of speech, assembly, and association also continue to be restricted. The government targets popular religious leaders, intellectuals, free speech and democracy advocates, and members of ethnic minority groups for harassment and arrest. Despite some positive developments in the area of religious freedom in the past year in response to Vietnam's designation as a "country of particular concern," or CPC, serious abuses of religious freedom continued to occur. The government remains highly suspicious of Montagnard and Hmong Protestants, Vietnamese Mennonites, followers of Hoa Hao Buddhism, and leaders of the Unified Buddhist Church of Vietnam (UBCV), and these individuals in particular continue to face difficulties. Following the Commission's recommendation, the State Department has designated Vietnam as a CPC since 2004. In the past year, there has not yet been enough tangible progress on religious freedom concerns in Vietnam to warrant removal of the CPC designation and the Commission continues to recommend that the country be designated a CPC.

In May 2005, the State Department announced it had reached an agreement with Vietnam on benchmarks to demonstrate an improvement in religious freedom conditions. Under the agreement, the Vietnamese government committed to: 1) implement fully the new legislation on religious freedom and render previous contradictory regulations obsolete; 2) instruct local authorities strictly and completely to adhere to the new legislation and ensure compliance; 3) facilitate the process by which religious congregations are able to open houses of worship; and 4) give special consideration to prisoners and cases of concern raised by the United States during the granting of prisoner amnesties. The U.S. government agreed to consider taking Vietnam off the CPC list if these conditions are met.

Vietnam's record on fulfilling this agreement is mixed. In the past two years, the Vietnamese government has released a number of prominent religious prisoners, re-opened some churches in the Central Highlands, officially outlawed forced renunciations of faith, and issued new guidelines to help speed the process of registration of religious congregations. Reports of forced renunciation of faith continue to emerge, particularly among ethnic minority Protestants and monks and nuns associated with UBCV, though there are fewer than in the past. Several hundred religious venues have been allowed to re-open, but this is a fraction of the over 1,250 sites closed in the Central Highlands after 2001. Religious prisoners have been amnestied, but new detentions continue to occur and vague "national security" and "national solidarity" provisions in the penal code have at times superseded new laws providing for religious freedom. Moreover, Vietnamese citizens have no legal recourse to challenge human rights abuses by government officials.

In the last year, Vietnam released several high-profile religious prisoners, including UBCV, Mennonite, Catholic, Hoa Hao, and Protestant leaders. Pastor Nguyen Hong Quang was amnestied in September 2005; the five other Mennonite leaders arrested with him have also been released. Baptist pastor Than Van Truong was released from a psychiatric hospital where he had been held for two years after having been diagnosed as "delusional" for giving Bibles to government officials. However, other religious prisoners remain in detention or continue to be subject to government surveillance. Fr. Nguyen Van Ly, who was arrested after submitting testimony to a 2001 Commission hearing on Vietnam, was released from prison in 2004. While the Commission welcomed the release of Fr. Ly, there are reports that he remains under some form of administrative detention. Two prominent prisoners released with Fr. Ly, democracy activist Dr. Nguyen Dan Que and UBCV monk Thich Thien Mien, are reportedly also under constant police surveillance.

Vietnamese security forces continue to detain, arrest, and imprison adherents from a several religious communities. The State Department estimated in 2005 that there were six religious prisoners and fifteen other individuals being held in some form of administrative detention on account of their religious beliefs. The number is likely to be higher. For example, in June 2005, security officials arrested eight Hoa Hao followers who protested government control of the Hoa Hao religion. In September 2005, Hoa Hao monk Vo Van Thanh Liem was arrested and given a nine year prison term for "opposing public authorities." He and another monk, Bui Thien Hue submitted written statements to a congressional hearing entitled "Human Rights in Vietnam." Bui Thien Hue is reportedly being held under some form of house arrest. At least three Catholic priests from the Congregation of Mother Co-Redemptrix remain in prison for distributing religious books without permission; they were charged with security-related offenses and sentenced to 20 years. One of the three, Fr. Pham Minh Tri, has reportedly developed severe dementia while in prison, but has not been granted humanitarian parole.

Tensions between residents and security officials have been heightened in the Central Highlands after demonstrations in 2001 and 2004 for religious freedom and land rights. During the 2004 Easter demonstrations, an estimated 45,000 people gathered for protests in Gai Lai, Dak Lak, and Dak Nong provinces. Numerous eyewitnesses report that the peaceful demonstrations were disrupted by attacks on protestors by security forces and hired proxies. There are credible reports of severe violence occurring in Dak Lak province, including the deaths of at least ten demonstrators. Since the demonstrations, Vietnamese officials have sought to imprison those believed to have organized the protests, as well as others who took part. Montagnard villages and communes have been under tight control by the Vietnamese military and few international observers have been allowed access to the region. As a result of the demonstrations, some ethnic minority Protestants are being held in the Central Highlands under vague "national security" and "national solidarity" provisions of the legal code. Because of the lack of transparency in the Vietnamese legal system and the high level of security in the Central Highlands, it remains difficult to determine the exact number of Montagnard Protestants imprisoned for taking part in peaceful demonstrations against religious freedom restrictions and those imprisoned for allegedly taking part in violence that occurred during the protests. In the last year, 15 Montagnards were sentenced for taking part in the 2004 Easter demonstrations. An estimated 76 Montagnards remain in prison for taking part in similar demonstrations in 2001.

Significant pressure remains on leaders of the UBCV, despite Prime Minister Pham Van Khai's March 2002 promise that arrests and harassment would end. UBCV leaders Thich Quang Do and Thich Huyen Quang are still restricted in their contacts and movement, though Western diplomats have been able to meet with them in the past year. At least 13 other senior UBCV monks remain under some form of administration probation or actual "pagoda arrest." Charges issued in October 2004 against UBCV leaders for "possessing state secrets" have not been rescinded. In February 2006, Thich Quang Do was detained after trying to board a train to visit Thich Huyen Quang. He was released after a few hours, but was not allowed to travel. There are reports that police routinely detain and interrogate monks and nuns suspected of organizing "provincial committees" of the UBCV in Quang Nam-Danang, Thua Thien-Hue, and Binh Dinh provinces. In August and September 2005, monks were detained in these provinces and ordered to withdraw their names from the committees and cease all connections with the UBCV. 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 asked provincial authorities to have her expelled from the local monastery.

In February 2005, Prime Minister Phan Van Khai issued "Instructions on Protestantism," which purport to allow Protestant "house churches" in the Central Highlands and northwest provinces to operate legally if they renounce connections to groups that Hanoi has accused of organizing anti-government protests. The new instructions also prohibit forced renunciation of faith efforts by government officials, but do not specify criminal penalties for those who carry out these practices. Despite the new instructions, incidents of forced renunciation of faith continue to be reported, particularly among ethnic minority Protestants. Religious followers are detained, threatened, and beaten to pressure them to recant their faith or cease their religious activities.

In March and June 2005, police and local officials detained up to 17 ethnic Hre Protestants in Quang Ngai province. Because community members refused to cease their religious activities, homes and rice fields were burned and land confiscated. In February and March 2005, police in Gai Lai province reportedly detained minority Protestants from several villages in an attempt to force them to join the government-approved religious organization. Police asked those detained whether they would remain "political" or whether they would follow the "Christianity of [Prime Minister] Phan Van Khai." Those who refused to cease their religious activity were beaten. Others were pressured to sign pledges agreeing to "abandon Christianity and politics." In May 2005, police in Dien Bien province issued at least 21 "re-education" summons to local Hmong Protestants. During the sessions, religious believers were threatened with beatings, loss of government services, or fines if they did not give up their religious beliefs. In Ninh Thuan province in June 2005, police briefly detained for interrogation two leaders and six members of a local Protestant congregation. Several months later, local officials held a public ceremony and threatened the Protestant congregation with the loss of government services if they did not renounce their faith. In Ha Giang province in November 2005, police forced an ethnic minority Protestant pastor to sign a pledge to renounce his faith and cease religious activities after his congregation sought to register legally with the government approved organization.

After the 2001 demonstrations for land rights and religious freedom, local authorities closed an estimated 1,250 churches and meeting points in the Central Highlands. According to reports from religious communities in Gai Lai province, provincial authorities have legally registered and re-opened 29 Protestant churches and have allowed another 170 to function pending registration decisions. There are reports that officials in Dak Nong and Bien Phuoc provinces are considering following the example set by Gai Lai authorities. In Dak Lak, most of the estimated 450 churches and meeting points in Dak Lak province remain closed and none have been legally recognized.

In the past year, restrictions on some legally recognized religious activity appears to have eased, particularly among Buddhists and Catholics. In January 2006, a special envoy from Rome made the first visit by a senior official from the Vatican since 1954 and presided over the ordination of 57 priests at a ceremony in Hanoi. In addition, a new Archbishop was named for Ho Chi Minh City in 2005 and an agreement was reached on the creation of a new bishopric. Though relations between Vietnam and the Vatican appear to have improved in recent years, the government continues to require prospective seminarians to obtain government permission before entering the seminary and receiving ordination and maintains *de facto* veto power over Roman Catholic ordinations and appointments. Most Church property seized in 1975 also remains in government hands.

In the past two years, the Vietnamese government has updated laws and regulations governing religious activity. In November 2004, the government of Vietnam issued a long-awaited Ordinance on Religious Beliefs and Religious Organizations. The Ordinance affirms the right to freedom of religion or belief in the first clause, but the remaining provisions provide an extensive list of religious activities requiring government permission. The Ordinance continues to ban religious activities outside of officially recognized religious organizations, as well as any religious activity that threatens the vaguely defined notions of national venues, national unity, and public order. The Ordinance does standardize religious management practices, setting forth national rules for groups seeking legal recognition. The Ordinance also seems to allow religious groups with at least a 30 year history in Vietnam to register independently of already approved religious organizations. Nevertheless, by requiring that the government sanction the organization and activities of all religious groups, the Ordinance extends the control of government officials over religious practice in Vietnam.

To facilitate the Ordinance's implementation, the Vietnamese government issued Decree 22 in March 2005. The decree establishes specific requirements for government approval of all religious groups, venues, seminaries, conferences, donations, festivals, ceremonies, and the selection and training of religious leaders. Like the Ordinance, the Decree affirms the right of Vietnamese citizens to freedom of religion or belief, but there are also prohibitions on any religious activities that "undermine peace, independence and national unity; incite violence or wage war; disseminate information against prevailing State law and policies; sow division among the people, ethnic groups, and religions; cause public disorder; do harm to other people's lives, health, dignity, honor, and property; hinder people from exercising their public obligations; and spread superstitious practices and commit acts to breach the law." These limitations appear to go far beyond those permitted under international human rights law, as they are broad, vague,

and have been used in the past by the Vietnamese authorities to justify the imprisonment of religious leaders and other serious human rights abuses.

The primary benefit of Decree 22 appears to be streamlining the process of registration and obtaining permits. Deadlines for an official response are outlined in the decree and, in some cases, religious groups can expect a written explanation of why their application was denied. In the past year, the province of Gai Lai has granted legal recognition to a number of churches and meeting points and allowed them to affiliate with the Southern Evangelical Church of Vietnam. In addition, three Protestant churches in Ho Chi Minh City, one Baptist, one Mennonite, and one Seventh-Day Adventist, were granted legal recognition in the past year. However, recognition was not granted to other venues affiliated with these denominations, either in Ho Chi Minh City or in other places in Vietnam. There are several groups seeking legal recognition whose applications are pending, including the Jehovah's Witnesses, the Assembly of God, and Danang-based Christian Mission Church. Legal recognition has been denied, however, to some Protestant, UBCV Buddhist, and Hoa Hao religious bodies. Hmong Protestants in the northwest provinces have encountered the most problems in seeking legal recognition, as Vietnamese authorities have refused to acknowledge the legal existence of a reported 1,110 Protestant churches in the region. Approximately 200 Hmong churches have applied for registration under the new law, but they have encountered numerous obstacles, including some overt harassment.

The new Ordinance on Religion and its implementing mechanism Decree 22 are improvements over past laws governing religious activity, but deficiencies remain. At this time, the Vietnamese government continues to use registration and the process of recognition as a way to monitor religious organizations and to restrict their activities. It remains to be seen whether the new laws governing religion will facilitate or further restrict freedom of religion or belief in Vietnam.

Commissioners and staff have traveled to Vietnam and met with Vietnamese government officials and religious leaders. In addition, the Commission has met with officials in the U.S. Administration, Members of Congress, the Acting UN High Commissioner for Refugees (UNHCR), and congressional staff about current U.S. policy toward Vietnam and the Commission's policy recommendations.

In June 2005, Commission Vice-Chair Nina Shea testified before the House International Relations Committee hearing entitled "Human Rights in Vietnam." Shea discussed Vietnam's record on religious freedom and related human rights, the provisions of the May 5, 2005 agreement on religious freedom, as well as the Commission's recommendations for U.S. policy. In July 2005, Commission Chair Michael Cromartie testified at a joint Congressional Caucus on Vietnam and Congressional Human Rights Caucus hearing on Vietnam entitled, "The Ongoing Religious Freedom Violations in Vietnam." In March 2006, Commission Chair Cromartie testified on religious freedom problems and progress in the past year at a hearing of the House International Relations Subcommittee on Africa, Human Rights, and International Organizations entitled "The Human Rights Dialogue with Vietnam: Is Vietnam Making Significant Progress?"

The Commission also issued statements after the release of Fr. Nguyen Van Ly and members of his family, the issuing of the Prime Minister's "Instructions on Protestantism," and

the State Department's announcement of the May 5, 2005 agreement on religious freedom, all of which can be found on the Commission's Website.

Following the designation of Vietnam as a CPC, the Commission has recommended that the U.S. government should:

- identify those Vietnamese agencies and officials who are responsible for particularly severe violations of religious freedom, and vigorously enforce section 604 of IRFA with respect to Vietnam, rendering inadmissible for entry into the United States any Vietnamese government official who was responsible for or directly carried out such violations; and

- re-prioritize human rights programming and technical assistance in Vietnam by dedicating no less than $1 million for FY 2006 and FY 2007, if discretionary funds are allocated to Vietnam above its annual earmark, to new or existing programs that will directly promote freedom of religion and belief and related human rights in Vietnam.

With regard to religious freedom conditions in Vietnam, in addition to recommending that Vietnam be designated a CPC, the Commission has recommended that the U.S. government should:

- make clear to the government of Vietnam that ending violations of religious freedom is essential to the continued expansion of U.S.-Vietnam relations, urging the Vietnamese government to:

  --establish a non-discriminatory legal framework for religious groups to engage in peaceful religious activities protected by international law without requiring groups to affiliate with officially registered religious organizations; for example:

    - allow the Unified Buddhist Church of Vietnam to register and operate independently of the official Buddhist organization, the Vietnam Buddhist Sangha;

    - allow leaders chosen by all Hoa Hao adherents to participate in the Executive Board of the Hoa Hao Administrative Council or allow a separate Hoa Hao organization to organize and register as the Hoa Hao Central Buddhist Church with the same privileges as the Administrative Council;

    - allow Presbyterian, Assembly of God, Baptist, Mennonite, Jehovah's Witness, and any other Christian denominations that do not wish to join either the Southern Evangelical Church or the Northern Evangelical Church of Vietnam, to register independently; and

    - allow Cao Dai leaders opposed to the Cao Dai Management Council to form and register a separate Cao Dai organization with management over its own affairs;

  --establish a legal framework that allows for religious groups to engage in humanitarian, medical, educational, and charitable work;

--amend the 2004 Ordinance on Religious Beliefs and Religious Organizations and Decree 22, and other domestic legislation that may restrict the exercise of religious freedom, so that they conform to international standards for protecting the freedom of thought, conscience, and religion or belief;

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

--repeal Decree 31/CP of the Vietnamese Criminal Code which empowers local Security Police to detain citizens for up to two years without trial, as this decree is routinely invoked to detain religious followers and members of non-recognized religious denominations;

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

--release or commute the sentences of all those imprisoned or detained on account of their peaceful manifestation of religion or belief, including, among others, UBCV Patriarch Thich Huyen Quang, Thich Quang Do and 13 UBCV leaders detained since the 2003 crackdown, members of ethnic minorities in the Central Highlands and northwest provinces, the remaining Mennonites arrested in July 2004, and the ten Hoa Hao followers arrested in July 2005, using the list compiled by the State Department pursuant to Section 108 of IRFA;

--re-open all of the churches, meeting points, and home worship sites closed during 2001 in the Central Highlands and northwest provinces;

--investigate and publicly report on the beating deaths of Hmong Protestant leaders Mua Bua Senh and Vang Seo Giao, and prosecute anyone found responsible for these deaths; and

--continue to allow representatives of the UN High Commission for Refugees (UNCHR) and other appropriate international organizations access to the Central Highlands in order to monitor voluntarily repatriated Montagards 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 to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces;

- expand existing programs and initiate new programs of public diplomacy for Vietnam**,** including,

--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;

--targeting some of the Fulbright Program grants to individuals and scholars whose work promotes understanding of religious freedom and related human rights;

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

--providing grants to educational non-governmental organizations to bring Vietnamese high school students to the United States for one year of study; and

--creating new exchange programs between the Vietnamese National Assembly and its staff and the U.S. Congress; and

- continue to expand its economic development, democracy, education, good governance, and rule of law programs in Vietnam by:

--working with interested nations and international donors to create and capitalize a "Montagnard Development Fund" fund for ethnic and religious minorities that targets business creation, micro-enterprise development loans, and grants to improve agricultural, educational, health, and technical training, a fund that would prioritize areas with both rural poverty and significant human rights problems; and

--expanding existing rule of law programs to 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.

In addition, the U.S. Congress should appropriate additional funds for the State Department's Human Rights and Democracy Fund for new technical assistance and religious freedom programming. Funding should be commensurate to new and ongoing programs for Vietnamese workers, women, and rule of law training.

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 55 participating States of the Organization for Security and Cooperation in Europe (OSCE), i.e., all of Europe and the former Soviet republics along with the United States and Canada, committed themselves to uphold extensive standards to protect freedom of religion or belief and to combat discrimination, xenophobia, intolerance, and anti-Semitism. In point of fact, 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, uniquely for an international organization, 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. In 2004, delegations from nine countries, led by Russia along with eight other former Soviet states—Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine, and Uzbekistan—issued a written statement demanding that the OSCE give more weight to security matters.[3] Russia, in particular, has protested frequently in recent years that the OSCE focuses too much of its criticisms on the countries of the former USSR, while downplaying human rights problems in the West.[4] Russia withheld its needed approval for the OSCE's 2005 budget, which must be agreed to by the consensus of all participating States, thereby delaying its implementation and putting in jeopardy many of the organization's human rights activities. The OSCE's human rights activities are particularly important at a time when the governments of Russia and many other countries of the former USSR are demonstrating an increasing lack of commitment to their human rights obligations, which include efforts to combat racism, xenophobia, and various other forms of intolerance and discrimination.

Background on Racism, Xenophobia, Discrimination, and Intolerance

In recent years, there has been a dramatic rise in incidents of racism, xenophobia, discrimination, and intolerance toward Muslims, Jews, Christians, and members of other religious and ethnic minorities in the OSCE region. Anti-Jewish or anti-Semitic views and actions also continue to be a problem in many OSCE participating states. Frequently, officials

[3] In July 2004, the institution itself came under more pointed attack when these countries accused the OSCE of failing to respect their sovereignty. Having been criticized—in some cases, repeatedly—by OSCE election monitors for holding elections that failed to meet democratic standards, the nine countries accused the OSCE of interfering in their internal affairs.

[4] Yet, on the invitation of the United States, the OSCE deployed an Election Observation Mission for the U.S. November 2004 presidential elections.

fail to hold the perpetrators of anti-Semitic attacks to account. Reportedly, many of the recent anti-Semitic incidents in Western Europe have been committed by angry and marginalized young North African Muslim immigrants. "Skinhead" gangs are another source of hate-filled rhetoric and violence in all too many countries in the OSCE region. These gangs target various ethnic and religious minorities, including Jews and Muslims, with violence that includes acts of vandalism against religious and other property, and seek to inflame public opinion against these groups. Although such violence is often well documented, officials rarely investigate and prosecute these acts as hate crimes. Instead, they often trivialize such violence by treating it as "hooliganism." Extremist rhetoric emanating from some circles that goes uncontested by political and societal leaders has also promoted an environment of intolerance toward members of various ethnic and religious minorities. Anti-Zionism and vilification of Israel can also mask anti-Semitism. When burnings, beatings, and other acts of violence are directed at a particular group because of who they are and what they believe, such acts should not be viewed merely as police problems, but as human rights violations that require an unequivocal response.

The OSCE Response

The OSCE has set up several new mechanisms to address intolerance and related human rights issues, as mandated by the 2003 OSCE Ministerial Meeting. The OSCE has convened a series of high-level meetings 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 became the first international organization to name a prominent appointee specifically to examine anti-Semitism. Similarly, there is a personal representative monitoring intolerance toward Muslims, and a third who tracks other forms of intolerance, including xenophobia, racism, Christianophobia, and intolerance against members of other religions. Finally, a new Tolerance Unit within the OSCE's Office of Human Rights and Democratic Institutions (ODIHR) was set up, also in late 2004, to monitor and encourage compliance with OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia, and to promote freedom of religion or belief.

OSCE Meetings on Tolerance and Related Topics

The annual OSCE Ministerial Meeting in 2003 mandated a major international conference to address anti-Semitism in the 55 states of the OSCE region. The Berlin Conference on Anti-Semitism in April 2004 was attended by 600 officials from 55 nations and by hundreds of NGOs. The conference recommended specific steps to fight anti-Semitism, including collection of, and regular 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. Led by the then-U.S. Ambassador to the OSCE, Stephan M. Minikes, the participating States authorized the OSCE Chairman-in-Office to appoint three special representatives to coordinate and highlight OSCE activities in this field. In addition to the Berlin Conference, the OSCE has held several other high-level and expert-level meetings on tolerance-related issues, including the Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination (Brussels, September 2004); the Human Dimension Seminar on Migration and Integration (Warsaw, May 2005); the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance (Cordoba, June 2005); and the Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism (Vienna, July 2005). At the time of this

writing, the OSCE had not publicized any official decisions on meetings in 2006 specifically related to tolerance topics.

These conferences have raised awareness among the governments of the OSCE participating States, NGOs, and the public regarding anti-Semitism, discrimination against Muslims, and other tolerance-related issues in the OSCE region. The challenge for the OSCE and its 55 members is to act on the ideas that have emerged from these conferences and translate them into activities and programs that will combat these forms of intolerance in OSCE participating States.

OSCE Personal Representatives

In December 2004, the 55 OSCE participating States authorized the then-Chairman-in-Office, Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance. Anastasia Crickley of Ireland, Chairperson 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 Chairman-in-Office's Personal Representative on Combating Intolerance and Discrimination against Muslims. These appointments have been re-confirmed and will extend at least through 2007. 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 Chairman-in-Office and the ODIHR.

The mandates of the three Personal Representatives address separate but interrelated issues that call for distinct, yet coordinated, responses. Since the persons selected by the OSCE Chairman-in-Office for these honorary and part-time positions come from a variety of backgrounds, they may take different approaches to these important issues. Therefore, it is essential that the Personal Representatives more effectively coordinate with the various relevant OSCE institutions and among themselves in order to fulfill their mandates adequately. Indeed, the Commission is concerned that the work of the Representatives has been hampered by the lack of coordination of their complex and rather vague mandates, inadequate funding for staff and travel expenses, and other demands on their time and attention. The Commission also believes that the activities of the Personal Representatives should be given more prominence in the work of the OSCE.

In addition to playing an active role at relevant OSCE meetings, country visits have played a key role in the work of the Personal Representatives and in their reports to the OSCE Permanent Council. They have all visited the United States; Orhun held meetings in Turkey and made visits to the Netherlands, Great Britain, and France; Crickley also met with the UN in Geneva and paid a visit to Great Britain; and Weisskirchen has held meetings in Germany and has visited Russia. The Commission believes that the participating States should invite the Personal Representatives to their countries and enable them to meet with relevant government

officials and, without interference, to meet with NGOs, and with community and religious leaders, and activists.

The Office of Democratic Institutions and Human Rights Tolerance Unit

One of the major institutional responses of the OSCE to growing concerns regarding religious intolerance was to set up a new Tolerance Unit in late 2004 within the ODIHR. The mandate of the Tolerance Unit 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 unit and for sufficient funding for its activities. The Tolerance Unit 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 serve as backups to the three Personal Representatives and the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief. The Tolerance Unit was charged with setting up a database of information, as well as working on projects on such issues as data collection for hate crimes legislation, police training on hate crimes, and Holocaust education in specific countries.

Thus far, many of the Tolerance Unit's activities have centered on ambitious projects for gathering and publicizing information. The Unit's web site, slated to be operational in 2006, is supposed to provide access to information from OSCE participating states, NGOs, and inter-governmental organizations on international standards and instruments, plus Legislationline, ODIHR's online database, and the Human Rights Information and Documentation Systems International index to 2,000 NGO web sites. Although the Tolerance Unit has developed a "Website Guide to Tolerance Education" and a curriculum unit on "Holocaust Education and Anti-Semitism," the web site has not yet defined "tolerance" or "tolerance education" and does not include key documents and treaties, or relevant web links. The Tolerance Unit has issued several useful publications on combating intolerance, including "Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives" and "Education on the Holocaust and on Anti-Semitism: An Overview and Analysis of Educational Approaches." To date, however, the Tolerance Unit has focused little attention to specific countries where conditions are problematic. For example, few materials of the Tolerance Unit are available in the Russian language. Access to such information would make a significant contribution, in light of the rising levels of xenophobia, racism, and various forms of intolerance in Russia and other former Soviet countries.

Given the small staff and limited funding of the Tolerance Unit, however, it is open to question whether these many and complex projects make the most effective use of OSCE resources. To date, ODIHR's Tolerance Unit has emphasized activities with external organizations. To be more effective, the Unit should emphasize work with the 17 OSCE field presences and other OSCE institutions doing projects on the ground in participating States, thereby enabling the OSCE to identify and more directly address these problems. In 2005, the Tolerance Unit conducted pilot projects in Spain and Hungary to train police on hate crimes, but ODIHR has not yet taken up offers from several participating States to contribute expertise for such programs. If such offers were accepted, ODIHR core budget funding would be freed for other projects.

As mentioned above, part of the Tolerance Unit's mandate is to address freedom of religion or belief. Responsibility for the issue of religious freedom was removed from the ODIHR's Human Rights Unit when the issue was assigned to the Tolerance Unit in late 2004. The Commission is concerned that because of this bureaucratic reassignment, freedom of religion or belief will be relegated as a corollary to tolerance work and will no longer be addressed by the ODIHR's human rights programs. Only one staff person in the Tolerance Unit is specifically assigned to the issue of freedom of religion or belief, and that person is also assigned to work with NGOs. In 2006, the ODIHR plans to hold workshops on freedom of religion issues with NGOs, religious communities, and government officials in Central Asia, the Caucasus, and South-Eastern Europe.

Other OSCE Venues for Addressing Freedom of Religion or Belief Issues

Freedom of religion or belief is set forth as one of the basic human rights principles in the 1975 Helsinki Final Act and since then 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 55 participating States; during several conferences which 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 Unit was set up, freedom of religion or belief was part of the Human Rights Unit portfolio; through the 17 OSCE field presences, where freedom of religion or belief can also be the subject of monitoring, reports, and related activities; and through the inclusion of the views of relevant international, regional, and non-governmental human rights organizations in connection with each of the other venues described above.

Under the auspices of the ODIHR, the OSCE also hosts annual conferences, 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 Conferences on the Human Dimension (Human Dimension Implementation Meeting, or HDim), these ten-day meetings bring together diplomats, representatives of other international organizations, and, reportedly, the largest number of NGOs for a general European human rights conference. These conferences have been criticized by some government representatives for being too lengthy, for not attracting enough press and public attention, and increasingly, 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, guidelines that are based on international conventions and on OSCE commitments. The Panel then issues recommendations to the participating States on bringing such legislation into conformance with international human rights standards.

At present, the Panel is advising the governments of Macedonia, Romania, and Serbia on legislation. Panel recommendations on relevant legislation were also taken into consideration by the governments of Kazakhstan, Kyrgyzstan, and Bulgaria. In the case of Uzbekistan, 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 also criticized the 18-month detention of Bishop Jovan in the Former Yugoslav Republic of Macedonia for alleged incitement of religious and ethnic hatred as incompatible with OSCE freedom of religion commitments. (Bishop Jovan has since been released from imprisonment.) The Commission believes that the activities of the Panel should be more transparent, in particular with respect to governments that ignore its recommendations.

Commission Activities

Since 2001, the Commission has participated with, often as 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. In 2003, Commissioners participated with the U.S. delegations to the OSCE's first-ever special meeting on anti-Semitism in June; a special meeting on freedom of religion or belief in July; and the OSCE's annual human rights conference, the HDim, in October. Commission Vice Chair Felice D. Gaer made public statements on behalf of the Commission at each of these meetings.

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), Commission Vice Chair Gaer stressed the importance of freedom of religion or belief in the OSCE region. At the October 2004 OSCE HDim, the Commission publicized information on the status of freedom of religion or belief in various OSCE States, including Azerbaijan, Belarus, Georgia, Russia, Turkmenistan, and Uzbekistan. The Commission's concerns about religious freedom were included in the concluding intervention by the U.S. delegation to the HDim meeting. At the HDim, the Commission also met with delegations from Belgium and Russia, as well as with various NGOs from the OSCE region.

At the OSCE Conference on Anti-Semitism and Other Forms of Intolerance, held in Cordoba in June 2005, Commissioner Nina Shea spoke at the OSCE Panel of Experts Workshop on Promoting Tolerance and Ensuring Freedom of Religion and Belief on highly restrictive registration laws in Uzbekistan, Turkmenistan, and Belarus. Invited to serve as advisers to the U.S. delegation to the Cordoba meeting, Commission Chair Michael Cromartie and Vice Chair Shea met with a wide variety of diplomats and NGO representatives. Commissioner Archbishop Charles Chaput served in his private capacity as a member of the U.S. official delegation to the 2005 Cordoba meeting.

During the September 2005 OSCE Human Dimension conference in Warsaw, Commission Vice Chair Gaer served as a member of the U.S. delegation and made a plenary statement on the problems faced by ethnic minorities, including the scourge of anti-Semitism.

She also held meetings with each of the three OSCE Personal Representatives, as well as with numerous delegations and NGO representatives. The Commission also took part in a roundtable on intolerance and discrimination against Muslims and discussed how the Commission has addressed this problem, including in OSCE States such as Turkmenistan, Uzbekistan, and the Russian Federation, as well as with regard to the headscarf ban in French schools.

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.

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, held in Berlin in April 2004. During preparations for that meeting, Commission Vice Chair Gaer stressed that acts of anti-Semitism must be seen not as hooliganism, but as a human rights abuse that States should combat by robust implementation of their international human rights commitments. Participating with the U.S. delegation at the Berlin meeting, 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 called the attention of the U.S. delegation to 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

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 continued strong support for the OSCE in the face of attacks led by the Russian government on the OSCE, particularly on its human rights activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR); and

- authorize and appropriate additional funds to existing 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.

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 publicly to condemn 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.

With regard to freedom of religion or belief and the promotion of tolerance, the Commission has recommended that the U.S. government urge the OSCE to:

- take concrete action within the OSCE to ensure that all participating states are living 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;

- undertake a public review of compliance by participating States within the OSCE on a regular basis of their commitments to combat discrimination, xenophobia, and anti-Semitism;

- provide the ODIHR the necessary mandate and adequate resources to hire experienced staff at the working level to monitor compliance with OSCE obligations on freedom of religion or belief and to combat discrimination, xenophobia, and anti-Semitism;

- ensure reappointment of the three Chairman-in-Office Personal Representatives on tolerance issues;

- provide funding for each of the three OSCE Personal Representatives on Tolerance for an annual budget allocation for travel and other program purposes;

- provide funding for added staff to deal with freedom of religion or belief, working within the ODIHR Human Rights Unit;

- provide funding for the OSCE Field Presences and the ODIHR to hold public roundtables with local government officials, NGOs, and community leaders to discuss the concept, definition, and implementation of hate crimes and hate crimes legislation;

- ensure that the ODIHR Tolerance Unit staff should take part in ODIHR training of Field Presences and other OSCE staff;

- provide funding for the translation of additional ODIHR Tolerance Unit reports into OSCE languages, particularly Russian, and for one ODIHR Tolerance Unit staffer with Russian-language capability;

- consider holding the Human Dimension Implementation Meeting (HDim) in September and October in several areas in the OSCE region, preferably in areas with major OSCE Field Presences;

- consider reorganization of the HDim conference into thematically-linked issues: Rule of Law (Elections; Judiciary; Penal System); Fundamental Freedoms (Religion, Expression/Media, Assembly/Association, Movement); Tolerance and Non-Discrimination (Gender and Minorities—Religious, Ethnic, Economic); and

- convene expert conferences on anti-Semitism and freedom of religion or belief, as well as other tolerance issues, during 2006 and 2007.

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 been widely accused of serious human rights abuses, including involvement in the “disappearances” of several key opposition figures, the imprisonment of

political opponents and journalists, and strict media controls. Human rights conditions deteriorated further after the March 2006 presidential elections, which observers deemed to be 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 the past year. The Commission continues to place Belarus on its Watch List, and will maintain scrutiny throughout the year to determine whether the government's record rises to a level warranting designation as a "country of particular concern," or CPC.

According to the State Department's 2005 *Country Reports on Human Rights Practices*, the human rights record of the government of Belarus "remained very poor and worsened in some areas, with the government continuing to commit numerous serious abuses." The Belarusian authorities stepped up their campaign against all independent actors, including independent media outlets, trade unions, advocates of ethnic minority rights, and non-governmental organizations (NGOs). In December 2005, the Belarusian government amended its laws further to restrict freedom of speech, press, and assembly by passing a series of amendments that make it a crime, with punishments of up to three years in prison, to provide "false" information about the political, economic, social, military, or international situation of the country to a foreigner; to give out information on government agencies or the rights of citizens; to participate in the activities of unregistered NGOs; to participate in public demonstrations; to instruct people on demonstrating publicly; to finance public demonstrations; or to solicit foreign countries or international organizations in order to "act to the detriment" of Belarus.

The legislation on religion passed in October 2002 led to serious restrictions on religious freedom in Belarus. The law codifies the activities of the official Committee of Religious and Nationality Affairs of the Council of Ministers (CRNA) and sets 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; religious communities with fewer than 20 members; foreign citizens from leading religious activities; and 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.

Some religious groups have been consistently denied registration. One frequent basis for re-registration denials has been failure to provide a valid legal address; another is a failure to limit activities to a required location. In the past year, two evangelical Protestant churches in and near Minsk were denied registration due to the absence of a "legal address." In the past year, a Jewish group and a Calvinist congregation in Minsk had difficulty obtaining valid legal addresses, thereby preventing them even from applying for registration. Five autonomous Baptist congregations in the Brest region still await a response to their re-registration request because they refuse to restrict their activity to a particular location. In many cases, officials do not provide any reason for the denial of re-registration requests.

Official government attempts to control and restrict religious groups are frequently blatant. A January 2005 report by the top religious affairs official in the Brest region which was leaked to persons outside the government reportedly called for more prosecutions of local unregistered Baptist congregations by the end of the year. A November 2005 report called on Brest regional officials to break up more worship services and harass, fine, and control religious activity. That same report points to specific failures of local officials, including their failure to return the property of an alternative Orthodox community to the Moscow Patriarchate and to halt Greek Catholic, Jehovah's Witness, Adventist, and Pentecostal activities in the region.

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 religious meetings in private homes and 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 ten to 15 days' imprisonment. In 2005, several religious communities were fined or warned by courts for holding private worship services, including the Minsk Krishna Consciousness Society, which faces prosecution; the Christ's Covenant Reformed Baptist Church, which received a warning from a Minsk court; and the Full Gospel Light to the World, which was warned that it would be shut down.

The Belarusian authorities appear to be adopting tougher sanctions 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 ten-day prison term for conducting religious worship in his home, the first time in 20 years that a religious leader was sentenced to imprisonment. The church's re-registration request had previously been denied. In January 2006, police visited a residence during a worship service of a registered Minsk-based Pentecostal congregation and drew up a protocol against the bishop for alleged violations of the public demonstrations law, which requires advance official permission for all public events. This is despite the fact that the congregation is registered to hold worship services in that building. In November 2005, a member of the Brest congregation of the unregistered Council of Churches Baptists was fined for unregistered religious activity.

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. The pastor of an Evangelical Protestant church in the Grodno region reportedly received a call from a local official warning him not to allow pastors from other regions to speak at his church. If a registered religious community does not qualify as a "central association," as in the case of the Greek Catholic Church, it cannot own media outlets or invite people from outside Belarus to work with the community. 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. Belarusian law requires monasteries to have a minimum of ten participants; yet, only seven Roman Catholic convents and none of the Catholic Church's five or six monasteries meet that arbitrary criterion.

Since coming to power in 1994, President Lukashenko has openly favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow-based Russian Orthodox Church, resulting in a privileged position for the BOC in relation to other religious communities. This relationship was codified in June 2003, when the Belarus government and the BOC signed a concordat setting out the Church's influence in government affairs and other facets of public life. Relations between the BOC and the Belarus government have created difficulties for many religious minorities, which have sometimes been denied registration or permission to rent or build a place of worship by regional authorities who have been influenced by local Orthodox leaders. Several "independent" Orthodox churches that do not accept the authority of the Orthodox Patriarch in Moscow have been denied registration, including the Autocephalous Orthodox Church 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. In March 2004, the Belarusian government granted the BOC the exclusive right to use the word "Orthodox" in its title. The state-media sometimes attacks minority religious groups; in some cases, the property of these groups has been vandalized, though it cannot be established for certain if there is a direct correlation between these events.

The government refuses to acknowledge anti-Semitism and does not prosecute those responsible for vandalism against Jewish memorials, cemeteries, or other property. A Jewish cemetery, reportedly located a few meters from a police station in the Brest region, was vandalized in May 2005. No arrests have been reported. In January 2006, President Lukashenko reportedly awarded a medal for "spiritual development" to the editor of his presidential administration's newsletter, a person who has argued that the notorious anti-Semitic forgery "The Protocols of the Elders of Zion" is a genuine document. Anti-Semitic literature continues to be sold in government buildings, in stores, and at events directly and indirectly connected with the BOC. In addition, because the 2002 religion law states that religious organizations do not have priority in reclaiming property if a former worship building is now used for culture or sport, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country's independence in 1991. Reportedly, in January 2006, some 30 neo-Nazis held a march in the city of Grodno and several bystanders were beaten; city police deny any knowledge of the incident.

In contrast to the harsh measures described above, President Lukashenko signed a new 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 are reportedly not included.

The Commission has traveled to Belarus and met with officials for the State Committee on Religious and Nationalities Affairs as well as with representatives of various religious and human rights groups. The Commission pressed for passage of the Belarus Democracy Act, which was passed by Congress in October 2004. 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. The Commission released a report on Belarus in May 2003 with findings and recommendations for U.S. policy. In 2004 and 2005, the

Commission took 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 March 2005, the Commission met with delegation heads from the United States and European Union countries at the 61st session of the UN Commission on Human Rights and presented information about violations of religious freedom in Belarus.

With regard to Belarus, the Commission has recommended that the U.S. government should:

- raise the deteriorating human rights situation in Belarus at the next meeting of the G8 countries in St. Petersburg, Russia in July 2006 and urge all of the members of the G8, including Russia, to press the government of Belarus to institute democratic reforms with respect to human rights, including religious freedom, in that country;

- institute fully the measures set forth in the October 2004 Belarus Democracy Act, which expresses the Sense of Congress that sanctions be applied against the government of Belarus until the 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;

- 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;

- 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;

- 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 destruction of places of worship;

- ensure that the activities to promote democracy authorized by the Belarus Democracy Act include the right to freedom of religion or belief and religious tolerance;

- 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;

- 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 against 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";

- organize roundtables inside Belarus between members of registered and unregistered religious communities and international experts on freedom of religion; and

- increase international travel opportunities, particularly for 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.

Georgia

Georgia's former government under President Eduard Shevardnadze exhibited a slow and inadequate response to three years of vigilante violence against members of some of the country's religious minorities. However, under the new government of President Mikheil Saakashvili, the number of reported incidents of violence against minority religious communities markedly decreased in 2004. Moreover, in January 2005, two of the leaders of this vigilante violence were sentenced to prison for their involvement in the attacks. In the past year, President Saakashvili, the National Security Council Secretary, and the Government Ombudsman have all

advocated religious freedom and spoken out in support of minority religious groups. In late 2004, Georgian officials permitted the Jehovah's Witnesses Watchtower Bible and Tract Society to operate legally in the country for the first time. Under a new registration process established by parliament in April 2005, two religious communities were approved for registration as non-commercial organizations. While the Georgian Orthodox Church (GOC) remains the only religious group with formal legal status as a religious organization and other religious freedom issues remain unresolved in Georgia, significant improvement in religious freedom conditions led the Commission to remove Georgia from its Watch List in 2004.

Georgia's 1995 Constitution mandates the separation of church and state, guarantees religious freedom, and forbids "persecution of an individual for his thoughts, beliefs or religion." In practice, however, violations of religious freedom have occurred, especially at the regional level, where local officials have restricted the rights of members of mainly non-traditional religious minorities, who in past years were subjected to societal violence. However, according to the State Department, increased investigations and prosecutions of the perpetrators led to further improvements in the status of religious freedom in 2005.

The precipitous drop in the number of violent attacks on religious minorities and the sentencing of the ringleaders of the violence represent improvements for religious freedom in Georgia. Under the Shevardnadze government, minority religious groups in Georgia, 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 more than 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 nation-wide scourge of widely publicized mob assaults against members of religious minorities.

The main instigators of these attacks were the defrocked GOC priest Basil Mkalavishvili and director of the Orthodox "Jvari" Union, Paata Bluashvili, the latter of whom was reportedly supported by some in the GOC hierarchy. After years of government delays and inaction, in November 2003, only days after the Shevardnadze government fell, a court in Rustavi sentenced Bluashvili and four associates to suspended prison terms, ranging from two to four years, for their role in spearheading the violence in two attacks against Jehovah's Witnesses. Mkalavishvili has also been convicted on criminal charges, though only after somewhat drawn-out legal proceedings. Mkalavishvili and an associate were sentenced in January 2005; Mkalavishvili received a six-year term and his associate a four-year term. Their lawyers reportedly plan to appeal the sentences.

Despite improvements, some religious freedom concerns remain. Although the primary leaders of the violent attacks against members of religious minorities have been convicted, many other of the people 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, Orthodox communities other than the GOC and some other minority Christian denominations periodically encounter difficulties from local officials and the GOC in building places of worship or displaying their literature in bookstores.

There are a number of concerns involving the status of the GOC, to which 65 percent of the country's population claim adherence. Article 9 of the Constitution recognizes the "special importance of the GOC in Georgian history." In October 2002, the Georgian government signed an agreement, or concordat, with the GOC, granting the Church some approval 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 passed in April 2005 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.

In recent years, Assyrian Chaldean Catholics, Lutherans, Muslims, Old Believers, Jehovah's Witnesses, and Roman Catholics have stated that the GOC Patriarchate has often acted to prevent them from acquiring, building, or reclaiming places of worship. The Patriarchate has also reportedly denied permission for Pentecostals, the Salvation Army, and the True Orthodox Church to print some religious literature in Georgia, although Assyrian Chaldean Catholics, Baptists, Roman Catholics, and Yezidis (an ancient religion with a majority of ethnic Kurdish adherents) have not reported difficulties in this regard. An affiliate organization of the Jehovah's Witnesses has been allowed to register as a civic association, which should ease problems with regard to the import of religious literature.

In April 2005, a new law was passed allowing religious communities to register as non-commercial organizations. As a result, both the Church of Jesus Christ of Latter Day Saints (Mormons) and the Seventh Day Adventists were approved for registration. While this remedy generally is considered a more or less satisfactory way to grant legal personality to religious groups, Roman Catholic and Armenian Apostolic churches reportedly are trying to devise a different arrangement with the government. They, along with Muslims, oppose registering as non-commercial organizations, preferring to register only as public religious bodies. This would give them the same status as that of the GOC, the only religious community in the country that enjoys such a distinction and one that it gained as a result of its 2002 concordat with the Georgian government. The leaders of many other religious minority groups are also still seeking recognized legal status, a prerequisite for the community collectively to own property or organize most religious activities. However, the absence of formal legal status generally has not prevented most religious communities from functioning through affiliated registered non-governmental organizations. According to the State Department, in December 2005, the government's 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.

Despite general tolerance toward minority religious communities viewed as traditional to Georgia, opinion polls and the Georgian media reflect significant societal intolerance towards Protestants and other religions relatively new to Georgia. Public opinion polls continue to show that a majority of Georgians view minority or new religious groups as a threat to the GOC and national cultural values, and that violence against and the prohibition of such groups would be acceptable, according to the State Department's 2005 human rights report. Some GOC representatives have argued that foreign Christian missionaries should confine their activities to regions of Georgia where Muslims are the majority of the population. The government ombudsman has also reported hostility towards non-Orthodox religious communities, including reports that children in state orphanages are sometimes baptized by GOC clergy without their

parents' permission (it is not uncommon in many countries of the former Soviet Union for poorer parents to place their children in orphanages on a temporary basis).

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 religious communities to gain legal personality as public religious bodies under Georgian law, consistent with international human rights standards; and

- direct funding to initiate 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.

The Russian Federation

Since the Commission expressed strong concern in its May 2003 report that the Russian government was retreating from democratic reform and endangering significant gains on human rights, including freedom of religion or belief, it has become increasingly clear that this is a deliberate policy of the Russian government. Curtailments of media freedom and of the role of political parties, the placement of tighter restrictions on religious communities, non-governmental organizations, and other aspects of civil society, and the harassment of human rights organizations, as well as legal restrictions on freedom of assembly, constraints on the use of popular referenda, and President Vladimir Putin's decision to end the popular election of regional governors, have all revealed that progress toward democracy is being halted, if not reversed. The deterioration in conditions for religious freedom and other human rights appears to be a direct consequence of the increasingly authoritarian nature of the Russian government and the growing influence of chauvinistic groups in Russian society, which seem to be tolerated by the government. The country's progress toward the rule of law and protection of religious freedom and other human rights is now in peril.

Despite the setbacks in the past year, it can still be said that the practice of religion in Russia today, particularly for the individual, is freer than during the Soviet period, when atheism was the strictly enforced state policy and religious expression was harshly repressed. Nevertheless, advancements in religious freedom protections that emerged in the period immediately after the fall of the Soviet Union are now in danger of being reversed. A January 2006 law regulating non-commercial organizations allows Russian government officials to attend meetings of any registered religious community and provides for increased controls on foreign donations, which will likely hamper the charitable and other activities of religious groups. Although the number of violent incidents has not increased, there has been a noticeable rise in the number of anti-Semitic sentiments expressed in official government circles as well as the media. In addition, there has been a significant increase in allegations of official discrimination against, as well as harassment, detention and imprisonment of, members of the

country's numerous Muslim communities, incidents in which religious identification is believed to play a growing role.

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. 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. 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 that an active religious organization registered before the 1997 law could not be deprived of legal status for failing to re-register. 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.

At the federal level, the vast majority of religious organizations have been registered under a liberal interpretation of the 1997 law by federal officials and the Russian Constitutional Court. There have been several noticeable exceptions. The March 2004 Moscow court decision banning the Jehovah's Witnesses in that city, upheld on appeal, marked the first time that a national religious organization in Russia had a local branch banned under the 1997 law, even though 135,000 Jehovah's Witnesses practice their faith in registered communities in many other parts of Russia. The Salvation Army has not been re-registered, despite a Constitutional Court ruling that overturned the government's decision not to register the organization in Moscow. Local officials sometimes either refused outright to register groups or created prohibitive obstacles to registration; a lack of specific guidelines to accompany the 1997 law and the shortage of knowledgeable local officials contributed to the problem. In the past year, there were a number of reports that the Procurator General encouraged local prosecutors to challenge the registration of some religious groups deemed "non-traditional" to Russia. In addition, some Muslim clerics have reported that it has become more difficult to register new Muslim communities. For example, registration has been arbitrarily denied to 39 of the Stavropol region's 47 mosques.

A number of minority religious groups continue to report difficulties in obtaining permission to build houses of worship, since local government officials often create barriers. Roman Catholics, Protestants, Old Believers, Molokans (an ancient Orthodox sect), and Muslims have reported problems in acquiring land for new buildings, as have other alternative Orthodox communities. Religious groups seen as non-traditional to Russia face particular difficulties. For example, in November 2005, Moscow authorities overturned their decision to allot land for the building of a Hare Krishna temple and in 2006 the community lost its appeal of that decision. In other cases, local authorities have been responsive to the needs of a religious community. For example, following protests in June 2005, the Moscow Department for Building Policy reportedly ordered that land be found for the Emmanuel Pentecostal Church to build a center. For Muslims, the situation is mixed. In majority Muslim areas, the local government often funds the building of new mosques; in Tatarstan, the local government has funded the building of 1,000 new mosques and several dozen Islamic schools. In areas where the Muslim population is new or in the minority, however, the community may face difficulties in building or operating

places of worship. In October 2005, in the city of Nalchik, capital of Karbardino-Balkariya in the north Caucasus, the regional governor closed six of the seven mosques in that city and allowed the remaining mosque to open for only a few hours a week. In the regional capital of Astrakhan, local authorities have ordered the demolition of a mosque they initially helped fund. The case is apparently going to the Supreme Court.

The Russian Orthodox Church (ROC), which has played a special role in Russian history and culture, enjoys a favored status among many Russian government officials, a situation that sometimes results in restrictions on other religious communities. The ROC receives the overwhelming majority of various forms of state support, including subsidies for the construction of churches, although other religious communities also sometimes benefit. 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. Early in 2006, a bill was introduced to allow only clergy from the ROC to serve as official military chaplains. Members of registered Protestant communities in distant areas claim that they do have some access to military personnel that varies by region; however, the authorities generally prohibit Muslim services at military facilities.

ROC officials 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 permission from the ROC before being allowed 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. In July 2005, reportedly in response to pressure from officials of the local ROC, the Sverdlovsk Regional Railway canceled a three-day congress of 5,000 Jehovah's Witnesses, due to be held in a railway-administered stadium.

Due to their perceived links to the decade-long conflict in Chechnya and acts of terrorism worldwide, Muslims throughout Russia in 2005 increasingly became the targets of widespread discrimination, media attacks, and occasional acts of violence. In many of these incidents, there is growing concern among human rights organizations in Russia that religion has been a major factor. In February 2003, the Russian Supreme Court reportedly met in secret and banned 15 Muslim groups because of their alleged ties to international terrorism. The evidence on which the Court made this decision has never been made public, but police, prosecutors, and courts reportedly have used the decision to arrest and imprison individuals from among Russia's estimated 20 million Muslims. Persons suspected by local police of involvement in alleged Islamic extremism have reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps. There are as many as 200 cases of the imprisonment of Muslims on what are apparently fabricated criminal charges of possession of weapons and drugs.

After the 2004 hostage-taking in Beslan, police actions against Muslims in the North Caucasus intensified. The Russian human rights group Memorial described most cases against Muslims in that region as "trumped-up." Nine female Muslim students at the Kabardino-Balkariya State University reportedly were detained in June 2005 and interrogated for wearing the *hijab* and engaging in group study of the Quran. Mosque closings in Nalchik in October 2005 resulted in violence in which some 300 attackers targeted military garrisons and police stations, leaving 34 police and armed forces members dead. Following this incident, police

harassment of Muslim clerics and torture of alleged militants reportedly increased. According to the State Department, the head of the Islamic Research Institute in Nalchik, who sought to promote dialogue between the authorities and Muslims, is reported to have disappeared in November 2005, after interrogation by the Federal Security Service. The Russian government continues to refuse to make a serious effort to address reports of chronic human rights abuses in Chechnya, reportedly carried out by the Russian military, Chechen government forces, and Chechen rebel fighters. Despite entreaties from the U.S. State Department, Russian authorities have not sought negotiations to find a political solution to the decade-long war in Chechnya.

Many in Russia's Jewish community state that despite some continued problems, conditions for the country's Jews have generally improved, because, unlike in the Soviet period, the state no longer acts as an official sponsor of anti-Semitism. In 2005, construction began on a Jewish community building complex on land donated by the city of Moscow, which will include a school, a hospital, and a new museum of Russian Jewry, the Holocaust, and religious tolerance.

Nevertheless, anti-Semitic acts, including public pronouncements as well as vandalism and physical attacks, continue, particularly in Russia's western regions. In January 2005, 20 members of the Russian State Duma (Parliament) called on the Procurator General to ban all Jewish organizations in Russia, alleging that Jewish texts teach incitement of religious and ethnic hatred. Though the letter was later officially withdrawn, none of the signers have expressed regret for the views it expressed. In April 2005, another letter, expressing similarly virulent anti-Semitic views, was signed by 5,000 people, including many well-known Russian public figures and ROC officials. Both letters were publicly condemned by the Russian Foreign Ministry. However, a Moscow district prosecutor opened an investigation into the Jewish organization that published the translation of the letters, as well as into charges brought by Jewish and human rights organizations that the letters themselves, in promoting hatred of Jews, violated federal laws against ethnic incitement. These investigations were later closed with no charges being brought. In September 2005, Moscow airport border guards denied reentry to the rabbi of the Moscow Choral Synagogue. A Swiss citizen, he has lived in Moscow since 1989 and his family resides there. His visa status has since been resolved, after a delay of several months.

Casual anti-Semitic statements are reportedly so numerous in society that law enforcement bodies do not pay attention to them. While official investigations into anti-Semitic activity by individuals have increased, official efforts to combat chauvinist and anti-Semitic groups decreased in 2005. There was a significant exception in May 2005, when a Novgorod city court ruled that three distributors of an anti-Semitic bulletin constituted an "extremist community," as defined in criminal code Article 2821. All three defendants received conditional sentences, but were banned from distribution of mass media; one was also banned from journalism.

Anti-Semitic attacks and vandalism often go unpunished, except for high-profile incidents, such as an attack in January 2005 in Moscow on two rabbis who are U.S. citizens. The two attackers in that case were sentenced to four years and eighteen months in prison, respectively, but the court failed to find that they were motivated by hatred. In March 2006, a Moscow court sentenced a 21-year-old defendant to 13 years in prison for the stabbing of eight men in a prominent Moscow synagogue, but found him not guilty of inciting racial hatred. The

perpetrator had reportedly been reading anti-Semitic literature before committing the act. The number of reported incidents of vandalism of Jewish cultural and religious sites in 2005 was estimated to be similar to that in 2004. Anti-Semitic graffiti and property damage were reported in Moscow, Petrozavodsk, Samara, Taganrog, Vladimir, and Nizhny Novgorod. Vandalism of Jewish cemeteries or of Jewish graves was reported in Moscow, Kazan, Tver, Tambov, Pskov Oblast, St. Petersburg, and near Izhevsk.

There continue to be official efforts to portray "foreign sects," mostly Evangelical Protestants, as alien to Russian culture and society. Officials do little to counter libelous media attacks or discrimination. Security services treat the leadership of some minority religious groups, particularly Muslims and adherents of newer religions, as security threats. Many officials in the legislative branch and in law enforcement speak of the need to protect the "spiritual security" of the country by discouraging the growth of "sects" and "cults," usually understood to include Protestant and newer religious movements. In one case, a local official reportedly warned that non-traditional religions are used by foreign organizations to undermine the country's security, grouping together Mormons, Jehovah's Witnesses, the True Orthodox Church, and the New Apostle Church with such groups as Aum Shinrikyo, the Japanese group notorious for the subway gas attack in Tokyo, and Satanists. Evangelical Protestants also continued to be subject to societal violence in the past year, as churches and prayer houses were vandalized in several regions. The Slavic Law Center reported that a Baptist Church in Chelyabinsk Oblast was firebombed in April 2005. The Jehovah's Witnesses reported two incidents in March 2006, when members were assaulted, leaving one with a concussion.

There are continued reports of difficulties for foreign religious workers in entering Russia, either to work or to visit. Catholic authorities reported a decrease in visa problems for Catholic priests in 2005, though foreign Catholic priests in the Pacific region remain unable to invite others to assist them. None of the seven foreign Catholic clergy barred by authorities from entering Russia in 2001 and 2002 has since been allowed to return to the country. The Russian authorities have not resolved a pending visa request by the Dalai Lama to visit the Republic of Tuva, although the Tibetan Buddhist leader was finally allowed to visit the traditionally Buddhist region of Kalmykia in late 2004. In the past year, the government denied entry to high-ranking British and Danish Salvation Army officials who sought to attend a church congress, reportedly on the grounds that it was not "in the interests of state security."

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, at which findings were presented by experts on the current status of Muslim, Christian, and Jewish communities, as well as on increased acts of 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, a briefing by Lyudmila Alekseeva, head of the Moscow Helsinki Group on religious freedom and other human rights concerns in Russia, took place at Commission offices. In May 2005, the Commission co-sponsored a presentation at Radio Free Europe/Radio Libery on

religious extremism in Russia by Aleksandr Verkhovsky, director of the SOVA Center for Information and Analysis in Moscow.

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 organized by the Russian Presidential Administration Training Academy for state officials. The conference brought together scores of national, regional, and local government 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 several representatives of human rights and other civil society organizations, as well as academic experts, concerned with freedom of religion and growing intolerance in Russia.

Also in February 2006, the Commission convened a public roundtable discussion at the Carnegie Endowment for International Peace entitled "Assessing U.S. Human Rights Policy Towards Russia." The panelists at the roundtable reviewed how the U.S. government should be responding to the rollback in human rights, including religious freedom, in Russia and increasing Russian nationalism.

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 if the President certifies 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.

With regard to Russia, the Commission has recommended that the U.S. government should:

- urge the Russian government to ensure that any special role for the Orthodox Church or any other religious community does not result in violations of the rights of, or discrimination against, members of other religious groups;

- ensure that the humanitarian and human rights crisis in Chechnya remains a key issue in its bilateral relations with Russia and urge the Russian government to end, and prosecute acts of, torture, arbitrary detention, rape, and other abuses by members of the military in Chechnya;

- urge the Russian government to accept a site visit to Chechnya from the UN Special Rapporteurs on Torture, Extrajudicial Executions, and Violence Against Women;

- raise religious freedom and other human rights violations in multilateral fora, including the OSCE and the UN, and continue, on a bilateral basis, to encourage the government of Russia to agree to the request of the UN Special Rapporteur on Freedom of Religion or Belief to visit Russia;

- use every possible means to engage and support the genuine democrats in the Russian government at the federal and local levels, and ensure that U.S. aid programs are not being used to support the activities in Russia of authoritarian-minded officials;

- make clear its concern to the Russian government that hostile rhetoric against Muslims and the Islamic faith is fueling an atmosphere in which perpetrators believe they can attack Muslim or members of other religious and ethnic minorities with impunity;

- make clear its concern to the Russian government that efforts to combat terrorism should not be used as an unrestrained justification to restrict the rights, including religious freedom, of members of Russia's religious minorities;

- urge the Russian government to take all appropriate steps to prevent and punish acts of anti-Semitism, including to condemn anti-Semitic acts, to investigate and prosecute the perpetrators of violent incidents of anti-Semitism, and, while vigorously protecting freedom of expression, to counteract anti-Semitic rhetoric and other organized anti-Semitic activities;

- continue to press the Russian government to ensure that religious communities are not broadly and indiscriminately labeled as threats to Russia's national security;

- continue to urge the Russian government to cease interference in the internal affairs of religious communities, such as denials of visas and work permits to religious workers and attempted interference in the elections of religious bodies;

- urge the government of Russia to monitor the actions of regional and local officials who interfere with the right to freedom of religion or belief, take steps to bring local laws and regulations on religious activities into conformity with the Russian Constitution and international human rights standards, and bring those who commit crimes to justice;

- continue to monitor official restrictions on the activities of non-governmental organizations (NGOs), including the implementation of the recently enacted law on NGOs, and to oppose such restrictions that constitute violations of international norms;

- advance human rights, including religious freedom, in Russia by continuing to provide assistance, as appropriate, to NGOs, public interest groups, journalists, and academic institutions, and by expanding programs aimed at encouraging religious tolerance and supporting international standards on freedom of religion and other human rights;

- include the promotion of freedom of religion or belief as a category for U.S. Embassy small grants proposals; and

- consider providing funds to non-governmental programs on international and Russian legal commitments to protect freedom of religion or belief as well as promote tolerance. Such programs should include training of religious affairs officials, court officials, and lawyers; media monitoring; journalism training; and conferences of academic specialists, representatives of civil society and religious communities and government officials.

Turkmenistan

Turkmenistan is among the most repressive states in the world today and engages in systematic and egregious violations of freedom of religion or belief. The all-pervasive authoritarian rule and escalating "personality cult" of President Saparmurat Niyazov effectively prevent any opposition or independent religious activity within the country. The country's poor human rights situation further deteriorated after November 2002, when, in response to a reported assassination attempt, Niyazov ordered the arrest of hundreds allegedly linked to that attempt, sentencing many to long prison terms and sending others to psychiatric hospitals. In the past two years, the government has made small, purportedly positive legal adjustments to the laws that restrict religious practice; however, these changes have done little or nothing to alter the overall repressive situation. The Commission continues to recommend that the Secretary of State designate Turkmenistan a "country of particular concern," or CPC. Although religious freedom continues to be severely proscribed in Turkmenistan and there is scant evidence that the situation has improved in the past year, the Secretary of State has not named Turkmenistan a CPC.

President Niyazov's personality cult is increasingly becoming comparable to a state-imposed religion. This aspect of his rule is bolstered by the forceful official promotion of a book containing the president's own "spiritual thoughts," known as *Rukhnama*. Students are reportedly required to study the *Rukhnama* at all public schools and institutes of higher learning. Moreover, according to the State Department, observers have stated that the president uses 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 July 2002 law enjoins parents and guardians "to bring [children] up in spirit of …the unshakeable spiritual values embodied in the holy *Rukhnama*." Credible reports indicate that mullahs in Turkmenistan were told in late 2005 to stop reading the Quran in mosques and restrict themselves to the *Rukhnama*. In March 2006, Niyazov announced on Turkmen state television that anyone reading *Rukhnama* three times "would be assured a place in heaven." According to reports, the study of the *Rukhnama* has even replaced some subjects in the school curricula. The president's books must be displayed in mosques and churches alongside the Quran and the Bible. *Rukhnama* quotations have also been carved alongside Quran citations in the country's largest mosque. Turkmenistan's former chief mufti, Nazrullah ibn Ibadullah, who opposed this requirement, was sentenced in a closed trial in March 2004 to 22 years in prison, reportedly for treason due to his alleged link to the alleged assassination attempt. The former chief mufti remains in prison, where, reports indicate, he is maltreated by prison guards. During a December 2005 police raid of a registered Baptist church in the town of Deynau, ethnic Turkmen congregants were released from detention only after they signed a statement promising to read the *Rukhnama* rather than the New Testament.

Since independence in 1991, religious groups have been required to register with the government in order to engage in 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 is severely limited. Niyazov enforces his own interpretation of Islam as part of his version of Turkmen identity. Imams have been instructed by the government to repeat an oath of loyalty to

the "fatherland" and to the President after each daily prayer. In March 2004, Niyazov proclaimed that no new mosques should be built and some seven mosques are reported to have been destroyed in that year. In July 2005, Niyazov reportedly told his cabinet that Turkmen Muslims had their own way of praying and ordered the publication of a list of religious rituals common to all Turkmens. Reportedly, secret police attend mosques to identify Muslims who perform religious rites in a way that differs from this officially prescribed Turkmen practice. Since August 2005, according to the exiled Turkmenistan Helsinki Foundation, the secret police have increased the monitoring of young men who regularly visit mosques in the country's Ahal region by ordering imams to hang a list of mosque attendees above the doors to their mosques; now, only those whose names are on the lists are allowed to visit those mosques. The Turkmen authorities continue to limit the numbers of Muslims permitted to perform the *haj*; in 2006, only 188 of the country's official quota of 4,500 were allowed to go to Mecca. In the past year, the Turkmen State University Theological Faculty was dissolved and absorbed into another department, leaving only one institution of Islamic education open, with the government controlling the curriculum of that institution. As far back 2000, Niyazov reportedly ordered Muslims to renounce the hadiths, sayings attributed to the Prophet Muhammad that do not appear in the Quran.

The Russian Orthodox community has also been affected by the repressive policies of Niyazov, who has banned residents of Turkmenistan from receiving Russian publications by mail, including the *Journal of the Moscow Patriarchate*. All Russian Orthodox parishes were re-registered by November 2005. However, Turkmen authorities refuse to allow the Russian Orthodox community to build a new cathedral in the capital of Ashgabat, though Niyazov allocated land for that purpose ten years ago. In addition, the Turkmen government continues to attempt to isolate local parishes from the wider Russian Orthodox Church, in part by pressuring the local Church to take the Turkmen parishes from the jurisdiction of the Central Asian diocese in Uzbekistan and put them directly under the Patriarch of Moscow, who in July 2005 rejected this proposal.

A new law on religion in 2003 resulted in a further decline in religious freedom conditions. The new law codified the Turkmen government's already highly repressive policies even further, effectively banning most religious activity, and established criminal penalties for those found guilty of participating in "illegal" religious activity. The law also requires religious groups to coordinate with the Turkmen government any contacts with co-religionists abroad. In response to international pressure, Niyazov issued a decree in March 2004 stating that religious communities may register "in the prescribed manner," and will no longer have to meet the requirement of 500 members in order to do so. However, the decree only amended the numerical requirements for registration and not the penalties for violating it. 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. Nevertheless, Turkmen officials have stated that "eased" registration requirements do not mean that religious communities may gather in private homes or that religious adherents will no longer be required to request official permission before holding worship services. In fact, some reports indicate that registration is actually being used as a method of more effective state control over religious communities, as it affords officials the right to know what occurs at every meeting of a religious group. Church

members who refuse to provide details about religious gatherings risk having their communities charged with being in violation of registration requirements.

In addition, police continued to interfere in the activities of registered and unregistered religious communities in the past year. Security officials regularly break up religious meetings in private homes, search homes without warrants, confiscate religious literature, and detain and threaten congregants with criminal prosecution and deportation. Family members of detained religious leaders have been subjected to harassment and internal exile. In March 2005, Baptist communities were raided in the towns of Turkmenabad and Mary and Pentecostals in Turkmenbashi. In August, "anti-terrorist" police raided a Baptist worship service in Dashoguz, questioning church members, confiscating Turkmen-language Bibles, and claiming that the church's national registration in Ashgabat was not valid in other towns. In the past year, Baptists, Hare Krishnas, Jehovah's Witnesses, and Seventh-day Adventists reported disrupted meetings, detainments (including of children), and administrative fines. Jehovah's Witnesses reportedly experienced eight incidents of harassment or short-term detention during a three-month period in the last year. One Jehovah's Witness was confined to a psychiatric hospital for refusing military conscription in November 2005. He was released in February 2006. In July 2005, police raided a home in Turkmenabad where a group of unregistered Baptists had gathered; police reportedly beat the host with her own Bible and threatened to hang her. An adherent of Hare Krishna received a seven-year jail sentence on unknown charges; in February 2006 her appeal to overturn that sentence was denied. In addition, members of some religious minority groups, particularly Protestants, Hare Krishnas and Jehovah's Witnesses, continue to face official pressure to renounce their faith publicly, and are forced to swear an oath on the *Rukhnama*.

No religious literature is printed in Turkmenistan and the import of religious materials is essentially impossible. In addition, known religious adherents are sometimes banned from travel. In 2005, two Protestants were denied permission to leave Turkmenistan after they told border guards they wanted to study the Bible, and a Hare Krishna follower who had planned to visit a temple in Russia was also prevented from traveling. In recent years, the Turkmen government has refused entry visas to three or four priests who are Russian citizens, while church delegations to Turkmenistan from Tashkent and Moscow have been forced by Turkmen officials to reduce their numbers. Muslims are not allowed to travel abroad for religious education; however, Russian Orthodox men from Turkmenistan are allowed to study for the priesthood at the Tashkent seminary.

For several years, the Commission has raised public concerns about the status of religious freedom in Turkmenistan at meetings of the Organization for Security and Cooperation in Europe. 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.

In May 2004, the Commission organized two public briefings on "Religious Freedom in Turkmenistan: the U.S. Response to One of the World's Worst Religious Freedom Violators," with the Commission on Security and Cooperation in Europe and Radio Free Europe/Radio Liberty. The Commission also released a public statement in response to the Turkmen Ministry of Justice's declaration that unregistered religious activity continues to be illegal, noting that "CPC designation would likely lead to significant improvements for the religious communities in Turkmenistan who have been ignored by the outside world for too long." In July 2005, the Commission held a public briefing with the Center for Strategic and International Studies, 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.

In addition to continuing to recommend that Turkmenistan be designated a CPC, the Commission has further recommended that the U.S. government should:

- suspend all non-humanitarian assistance to the government of Turkmenistan, with the exception of programs that serve identifiable U.S. national security interests in connection with the current campaign against terrorism. This recommendation does not apply to U.S. assistance to appropriate non-governmental organizations, private persons, or cultural or educational exchanges;

- scrutinize all aspects of any assistance programs in Turkmenistan to ensure that these programs do not facilitate Turkmen government policies or practices that result in religious freedom violations. The United States should also examine its programs in Turkmenistan to determine if opportunities exist within those programs to promote the development of genuine respect for human rights, including religious freedom, in that country;

- support efforts to facilitate Turkmenistan's sale of natural gas on world markets, including support for the Trans-Caspian Gas Pipeline, only if the Turkmen government takes definitive steps to improve substantially conditions for religious freedom in Turkmenistan;

- identify specific steps that the government of Turkmenistan could take in order to have its currently suspended assistance reinstated and to avoid triggering further restrictions on assistance programs, steps which should include, but not be limited to (1) the lifting of oppressive legal requirements on religious groups and allowing all such groups to organize and operate freely; (2) the end to harassment and deportation of religious leaders; and (3) the halting of unjust arrest, detention, imprisonment, torture, and residential and workplace intimidation of religious leaders and their adherents, including releasing those currently in detention or imprisoned;

- press the government of Turkmenistan: (a) to release immediately and unconditionally any persons who have been detained solely because of their religious beliefs, practices, or choice of religious association; (b) to ensure that all people in Turkmenistan are able to exercise

their right to religious freedom without threat of harassment, detention, imprisonment, or torture; and (c) to permit all religious groups to organize and worship freely;

- continue to support discussions in Turkmenistan among representatives of Turkmenistan's religious communities, religious affairs officials, and experts on international norms on religious freedom, possibly in conjunction with the Organization for Security and Cooperation in Europe (OSCE);

- support efforts to counteract the Turkmen government's blockade on information into the country and its rollback of general education by increasing radio, Internet, and other broadcasting of objective news and information on issues relevant to Turkmenistan, including educational topics, human rights, freedom of religion, and religious tolerance;

- increase exchange programs for Turkmen citizens, including civil society leaders, students, and others concerned with human rights;

- suspend state visits between the United States and Turkmenistan until such time as religious freedom conditions in the country have improved significantly; and

- encourage scrutiny of religious freedom violations in Turkmenistan in appropriate international fora such as the OSCE and other multilateral venues and also raise the issue of religious freedom violations in Turkmenistan at those UN bodies that consider human rights questions.

Uzbekistan

Since Uzbekistan gained independence in 1992, 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, as well as the approved manner in which the Islamic religion is practiced. In the past year, Uzbek authorities continued to crack down harshly on Muslim individuals, groups, and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This 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 continues to recommend to the Secretary of State that Uzbekistan be designated a "country of particular concern," or CPC. However, the Commission's CPC recommendation for Uzbekistan should not in any way 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.

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 Uzbek government has also closed down approximately 3,000 of the 5,000 mosques that were open in 1998. 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; in the Kashkadarya region, state officials allow certain mosques to be open only for major religious holidays. In early 2006, the Uzbek government reportedly issued an order requiring imams in the city of Namangan in the Ferghana Valley not to allow men wearing traditional white prayer caps into mosques.

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. Although it is difficult to estimate the exact number of such prisoners, in 2004 there were estimated to be as many as 5,500, including those sent to psychiatric hospitals. In 2005, the State Department reported that that number remained the same or increased. Piety alone may result in arrest. 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 efforts 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. According to the State Department, "police, prison officials, and the [security services] allegedly used suffocation, electric shock, deprivation of food and water, and sexual abuse, with beating the most commonly reported method of abuse [and] torture." Convictions in the cases described above 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 government of Uzbekistan does face threats to its security from certain 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, after a series of daily peaceful protests in support of 23 businessmen on trial for alleged ties to Islamic extremism, a group turned violent: it seized weapons from a police garrison, stormed the prison holding the businessmen, released the defendants, and attacked other sites in the city. On May 13, several thousand mostly unarmed civilians gathered on the central square; 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 say as many as 1,000 men, women, and children were killed. The Uzbek government has rejected repeated calls from the United States, the European Union, the OSCE, and the UN High Commissioner for Human Rights for an independent international investigation into these events. In the aftermath, Uzbek authorities have reportedly jailed hundreds of local residents, human rights activists, and journalists.

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 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, 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* make up most of the thousands in prison; in most cases, however, Uzbek authorities have failed to present evidence 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.

"Wahhabi" is a term that generally is used to refer to followers of a highly restrictive interpretation of Sunni Islam practiced in Saudi Arabia. In Uzbekistan, "Wahhabi" is a catchphrase used to refer to genuine extremists, Muslim individuals and groups that oppose the Karimov regime, and those who wish to practice Islam independently of government strictures. For the Uzbek authorities, all these groups and individuals are equally suspect and subject to government repression. Such groups include *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 reportedly espouses charitable work and a return to Islamic moral principles. In 2004, there were several trials of alleged *Tabligh* members in the Ferghana Valley, including one in October 2004 at which the two defendants received comparably "light" six-month terms, reportedly because the Commission had visited the courthouse the previous day. Although observers contend that *Akromiya* does not promote extremism, several persons were convicted in 2005 of religious extremism for alleged affiliation with that group. The 23 local businessmen on trial in Andijon in May 2005 were also charged with membership in *Akromiya*. In July, a Tashkent court convicted three alleged *Akromiya* members on charges of taking part in a religious extremist group, conspiracy to overthrow the constitutional order, and establishing a criminal group. Defendants received prison sentences of up to 16 years, and convictions in the case were reportedly based on confessions, which often are the result of torture. In March 2006, an anti-terrorist unit reportedly arrested a Muslim man in Tashkent as an alleged "Wahhabi," although a police search of his house found no evidence of this or any other charge.

The Law on Freedom of Conscience and Religious Organizations passed in May 1998 severely restricts the exercise of religious freedom. Through a series of regulations that are often arbitrarily applied, the law imposes onerous hurdles for the registration of religious groups; criminalizes unregistered religious activity; bans the production and distribution of unofficial religious publications; prohibits minors from participating in religious organizations; prohibits private teaching of religious principles; and forbids the wearing of religious clothing in public by

anyone other than clerics. According to the State Department, in the past year, local authorities continued to block the registration or re-registration of numerous Protestant Christian congregations in the country, including in Tashkent, Samarkand, Guliston, Gazalkent, Andijon, and Nukus. A Pentecostal Church in Chirchiq was denied registration and the city of Nukus' only registered Protestant church lost its registration in the past year. Of the country's 11 Jehovah's Witness congregations, only those in Chirchiq and Ferghana have been registered. For several years, the non-denominational International Church of Tashkent has been denied registration, partly because it cannot meet the registration minimum of 100 Uzbek citizens. In 2004, a Jewish organization in Tashkent was denied registration; Uzbek officials reportedly told the group that because a Jewish organization already exists in Tashkent, the Jewish community does not need another.

As with Muslims, members of Protestant and other minority religious groups have been arrested, sometimes on spurious drug or other charges. Several Christian leaders have reportedly been detained in psychiatric hospitals, severely beaten, and/or sentenced to labor camps and continue to have their churches raided, services interrupted, Bibles confiscated, and the names of adherents recorded by Uzbek officials. There are frequent reports that officials accuse them of being members of alleged extremist organizations. In this atmosphere, some Christian groups in various parts of Uzbekistan have been forced to operate underground. The situation of Protestants is particularly difficult in Karakalpakistan, an autonomous republic in the country's northwest, where it is almost impossible for churches to be registered. In March 2006, police raided a gathering of 40 Protestants in a private home in the village of Kum Kurgan, in the Surkhandarya region of southern Uzbekistan. All 40 participants were interrogated for 18 days. In February 2006, in the town of Syr-Darya, officials invaded a private home where nine Pentecostals were meeting. The officials confiscated the group's religious literature, forced them to write statements, and later levied fines against them. In March 2005, over 200 members of the Jehovah's Witnesses were detained for up to one day in police raids in Tashkent, Kogon, Bukhara, Samarkand, Navoi, and Bekobod; 120 were questioned in the town of Angren. In the past year, a judge ordered the brief detention of two Jehovah's Witnesses and the imposition of fines on another nine for alleged administrative infractions. The authorities also continue to exert pressure on the Hare Krishna community in Karakalpakistan.

In December 2005, the government modified the country's criminal and administrative codes to introduce much heavier fines for repeated violations of rules on religious meetings, processions, and other religious ceremonies, as well as of the law on religious organizations. As a result, official inspections and police monitoring of places of worship has intensified. In addition, there are persistent reports of societal discrimination against ethnic Uzbeks who convert to Christianity. In April 2005, authorities did not respond to the complaint of a Christian convert who had been beaten by local villagers near the city of Nukus and told to "return to Islam" or leave the village. An ethnic Uzbek Pentecostal pastor in Andijon reportedly was attacked in late 2005 and reviled as a "traitor to the faith." Another Pentecostal pastor in Andijon reported that he and other local Protestants are under police surveillance and that he has often been threatened with arrest if he does not close his unregistered church.

In the past year, the Uzbek government stepped up efforts to isolate the people of Uzbekistan from the international human rights community and the outside world. In August 2005, the Uzbek government detained and then officially deported the representative of Forum

18, a non-governmental organization that reports on religious freedom violations. Censorship and confiscation of mail and religious literature has also increased. In another move, the Uzbek government in March 2006 ordered the UN High Commissioner for Refugees, in Uzbekistan since 1993, to close its office within one month despite some 2,000 refugees from Afghanistan in the country.

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 Islamic, Jewish, and Christian communities and other religious groups, Uzbek human rights activists and lawyers, alleged victims of repression and their families, Western non-governmental organizations active in Uzbekistan, and U.S. Embassy personnel.

Throughout the past year, the Commission staff has held meetings with numerous delegations of Uzbek religious leaders, as well as with human rights groups and academics. In May 2005, Commission Chair Michael Cromartie testified at a hearing of the U.S. Commission on Security and Cooperation in Europe entitled "Unrest in Uzbekistan: Crisis and Prospects." At a June 2005 Carnegie Endowment roundtable on Andijon, the Commission released its *Policy Focus* report, which includes numerous policy recommendations. In July, the Commission held a public briefing on "U.S. Strategic Dilemmas in Uzbekistan and Turkmenistan" with the Center for Strategic and International Studies discussing the human rights situation and U.S. policy in both countries.

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. In addition, the Commission's recommendation to re-open the Voice of America's Uzbek Service was taken up in June 2005.

In addition to recommending that Uzbekistan be named a CPC, the Commission makes the following recommendations for U.S. policy.

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 the eastern city of 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);

  --halting the detention and imprisonment of persons on account of their religious beliefs and practices;

  --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);

- use appropriate avenues of public diplomacy to explain to the people of Uzbekistan why religious freedom is an important element of U.S. foreign policy, as well as specific concerns about violations of religious freedom in their country; and

- establish "American corner" reading rooms in various regions of Uzbekistan, including in the capital Tashkent, which should include materials on democracy, civic education, human rights, the role of religion in society, and other relevant topics.

II. The U.S. government should encourage greater international scrutiny of Uzbekistan's human rights record. To that end, the U.S. government should:

- 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 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;

- increase foreign travel opportunities for civil society activists, religious leaders, and others concerned with religious freedom to permit them to take part in relevant international conferences;

- continue 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;

--expand exchange programs for Uzbek human rights defenders, including participation in relevant international conferences and opportunities to interact with Uzbek officials; 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.

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. In the past year, the Egyptian government has adopted several measures to acknowledge the religious pluralism of Egypt's society, including increased efforts in promoting interfaith activity and the issuance of a presidential decree that, if genuinely implemented, would improve the procedures required for building new and maintaining existing houses of worship. Yet, the government has not taken adequate steps to halt 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. Despite a recent positive court ruling, the government has also not taken steps to provide identity cards and other important documents to members of the Egyptian Baha'i community or to combat widespread and virulent anti-Semitism in the government-controlled media. Egypt remains on the Commission's Watch List, and the Commission continues to monitor the actions of the government of Egypt to see 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 which 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 Islamic extremism is advancing in Egypt with detrimental effects on the prospects for democratic reform, religious tolerance, and the rights of women and 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 the 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," continues to be applied to prosecute alleged acts by purportedly "unorthodox" Muslims. These include Muslims groups, such as the Koranites—a group that does not accept as authentic *hadith*, oral traditions of the life of the Prophet Muhammad, or *Sunna*, accounts of the way the Prophet Muhammad lived his life—who are accused of practicing beliefs deemed to deviate from Islamic law. In December 2003, state security services arrested and imprisoned 20 Shi'a Muslims

without charge and subsequently interrogated them concerning their religious beliefs; they were reportedly also physically abused. All were released by June 2005. 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 three years in February 2003, restricts many human rights, including freedom of religion or belief. The Law must be extended by May 2006 or it will expire. Under this Law, the security forces continue to 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 Law to be lifted and during his presidential campaign, President Hosni Mubarak pledged to rescind the Law.

Members of Egypt's non-Muslim religious minorities, particularly Christians, Jews, and Baha'is, report discrimination, interference, harassment, and surveillance by the Egyptian state security services. 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.

Coptic Orthodox and other Christian denominations face increasing problems with societal intolerance and violence by Muslim extremists and Egyptian authorities have been accused of being lax in protecting the lives and property of these groups. In October 2005, thousands of Muslim demonstrators took to the streets in Alexandria, reportedly angry over a play that was performed two years before in a Coptic church and recently distributed among church members on DVD. Some Muslims claimed that the play was anti-Islamic. Three Muslims were killed, a Christian nun was wounded, and dozens were injured, in what officials called the worst case of sectarian violence to strike Egypt since the Al-Kosheh incident in 2000. In February 2006, a criminal court in Alexandria sentenced a man to three years in prison for physically attacking the nun.

In January 2006, 14 people were injured, including two policemen, when clashes broke out between Muslims and Coptic Orthodox Christians near the southern Egyptian city of Luxor. One Coptic Orthodox Christian man died from injuries associated with the violence. The violence began when Muslims torched a house that Coptic Christians were using as a makeshift church. Police arrested ten youths for setting fire to the house, as well as the owners of the house for using it as a church without permission. As of this writing, the case was ongoing. In February 2006, in the village of Al-Ayat south of Cairo, five Muslims and three Christians were injured in clashes as a result of extremist attacks on a local Christian meeting place; the violence broke out in response to the rumor that the local Christian community was planning to convert

the meeting place into a church. In April 2006, three Coptic Christian churches in Alexandria were attacked by a Muslim man, resulting in the death of one Christian and the wounding of approximately a dozen others. Three days of rioting followed the attacks, leaving one Muslim killed and almost 40 injured. 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 have been detained in response to these events, some for questioning and others on suspicion of incitement to riot and rioting.

Egyptian government officials have confirmed that in June 2004, the Court of Cassation upheld 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. The decision has left public prosecutors and Christian advocates with no further legal options within the Egyptian legal system. Some Egyptian human rights advocates believe that the only recourse is to urge Egyptian authorities to 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 posts. For all Christian groups, government permission must still be sought to build or repair a church, and the approval process for church construction is time consuming and inflexible. Although President Mubarak reportedly has approved applications for new construction and, under new regulations, provincial governors now have the authority to approve applications for church repair, many such applications are languishing in the system. At least 100 applications to build new churches have been submitted to President Mubarak for approval; though most of these applications were submitted over five years ago, none have received a response. Even some permits that have been approved cannot be acted upon because of interference by the state security services, at both the local and national levels. On a potentially positive note, in December 2005, President Mubarak issued decree 291 to alleviate the procedures required for renovating, building, and rebuilding existing churches. Reportedly, governors now must make a decision to reject or approve an application within 30 days of its submission. However, it is still too early to determine if the decree will yield any positive results.

Known converts from Islam to Christianity generally receive attention from the state security services, and converts have been arrested for attempting to change their religious affiliation on identity documents. Most conversions are reportedly done quietly and privately. Egyptian government officials have stated that no law prevents conversion, but some individuals have been arrested for falsifying documents. In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, have reportedly altered their own identification cards and other official documents to reflect their new religious affiliation. A court decision in 2004 affirmed that the state could not prevent a woman from changing the religion on her identity card from Muslim to Christian. According to the State Department, it is not clear if this decision will set a precedent for future cases involving conversion of individuals from Islam to Christianity.

Baha'is also face repression and violations of their rights. 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 communal 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 reportedly also been increased intolerance of Baha'is in both the independent and government-controlled media in recent years.

The Egyptian government's requirement that religious affiliation be included on national identity cards particularly affects the Baha'i community. Because "Muslim, Jew, or Christian" are the only allowable choices, Baha'is are effectively prevented from obtaining the cards, which are necessary to engage in many basic transactions, such as opening a bank account, buying a car, or obtaining a driver's license. Moreover, the Egyptian government has recently made it illegal to be in public without an identity card. Because the Baha'i faith is banned, the community also has difficulty obtaining or renewing passports, birth certificates, and death certificates. Egyptian government officials have stated that the rights of Baha'is are not protected under the Constitution, since, in accordance with Islamic principles, protection applies only to adherents of the three "heavenly religions." In a positive development, in April 2006, an Egyptian administrative court ruled that Egyptian Baha'is have the right to have their religion recognized in official documents. This ruling, in effect, forces the Interior Ministry to issue a national identity card for any citizen who identifies him or herself as a Baha'i. However, as with Decree 291, it remains too early to determine if the ruling will be effectively implemented.

Material vilifying Jews—with historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes Holocaust denial, anti-Semitic cartoons, and television programming, such as a 24-part series based on the notorious anti-Semitic "Protocols of the Elders of Zion." Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media. Human rights groups also cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamic extremists, a development that the Egyptian government has not adequately addressed. The small Jewish community maintains and owns its property and performs required maintenance through private donations without excessive interference from local authorities. However, state security services continue to regulate and approve those permitted to make repairs, which, in some cases, has created problems and delays.

After several years of close surveillance, authorities reportedly have increased repressive measures against the small community of Jehovah's Witnesses, who are not recognized by the Egyptian government. In the past year, Jehovah's Witnesses have reported harassment and abuse by government officials.

The Muslim Brotherhood and other Islamist political groups, which believe in 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 continue to advocate violence. Egyptian security forces continue to arrest hundreds of Islamists every year, and some are subject to torture and/or prolonged detention without charge. According to Egyptian and international human rights groups, there are 12,000-15,000 political detainees, including members of the Muslim Brotherhood and other Islamist political groups, in administrative detention at any given time whose cases are not being addressed. 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.

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* report brief on Egypt at an event held at the Woodrow Wilson Center in Washington. The *Policy Focus* on Egypt provides details about the Commission's visit to Egypt and presents new recommendations for U.S. policy.

In May 2005, the Commission issued a statement urging President Bush to press the government of Egypt for democratic reforms. The statement coincided with the visit of Egyptian Prime Minister Ahmed Nazif to the United States. In July 2005, Commission Vice Chair Felice 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 Prodromou testified before the Congressional Human Rights Caucus at a hearing entitled "Religious Freedom in Egypt."

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 grown without any meaningful political reforms by the government of Egypt. The resolution contains a significant number of the Commission's recommendations with regard to Egypt.

Throughout the past year, the Commission and its staff met with Egyptian government officials, members of non-governmental organizations representing various religious communities in Egypt, as well as civil society and human rights groups, and other Egypt experts.

With regard to Egypt, the Commission recommends that the U.S. government should 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 which would ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance;

- allow full access to the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Section 98(f) of the Penal Code, which "prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife," instead of having those cases heard by the State Security Courts;

- 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, in school textbooks, and in teacher training the concepts of tolerance and respect for human rights, including religious freedom, ensuring that textbooks meet the standards for education 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;

- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either (a) to omit mention of religious affiliation from identity documents, or (b) to make optional any mention of religious affiliation on identity documents, since currently, individuals must identify themselves as adherents of one of the three recognized faiths: Islam, Christianity, or Judaism;

- 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;

- request the National Council for Human Rights to investigate allegations of discrimination against Coptic Orthodox Christians as a human rights issue and to publish their findings and recommendations;

- repeal a 1960 presidential decree banning the Baha'i community from practicing their faith; and

- implement the 2002 recommendations of the UN Committee Against Torture.

In addition, the Commission recommends that the U.S. government should:

- negotiate an agreement with the Egyptian government to establish a timetable and specific steps to be taken to make progress on political and legal reforms, including the steps described in the recommendations above; if deadlines are met in a timely manner, the U.S. government should consider, within the boundaries of its overall aid to Egypt, providing economic assistance to areas where significant progress has been made, but if deadlines are not met, the U.S. government should re-consider the dimension and direction of its economic assistance;

- offer direct support for human rights and other civil society non-governmental organizations (NGOs) without prior approval 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;

- 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; and

- as mandated by section 104 of IRFA, train Foreign Service Officers at Embassy Cairo about universal human rights, especially the right to freedom of religion or belief, the history, experiences, and contributions of different religions to Egyptian history, and ways to identify and respond to discriminatory and other abridgements of the rights of persons belonging to these communities.

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.

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 year, the Iranian government's poor religious freedom record deteriorated, especially for religious minorities and Baha'is in particular; all minority groups faced intensified harassment, detention, arrests, and imprisonment. 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, particularly 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 Council of Guardians, 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 Council of Guardians the power to screen and disqualify candidates for elective offices based on an ill-defined set of requirements, including candidates' ideological and religious beliefs. In February 2004, elections were held for the 290-seat Parliament in Iran. In a move to diminish pro-reformist re-election chances, the Guardian Council disqualified approximately one-third of the 8,200 submissions for candidacy, including those of more than 80 reformists holding Majlis seats, effectively limiting the democratic alternatives available to Iranian voters. In June 2005, the mayor of Tehran, Mahmoud Ahmadinejad, known to be supportive of hardliners in the regime, won the presidential elections and assumed power in August.

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, ostensibly 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 journalist Akbar Ganji was finally 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 Germany in 2000 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.

Muslim minorities continue to face repression. 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. In February 2006, Iranian authorities destroyed a Sufi house of worship in the northwestern city of Qom and arrested approximately 1,000 Sufis after clashes with security forces. Most were released within hours or days, although dozens reportedly suffered serious injuries.

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.

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, though as of this writing, the case has not gone 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.

The Baha'i community has generally been subject to particularly severe religious freedom violations in Iran. Baha'is, who number approximately 300,000 to 350,000, are often 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 houses of worship, schools, or any independent religious associations in Iran. In addition, Baha'is are denied government jobs and pensions as well as the right to inherit property, and their marriages and divorces are not recognized. Baha'i cemeteries, holy places, and community properties are often seized and some have been destroyed. Members of the Baha'i faith are not allowed to attend university.

Over the past two 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 January 2005, the personal property of several Baha'is in Yazd was confiscated and destroyed and in February 2005, a

Baha'i cemetery in Yazd was razed. In the past year, dozens of Baha'is were arrested, detained, interrogated and subsequently released after, in some cases, 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." As of this writing, there are more than 60 Baha'is awaiting trial on account of their religious beliefs. 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. Over the last several months, 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 December 2005, the UN General Assembly passed a resolution condemning Iran's poor human rights record, including its continued human rights abuses targeting religious minorities and its "escalation" of violations against the Baha'i community. In March 2006, the UN Special Rapporteur exposed 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.

Christians in Iran continue to be subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. In the past 15 years, numerous Evangelical Christians reportedly have been killed at the hands of government authorities and more than a dozen are reported missing or "disappeared." According to a 2001 report of the UN Special Representative on Iran, some are said to have been convicted of apostasy. Over the past two years in particular, there have been several incidents in which Iranian authorities raided church services, detained worshippers and church leaders, and harassed or threatened church members. As a result of one of these raids, an evangelical pastor, Hamid Pourmand, remains in prison on charges of apostasy even after being acquitted in November 2005 by an Islamic court. Pourmand has been serving the balance of a three-year sentence handed down by a separate military court in February 2005. Also in November, Ghorban Tourani, a Turkmen Christian pastor who converted from Islam in the mid-1990s and reportedly has received numerous death threats over the years, was abducted and killed by unknown assailants. President Ahmadinejad reportedly has called for an end to the development of Christianity in Iran. During the past year, even the small, unrecognized Mandaean religious community is reportedly 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 always been singled out on the basis of "ties to Israel," whether real or perceived. 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." Anti-Semitic tracts have also increased in the government-controlled media. 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 30,000-member Jewish community. Official government discrimination against Jews continues to be pervasive. According to the State Department, despite minimal restriction on Jewish religious practice, education of Jewish children has become increasingly difficult in recent years, and distribution of Hebrew religious texts is strongly discouraged.

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, thought, conscience, and religion, and 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.

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 policy makers. In May 2005, the Commission held an on-the-record briefing, "Iran, Conditions for Human Rights Deteriorating," featuring the co-founders of the Iran Human Rights Documentation Center, a non-partisan organization that seeks to remedy a deficit in the systematic, objective, and analytical documentation of human rights violations committed in Iran since the 1979 revolution. In February 2006, the Commission issued a statement documenting recent religious freedom abuses by Iranian authorities and expressing concern about the worsening treatment of religious minorities in Iran.

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, including drawing attention to specific cases where severe violations have occurred;

- ensure that new funding budgeted to promote democracy and human rights in Iran includes support for effective initiatives promoting freedom of religion or belief, as well as ways to promote rule of law programs that specifically seek to protect religious minorities in Iran;

- increase funding for U.S. public diplomacy entities, such as Voice of America and Radio Farda, and develop new programming solely focusing on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran;

- advocate for creation of a UN Special Rapporteur to investigate and report publicly on the human rights situation, including freedom of religion or belief, in Iran at the first session of the newly established UN Human Rights Council and, as appropriate, the UN General Assembly's Third Committee;

- call on the UN Human Rights Council to monitor carefully and demand compliance with the implementation of 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 continued visits and reporting by relevant UNCHR rapporteurs and working groups.

Saudi Arabia

The government of Saudi Arabia engages in systematic, ongoing, and egregious violations of the right to freedom of religion or belief. Despite the State Department's contention in its 2005 *International Religious Freedom Report* that there were, in fact, slight improvements in Saudi government efforts to foster religious tolerance in Saudi society, the report again concluded that freedom of religion "does not exist" in Saudi Arabia. Since its inception, the Commission has recommended that Saudi Arabia be designated a "country of particular concern," or CPC. In September 2004, the State Department for the first time followed the Commission's recommendation and designated Saudi Arabia a CPC. In September 2005, Secretary of State Rice approved a temporary 180-day waiver of further action, as a consequence of CPC designation, to allow for continued diplomatic discussions with the Saudi government and "to further the purposes of the International Religious Freedom Act." The waiver expired in late March 2006.

The repressive Saudi government continues to engage in an array of severe violations of human rights as part of its repression of freedom of thought, conscience, and religion or belief. Abuses include: torture and cruel and degrading treatment or punishment imposed by judicial and administrative authorities; prolonged detention without charges and often incommunicado; and blatant denials of the right to liberty and security of the person, including coercive measures aimed at women and the broad jurisdiction of the *mutawaa* (religious police), whose powers are vaguely defined and exercised in ways that violate the religious freedom of others.

The government of Saudi Arabia continues to enforce vigorously its ban on all forms of public religious expression other than the government's interpretation and enforcement of the Hanbali school of Sunni Islam. This policy violates the rights of the large communities of non-Muslims and Muslims from a variety of doctrinal schools of Islam who reside in Saudi Arabia, including Shi'as, who make up 8-10 percent of the population. The government tightly controls even the restricted religious activity it permits—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.

Members of the Shi'a and other non-Sunni communities, as well as non-conforming Sunnis, are subject to government restrictions on public religious practices and official discrimination in numerous areas, particularly in government employment. In past years, prominent Shi'a clerics and religious scholars were arrested and detained without charge for their religious views; some were reportedly beaten or otherwise ill-treated. Reports indicate that some of these Shi'a clerics have been released, but the current status of a number of others remains unknown. Between 2002-2004, several imams, both Sunni and Shi'a, who spoke out in opposition to government policies or against the official government interpretation of Islam,

were harassed, arrested, and detained. On a positive note, in February 2006, thousands of members of the Shi'a community in Qatif, in the Eastern Province, made their largest public appearance in observance of Ashura without government interference.

Spurious charges of "sorcery" and "witchcraft" continue to be used by the Saudi authorities against non-conforming Muslims. Several individuals remain in prison on these charges. In 2000, in the Najran region, after the *mutawaa* raided an Ismaili mosque for practicing "sorcery," approximately 100 Ismailis, including clerics, were arrested. Many were released after serving reduced sentences, but dozens remain in prison and reports indicate that some are occasionally subject to flogging. Members of the Sufi community continue to be harassed, arrested, and detained because of their non-conforming religious views; some are held for hours but others are detained for days. 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.

Criminal charges of apostasy, blasphemy, and criticizing the nature of the regime are used by the Saudi government to suppress discussion and debate and 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 April 2006, a Saudi journalist was arrested and detained by Saudi authorities for almost two weeks for "denigrating Islamic beliefs" and criticizing the Saudi government's strict interpretations of Islam. In November 2005, a Saudi high school teacher, accused for discussing topics such as the Bible, Judaism, and the causes of terrorism, was tried on charges of blasphemy and insulting Islam and sentenced to three years in prison and 750 lashes. Although he was pardoned by King Abdullah in December 2005, he nevertheless lost his job and suffered other repercussions. In a positive development, in August 2005, King Abdullah pardoned three human rights reformers who had been imprisoned since March 2004 on charges of "sowing dissent and disobeying the ruler."

Restrictions on public religious practice, for both Saudis and non-Saudis, are enforced in large part by the *mutawaa*, official enforcers of religious behavior that fall under the direction of the Ministry of Interior. The *mutawaa* conduct raids on worship services, including in private homes. They have also harassed, detained, whipped, beaten, and otherwise meted out extrajudicial punishments to individuals deemed to have strayed from "appropriate" dress and/or behavior, including any outward displays of religiosity, such as wearing Muslim religious symbols not sanctioned by the government. In November 2004, a press report identified a former member of the *mutawaa* as the leader of an attack on the U.S. consulate in Jeddah that resulted in the deaths of five people. In recent years, the Saudi government has stated publicly that it has fired and/or disciplined members of the *mutawaa* for abuses of power, although reports of abuse persist. Equally troubling, many of the human rights abuses committed by the *mutawaa* are within the scope of their authority.

Although the government has publicly taken the position—reiterated again in early 2006—that it permits non-Muslims to worship in private, the guidelines as to what constitutes "private" worship are vague. Surveillance by the *mutawaa* and Saudi security services of private non-Muslim religious activity continues unabated. Many persons worshipping privately

continue to be harassed, arrested, imprisoned, tortured, deported, and generally forced to go to great lengths to conceal religious activity from the authorities. Even diplomatic personnel from Western countries report difficulties in their religious practices. Foreign guest workers without diplomatic standing, and with little or no access to private religious services conducted at diplomatic facilities, face even greater difficulties. Moreover, the Saudi government does not allow clergy to enter the country for the purpose of performing private religious services for foreigners legally residing in Saudi Arabia.

There is a continuing pattern of punishment and abuse of non-Muslim foreigners for private religious practice in Saudi Arabia. In September 2004, seven Filipino Christian leaders were arrested and detained when the *mutawaa* raided a religious service. All were released within one month, but the *mutawaa* reportedly pressured their employers to deport them, resulting in six deportations by late 2005. In March 2005, a Hindu temple constructed near Riyadh was destroyed by the *mutawaa*, and three guest workers worshiping at the site were subsequently deported. Also in March 2005, the *mutawaa* arrested an Indian Christian and confiscated religious materials in his possession; he was released in July 2005 after four months of detention. In April 2005, the *mutawaa* raided a Filipino Christian private service in Riyadh and confiscated religious materials such as Bibles and Christian symbols. Also in April 2005, at least 40 Pakistani, three Ethiopian, and two Eritrean Christians were arrested in Riyadh during a raid on separate private religious services. All of the Pakistani Christians were released within days and all five of the African Christians were released after a month in detention. In May 2005, at least eight Indian Protestant leaders were arrested, interrogated, and subsequently released for reportedly being on a list, obtained by the *mutawaa*, of Christian leaders in the country. Throughout the spring of 2005, dozens of Christian guest workers were detained, some for several days and others for several months, for holding religious worship services in private homes. Several of those who were released have been deported and others fear criminal charges and possible deportation. In April 2006, an Indian Catholic priest, who was visiting Saudi Arabia, was deported after being detained for four days in Riyadh for conducting a private religious service.

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, women must adhere to a strict dress code when appearing in public and can only be admitted to a hospital for medical treatment with the consent of a male relative. Women need to receive written permission from a male relative to travel inside or outside the country and are not permitted to drive motor vehicles. Religiously based directives limit women's right to choose employment by prohibiting them from studying for certain professions such as engineering, journalism, and architecture. In addition, the Saudi justice system does not grant women the same legal status as men.

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. 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 these educational materials. Moreover, in the past year, there were frequent reports of virulently anti-

Semitic and anti-Christian sentiments expressed in the official media and in sermons delivered by clerics who are under the authority of the Ministry of Islamic Affairs. In some cases, the State Department reported, clerics prayed for the death of Jews and Christians.

In March 2004, the Saudi government approved the formation of a National Human Rights Association, the country's first purportedly independent human rights body, comprised of 40 members and chaired by a member of the Consultative Council, a 150 member advisory body appointed by then-Saudi King Fahd. In September 2005, the Council of Ministers, chaired by King Abdullah, approved the establishment of a government-appointed, 25 member Human Rights Commission. The following month, King Abdullah appointed, with the rank of minister, Turki bin Khaled al-Sudairi, a former state minister and Cabinet member, as chairman of the Commission. The Human Rights Commission is mandated to "protect human rights and create awareness about them ... in keeping with the provisions of Islamic law." It is not yet possible to determine if either human rights body will prove to be a positive mechanism for addressing human rights concerns in Saudi Arabia.

Throughout the past year, senior Saudi government officials, including the Crown Prince and the Grand Mufti, made statements with the reported aim of improving the climate of tolerance toward other religions; both also continued publicly to call for moderation. In a public interview in October 2005, King Abdullah reiterated that non-Muslims are free to practice their faith privately but that public worship by non-Muslims is not permitted. He also said that to allow any non-Muslim places of worship to be built in Saudi Arabia "would be like asking the Vatican to build a mosque inside of it."

In addition to the Saudi government's violations of religious freedom within its own borders, evidence has mounted that funding originating in Saudi Arabia has been used to finance globally religious schools and other activities that support religious intolerance, and, in some cases, violence toward non-Muslims and disfavored Muslims. The Saudi government itself has been implicated in promoting and exporting views associated with certain Islamic militant and extremist organizations in several parts of the world, and a number of reports have identified members of extremist and militant groups that have been trained as clerics in Saudi Arabia. These reports point to a role for the Saudi government in propagating worldwide an ideology that is incompatible with universal norms of the right to freedom of religion or belief.

The Saudi government funds mosques, university chairs, Islamic study centers, and religious schools known as madrassas all over the world. During Afghanistan's war against the former Soviet Union, Saudi-funded madrassas were established in Pakistan that were concerned less with scholarship than implementing an extremist agenda glorifying violence. These madrassas provided ideological training for some of those who went to fight in Kashmir, Chechnya, and Afghanistan—and some of these schools still do. The peaceful propagation of religious beliefs, including Islam, is a human right. However, there is legitimate concern when a government may be propagating an ideology that promotes hatred and violence against both Muslims and non-Muslims.

The form of Islam allegedly preached by some Saudi clerics and the violence incited and perpetrated by certain radicals continues to warrant further investigation by the U.S. government. The Commission has urged the U.S. government to address publicly concerns arising from the

propagation of religious hatred and intolerance from Saudi Arabia. The Commission has published reports and held public hearings over the past several years regarding this issue, and issued a number of recommendations for U.S. policy. The Commission welcomed the public statements made in the past year by the Ambassador-at-Large for International Religious Freedom, John V. Hanford III, and the State Department Deputy Spokesman Adam Ereli, raising concerns about the role of the Saudi government in the promotion of religious intolerance and extremism.

In 2004, the Government Accountability Office (GAO) was asked by the Government Affairs Committees of the House and Senate to undertake a comprehensive review of U.S. oversight of Saudi support for an ideology promoting violence and religious intolerance globally. The study was inspired by the Commission's 2003 recommendation that Congress initiate a review of Saudi Arabia's global exportation of religious hatred and intolerance. The unclassified portion of the report was released in September 2005; the classified portion of the report is available but has not been officially released. The public GAO report concludes that while Saudi Arabia claims to have made reforms, and in some case has done so, "U.S. agencies do not know the extent of the Saudi government's efforts to limit the activities of Saudi sources that have allegedly propagated Islamic extremism outside of Saudi Arabia." Moreover, the report states that, "as of July 2005, agency officials did not know if the government of Saudi Arabia had taken steps to ensure that Saudi-funded curricula or religious activities in other countries do not propagate extremism." It should be noted that the GAO's public report also states that very few U.S. government agencies actually responded to the GAO's inquiries, and none of the U.S. government's intelligence agencies are cited in the report. Thus, the study should be seen as a first step in a continuing investigation.

Throughout the past year, the Commission has spoken out numerous times about religious freedom concerns in Saudi Arabia. After the State Department failed to act for several months in accordance with the requirements of the International Religious Freedom Act of 1998 (IRFA) in response to the designation of Saudi Arabia as a CPC, the Commission released a statement in April 2005 expressing concern about this inaction. In May 2005, a Commission op-ed was published in the *Dallas Morning News* on this and other concerns about Saudi Arabia.

In September 2005, one year after the designation of Saudi Arabia, Secretary Rice approved a temporary 180-day waiver of further action, as a consequence of CPC designation, to allow for continued diplomatic discussions with the Saudi government and "to further the purposes of the International Religious Freedom Act." Later that month, the Commission stated publicly that the U.S. government should use the 180-day extension directly to engage the Saudi government to achieve demonstrable progress by the end of that period of time. The waiver expired in late March 2006. As of the time this report went to print, no action with regard to Saudi Arabia had been announced by the U.S. government. Given the extent of religious freedom violations in Saudi Arabia, the Commission urged Secretary Rice in its May 2006 letter to consult with Congress and other parts of the U.S. government, including the Commission, during its discussions with the Saudis, and to make any agreement reached with the Saudi government public in the interest of the accountability that results from transparency. Since religious freedom conditions in Saudi Arabia have not substantially improved in the last year, the Commission also told Secretary Rice that the U.S. government must not hesitate in taking

aggressive action as suggested below which meets the requirements of IRFA to demonstrate that it will not disregard the persistent and egregious religious freedom violations committed by the Saudi government.

Throughout 2005, the Commission continued to meet with representatives of a variety of human rights and other non-governmental organizations, academics, and other experts on Saudi Arabia. Moreover, the Commission influenced a number of legislative initiatives, including the Saudi Arabia Accountability Act of 2005, which is still pending and which contains Commission recommendations with regard to prohibitions on the issuance of any specific licenses and not granting any other specific authority for the export to Saudi Arabia of any item on the U.S. Commerce Control List of dual-use items.

As a consequence of the designation of Saudi Arabia as a CPC, the Commission recommends that the U.S. government should:

- identify those Saudi agencies and officials thereof who are responsible for particularly severe violations of religious freedom and vigorously enforce section 604 of IRFA with respect to Saudi Arabia, rendering inadmissible for entry into the United States any Saudi government official who was responsible for or directly carried out such violations;

- issue a proclamation, under the President's authority pursuant to section 212(f) of the Immigration and Nationality Act (8 USC 1182(f)), to bar those Saudi government officials from entering the United States who have been responsible for propagating globally an ideology that explicitly promotes hate, intolerance, and human rights violations;

- issue a demarche urging the government of Saudi Arabia to cease funding or other support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations, including the distribution of such materials in the United States and elsewhere outside of Saudi Arabia; and

- order the heads of appropriate U.S. agencies, pursuant to section 405(a)(13) of IRFA, not to issue any specific licenses and not to grant any other specific authority for the export of any item on the U.S. Commerce Control List of dual-use items [Export Administration Regulations under part 774 of title 15] to any agency or instrumentality of the government of Saudi Arabia that is responsible for committing particularly severe violations of religious freedom. In FY 2004, the Commerce Department approved approximately $67 million worth of articles for Saudi Arabia, including, for example, such items as thumbcuffs, leg irons, shackles, and other items that could be used to perpetrate human rights violations.

With regard to religious freedom conditions in Saudi Arabia, the Commission has recommended that the U.S. government should:

- press for immediate improvements in respect for religious freedom, including: (1) establishing genuine safeguards for the freedom to worship privately, (2) entrusting law enforcement to professionals in law enforcement agencies subject to judicial review and dissolving the *mutawaa*, (3) permitting non-Wahhabi places of worship in certain areas and

allowing clergy to enter the country, (4) reviewing cases and releasing those who have been detained or imprisoned on account of their religious belief or practices, (5) permitting independent non-governmental organizations to advance human rights, (6) ending state prosecution of individuals charged with apostasy, blasphemy, sorcery, and criticism of the government, (7) ceasing messages of hatred, intolerance, or incitement to violence against Muslims and members of non-Muslim religious groups in the educational curricula and textbooks, as well as in government-controlled mosques and media, (8) inviting the UN Special Rapporteur on Freedom of Religion or Belief to conduct a fact-finding mission, and (9) ratifying international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperating with UN human rights mechanisms; and

- use its leverage to encourage implementation of numerous Saudi government statements to ensure that the Saudi government carries out political, educational, and judicial reforms in the Kingdom by: (1) raising concerns about human rights, including religious freedom, both publicly and privately in the U.S. anti-terrorism dialogue with the Saudi government, (2) ensuring that the U.S.-Saudi Strategic Dialogue, initiated in 2005, includes discussions on freedom of religion or belief, and (3) expanding human rights assistance, public diplomacy and other programs and initiatives—such as the Middle East Partnership Initiative—to include components specifically for Saudi Arabia.

With regard to the exportation of religious intolerance from Saudi Arabia, the Commission has recommended that the U.S. government should:

- continue efforts, along with those of the Congress, to determine whether and how—and the extent to which—the Saudi government, individual members of the royal family, or Saudi-funded individuals or institutions are directly or indirectly propagating globally, including in the United States, a religious ideology that explicitly promotes hate, intolerance, human rights violations, and, in some cases, violence, toward members of other religious groups, both Muslim and non-Muslim;

- request the Saudi government to provide an accounting of what kinds of Saudi 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;

- urge the Saudi government to stop funding religious activities abroad until it knows the content of the teachings and is satisfied that such activities do not promote hatred, intolerance, or other human rights violations;

- urge the Saudi government to monitor, regulate, and report publicly about the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world; and

- urge the Saudi government to: a) cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia; and b) close down any Islamic affairs sections in Saudi embassies throughout the world that have been responsible for propagating intolerance.

The Commission urges the U.S. Congress to hold biannual hearings at which the State Department reports on what issues have been raised with the Saudi government regarding violations of religious freedom and what actions have been taken by the United States in light of the Saudi government's response.

COUNTRY REPORTS: SOUTH ASIA

Afghanistan

Though improved since the fall of the Taliban regime, conditions for freedom of religion or belief in Afghanistan became increasingly problematic in the past year. Flaws in the country's new constitution, which does not contain clear protections for the right to freedom of religion or belief for individual Afghan citizens, failed to prevent a growing number of criminal court cases that were in violation of the rights of the accused. The defects in the constitution are compounded by the current role and power of the country's Supreme Court, which continues to be headed by a man who has shown little regard for international human rights standards. 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. These developments indicate that religious extremism—even in official circles—is an increasingly viable threat in Afghanistan. In light of the very real dangers to the declared U.S. goal of instituting democracy and human rights protections in Afghanistan, the Commission has decided to place the country on its Watch List. The Commission will carefully monitor the situation in Afghanistan, in whose development the United States should continue to play a crucial role.

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 members of religious minorities, and to question interpretations of Islamic precepts without fear of retribution. 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 dissent within the Afghan population.

These concerns are not merely theoretical, as in the past year, several very troubling cases exemplifying the constitution's inadequacies came before the courts. 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. In March 2006, Abdur 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." Under Afghanistan's sharia law, 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.

Both 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. The constitutional concerns are intensified by the fact that the task of interpreting many of these provisions has been left to the Supreme Court, currently headed by Chief Justice Fazl Hadi Shinwari, who has shown little tolerance for those who disagree with his hard-line interpretation of Islam. In August 2003, Chief Justice Shinwari told a visiting Commission delegation that he rejects three crucial freedoms—those of expression, religion, and equal rights for men and women—all of which are protected under the Universal Declaration of Human Rights. As a consequence of his actions, a sitting Minister in the interim Afghan government was forced to resign after she was charged with blasphemy for questioning the role of Islamic law in Afghanistan, journalists have been jailed on charges of offending Islam, and during the October 2004 presidential elections, a presidential candidate was threatened with disqualification for purported "anti-Islamic remarks" on women's rights and family law. These incidents suggest that despite the gains since 2002 and the adoption of a new constitution, religious freedom and other human rights, along with democracy itself, remain under threat from extremism.

These constitutional pitfalls have been extended to other legislation also. In 2002, Afghanistan adopted a new press law that contains a sanction against publication of "matters contrary to the principles of Islam or offensive to other religions and sects." 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, incidents of this sort of abuse have already occurred, as when Chief Justice Shinwari in November 2004 successfully appealed to the Afghan government to have cable television taken off the air because of its "immoral" programs that insult religion. Earlier in that year, the Chief Justice had also protested the presence of female singers on radio and television and attempted to have the practice halted, though in this effort he was ultimately not successful. In January 2006, the Afghan Minister of Information, Culture, and Tourism

declared that though Afghan law allows citizens access to a free press, limitations exist 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."

Due to 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 some parts of the country. Taliban remnants remain active in various regions and continue to pose a threat to the stability of the government. Many of the human rights abuses practiced by the Taliban reportedly persist today under the rule of the regional warlords, who continue to operate in regions that are effectively outside of central government control. 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. 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.

Despite these concerns, religious freedom conditions continue to be better than under 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 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 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. In November 2005, a Hindu aid worker from India was beheaded after being abducted by Taliban forces. Although there are no churches, expatriate Christians are reportedly able to meet for informal worship services in Kabul and one or two other major 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 spoke out several times about the deteriorating situation in Afghanistan. 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. In March 2006, the Commission wrote to President Bush expressing its concern about the trial and threatened execution of Abdur Rahman on charges of apostasy. In April, Commission Vice-Chair Felice D. Gaer testified 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.

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 key Afghan leaders, U.S. policymakers, and other experts to discuss ways of integrating adequate human rights protections into current 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 denouncing 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 the leadership, sound policy, and resources needed to secure freedom for all in Afghanistan, which regrettably appears to be reverting more and mores 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:

- vigorously support respect for the right of every individual to freedom of thought, conscience, and religion or belief in post-Taliban 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, even threatened, and these people need U.S. support to counter the influence of those with 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;

- ensure that its 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;

- encourage President Karzai to appoint judges who understand—and who will uphold—international human rights standards, and to replace those judges trained only in religious law;

- assist legal experts to visit Afghanistan, engage their Afghan counterparts, and provide 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 see how Islam and other faiths may be practiced in a free society;

- 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; and

- direct measurable, concrete support and benefits, including the improved, country-wide security referred to above, to the Afghan people, which will, in turn, enable the Karzai government and other moderates to make the hard choices necessary to oppose religious extremism.

Bangladesh

During the past year, Bangladesh has seen an escalation both in violence attributed to Islamic militants and in countermeasures undertaken by the government of Bangladesh. In February-March 2006, the Commission visited Bangladesh, where it examined reports that the targets of militant attacks have included Bangladesh's judicial system, individuals who oppose extremist interpretations of Islam or who have espoused controversial views on religious subjects, members of religious minorities, and non-governmental organizations (NGOs). Although Bangladesh is a functioning democracy, religious extremism and chronic political violence continue to undermine the institutions that protect religious freedom and to silence the country's voices of religious tolerance and moderation. Left unchecked, current trends toward greater intolerance and religiously-motivated violence, particularly toward Ahmadis, Hindus, and Christians, could have an increasingly negative impact on all Bangladeshis. The Commission continues to place Bangladesh on its Watch List.

Since 1991, notwithstanding relatively difficult economic conditions, Bangladesh has had a representative government, regular changes of power through free elections, a judiciary that sometimes rules 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. The democratically-elected governments that have held office since 1991 have, however, left untouched and in some cases furthered the more strident Islamic elements introduced in the constitution by previous military regimes.

Following independence from Pakistan in 1971, Bangladesh was established as a secular state in which national identity was based on Bengali language and culture, rather than on the Islamic religion, as in Pakistan. The constitution contains strongly worded guarantees of 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, some receiving foreign funding, Islamic activists have gained in political, economic, and social influence in Bangladesh in recent years. Explicitly Islamic parties, including Jamaat-e-Islami Bangladesh, helped the center-right Bangladesh Nationalist Party (BNP) win the last national election in October 2001 and have allegedly used their positions in the current BNP-led government to favor Islamic organizations and to deny funding to or otherwise disadvantage groups viewed as opposing an Islamist political and social agenda. Although many of those who call for a more Islamist Bangladesh have been engaged in peaceful political and social activities, others, drawing inspiration from extremist movements elsewhere in the Islamic world have adopted a jihadist ideology of violent struggle against perceived opponents of Islam.

The most serious episode of anti-minority violence followed the October 2001 elections. At that time, there were numerous reports of killings, sexual assaults, illegal land-seizures, arson, extortion, and intimidation of religious minority group members, particularly Hindus, perceived as favoring the BNP's main rival, the Awami League. Minority group representatives and human rights groups ascribed these attacks to religious extremists or to partisans of the BNP and its Islamist allies. The continued lack of accountability for the violence in 2001 raises serious concerns about an atmosphere of impunity for such crimes, as well as the possibility of a renewal of violence against Hindus and members of other religious minorities in the next general election, expected in early 2007. Some human rights activists and minority advocates also have voiced serious concerns that manipulation of the voting rolls to specifically exclude or burden persons with names associated with religious minority communities, coupled with active voter intimidation, may keep religious minorities from exercising their right to vote.

Although reports of anti-minority violence have dropped off sharply since the 2001 election, Hindus, Christians, and representatives of other minority religious communities continue to express concerns regarding the safety of their coreligionists, citing the growth in Islamic 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 because of showing a film on the life of Jesus. As of this writing, there have been no charges brought in this case or in the murder in September 2004 of a locally prominent Christian convert from Islam. The Commission was told on its visit to Bangladesh that because of the atmosphere of uncertainty and fear under which religious minorities must live, Hindus have left Bangladesh in large numbers in the past three decades.

Bangladesh's high levels of political violence and instability have also provided opportunities for religious and other extremists to expand their influence. Due to a weak legal system and corrupt law enforcement, gangs employed by politicians engage in criminal activities with relative impunity. Armed groups of Islamist vigilantes and leftist guerrillas terrorize remote rural areas. 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 for women's rights. Some such organizations have been bombed, presumably by these extremists.

Although Bangladesh has the unusual distinction of having both its major parties, the BNP and the Awami League, led by women, both of whom have served as Prime Minister, 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 reportedly a common form of anti-minority violence. The government often fails to punish the perpetrators of these acts against women, as the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference. Some women's activists have accused the current government of backsliding on the strong stance on women's rights set forth in the 1997 version of the National Policy for the Advancement of Women.

Politically-motivated bombings, assassinations, and other terrorist acts, often ascribed to Islamic 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 Islamic militant groups implicated in a series of bomb attacks on NGOs. Islamic 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 the judicial system in October-November 2005. The bomb attacks were accompanied by calls by the militants for the substitution of sharia, or Islamic law, for Bangladesh's current system of secular jurisprudence and by threats against courts and judges for not applying sharia. The government responded with a campaign of arrests of militants suspected of involvement in the bombings and in other violence incidents. In March 2006, 21 suspected militants were sentenced to death for the August 17 bombings. In a separate case, it was announced on the same day that a suspect was sentenced to death for killing a Hindu judge (one of the very few Hindu judges in Bangladeshi society), in an October 2005 bombing. Reputed senior militant leaders are among those arrested, including Siddiqul Islam, better known as "Bangla Bhai," and Sheikh Abdur Rahman.

In addition to these security measures, the government has spoken out against the militants. To a national conference of imams in November 2005, Prime Minister Khaleda Zia denounced those who were "trying to establish a reign of terror and turmoil" in the name of Islam. At a national conference on "interfaith harmony" in February 2006, the Prime Minister declared her government to be "dead against the practice of any discrimination on the basis of religious identity." Similarly, the Religious Affairs Ministry arranged public activities against Islamic militancy in conjunction with the 35th anniversary of Bangladesh's independence on March 26, 2006.

Despite constitutional protections, non-Muslims in Bangladesh face societal discrimination and are disadvantaged in access to government jobs, public services, and the legal system. They 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 tribal areas. Such disputes occasionally result in violence.

Islamic extremists in Bangladesh have 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 a relatively small group in Bangladesh, estimated at 100,000 persons in a population of over 140 million. Anti-Ahmadi demonstrators have called on the government of Bangladesh to declare Ahmadis to be "non-Muslims," as has been done in Pakistan, and as has been 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 outreach to the broader Muslim community. Although the government of Bangladesh has thus far refused to declare Ahmadis to be non-Muslims, in January 2004, it 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 has not been withdrawn by the government.

Anti-Ahmadi activists have been organized under the banner of a group known as the International Khatme Nabuwat Movement Bangladesh. ("Khatme Nabuwat" is an Arabic phrase meaning "finality of the Prophethood" of Mohammed.) There is reportedly a significant overlap of membership between this organization and Jamaat-e-Islami and other Islamic political parties. Anti-Ahmadi activists object to Ahmadi houses of worship being called "mosques" and on a number of occasions have organized mass demonstrations against Ahmadi mosques, have attempted to occupy the sites, and have forcibly replaced signs identifying Ahmadi places of worship as mosques, sometimes with the assistance of the police. In some instances, the anti-Ahmadi agitation has been accompanied by mob violence in which Ahmadi homes have been destroyed and Ahmadi converts held against their will and pressured to recant. Although the campaign against the Ahmadis has continued, the violence has diminished in recent months due to improved and more vigorous police protection for the Ahmadis.

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 Ahmadi, Hindu, Buddhist, and Christian communities, and civil society representatives. The government of Bangladesh cooperated with the visit and 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, the last mentioned being the head of 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 has met on a number of occasions with human rights monitors, representatives of religious communities, Bangladeshi diplomats, and others to discuss religious freedom in Bangladesh. In April 2004, the Commission, together with Congressman Joseph Crowley, a member of the House Committee on International Relations, held a public hearing at the City University of New York (CUNY) School of Law at Queens College in Flushing, New York, on "Bangladesh: Protecting the Human Rights of Thought, Conscience, and Religion."

With regard to Bangladesh, the Commission recommends that the U.S. government should urge the government of Bangladesh to:

- uphold Bangladesh's international obligations and constitutional guarantees of freedom of thought, conscience, and religion or belief, as well as of equal treatment for all citizens regardless of religious affiliation or belief;

- prosecute to the fullest extent of the law perpetrators of violent acts against members of minority religious communities, non-governmental organizations (NGOs) promoting women's rights, and all those who oppose religious extremism;

- cancel its January 2004 order banning publications by the Ahmadi religious community, continue to reject extremist demands to declare Ahmadis to be non-Muslims, and protect the places of worship, persons, and property of members of this religious community on an equal basis with all Bangladeshi citizens;

- ensure that the voting rights of all Bangladeshis are safeguarded in the next national elections, that those elections are free and fair, that they are conducted with voting rolls that do not discriminate on the basis of perceived religious affiliation or ethnic background, and that the elections are not marred by violence, particularly violence targeting members of religious minority communities; permit international and domestic monitoring of the entire electoral process, including preparation of the voting rolls;

- 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;

- ensure that publicly-funded support for domestic faith-based charitable, humanitarian, developmental, or educational activities be on a non-discriminatory basis;

- permit NGOs to conduct legitimate humanitarian and developmental activities without harassment, undue interference, or discrimination; protect NGOs from extremist violence and vigorously prosecute and punish the perpetrators of such violence;

- strengthen efforts to protect women from vigilante or anti-minority violence; combat claims of religious sanction or justification for violence against women; vigorously prosecute the perpetrators of such violence; and

- undertake a comprehensive review, in collaboration with civil society and independent international experts, to bring domestic legislation and government regulations affecting women's rights into compliance with international standards and Bangladesh's international human rights obligations.

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, or BJP, the Commission found the Indian government's response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In addition, several senior BJP government leaders had publicly allied themselves with, or refused to disassociate themselves from, extremist organizations that were implicated in that religious

violence. In response, in 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, that can work to hold the perpetrators of religious violence responsible; contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports on the rise of religiously motivated violence; and is home to a free press that has widely reported on and strongly criticized the situation on the ground in India and the growing threats in the past decade to a religiously plural society.

Despite these democratic traditions, religious minorities in India have been the victims of violent attacks, including killings, in what is 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. The increase in violence against religious minorities 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. The ascent to power in 1998 of the Sangh Parivar's political wing, the BJP, helped to foster a climate in which violence against religious minorities was not systematically punished. 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, 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 the months following the violence, the BJP-led state government in Gujarat headed by State Minister Narendra Modi was widely accused of being reluctant to bring the perpetrators of the killings of Muslims to justice. Few persons had been arrested and held to account for the deaths. In response to the failures of the Gujarat government, India's Supreme Court declared in October 2003 that it had "no faith left" in the state's handling of the investigations and instructed the Gujarat state government to appoint new prosecutors to examine the religious violence of 2002. In April 2004, in what was described as an indictment of the Gujarat government, the

Supreme Court overturned the controversial acquittal of the 21 accused in a particular case and ordered a new trial of those indicted. 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 follow-up. The Court set up an inquiry committee to reexamine 2,000 cases; as a result, it was announced in February 2006 that the Gujarati police would reopen nearly 1,600 cases and take action against 41 police officials for their alleged role in the Gujarat violence. In addition, Gujarati police have announced that they will pursue more than 600 others accused in these reopened cases.

In addition to the steps taken by the Supreme Court, the government continued its efforts to redress a number of aspects of the Hindu nationalist agenda of the previous government. After a government-appointed committee of historians was tasked in June 2004 with removing the "distortions and communally biased portions" of the new textbooks, the latter were replaced in 2005 with revised editions. In addition, the government has continued to act decisively to prevent communal violence in situations where it has erupted in the past. In July 2005, six Muslim militants attacked a religious site in Ayodhya, in the state of Uttar Pradesh, where in 1992 Hindu extremists destroyed the sixteenth century Babri mosque, resulting in nationwide riots that left up to 3,000 dead, mostly Muslims. There were protests organized by the BJP in response to the July attack, but police dispersed the crowds and no violence ensued. 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. In the weeks leading up to the event, the Hindu groups 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 Manmohan Singh appealed for calm, and soldiers and police were deployed at holy sites across the country.

Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by individuals associated with extremist Hindu nationalist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. For example, in February 2006 alone, a mob attacked a Catholic school in Maharashtra state, destroying some of the church's contents; extremists incited Hindu residents in a town in Orissa state to attack the Christian residents, injuring 10, with two requiring hospitalization; and three separate attacks on Christians occurred in the state of Madhya Pradesh in a period of four days, resulting in several persons requiring hospitalization. In one instance, a mob threw stones at the site of a Christian gathering and attacked some of the participants with sticks and rods. In the first case noted above, police arrested 18 of the attackers and subsequently provided protection for the school; in the second case, the police made no attempt to arrest the accused. 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.

The state of Rajasthan was the scene of particularly serious attacks on Christian individuals and institutions carried out by members of Hindu nationalist groups in the first months of 2006. In March, the head of a Christian organization that runs a number of educational and charitable institutions was arrested on charges of "hurting religious sentiments" and "insulting the religious beliefs of a community" because of a book that was on sale in one of his establishments. The man and his father had reportedly received death threats the previous January. In addition, the BJP-led Rajasthan government froze the group's financial accounts and revoked its licenses to operate its institutions, which include a hospital, an orphanage, and a number of schools. An Indian parliamentary delegation visited Rajasthan and reported that the attacks on Christians had been "unprovoked." The delegation also reported that "Sangh Parivar elements are using the controversial book as a convenient tool to carry out a systematic campaign against the minority groups."

Several of the BJP-led states, including Orissa, Madhya Pradesh, and Chhatisgarh, as well as Arunchal Pradesh, still 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. However, reports of persons having been arrested, still less prosecuted, under these laws are not common. Significantly, the government of Tamil Nadu rescinded its law against forced conversions after the May 2004 elections. In addition, social science textbooks published in the state of Gujarat in June 2005 reportedly contained language minimizing Hitler's role in the Holocaust (Hitler is a respected figure among some extreme Hindu nationalists) and belittling religious minorities. The national government minister responsible for education was harshly critical of the textbooks, but because education is a subject regulated by the states, the central government was reportedly unable to act on the matter.

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 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 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 the perpetrators of the killings in Gujarat and hold them to account; and

--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.

Pakistan

Sectarian and religiously motivated violence persists in Pakistan, and the government's response to this problem, though improved, continues to be insufficient and not fully effective. In addition, a number of the country's laws, including legislation restricting the Ahmadi community and laws against blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. These religious freedom concerns persist amid the wider problem of the lack of democracy in Pakistan, an obstacle the current government has done little to address. The absence of any meaningful democratic reform has been exacerbated by the current government's political alliance with militant religious parties, which has served to strengthen these groups and give them influence in the country's affairs disproportionate to their support among the Pakistani people. 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.

Successive governments have severely violated religious freedom in Pakistan. 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. Government officials do not provide adequate protections from societal violence to members of the religious minority communities, including Shi'as, Ahmadis, Hindus, and Christians. With some exceptions, perpetrators of attacks on minorities are seldom brought to justice. In other instances, the government of Pakistan directly encourages 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; in addition, madrassas were ordered to expel all foreign students. By year's end, and despite considerable outcry from some militant groups, most of the religious schools had registered. It remains unclear, however, whether these belated efforts to curb extremism through reform of the country's Islamic religious schools will prove effective. Moreover, these efforts do not adequately address the much wider problem of religious extremism in Pakistan and the continued strength of militant groups.

Despite President Musharraf's repeated calls for religious moderation and tolerance, religiously motivated violence, much of it committed against Shi'a Muslims by Sunni militants, remains chronic in Pakistan. Ahmadis, Christians, and Hindus have also been targeted by Sunni extremist groups and mob violence. To its credit, the government has made some attempts to respond to these attacks; however, despite these efforts, religiously motivated violence continues to be a serious problem. Sunni Muslims are also victims of reprisal attacks, sometimes carried

out by Shi'a militant groups. In February 2006, two consecutive bombings of a procession of Shi'a Muslims in the town of Hangu in the North West Frontier Province killed at least 43 people, sparking days of Sunni-Shi'a sectarian violence in the city. The central government condemned the blasts and a formal inquiry into the attack was begun the following week. In October 2005, at least eight Ahmadis were killed when gunmen opened fire on a group of Ahmadi worshippers as they assembled for prayers.

In the past year, the minority Christian community also continued to be subject to extremist and mob violence. In November 2005, a mob of over 1,500 persons, incited by local Muslim clerics on the basis of a false accusation of blasphemy against a local Christian man, set fire to and destroyed several churches, schools, and homes of Christian families in the town of Sangla Hill, in the province of Punjab. Political leaders condemned the violence and perpetrators were arrested and reportedly will be brought to trial. In January 2006, the blasphemy charge was dropped. In February 2006, in the furor that erupted in Pakistan after the publication of highly controversial cartoons in the Danish press, mobs threatened Christian communities in a number of areas in Pakistan. In the town of Sukkur, in Sindh province, a crowd of Muslims burned down two churches, an attack that was triggered in part by rumors that a Christian man committed blasphemy. Provincial authorities ordered an investigation into the incident and reportedly a number of people have been arrested.

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 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 Quran, 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, and disseminate their religious materials. In August 2005, Pakistani authorities banned 16 Ahmadi-run publications in the Punjab province. Ahmadis have been arrested—two persons were arrested as a result of the previously mentioned action in the Punjab—and imprisoned for terms of up to three years for all of the above acts, and they are reportedly subject to ill treatment from prison authorities and fellow prisoners. 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 religion 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. There is no indication that the current government intends to institute any reforms to the anti-Ahmadi laws.

Prescribed criminal penalties for blasphemy include death for whoever "defiles the sacred name of the Holy Prophet Muhammad" and life imprisonment for whoever "willfully defiles, damages, or desecrates a copy of the holy Quran." 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 on account of their religious

beliefs. 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 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. Already noted above are the incidents of serious mob violence against Christian institutions that occurred as a result of spurious blasphemy accusations against two Christian individuals. In September 2005, a Hindu couple was arrested in the North West Frontier Province for allegedly desecrating the Quran; a mob also vandalized their home. In the past year, it was reported that lawyers who defend individuals accused of blasphemy are also frequently the subject of death threats.

Pakistan's Hudood Ordinances, Islamic decrees introduced in 1979 and enforced alongside the country's secular legal system, provide for harsh punishments, such as amputation and death by stoning, for violations of Islamic law. 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 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 due to high evidentiary standards, lesser punishments such as jail terms or fines have been imposed.

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 June 2005, the Commission held a public hearing entitled, "The United States and Pakistan: Navigating a Complex Relationship," during which testimony was given on U.S. policy toward Pakistan with regard to the serious religious freedom and other human rights problems in Pakistan. In July, the Commission issued a press statement expressing serious concern about legislation, the so-called "Hasba bill," passed that month by the provincial assembly in Pakistan's North West Frontier Province that proposed the creation of a "watchdog" position to monitor the observance of "Islamic values" in public places. The bill would have enabled a person, called the *mohtasib*, to enforce one interpretation of religious requirements on such activities as participation in Friday prayers, doing business on Fridays, and the appearance of unrelated men and women in public. There were concerns that the bill would also have imposed Taliban-like restrictions on women's movement and dress. The subject of outcry in other parts of Pakistan and abroad, the law was later declared to be unconstitutional by Pakistan's Supreme Court.

Throughout 2005, 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. The Commission also met with representatives of the Pakistani government.

In addition to recommending that Pakistan be designated a CPC, the Commission has recommended that the U.S. government should:

- urge the government of Pakistan to make more serious efforts to combat Islamic extremism in that country, noting especially the current government's political alliance with Islamist political parties, which affords an inordinate amount of influence to these groups, and which, in turn, has a strong negative impact on religious freedom in Pakistan;

- urge the government of Pakistan to decriminalize blasphemy and until such a time as that is possible, to implement procedural changes to the blasphemy laws that will reduce and ultimately eliminate their abuse; and ensure that those who are accused of blasphemy and people who defend them are given adequate protection, including by following up on death threats and other actions against them carried out by militants, and that full due process is followed;

- urge the government of Pakistan to 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;

- urge the government of Pakistan to 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;

- urge the government of Pakistan to sign and ratify the International Covenant on Civil and Political Rights;

- 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, including and especially 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 include derogatory statements about religious minorities, particularly Jews and Hindus, and religious intolerance is presented as acceptable.

Sri Lanka

In the past two years, the Commission turned its attention to Sri Lanka in the face of two primary concerns: an increasing number of attacks targeting members of religious minorities and churches; and proposed legislation on religious conversion that, if enacted, would have violated international law norms and resulted in mandated abuses of freedom of thought, conscience, and religion or belief in Sri Lanka. In February 2006, the Commission visited Sri Lanka to seek information about reports of growing religious intolerance. The delegation met with Sri Lankan government officials, Members of Parliament, representatives of political parties, human rights organizations and other non-governmental groups, and representatives of the Buddhist, Hindu, Christian, and Muslim communities. The Commission notes that the proposed legislation on religious conversions has been deferred at the present time. Nevertheless, the Commission will continue to monitor the situation in Sri Lanka and report on any further attempts to restrict freedom of religion in that country.

Unlike many of the other countries that draw Commission attention, Sri Lanka is, despite years of civil war, a functioning democracy. The constitution of Sri Lanka forthrightly guarantees that "Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice." It also states that "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted" by other articles in the constitution.

There have been an increasing number of violent attacks on churches, ministers, and other Christian individuals in the past few years reportedly carried out by members of, or persons affiliated with, extremist groups espousing Buddhist nationalism. There are reports that in the rural areas churches and individual Christians have been physically assaulted by one or more persons or by large groups, particularly for alleged attempts to convert Buddhists to Christianity. The churches are sometimes desecrated and/or burned to the ground. Over the past five years, there are reports that approximately 200 attacks have been carried out against churches and/or individuals; during the same period, 200 others reportedly have received verbal threats. The violence has mainly affected Evangelical churches, but other Protestant and Roman Catholic institutions have also been targeted. Although few deaths have resulted, dozens of Christian individuals have been injured enough to require hospitalization. The violence was reportedly particularly severe in 2003, in response to Buddhist anger and suspicions of foul play over the death in Russia of an esteemed Sri Lankan Buddhist monk who in fact died of natural causes.

Though diminished in number this past year, the attacks have continued. The police sometimes respond quickly to the attacks and on occasion provide extra security for churches. Other sources suggest that these actions are pro forma and not effective. For example, in January 2006, a mob of about 500 people demonstrated outside a church in Bolaththa, just north of Colombo, demanding that the church service cease. Some from the mob returned the next day and stoned the house belonging to the pastor, breaking several windows. The police were called and when they arrived, rather than arresting the perpetrators, they took the pastor to the police station for "discussions"—reportedly not an uncommon police response. In February 2006, the pastor of the Dutch Reformed Church in the town of Galle, on the country's southwest coast,

reportedly received several death threats. There is an as yet unresolved court case against the perpetrator. Reports indicate that even if local authorities have made some effort to hold the perpetrators of these attacks to account, these efforts have not been successful in halting the problem. The UN Special Rapporteur on Freedom of Religion or Belief, who traveled to Sri Lanka in May 2005, concluded in her report that, with regard to acts of religious violence or intolerance by non-state actors, the Sri Lankan government's obligation to promptly investigate and prosecute all perpetrators has not "been satisfactorily fulfilled." This problem is compounded by the fact that due to wider, more chronic deficiencies in the judicial system in Sri Lanka, including corruption, a lack of police training, and inadequate infrastructure, arresting perpetrators and moving them through the criminal court system is a serious problem, regardless of the crime involved.

In 2004, two draft laws purporting to restrict religious conversion and the act of attempting to convert another person were circulated in Sri Lanka. The first was a private member's bill drafted by the Jathika Hela Urumaya (JHU) party comprised of nationalist-minded Buddhist monks, targeting "forced" conversions; the second was a bill proposed by the government, a much stricter bill that essentially prohibited any and all attempts to convert another person—even inadvertently. In July 2004, the government's bill was sent to committee for re-drafting. The JHU bill was tabled that same month and sent for analysis on its constitutionality to the Supreme Court, where over 20 challenging petitions had been filed. In August 2004, Sri Lanka's Supreme Court ruled that certain clauses of the JHU bill violated several articles of the constitution. As a result of the Supreme Court's ruling, in order for it now to become law, the bill in its entire form would require a two-thirds majority in the parliament and the approval of the people of Sri Lanka in a referendum.

In March 2005, the JHU again introduced legislation on conversions. Called "Bill on the Prohibition of Forcible Conversions," the legislation was the same as that tabled the previous year, including the provisions of that bill that had been found unconstitutional by the Supreme Court. This bill against religious conversions would have: (1) provided for prison terms of up to five years for anyone who attempted to convert a person from one religion to another by "the use of force or by allurement or by any fraudulent means," with the terms "fraud" and "allurement" vaguely defined such that many charitable activities could be included; (2) established reporting requirements for any person who adopts a new religion as well as for any person who takes part "directly or indirectly" in the conversion of another person, requiring individuals to inform government authorities of their action or face the threat of jail time and fines upon conviction; and (3) provided an opportunity for "any interested person" having "reason to believe" a violation of the act to bring cases in the public interest. According to the UN Special Rapporteur, the proposed law was not "an appropriate response to the religious tensions and is not compatible with international human rights laws."

The JHU bill was sent to a parliamentary Standing Committee for discussion. After elections in November 2005, newly-elected President Mohinda Rajapaksa prorogued parliament, thereby annulling all bills going through any stage of the process of being enacted by parliament, including the JHU's bill on religious conversion.

In September 2005, the JHU put forward a proposed amendment to the constitution that would make Buddhism the official religion of Sri Lanka. Article 9.1 of the proposed amendment stated that "The Official Religion of the Republic is Buddhism. Other forms of religions and worship may be practiced in peace and harmony with Buddha Sasana." The establishment of one religious community as a country's official religion is permitted under international standards for freedom of religion or belief, and thus is not, in and of itself, problematic. However, two other articles in the proposed amendment were particularly troubling. Article 9.4 required that the inhabitants of Sri Lanka "professing Buddhism are bound to bring up their children in the same"; Article 9.5 stated that it is prohibited to convert "a Buddhist into other forms of worship or to spread other forms of worship among the Buddhists." Both of these proposed articles, if enacted, would be in clear violation of international standards with regard to freedom of religion or belief. The proposed amendment was later found by the Sri Lankan Supreme Court to be "inconsistent" with the national constitution.

In the past few years, there have been reports, particularly in the period immediately after the December 2004 "tsunami" disaster, of some groups and individuals engaging in efforts to encourage people to convert—reportedly amounting to "unethical" practices—that are said to have led to increased tensions among religious communities in Sri Lanka. Some in Sri Lanka suggest that the anti-conversion legislation came about in response to these reports. These allegations have included, for example, the offering of money, employment, access to education or health care, or some other material good as an incentive to convert or join a particular church, taking advantage chiefly of the poorest people among Sri Lanka's population. Though there have been allegations, concrete evidence of any such practices has not been found. However, some involved in evangelizing activities have also been accused of denigrating Sri Lanka's other religious communities by referring to those religions as evil, pagan, or unworthy of consideration, and thereby sowing contention and even violence among religious groups.

Religious communities in Sri Lanka must register either as a corporation, which enables them to be treated as a corporate entity in financial and real estate transactions, or as a charitable organization, which entitles them to some tax exemptions. In 2003, the Sri Lankan Supreme Court denied the incorporation petition of a Roman Catholic group, the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis, claiming that incorporation is impermissible if the group is engaging in proselytization and providing material benefit. The group took their petition to the UN Human Rights Committee (HRC), a treaty body, which in November 2005 decided in the group's favor. The HRC found that articles 18 and 26 (non-discrimination) of the International Covenant on Civil and Political Rights had been violated. It stated that the grounds advanced by the Supreme Court and the government of Sri Lanka in support of the restrictions were insufficient to demonstrate that these restrictions were necessary to further one or more of the limitations on rights permitted by the Covenant.

In addition to the February 2006 visit to Sri Lanka, the Commission issued a statement in July 2005 expressing concern about growing religious intolerance in Sri Lanka, particularly the ongoing violence against religious minorities and the proposed bill addressing forced religious conversions. In September 2005, the Commission issued a statement about the proposed amendment to the constitution, expressing concern about articles in the amendment discussed

above that would have violated the internationally guaranteed rights primarily of members of the majority Buddhist community as well as minority religious groups.

COUNTRY REPORTS: WESTERN HEMISPHERE

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. In the past year, a new law on religion meant to "legalize" house churches has also affected religious freedom and reinforced the government's efforts to increase its control over 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 remains a hard-line authoritarian state, with a human rights record that, after deteriorating significantly in 2003, continued to be poor through 2005. Since seizing power in 1959, President Fidel Castro has maintained strong, centralized control of all facets of life in Cuba. While parliamentary, judicial, and executive institutions exist in name, all are under his control, 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 and the Christian Liberation Movement. The Varela Project was a referendum calling for economic and political reforms submitted to the Cuban government in 2002 and 2003. Although allowed under the constitution, the petition resulted in a serious government crackdown on human rights activists, journalists, leaders of independent labor unions, and political opponents, many of whom were arrested and convicted on charges of violating national security and aiding a foreign power. Seventy-five human rights activists were arrested and sentenced in 2003; about 60 of the 75 were still in prison at the end of 2005. The crackdowns have continued, and several more human rights activists have been imprisoned in the past two years. In response to the Varela Project, the Cuban National Assembly unanimously passed an amendment making socialism the irrevocable basis of the constitution.

Since Castro came to power, 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, religious holidays were 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 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 was leaked. Nevertheless, Havana's Catholic Cardinal 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." After visiting Cuba in spring 2004, a British religious advocacy organization reported a marked shift in government propaganda towards a communist orthodoxy, including an assault on religious freedom and related human rights. The U.S. Conference of Catholic Bishops reported that despite international pressure and the Pope's visit, human rights and religious freedom conditions appeared to worsen in the past year.

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 religious groups that maintain "close relations" with the state or those who "often supported 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. Reportedly, the government in recent years has not granted recognition to any relatively new denominations, although it has tolerated the presence of some new groups, such as the Baha'is and the Church of Jesus Christ of Latter-day Saints, though they are not officially registered. Conditions for Jehovah's Witnesses have improved substantially since 2004; however, there were sporadic reports of harassment and discrimination by local Communist Party and government officials. For example, in 2005, a member of the Jehovah's Witnesses reported being denied employment in a government-run factory due to her religious beliefs. Nevertheless, such reports continued to decline in number.

In recent years, the Cuban government has rarely permitted the construction of new places of worship, forcing religious groups that are not recognized, or those without adequate space, to meet in private homes or other similar accommodations, commonly known as "house churches." Permission for such meetings 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. The Cuban government did permit the opening of Russian Orthodox and Greek Orthodox Churches in 2004, which the official media declared to be evidence of the Cuban government's religious tolerance.

A new law went into effect in September 2005 requiring all house churches to register in order to legalize previously unauthorized groups. Put into effect as Directive 43 and Resolution 46, the new law has increased concerns primarily amongst Protestant religious groups, many of which hold unauthorized religious meetings in private homes several times per week. Once

authorization is formally refused, the members of the house church are not permitted to meet at the same house. Reportedly, at least three Protestant house churches have been closed, confiscated, and/or demolished since the new law went into effect. However, there is no evidence that the new legislation has resulted in a wider crackdown on house churches thus far. In order to legalize a house church, the new law requires that there may be no more than three meetings at the house per week; the house church cannot be within two kilometers of another house church of the same denomination; and detailed information on the number of members, when services will be held, and the names and ages of the inhabitants of the house must be provided. The new requirements also prohibit the participation of non-Cubans without government permission and foreigners are prohibited altogether in the mountainous regions.

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 control and monitor the country's religious institutions, including through surveillance, infiltration, and harassment of religious clerics and laypersons. 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). In March 2006, an evangelical pastor was jailed, allegedly for aiding emigrants who sought to leave the country illegally. However, sources inside the country contend he was targeted for openly challenging the government on religious freedom issues. In many churches, officials reportedly continue to monitor sermons and sit behind the wives of political prisoners in order to intimidate them. The U.S. Conference of Catholic Bishops reports that monitoring of church services and harassment of parishioners has continued in the last year. In January 2004, a Ministry of Interior official revealed in an interview that government infiltration of civil and religious organizations is widespread. Afro-Caribbean religious groups are reportedly more heavily targeted than political opposition organizations because some estimates indicate that 70 percent of the population engages in at least some religious practices associated with these groups, presenting a more grassroots threat to the government. 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.

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 before being allowed to hold 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. In 2005, the Catholic Church decided to stop seeking permits for religious processions in some areas and one Catholic publication ceased printing, reportedly under government pressure. Cuban authorities also continue to deny or revoke visa

authorization for religious workers whose activities are deemed too visible or whose opinions are viewed as contrary to government policy.

With regard to Cuba, the Commission recommends that the U.S. government should:

- continue to raise religious freedom and other human rights violations in multilateral fora, including the Organization of American States and the UN, and encourage the government of Cuba to respond to and initiate a dialogue with the UN Special Representative of the High Commissioner on Human Rights on the situation of human rights in Cuba; and

- use all diplomatic means to urge the Cuban government to undertake the following measures that would help bring 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;

  --revise government Directive 43 and Resolution 46 restricting religious services in homes or other personal property, as well as other national laws and regulations on religious activities, to bring them into conformance with international standards on freedom of religion or belief;

  --cease interference in 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, arbitrary prevention of religious ceremonies and processions, and 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;

    • providing 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 such activities in Cuban law.

APPENDIX 1

BIOGRAPHIES OF MEMBERS OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Michael Cromartie, Chair

Michael Cromartie is the Chair of the Commission. He is Vice President of the Ethics and Public Policy Center in Washington, D.C., where he directs the Evangelicals in Civic Life program and the Media and Religion program. He is also a Senior Advisor to The Pew Forum on Religion and Public Life in Washington. 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.

Mr. Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture*, *The Washington Times*, *The Reformed Journal*, *Insight*, *Christianity Today*, *Stewardship Journal*, and *World*. He is the editor of 14 books on religion and politics including, most recently, "*Religion, Culture, and International Conflict: A Conversation,*" "*Religion and Politics in America: A Conversation,*" "*A Public Faith: Evangelicals and Civic Engagement*," "*A Preserving Grace: Protestants, Catholics, and Natural Law*," "*Caesar's Coin Revisited: Christians and the Limits of Government*," "*Creation at Risk: Religion, Science, and Environmentalism*," "*The Nine Lives of Population Control*," "*Disciples and Democracy: Religious Conservatives and the Future of American Politics*," "*Might and Right After the Cold War*," "*No Longer Exiles: The Religious Right in American Politics*," "*Piety and Politics: Evangelicals and Fundamentalists Confront the World*," "*Peace Betrayed: Essays on Pacifism and Politics*," and "*Evangelicals and Foreign Policy*."

He is the host of Radio America's weekly show "Faith and Life," an adjunct professor at Reformed Theological Seminary, an advisory editor at *Christianity Today*, on the Board of Directors of Mars Hill Audio, 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 explicate 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 NewsHour with Jim Lehrer, MSNBC, PBS and 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. He is married to Jennifer Seel Cromartie and they have three children, Ethan, Eric, and Heather.

Commissioner Cromartie was appointed by President George W. Bush.

Nina Shea, Vice Chair

Since 1999, Nina Shea has served as a Commissioner on the U.S. Commission on International Religious Freedom and, in 2003 and 2004, she was elected a Vice Chair of the Commission.

Ms. Shea has been an international human rights lawyer for 25 years, and for 20 years she has focused specifically on the issue of religious freedom in American foreign policy as the director of the Center for Religious Freedom, a division of Freedom House, America's oldest human rights group.

She is a co-author of a newly-released book on governance by extreme sharia, *Radical Islam's Rules* (Rowman & Littlefield) and the author of a widely acclaimed book on anti-Christian persecution around the world entitled *In the Lion's Den* (Broadman & Holman Publishers). In 2005, she edited a path-breaking report on publications by the government of Saudi Arabia promoting an ideology of hate in America. Ms. Shea has been one of the activists at the forefront of a movement to make religious freedom abroad a U.S. foreign policy priority. It was a conference that Ms. Shea organized under Freedom House auspices in January 1996 that brought 100 top Christian leaders together for the first time to address the issue of worldwide anti-Christian persecution. This marked the beginning of an interfaith coalition she has played a key leadership role in that has turned into a nationwide movement to advance religious freedom worldwide. In a profile of her, *Newsweek* magazine credited her with "making Christian persecution Washington's hottest cause." The *Far Eastern Economic Review* cited Nina Shea as one of the "leading voices in the fight to put religious persecution at the center of U.S.-China relations."

Ms. Shea has organized and sponsored numerous fact-finding missions to Iraq, Sudan, Nigeria, China, Egypt and elsewhere and has testified before Congress on these and other governments. She has written and contributed to articles in *The New York Times*, *Wall Street Journal*, *Los Angeles Times*, *National Review*, *The Weekly Standard*, *The New Republic* and numerous other publications. She has been a guest on hundreds of talk shows on Christian radio and has appeared on Fox, CBS, ABC and PBS news programs, as well as numerous religious broadcasts.

In 2001, Ms. Shea was appointed by President Bush to serve on the U.S. delegation to the UN Commission on Human Rights in Geneva. During the Clinton Administration, she had also served on the Advisory Committee on Religious Freedom Abroad to the U.S. Secretary of State and for one year as a U.S. delegate to the UN Commission on Human Rights.

She graduated from Smith College and American University Law School and has an honorary degree from Alvernia Franciscan College in Reading, PA. She is a dame of the Knights of Malta.

Commissioner Shea was appointed by Speaker of the House Dennis Hastert (R-IL).

Felice D. Gaer, Vice Chair

Felice D. Gaer has served on the Commission since 2001. She is currently a Vice Chair of the Commission. She was Chair from June 2002 to June 2003, Vice Chair 2004 to the present, and a member of the Commission's Executive Committee from September 2001 to June 2002.

Ms. Gaer, a human rights specialist, is Director of the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee. The Institute, founded in 1971, works creatively to enrich thinking, discourse, and action for the protection of international human rights for all.

She is Vice President of the Committee Against Torture (CAT), a United Nations human rights treaty body composed of 10 individuals elected as independent experts. The Committee reviews reports by governments on their compliance with the Convention Against Torture, a treaty ratified by over 130 countries, and considers individual communications about alleged violations of the Convention. Nominated by the United States, elected in 1999, and again in 2003, she is the first American to serve on the Committee. Ms. Gaer is the CAT's Special Rapporteur on Follow Up to country report on compliance with the convention.

Ms. Gaer was appointed as a public member of nine U.S. delegations to UN human rights negotiations between 1993 and 1999, including the UN Commission on Human Rights, the World Conference on Women, and the World Conference on Human Rights.

Ms. Gaer was cited as "*the* American Jewish international human rights expert" in the November 2002 and November 2003 lists of the "Forward Fifty," in which *The Forward* newspaper's editorial board commended her for addressing major human rights issues "long before they bubble to the surface" and remarked that "during the last 20 years, no communal official has accumulated such a wealth of experience and contacts with activists, governments, and the United Nations in the field of human rights."

She is also Vice President of the International League for Human Rights and a member of the Board of Directors of the Andrei Sakharov Foundation and the Eleanor Roosevelt Center at Valkill. She is a member of the a member of the Advisory Committee of Human Rights Watch's Europe and Central Asia division and a member of the Human Rights Executive Directors Leadership Group. Ms. Gaer is a frequent author on international human rights topics, including reforming the United Nations, advancing the human rights of women, the role of non-governmental organizations, and related topics.

In 1995, she was awarded the Alumnae Achievement Award from Wellesley College, from which she received an A.B. (with honors). She also received advanced degrees from Columbia University in political science (Masters of Philosophy; Master of Arts) and a Certificate from the Russian Institute.

Commissioner Gaer was appointed by House Minority Leader Nancy Pelosi (D-CA).

Preeta D. Bansal

Preeta D. Bansal is a partner at Skadden, Arps, Slate, Meagher & Flom LLP in New York City, where she concentrates on appellate litigation and complex legal issues as well as First Amendment and technology-related matters. She has represented leading Wall Street financial institutions and international corporations in significant appellate matters raising novel issues of broad legal and practical impact.

Ms. Bansal served as the Solicitor General of the State of New York during New York Attorney General Eliot Spitzer's first Term. As Solicitor General, Ms. Bansal argued cases in the United States Supreme Court, the *en banc* Second Circuit, and the New York State Court of Appeals on behalf of the State of New York. She directly supervised 45 lawyers in the Solicitor General's Office who filed 40 to 50 appellate briefs each week, and she helped oversee and coordinate the significant legal positions of the 600 lawyers as well as the *amicus* strategy of the Attorney General's Office. She initiated organizational and managerial reforms to improve the quality, efficiency, accountability and transparency of the Solicitor General's office. During her tenure, the New York Attorney General's Office and she received the "Best United States Supreme Court Brief" award from the National Association of Attorneys General in 1999 for the first time and then again in each subsequent year of her leadership.

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 was as a law clerk to Justice John Paul Stevens of the U.S. Supreme Court and to then-Chief Judge James L. Oakes of the U.S. Court of Appeals for the Second Circuit. She served in the Clinton Administration from 1993-1996, as a Special Counsel in the White House and as a Counselor in the U.S. Justice Department. She has taught constitutional law and First Amendment law, and was a Visiting Fellow at the Institute of Politics at Harvard University's John F. Kennedy School of Government.

The New York Times profiled Ms. Bansal and called her a "legal superstar." *The New York Law Journal* referred to her "one of the most gifted lawyers of her generation, who combines a brilliant analytical mind with solid, mature judgment." She has appeared as a commentator on legal issues and U.S. Supreme Court matters on CNN, CSPAN, and PBS news programs, and has authored and co-authored scholarly articles published in the *Harvard Law Review*, *Yale Law Journal*, the *Fordham Intellectual Property, Media & Entertainment Law Journal*, and the *Villanova Law Review*. She has published op-eds in the *New York Times, Washington Post,* and *Dallas Morning News*.

Currently, in addition to her private law practice and service on the U.S. Commission on International Religious Freedom, she is a Commissioner on New York City Mayor Bloomberg's bipartisan Election Modernization Task Force; a Trustee of the national Lawyers' Committee for Civil Rights Under Law; an Advisory Board Member of the Clinton Global Initiative; and a Board Member of the New York City Bar Justice Center. She co-chairs the Appellate Committee of the Commercial and Federal Litigation of the New York State Bar Association, and also chairs a special statewide Task Force on State Court Appeals designed to improve the quality of appellate justice in New York State.

Commissioner Bansal was appointed by former Senate Minority Leader Thomas Daschle (D-SD) and served as Chair of the Commission in 2004-2005.

The Most Reverend Charles J. Chaput

The Most Reverend Charles J. Chaput, Archbishop of Denver, was born September 26, 1944, in Concordia, Kansas, the son of Joseph and Marian DeMarais Chaput. He attended Our Lady of Perpetual Help Grade School in Concordia and St. Francis Seminary High School in Victoria, Kansas. He joined the Order of Friars Minor Capuchin, St. Augustine Province, in 1965.

After earning a Bachelor of Arts in Philosophy from St. Fidelis College Seminary in Herman, Pennsylvania, in 1967, Archbishop Chaput completed Studies in Psychology at Catholic University in Washington, D.C., in 1969. He earned a Master of Arts in Religious Education from Capuchin College in Washington, D.C., in 1970 and was ordained to the priesthood on August 29, 1970.

Archbishop Chaput received a Master of Arts in Theology from the University of San Francisco in 1971. He served as an instructor in theology and spiritual director at St. Fidelis from 1971-1974 and as executive secretary and director of communications for the Capuchin Province of St. Augustine in Pittsburgh from 1974-1977.

In 1977, Archbishop Chaput became pastor of Holy Cross Parish in Thornton, Colorado, and vicar provincial for the Capuchin Province of Mid-America. He was named secretary and treasurer for the province in 1980, and he became chief executive officer and provincial minister three years later.

Archbishop Chaput was ordained Bishop of Rapid City, South Dakota, on July 26, 1988. Pope John Paul II appointed him Archbishop of Denver on February 18, 1997.

Archbishop Chaput was appointed by President George W. Bush.

Dr. Khaled M. Abou El Fadl

Dr. Khaled Abou El Fadl has been described as the most important and influential Islamic thinker in the modern age. He is currently a Full Professor of Law at the UCLA School of Law. He was also a Visiting Professor at Yale Law School, where he taught National Security law, Islamic law and Immigration law. Dr. Abou El Fadl holds degrees from Yale University, University of Pennsylvania Law School, and Princeton University. An Islamic jurist and scholar, Sheikh Abou El Fadl received formal training in Islamic jurisprudence in Egypt and Kuwait. A world-renowned expert in Islamic law and an American lawyer, Dr. Abou El Fadl is a strong proponent of human rights and is on the Board of Directors of Human Rights Watch. He regularly serves as an expert in a wide variety of cases ranging from human rights and political asylum to international and commercial law.

Dr. Abou El Fadl is a prolific author and prominent public intellectual on Islamic law and Islam and is most noted for his scholarly approach to Islam from a moral point of view. He writes

extensively on universal themes of morality and humanity, and the notion of beauty as a moral value. Dr. Abou El Fadl is a staunch advocate and defender of women's rights, and focuses much of his written attention on issues related to women. As the most critical and powerful voice against puritan and Wahhabi Islam today, he regularly appears on national and international television and radio, and is published and cited extensively in all media venues. His most recent works focus on issues of authority, terrorism, tolerance, Islam, and Islamic law. His newest book entitled, *The Great Theft: Wrestling Islam from the Extremists,* is due out in Fall 2005 from HarperSanFrancisco.

Other books by Dr. Abou El Fadl include: *Conference of the Books: The Search for Beauty in Islam* (University Press of America/Rowman and Littlefield, 2001); *And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourses* (UPA/Rowman and Littlefield, 2001); *Speaking in God's Name: Islamic law, Authority and Women* (Oneworld Press, Oxford, 2001); *Rebellion and Violence in Islamic Law* (Cambridge University Press, 2001); *The Place of Tolerance in Islam* (Beacon Press, 2002); and *Islam and the Challenge of Democracy* (Princeton University Press, 2004). Other forthcoming books include: *Reasoning with God: Rationality and Thought in Islam* (Oneworld Press, Oxford) and *Jihad in Islam* (Cambridge University Press).

Commissioner Abou El Fadl was appointed by President George W. Bush.

Dr. Richard D. Land

Dr. Richard D. Land has served as president of the Southern Baptist Convention's Ethics & Religious Liberty Commission since 1988. During his tenure as spokesman on Capitol Hill for the largest Protestant denomination in the country, Dr. Land has represented Southern Baptists' interests in Congress, before U.S. Presidents, and in the major media.

In February, 2005, Dr. Land was featured in *Time* magazine as one of "The Twenty-five Most Influential Evangelicals in America." In May 2004, Land 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."

He is the host of two nationally syndicated radio programs, *For Faith & Family* and *For Faith & Family's Insight*. The *For Faith & Family* Broadcast Ministry is heard by more than 1.5 million listeners each week on over 600 radio stations across the country and throughout the world on the Internet. *Richard Land Live!* is Land's latest radio initiative and it is syndicated on the Salem Radio Network. Most recently, he has authored *Imagine! A God-Blessed America,* and *Real Homeland Security: The America God Will Bless* (Broadman & Holman Publishers), and is also Executive Editor of *Faith & Family Values*, a national magazine.

Dr. Elizabeth H. Prodromou

Elizabeth H. Prodromou is Asst. Professor in the Department of International Relations at Boston University, where she is also the Associate Director of the Institute on Culture, Religion and

World Affairs. Dr. Prodromou holds a Ph.D. from the Massachusetts Institute of Technology. Dr. Prodromou's publications include "Negotiating Pluralism and Specifying Modernity in Greece: Reading Church-State Relations in the Christodoulos Period" (*Social Compass*: 2005); "Religious Pluralism in 21st-Century America: Problematizing the Implications for Orthodox Christianity" (*Journal of the American Academy of Religion*: 2004); "Christianity and Democracy: the Ambivalent Orthodox" (*Journal of Democracy*: 2004); "God Is Not Neutral: Religion and US Foreign Policy After 9/11" (*Orbis*: 2004); "Reintegrating Cyprus: the Need for a New Approach (*Survival*: 1998); "The Perception Paradox of Post-Cold War Security in Greece" (*The Greek Paradox, Promise vs. Performance*, G. Allison & K. Nicolaidis, eds.: 1997); "Paradigms, Power and Identity: Rediscovering Religion and Regionalizing Europe" (*European Journal of Political Research*: 1996). She is currently working on a book on "Orthodox Christianity in American Public Life: The Challenges and Opportunities of Religious Pluralism in the 21st Century."

A regional expert on Southeastern Europe and the Eastern Mediterranean, Dr. Prodromou has been an invited policy consultant in the U.S. and Europe, and has received academic awards and grants from Harvard University, New York University, and Princeton University.

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 is married and has a daughter.

Commissioner Prodromou was appointed by House Minority Leader Nancy Pelosi (D-CA).

The Most Reverend Bishop Ricardo Ramírez, C.S.B.

The Most Reverend Ricardo Ramírez, C.S.B., is currently Bishop of Las Cruces, New Mexico. He was ordained to the priesthood in 1966. Bishop Ramírez was named Titular Bishop of Vatarba and Auxiliary Bishop of San Antonio in 1981. In 1982 he became the first Bishop of the Diocese of Las Cruces, New Mexico. He holds a B.A. from the University of St. Thomas, in Houston, Texas, an M.A. from the University of Detroit, Michigan, a Doctor of Laws *honoris causa* from Neumann College, Wichita, Kansas, a Doctor of Divinity *honoris causa* from the University of St. Michael's College, Toronto, Canada, and a Doctor of Humane Letters *honoris causa* from Siena Heights University, Adrian, Michigan. Bishop Ramírez attended St. Basil's Seminary in Toronto, Canada, Seminario Conciliar in Mexico City, Mexico, and the East Asian Pastoral Institute in Manila, Philippines.

Bishop Ramírez currently serves as a Member of the New Mexico Advisory Committee to the U.S. Commission on Civil Rights; the Catholic Church Extension Society Board; Episcopal Advisor of the Institute for Hispanic Liturgy; Episcopal Moderator of the Asociación Nacional de Sacerdotes Hispanos (ANSH); Member of the U.S. Conference of Catholic Bishops' (USCCB) International Policy Committee; USCCB Committee on the Liturgy; Member of the Committee on the Catholic Common Ground Initiative; and Consultant of the USCCB Committee on Hispanic Affairs. He has also served as a member of the U.S. State Department Advisory Committee on Religious Freedom Abroad; chairman of the USCCB's Catholic

Campaign for Human Development; and chairman of the USCCB Committee for the Church in Latin America. He served as administrative secretary for the *Comisión para el Estudio de la Historia la Iglesia en Latinoamérica* (Commission for the Study of the History of the Church in Latin America). Bishop Ramírez was also elected as delegate for the United States at the 1997 Vatican Synod for America.

Bishop Ramirez was appointed by former Senate Minority Leader Thomas Daschle (D-SD).

Ambassador John V. Hanford III
Ambassador-at-Large for International Religious Freedom

In May 2002, John V. Hanford III, was sworn in as the second U.S. Ambassador-at-Large for International Religious Freedom. This position, created by the International Religious Freedom Act of 1998 (IRFA), is charged with promoting religious freedom worldwide, promoting reconciliation in those areas where conflict has been implemented along religious lines, and making sure that this issue is woven into the fabric of U.S. foreign policy. Ambassador Hanford serves as an Ex-Officio member of the U.S. Commission on International Religious Freedom.

Ambassador Hanford, originally from Salisbury, North Carolina, attended the University of North Carolina at Chapel Hill on a John Motley Morehead Scholarship (BA in Economics) and holds a Master of Divinity degree from the Gordon-Conwell Theological Seminary in South Hamilton, Massachusetts.

For the past 15 years, Ambassador Hanford has served as an expert on international religious freedom while working as a Congressional Fellow on the staff of Senator Richard Lugar (R-Indiana). During that time, he worked at the forefront of efforts to mobilize strong and compassionate intervention through U.S. governmental channels on behalf of persons persecuted for their religious beliefs. Ambassador Hanford and Senator Lugar have led numerous efforts in Congress to address some of the world's most severe problems of religious persecution. Their initiatives have rallied Senators, Members of Congress, Presidents, and Secretaries of State in successful interventions to halt execution orders, secure the cessation of torture or harassment on religious grounds, gain the release of religious prisoners, or oppose the policies of governments which repress religious freedom.

In 1998, Ambassador Hanford spearheaded a bipartisan congressional effort to develop a strong and responsible U.S. policy on international religious freedom. Ambassador Hanford organized and led the group of offices that co-authored the IRFA. He worked closely with the IRFA's chief sponsor, Senator Don Nickles, and his staff in guiding IRFA through the legislative process to a unanimous (98-0) Senate vote and a unanimous voice vote in the House of Representatives. IRFA ensures U.S. vigilance and an ongoing process of effective action in addressing religious persecution overseas. IRFA is regarded as one of Congress's most significant legislative achievements in human rights. Since the passage of IRFA, the U.S. government's attention to problems of religious persecution has increased significantly. On this and other projects, Ambassador Hanford has worked closely with a broad spectrum of human rights and religious organizations at home and abroad.

Prior to his work in the Senate, Ambassador Hanford served in pastoral ministry on the staff of West Hopewell Presbyterian Church in Hopewell, Virginia. Hanford is married to Laura Bryant Hanford.

Joseph R. Crapa, Executive Director

Joseph R. Crapa, the Commission's Executive Director, joined the Commission in November 2002. Prior to coming to the Commission, Mr. Crapa served as Chief of Staff to Senator Charles E. Schumer, the senior Senator from New York. Before that, Mr. Crapa spent four years as an official in the Executive Branch from 1997-2001, where he was nominated by President Clinton and confirmed by the Senate to serve as an Assistant Administrator at the U.S. Agency for International Development. He also held the prior positions of Assistant Secretary at the Department of Agriculture and Associate Administrator at the Environmental Protection Agency where his portfolio included Congressional Relations and Public Affairs.

Mr. Crapa has extensive experience dealing with foreign and domestic policy issues. For ten years he served as Chief of Staff to Rep. David Obey (D-WI), the Chairman and currently Ranking Member of the House Appropriations Committee, and also as counsel to the House Appropriations Committee. He was an Adjunct Professor of Government at Georgetown University (1990-1995) and was chosen as a Stennis Fellow of Congress (1995-1997) and continues as a Senior Fellow and Mentor. He also is a Lecturer for the Washington Campus, a consortium of universities where he lectures on Congress and the policy process.

Mr. Crapa graduated from Cathedral College Preparatory Seminary, received a B.A. from St. John's University, went on to earn his M.A. from Duke University, and his Ph.D. at the University of Arizona where he was a National Defense Teaching Fellow.

APPENDIX 2

THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998[5]

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.

Section 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM (22 U.S.C. § 6442)

[5] 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.

(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[6] 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;

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

[6] The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

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.[7]

5. Permissible Limitations on the Freedom to Manifest Religion or Belief
[ICCPR, Art. 18(3) and UN 1981 Dec., Art. 1(3)]

[7] 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[8] 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

[8] 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, colour, 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)[9]

[9] Commission staff translation.