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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Annual Report of the

United States Commission on International Religious Freedom

May 2009

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Chair

Michael Cromartie

Dr. Elizabeth H. Prodromou

Vice Chairs

Dr. Don Argue

Preeta D. Bansal (until February 9, 2009)

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ON THE COVER: Members of Pakistan's Women Action Forum in Lahore, Pakistan rally against the presence of Taliban and militants in the northwest of Pakistan on Thursday, February 12, 2009. The banners condemn religious extremism, domestic violence, and the burning down of girls' schools in Swat. (AP Photo/K.M. Chaudary)

Annual Report of the

U.S. Commission on International Religious Freedom

May 2009

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UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

May 1, 2009

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I am pleased formally to transmit the 2009 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). The Report is the most extensive in the Commission's ten-year history, documenting serious abuses of freedom of thought, conscience, religion, and belief around the world. The Report also:

- Recommends that the President designate thirteen countries as "countries of particular concern" under the 1998 International Religious Freedom Act (IRFA) for egregious violations of religious freedom, and provides policy prescriptions for each nation. These countries are: Burma, Democratic People's Republic of Korea, Eritrea, Iran, Iraq, Nigeria, Pakistan, People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam;

- Names the following countries to the USCIRF Watch List: Afghanistan, Belarus, Cuba, Egypt, Indonesia, Laos, Russia, Somalia, Tajikistan, Turkey, and Venezuela. While not rising to the statutory level set forth in IRFA requiring designation as a country of particular concern, these countries require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments;

- Highlights efforts of some member states at the United Nations to limit free speech and freedom of religion by banning the so-called "defamation of religions;" and

- Discusses measures still required to address the flaws in the U.S. policy of expedited removal for asylum seekers.

Each country chapter in the Annual Report documents religious freedom abuses and includes specific recommendations for U.S. policy. The Commission encourages you to consider ways to implement these recommendations. If adopted, they would advance considerably U.S. protection of the universal right to freedom of religion or belief, together with related human rights and fundamental freedoms, and in the process increase U.S. security in the face of the growing threat from religious extremists who advocate or use violence to achieve their aims.

Thank you for your consideration of the Annual Report, which the Commission is required to submit annually to the President, Secretary of State, and Congress in accordance 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.

The Commission would welcome the opportunity to discuss the Annual Report with you.

Sincerely yours,

Felice D. Gaer

Felice D. Gaer
Chair

UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

May 1, 2009

The Honorable Hillary Rodham Clinton
Secretary of State
U.S. Department of State
Washington, DC 20520

Dear Madam Secretary:

I am pleased formally to transmit the 2009 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). The Report is the most extensive in the Commission's ten-year history, documenting serious abuses of freedom of thought, conscience, religion, and belief around the world. The Report also:

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Chair

UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

May 1, 2009

The Honorable Nancy Pelosi
United States House of Representatives
Washington, DC 20515

Dear Madam Speaker:

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Sincerely yours,

Felice D. Gaer

Felice D. Gaer
Chair

UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

May 1, 2009

The Honorable Robert Byrd
President Pro Tempore
United States Senate
Washington, DC 20510

Dear Senator Byrd:

I am pleased formally to transmit the 2009 Annual Report of the U.S. Commission on International Religious Freedom (USCIRF). The Report is the most extensive in the Commission's ten-year history, documenting serious abuses of freedom of thought, conscience, religion, and belief around the world. The Report also:

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Felice D. Gaer
Chair

INTRODUCTION

"The Threat of Religious Extremism to Religious Freedom and Security" has been the Commission's overarching theme during this reporting period, and unfolding events in Pakistan make clear the relevance of this theme to the 2009 Annual Report. At the time of writing, emboldened Taliban-associated extremists had advanced to within 60 miles of the Pakistani capital of Islamabad. In the areas they already control, these groups are imposing draconian restrictions on human rights and religious freedom and engaging in brutal acts against individuals, particularly women and local police, who refused to accede to their repressive policies.

The Commission predicted this result in February 2009, as the Pakistani government considered entering into a so-called "peace deal" with these elements in the Swat Valley. On February 25, the Commission publicly warned that the agreement "would represent a significant victory for Taliban-associated extremists fighting in the Swat Valley, and could embolden other violent extremists and Taliban militants who would seek to expand their influence and control elsewhere in Pakistan and Afghanistan." The Commission's concerns sadly were borne out when, soon after Pakistan's Parliament and President approved the deal, the extremists moved to duplicate their success in neighboring regions.

While Pakistani leaders have acquiesced to the rule of Taliban-associated extremists in some regions, members of civil society have courageously objected. The front cover of this report features Pakistani women standing up against these violent extremist groups. Their signs, written in Urdu, protest violent religious fanaticism and the systematic destruction of girls' schools, 150 of which reportedly have been demolished. These brave women are on the frontlines of the battle to preserve human rights, including religious freedom, in their country. Their voices must be amplified.

Since its inception, the Commission has strived to place religious freedom at the forefront of the U.S. foreign policy agenda, and the 10th Annual Report is a key component of those efforts. In this reporting period, the Commission engaged both the Bush and Obama Administrations on ways to promote religious freedom and highlighted a number of critical issues to U.S. foreign policy.

Created by the International Religious Freedom Act of 1998 (IRFA), the Commission is an independent U.S. government commission that monitors violations of the right to freedom religion or belief abroad, and gives independent policy recommendations to the President, Secretary of State, and Congress. The passage of IRFA reinforced the historic commitment of the United States to religious freedom, and the Commission, separate from the State Department, 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. In passing IRFA, the U.S. Congress was not trying to enforce an American standard of religious freedom, but rather to promote the universal standard of freedom of religion or belief set forth in Article 18 of the Universal Declaration of Human Rights and other international instruments.

During this reporting period, the Commission met with human rights defenders from many nations where violent extremists or repressive regimes threaten fundamental rights and national security. The Commission held public hearings that examined the threat to religious freedom and security posed by violent religious extremists in Sudan, Bangladesh, and Pakistan, and reviewed possible U.S. government responses. China represents another example of Commission focus. The Commission wrote Secretary Clinton before her trip to Asia, urging her to speak forcefully about the importance of religious freedom in the U.S./China relationship, and to ensure that the United States raise human rights concerns during China's Universal Periodic Review session at the UN Human Rights Council.

The Annual Report also describes conditions for freedom of religion or belief in countries of concern to the Commission and provides policy recommendations to ensure that the promotion of freedom of religion or belief becomes a more integral part of U.S. foreign policy. The Annual Report contains chapters on countries the Commission has recommended for designation as "Countries of Particular Concern" (CPCs) for severe violations of religious freedom; countries the Commission has placed on a Watch List for violations of religious freedom that do not meet the CPC threshold but require attention; and other countries the Commission is monitoring closely. The Annual Report also includes chapters on U.S. policy on expedited removal and multilateral organizations.

The Commission is composed of 10 members. Three Commissioners are appointed by the President. Six are appointed by the leadership of both parties in both houses of Congress, under a formula that provides that four Commissioners are appointed by the leaders of the party that is not the President's party. The Ambassador-at-Large for International Religious Freedom, a position at the State Department also created by IRFA, serves as a non-voting *ex officio* member of the Commission.

Commissioners bring a wealth of expertise and experience in foreign affairs, human rights, religious freedom, and international law. During the decade of the Commission's existence, Commissioners have included Catholic Bishops, a Muslim Imam, a Jewish human rights activist and a Rabbi, Protestant clergy, and legal, foreign policy, and other experts with diverse backgrounds including Orthodox Christian, Mormon, Hindu, Buddhist, and Baha'i. Under their leadership, the Commission has raised concerns about religious freedom violations impacting a wide array of issues, countries, and faiths. For example, the Commission has worked on behalf of Buddhists in Burma, Hindus in Bangladesh, Shi'a Muslims in Saudi Arabia, Jews in Venezuela, Ahmadis in Pakistan, Uighur Muslims in China, Christians in Sudan, and Baha'is in Iran.

The report covers the period May 2008 through April 2009. In June 2008, Michael Cromartie completed his term as Chair of the Commission, during which Preeta D. Bansal and Dr. Richard D. Land served as Vice Chairs. In July 2008, Felice D. Gaer was elected as Chair of the Commission, and Michael Cromartie and Dr. Elizabeth H. Prodromou became Vice Chairs.

During the past year, Commissioners have testified before congressional committees and caucuses, advised Members of Congress and their staffs, met with high-ranking officials from the U.S. and foreign governments and international organizations, participated in U.S. delegations to international meetings and conferences, and helped train Foreign Service officers and other U.S. officials. The Commission also held hearings and press conferences on pressing religious freedom issues, conducted fact-finding missions to other countries, and issued policy reports, press releases, and op-eds. Commissioners and staff also met with representatives of religious communities and institutions, human rights groups, and other non-governmental organizations, as well as academics and other policy experts.

In 10 years, the Commission has been an articulate advocate on ways to improve U.S. foreign policy on issues of religious freedom and related human rights. Engaging in countries as diverse as Saudi Arabia, China, Uzbekistan, and Sudan, Commission recommendations have influenced U.S. policy and helped improve the status of religious freedom worldwide. The Commission also has raised concerns and highlighted a variety of problematic regional and global trends, such as the expansion of highly restrictive religion laws in many countries of the former Soviet Union, the promotion of the pernicious "defamation of religions" concept at the United Nations, and major limitations on religious freedom throughout Asia.

Despite the efforts of the Commission, the State Department, and Congress, individuals and communities around the world continue to suffer severe violations of their human rights on account of their religious beliefs or because they hold no beliefs. As it has done with prior administrations, the Commission will continue to engage the President

and other U.S. government leaders, providing recommendations and raising public and private concerns about issues affecting respect for freedom of religion or belief. While much has been accomplished in the past decade, the Commission, as well as U.S. international religious freedom policy, still has a great deal to accomplish.

REPORT OVERVIEW

Countries of Particular Concern and the Watch List

Each year the Commission makes recommendations to the President, the Secretary of State, and the Congress, based on its ongoing review of the facts and circumstances of violations of religious freedom, as to which countries should be designated as "countries of particular concern," or CPCs. In doing this, the Commission works alongside an array of diplomatic mechanisms also established by the International Religious Freedom Act (IRFA), such as the Office of International Religious Freedom at the Department of State, headed by the Ambassador-at-Large for International Religious Freedom. IRFA mandated that the State Department work through its embassies and consulates abroad to collect information on religious freedom conditions and by September 1 of each year review the status of freedom of religion or belief worldwide. That review comes in the form of the *Annual Report on International Religious Freedom.*

Based on that review, IRFA directs the Secretary of State, delegated by the President, to designate "countries of particular concern," or CPCs, which are countries whose governments have engaged in or tolerated "particularly severe" violations of religious freedom. IRFA defines "particularly severe" violations as ones that are "systematic, ongoing, and egregious," including acts such as torture, prolonged detention without charges, disappearances, or "other flagrant denial[s] of the right to life, liberty, or the security of persons." After a country is designated as a CPC, the president is required by law to oppose the violations by taking actions specified in IRFA.

In this reporting period, the Commission recommends that the Secretary of State designate the following 13 countries as CPCs: Burma, the Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Iraq,[1] Nigeria,[2] Pakistan, the People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.

The State Department's January 2009 CPC designations repeated the 2006 designations of eight countries: Burma, the Democratic People's Republic of Korea (North Korea), Eritrea, Iran, the People's Republic of China, Saudi Arabia, Sudan, and Uzbekistan. The State Department issued a 180-day waiver on taking any action against Uzbekistan, and an indefinite waiver for Saudi Arabia, in both cases to "further the purposes of the [International Religious Freedom] Act." As a result of these waivers, the United States will not implement any policy response to the particularly severe violations of religious freedom in either country.

The Commission also names countries to a Watch List, based on the need to closely monitor serious violations of religious freedom engaged in or tolerated by the governments of countries that do not meet the CPC threshold. These countries also merit close attention and, in some cases, targeted diplomatic action by the State Department and multilateral organizations. The Commission's Watch List in this reporting period includes Afghanistan, Belarus, Cuba, Egypt, Indonesia, Laos, Russia, Somalia, Tajikistan, Turkey, and Venezuela.

[1] While joining the Commission's report on Iraq, Commissioners Cromartie, Eid, Land, and Leo dissented from the CPC recommendation, concluding that Iraq should remain on the Commission's Watch List.

[2] Commissioner Cromartie dissents from the CPC recommendation, concluding that Nigeria should remain on the Commission's Watch List.

Current CPC and Watch List Countries

Countries Named as CPCs by the Department of State	Commission Recommendations for CPC Designation	Commission Watch List Countries
Burma	Burma	Afghanistan
China	China	Belarus
Eritrea	Eritrea	Cuba
Iran	Iran	Egypt
North Korea	Iraq	Indonesia
Saudi Arabia	Nigeria	Laos
Sudan	North Korea	Russia
Uzbekistan	Pakistan	Somalia
	Saudi Arabia	Tajikistan
	Sudan	Turkey
	Turkmenistan	Venezuela
	Uzbekistan	
	Vietnam	

The designation of a country as CPC provides the Secretary of State with a range of specific policy options to address serious violations of religious freedom. Notably, the designation does not automatically trigger sanctions (referred to as Presidential actions in IRFA); rather, it requires the Secretary of State to enter into direct consultations with a government to find ways to bring about improvements in the respect for religious freedom. While sanctions are a possible policy option, the Secretary may decide to develop a binding agreement with the CPC government on specific actions that it will take to end the violations that gave rise to the designation or take a "commensurate action." Also, the Secretary may determine that pre-existing sanctions are adequate or waive the requirement of taking action in furtherance of the Act.

In practice, the U.S. government generally has not implemented new Presidential actions pursuant to a CPC designation but rather has relied on pre-existing sanctions. This practice of "double-hatting" has provided little incentive for the other CPC governments to reduce or end egregious violations of religious freedom, although relying on pre-existing sanctions is technically correct under the statute. For these mechanisms to have any real effect in promoting religious freedom, the designation of an egregious religious freedom violator as a CPC must be followed by the implementation of a clear and direct Presidential action.

Actions taken under IRFA

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
Eritrea	International Religious Freedom Act of 1998, 405(a)(13)(B): Denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted
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
Saudi Arabia	Indefinite waiver of Presidential actions
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
Uzbekistan	180 day waiver of Presidential actions

In addition to implementing specific Presidential actions, the U.S. government should designate CPCs in a timely manner. While IRFA does not set a specific deadline for CPC designations, the fact that the decision is based on the State Department's annual review indicates it should occur soon thereafter. During this reporting period, the Commission expressed concern about the lack of any CPC designations by the State Department between November 2006 and January 2009. Designating after more than two years is particularly problematic, as Presidential actions taken under IRFA terminate after two years if not expressly reauthorized.

Consequently, the two-year delay of CPC designations puts into question the standing of the only set of specific Presidential actions implemented under IRFA—those placed on Eritrea in 2005. 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. The Commission commended this decision and has recommended subsequent actions that the U.S. government should take in this regard. Yet as a result of the delay in CPC designations, the sanctions imposed on Eritrea may have lapsed and may need to be expressly reauthorized.

Overview of CPC Recommendations and Watch List

Justification of Commission Recommendations for CPC Designation

- The State Peace and Development Council, the military junta governing **Burma**, has one of the world's worst human rights records. In the past year, religious freedom conditions deteriorated, particularly following the violent suppression of peacefully demonstrating Buddhist monks in September 2007, and Burma's military regime continued its policy of severely restricting religious practice, monitoring the activity of all religious organizations, and perpetuating or tolerating violence against religious leaders and their communities. The government launched a massive crackdown targeting monks, student

activists, and other civilians who had participated in large scale, non-violent demonstrations calling for the release of political prisoners and greater democracy in late September 2007. An estimated 136 monks remain in prison, awaiting trials. In November 2008, eight monks were given sentences ranging from 6 to 19 years in prison for "creating public alarm" and "engaging in seditious activities." Monasteries remain closed or function in a limited capacity. Ethnic minority Christians and Muslims continue to encounter difficulties. In addition, a new law passed in early 2009 essentially bans independent religious activity in "house churches."

- In **China**, there has been no improvement in the religious freedom situation and, in fact, there has been a marked deterioration in the past year, particularly in Tibetan Buddhist and Uighur Muslim areas. The Chinese government continues to engage in systematic and egregious violations of the freedom of religion or belief, with religious activities tightly controlled and some religious adherents detained, imprisoned, fined, beaten, and harassed. The number of unregistered Protestants arrested has increased. There also is evidence of the systematic torture and mistreatment of Falun Gong practitioners in detention. China continues to deny its citizens the ability to freely exercise their religion and continued in the past year to subject religion to a strict political and legal framework that represses many activities protected under international human rights law, including in treaties China has signed or ratified. Repression of many religious groups intensified before the 2008 Beijing Olympics.

- The government of **Eritrea** continues to engage in systematic, ongoing, and egregious violations of religious freedom. Arbitrary arrests for peaceful religious activities continue, along with reports of prolonged detention and harsh treatment of religious prisoners, including of the deaths of certain religious prisoners due to ill treatment, denial of medical care, or torture. Other serious concerns include the continued ban on public religious activities by unofficial religious groups as well government, closure of their places of worship, an onerous and lengthy registration process for religious groups, and official disruption of private religious and even social gatherings of unregistered religious groups.

- In **Iran**, official rhetoric and government policy resulted in a deterioration in conditions for nearly all non-Shi'a religious groups, most notably for Baha'is, as well as Sufi Muslims, Evangelical Christians, and members of the Jewish community. The government continues to engage 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. In September 2008, the Iranian parliament took further steps toward passing a revised penal code that would codify serious punishments, including the death penalty, on converts from Islam. Heightened anti-Semitism and repeated Holocaust denials by senior government officials have increased fear among Iran's Jewish community. As in the past, some Sunni and dissident Shi'a Muslim leaders continued to face imprisonment, harassment, and discrimination by Iranian authorities.

- In **Iraq**, the government continues to commit and tolerate severe abuses of freedom of religion or belief, particularly against the members of Iraq's smallest, most vulnerable religious minorities – ChaldoAssyrian and other Christians, Sabean Mandaeans, and Yazidis. The targeted violence, forced displacement, discrimination, marginalization, and neglect suffered by these communities seriously threaten their continued existence in the country. Other concerns include continued

attacks and tense relations between Shi'a and Sunni Iraqis and egregious, religiously-motivated violence against women and girls, homosexuals, Muslims who reject certain strict interpretations of Islam, and academics. Four Commissioners dissented from the CPC recommendation, concluding that Iraq should remain on the Commission's Watch List, where it had been since May 2007. These Commissioners believed that, although the Iraqi government had not done enough to address the alarming plight of the country's small religious minorities, IRFA's requirements of intent and a pattern of recurrent affirmative acts of abuse on the part of the government were not met.

- The government of **Nigeria** continues to respond in an inadequate and ineffectual way to persistent religious freedom violations and violent sectarian and communal conflicts along religious lines. The toleration by Nigeria's federal, state and local governments of systematic, ongoing, and egregious violations of religious freedom has created a climate of impunity, resulting in thousands of deaths. In late November 2008, hundreds of people were killed and at least 10,000 displaced when ethnic and sectarian violence erupted in the city of Jos, where the number of deaths reached the greatest level in over four years. Other concerns include an ongoing series of violent communal and sectarian conflicts along religious lines; the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims.

- **North Korea** continues to be one the world's most repressive regimes, where dissent is not tolerated and few protections exist for fundamental freedoms, including the freedom of thought, conscience, and religion. Reports continue to document that existing religious institutions and activity are tightly controlled and employed primarily to gain the government foreign assistance from overseas religious groups and NGOs, and of new security measures issued to stop new religious activity spreading from China. Churches, temples, and pagodas built for the government-approved organizations are directly controlled and operated by the National Security Agency. Other public and private religious activity is prohibited and anyone discovered engaging in clandestine religious practice faces official discrimination, arrest, imprisonment, and possibly execution. There are continued reports of forced repatriations of North Koreans from China. Refugees attest that those viewed to have religious beliefs or to have extensive contact with South Korean religious groups are treated more harshly than other inmates.

- Serious religious freedom concerns persist in **Pakistan**, due to continuing sectarian and religiously-motivated violence and the government's inadequate response. The past year has seen the largely unchecked growth in the power and reach of extremist groups whose members are engaged in religiously-motivated violence in Pakistan and abroad. A number of the country's laws abridge freedom of religion or belief. Anti-Ahmadi legislation results in discrimination against individual Ahmadis and effectively criminalizes various practices of their faith. Anti-blasphemy laws have been used to silence members of religious minorities and dissenters, and frequently result in imprisonment on account of religion or belief and/or vigilante violence. The Hudood Ordinances—Islamic decrees predominantly affecting women that are enforced alongside Pakistan's secular legal system—provide for harsh punishments for alleged violations of Islamic law. Extremists have imposed a harsh, Taliban-style rule in the Swat Valley and neighboring districts, with the acquiescence of provincial and Federal government

authorities. The government of Pakistan also continues to promote the flawed "defamation of religions" concept at the United Nations, which would violate the freedoms of religion and expression.

- In **Saudi Arabia**, despite King Abdullah undertaking some limited reform measures and promoting inter-religious dialogue in international fora over the past year, the government 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 even interferes with private religious practice. In addition, numerous Ismaili Muslims continue to remain in prison on account of their religion or belief and there has been an increased crackdown on Shi'a Muslim dissidents, which has resulted in numerous arrests and detentions. Moreover, on the international level the government continues to support activities that promote an extremist ideology, including in some cases, violence toward non-Muslims and disfavored Muslims. There continue to be instances of detaining and deporting non-Muslims and non-conforming Muslims for religious reasons, and a number of people were detained for non-public, non-Muslim worship.

- The government of **Sudan** commits egregious and systematic violations of freedom of religion or belief in those areas under its control. Christians, Muslims who do not follow the government's extreme interpretation of Islam, and those who follow traditional African religions are particularly targeted. Since January 2005, Sudan has been governed by a power-sharing arrangement between the Northern-dominated National Congress Party, which had seized power in Khartoum in 1989 with an Islamist agenda, and the Southern-dominated Sudan People's Liberation Movement/Army, most but not all of whose supporters are Christians or followers of traditional African religions. Security forces under the control of both parties, various militias, and rebel groups in Darfur have engaged in serious human rights abuses in the past year. The responsibility of the highest levels of the Sudanese government in egregious human rights violations was underscored by the March 2009 decision of the International Criminal Court to authorize an arrest warrant against President Bashir on crimes against humanity and war crimes in regard to his actions in the Darfur conflict.

- Significant religious freedom problems and official harassment of religious adherents persist in **Turkmenistan**, where police raids and other forms of harassment of registered and unregistered religious groups continue more than two years after the death of longtime dictator Saparmurat Niyazov. The repressive 2003 religion law remains in force, causing difficulties for the legal functioning of religious groups. Despite decreased emphasis, the Turkmen government still promotes the former president's personality cult through the *Ruhnama* as a mandatory feature of public education. Although the new president has taken some isolated positive steps, including the release of the country's former chief mufti, systemic legal reforms directly related to religious freedom and other human rights have not been made.

- The government of **Uzbekistan** continues to systematically abuse religious freedom and related human rights throughout the country. The government exercises tight control over all religious practice, including the continued arrest of Muslims, and also the harsh repression of groups and the closure of those mosques that do not conform to government-prescribed practices or that it alleges to be associated with extremist political programs. As of 2008, at least 4,500 non-conforming Muslims were estimated to be in prison, many whom are reportedly denied the right to due process

and are subjected to torture. Official repression has extended to members of the country's small Protestant and Jehovah's Witnesses communities, which until recently had been somewhat shielded from the government's anti-religious campaign. Uzbekistan has a highly restrictive law on religion that severely limits the ability of religious communities to function, leaving more than 100 religious groups currently denied registration.

- The Commission continues to recommend that **Vietnam** be re-designated as a CPC for the government's ongoing religious freedom violations. Vietnam engaged with the U.S. government after it was designated a CPC between 2004-2006; that process led to some positive developments for religious communities and the release of many prisoners of concern. Nevertheless, the Vietnamese government continues to impose major restrictions on religious freedom, as well as to commit egregious abuses. Individuals continue to be imprisoned or detained for their peaceful religious activity or religious freedom advocacy; police and government officials are not held fully accountable for abuses; independent religious activity remains illegal; and legal protections for government-approved religious organizations are vague and subject to arbitrary or discriminatory interpretations based on political factors. In addition, improvements experienced by some religious communities are not experienced by others, including the Unified Buddhist Church of Vietnam, independent Hoa Hao, Cao Dai, and Protestant groups, and some ethnic minority Protestants and Buddhists. In addition, property disputes between the government and the Catholic Church in Hanoi over the past year have led to detentions, threats, harassment, and violence by "contract thugs" against peaceful prayer vigils and religious leaders.

The Commission's Watch List

- In **Afghanistan**, conditions for freedom of religion or belief have become increasingly problematic. The failure of the constitution to protect individuals in the majority Muslim nation who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices continues to result occasionally in serious violations—violations that also demonstrate the continuing and growing power and influence of highly traditionalist religious leaders, even those not associated with the Taliban. During the reporting period, a student journalist charged with blasphemy for disseminating materials on women's rights in Islam had an original sentence of death commuted to 20 years in prison. The publishers of an independent translation of the Koran were also sentenced to 20 years in prison. Further, the failure or inability of the Afghan government to exercise authority outside of Kabul contributes in many provinces to a deteriorating situation for religious freedom and other related human rights.

- Harsh religious freedom conditions in **Belarus** continued during the reporting period. The Belarusian government still restricts religious freedom under its 2002 religion law and authorities harassed and fined members of certain religious groups, particularly Protestants. Foreign missionaries, clergy, and humanitarian workers affiliated with churches faced increased restrictions, including deportation and visa refusal or cancellation. Close supervision of religious life is state policy under the religion law, and an extensive government apparatus has stepped up efforts to limit the influence of religion on children as well as the activities of foreign religious workers.

- In **Cuba**, religious belief and practice continue to be tightly controlled. While there have been some minor improvements,

the government has expanded efforts to silence critics of its religious freedom policies and crack down on religious leaders whose churches operate outside of the government-recognized umbrella organization for Protestant denominations. The government's main interaction with, and control over, religious denominations is through the regular surveillance, infiltration, and/or harassment of religious professionals and lay persons and administrative mechanisms. The government continues to hinder the ability of religious organizations to build new or repair existing houses of worship. President Raul Castro and the government have also yet to institute or indicate plans for major improvements in freedom of religion or belief.

- In **Egypt**, serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as non-conforming Muslims, remain widespread. Despite some increased public space to discuss religious freedom issues in the media and other fora as well as some positive, but limited, judicial rulings on some religious freedom cases, serious religious freedom violations continue to affect Coptic Orthodox Christians, Jews, and Baha'is, as well as members of minority Muslim communities. The government has not taken sufficient steps to halt the repression and discrimination against religious believers, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. The government also has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media.

- In **Indonesia**, the overall picture was mixed. Over the past several years, minority religious groups have faced increased discrimination, harassment, and even violence perpetrated by extremist groups, state agencies, and community organizations. These acts are sometimes tolerated by segments of the Indonesian government. At the same time, the Indonesian government has made important progress in addressing past sectarian violence and arresting suspected terrorists. Concerns remain, however, about new government decrees used to severely restrict, and even ban, the activities of the Ahmadi community; forced closures and vandalism of places of worship belonging to religious minorities; the growth and political influence of religious extremists; human rights abuses perpetrated by the military and police; and the harassment and arrest of individuals considered "deviant" under Indonesian law.

- In **Laos**, the central government appears unable or unwilling to address serious religious freedom abuses that target members of ethnic minority Protestant groups in provincial areas. Although religious freedom conditions remained stable and even improved in the major urban areas, corruption and lack of transparency at the provincial level led to increased abuses of religious freedom in the past year. Reports increased of local authorities surveilling, detaining, harassing, arresting, and confiscating property in order to stop the spread of Protestantism among ethnic minority populations. Reports of forced relocation also arose.

- The status of religious freedom in **Russia** continued to deteriorate due to several negative new policies and trends, particularly a new body in the Ministry of Justice with unprecedented powers to control and monitor religious groups that was established in early 2009. There also are increasing violations of religious freedom by state officials, particularly against allegedly "non-traditional" religious groups and Muslims, based on the government's interpretation and application

of various Russian laws, including the laws on religious organizations, non-governmental organizations, and particularly on extremism. Russian officials continue to describe certain religious and other groups as alien to Russian culture and society, and there has been a sharp rise in xenophobia and intolerance, including anti-Semitism, which has resulted in numerous violent attacks and other hate crimes. The Russian government has chronically failed to address these serious problems adequately, consistently or effectively.

- **Somalia** has no universally recognized or enforced constitution and no legal provision for the protection of religious freedom or other human rights. Freedom of religion or belief exists in Somalia only to the extent that the population can practice their religion within the framework of either Sufi-influenced popular Islam or Sunni orthodoxy. In the absence of the rule of law, freedom of religion or belief, like all other human rights, are circumscribed by insurgents, warlords, self-appointed officials, local authorities, and prevailing societal attitudes. During the reporting period, the terrorist organization al-Shabaab increased its control over central and southern parts of the country, killed followers of other religions, forcibly implemented a strict interpretation of Islamic law reminiscent of the Taliban, and suppressed practices it deemed "un-Islamic."

- Religious freedom conditions in **Tajikistan** have deteriorated significantly over the past several years. Tajik law and government policies place major restrictions on religious freedom. The Tajik government's efforts to control religious practice disproportionately affect Muslims, such as the ban by a state-controlled Muslim group on women attending mosques, but Tajik state officials also target minority religious organizations that are viewed as having "foreign influences." Tajik authorities demolished several mosques in 2007, and in 2008 one church and the nation's only synagogue were bulldozed. Bans imposed in 2007 continued on Jehovah's Witnesses and on two Protestant churches. In April 2009, the president signed a highly restrictive new religion law into force, despite numerous objections from Tajik religious groups and the international community.

- In **Turkey**, the state's interpretation of secularism has resulted in religious freedom violations for many of the country's citizens, including members of majority and, especially, minority religious communities. Despite the government's efforts to lift the long-standing ban on the Islamic headscarf in universities by amending the Constitution in 2008, the Constitutional Court annulled the legislation and the ban remains in effect. Significant restrictions on religious freedom for religious minority communities, including state policies and actions that effectively deny non-Muslim communities the right to own and maintain property, to train religious clergy, and to offer religious education, have led to the decline—and in some cases virtual disappearance—of some religious minorities. The government also does not recognize as legal entities minority religious groups, such as some Alevi communities, the Ecumenical Patriarchate of the Greek Orthodox Church, the Armenian Orthodox Church and others.

- Since Hugo Chavez became president of **Venezuela** in 1998, there has been a steady increase in government rhetoric, and in some cases government actions, against the Venezuelan Jewish and Catholic communities and U.S.-based Protestant groups. While there are no official restrictions on religious practice, actions by President Chavez and other government officials have created an environment where Jewish and Catholic religious leaders and institutions face the risk of attack.

Furthermore, the Venezuelan government has failed to take adequate measures to hold accountable perpetrators of attacks on Jewish and Catholic religious leaders and institutions. Anti-Semitic statements by government officials and state media have created a hostile environment whereby some Venezuelan citizens have harassed and threatened rabbis, vandalized Jewish businesses with anti-Semitic slogans, and called for a boycott of all Jewish businesses in Venezuela. In February 2009, the Tiferet Israel synagogue in Caracas was vandalized.

Implementation of IRFA

After more than ten years, the State Department either has not implemented or underutilized key provisions of IRFA. Both Democratic and Republican administrations have not adequately utilized important components of the legislation, leaving central aspects of the Act unfulfilled.

The Commission encourages the Obama Administration to quickly fill the position of Ambassador-at-Large, and give due consideration to IRFA's intent that the Ambassador be "a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad." In addition, the Commission notes that the Office of International Religious Freedom, which supports the Ambassador-at-Large, has struggled to maintain an appropriate staff size due to a general hiring freeze for civil service employees in the State Department Bureau of Democracy, Human Rights, and Labor (DRL).

IRFA also addresses the issue of "Assistance for Promoting Religious Freedom," and allows for the provision of foreign assistance to promote and develop "legal protections and cultural respect for religious freedom." This mandate was not funded until fiscal year 2008, when Congress appropriated $4 million for specific DRL grants on religious freedom programming under the Human Rights Democracy Fund (HRDF). DRL circulated a request for proposals that resulted in 50 grant applications. As of May 1, the grantees had not been announced, but funding will likely be provided for six to seven religious freedom-specific programs with grants lasting up to 3 years. Unfortunately, the fiscal year 2009 budget did not include a specific earmark for additional DRL grants on religious freedom. Considering the statutory provision under IRFA for these programs and the demonstrated interest and capacity of human rights and religious organizations, Congress should consider revising the earmark in the fiscal year 2010 budget or providing a carve-out of HRDF funds for specific religious freedom programming.

In addition, IRFA mandated that the Secretary of State establish monitoring mechanisms "consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom." In constructing this list, the State Department was directed to use the resources of the various bureaus and embassies, as well as consult with NGOs and religious groups. As of the end of the reporting period, the Commission is not aware that the State Department has established or maintained a comprehensive list of such prisoners.

Another IRFA issue of relevance to the State Department is the admission of aliens who were "responsible for or directly carried out…particularly severe violations of religious freedom." IRFA bars the entry of such individuals, and this provision has been invoked only once: in March 2005, it was used to exclude Chief Minister Narendra Modi of the state of Gujarat in India for his complicity in the 2002 riots that resulted in the deaths of nearly 2,000 Muslims. The Commission had issued a statement urging such an action. The Commission also continues to urge the Departments of State and Homeland Security to develop a lookout list of aliens who are inadmissible on this basis.

Directly related to identifying and barring severe religious freedom violators from entry to the United States, IRFA also requires that the President determine the specific officials responsible for violations of religious freedom engaged in or

tolerated by governments of CPCs, and, "when applicable and to the extent practicable," publish the identities of these officials in the Federal Register. To date, despite these requirements, no individual officials responsible for particularly severe religious freedom violations have been identified from any CPC country.

Finally, IRFA authorized the Commission to conduct a study into whether asylum seekers subject to Expedited Removal—a program established by the 1996 immigration reform law allowing for the summary return to their country of origin of aliens who arrive in the United States without proper documentation— are being detained under inappropriate conditions and whether they are being returned to countries where they might face persecution. The Commission issued its *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study) in 2005. The Study identified major implementation flaws that place asylum seekers at risk of being returned to countries where they may face persecution, as well as serious flaws in the treatment of refugees and asylum seekers in detention. To address these concerns, the Commission made a series of recommendations, none of which require Congressional action, to the responsible agencies in the Departments of Homeland Security and Justice. In 2007, two years after the release of the Study, the Commission issued a "report card" grading the agencies on their implementation of the report's recommendations. Regrettably, as described in the chapter, "*The Commission's Expedited Removal Study: Four Years Later,"* to date, few of the Commission's recommendations have been adequately or fully implemented by the responsible agencies, particularly those within the Department of Homeland Security.

Assessing the Status of Religious Freedom Firsthand

The Commission each year visits foreign countries to examine religious freedom issues and to formulate recommendations for potential U.S. policy responses. During the reporting period, Commission delegations made nine country visits. The conclusions and recommendations resulting from these visits can be found in this report.

In May 2008, in follow-up to a March 2008 visit, Commission delegations, which included Commissioners Argue, Bansal, Cromartie, Eid, Gaer, Leo, and Prodromou, traveled to Jordan, Iraq, and Syria to meet with Iraqi asylum seekers, refugees, and internally displaced persons, including members of Iraq's smallest religious minorities, and various Iraqi and U.S. government officials. The Commission traveled to South Korea in May 2008 to release a Korean-language version of its report *A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea,* and to speak at a conference on human rights in North Korea, as well as to confer with government officials, academics, religious leaders, and former North Korean refugees on current human rights conditions there.

Commissioners Gaer and Cromartie traveled in October 2008 to Warsaw, Poland as official members of the U.S. delegation to the Organization for Security and Cooperation in Europe's (OSCE) Human Dimension Implementation Meeting. In addition to making an intervention on the issue of compliance with OSCE obligations to respect freedom of religion or belief, the Commissioners also met with numerous foreign delegates and non-governmental groups. Also in October 2008, Commissioner Leo traveled to Southern Sudan to meet with religious leaders and government officials to investigate religious freedom conditions, the implementation of Sudan's Comprehensive Peace Agreement, and security for religious minority communities. Commission staff traveled to Russia in October 2008 to investigate the deteriorating situation of freedom of religion or belief and assess new laws and methods Russian authorities are deploying against civil society, including members of various religious groups.

In March 2009, Commissioners Argue, Eid, and Leo traveled to Nigeria to acquire first-hand information about persistent ethnic and sectarian violence and efforts being made to address this problem by the Nigerian government and other

relevant actors. Also in March, Commission staff participated in a meeting by the Organization for Security and Cooperation in Europe on discrimination against Christians in the OSCE region.

In the spring of 2009, the Commission requested visas so that it could undertake official visits to Vietnam and Cuba, to investigate the status of religious freedom in each country. Neither government issued visas before the scheduled departure date. The government of Vietnam did offer alternative dates, but the Cuban government did not provide any alternative time for a visit to occur.

The Commission also engaged with representatives of foreign governments in Washington, D.C. For instance, during the reporting period the Commission wrote the ambassadors of Afghanistan and Bahrain, and met with the Ambassador of Turkmenistan, to inquire about the status of religious freedom in each country.

Engaging the U.S. Executive Branch on Religious Freedom

During the reporting period, the Commission played an active role in highlighting religious freedom concerns to the executive branch, both with the previous Bush Administration and with the new Obama Administration. In September 2008, the Commission sent a letter to President Bush urging him to raise with Indian Prime Minister Manmohan Singh U.S. concerns regarding anti-Christian violence in Orissa and broader issues of violence and intolerance between India's religious communities. In December 2008, the Commission published a report on religious freedom conditions in Iraq and urged the U.S. government to take steps to ensure fair elections and security for all Iraqis, to prevent abuses against religious minorities, to refocus U.S. financial assistance, to counter religious extremism and promote respect for human rights, and address the situation of internally displaced persons and refugees.

President Obama and members of his administration have proposed new policies on a variety of issues, all of which will have implications for religious freedom and related human rights in U.S. foreign policy. In a February 27, 2009 speech setting out the new Administration's policy on Iraq, President Obama emphasized U.S. support to assist Iraqi institutions "strengthen their capacity to protect the rule of law." These efforts could provide U.S. support for the legal, judicial, and other institutional reforms necessary to implement human rights and religious freedom protections. The President also announced increased U.S. assistance for the resettlement of displaced Iraqis. On March 13, President Obama announced he would lift restrictions on the ability of Cuban-Americans to visit and send remittances to their family in Cuba. However, the President later stated that his administration will not lift the current trade embargo until Cuba improves its record on human rights, including religious freedom. Despite expressing an intent to press the "re-set" button in U.S.-Russian bilateral relations, before the April 2009 G-20 meeting President Obama raised with President Dmitri Medvedev the recent attack on a leading Russian human rights advocate, Lev Ponomarev. U.S.-Russian working groups are also reportedly being established on a range of issues, including on human rights. In April, President Obama condemned as "abhorrent" legislation approved by the Afghan Parliament and President restricting the rights of Shi'a women.

The Obama Administration's announced new strategy for Afghanistan and Pakistan, however, contains no reference to human rights. Also of concern were Secretary Clinton's remarks during her Asia trip that seemed to make human rights a low priority in U.S.-China relations. These remarks were followed by similar comments in Egypt that underplayed the State Department's characterization of human rights there as "poor." Since then, Secretary Clinton has stated that she raised human rights and religious freedom privately with Chinese leaders and she also issued a strong statement on Tibet. Nevertheless, Secretary Clinton's previous public remarks seemed to signal a turn away from U.S. public diplomatic engagement on human rights. This could be problematic, as these statements are read not only by the countries of reference, but also by governments worldwide that are assessing the United States' commitment to human rights in bilateral relations.

As the Obama Administration has begun a review of U.S. policies towards critical countries, the Commission has repeatedly highlighted the importance of religious freedom as a key foreign policy priority. In February 2009, the Commission wrote Secretary Clinton urging her to speak forcefully about the importance of religious freedom and related human rights as a necessary component of the U.S.-China relationship, as well as that the United States should be raising human rights concerns at the UN Human Rights Council during the Universal Periodic Review. The Commission also highlighted to the Secretary the need for the new administration to issue new CPC designations, the importance of women's equal rights to religious freedom and freedom from abuse, and Commission concerns about the problematic "defamation of religions" concept. In reply to the Commission's letter, Acting Assistant Secretary for the Bureau of Democracy, Human Rights, and Labor Karen B. Stewart revealed for the first time publicly that the Bush Administration had re-designated the same eight countries as CPCs just days before it left office in January 2009.

The Commission wrote the Secretary of the Department of Homeland Security, Janet Napolitano, about the Commission's 2005 report on expedited removal. In response, Secretary Napolitano expressed a commitment to reexamine the Commission's recommendations, including the protection of *bona fide* asylum seekers. Also in February 2009, the Commission urged the State Department to focus on the recent escalation of attacks on the Jewish community in Venezuela and to work with countries that may have influence on the actions of the Venezuelan government. In April 2009, the Commission wrote President Obama urging him to raise the importance of religious freedom during his trip to Turkey, as well as to ensure that the Ecumenical Patriarch Bartholomew I was invited to an international meeting in Istanbul in his role as Ecumenical Patriarch. That same month, the Commission was invited to give a presentation about its work to members of the White House Advisory Council on Faith-Based and Neighborhood Partnerships.

Keeping Congress Apprised of Religious Freedom Issues

The Commission has worked with many Congressional offices to include elements of its findings and policy recommendations in over twenty-five bills and resolutions in the 110th Congress, a number of which were enacted into law. Commission staff also prepared briefing documents for staff and Members of Congress traveling on congressional delegations to countries on which the Commission reports. The Commission also has participated in over 25 congressional hearings, briefings, or press conferences in recent years.

The Commission held a series of hearings during the reporting period, many of which explored religious extremism and U.S. national security interests. Two hearings focused on the impact of religious extremism on religious freedom and security in Bangladesh and Pakistan, respectively, while the other discussed the peace process in Sudan and the implementation of the Comprehensive Peace Agreement.

The first hearing held in September 2008 was entitled *Sudan's Unraveling Peace and the Challenge to U.S. Policy,* and examined U.S. options for encouraging the full implementation of the Comprehensive Peace Agreement. Commissioners took testimony from nine panelists, including the U.S. Special Envoy on Sudan, Ambassador Richard Williamson. Representatives Capuano (D-MA), Payne (D-NJ), and McGovern (D-MA) gave remarks at the hearing and Senator Feingold (D-WI) and Representative Chris Smith (R-NJ) provided statements for the record.

In December 2008, the Commission convened a hearing entitled *Bangladesh: Religious Freedom, Extremism, Security, and the Upcoming National Elections*. In light of the anti-minority, particularly anti-Hindu, violence associated with Bangladesh's 2001 national elections,

Commissioners examined the national elections scheduled to be held later that month, the prospects for Bangladesh re-joining the ranks of the Muslim world's functioning, moderate democracies, and the Commission's long-standing concerns regarding the threat to the human rights posed by religious intolerance and extremism. Seven witnesses participated, including U.S. Ambassador to Bangladesh James F. Moriarty. Representative Crowley (D-NY) participated in the event.

In March 2009, the Commission convened a hearing to discuss Pakistan and the threat posed by religious extremism to religious freedom and related human rights, particularly for women, members of religious minorities, and other vulnerable communities. Entitled *Pakistan: The Threat of Religious Extremism to Religious Freedom and Security*, Commissioners heard testimony from five witnesses who discussed limitations on religious freedom and violence against women and religious minorities, including Shi'a Muslims, Ahmadis, Christians, and Hindus, as well as the extremist threat to democratic institutions and the rule of law and Pakistan's relationship with Taliban-associated religious extremists. Witnesses included the former U.S. ambassador to Pakistan, William Milam, and Pulitzer Prize-winning journalist Steve Coll. Representative Sheila Jackson Lee (D-TX) participated and provided opening remarks.

During the reporting period, Commissioners also appeared before congressional bodies. Commissioner Leo testified in May 2008 at the Congressional Caucus on Vietnam hearing entitled *Human Rights Conditions in Vietnam and Suggestions for U.S.-Vietnam Human Rights Dialogue*. The Commission cosponsored a forum in April 2009 on the human rights situation in Vietnam, convened by the Congressional Caucus on Vietnam, which Commissioner Gaer moderated.

Raising Public Awareness

During this reporting period, the Commission also highlighted religious freedom issues by sponsoring public events and press conferences. The Commission participated in a panel discussion at the Center for Strategic and International Studies (CSIS) in November 2008 on *Intolerance and Discrimination in Today's Russia*. The Commission in April 2009 co-sponsored an event with the Kennan Institute for Advanced Russian Studies at the Woodrow Wilson Center for Scholars to highlight religious freedom concerns in Russia.

The Commission participated in a press conference in May 2008 sponsored by Senators Brownback (R-KS), Menendez (D-NJ), and Bunning (R-KY) and Representatives Wolf (R-VA) and Watson (D-CA) to address the Olympics and China's complicity in human rights violations in North Korea, Burma, and Sudan. In June 2008, the Commission participated in a press conference sponsored by the Congressional Vietnam Caucus on religious freedom abuses in Vietnam with Representatives Wolf (R-VA), Lungren (R-CA), Lofgren (D-CA), Smith (R-NJ), Loretta Sanchez (D-CA), and Royce (D-CA). In July 2008, the Commission participated in a press conference on the state of religious freedom and human rights in China on the eve of the Beijing Olympics with Representatives McGovern (D-MA), Chris Smith (R-NJ), Wamp (R-TN), Rohrabacher (R-CA), Jackson Lee (D-TX), and Woolsey (D-CA).

In December 2008, the Commission held a press conference at which it issued recommendations to the Administration, the State Department and Congress on U.S. Iraq policy, particularly on the need to protect Iraqi religious minority communities. Representative Wolf (R-VA) participated. In February 2009, the Commission released its recommendations for promoting religious freedom in Sudan, including U.S. efforts to ensure implementation of the Comprehensive Peace Agreement, protect civilian populations, support upcoming elections, strengthen reconciliation and the rule of law, and promote economic development in Southern Sudan to better secure the peace. Representatives Payne (D-NJ), Chris Smith (R-NJ), Wolf (R-VA), and Lee (D-CA) participated; Representative McGovern (D-MA) provided a statement.

The Commission has also voiced public concern relating to freedom of religion or belief during this reporting period through the issuance of reports, press releases, and op-eds. For instance, the Commission issued press releases calling on the State Department to make prompt CPC designations; welcoming the tenth anniversary of IRFA; calling for justice for Baha'i prisoners in Iran; expressing alarm at the imposition of Taliban-influenced Islamic jurisprudence in the Swat Valley of the North-West Frontier Province of Pakistan; and protesting highly restrictive draft religion laws in Kazakhstan, Kyrgyzstan and Tajikistan.

COUNTRIES OF PARTICULAR CONCERN

Burma

The State Peace and Development Council (SPDC), the military junta governing Burma, has one of the world's worst human rights records. In the past year, religious freedom conditions deteriorated in Burma, particularly following the violent suppression of peacefully demonstrating Buddhist monks in September 2007, and Burma's military regime continued its policy of severely restricting religious practice, monitoring the activity of all religious organizations, and perpetuating or tolerating violence against religious leaders and their communities. Buddhist monasteries viewed as epicenters of the September 2007 "Saffron Revolution" continue to face the most severe restrictions, including harsh limitations on everyday religious activities. Muslims routinely experience strict controls on a wide range of religious activities, as well government-sponsored or supported societal violence. Burma's Christian populations face forced promotion of Buddhism and other hardships in ethnic minority areas where low-intensity conflict has been waged for decades. In addition, a new law passed in early 2009 essentially bans independent "house church" religious venues, many of which operate because permission to build church buildings is regularly denied. Burma has been designated as a CPC by the Department of State since 1999.

Burma has experienced ongoing conflict since its independence in 1948 and the SPDC deals harshly with any group it perceives as a threat to its hold on power, including and especially ethnic minority groups whose religious affiliation is an identifying feature. Although ethnic minority Christians and Muslims have encountered the most long-term difficulties, in the aftermath of the 2007 anti-government demonstrations, the regime also began systematically to repress Burmese Buddhists, closing monasteries, arresting and defrocking monks, and curtailing their public religious activities. Despite this crackdown on Buddhist monks and monasteries, the SPDC generally promotes Therevada Buddhism, particularly in the ethnic minority areas, sometimes pressuring or offering economic inducements to encourage conversion. Throughout Burma's history, patronage of the Buddhist community was necessary to legitimate a government's hold on power. SPDC leaders have continued this practice, publicly participating in Buddhist rituals. Buddhist doctrine is an optional course taught in all government run schools and daily prayer is required of all students; in some schools, children are reportedly allowed to leave the room during this time if they are not Buddhist, but in others they are compelled to recite the prayer. In addition, the Burmese military builds pagodas and has destroyed religious venues and other structures in Christian and Muslim areas.

The importance of Buddhism in Burma's life and culture is critical to understanding the significance of the September 2007 protests. Following the arrest, detention, and beating of activists who organized the initial protests against government increases in fuel prices, Buddhist monks took over the leadership of growing demonstrations. The monks broadened the scope of the protests and began calling for the release of all political prisoners and the initiation of a process leading to democratization in the country. In the ensuing weeks, Buddhist monks organized peaceful demonstrations in most of Burma's major cities. After the SPDC ordered the military to crack down on the monk-led demonstrations, there were reports of at least 30 deaths, although some experts estimate that the actual number was much higher. Journalists and activists in Burma state that at least 4,000 people, an unknown portion of which were monks, were arrested during the crackdown, with estimates that between 500 and 1,000 remained in detention months later and many reportedly were mistreated or tortured in detention. Given the lack of transparency in Burma, it is difficult to determine how many people remain in prison or are missing though, in January 2009, a reported 270 activists, including monks, student leaders, and political activists were given long jail terms for their roles in the 2007 protests.

In the immediate aftermath of the protests, the military raided 52 monasteries, detained many monks, and arrested those perceived to be the leaders of the demonstrations. These monks were then tortured, forcibly defrocked, and required to return to their villages. Several monasteries remain closed or are functioning in a more limited capacity, including Ngwe Kyar Yan monastery, to which only approximately 50 of the original 180 monks in residence have been permitted to return. In addition, Maggin monastery, Thingan Gyun township, Rangoon was forcibly sealed off by the authorities in November 2007 and most of the monks and civilian assistants were arrested or detained for supporting the protests and giving refuge to democracy activists. Maggin monastery, in addition to being a religious center, was also an orphanage and a hospice for HIV/AIDS patients.

Government authorities continue closely to monitor monasteries viewed as focal points of the protest and have restricted usual religious practices in these areas. Monks perceived to be protest organizers have been charged with sedition, "creating public alarm," and "activities inconsistent with and detrimental to Buddhism." Jail sentences of between two and 65 years have been given. For example, monk U Kitharihya from Seikthathukhah monastery was sentenced to seven and one half years imprisonment; U Kawmala from Adithan monastery to two and one half years; U Wunnathiri from Yadanabonmyay monastery to three years; and U Eindiya from Myoma monastery to seven and one half years. They join monk U Gambira, who was charged under Section 17/1 of the Unlawful Association Act, Section 13/1 of the Immigration Act (for illegal movement across borders), and Article 5(J) of the Emergency Provisions Act (for encouraging demonstrations). In July 2008, nine monks were arrested and charged with the "deliberate and malicious…outraging of religious feelings" and given a two year sentence. The following month, monks U Damathara and U Nandara from the Thardu monastery in Rangoon were arrested; they remain in custody. Although the SPDC released a reported 9,002 prisoners, including some prominent political activists, in September 2008, that same month there were reports that 39 political activists, including monks, were arrested and 21 sentenced to prison terms. It was reported in January 2009 that monk U Arnanda, of Thitsa Tharaphu monastery, died in detention in Insein prison of unknown causes. Since the 2007 protests, hundreds of monks have fled to Thailand to seek asylum. They have described torture, hard labor, and other deprivations during detention.

Government interference in Buddhist affairs predated the crackdown that occurred after the "Saffron Revolution." According to the State Department's 2008 *Country Reports on Human Rights Practices*, members of the Buddhist *sangha* were and continue to be subject to a strict code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons, make public statements, or produce literature with views critical of SPDC policies. Monks are also prohibited from associating with or joining political parties. Military commanders retain jurisdiction to try Buddhist monks in military courts. In several instances between 1988 and 2008, monks and nuns were defrocked or detained, and an estimated 100 monks and novices remain imprisoned as prisoners of conscience for activities that occurred prior to the September 2007 events.

Minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have conscripted members of ethnic and religious minorities against their will for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined. Those who do not carry out their tasks have been shot or beaten to death. Christians and Muslims have been forced to engage in the destruction of mosques, churches, and graveyards and to serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries.

Tensions between the Buddhist and Muslim communities have resulted in outbreaks of societal violence over the past several years, some of it instigated by Burmese security forces against ethnic

minority Muslims. Discrimination and religious freedom abuses are particularly severe for Rohingya Muslims, who are denied citizenship on the grounds that their ancestors did not reside in the country prior to British colonial rule. Approximately 800,000 Rohingya live in Burma, primarily in Rakhine state. Without citizenship, Rohingya Muslims face restrictions on their freedom of movement, and refugees report that some Rohingya are prevented from owning property legally, residing in certain townships, or attending state-run schools beyond the primary level. Since 1988, the government has permitted only three marriages per year per village in the predominantly Muslim parts of Rakhine state; efforts to lift this restriction have failed. Muslims also report difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe. Enforcement of such policies widened in the past year. Police and border guards also continue inspections of Muslim mosques in this area; if a mosque cannot show a valid building permit, the venue is ordered destroyed. Nine mosques were closed in the previous year. The government also permitted the destruction of religious centers and schools.

In June 2004, the UN Committee on the Rights of the Child expressed concern over the situation among Rohingya children, particularly with regard to the denial of their right to food, health care, and education, as well as to their ability to survive, develop, and enjoy their own culture and be protected from discrimination. In April 2007, a panel of UN experts, including the UN Special Rapporteur on Human Rights in Myanmar and the UN Special Rapporteur on Racism, Racial Discrimination, and Xenophobia, issued a statement declaring that the Burmese government's denial of citizenship for Rohingya Muslims "has seriously curtailed the full exercise of their civil political, economic, social and cultural rights and led to various discriminatory practices. This includes severe restrictions on freedom of movement; various forms of extortion and arbitrary taxation; land confiscation and forced evictions; restricted access to medical care, food and adequate housing; forced labor; and restrictions on marriages." An estimated 30,000 Muslim Rohingya live in refugee camps in Bangladesh, Thailand, and other Asian countries.

Christian groups continue regularly to experience difficulties in obtaining permission to build new churches, as well as to hold public ceremonies and festivals and import religious literature. Authorities have reportedly denied permission for the construction of new churches since 1997 in certain parts of Chin state. Similar restrictions are reportedly imposed in the capital of Kachin state, in some localities in Karen state, and among Catholics and Baptists in Karenni state. In late 2007, a military general in Shan state confiscated land from a Catholic diocese and destroyed the home of the bishop. No compensation has been awarded. In all these areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes. Additional reports of church closings in Rangoon and Mandalay have been received within the last year.

In January 2009, authorities in Rangoon ordered at least 100 churches to stop holding services and forced them to sign pledges to that effect. The order disproportionately affects churches that were forced to operate in rented apartments because they were denied permission to build a new church. Some Christians fear that these acts are retribution for the aid they provided in the relief efforts after Cyclone Nargis in May 2008, as it was at that time that the SPDC moved to disenfranchise some religious and ethnic minority populations and forcibly close religious charities assisting cyclone victims. In advance of a referendum on a new constitution, the national legislature passed a law disenfranchising leaders of ethnic minority religious communities, internally displaced people (IDPs), and Muslim Rohingyas. Religious and minority communities were—and continue to be—important constituencies that supported Burma's main opposition party, the National Democracy League (NLD). The new constitution has been roundly criticized by international observers, as it attempts formally to legitimize the SPDC regime's rule, provide immunity to the SPDC for all human rights abuses committed since 1988, and prohibit NLD leader Aung San Suu

Kyi from holding national office. Though the constitution acknowledges the "special position of Buddhism," it also notes the existence of other religions in the country, and contains language protecting all religions recognized in the constitution and prohibiting discrimination based on religious belief. However, given the SPDC's extremely poor human rights record, as long it holds a monopoly on power, such constitutional provisions are unlikely to be upheld.

Among the Chin and Naga ethnic minorities, there are credible reports that government and military authorities made active efforts to convert Christians to Buddhism. Although some groups reported that these measures had decreased in the past year, local human rights organizations claim that the government persists in encouraging conversion. In Chin state, government authorities offered financial and career incentives to ethnic Burman Buddhist soldiers to marry Chin Christian women. Chin families who agreed to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. Christian Chins claim that the government operated a high school that only Buddhist students could attend; students were guaranteed jobs upon graduation. In February 2007, a Christian pastor was arrested for writing a letter to General Than Shwe, the chief of the military junta, urging an end to the persecution of Christians. Naga Christian refugees leaving Burma continually report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism.

In an unprecedented unanimous resolution passed shortly after the Burmese military government's crackdown during the Saffron Revolution, members of the UN Security Council condemned the Burmese junta's violent response to the peaceful demonstrations and called for the prompt release of political prisoners and for cooperation with a UN-led effort to engage the government in dialogue on a transition to civilian rule. In 2008, the UN General Assembly again passed a resolution condemning the continued human rights violations and urged the government to restore democracy. The UN Human Rights Council also issued similar condemnations in 2008 and 2009. The Secretary General's Special Envoy Ibrahim Gambari has made seven trips to Burma since 2006, meeting with NLD and SPDC officials and twice with Aung San Suu Kyi. Mr. Gambari last visited Burma in February 2009. Critics of the Special Envoy, however, claim that his mission has thus far not achieved any tangible results. Paulo Sergio Pinheiro, UN Special Rapporteur on Human Rights in Myanmar, visited Burma for the first time in three years in 2007 and again in August 2008, during which time he met with government officials. His report details the government's failures in the recovery efforts after Cyclone Nargis and the inadequacies of the May 2008 constitutional referendum. A planned trip by UN Secretary General Ban Ki-Moon was canceled in December 2008. The Secretary General said he would visit Burma only when Burma has made "tangible progress" toward the goals the UN has set.

In the past year, Commission staff continued to meet with exiled Burmese ethnic and religious leaders, including Buddhists, Christians, and Muslims, and with members of congressional and international delegations that visited Burma. In December 2007, the Commission held a public hearing entitled "After the Saffron Revolution: Religion, Repression, and Options for U.S. Policy in Burma." In February 2008, Commissioner Nina Shea made a presentation on religious freedom concerns at a "Briefing on Burma" held by the Congressional Taskforce on International Religious Freedom and the Congressional Human Rights Caucus.

Recommendations for U.S. Policy

Secretary of State Hillary Clinton has stated that U.S. policy toward Burma is under review. Repression of ethnic and religious minorities, severe restrictions of religious freedom and related human rights, and the imprisonment of Buddhist monks and other peaceful dissidents are critical concerns that require U.S. leadership and cooperation with regional and European allies and the United Nations. In addition to recommending that Burma be designated as a CPC, the Commission recommends that, as part of any Burma policy review**,** the U.S. government should:

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

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

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

- organize a coalition of democratic nations in Asia to replace the moribund Bangkok Process in order to construct a roadmap outlining concrete steps Burma needs to take in order to end economic and political sanctions and engage with Burma's top leader on issues of concern, including addressing humanitarian and human rights abuses, the release of political and religious prisoners, a durable solution for refugees, and a transition to civilian rule.

II. Assist and support U.N. and other multilateral diplomatic efforts:

- initiate action on a new UN Security Council resolution on Burma that offers the UN Secretary General a clear mandate for his interactions with Burmese authorities, including full and unimpeded access for the UN Special Envoy on Burma and the UN Special Rapporteur on Burma; a clear timetable, with repercussions, for the Burmese government if it does not immediately and unconditionally release all political prisoners, including Aung San Suu Kyi; the establishment of a UN monitoring mission of the UN High Commissioner for Human Rights inside Burma; and the taking of steps to ensure a peaceful and orderly transition to civilian rule;

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

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

- urge ASEAN to expand the Tri-Partite Core Group to discuss other issues of concern with Burma, including protections for ethnic minorities and refugee issues.

III. Engage with the government of Burma and with Burma's closest allies to urge the government of Burma to address issues of concern:

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

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

- end the forced closures of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forced promotion of Buddhism and the renunciation of other religions

among ethnic minorities, and discrimination against non-Buddhist minorities;

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

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

- 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 the invitation of international technical assistance to help draft laws that conform to international legal standards on these matters;

- allow religious groups and civil society organizations to provide humanitarian and reconstruction assistance to the victims of natural disasters, including those still afflicted by the aftermath of Cyclone Nargis and allowing them to work openly with the UN, the Tri-Partite Core Group, and other international donors;

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

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

IV. Support local democracy efforts:

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

The Democratic People's Republic of Korea (North Korea)

The Democratic People's Republic of Korea (DPRK or North Korea) continues to be one the world's most repressive regimes, where dissent is not tolerated and few protections exist for fundamental freedoms, including the freedom of thought, conscience, and religion. Although the DPRK committed to protect religious freedom in its constitution and international human rights treaties, and claims to adhere to those commitments, there is little evidence that the freedom of thought, conscience, and religion exists in North Korea. The North Korean government officially sanctions a limited number of religious "federations," but they are headed by government officials, and are often used as diplomatic liaisons with international religious and humanitarian aid organizations. What religious practice or venues exist under the federation's purview is tightly controlled and used to advance the government's political or diplomatic agenda. Other public and private religious activity is prohibited and anyone discovered engaging in clandestine religious practice faces official discrimination, arrest, imprisonment, and possibly execution. Over the past year there have been no indications that the status of religious freedom has improved. In fact, reports continue to indicate that the North Korean government has taken new steps to combat the growth of clandestine religious activity, particularly that which reportedly is spread by cross-border contact with China. According to the testimony of North Korean refugees, anyone engaged in such activity can be arrested, tortured, and imprisoned. There were no new eyewitness reports of religious adherents being executed, though North Korea resumed public executions during the past year after a brief hiatus. The situation for North Korean refugees remains acute, both in China and upon forced repatriation, particularly if it is discovered that they had contact with South Koreans or foreign religious groups. The Commission continues to recommend that North Korea be designated as a "country of particular concern," or CPC, which the Department of State has done since 2001.

North Korea once had a diverse and vibrant religious community comprised of Buddhists, Catholics, Protestants, and Chondokoyists (followers of Chondokyo, or "Eastern Learning," a syncretic belief largely based on Confucianism but which also incorporates elements of Taoism, Shamanism, Buddhism, and Catholicism). Since 1945, these communities have, for the most part, disappeared. Both Kim Il Sung and his son, Kim Jong Il, have severely repressed religious activity and replaced it with a nationalist ideology and a "cult of personality" called *Juche* or *Kim Il Sungism.* All citizens are required to adhere to this belief system or face fines and other penalties, including imprisonment. Pictures of the "Great Leader" (Kim Il Sung) and the "Dear Leader" (Kim Jong Il) must be displayed on the walls of homes, schools, and workplaces. Every North Korean wears a lapel pin of the Great Leader and students are required to study and memorize the "Ten Principles for the Establishment of the One-Ideology System of the Party." *Juche* is considered preeminent ideology and Kim Jong Il has been quoted in North Korean media sources as saying that *Juche* should be given precedence over all other academic subjects in the nation's schools. In addition to teaching *Juche* in schools, each North Korean community reportedly maintains a "Kim Il Sung Research Center" or similar institution where local citizens are required to attend weekly meetings to watch propaganda films, listen to indoctrination sessions on the principles of *Juche*, and engage in public self criticism sessions. Any functioning religious belief or practice is viewed, by the government, as a challenge to the pre-eminence of the cult of personality surrounding the Kim family.

In addition to the government's strict control over religion, the DPRK also tightly controls the flow of information in and out of the country. This tight control makes it difficult to gather detailed and timely data about religious freedom and related human rights in North Korea. Therefore, in 2005 the Commission authorized researchers to begin interviews with North Korean refugees to study conditions in the country and for refugees seeking asylum in China. These interviews resulted in two studies.[1] These interviews confirmed the pervasive strength of the "cult of personality" surrounding the

Kim family and provided eyewitness accounts of arrests and executions of individuals engaged in clandestine religious activity. The latest series of interviews also confirmed that refugees who are forcibly repatriated from China are extremely vulnerable to ill treatment in custody, hard labor, and imprisonment in North Korea's infamous prison camps if they admit, or are suspected, to have contact with South Korean aid organizations, have converted to Christianity, or had smuggled Bibles. Interviews with former police and security officials provided extremely useful insight into the government's growing fear that the recent spread of Christianity through cross-border contacts with China poses a new national security threat. The interviews detailed the tactics the North Korean government uses to uncover clandestine religious activity by infiltrating churches, training border guards to spot Christian converts, and setting up mock prayer meetings to entrap converts.

In 1988, following the model used by the former Soviet Union, the DPRK created "religious federations" for Buddhists, Chondokyists, Protestants and Catholics. The federations were used to blunt international criticism of North Korea's religious freedom record by purporting to represent religious communities long repressed through a compliant front organization. The federations oversee the building of churches and temples in Pyongyang and recently have refurbished Buddhist temples as tourist attractions in other parts of North Korea. During the famine years of the 1990s, these federations helped negotiate foreign aid and development assistance from international humanitarian organizations. Former refugees and defectors have testified that the federations are led by political operatives whose goals are to implement the government's policy of control over religious activity, gain foreign humanitarian assistance, and maintain religious sites as cultural centers. A former member of the National Security Agency testified to the Commission that religious venues in Pyongyang are intended to be showcases of religious openness, though foreigners are not allowed to interact with anyone who is not a security agent and all sanctioned religious activity is limited to Pyongyang.

Despite its deep historical roots in Korean culture, Buddhism has been systematically repressed in North Korea. Recent refugees provide scarce eyewitness evidence of clandestine Buddhist religious activity. Temples and shrines are maintained as cultural heritage sites by caretaker monks (*gwalliwon)* who do not perform religious functions. These monks are reportedly employed by the government and their activities are limited to giving lectures, leading tours, and meeting foreign dignitaries. Refugees testify that the government has started actively to restore Buddhist temples and shrines, including refurbishing of a site at Anbul, South Hamgyeong Province in 2000 and the rebuilding of the Shingye Temple in 2005.

The North Korean government has also authorized the building of some Christian churches. Between 1988 and 1992, one Catholic and two Protestant churches were built in Pyongyang, and services have been held in these churches since the mid-1990s in response to the growing presence of foreign aid workers in Pyongyang. However, former intelligence officers testify to the fact that these series are tightly controlled and heavily monitored. Most refugees believe these sites exist solely as showpieces for foreign visitors. Reports indicate that North Koreans attend services in the Christian churches, but attendance is limited to those whose families were Christians prior to the Korean War who reportedly are bussed by the government to the venues when foreign dignitaries visit. The government will not allow the Catholic Church to have an ordained priest. However, a group of Catholic priests was allowed to travel from South Korea in September 2008 to hold a mass. The government also authorized the building of the Holy Trinity Russian Orthodox Church in Pyongyang in August 2006. Kim Jong Il visited a Russian Orthodox Church in Moscow in 2005 and said that he wanted to build a similar church in North Korea. He allowed two North Koreans to train at the Russian Orthodox Seminary in Moscow and they now serve as Holy Trinity's ordained priests.

The North Korean government also claims there are 500 approved "house churches" in the country. South Korean scholars allowed to attend some "house church" services have reported that the

participants are primarily individuals whose families were Christians before 1950 and are allowed to gather for worship without leaders or religious materials. The tiny number of "house church" adherents reportedly are no longer viewed as security threats. Nevertheless, "house church" members are grouped together in certain housing blocks and face official discrimination and constant surveillance. The North Korean government views new religious growth, particularly Protestantism spread through cross-border contacts with China or repatriated refugee converts, as the threat that requires new measures to repress.

According to refugee testimony and credible reports received by the Commission, underground religious activity is growing in North Korea, though the extent of such activity is unclear. Clandestine religious activity can include distributing religious literature, proselytizing, or gathering for worship, most of which occurs in the border region with China. Anyone caught engaging in these activities is subject to severe punishment including imprisonment in labor camps, torture, and possibly execution. New Protestant manifestations of religious activity are viewed as a South Korean or U.S. effort to undermine the government and as a direct challenge to the "one and only faith" of *Kim Il Sungism*. In March 2006, Son Jong Nam was sentenced to death for spying based on evidence that he converted to Protestantism and has been reportedly severely tortured in prison. It is unclear, at this time, whether he has been executed. In past years persons sentenced to death for religious reasons, such as Son Jong Nam, were executed publicly. However, there has not been new eyewitness testimony from refugees about public executions of religious adherents. There is also no new eyewitness information available to determine whether such executions continue in secret.

In 2007, Kim Je-Yell, a Canadian citizen who operated a dental clinic in the northeastern city of Rajin, was arrested for holding clandestine religious meetings in the northeastern city of Rajin. He was imprisoned and through diplomatic efforts was finally released in January 2008.

Imprisoning religious believers is reportedly quite common, according to refugee testimony, but neither the State Department nor any other official or non-governmental source has been able to document the number of religious prisoners. The most reliable information comes from North Korean groups in South Korea, who report that an estimated 6,000 Christians are incarcerated in "Prison No. 15" in the northern part of the country. Refugee testimony confirms that religious prisoners are treated worse than other inmates. They are typically given the most dangerous tasks in the labor camps and are subject to constant abuse to force them to renounce their faith. When they refuse renunciation, they are often beaten and tortured. There are also corroborated reports on forced abortions and cases of infanticide in the North Korean prison camps. Christianity is reportedly spreading amongst the North Korean population because of increased proselytizing efforts from refugees who are converted and trained in China.

Prolonged famine and food shortage in North Korea have created a cross-border refugee problem in northern China. Over the past decade, hundreds of thousands of refugees have fled across the border to China because of famine conditions and repression and many have sought refuge in South Korea. China considers all North Koreas to be "economic migrants" and forcibly repatriates them, for which it has come under sustained, but to date inconsequential, international criticism. According to the concluding observations of the UN Committee on Torture's (CAT) review of China, the repatriation of North Korea may violate Article 3 of the Convention Against Torture, to which China is a party, which provides that no "State should expel, return or extradite" anyone to another country where there is "substantial grounds for believing" that they would be subjected to torture. The CAT urged China to halt forced repatriations and to adopt legislation to protect asylum seekers consistent with Article 3.

It is illegal to leave North Korea and those who do are punished, some severely. Due to the vast number of citizens seeking food in China, the government has been forced to ease its punishments, sentencing those repatriated to short period of detention or forced labor. However, over the past

few years, refugees report that the government is returning to its harsher penalties for repatriated North Koreans, regardless of their reasons for fleeing. Anyone suspected of having contact with either South Korean humanitarian or religious organizations is extensively interrogated to determine if they have become Christian or have otherwise been "contaminated" by their contact with religious groups and subject to mistreatment and imprisonment. Refugees continue to provide evidence that security forces often use torture during these interrogation sessions and then imprison the refugees in hard labor facilities designated for political prisoners. The regime has always been suspect of Christianity and religious activity, but increased cross-border contact with China and the presence of foreign humanitarian and religious organizations working among North Korean refugee populations has heightened the regime's fears. In fact, the government continues to offer rewards to its citizens for providing information that leads to the arrest of individuals suspected of involvement in cross-border missionary activities or the distribution of Bibles or other religious literature.

Commissioners and staff have met with North Korean refugees, South Korean experts and religious leaders, and U.S. Government officials regarding religious freedom and related human rights in North Korea. The Commission has also urged that China's obligations to protect North Korean refugees be a top international concern and has met with Chinese officials and officials from the UN High Commissioner for Refugees. Joined by both Congressmen and Senators, the Commission publicly released its report, *A Prison Without Bars,* in April 2008. The Commission also traveled in May 2008 to Seoul, South Korea to release the Korean language version of the report and meet with South Korean government officials, journalists, and members of civil society and participant in an academic conference concerning international religious freedom and the repatriation and torture of repatriated refugees.

Recommendations for U.S. Policy

In addition to recommending that North Korea continue to be designated as a CPC, the Commission makes the following recommendations.

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

The U.S. government should:

- work with regional and European allies to fashion a comprehensive plan for security concerns on the Korean Peninsula that includes agreements on human rights and humanitarian concerns—modeled after the Helsinki Final Act of 1975 and the Organization for Security and Cooperation in Europe—as suggested by the Commission and in Sec. 106 of the North Korean Human Rights Act of 2008 (Public Law 108-333; 22 U.S.C. 7801);

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

- initiate, within the formal structure of the Six Party Talks, targeted working groups on issues of regional and international concern, including monitoring of humanitarian aid, refugees, and abductions, fully integrate these issues into the agenda of the Six Party Talks at the earliest possible date, and link future economic, political, and diplomatic assistance to progress in these areas.

II. Fulfilling the Mandate of the Special Envoy on Human Rights in North Korea

The U.S. government should:

- ensure that all funds authorized under the North Korean Human Rights Act of 2008 (the Act) are requested and used to fulfill the purposes of the Act; and

- ensure that the Special Envoy on Human Rights in North Korea, appointed by the President in accordance with the Act, fully implements key provisions of the Act including new human rights and democracy programming, promotion of information into and out of North Korea, and discussions with foreign governments about a durable solution to the plight of North Korean refugees including seeking broader permission and greater cooperation from foreign governments on refugee protection and resettlement.

III. Protecting and Aiding North Korean Refugees

The U.S. government should:

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

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

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

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

- continue coordination among the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to facilitate the resolution of any remaining technical, legal, or diplomatic issues that hinder additional resettlement of North Koreans in the United States.

IV. Pursuing Multilateral Diplomacy and Human Rights in North Korea

The U.S. government should:

- encourage nations with diplomatic relations with North Korea to include religious freedom and other human rights in their talks with North Korea, and to urge the North Korean government to invite UN Special Rapporteurs and other appropriate UN bodies to assess the human rights and humanitarian situation in the country, to monitor the delivery of humanitarian assistance, and to recommend reforms and technical assistance programs;

- urge the Office of the UN High Commissioner on Human Rights to open an office in Seoul, South Korea for the purpose of initiating technical assistance programs addressing regional and transnational issues including, but not limited to, abductions, human trafficking, police and border guard training, legal reform,

political prisoners, and abuses of freedom of thought, conscience, and religion or belief; and

- work with regional allies and appropriate international bodies to ensure that future economic, energy, or humanitarian assistance to North Korea will be effectively monitored to ensure that aid reaches the most vulnerable populations and is not diverted to military use.

V. Expanding Public Diplomacy Programs for North Korea

The U.S. government should:

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

  -- additional appropriations to the Broadcasting Board of Governors to allow Radio Free Asia and Voice of America to increase shortwave and medium-wave broadcasting to North Korea; and

  -- additional funding through the National Endowment for Democracy and the Department of State Human Rights and Democracy Fund to disseminate information on human rights, including religious freedom, inside North Korea in the form of written and electronic materials, DVDs, and digital programming.

VI. Congressional Action to Advance Religious Freedom and Related Rights on the Korean Peninsula:

The U.S. Congress should:

- create an inter-parliamentary working group that includes current and former elected officials and other experts from the United States, Europe, and Asia to discuss ways to include human rights and human security concerns in any future security arrangement in Northeast Asia, provide ideas for diplomats and policymakers, and build public and political support for creating a framework that addresses both human rights and other outstanding security and economic concerns on the Korean Peninsula;

- continue to appropriate all the funds authorized in the North Korea Human Rights Act of 2008 for public diplomacy, refugee assistance, democratization programs, and relevant travel by the Special Envoy on North Korea; and

- raise religious freedom and related human rights as a prominent concern in appropriate congressional or congressional staff visits to North Korea, including distributing Korean language reports of the Commission, and reiterate requests seeking access for international monitors to North Korean prisons as promised by North Korean officials to visiting Senate Foreign Relations Committee delegation in August 2003.

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[1] '*Thank You Father Kim Il Sung:' Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience, and Religion in North Korea* (authored by David Hawk) and a follow-up study entitled '*A Prison Without Bars:' Refugee and Defector Testimony of Severe Violations of Religion and Belief in North Korea*. Over the past four years, the Commission has interviewed 78 refugees and defectors who escaped North Korea between the years 2000-2007. Both of the Commission's reports on North Korea can be found on its website, http://www.uscirf.gov.

Eritrea

The government of Eritrea continues to engage in systematic, ongoing, and egregious violations of religious freedom. Violations include arbitrary arrests and detention without charge of members of unregistered religious groups, and the torture or other ill-treatment of hundreds of persons on account of their religion, sometimes resulting in death. Other serious concerns continue to include the prolonged ban on public religious activities by all religious groups that are not officially recognized, closure by the authorities of the places of worship of these religious groups, inordinate delays in acting on registration applications by religious groups, and the disruption of private religious and even social gatherings of members of unregistered groups. Since February 2004, the Commission has recommended that the State Department designate Eritrea as a "country of particular concern," or CPC. The State Department did so in September 2004, September 2005, November 2006, and January 2009. (The gap between November 2006 and January 2009 resulted from an absence of new designations rather than any improvement in conditions in 2007 or 2008.) Because religious freedom conditions have remained severe in the past year, with new mass arrests of members of unregistered churches, a renewed campaign of arrests of Jehovah's Witnesses, and reportedly thousands of long-term religious prisoners, both Christian and Muslim, the Commission continues to recommend that Eritrea remain a CPC.

In September 2005, when renewing the CPC designation, then-Secretary of State Condoleezza Rice announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted. This was the first unique presidential action to be undertaken under the International Religious Freedom Act of 1998 (IRFA) in response to a CPC designation.

Eritrea has been ruled by the Popular Front for Democracy and Justice (PFDJ) since the country gained independence from Ethiopia in 1993 following a lengthy war. After an initially promising start toward democratization, the PFDJ government has become increasingly repressive, with power concentrated in the hands of the President and a small cadre of associates who fought in the liberation struggle. In 2001, the government suspended implementation of a democratic constitution, canceled elections, curtailed press freedom, began a crackdown on political opponents, and restricted religious groups it perceived as undermining national unity. The government maintains the country on a near-war footing, reportedly anticipating renewed hostilities with Ethiopia.

The Eritrean government officially recognizes four religious communities: the (Coptic) Orthodox Church of Eritrea; Sunni Islam; the Roman Catholic Church; and the Evangelical Church of Eritrea, a Lutheran-affiliated denomination. Although there is no state religion, the government has close ties to the Orthodox Church, the largest and oldest of Eritrea's Christian communities, and is hostile toward newer Christian groups—in particular, Evangelical and Pentecostal denominations.

Government officials have criticized "non-traditional" Christian denominations for engaging in evangelism that is allegedly socially divisive, aggressive, and alien to Eritrea's cultural traditions. Government officials have also pointed to the actions of foreign or foreign-inspired Muslim fundamentalists as seeking to radicalize traditional Eritrean practice of Islam and thus create tensions in a society that is roughly half Christian and half Muslim. Government concerns regarding foreign backing of religious groups have resulted in strict controls both on humanitarian activities by international faith-based organizations and on foreign funding to indigenous groups for reportedly religious or charitable activities.

In 2002, the government imposed a registration requirement on religious groups other than the four "sanctioned" religions, requiring detailed financial and membership information, as well as background on their presence in Eritrea. Among those affected were Protestant Evangelical and Pentecostal Christian denominations, as well as the Baha'is. Some of these faith communities have operated in Eritrea for several decades. Jehovah's

Witnesses were not offered the opportunity to register. By stipulating that there could be no public religious activities until registration has been approved by the government, the decree effectively closed places of worship and prohibited public religious activities, including worship services, of all unregistered religious communities. Although some groups submitted the required applications, none have been approved to date. 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 ones 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. Because of government restrictions, it is difficult to determine the precise number of persons imprisoned for their practice of or participation in religious activities, and releases sometimes go unreported; however, the State Department reports that "hundreds of followers of various unregistered churches" were "detained, harassed, and abused" during the past year. For example, in November 2008 there were reports of arrests of over 110 members of unregistered churches in Barentu, Dekemhare, Mendefera, and Abi-Kuala. In December 2008, approximately 50 members of unregistered churches were reportedly arrested in Asmara over a two-week period. In January 2009, 15 members of one unregistered church were arrested in Keren. A total of 180 Muslims are reportedly imprisoned, some for as long as15 years, due to their opposition to the government-appointed mufti. Some prisoners, both Christians and Muslims, are believed to be held at military training camps.

Persons detained for religious activities often were not formally charged, permitted access to legal counsel, accorded due process, or allowed access to their families. Some prisoners were released after detentions of several days or less, but others spent longer periods in detention. The government held individuals who were jailed on account of their religious affiliation at a variety of venues, including facilities administered by the military. There are credible reports, including during the past year, that the security forces have used coercion on detainees to secure repudiations of faith; some prisoners were required to recant their religious beliefs as a precondition of release. During the past year, there have been occasional reports of deaths of religious prisoners who refused to recant their beliefs and who were denied medical care or otherwise subjected to ill treatment. Detainees imprisoned in violation of freedom of religion and related human rights have reportedly been beaten, tortured, confined in crowded conditions, or subjected to extreme temperature fluctuations.

Government violations of religious freedom are alleged to be particularly severe in the armed forces. During the war with Ethiopia, some Eritrean soldiers accepted various forms of Protestantism, reportedly alarming government officials and leading to the banning of prayer meetings among armed forces members. Attendance at such meetings is punishable by imprisonment. Moreover, armed forces members and national service inductees reportedly face severe punishment for possession of religious literature, including Bibles.

Since 1994, the government of Eritrea has denied a range of government services and civil and political rights to members of the country's small community of Jehovah's Witnesses. Many Jehovah's Witnesses refused on religious grounds to participate in the 1993 referendum on independence or to accept the national military service required of all citizens, both male and female. The government chose to interpret these actions as a rejection of Eritrean citizenship. In accordance with a presidential decree issued in October 1994, Jehovah's Witnesses have been barred from obtaining government jobs, business licenses, and government-issued identity and travel documents. Lack of Eritrean identity cards prevents Jehovah's Witnesses from obtaining legal recognition of marriages and land purchases.

The requirement of a military training component for secondary school graduation effectively denies educational and employment opportunities to young Jehovah's Witnesses, causing many to flee the country. 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.

Over 40 Jehovah's Witnesses are currently being detained in Eritrea without trial or administrative appeal, in violation of minimal rights to due process. Although the maximum legal penalty for refusing to perform national service is two years, some Jehovah's Witnesses who have refused to serve in the military have been detained for over a decade. Individual members of the Jehovah's Witnesses are regularly arrested and imprisoned for expressing their faith to others. Some are quickly released, while others are held indefinitely without charge. In a series of arrests beginning in July 2008 and extending into January 2009, 25 Jehovah's Witnesses, mostly adult males with families, were detained with no reason given for their arrests.

Since 2005, the government has intervened in the internal affairs of the (Coptic) Orthodox Church of Eritrea, including by appointing a lay administrator for the Church and, in May 2007, engineering the replacement of Orthodox Patriarch Antonios with a more compliant successor. Security forces have targeted reformist elements in the Orthodox Church, arresting religious activists and preventing their meetings. Patriarch Antonios is reportedly under a strict form of house arrest and is being denied medical care.

The government's concerns regarding religious activities appear to be linked to real or perceived security threats, and government spokespersons have cited Pentecostals, along with Muslim extremists, as threats to national security. Before Eritrea and Sudan normalized relations in 2006, Islamic militants operating out of Sudan engaged in a low-level insurgency against the Eritrean government, occasionally employing terrorism as a tactic in their campaign to establish an Islamic state. International human rights organizations report, however, that many of the Muslims detained without charge are non-violent critics of alleged anti-Muslim discrimination or of the government-recognized leadership of the Muslim community. None of the suspected Christian groups are known to have engaged in or advocated violence.

Recommendations for U.S. Policy

As a consequence of the designation of Eritrea as a CPC, the Commission again recommends 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

- thoroughly review development assistance to Eritrea and condition any resumption of development assistance to Eritrea on measurable improvements in religious freedom; if such assistance is to be resumed, ensure that it is directed to programs that contribute directly to democracy, human rights, and the rule of law.

With regard to religious freedom conditions in Eritrea, the Commission has recommended that the U.S. government should:

- urge the government of Eritrea to undertake the following actions to improve respect for religious freedom in that country by:

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

  --implementing the constitution's existing guarantees of freedom of thought, conscience,

and religion, including the freedom to practice any religion and to manifest such practice;

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

--promptly registering those religious groups that comply with the requirements issued in 2002, and not requiring religious groups to provide identifying information on individual members;

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

--issuing a public order to the security forces reminding them that religious practice is not to be interfered with except in those circumstances permitted by international law; and

--extending an official invitation for visits by the UN Special Rapporteur on Freedom of Religion or Belief and by the UN Working Group on Arbitrary Detention;

- encourage unofficial dialogue with Eritreans on religious freedom issues, specifically by:

  --the promotion of a visit to Eritrea by U.S. leaders concerned with freedom of thought, conscience, and religion or belief in order to meet with Eritrean authorities and other opinion-makers and to facilitate dialogue among all of Eritrea's religious communities;

  --the expanded use of educational and cultural exchanges, such as the Fulbright Program, the International Visitor Program, and lectures by visiting American scholars and experts, in order to introduce more Eritreans to the workings and benefits of societies in which religious freedom and other human rights are respected;

- 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 that was established following the 1998-2000 war; and

- support, and offer to provide funding for, the creation of an independent human rights commission in Eritrea, in line with the Paris Principles[1] for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

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[1] *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (*http://www.unhchr.ch/html/menu6/2/fs19.htm*).

Iran

The government of Iran continues to engage 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. Iran is a constitutional, theocratic republic that inherently discriminates against its citizens on the basis of religion or belief. Over the past few years, the Iranian government's poor religious freedom record has deteriorated, especially for religious minorities and in particular for Baha'is as well as Sufi Muslims and Evangelical Christians, including intensified physical attacks, harassment, detention, arrests, and imprisonment. In September 2008, the Iranian parliament took further steps toward passing a revised penal code that would codify serious punishments, including the death penalty, on converts from Islam. Heightened anti-Semitism and repeated Holocaust denial threats and activities by senior government officials have increased fear among Iran's Jewish community. 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 recommends that Iran again be designated as a CPC.

The Constitution of the Islamic Republic of Iran proclaims Islam, specifically the doctrine of the Twelver (Shi'a) Jaafari School, to be the official religion of the country. It stipulates that all laws and regulations, including the Constitution itself, be based on Islamic criteria. The head of state, Ayatollah Ali Khamenei, is the Supreme Leader of the Islamic Revolution and has direct control over the armed forces, the internal security forces, and the judiciary. The Supreme Leader is chosen by the Assembly of Experts, a group of 86 Islamic scholars elected by popular vote from a government-screened list of candidates. All legislation passed by the *Majlis* (parliament) is reviewed for adherence to Islamic and constitutional principles by the Guardian Council, half of whose members are appointed by the Supreme Leader. The Guardian Council also has the power under the Constitution to screen and disqualify candidates for all elective offices, including the Assembly of Experts and the 290-member *Majlis,* based on a vague and arbitrary set of requirements, including candidates' ideological and religious beliefs. Disputes over legislation between the *Majlis* and the Guardian Council are adjudicated by the Expediency Council, an advisory body appointed by the Supreme Leader. Five seats in the *Majlis* are reserved for recognized religious minorities: two for Armenian Christians, one for Assyrian Christians, and one each for Jews and Zoroastrians.

In recent years, hundreds of prominent Muslim activists and dissidents from among the Shi'a majority advocating political reform have been sentenced to lengthy prison terms by the Revolutionary Court on charges of seeking to overthrow the Islamic system in Iran; many 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. Following a visit to Iran in 2004, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression concluded that such charges brought by Iranian courts "lack any objective criteria" and are open to "subjective and arbitrary interpretation by judges implementing them." In March 2009, Iranian blogger Omid Mirsayafi died in prison while serving a 30-month sentence imposed by a revolutionary court in Tehran for "propaganda against the state" and criticism of religious leaders; Iranian authorities claim his death was a suicide but his lawyer and family have demanded an investigation.

A number of senior Shi'a religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also been targets of state repression, including house arrest, detention without charge, trial without due process, torture, and other forms of ill treatment. In October 2006, Ayatollah Mohammad Kazemeni Boroujerdi, a senior Shi'a cleric who advocates the separation of religion and state, and a number of his

followers were arrested and imprisoned after clashes with riot police. He and 17 of his followers were initially sentenced to death, but the death sentences were later withdrawn. In August 2007, he was sentenced to one year in prison in Tehran followed by another ten years in prison in another part of the country. In addition, Ayatollah Boroujerdi was reportedly defrocked and his house and all his belongings were confiscated. According to the State Department, in November 2008, supporters of Ayatollah Boroujerdi, who is said to be in poor health, reported that prison officials "severely beat him and moved him from Evin Prison to an undisclosed location despite appeals for release on medical grounds." In October 2008, Iranian authorities rearrested nine of his followers who were originally arrested in 2006; their status is unknown.

Muslim minorities continue to face repression. Some Iranian Sunni leaders have reported widespread abuses and restrictions on their religious practice, including detentions and torture of Sunni clerics, as well as bans on Sunni teachings in public schools and Sunni religious literature, even in predominantly Sunni areas. Sufi and Sunni Muslim leaders are regularly intimidated and harassed by intelligence and security services and report widespread official discrimination. The Sunni community still has not been able to build a mosque in Tehran. Also, there have been allegations that the Iranian government discriminates against the Sunni community in government employment, particularly leadership positions in the executive and judicial branches.

During the past year, arrests and harassment of Sufis increased significantly. In February 2009, at least 40 Sufis in Isfahan were arrested after protesting the destruction of a Sufi place of worship; all were released within days. In January, Jamshid Lak, a Gonabadi Dervish from the Nematollahi Sufi order, one of the country's largest Sufi sects, was flogged 74 times after being convicted in 2006 of "slander" following his public allegation of ill-treatment by a Ministry of Intelligence official. In late December 2008, after the closure of a Sufi place of worship, authorities arrested without charge at least six members of the Gonabadi Dervishes on Kish Island and confiscated their books and computer equipment; their status is unknown. In November 2008, Amir Ali Mohammad Labaf was sentenced to a five-year prison term, 74 lashes, and internal exile to the southeastern town of Babak for "spreading lies," based on his membership in the Nematollahi Gonabadi Sufi order. In October, at least seven Sufi Muslims in Isfahan, and five others in Karaj, were arrested because of their affiliation with the Nematollahi Gonabadi Sufi order; they remain in detention. In November 2007, clashes in the western city of Borujerd between security forces and followers of a mystic Sufi order resulted in dozens of injuries and the arrests of approximately 180 Sufi Muslims. The clashes occurred after authorities began bulldozing a Sufi monastery. It is unclear how many remain in detention or if any charges have been brought against those arrested. During the past year, there were numerous reports of Shi'a clerics and prayer leaders, particularly in Qom, denouncing Sufism and the activities of Sufi Muslims in the country in both sermons and public statements. In addition, there were reports that the government is considering banning Sufism outright.

The constitution of Iran formally recognizes Christians, Jews, and Zoroastrians as protected religious minorities who may worship freely and have autonomy over their own matters of personal status (e.g. marriage, divorce, and inheritance). Nevertheless, the primacy of Islam and Islamic laws and institutions adversely affects the rights and status of non-Muslims. Members of these groups are subject to legal and other forms of discrimination, particularly in education, government jobs and services, and the armed services. Non-Muslims may not engage with Muslims in public religious expression or persuasion; some also face restrictions on publishing religious material in Persian. In 2004, the Expediency Council authorized collection of equal blood money for the death of Muslim and non-Muslim men. Baha'is, Sabean Mandaean men, and all women remain excluded from the revised ruling. According to Iranian law, Baha'i blood is *mobah,* which means members of the Baha'i faith can be killed with impunity.

Since August 2005, the Iranian government has intensified its campaign against non-Muslim religious minorities. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and imprisonment of, and physical attacks against, these groups indicate a renewal of the kind of oppression seen in the years immediately following the Iranian revolution in the late 1970s. Ayatollah Ahmad Jannati, head of the Guardian Council, has publicly attacked non-Muslims and referred to them as "sinful animals" and "corrupt." In October 2008, UN Secretary General Ban Ki-Moon issued a report on the situation of human rights in Iran, which included details of abuses against religious minorities by authorities, including arbitrary detentions, false imprisonment, and violent attacks against Baha'is and arbitrary arrests and physical abuse of Sufi and Sunni Muslims and Christians. In December 2008, the UN General Assembly adopted a resolution condemning the Iranian government's poor human rights record, including its continued abuses targeting religious minorities and the escalation and increasing frequency of violations against members of the Baha'i faith. In early 2008, the Iranian parliament began considering a new law that would impose serious punishments, including the death penalty, on converts from Islam. In September 2008, a committee in the *Majlis* approved advancing the amended language on apostasy, which could be passed by the full *Majlis* in the near future. Although the Iranian government has in the past applied the death penalty for apostasy under Islamic law, it has not been explicitly codified. If the proposed law is passed, it would further endanger the lives of all converts from Islam, particularly members of the Baha'i faith, who are already considered apostates, even if they are fourth- or fifth-generation Baha'i adherents.

The Baha'i community has long been subject to particularly severe religious freedom violations in Iran. Baha'is, who number approximately 300,000, are viewed as "heretics" by Iranian authorities, and may face repression on the grounds of apostasy. Since 1979, Iranian government authorities have executed more than 200 Baha'i leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha'is may not establish places of worship, schools, or any independent religious associations in Iran. In addition, Baha'is are barred from the military and denied government jobs and pensions as well as the right to inherit property, and their marriages and divorces are also not recognized. Baha'i cemeteries, holy places, and community properties are often seized or desecrated and many important religious sites have been destroyed.

In recent years, Baha'is in Iran have faced increasingly harsh treatment, including increasing numbers of arrests and detentions and violent attacks on private homes and personal property. Baha'i property has been confiscated or destroyed and dozens of Baha'is have been harassed, interrogated, detained, imprisoned, or physically attacked. In February 2009, a Baha'i cemetery in Semnan was desecrated, and in January, another Baha'i cemetery was destroyed in Ghaemshahr. Baha'i cemeteries also have been destroyed in Yazd and outside of Najafabad. In the past several years, a series of articles in the government-controlled newspaper *Kayhan*, whose managing editor is appointed by Supreme Leader Ayatollah Khamenei, have vilified and demonized the Baha'i faith and its community in Iran. Iranian authorities also have gone to great lengths to collect information on all members of the Baha'i community in Iran and to monitor their activities. In the past, waves of repression against Baha'is began with government orders to collect such information, and the latest 2006 directives have created a renewed sense of insecurity and heightened fear among Baha'i adherents.

Nearly 200 Baha'is have been arbitrarily arrested since early 2005 and, at present, more than 30 Baha'is remain in prison on account of their religion or belief. Dozens are awaiting trial while others have been sentenced to prison terms ranging from 90 days to several years. All of those convicted are in the process of appealing the verdicts. Charges typically ranged from "causing anxiety in the minds of the public and of officials" to "spreading propaganda against the regime." In March and May 2008, seven Baha'i leaders – Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie,

Mahvash Sabet, Behrouz Tavakkoli, and Vahid Tizfahm – were arrested and taken to the notorious Evin prison in Tehran. All are members of an informal Baha'i national coordinating group, known to the Iranian government, which was established to help meet the educational and social needs of the Baha'i community after the Iranian government banned all formal Baha'i activity in 1983. In February 2009, they were charged with espionage, "insulting religious sanctities," and "propaganda against the Islamic Republic"—charges that could result in the death penalty. They have not had access to their legal counsel, Shirin Ebadi, the 2003 Nobel Laureate. Although statements by Iranian officials have suggested that a trial was imminent, no trial has yet taken place and a date is not known. In March and April 2009, several Baha'is were arrested in Yazd, Semnan, Sari, and Shiraz, some of whom remain in detention. In January, four Baha'is were arrested in Ghaemshahr after their homes were raided by Ministry of Intelligence officials. Also in January, at least six Baha'is were arrested in Tehran on charges of "insulting religious sanctities," including a woman who worked at a human rights organization connected with Ebadi; five were released in March, including one who worked for Ebadi's center, which was closed by authorities in December 2008. In December 2008, at least eight Baha'is were arrested on Kish Island, including two persons visiting from Canada; their status is unknown.

In the past, Baha'is in Iran have not been allowed to attend university. Significantly, in the fall of 2006, because the 2006-2007 applications did not require students to list religious affiliation, for the first time in decades nearly 300 Baha'i students were admitted to a number of Iranian universities and colleges. However, the majority were later expelled when it became known that they were Baha'is. Although more than 1,000 Iranian Baha'i students registered for the national university entrance examination for the 2007-2008 academic year, only 77 were permitted to enroll. The low number is reportedly due to the fact that more than 800 Baha'i students were only told months after they had completed the examination that their files were "incomplete." Although the Iranian government maintains publicly that Baha'is are free to attend university, reports over the past year indicate that the *de facto* policy of preventing Baha'is from obtaining higher education remains in effect. Of the very few Baha'is who are enrolled in universities, several were expelled during the past year once their religious beliefs became known. Furthermore, during the past few years, young Baha'i schoolchildren in primary and high schools increasingly have been vilified, pressured to convert to Islam, and in some cases, expelled on account of their religion.

Christians in Iran, in particular Evangelical and other Protestants, continue to be subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country in recent years. Iranian President Mahmoud Ahmadinejad reportedly has called for an end to the development of Christianity in Iran. Over the past few years, there have been several incidents of Iranian authorities raiding church services, detaining worshippers and church leaders, and harassing and threatening church members. According to advocacy and human rights organizations, dozens of house church leaders were arrested and interrogated in the past year for engaging in religious activities in their homes. One group reported that approximately 73 Christians were arrested in 2008 on account of their religion, although most were released after short-term detentions. It is a common practice, particularly in cases involving offenses based on religious belief, for Iranian authorities to release prisoners but to leave the charges against them or their convictions in place in order to be able to threaten them with re-imprisonment at any future time.

In March 2009, two women, Marzieh Esmaeilabad and Maryam Rustampoor, were arrested for practicing Christianity after authorities raided and confiscated materials from their home. Iranian officials reportedly claimed the two women were engaging in "anti government" activities, although the charges have not been substantiated. As of this writing, they are being held in Evin prison. In January, three Christian converts, Jamal Ghalishorani, Nadereh Jamali and Hamik Khachikian, were arrested in Tehran for engaging in underground house church activity. No formal charges were made and all were released within one

to two weeks, although Ghalishorani and Jamali have an open case against them. In August 2008, five Christian converts were arrested, including Ramtin Soodmand, the son of Assemblies of God pastor Hossein Soodmand, who was executed in 1990. All were released by October, although Soodmand continues to await trial on charges of "promoting propaganda against the Islamic Republic." In June, a couple who converted to Christianity was arrested and allegedly beaten for four days, then released on bail without being formally charged. In May 2008, more than a dozen Christian converts from Islam were arrested and detained in the southern city of Shiraz. All but two were released after several weeks, but subsequently informed that legal cases remain pending against them. In September, the Iranian government leveled apostasy charges against the two converts still in detention, Mahmoud Matin and Arash Basirat, but they were released later that month after a court ruled that the apostasy charges were invalid.

During the past few years, the unrecognized Sabean Mandaean religious community, numbering between five and ten thousand people, has been facing intensifying harassment and repression by authorities. There were reports that members of the Sabean Mandaean community experienced societal discrimination and pressure to convert to Islam, and they were often denied access to higher education.

Official policies promoting anti-Semitism are on the rise in Iran, though members of the Jewish community have usually been targeted 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 event of the Holocaust and calling for the elimination of the state of Israel. In 2008, there was a rise in officially sanctioned anti-Semitic propaganda, involving official statements, media outlets, publications, and books; anti-Semitic editorial cartoons depicting demonic and stereotypical images of Jews, along with Jewish symbols, were also published in the past year. For example, in May 2008, a government-sponsored exhibition titled the "Fraudulent Myth" opened in Qom with the goal of marking the "Anniversary of the Establishment of the Zionist Regime." According to the State Department, most of the items in the exhibit represent Jews in an anti-Semitic manner. Official government discrimination against Jews continues to be pervasive. In recent years, numerous programs broadcast on state-run television depicted anti-Semitic messages, a prominent newspaper held a Holocaust denial editorial cartoon contest, and the Iranian government sponsored a Holocaust denial conference. According to the State Department, despite minimal restrictions on Jewish religious practice, education of Jewish children has become increasingly difficult in recent years, and distribution of Hebrew religious texts is strongly discouraged.

The government's monopoly on, and enforcement of, the official interpretation of Islam negatively affect the human rights of women in Iran, including their right to freedoms of movement, association, and thought, conscience, and religion, as well as freedom from coercion in matters of religion or belief. The Iranian justice system does not grant women the same legal status as men; for example, testimony by a man is equivalent to the testimony of two women. Provisions of both the Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women. Over the past few years, several women's rights activists were arrested by authorities and some remain in prison for their involvement in collecting signatures for the Campaign for Equality aimed at ending discrimination against women in the application of Islamic law in Iran. Some of the activists' demands included: 1) that women's testimony in court carry the same weight as that of men; 2) equality of inheritance rights between men and women; 3) eliminating polygamy; and 4) equality of compensation payments between women and men in the event of wrongful death. In March 2009, Iranian authorities arrested 12 women's rights activists, including 10 members of the Campaign for Equality's One Million Signatures Campaign, who were visiting families of political prisoners on the occasion of the Iranian New Year. Ten were subsequently released, but two involved with the signature campaign, Khadijeh Moghadam and Mahbubeh Karami, remain imprisoned without charges in Evin prison.

In March 2008, Freedom House released a study on "Discrimination and Intolerance in Iran's Textbooks." The study found that the country's textbooks published for the 2006-2007 school year, including religious subjects for grades 1 – 11, teach "the country's children to discriminate against women and minorities, to view non-Muslims with suspicion if not contempt, and to perpetuate the regime's theocratic ideology." While the study found that the textbooks did not contain any "direct hostility" toward recognized religious minorities, the textbooks include intolerant content about the Baha'i religion, including asserting that the Baha'i faith is a "hidden" minority and a "false sect" used as a tool for foreign governments.

Throughout the past year, Commission staff met with members of non-governmental organizations representing various religious communities in Iran, as well as human rights groups and other Iran experts and policymakers. In May 2008 and February 2009, the Commission issued public statements expressing concern over the arrests and then the charges against the seven Baha'i leaders, and urging the U.S. government and international community to call for their release. In September 2008, the Commission sent a letter to the leadership of Religions for Peace, the American Friends Service Committee, the Mennonite Central Committee, the Quaker United Nations Office, and the World Council of Churches-United Nations Liaison Office to protest their invitation to President Ahmadinejad to take part in a "dialogue" on "the significance of religious contributions to peace." Also, in September the Commission released a statement expressing concern about the proposed changes to the penal law to include the death penalty for apostasy. In March 2008, Commissioner Nina Shea briefed Members of Congress on religious freedom conditions in Iran at a congressional Iran Working Group briefing titled "Assessing the Human Rights Situation of Ethnic Religious Groups in Iran." In February 2008, the Commission held a hearing chaired by Commissioner Michael Cromartie on Capitol Hill entitled "Advancing Religious Freedom and Related Human Rights in Iran: Strategies for an Effective U.S. Policy," at which policy officials and Iran experts explored current U.S. policy toward Iran and highlighted the deteriorating religious freedom conditions and other human rights abuses taking place there.

Recommendations for U.S. Policy

I. Stopping Abuses of Freedom of Religion or Belief and Supporting Human Rights and Democracy

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

- at the highest levels, vigorously speak out publicly about the deteriorating conditions for freedom of thought, conscience, and religion or belief in Iran, and draw attention to the need for the international community to hold authorities accountable in specific cases where severe violations have occurred, such as:

  --extremely poor treatment of the Baha'i community;

  --increasing problems facing Christians, Sufi Muslims, and dissident Muslims; and

  --state-sponsored anti-Semitism and Holocaust denial activities;

- work within its current overall policy framework to ensure that violations of freedom of religion and belief, and related human rights, are part of all formal and informal multilateral or bilateral discussions with representatives of the Iranian government, including:

  --ensuring that the revised amendment to the Penal Code, which would codify the death penalty for apostasy, is rescinded;

  --permitting Baha'is to practice their faith, rescinding any existing laws that permit members of the Baha'i faith to be killed with impunity, and allowing full access for Baha'is to

study in public universities without discrimination;

-- releasing from prison the seven Baha'i leaders—Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naemi, Saeid Rezaie, Mahvash Sabet, Behrouz Tavakkoli, and Vahid Tizfahm—and other Baha'is in prison on account of their religion or belief as well as dropping all charges against those Baha'is who have cases pending;

--releasing all Christians, including Marzieh Esmaeilabad and Maryam Rustampoor, in prison on account of their religion or belief and dropping all pending charges against any Christian converts, including Jamal Ghalishorani, Nadereh Jamali, and Ramtin Soodmand;

--releasing from prison Ayatollah Boroujerdi and other dissident Muslims, including any Sufi Muslims in prison on account of their religion or belief;

--ceasing all messages of hatred and intolerance, particularly toward Jews and Baha'is, in the government-controlled media and removing the government-appointed editor of *Kayhan*;

--halting state-sponsored acts of anti-Semitism, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities by the President and other high-level government officials;

--releasing from prison all women's rights activists, including Khadijeh Moghadam and Mahbubeh Karami, who advocate for ending discrimination against women in the application of Islamic law in Iran;

- ensure that funding budgeted to promote democracy and human rights in Iran includes support for effective initiatives advancing freedom of religion or belief, as well as ways to promote rule of law and human rights defenders programs that specifically seek to protect religious minorities in Iran;

- adequately fund U.S. public diplomacy entities, such as Voice of America and Radio Farda, and expand and develop new programming focusing solely on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran;

II. Promoting Freedom of Religion and Belief and Related Human Rights in Multilateral Fora

- continue to support an annual UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Iran, and calling for officials responsible for such violations to be held accountable;

- press for a resolution condemning severe violations of human rights, including freedom of religion or belief, in Iran at the UN Human Rights Council;

- call on the UN Human Rights Council to monitor carefully and demand Iran's compliance with the recommendations of the representatives of those UN special procedures that have already visited Iran, particularly the 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 restore the position of UN Special Representative on the Islamic Republic of Iran with the task of investigating and reporting on human rights abuses in Iran; 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 the Special Rapporteur on Freedom of Religion or Belief, and other relevant special rapporteurs and working groups, to which Iran has issued a standing invitation.

Iraq

In December 2008, the Commission recommended that the U.S. Department of State should designate Iraq as a "country of particular concern," or CPC, based on the ongoing, severe abuses of religious freedom in the country and the government's toleration of these abuses, particularly against Iraq's smallest and most vulnerable religious minorities.* The Commission's recommendation was based on the following concerns, outlined in an extensive report: continued targeted violence, threats, and intimidation against members of the country's smallest religious minorities; the lack of effective government action to protect these minorities; an ongoing pattern of official discrimination, marginalization, and neglect against the smallest minorities, particularly in the northern areas where these groups are now concentrated; continued attacks and tense relations between Shi'a and Sunni Iraqis; and continued egregious, religiously-motivated violence against women and girls, homosexuals, Muslims who reject certain strict interpretations of Islam, and academics.[1]

The religious freedom situation in Iraq remains grave, particularly for the smallest, most vulnerable religious minorities which include ChaldoAssyrian and other Christians, Sabean Mandaeans, and Yazidis. Since 2007, violence against civilians in Iraq has diminished substantially, but the improved security, according to the U.S. Department of Defense, is "fragile, reversible, and uneven."[2] Nineveh governorate—the northern province with the largest concentration of the smallest religious minorities and where they are caught in the middle of a struggle for territorial control between the Kurdistan Regional Government (KRG) and the central Iraqi government—has remained one of the most dangerous areas.

In recent years in Iraq, and particularly since 2006, there have been alarming numbers of religiously-motivated killings, abductions, beatings, rapes, threats, intimidation, forced resettlements, and attacks on religious leaders, pilgrims, and holy sites. Iraqis from many religious communities, Muslim and non-Muslim alike, have suffered in this violence, but those from Iraq's smallest religious minorities have been among the most vulnerable. Members of these small communities do not have militia or tribal structures to defend them and do not receive adequate official protection. Many have fled to other areas within Iraq or to other countries, where they represent a disproportionately high percentage of registered Iraqi refugees. These communities report that their numbers in Iraq have substantially diminished, and that their members who have left the country have not showed signs of returning in significant numbers. In addition to lacking security, these small minorities are legally, politically, and economically marginalized, and they allege that their communities are discriminated against in the provision of essential government services and reconstruction and development aid. The cumulative effect of this violence, forced displacement, discrimination, marginalization, and neglect has been to create a serious threat to these ancient communities' very existence in Iraq, where they have lived for millennia. These threats against Iraq's smallest religious minorities jeopardize Iraq's future as a diverse, pluralistic and free society.

Religious Freedom Conditions

The Situation of the Smallest Religious Minorities

In 2003, there were approximately 1.4 million Christians in Iraq, including Chaldean Catholics, Assyrian Orthodox, Assyrian Church of the East, Syriac Orthodox, Armenians (Catholic and Orthodox), Protestants, and Evangelicals. Today, it is estimated that only 500,000 to 700,000 indigenous Christians remain in the country. Christian leaders

* While joining the December 2008 report, Commissioners Cromartie, Eid, Land, and Leo dissented from the CPC recommendation, concluding that Iraq should remain on the Commission's Watch List, where it had been since May 2007. These Commissioners believed that, although the Iraqi government had not done enough to address the alarming plight of the country's small religious minorities, IRFA's requirements of intent and a pattern of recurrent affirmative acts of abuse on the part of the government were not met.

have warned that the result of this flight may be "the end of Christianity in Iraq."[3] The Chaldean Archbishop of Kirkuk was recently quoted in the press as saying that 750 Christians have been killed in Iraq in the past five years.

Sabean Mandaeans, followers of John the Baptist who are prohibited under their religion from using weapons and therefore cannot defend themselves, report that almost 90 percent of their small community either has fled Iraq or been killed, leaving only an estimated 3,500 to 5,000 Mandaeans, including 150 families in Baghdad, and five Mandaean religious leaders in the country. In 2003, the Mandaean community in Iraq reportedly numbered some 50,000 – 60,000. The Mandaean Human Rights Group reported in April 2009 that, since 2003, Mandaeans in Iraq had suffered 167 killings, 275 kidnappings, and 298 assaults and forced conversions to Islam. The Mandaean Associations Union and Mandaean leaders, refugees, and asylum seekers have universally told the Commission that they do not see any future for their community in Iraq and have asked that the entire group be collectively resettled to a third country so that their religion, language, and culture can survive.

The Yazidi community—which suffered the most devastating single attack on any group in Iraq in August 2007, when four coordinated suicide truck bombings destroyed two Yazidi towns, killing 796 civilians, wounding 1,562, and leaving more than 1,000 families homeless—reportedly now number approximately 500,000, down from 700,000 in 2005. The Mandaean and Yazidi communities are particularly vulnerable to annihilation because a person must be born into these religions, not convert or marry into them, and they do not proselytize or seek new adherents.

As detailed extensively in the Commission's December 2008 report, in recent years members of these small, vulnerable minorities have experienced targeted intimidation and violence, including killings, beatings, abductions, and rapes, forced conversions, forced marriages, forced displacement from their homes and businesses, and violent attacks on their houses of worship and religious leaders. Despite the overall drop in violence in the country, these incidents continued in 2008 and 2009, particularly in the unstable northern areas where these minorities are now concentrated.

The vast majority of non-Muslim minorities who have been displaced from other areas in Iraq have gone to the north, mainly to Nineveh governorate, and to the three governorates controlled by the Kurdistan Regional Government (KRG): Dahuk, Erbil and Sulaymaniyah. Northern Iraq, particularly the Nineveh Plains area of Nineveh governorate, is the historic homeland of Iraq's Christian community, and the Yazidi community is indigenous to Nineveh and Dahuk. Although the three KRG governorates are relatively secure, Nineveh governorate, especially in and around Mosul, remains one of the most dangerous and unstable parts of Iraq. Insurgent and extremist activity continues to be a significant problem there. Moreover, control of the ethnically and religiously mixed area is disputed between the KRG and the central Iraqi government. The minorities are caught in the middle of this struggle for control and have been targeted for abuses and discrimination as a result.

The dispute stems from Kurdish efforts to annex into the KRG additional territories—including parts of the governorates of Kirkuk (Tamim), Nineveh, Salah al-Din, Diyala, and Waset—on the basis of their claim that these areas were "Arabized" under Saddam Hussein and are historically Kurdish. Since 2003, Kurdish *peshmerga* security forces and political parties have moved into these territories, effectively establishing *de facto* control over many of the contested areas. Religious and ethnic minorities, including non-Muslims and ethnic Shabak and Turkomen, have accused Kurdish *peshmerga* and officials of engaging in abuses and discrimination against them to further Kurdish claims in the territorial dispute including encroaching on, seizing, and refusing to return minority land; making the provision of services and assistance to minority communities contingent on support for Kurdish expansion; forcing minorities to identify themselves as either Arabs or Kurds; and impeding the formation of local minority police forces.[4]

The dispute also has affected the political rights of these small minorities. In the January 2005 elections, many non-Muslims in Nineveh governorate were disenfranchised due to fraud, intimidation, and the refusal by Kurdish security forces to permit the distribution of ballot boxes. More recently, the September 2008 law to govern upcoming provincial elections was stripped, just before its adoption, of a provision guaranteeing a set number of seats to minorities in certain provincial councils, including Nineveh. An amendment was later adopted, but it set aside fewer seats than either the original provision or the UN's proposed compromise,[5] reportedly because of Arab politicians' fears that minorities would vote with the Kurds in disputed governorates. In addition, the political conflict between Kurds and Arabs has led to a stalemate in the distribution of Nineveh's provincial budget, with only 0.4 percent of the budget being spent in 2008, the lowest rate for any Iraqi governorate.

Provincial elections were held on January 31, 2009, in 14 of Iraq's 18 governorates, including Nineveh. Security was tight throughout the country, and no major violence was reported. According to the State Department, more than 400 international observers and 200,000 national observers monitored the polling, and U.S. and UN officials reportedly dispatched more observers to Nineveh than to any other governorate. The Iraqi High Electoral Commission received a number of complaints of election irregularities throughout the country—including allegations from Yazidi and Christian parliamentarians that Kurdish parties tried to intimidate minorities in Nineveh from attending campaign rallies or voting for candidates from the non-Kurdish lists—but it found none of these complaints sufficient to call into question the outcome. In Nineveh, the election resulted in a change in control of the provincial council from Kurdish parties to the Sunni Arab *al-Hadba* party, which some minority groups view as potentially more sympathetic to their rights than the Kurdish parties. Yazidi candidates won the second largest share of the Nineveh council's seats.

Despite reduced violence in Iraq overall, violent attacks against minorities continued to occur in 2008 and 2009, particularly but not exclusively in the northern disputed areas. In January 2008, six church buildings in Mosul and Baghdad were bombed in coordinated attacks on Epiphany and Orthodox Christmas Eve, feast dates when many Catholic and Syriac Orthodox Iraqis hold baptisms. In February 2008, the Chaldean Archbishop of Mosul was abducted and killed. In April 2008, an Assyrian Orthodox priest was shot and killed in a drive-by attack in Baghdad. The UN Assistance Mission for Iraq (UNAMI) has reported that from January through June 2008 it received 17 reports of attacks and kidnappings, including 10 killings, of Christians throughout Iraq.

In July 2008, the Assyrian International News Agency (AINA) reported that a group called "The Battalion of Just Punishment, Jihad Base in Mesopotamia," which is thought to be affiliated with Al Qaeda in Iraq (AQI), sent threatening letters to Christians in and around the city of Mosul, in Nineveh governorate. On September 2, 2008, two Christians reportedly were kidnapped and killed in Mosul, including a doctor whose family reportedly had paid a ransom of $20,000.

In late September and early October 2008, there was a wave of threats and attacks against Christians in Mosul, in which at least 14 Christians were killed and many more reported being threatened, spurring some 13,000 individuals to flee to villages east and north of the city and an estimated 400 families to flee to Syria. The United Nations estimated that this number is half of the current Christian population in Mosul. The Iraqi government dispatched additional security forces to the city and said that it was investigating the incidents, though as of the end of the reporting period the attackers had not been identified. Christian leaders also called for an international investigation. In a November 11 attack, two Christian girls were killed in Mosul, their mother injured, and their home bombed. By early 2009, however, the UN refugee agency (UNHCR) reported that approximately 80% Christians who had fled Mosul in the wake of the fall attacks had returned to their homes.

In mid-January 2009, a Christian man in Mosul reportedly was shot execution-style and killed, and earlier in the month another Christian was kidnapped, held for four days, and released after paying a $50,000 ransom. In early April 2009, International Christian Concern reported that four Christians were killed in two days in Baghdad and Kirkuk. On April 26, 2009, three Christians reportedly were killed and two others wounded in two different attacks in Kirkuk.

According to press reports, Iraqi Christians celebrated Christmas 2008 without incident, including in Baghdad and Mosul, though some churches held services during the daytime or on December 23 for security reasons. In addition, the Iraqi government declared Christmas an official holiday for the first time, and the Interior Ministry sponsored a public Christmas fair in a Baghdad park. In early April 2009, according to AINA, thousands of Assyrian Christians participated in an incident-free Palm Sunday procession in the Nineveh province town of Baghdede. Easter services also were celebrated without violence this year, including in Baghdad and Basra. An Easter service in Baghdad's Mansour neighborhood presided over by Chaldean Cardinal Emmanuel III Delly was broadcast on Iraqi state television.

According to the Mandaean Human Rights Group, from January 2007 to February 2008, the Mandaean community in Iraq suffered 42 killings, 46 kidnappings, 10 threats, and 21 attacks. On February 2, 2008, 10 members of a Mandaean family in Kut were killed in a rocket attack. The Commission met with family members of the deceased in Syria in May 2008, and was told that, before the attack, this family, the only Mandaean family in Kut, had received numerous threats and warnings from extremists highlighting their religion. In September 2008, masked gunmen attacked a Mandaean family's shop in Baghdad, killing the owner, his brother, and his eight-year-old son, and looting the shop. On April 19, 2009, three Mandaeans reportedly were shot and killed in their jewellery shop in Baghdad; two others were injured seriously.

UNAMI has reported that, in the first half of 2008, at least five Yazidis were killed in the northern Iraqi town of Sinjar. On December 7, 2008, two Yazidis reportedly were killed in a liquor store in Mosul. On the night of December 14, 2008, seven members of a Yazidi family were gunned down in their home in Sinjar. Over two days in late March 2009, according to press reports, the bodies of two Yazidi men were found in fields near Mosul.

Little is known about the situation of Iraq's tiny Baha'i and Jewish communities. The Baha'i faith, estimated to have only 2,000 adherents in Iraq, remains prohibited under a 1970 law. Iraq's ancient and once large Jewish community now numbers fewer than 10, who essentially live in hiding. Many Jews left Iraq in the years following the founding of the state of Israel, and a law passed in March 2006 precludes Jews who emigrated from regaining Iraqi citizenship. According to the State Department, anti-Semitism remains a "cultural undercurrent" in Iraq. In September 2008, the Iraqi government announced the prosecution of parliamentarian Mithal al-Alusi for the "crime" of traveling to Israel, an "enemy country" under a Saddam-era law that has not been enforced against anyone other than al-Alusi.[6] The parliament also voted to prevent al-Alusi from attending future parliamentary sessions or from traveling outside Iraq, and stripped him of his immunity and parliament-funded body guards. On November 24, al-Alusi was acquitted by an Iraqi court, which ruled that his visit was not contrary to Iraqi law because passports no longer prohibited Iraqis from entering Israel.

To address their lack of security and political and economic marginalization, some Iraqi minority groups, both inside and outside Iraq, have been campaigning for what is variously described as a protected, semi-autonomous, or autonomous area for Christians, and some say for other minorities as well, in the Nineveh Plains area of Nineveh governorate. These options are proposed to give effect to Article 125 of the Iraqi Constitution, which "guarantee[s] the administrative, political, cultural and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents," and provides that this "shall be regulated by" a future law. However, the specifics of

what such a law would entail, including the territory that such an area would cover, its religious and ethnic make-up, how it would be secured, what governance and economic powers it would have, and how it would relate to the KRG and the central Iraqi government remain disputed even among those who say that they favor autonomy. The idea of greater autonomy for minorities in Iraq was recently discussed and endorsed, though with disagreement as to the details, by most members of Iraqi minority diaspora communities at a conference at George Washington University in November 2008. By contrast, some Iraqi minority individuals and groups with whom the Commission met in Iraq, Jordan, Syria, and Sweden, as well as a minority at the George Washington diaspora conference, oppose the idea.

In June 2008, the Iraqi Prime Minister reportedly established a committee, said to include Christians and Yazidis, to advise him on minority issues, although the committee's specific membership, duties, and powers remain undisclosed. However, in discussions with representatives of Iraqi religious minority communities in November 2008, the Commission was told that many in these communities view this committee as illegitimate because its members were selected by the Prime Minister, not by the communities themselves, and do not actively advance minority concerns. Additionally, the Mandaean representative with whom the Commission spoke was completely unaware of the Prime Minister's committee or whether his community was represented on it. Also, little is known about the committee's activities or meetings since its creation.

Sunni-Shi'a Relations

In past years, many serious sectarian abuses were attributed to actors from the Shi'a-dominated Iraqi Ministry of Interior (MOI) and Ministry of Defense (MOD), and by armed Shi'a groups with ties to the Iraqi government or elements within it. The apparent collusion between state security forces and paramilitary groups featured prominently in the Commission's 2007 *Annual Report*, as well as in the State Department's 2007 human rights and religious freedom reports.

In its 2008 *International Religious Freedom Report*, the State Department reported a marked decline in the sectarian misappropriation of official Iraqi government authority. However, the Department's 2008 human rights report, released in February 2009, continues to identify "misappropriation of official authority by sectarian, criminal and extremist groups" as among the significant and continuing human rights problems in the country. According to that report, during 2008, government agents continued to commit documented instances of torture and other abuses along sectarian lines, particularly by the security forces and in detention facilities. In addition, the State Department reported that during 2008 "Shia militias and armed paramilitary groups, some substantially incorporated into the ISF [Iraqi Security Forces] … frequently attacked civilians and government officials." The report also expressed concern about the predominately Shi'a security forces' "inability to … retain Sunni personnel and convince Sunni communities that they were not biased in their enforcement."

Other reports confirm that sectarian influences on government authority have not been fully eliminated. In May 2008, a U.S. Institute of Peace report concluded that, although improvements had been made by the post-2006 Interior Minister and his coalition advisors, "the U.S. remains far from its goal of creating an effective Interior Ministry and Iraqi police force that can protect all Iraqi citizens." The report urged heightened efforts to improve the MOI's institutional capacity, to focus less on meeting the numbers of police recruited and more on quality and results, and to address the force's continuing sectarian imbalance. Also in May 2008, the U.S. Embassy in Baghdad reported continuing problems with the professionalism of the Iraqi police. In June 2008, a report by the Government Accountability Office concluded that sectarian and militia influences remained a problem undermining Iraq's security forces.

Recent escalating tensions and violence between the Iraqi government and some Sunni "Sons of Iraq" groups are particularly troubling. The Sons of Iraq are local security groups that include former insurgents who switched sides in exchange for U.S.-paid salaries. The Iraqi government is now responsible for paying these groups, and has promised to find them jobs in the police, security forces, or public sector. In recent months, however, there have been widespread complaints from the Sons of Iraq that the government has stopped paying them, given only a few of them jobs, and arrested or issued arrest warrants for some of their leaders and members. In late March 2009, the government's arrest of a Sons of Iraq leader in the Baghdad neighborhood of Fadhil led to several days of clashes between Sons of Iraq members and Iraqi government and coalition forces. The following week, there was a spate of bombings that killed at least 40 people in Shi'a neighborhoods in Baghdad, including one near the city's most important Shi'a shrine, raising fears of renewed sectarian conflict.

The State Department also reported that there were allegations during 2008 of religiously-based employment discrimination by the government, in which "[s]everal ministries reportedly hired and favored employees who conformed to the religious preference of the respective minister."

Organized groups outside of the government continue to commit serious sectarian abuses, notably by the Sunni-dominated insurgency and indigenous and foreign extremist groups. Despite the decline in violence in the country, religiously-motivated insurgent and extremist attacks continued to occur in 2008 and 2009.

On January 17, 2008, a suicide bomber killed eight religious pilgrims celebrating Ashura near a Shi'a mosque in Baquba, the capital of the volatile Diyala province. On February 15, 2008, two suicide bombers attacked a Shi'a mosque in the Turkomen town of Tal Afar in northern Iraq.[7] On February 24 and 25, suicide bombers targeted Shi'a pilgrims en route to Karbala for the festival of Arbaeen, killing 63 people and injuring more than 100. At the end of July, Shi'a pilgrims taking part in a festival in the Karrada section of Baghdad were targeted in a shooting that killed seven and, the following day, in coordinated suicide bombings that killed 32 and injured at least 64. Although Baghdad experienced the quietest Ramadan in three years, there still were five suicide attacks in the city during the late September/early October 2008 Eid al-Fitr holiday marking the end of the holy month, several of which were directed at Shi'a mosques. On December 27, 2008—just before the beginning of the holiest month in the Shi'a calendar, which includes the holiday of Ashura—a car bomb exploded near the entrance to an important Shi'a shrine in Baghdad, killing at least 24 people and wounding at least 46, many of whom were Shi'a pilgrims.

On January 3, 2009, a suicide bomber killed at least 40 people and wounded at least 76 at the same shrine. Following the latter incident, the Iraqi government banned women from the area around the shrine, citing security concerns and the lack of female security officers to search women. The government also increased security for Ashura celebrations elsewhere, including in the cities of Najaf and Karbala. However, despite these efforts, on February 13, a suicide bomber killed 35 people in a charity tent providing food and drink to pilgrims en route to Karbala and on February 16, the last day of the holy month, eight Shi'a pilgrims returning from Karbala to Baghdad were killed by two separate roadside bombs.

Over several days in late April 2009, there were a number of attacks against Shi'a areas, sites, and pilgrims for which the extremist group the Islamic State of Iraq reportedly claimed responsibility on a website. On April 23, one suicide bombing targeted Iranian pilgrims passing through a town in Diyala governorate, killing more than 50; another targeted women and children waiting to receive food aid in a predominately Shi'a neighborhood of Baghdad, killing at least 28. On April 24, as worshippers were arriving for Friday mid-day prayers, two suicide bombers killed at least 60 people and injured 125 outside the same Baghdad shrine that had been targeted in December and January. Iraqi officials said that this was the deadliest single attack in Iraq this year and the most

serious attack on a Shi'a holy site since the February 2006 Samarra mosque bombing. The press reported that Prime Minister al-Maliki promptly created a special committee to investigate the attack and ordered the detention of the police commanders responsible for security in the area around the shrine.

In addition, on April 22, 2009, a suicide bombing inside a Sunni mosque in the central Iraqi town of Dhuluiya killed at least five people and wounded 15.

The Situation of Women and Other Vulnerable Groups

Women and girls in Iraq also have suffered religiously-motivated violence and abuses, including killings, abductions, forced conversions, restrictions on movement, forced marriages, and reportedly other violence including rape. Women considered to have violated Islamic teachings and other politically active females have been targeted by Sunni and Shi'a extremists alike. Fearing attacks, some women reportedly decided against running as candidates in the January 2009 provincial elections. Some parents reportedly have taken their daughters out of school fearing attacks or because they have been told that girls' education is forbidden by Islam. According to the State Department, in 2008 women in Iraq continued to be "pressured to wear veils or face security threats, regardless of the individual's religious affiliation."

The State Department recently reported that during 2008, according to local statistics, 72 women were killed in the Basra area for various reasons, including honor killings and domestic violence. According to the State Department, Basra police told reporters in mid-2008 that 15 women a month were killed there allegedly for breaching Islamic dress codes.

So-called "honor" killings continue to be a serious problem in the Kurdish regions, where during the Commission's March 2008 visit, the KRG Minister for Human Rights stated that the incidence of such crimes has continued to increase since 2005. UNAMI has reported that from January to June 2008, 56 women were murdered and 150 burned in Kurdistan, and that many of these instances followed the pattern of "honor" killings. On the 2008 International Day on the Elimination of Violence against Women, the UN Special Rapporteur on Violence against Women reported that "honor" killings are among the primary causes of unnatural deaths among women in northern Iraq and that incidents of self-immolation are increasing. Throughout the country, the Special Rapporteur said, perpetrators of "honor" killings, even if known, are rarely brought to justice.

In July 2007, the KRG created a commission to try to reduce "honor" killings and made changes to its laws to help ensure the prosecution and punishment of perpetrators. The commission has subsequently established a board to monitor the implementation of the new laws. However, according to UNAMI, prosecution is often hampered by insufficient evidence, reluctance of witnesses to testify, and courts granting leniency in the punishment of such crimes.

UNAMI has reported that the Women's Committee of the Kurdistan National Assembly (KNA) has drafted proposed legislation to address a wide-ranging list of concerns to women, including underage and forced marriages, physical and other forms of violence, matrimonial entitlements, grounds for divorce, inheritance, and social status edicts found in the Personal Status Law. In November 2008, the KNA passed amendments to the 1959 personal status law forbidding forced marriages and punishing relatives who forced unwanted or prevented wanted marriages.

Religiously-motivated violence and abuses also continue to be serious threats to Muslims who reject orthodox interpretations of Islam, particularly academics targeted for their allegedly secular views and teachings. Professors have experienced persistent threats of kidnapping and murder (often along sectarian lines) and university campuses have been targets of violent attacks. According to the Iraqi Ministry of Higher Education, from 2003 to March 2007, more than 200 incidents of targeted assassinations and abductions of academic

professionals were reported. The State Department reported the killings of two academics in Baghdad and Mosul in early 2008. The UN Scientific, Education, and Culture Organization (UNESCO) reported in 2007 that thousands of teachers had fled Iraq, and there have been reports that Iraqi public universities and their departments have fractured along sectarian lines. According to the State Department's most recent human rights report, in 2008 "in the central and southern parts of the country, there were a number of reports of threats by militia, extremists, or insurgent groups against schools and universities, urging them to modify activities, favor certain students, or face violence," and the institutions often complied with these threats.

Finally, as the Commission previously has reported, homosexuals in Iraq also have been victims of religiously-motivated violence and abuses. In October 2005, Grand Ayatollah Ali Sistani issued a fatwa forbidding homosexuality and calling for gays and lesbians to be killed "in the most severe way." Subsequent reporting, later verified by UNAMI, revealed the establishment of *ad hoc* religious tribunals led by Shi'a clerics, with penalties ranging from lashes to arbitrary killings. Members of Iraq's gay and lesbian community have reported muggings, severe beatings and even rape by members of the Shi'a-dominated Iraqi Security Forces. In a May 2006 letter to a U.S.-based advocacy group, the State Department said that it was "troubled" by reports of "threats, violence, executions, and other violations of humanitarian law against members of the gay and lesbian community in Iraq." [8] According to the State Department, there continued to be reports of societal discrimination and violence against individuals based on their sexual orientation in 2008.

According to press reports, over two months in early 2009, as many as 25 men and boys suspected of being homosexual were found dead in Baghdad's Sadr City neighborhood, some with notes with the word "pervert" pinned to their bodies. Reportedly, Shi'a clerics in local mosques have been preaching regularly that homosexuality in Iraq must be destroyed, and a Sadr City police official, quoted in the *New York Times*, attributed many of the killings to family members seeking to restore the family's honor. Others, however, suspected Shi'a militias.

The Plight of Iraqi Refugees and Internally Displaced Persons

The Extent and Causes of the Crisis

The confluence of sectarian violence, religious persecution, and other serious human rights violations has driven millions of Iraqis from their homes to other areas of the country and to countries outside Iraq. UNHCR reports that an estimated two million Iraqis have taken refuge in neighboring countries, primarily Syria and Jordan.[9] UNHCR also estimates there are 2.8 internally displaced persons (IDPs) within Iraq. Most of the displaced, including more than half of the IDPs, left in the aftermath of the February 2006 bombing of the Al-Askari mosque in Samarra and the wave of sectarian violence that followed.

The International Organization for Migration (IOM) has reported that 61 percent of the Iraqi IDPs it has interviewed said that they had fled their previous homes because of a direct threat to their lives, and of these, 85 percent reported being targeted because of their religious or sectarian identity. According to a 2007 UNHCR-sponsored survey of Iraqi refugees in Syria, 57 percent of respondents fled because of a direct threat to his/her life, 78 percent had a family member who had been killed between 2003 and the time of the survey, 62 percent of whom were killed by a militia, 28 percent by unknown persons, and two percent by al-Qaeda in Iraq.

Members of Iraq's smallest religious minority communities, particularly ChaldoAssyrian Christians, Sabean Mandaeans, and Yazidis, comprise a disproportionate number of registered Iraqi refugees. Although they comprise only approximately three percent of Iraq's pre-war total population, these minorities represent approximately 17 percent of the refugees who have registered with UNHCR in Jordan and in Syria to date.[10] In Turkey and Lebanon, Christians represent 57 and 25 percent of registered refugees, respectively. Yazidis have

fled overwhelmingly to Syria, where they represent approximately 0.6 percent of the registered refugees. According to the Iraqi Ministry of Displacement and Migration, almost half of Iraq's smallest religious minority population has fled abroad.

Non-Muslim religious minorities, particularly Christians, were among the first to flee Iraq in response to bombings of churches, kidnappings and killings of religious leaders, and targeted violence against them because of their religion. During Commission trips to the region in 2007 and 2008, Christian, Mandaean, and Yazidi refugees and IDPs provided accounts of violent attacks, kidnapping, rape, murder, torture, forced conversion, and the destruction or seizure of property, particularly businesses such as liquor stores or hair salons deemed un-Islamic. These individuals told the Commission that they were targeted because they do not conform to orthodox Islamic practices and/or because, as non-Muslims, they are perceived to be working for the U.S.-led coalition forces. They also reported being forced to pay a protection tax. Many reported fleeing their homes in fear after receiving threats to "convert, leave, or die." In addition, they told of their places of worship being bombed and forced to close and their religious leaders being kidnapped and/or killed.

Large numbers of Iraqi Muslims have been displaced as well. IOM reports that Shi'a Arabs represent 60 percent of IDPs and Sunni Arabs 28 percent. In Jordan, Sunni Muslims comprise 59 percent of the registered refugees while Shi'a Muslims make up only 27 percent. In Syria, Sunni Muslims represent 58 percent of the registered refugees and Shi'a Muslims 19.5 percent.

Sunni and Shi'a Muslim refugees told the Commission of receiving death threats, of family members being killed and kidnapped, of their houses being destroyed, and of forced displacements. Some refugees reported being targeted because of jobs held by them or their relatives, either connected to the U.S. government or to the former Ba'athist regime. Other refugees spoke of being targeted because they were part of a mixed Muslim marriage or because their family was Sunni in a predominately Shi'a neighborhood or vice versa. Many stated that the sectarian identities of their relatives and friends were either not known or not important before 2003, and several spoke of their families including both Sunnis and Shi'as and of the diverse nature of neighborhoods before the sectarian violence.

Protection and Assistance

In neighboring countries and throughout Iraq, the initial welcome of displaced Iraqis has worn increasingly thin. The increased influx of refugees in 2006 and 2007 strained public service resources in Syria, Jordan, Egypt, and Lebanon, and all imposed strict entry requirements. It is now almost impossible for Iraqi refugees to seek refuge in these countries. UNHCR and IOM report that 11 of 18 Iraqi governorates have imposed entry requirements for economic and security reasons.

Iraqi refugees and IDPs face great humanitarian needs. Other than in Lebanon, where a sponsorship is required, Iraqi refugees are not permitted to work legally in any of the neighboring countries to which they have fled, and many are running out of or have already exhausted the money they brought from Iraq. Access to adequate shelter, food, and medical care remain serious problems for all displaced persons, as host countries find their basic services overburdened. Many children do not attend school. Refugees International has reported that militias and other non-state actors are filling the humanitarian void by providing assistance such as settling housing disputes and providing food and other items to IDPs.

Returns

Since the end of 2007 and throughout 2008, a number of Iraqi refugees and IDPs have returned to their previous homes or areas. The vast majority settled into neighborhoods or governorates controlled by members of their own religious community. UNHCR reported that 220,610 refugees and IDPs returned to their areas of origin in 2008, though not necessarily to their original homes. The vast majority, more than 195,000, were IDPs. ChaldoAssyrian Christians, Mandaeans, and Yazidis

are not believed to have been among these returnees. Refugee advocates, humanitarian organizations, and UNHCR continues to caution against returns due to insecurity in the country and the lack of an adequate system to manage returns.

Interviews with some returning refugees indicate that they are returning because of the difficult economic conditions in their countries of asylum. The Iraqi government is providing returning families with cash assistance, but concerns remain about security, inadequate employment opportunities, and services.

In July 2008, the Iraqi Ministry of Displacement and Migration (MoDM) announced a national policy on IDPs which prohibits discrimination against displaced persons; affirms the government's commitment to prevent displacement, confront perpetrators, and protect property left behind; and affirms that IDPs have the right to return to their places of origin, to integrate locally, or to resettle elsewhere in Iraq.

In May 2008, Prime Minister al-Maliki announced that the Iraqi government would provide the MoDM with $195 million to promote returns. In August 2008, the government of Iraq announced an effort to identify and remove squatters occupying the homes of refugees and IDPs and provide compensation to those who leave voluntarily. The order also established centers in Baghdad to facilitate returns and called for the development of a system to duplicate these centers countrywide. However, this property return program is available only to refugees and IDPs who fled their homes between January 1, 2006 and January 1, 2008. Furthermore, the program only applies to property disputes in Baghdad, not the entire country.

U.S. Government Policies toward Iraqi Refugees and IDPs

Since fiscal year 2007, the United States has contributed approximately $569 million to various UN and non-governmental organizations assisting Iraqi refugees and IDPs. Also beginning in fiscal year 2007, the U.S. government increased its efforts to resettle Iraqi refugees to the United States. From January 2007 to February 2009, more than 19,000 Iraqi refugees were resettled to this country, including 13,823 in fiscal year 2008. While the numbers initially referred to and admitted in to this country were low, the United States is now the largest recipient of UNHCR referrals of Iraqis for resettlement and the largest recipient of resettled Iraq refugees. The State Department has announced that the U.S. government expects to admit a minimum of 17,000 Iraqi refugees for resettlement in fiscal year 2009.

In February 2008, the State Department announced a new policy increasing direct access for certain Iraqis to the U.S. Refugee Admissions Program, as required by the Refugee Crisis in Iraq Act of 2007.[11] Among the requirements of that Act is the creation of a new Priority 2 (P2) category in the U.S. Refugee Admission Program for certain Iraqis from "religious or minority" communities with close family members in the United States, allowing them to apply directly for resettlement in the U.S. without first having to be referred by UNHCR.[12] The amendment also authorized the Secretary of State to create additional P2 categories for other vulnerable Iraqis.[13]

The policy announced by the State Department does not expressly refer to any particular community or communities, nor to "religious or minority" communities as the Act stipulated. Instead, it focuses on the close family aspect of the statutory provision. The new category applies to Iraqis in Egypt or Jordan "who are the spouses, sons, daughters, parents, brothers or sisters of a citizen of the United States, or who are the spouses or unmarried sons or daughters of a Permanent Resident Alien of the United States, as established by their being or becoming beneficiaries of approved family-based I-130 Immigrant Visa Petitions." Many of the religious minority asylum seekers, refugees, and IDPs with whom the Commission met in Sweden, Jordan, Syria, and Iraq have family members in the United States, but in most cases, they are extended family or the family members are not yet U.S. citizens or permanent residents; thus, the new P2

category that was created pursuant to the Act will not apply to them.

Commission Activities

The Commission's December 2008 Iraq report reflected travel, interviews, briefings, meetings, and other activities undertaken in 2007 and 2008. These activities included two public hearings in Congress in July and September 2007, the first examining threats to Iraq's smallest religious minorities and the second focusing on links between sectarian violence and the Iraqi refugee crisis. In November 2007, Commission staff traveled to Jordan and Sweden, and in March and May 2008, Commissioners traveled to Jordan, Iraq, and Syria to meet with Iraqi asylum seekers, refugees, and internally displaced persons, as well as officials of the Iraqi, Kurdish, and U.S. governments and international and non-governmental organizations. The Commission also met with administration officials and Iraq experts in Washington and had several video conferences with key U.S. and Iraqi government officials and minority community leaders in Baghdad.[14]

Since 2003, the Commission has advocated for religious freedom and universal human rights protections for all persons in Iraq, primarily by calling for constitutional and legal reforms to ensure these rights are guaranteed and enforced in law. The Commission also has reported on other religious freedom issues, noting improvements in some areas but new and continuing problems in others—including the alarming levels of religiously-motivated violence and human rights abuses and the extreme vulnerability of non-Muslims, including ChaldoAssyrian Christians, other Christians, Sabean Mandaeans, and Yazidis.

In 2006, the Commission concluded that the United States' direct involvement in Iraq's political reconstruction created a special obligation to act vigorously, together with the Iraqi leadership, to address the alarming levels of sectarian violence and religiously-motivated human rights abuses taking place in Iraq and to implement the legal, judicial and other institutional reforms necessary to implement human rights protections there. The Commission also warned that the level of violence and abuses, and the resulting flight, of members of Iraq's smallest minorities threatened to end these ancient communities' presence in Iraq. The Commission recommended a number of security and other measures for immediate adoption, including the placement of a senior official at Embassy Baghdad to address human rights violations.

In May 2007, the Commission placed Iraq on its Watch List, citing escalating unchecked sectarian violence, mounting evidence of collusion between Shi'a militias and Iraqi government ministries, and the grave conditions affecting the country's smallest religious minorities.[15] In a subsequent May 2007 meeting with, and September 2007 letter to, Secretary of State Condoleeza Rice, the Commission urged U.S. action to address the severe threats to these minorities, including through security, humanitarian, development, and reconciliation measures. Among other recommendations, the Commission proposed that the State Department convene urgent meetings both inside and outside Iraq, bringing together representatives of Iraq's non-Muslim minorities to hear directly from them what the U.S. and Iraqi governments could do to protect their communities. In December 2008, the Commission recommended that Iraq be considered by the State Department for CPC designation and issued a lengthy report with detailed policy recommendations urging, among other measures, greater U.S. focus on the prevention of abuses against religious minorities.

The Commission also repeatedly has called attention to the dire plight of Iraqi refugees and IDPs and urged the U.S. government both to increase humanitarian assistance and to expand and expedite its refugee and asylum programs for Iraqis fleeing religious persecution. Since 2007, the Commission has advocated for a P2 category to allow Iraq's smallest, most vulnerable religious minorities, including ChaldoAssyrian Christians, Sabean Mandaeans, and Yazidis, direct access to the U.S. resettlement program without having to be referred by UNHCR, as well as for expanded family

reunification options for these particularly vulnerable refugees.

Recommendations for U.S. Policy

The Commission recommends the following actions to advance human rights protections for all Iraqis, including the freedom of thought, conscience, and religion or belief, and to address the plight of Iraq's most vulnerable and smallest religious minorities.

I. Ensuring Safe and Fair Elections

To ensure that upcoming national elections, expected in December, are safe, fair, and free of intimidation and violence, the U.S. government should:

- lead an international effort to protect voters and voting places and to monitor the elections;
- direct U.S. military and coalition forces, where feasible and appropriate, to provide heightened security for the elections, particularly in minority areas, such as in Nineveh governorate, where there were irregularities in previous elections; and
- urge the Iraqi government at the highest levels to ensure security and to permit and facilitate election monitoring by experts from local and international NGOs, the international community, and the United Nations, particularly in minority areas, such as in Nineveh governorate, where there were irregularities in previous elections.

II. Ensuring Security and Safety for all Iraqis

To protect the security and human rights of all members of religious communities, particularly vulnerable religious minorities such as ChaldoAssyrian Christians, Sabean Mandaeans and Yazidis, the U.S. government should urge the Iraqi government at the highest levels to:

- urgently establish, fund, train, and deploy police units for vulnerable minority communities that are as representative as possible of those communities, ensure that minority police recruits are not excluded from nor discriminated against in the recruitment process, in promotion and command leadership opportunities, or in the terms and conditions of their employment, and ensure to the maximum extent possible that such police units remain in their locations of origin and are not transferred to other cities as has been done in the past;
- continue efforts to ensure that new national identification cards do not list religious or ethnic identity, and expedite the development and issuance of such cards; and
- take steps to enhance security at places of worship, particularly in areas where religious minorities are known to be at risk.

To eliminate remaining sectarianism in the Iraqi government and security forces and reduce sectarian violence and human rights abuses, the U.S. government should urge the Iraqi government at the highest levels to:

- ensure that Iraqi government revenues neither are directed to nor indirectly support any militia, para-state actor, or other organization credibly charged with involvement in severe human rights abuses;
- suspend immediately any government personnel charged with engagement in sectarian violence and other human rights abuses, undertake transparent and effective investigations of such charges, and bring the perpetrators to justice; and
- continue the process of ensuring a greater sectarian integration into the government and security forces so that they better reflect the diversity of the country.

III. Making Prevention of Abuses against Religious Minorities a High Priority

To address the severe abuses against Iraq's most vulnerable and smallest religious minorities, the U.S. government should urge the Iraqi government at the highest levels to:

- replace the existing Prime Minister's minorities committee with one that is independent and includes representatives of all of Iraq's ethnic and religious minority communities who are selected by the communities themselves, and ensure that this committee has access for communicating minority concerns to senior officials of the Iraqi government and the international community;

- work with minority communities and their representatives to develop measures to implement Article 125 of the Iraqi Constitution, which guarantees "the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all the other constituents," in Nineveh and other areas where these groups are concentrated;

- direct the Ministry of Human Rights to investigate and issue a public report on abuses against and the marginalization of Iraq's minority communities and make recommendations to address such abuses;

- make public the results of the Iraqi government's reported investigation into the fall 2008 attacks against Christians in Mosul when that investigation is completed, and bring the perpetrators of those attacks to justice; and

- enact constitutional amendments to strengthen human rights guarantees in the Iraqi Constitution, including by:

  --clarifying sub-clause (B) in Article 2 that no law may contradict "the rights and basic freedoms stipulated in this constitution" to make clear that these rights and freedoms include the principles of equality and nondiscrimination and the human rights guaranteed under international agreements to which Iraq is a State party;

  --deleting sub-clause (A) in Article 2 that no law may contradict "the established provisions of Islam" because it heightens sectarian tensions over which interpretation of Islam prevails and improperly turns theological interpretations into constitutional questions;

  --revising Article 2's guarantee of "the Islamic identity of the majority" to make certain that this identity is not used to justify violations of the individual right to freedom of thought, conscience, religion or belief under international law;

  --ensuring that minority identity is also guaranteed, including the rights of all individual members of ethnic, religious or linguistic minorities to enjoy and develop their culture and language and practice their religion;

  --making clear that the default system for personal status cases in Iraq is civil law, that the free and informed consent of both parties is required to move a personal status case to the religious law system, that religious court rulings are subject to final review under Iraq's civil law, and that the appointment of judges to courts adjudicating personal status matters, including any religious courts, should meet international standards with respect to judicial training; and

  --removing the ability of making appointments to the Federal Supreme Court based on training in Islamic jurisprudence alone, and requiring that, at a minimum, all judges have training in civil law, including a law degree.

In addition, the U.S. government should:

- immediately revive the U.S. government's internal Inter-Agency Task Force on Iraqi Minority Issues and direct it to consider and recommend policies for the U.S. government to

implement to address the needs of these vulnerable communities; and

- facilitate a series of conferences, both inside and outside Iraq, bringing together representatives of Iraq's smallest religious minorities to allow them to discuss and help them come to consensus on recommendations to the U.S. and Iraqi governments on measures to protect their communities.

IV. Ensuring that the Kurdistan Regional Government Upholds Minority Rights

To address the marginalization of religious and ethnic minorities in northern Iraq, including in disputed areas, the U.S. government should:

- press the Kurdistan Regional Government (KRG) and Kurdish officials in neighboring governorates to cease alleged interference with the creation, training, and deployment of representative police forces for minority communities, and link progress on representative policing to U.S. financial assistance and other forms of interaction with the KRG;

- demand immediate investigations into and accounting for allegations of human rights abuses by Kurdish regional and local officials against minority communities, including reports of attacks on minorities and expropriation of minority property, and make clear that decisions on U.S. financial and other assistance will take into account whether perpetrators are being investigated and held accountable; and

- work with Iraqi and KRG officials to establish a mechanism to examine and resolve outstanding real property claims involving religious and ethnic minorities in the KRG region and neighboring governorates.

V. Re-Focusing U.S. Financial Assistance

To address the marginalization of religious and ethnic minorities in northern Iraq, including in disputed areas, the U.S. government should:

- direct U.S. assistance funds to projects that develop the political ability of ethnic and religious minorities to organize themselves and effectively convey their concerns to the government;

- declare and establish a fair allocation of U.S. foreign assistance funding for ChaldoAssyrian Christian, Sabean Mandaean, Yazidi, and other small religious and ethnic minority communities, ensure that the use of these funds is determined by independent minority national and town representatives, and establish direct lines of communication between such independent structures and U.S. Provincial Reconstruction Team Nineveh, separate from the Iraqi government and the Kurdistan Regional Government, in order to ensure that U.S. assistance fairly benefits all religious and ethnic minority groups and is not being withheld by local and regional government officials; and

- require that the Government Accountability Office, the Special Inspector General for Iraq Reconstruction, or another appropriate entity conduct an independent audit of past and current U.S. and Iraqi government reconstruction and development assistance to religious and ethnic minority areas, and provide recommendations for future assistance.

To eliminate remaining sectarianism in the Iraqi government and security forces and reduce sectarian violence and human rights abuses, the U.S. government should:

- ensure that U.S. foreign assistance and security assistance programs do not directly or indirectly provide financial, material or other benefits to 1) government security units and/or para-governmental militias responsible for severe human rights abuses or otherwise engaged in sectarian violence; or 2) 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 or undermining of such international human rights guarantees; and

- fund programs to educate and train Ministry of Interior and Ministry of Defense personnel on international human rights standards, particularly as they relate to religious freedom.

To advance human rights protections for all Iraqis, the U.S. government should:

- fund capacity-building programs for the Iraqi Ministry of Human Rights, the independent national Human Rights Commission, and a new independent minorities committee whose membership is selected by the communities;

- fund the deployment of human rights experts to consult with the Iraqi Council of Representatives and the constitutional amendment committee and assist with legal drafting and implementation matters related to strengthening human rights provisions, including freedom of thought, conscience, and religion or belief;

- fund 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; and

- expand the Iraqi visitors program through the State Department to focus on exchange and educational 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.

VI. Addressing Religious Extremism

To address concerns of religious extremism in Iraq, the U.S. government should:

- continue to speak out at the highest levels to condemn religiously-motivated violence by both Shi'a and Sunni groups, 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;

- urge the Iraqi government at the highest levels to locate and close illegal courts unlawfully imposing extremist interpretations of Islamic law;

- give clear directives to U.S. officials and recipients of U.S. democracy-building grants to assign greater priority to projects that promote multi-religious and multi-ethnic efforts to encourage religious tolerance and understanding, foster knowledge of and respect for universal human rights standards, and build judicial capacity to foster the rule of law; and

- fund civic education programs in schools that teach religious tolerance and the historical nature of Iraq as a multi-religious and multi-ethnic state.

VII. Promoting Respect for Human Rights

To address past and current reports of human rights violations in Iraq, the U.S. government should:

- appoint and immediately dispatch a Special Envoy for Human Rights in Iraq to Embassy Baghdad, reporting directly to the Secretary of State, to serve as the United States' lead human rights official in Iraq; to lead an Embassy human rights working group, including the senior coordinators on Article 140 issues, on corruption, and on the rule of law, as well as other relevant officials including those focusing on minority issues; and to coordinate U.S. efforts to promote and protect human rights in Iraq; and

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

To address past and current reports of human rights violations in Iraq, the U.S. government should urge the Iraqi government at the highest levels to:

- undertake transparent and effective investigations of human rights abuses, including those stemming from sectarian, religiously-motivated, or other violence by Iraqi security forces, political factions, militias or any other para-state actors affiliated with or otherwise linked to the Iraqi government or regional or local governments, and bring the perpetrators to justice;

- cooperate with international investigations of such abuses; and

- create and fully fund the independent national Human Rights Commission provided for in the Iraqi Constitution and ensure that this Commission is non-sectarian, that it has a mandate to investigate individual complaints, and that its functions and operations are based on the UN's Paris Principles.

To respond to reports of the confiscation of houses of worship, the U.S. government should urge the Iraqi government at the highest levels to:

- promptly terminate any seizures and conversions of places of worship and other religious properties, restore previously seized and converted properties to their rightful owners, and provide appropriate compensation.

VIII. Addressing the Situation of Internally Displaced Persons and Refugees

To address the humanitarian needs of Iraqi internally displaced persons (IDPs) and refugees, the U.S. government should:

- fund a much larger proportion of all UN appeals for humanitarian assistance to Iraqi IDPs and refugees;

- urge the Iraqi government to fund a much larger proportion of all UN appeals for humanitarian assistance to Iraqis and to increase its own assistance to IDPs;

- utilize diplomatic efforts to urge U.S. allies in Iraq to increase humanitarian assistance to, and resettlement opportunities for, vulnerable Iraqi refugees and IDPs;

- increase assistance to humanitarian organizations, host nations, and host communities that are providing necessary aid to vulnerable Iraqi IDPs and refugees, including funding programs to provide medical care for basic, advanced and chronic medical concerns, including prescription drugs; psychosocial care for victims of trauma; formal, informal, and non-formal education opportunities; direct financial assistance to alleviate the high costs of shelter; packages to provide for basic needs, including increased food distribution programs; and information campaigns;

- fund capacity-building programs for the Iraqi Ministry of Displacement and Migration to ensure that it can adequately provide assistance and protection to internally displaced persons;

- provide assistance from and guidance by the U.S. Agency for International Development to the government of Iraq to reform the Public Distribution System so that displaced Iraqis can register for and receive food rations in their new locations;

- work to ensure that no assistance is provided to IDPs by political factions, militias, or any other actor implicated in sectarian violence or other human rights abuses; and

- encourage countries to which Iraqis have fled, in particular Jordan and Syria, to allow refugees to work.

To ensure freedom of movement for Iraqis fleeing religious or other persecution, the U.S. government should:

- encourage neighboring countries, in particular Jordan and Syria, to reform border policies to enable vulnerable refugees to enter; and

- encourage Iraqi governorates to remove entry restrictions and registration policies that limit the ability of vulnerable Iraqis to enter.

To address the increasing incidents of returns or attempted returns by IDPs and refugees to their locations of origin, the U.S. government should:

- clearly state that the U.S. government does not encourage the premature return of Iraqi refugees to Iraq until necessary conditions are met, including security, assistance, legal frameworks, and integration programs;

- encourage and fund information campaigns, including "go and see visits" by religious and/or community leaders selected by the refugees/IDPs to ensure that displaced Iraqis considering return have the proper information needed to make informed decisions;

- work with the government of Iraq and international organizations to help the Iraqi government develop the legal framework necessary to address property disputes resulting when displaced Iraqis attempt to return to homes that have been occupied by others or destroyed, and stop the efforts of sectarian militias to resolve such property disputes; and

- increase the capacity of assistance organizations to provide long-term assistance, including shelter, food, and other essential services, to returning Iraqis.

To facilitate the resettlement to the United States of the most vulnerable Iraqis, the U.S. government should

- amend the U.S. Refugee Admissions Program's new P2 category to allow Iraq's smallest, most vulnerable religious minorities direct access to the program, and expand family reunification for these refugees with relatives in the United States to include not only immediate family members, but also extended family such as grandparents, aunts and uncles, cousins, etc., as has been done in prior refugee crisis situations;

- ensure that members of Iraq's smallest, most vulnerable religious minorities scheduled to be resettled to the United States are not delayed unnecessarily by 1) providing adequate personnel to conduct background screening procedures, and 2) enforcing proper application of the existing waiver of the material support bar to those forced to provide support to terrorists under duress;

- enhance the resettlement processing capabilities of the Department of Homeland Security by increasing the number of interviewing officers and allowing State Department officials to conduct interviews in order to keep pace with referrals from the UN High Commissioner for Refugees (UNHCR) and meet the statutorily-permitted maximum of admissions for the region; and

- continue to raise with UNHCR any reports of discrimination by local employees against religious minority refugees in the resettlement process.

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[1] The Commission's December 2008 report is available at www.uscirf.gov.
[2] *Measuring Stability and Security in Iraq,* U.S. Department of Defense, January 9, 2009
[3] Simon Caldwell, "Bishop Asks: Is it the 'End of Christianity in Iraq?'", *Catholic News Service*, Decmeber 1, 2007.
[4] For more detail, see the Commission's December 16, 2008 Iraq report, available at www.uscirf.gov.
[5] The provision deleted from the law would have set aside 15 seats for minorities (13 for Christians and one each for Yazidis and Shabaks) in six provincial councils. The compromise proposed by the United Nations would have set aside 12 minority seats in three councils (Nineveh, Baghdad, and Basra). The amendment ultimately adopted by the parliament in early November provided for six minority seats in

these councils. The United Nations proposed that Christians should get three seats on each of the three councils, but the amendment that was adopted gave Christians only one seat on each. The UN also proposed that Yazidis should get three seats on the Nineveh council, but the amendment provided for only one. In addition, Shabaks were allotted one seat in Nineveh and Mandaeans one seat in Baghdad, as the UN proposed.

[6] The law prohibits travel to the "enemy states" of Israel, Iran, and the United States.

[7] It is not clear whether the perpetrators of this attack were Sunni Arabs or Sunni Turkomen. If the latter, this particular incident could mark the first sign of organized sectarian violence within Iraq's Turkomen minority community, which has both Sunni and Shi'a elements.

[8] Lou Chibbaro, "State Dept. 'troubled' over anti-gay violence in Iraq," *The Washington Blade,* May 25, 2006.

[9] There are currently thought to be 1.2 million Iraqi refugees in Syria, 450,000 – 500,000 in Jordan, 50,000 in Lebanon, 50,000 in Iran, 20,000 – 40,000 in Egypt, 10,000 in Turkey, and 200,000 in various Persian Gulf states. These numbers are estimates only. It is difficult for the UN or the host nations to accurately tally the number of Iraqi refugees because, unlike most refugee situations, the refugees are living in cities, not in camps where they can be easily counted.

[10] Registration with UNHCR is voluntary and is often of interest mainly to those refugees who wish to be resettled to a third country. As of February 2009, UNHCR had registered a little more than 310,000 Iraqi refugees throughout the region (active cases only), including 224,343 in Syria and 52,656 in Jordan.

[11] This Act was an amendment sponsored by Senator Edward Kennedy (D-MA) to the FY 2008 National Defense Authorization Act.

[12] A P2 designation does not guarantee resettlement of all individuals from that category who apply. Each applicant still must undergo the refugee status determination interviews and background security and medical screenings required for all asylum-seekers by U.S. law. The P2 designation does, however, speed up the process for those applicants by bypassing the UNHCR referral process, and it also allows UNHCR to focus on other vulnerable groups.

[13] The relevant language is found in the following two sections:

> Section 1243(a)(4): **"**Refugees of special humanitarian concern eligible for Priority 2 processing under the refugee resettlement priority system who may apply directly to the United States Admission Program shall include . . . Iraqis who are members of a religious or minority community, have been identified by the Secretary of State, or the designee of the Secretary, as a persecuted group, and have close family members (as described in section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i) and 1153(a))) in the United States."
>
> Section 1243(b): "The Secretary of State, or the designee of the Secretary, is authorized to identify other Priority 2 groups of Iraqis, including vulnerable populations."

[14] The Commission was scheduled to travel to Baghdad in late October 2008, but the trip was postponed by the U.S. Embassy because it was moving into a new building. In place of the trip, the Department of State kindly facilitated a number of videoconferences with officials and individuals in Baghdad.

[15] At that time, in dissent, three Commissioners concluded that based on the severe human rights and religious freedom conditions extant in the country, and the sovereign government's complicity with, or toleration of, abuses as outlined in the Iraq chapter of the Commission's 2007 Annual Report, Iraq should have been recommended for designation as a country of particular concern (CPC).

Nigeria

The response of the government of Nigeria to persistent religious freedom violations and violent sectarian and communal conflicts along religious lines has been inadequate and ineffectual. Years of inaction by Nigeria's federal, state and local governments has created a climate of impunity, resulting in thousands of deaths. In March-April 2009, the Commission traveled to Nigeria to assess religious freedom conditions in the country. Concerns include an ongoing series of violent communal and sectarian conflicts along religious lines; the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims. Therefore, the Commission, for the first time, is recommending that Nigeria be designated as a country of particular concern, or CPC, for tolerating systematic, ongoing, and egregious violations of religious freedom.*

Sectarian violence

In November 2008, the city of Jos, Plateau state, experienced several days of intense sectarian and communal violence. At least several hundred Muslims and Christians were killed, with some independent groups estimating the death toll closer to 3,000. Even the lowest reported death tolls from Jos represent a significant spike in the number of deaths that the country has seen from a single sectarian and ethnic flare-up in several years.

Jos has been deeply scarred from this violence. At least 10,000 have been displaced. Dozens of churches, mosques, businesses, vehicles, and private homes were burned and destroyed. In the weeks that followed, investigations into the violence were launched by the President and the governor of Plateau state. Both are still ongoing. But in March 2009 a third investigation, by a committee of the Nigerian House of Representatives, concluded that the violence was "absolutely avoidable" and that its immediate cause was the role of the state government and political parties in igniting violence and manipulating voting results during campaigning for local government councils. The report found, among other things, that that the state government failed to act on intelligence from the state security services about violence being planned.

Less than three months later, in February 2009, Muslim-Christian clashes in Bauchi state resulted in at least 11 deaths, although some reports indicated as many as 20 people were killed, with 1,500 individuals displaced. In addition, fourteen churches, eight parsonages, one mosque and approximately 150 homes and businesses were burned and/or destroyed. The causes of the violence reportedly include a dispute between Christians and Muslims in a church parking lot, reprisal for the burning of two mosques in the state capital, and retaliation for events which took place in Jos in November 2008 when rioting Muslims were shot for defying a government imposed curfew. In addition, in April 2009, a group of Muslims in central Niger state reportedly attacked a procession of Christians who were celebrating Easter in two separate towns. Clashes ensued and dozens of Christians were injured and at least two churches and one mosque were burned.

The sectarian conflicts recently witnessed in Jos and Bauchi are just the most recent in a long line of violent incidents resulting in death, destruction, and a sense of fear within Northern and Central Nigerian communities. Indeed, since 1999, a disturbingly large number of Nigerians—12,000, if not more—have been killed in sectarian and communal attacks and reprisals between Muslims and Christians. The most severe clashes occurred in Kaduna state (February and May 2000 and November 2002); Jos, Plateau state (September 2001); Kano state and Yelwa, Plateau state (February-May 2004); and in northern and southeastern Nigeria, in the wake of the controversy over depictions of the Prophet Muhammad in the Danish press (February 2006).

It is this continued pattern of sectarian violence that intensified the Commission's review of conditions in Nigeria, that prompted a delegation to

* Commissioner Cromartie dissents from the CPC recommendation, concluding that Nigeria should remain on the Commission's Watch List.

visit the country in March-April of this year, and that, ultimately, has led the Commission to conclude that, for the first time, Nigeria should be designated as a CPC.

The government of Nigeria has done little, if anything, to address sectarian and communal violence. There have been no serious efforts to investigate or prosecute the perpetrators of the numerous killings and other crimes that have occurred in Bauchi, Jos, and the other incidents noted above. There are reports of specific instances of failures to heed warning signs of violence on the part of various government leaders, and failures on the part of federal police to respond effectively and appropriately—at times, if at all—to violence once it has erupted.

The national legislature has exercised no discernible oversight over either the Ministry of Justice or the National Human Rights Commission in an effort to ensure adequate investigation and resolution of religious violence and intolerance. The Human Rights Commission is, both by design and in practical effect, bereft of the independence it needs to investigate and speak out boldly to address religious conflict. It lacks satisfactory funding or the tools for investigation, and all of its members serve at the pleasure of the President.

Put simply, the Nigerian Government has permitted religious violence and other severe violations of the freedom of religion to occur with impunity. The toleration of such violence is an ample ground under the International Religious Freedom Act to designate Nigeria as a CPC.

The government's toleration of violence has created numerous points of leverage for religious intolerance. In the North, state governments engage in various forms of discrimination in relation to access to education, employment, zoning, and the allocation of benefits. In Kano, state-funded religious police are reported to have been enforcing forms of sharia that abuse human rights as well as creating an environment that leads to the harassment of Christians. Religion is often used by politicians as a proxy for political or economic disputes within northern communities. Without leadership from top government officials and elected leaders in Abuja, there is little incentive for the governments in Kano and other northern states to create an environment that is more hospitable to Christians in the north, as well as to Muslim minority communities in the south, and to those throughout the country who choose not to conform to whatever the prevailing views of Islam might be.

The Commission concludes that Nigeria could, if it wished, muster the resources and capacity necessary to address communal, sectarian, and religious violence and intolerance. It is among the most economically prosperous countries in all of Africa. It boasts a large, diverse population and a civil society community that seek resolution of these conflicts. In a number of respects, it has the constitutional and governmental structural features that could lead to greater peace and stability if proper stewardship were in place. The United States and other countries provide significant aid, training, and technical assistance for governance, law enforcement, and conflict resolution, and have demonstrated a willingness to do more if resources are not squandered. The severe violations of religious freedom in Nigeria can be addressed, and must be for that country to realize lasting progress, security, stability, and prosperity as a democracy.

After her visit to Nigeria in 2005, the UN Special Rapporteur on the Freedom of Religion or Belief, Asma Jahangir, concluded that in most cases of communal and sectarian violence, Nigerian federal authorities "did not initiate the mechanisms designed to prosecute the offenders and compensate the victims." The Special Rapporteur found that rather than prosecution and punishment for the violence, the promotion of peace and reconciliation was the authorities' priority. She further concluded that "impunity further strengthens the fears of those who have been affected by previous instances of violence and inherently limits the enjoyment of their right to freely manifest their religion or belief…impunity therefore only escalates religious intolerance." The Special Rapporteur recommended 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, and that victims should be able to file claims for the damage they incurred and be awarded appropriate compensation. In addition, her report recommended that 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." To date, none of these recommendations have been implemented fully by the Nigerian government.

The Sharia Controversy

Since October 1999, 12 northern Nigerian states have expanded, or announced plans to expand, the application of sharia in their states' criminal law; however, there have not been further enactments in the past year. Although the particulars vary from state to state, each of the 12 states are working to extend the jurisdiction of sharia courts beyond personal status matters to include sharia crimes and punishments for Muslims only. Punishments include amputation, flogging, or death by stoning, often after trials that fall short of basic international legal standards. Defendants have limited rights of appeal and sometimes have no opportunity to seek legal representation. Women have faced particular discrimination under these codes, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt, and allegations of rape and sexual violence are rarely investigated. In addition to criminal code changes that purportedly apply only to Muslims, in recent years, some states have instituted or tolerated discriminatory practices based on religious precepts such as banning the sale and consumption of alcohol and disadvantaging women in education, health care, and public transportation. These practices affect Muslims and non-Muslims alike.

There are some sharia cases pending appeal or implementation of sentence, including pending amputation and stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. Many of these cases have been delayed continuously for various reasons. However, as noted above, a number of stoning cases have been reversed on appeal and there have been no floggings or amputations carried out during the past year. The *Hisbah*, or religious police, funded and supported by state governments in Zamfara, Niger, Kaduna, and Kano, enforce some sharia statutes in their respective states. In some areas, the *Hisbah* primarily worked as traffic wardens and marketplace regulators.

Sharia punishments such as death by stoning and amputation have been topics of a national debate in recent years on whether these punishments constitute torture or inhumane or degrading treatment under the Nigerian Constitution. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that flogging, stoning, and amputation do breach the prohibition against inhuman or degrading treatment under international human rights standards and treaties. On this issue, the UN Special Rapporteur stated that the Nigerian government should ensure that practices and codes of all states are in compliance with international human rights conventions and it should conduct an "assessment of all the laws in force and analyze their compatibility with international human rights law."

Discrimination and Extremism

In addition to the sharia controversy and the violence it incites, Nigeria faces a number of other serious problems regarding freedom of religion or belief. Christians in the northern states complain of what they view as discrimination at the hands of Muslim-controlled governments and describe their communities as having the status of "second-class citizens." Most complaints predate the recent initiatives regarding sharia, and include allegations of official discrimination in the denial of applications to build or repair places of worship, access to education and state-run media, representation in government bodies, and government employment. Reports indicate that in certain northern states, it is very difficult to obtain permits to repair or build a non-Muslim place of worship, and that some Christian churches have been torn down because they lacked appropriate government permits; specific zoning laws were invoked to justify action or inaction by state authorities. Muslim communities in southeastern

Nigeria 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.

In addition, there continue to be reports of foreign sources of funding and support for Islamist extremist activities in northern Nigeria, activities that threaten to fracture the already fragile relations between the two main religious groups. Since 2003, there have been a number of small, vocal Muslim groups in northern Nigeria that advocate strict application of sharia, and which, some argue, are helping create a haven for radical Islamist militants from outside Nigeria. Though not organized as a nationwide movement, some of these groups advocate a more forcible Islamization of all Nigerian society, regardless of religious affiliation. In recent years, Nigerian security forces have dealt more decisively with Islamic extremist groups. However, in April 2007, 12 Nigerian police officers were killed after Islamist extremists attacked a police station in Kano. Nigerian security forces responded by killing at least 25 of the self-styled "Taliban" militants, who Nigerian authorities said came into Nigeria from neighboring Chad.

Several observers inside and outside Nigeria have reported that financial support from Libya, Saudi Arabia, and Sudan has been used to build mosques and Islamic religious schools in northern Nigeria. Some have suggested that the extreme interpretation of Islam being preached in these mosques and religious schools is not a form of Islam that is traditional to Nigeria. Also, there are reports that an increasing number of Nigerian Islamic scholars and clerics are being trained in Saudi Arabia and return with a politico-religious ideology that explicitly promotes hatred of, and violence against, non-Muslims.

Other Developments

Over the past year, some state governors, including from northern states, actively encouraged interfaith and inter-communal discussions and undertook efforts to prevent further violence and tension along religious lines; however, implementation of such efforts is limited and varied from state to state. In 2008, the Nigerian Inter-Religious Council (NIREC), composed of 25 Muslim and 25 Christian leaders, issued a communiqué pledging to reduce religious conflict in the country. NIREC decided to "sustain and step up efforts of the leadership of the council aimed at reducing inter-religious tensions; and foster and promote inter-religious cooperation for the common good of the people of Nigeria." The meeting was co-chaired by the President of the Supreme Council for Islamic Affairs, the Sultan of Sokoto Muhammad Sa'ad Abubakar and Archbishop John Onaiyekan, the Catholic Archbishop of Abuja and President of the Christian Association of Nigeria. President Umaru Yar'Adua continues to publicly support the government-funded NIREC and other non-governmental organizations that promote reconciliation and inter-religious understanding.

Commission Activities

Throughout the past year, Commission staff met with members of non-governmental organizations (NGOs) representing various religious communities in Nigeria, as well as human rights organizations, academics, and other Nigeria experts. The Commission traveled to Nigeria in March-April 2009 to assess religious freedom conditions; the detailed findings from that visit and the full set of recommendation for U.S. policy will be released later in 2009. In December 2008, the Commission expressed concern about the sectarian and ethnic violence in Jos; the Commission called on the U.S. government to urge the Nigerian government to launch an immediate and independent investigation of the clashes that broke out between Muslims and Christians following local elections and to prosecute the perpetrators. In April 2009, the Commission hosted a public briefing on Capitol Hill with Muhammad Sa'ad Abubakar III, the Sultan of Sokoto,

and Rev. Dr. John Onaiyekan, Roman Catholic Archbishop of Abuja and president of the Christian Association of Nigeria, who discussed the causes of and challenges in addressing Nigeria's recurring inter-religious and ethnic violence.

Recommendations for U.S. Policy

I. CPC Designation and Next Steps

The U.S. government should:

- designate the government of Nigeria as a "country of particular concern," or CPC, under the International Religious Freedom Act of 1998 (IRFA), for tolerating particularly severe violations of religious freedom;

- enter into a binding agreement with the Nigerian government, as defined in section 405(c) of the International Religious Freedom Act, that obligates the government to cease or take substantial steps to address policies leading to violations of religious freedom, or take an appropriate commensurate action;

- ensure that the following benchmarks are part of any such binding agreement with the Nigerian government, including, but not limited to:

  --vigorously investigating and prosecuting perpetrators of sectarian and communal violence, including the November 2008 Jos incident, but also other past instances where communal and sectarian violence has taken place;

  --developing effective conflict prevention and early warning system mechanisms at the local, state, and federal levels using practical and implementable criteria;

  --developing the capability to rapidly deploy specialized police and army units to prevent and combat sectarian violence in cities around the country where there has been a history of sectarian violence in central and northern Nigeria, including Jos, Kaduna, Kano, and Bauchi states, among others;

  --taking steps to professionalize its police and military forces in its investigative, community policing, crowd control, and conflict prevention capacities; and

  --conducting specialized training for its military and security forces to be more adequately trained in human rights standards, as well as non-lethal responses to crowd control and in quelling mob or communal violence;

- urge the Nigerian government to carry out its responsibility to prevent and contain acts of sectarian and communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice;

- urge the Nigerian House of Representatives and Senate to conduct more rigorous oversight of executive branch agencies, including the Ministry of Justice, responsible for preventing sectarian violence, prosecuting perpetrators of sectarian violence, and responding to the various crises; and

- call on the UN Human Rights Council to monitor carefully and demand Nigeria's compliance with the recommendations of the representatives of those UN special procedures that have already visited Nigeria, particularly the UN Special Rapporteur on Freedom of Religion or Belief (2005) and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (2005).

II. Expanding U.S. Support for Communal Conflict Prevention and Mitigation

The U.S. government should offer technical and programmatic assistance by:

- increasing funding, training, and assistance to the Nigerian federal police force through the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs;

- increasing funds for the expansion of specialized training for Nigerian military and federal and state police forces to be more adequately trained in non-lethal responses to crowd control and in quelling mob or sectarian violence, as well as to

increase their investigative, community policing, crowd control, and conflict prevention capacities;

- engaging existing social institutions, including indigenous religious bodies, and strengthening civil society organizations that have special expertise and a demonstrated commitment in the areas of inter-religious and inter-ethnic reconciliation and conflict prevention, to promote a peaceful civil society;

- supporting the expansion of NIREC, formed to promote dialogue between Christians and Muslims, and replicate NIREC at the state and local levels;

- working with Nigerian NGOs engaging on communal conflict prevention and mitigation, emphasizing capacity-building at the local level;

- assisting human rights defenders, including legal aid groups that defend the constitutional and internationally recognized rights of individuals, especially women, who are impacted by sharia-based criminal codes;

- assisting human rights defenders responding to credible allegations of religious discrimination in any part of Nigeria; and

- creating programs and institutions, particularly in areas where communal violence has occurred, that promote objective, unbiased, and non-inflammatory reporting, consistent with the right to freedom of expression.

III. Urging the Nigerian Government to Oppose Religious Extremism

The U.S. government should urge the government of Nigeria to:

- ensure that sharia codes, as applied, uphold the principle of equality under the law between men and women and between Muslims and non-Muslims, and do not result in violations of international human rights standards with regard to freedom of religion or belief, due process of law, equal treatment before the law, freedom of expression, and discriminatory practices against women;

- ensure that sharia criminal codes do not apply to non-Muslims or to individual Muslims who do not wish to go before sharia courts, and prevent law enforcement activities in northern states by any quasi-official or private corps of sharia enforcers; and

- cease any official, state-level support for the *Hisbah*, or religious police, by dissolving the *Hisbah* and entrusting law enforcement to professionals in law enforcement agencies with a precise jurisdiction and subject to judicial review.

IV. Expanding U.S. Presence and Outreach Efforts, Primarily in Northern Nigeria

The U.S. government should:

- open a consulate or other official presence in Kano or elsewhere in the north;

- provide Embassy and Consulate staff with appropriate local language skills, and requiring political and public affairs officers to regularly travel throughout Nigeria;

- increase the capacity of the Hausa Service of the Voice of America to report fair and balanced views on communal conflict and human rights issues;

- sponsor several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights that target religious leaders, human rights advocates, government officials, and northern Nigerians; and

- continue to support and adequately fund the Trans-Sahara Counterterrorism Initiative, a regional U.S. security partnership, succeeding the previous Pan-Sahel Initiative and comprised

of African and Maghreb countries, including Nigeria, which helps to identify, publicize, and counter foreign sources of terrorism and religious extremism.

Pakistan

Dramatic political events unfolded in Pakistan in the past year, some of them with a potentially significant impact on the rule of law and human rights protections generally, including freedom of religion or belief. This year also has seen the largely unchecked growth in the power and reach of religiously-motivated extremist groups whose members are engaged in violence in Pakistan and abroad, with Pakistani authorities ceding effective control to armed insurgents espousing a radical Islamist ideology. In addition, all of the serious religious freedom concerns on which the Commission has reported in the past persist. Sectarian and religiously-motivated violence continues, particularly against Shi'a Muslims, Ahmadis, Christians, and Hindus, and the government's response continues to be insufficient, and in some cases, is outright complicit. A number of the country's laws, including those restricting the rights of Ahmadis and criminalizing blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused.

Moreover, despite some minor improvements, Pakistan's Hudood Ordinances, Islamic decrees introduced in 1979 and enforced alongside the country's secular legal system, provide for harsh punishments, including amputation and death by stoning, for violations of Islamic law. Pakistan also has taken a leadership role in promoting in various international fora the concept of "defamation of religions," an attempted globalization of its own blasphemy laws, which this Commission believes would limit seriously and criminalize the rights to freedom of religion and expression of individuals worldwide. Finally, according to both Pakistani and international observers, elements of Pakistan's intelligence services maintain ties with and provide support to the Taliban and other violent extremist groups, such as Lashkar-e-Taiba, implicated in the terrorist attack on Mumbai, India in November 2008. In light of these persistent, serious concerns, the Commission continues to recommend that Pakistan be designated a "country of particular concern," or CPC. To date, the State Department has not designated Pakistan a CPC.

The political landscape in Pakistan has changed substantially over the past year. Civil rule was re-established through parliamentary elections in February 2008 and the replacement of Pervez Musharraf by Asif Ali Zardari as President of Pakistan in September 2008. President Zardari is the widower of Benazir Bhutto, a popular political leader and former Prime Minister assassinated by extremists in December 2007. In March 2009, under pressure from opposition parties and many of the country's lawyers, President Zardari was forced to reinstate Supreme Court Chief Justice Chaudhury and other judges who had been suspended by President Musharraf. President Zardari also was forced to accept the reinstatement of the opposition-led provincial government in Punjab, Pakistan's most populous province.

The Zardari government has taken some positive steps regarding religious freedom. In November 2008, the government appointed prominent minority-rights advocate Shahbaz Bhatti as Federal Minister for Minorities with cabinet rank. Mr. Bhatti has publicly promised that the Zardari government will review Pakistan's blasphemy laws and that the government is committed to protecting the rights of minority religious communities, including by implementing a five percent quota for religious minorities in federal government employment. In March 2009, the government appointed a Christian jurist as a judge in the Lahore High Court. It is not yet clear what impact these developments will have on religious freedom, which has been severely violated by successive Pakistani governments in the past. Discriminatory legislation, promulgated in previous decades and persistently enforced, has fostered an atmosphere of religious intolerance and eroded the social and legal status of members of religious minorities, including Shi'a Muslims, Ahmadis, Hindus, and Christians. Government officials do not provide adequate protections from societal violence to members of these religious minority communities, and perpetrators of attacks on minorities seldom are brought to justice. This is partly due to the fact that

Pakistan's democratic institutions, particularly the judiciary and the police, are weakened by endemic corruption, ineffectiveness, and a general lack of accountability.

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 and ordered them to expel all foreign students. By that year's end, despite an outcry from some violent extremist groups, most of the religious schools had registered. However, reports indicate that the registration process has had little if any effect on the content of the schools' curricula, which remains extremist and includes exhortations to violence, and there are still no government controls on the *madrassas'* sources of funding. It remains doubtful whether these belated official efforts to curb extremism through reform of the country's Islamic religious schools will be accompanied by other measures to make them effective. Moreover, these efforts do not adequately address the much wider problem of religious extremism in Pakistan and the continued, unwarranted influence of militant groups on the rights and freedoms of others.

Beginning in early 2008, Pakistan experienced an intensified bombing campaign carried out by armed extremists who use such violence to disrupt life in Pakistan and gain local control. According to the State Department, even outside Pakistan's Federally Administered Tribal Areas, the scene of an active insurgency, "attacks on houses of worship, religious gatherings, and religious leaders linked to sectarian, religious extremist, and terrorist groups...resulted in hundreds of deaths during the year." The attack inside Pakistan that received the most international attention was the September 2008 bombing of the Marriott Hotel in Islamabad, a terrorist attack apparently timed for when guests were breaking their Ramadan fast. Among several attacks on places of worship, 22 people were killed in a bomb blast near a Shi'a mosque in Dera Gazi Khan, Punjab in February 2009. Fifty were killed and over 100 injured in the bombing of a mosque during Friday prayers on March 27, 2009 in Jamrud in the Khyber Agency, near Pakistan's border with Afghanistan. Although the latter was a Sunni mosque, Sunni extremists were blamed for the attack. On April 5, a suicide bombing of a Shi'a mosque in Chakwal, Punjab, killed 22 and wounded many more.

Chronic levels of religiously-motivated violence, much of it committed against the Shi'a minority by Sunni extremists, continue throughout the country. During the past year, Sunni extremists have expanded their sway in rural areas of northwestern Pakistan, including in the Swat Valley in the North-West Frontier Province. These violent extremists, some of whom have ties to Taliban groups, are reported to have engaged with impunity in the killing of hundreds of Shi'a civilians, imposing a harsh, Taliban-style of justice, and displacing Shi'a and other minority populations. In April 2009, the central government accepted a locally-negotiated "peace plan" with Taliban-associated extremists in the Swat Valley that permitted the imposition of sharia law in the entire Malakand division, of which Swat is a part, in exchange for an end of hostilities with government forces. Although an inconsistently-applied system of sharia-inspired law already existed in the Swat Valley, this new development appears to signify the ceding of local control to Taliban-associated extremists who routinely use violence to enforce their political and theological agendas.

Following an extraordinarily sharp rise in violence in the Swat Valley in 2003, thousands of civilians have endured unspeakable brutality and social tumult, as Taliban-linked groups summarily issue edicts restricting movement, education, and local customs in the name of their interpretation of Islam. According to news reports, by December 2008, approximately 60 percent of the 1.8 million Swat residents had fled heavy violence and over 150 schools were destroyed, the majority of which were providing education to girls. Women refusing to give up their jobs have been murdered, and police, political opponents and other critics of the Taliban have been beheaded in public. In December 2008, female education was banned amidst widespread protest. The ban was eased in late January 2009 to allow for education up to the fifth grade. Nightly

Taliban radio broadcasts in Swat have communicated edicts against so-called un-Islamic activities, including singing, dancing, watching television, and shaving beards.

Other religiously-motivated measures undertaken by violent extremist groups in northwestern Pakistan have reportedly included the denial of polio vaccinations to populations under their control, on the grounds that such vaccinations are an anti-Muslim plot, and the destruction of shrines and tombs with religious or cultural significance to other Muslims. Notable among the latter was the bombing on March 5, 2009 near Peshawar of the shrine of revered Pashtun poet and Sufi mystic Rahman Baba. This act of vandalism, compared by some observers to the destruction by the Afghan Taliban of the monumental Buddhas of Bamiyan, represents an effort by the extremists to erase visible expressions of other belief systems, in this case an inclusive, tolerant form of Islam.

Ahmadis, Christians, and Hindus also have been targeted in attacks by Sunni extremists and in mob violence conducted with apparent impunity. In September 2008, the Pakistani television network Geo TV broadcast a religious affairs program about the Pakistani parliament's 1974 decision to declare Ahmadis "non-Muslim." The host of the program reportedly encouraged his guests, who were religious scholars, not only to endorse this decision but to affirm the duty of killing Ahmadis. A day later, a prominent Ahmadi doctor was assassinated, and a local Ahmadi leader was killed the following day. Perpetrators of such attacks on minorities are seldom brought to justice. Indeed, according to the State Department, the government stalled investigation of these two murders.

Hindus, Christians, and Sikhs faced less systematic, but still frequent attacks, and may generally be more vulnerable to crime, including robbery and kidnapping for ransom, due to their minority status. There are persistent reports of kidnappings, rapes, and forced conversions to Islam of Hindu and Christian women, including minors. The accused typically defend themselves by presenting certificates of conversion from Muslim clerics to legitimate the conversions. According to some activists, "violence is disproportionately used against Hindu women as a weapon of subjugation and religious persecution." Hindu temples have also been the object of violence in the province of Baluchistan, where Hindus are the largest religious minority and where ethnic Baluchi insurgents have been waging a struggle against the central government for many years.

Among Pakistan's religious minorities, Ahmadis are subject to the most severe legal restrictions and officially-sanctioned discrimination. Ahmadis, who number between 3 and 4 million in Pakistan, are prevented by law from engaging in the full practice of their faith and may face criminal charges for a range of religious practices, including the use of religious terminology. 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 Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public; to seek converts; or to produce, publish, or disseminate their religious materials. Over two days in late May 2008, the inhabitants of the majority-Ahmadi town of Rabwah, Punjab (called Chenab Nagar by Pakistani authorities) celebrated their faith through distinctive clothing, badges with religious slogans, lighting displays, and fireworks. Two weeks later, police lodged charges against the entire community under the anti-Ahmadi laws. In a separate incident in June 2008, 23 Ahmadis were expelled from medical school in Faisalabad, Punjab for allegedly preaching their faith to others. Moreover, because they are required to register to vote as non-Muslims, Ahmadis who refuse to disavow their claim to being Muslims are effectively disenfranchised. The one potentially positive development—the December 2004 abolition of the religious identification column in Pakistani passports, which, among other advances, enabled Ahmadis to participate in the *hajj*—was derailed in

March 2005, when members of a government ministerial committee restored the column, reportedly in response to pressure from Islamist religious parties. As far as is known, there has never been an effort on the part of any Pakistani government to reform the anti-Ahmadi laws.

Prescribed criminal penalties for what is deemed to be blasphemy include life imprisonment and the death penalty. Blasphemy allegations, which are often false, result in the lengthy detention of, and sometimes violence against, Ahmadis, Christians, Hindus, and members of other religious minorities, as well as Muslims. Because the laws require no evidence to be presented after allegations are made and no proof of intent, and contain no penalty for leveling false allegations, they are commonly used by extremists to intimidate members of religious minorities and others with whom they disagree. They also are often used by the unscrupulous simply to carry out a vendetta or gain an advantage over another. Although the penalties were amended in October 2004 with the aim of reducing the more maliciously applied charges, the minor procedural changes have not had a significant effect on the way the blasphemy laws are exploited in Pakistan. The negative impact of the blasphemy laws is further compounded by the lack of due process involved in these proceedings. In addition, during blasphemy trials, Islamic militants often pack the courtroom and make public threats of violence as a consequence of an acquittal. Such threats have proven credible since they have sometimes been followed by violence. Although no one has yet been executed by the state under the blasphemy laws, individuals have been sentenced to death. Several of those accused under the blasphemy laws have been attacked, even killed, by violent extremists, including while in police custody. Those who escape official punishment or attacks by extremists are sometimes forced to flee the country.

Scores of arrests on blasphemy charges are reported each year and most of the accused are refused bail because of the danger of mob violence. In one case, five Ahmadi teenagers were arrested in January 2009 for allegedly writing the Prophet Mohammed's name on the walls of a toilet in a Sunni mosque. The arrest reportedly occurred when they voluntarily appeared before the police to deny the allegation. A fact-finding mission by the Human Rights Commission of Pakistan concluded that there was no witness to the deed and no evidence linking the accused with the alleged action. In January 2009, five Christians, held on blasphemy charges since April 2007, were acquitted and released from custody in Punjab following reconciliation meetings between Muslim clerics and Christian representatives. Another two Christians, both elderly men from Faisalabad, Punjab, were acquitted by the Lahore High Court in April 2009. In November 2006, the two had been sentenced to 10 years in prison for allegedly burning pages from the Koran, a charge reportedly fabricated due to a land dispute. Although there have been occasional acquittals on blasphemy charges, in virtually all cases those acquitted have been forced into hiding or even exile, out of fear of attacks by religiously-motivated extremists.

Under the Hudood Ordinances, rape victims run a high risk of being charged with adultery, for which death by stoning remains a possible sentence. In October 2003, the National Commission on the Status of Women in Pakistan issued a report on the Hudood Ordinances that stated that as many as 88 percent of women prisoners, many of them rape victims, are serving time in prison for allegedly violating these decrees, which criminalize extramarital sex. 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 breach the obligation to prevent torture or cruel, inhuman, and degrading treatment or punishment under international human rights standards and treaties. Although these extreme corporal punishments have not been carried out in practice, lesser punishments such as jail terms or fines have been imposed. In a positive development correcting one of the most heavily criticized aspects of these religious ordinances, in December 2006 then-President Musharraf signed into law a bill curtailing the scope of the Hudood Ordinances regarding rape charges. The new law removed the crime of rape from the sphere of the Hudood laws and put it under

the penal code, thereby doing away with the requirement that a rape victim produce four male witnesses to prove the crime. Under the new legislation, convictions for rape will be based on forensic and circumstantial evidence. This change followed another amendment to the Ordinances enacted in July 2006 allowing women convicted of purported sexual transgressions to be released on bail rather than having to remain in prison—sometimes for lengthy periods—waiting for their cases to come to trial.

In addition to the serious religious freedom problems described above, Pakistan has become a significant source of religious intolerance and religiously-motivated violence in the region and beyond. The well-planned November 2008 terrorist attacks in Mumbai, India, have been linked to the Pakistan-based extremist group, Lashkar-e-Taiba, a connection publicly acknowledged by Pakistan's then-Interior Minister in February 2009. Pakistani authorities have made efforts to curb such extremists, who also threaten Pakistan's own security. There are extensive reports, however, that the Pakistani military and intelligence agencies have given Taliban-associated and other extremists operating against neighboring Afghanistan and India safe havens, operational bases, and other support. As the result of such support, the Afghan Taliban were able to regroup, re-arm, and intensify cross-border attacks inside Afghanistan after being ousted by U.S. and coalition forces, substantially increasing instability and violence in that country. The State Department had named the Taliban regime of Afghanistan a "particularly severe violator" of religious freedom from 1999 until the regime was deposed in 2001.

The government of Pakistan also has been active in the international arena in promoting limitations on freedom of religion or belief. As it has done in UN bodies since 1999, in March 2009 Pakistan once again presented a resolution to the UN Human Rights Council in Geneva supporting measures to halt the so-called "defamation of religions." The backers of the resolution claim that their aim is to promote religious tolerance, but in practice such laws routinely criminalize and prosecute what is often deemed—capriciously by local officials in countries where such laws exist—to be "offensive" or "unacceptable" speech about a particular, favored religion or sect. Defamation of religion laws clearly violate principles outlined in international human rights instruments, which guarantee the right to freedom of expression, as well as freedom of thought, conscience, and religion. Moreover, they appear to grant rights to entire religions rather than to individuals. Regrettably, the resolution passed the Council with 23 votes. Eleven countries voted against the resolution and 13 countries abstained.

The Commission has long been concerned with the serious religious freedom abuses that are perpetrated in Pakistan, some of which are condoned by the government of Pakistan itself. Since 2002, the Commission has recommended each year that Pakistan be designated a country of particular concern. The Commission has highlighted religious freedom problems in Pakistan through public hearings, meetings with the Administration and the Congress, letters to senior U.S. government officials, and press statements. In February and April 2009, the Commission called attention to the willingness of Pakistan's provincial and central governments to accept an agreement conceding local control of the Malakand division, of which the Swat Valley is a part, to Taliban-associated extremists who routinely use violence to enforce their political and theological agendas, resulting in systematic human rights abuses and severe limitations on religious freedom.

In March 2009, the Commission held a hearing on Capitol Hill entitled, "Pakistan: The Threat of Religious Extremism to Religious Freedom and Security." Experts discussed legal restrictions on religious freedom in Pakistan; the threat, particularly to women and religious minorities, of religiously-motivated violence and intolerance; strategies for promoting tolerance in Pakistan's educational system, including Islamic schools; and how U.S. policy toward Pakistan could better support the institutions that promote respect for human rights, including freedom of religion or belief.

Based on that hearing and the Commission's earlier work on Pakistan, the Commission welcomes

the Administration's announcement on March 27, 2009 of "a comprehensive, new strategy" that "focuses more intensively on Pakistan than in the past, calling for more significant increases in U.S. and international support, both economic and military, linked to Pakistani performance against terror." The Commission concludes strongly, however, that the contest with religious extremists now taking place in Pakistan, and neighboring Afghanistan, requires, in addition to economic and military assistance, that the United States bolster the position of those elements within Pakistani society that respect democratic values, the rule of law, and international standards of human rights, including freedom of religion or belief. To this end, the Commission has made a number of recommendations, the most recent of which appear below.

Recommendations for U.S. Policy

In addition to recommending that Pakistan be designated a CPC, the Commission has the following recommendations for the U.S. government regarding Pakistan.

I. Stopping Abuses of Religious Freedom and Other Human Rights

The U.S. government should urge the government of Pakistan to:

- oppose agreements that would empower violent Taliban-associated groups to control local justice systems, whether sharia or secular, which would result in human rights abuses and religious freedom restrictions for the citizens of Pakistan, and rescind any agreements made to date, including the agreement affecting the Swat Valley approved by the central government in April 2009;

- decriminalize blasphemy and, in the interim period until that action is taken, implement procedural changes to the blasphemy laws that will reduce and ultimately end their abuse; and ensure that those who are accused of blasphemy and their defenders are given adequate protection, including by investigating death threats and other actions carried out by militants, and that full due process is followed;

- prioritize the prevention of religiously-motivated and sectarian violence and the punishment of its perpetrators, including by:

  --making greater efforts to disarm violent extremist groups and provide the necessary security to Shi'a, Sufis, Christians, Ahmadis, Hindus, Sikhs, and other minority religious communities in their places of worship and other minority religious sites of public congregation;

  --investigating acts of religiously-motivated and sectarian violence, and punishing perpetrators in a timely manner; and

  --constituting a government commission that is transparent, adequately funded, inclusive of women and minorities, and defined by a mandate to study and produce recommendations on ways that the Pakistani government can proactively diminish religiously-motivated and sectarian violence, particularly in areas with a heavy concentration of members of religious minority communities, such as Shi'a Muslims in Kurram Agency.

- 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; and

- halt its practice at the UN Human Rights Council and other international fora of introducing the so-called "defamation of religions" resolution, which violates the internationally-guaranteed rights to freedom of religion and expression.

The U.S. government should:

- clearly articulate a concern for upholding religious freedom and related human rights as an essential element of the new U.S. strategy toward Pakistan, and support Pakistani civil society institutions that work to uphold and guarantee those rights; and

- designate a member of Special Representative to Afghanistan and Pakistan Richard Holbrooke's team to report to the Special Representative exclusively on human rights in Pakistan, specifically including religious freedom and sectarian violence.

II. Strengthening Law Enforcement, the Judiciary, and Civil Society

The U.S. government should urge the government of Pakistan to:

- reinforce the rule of law, including by strengthening protections for the freedoms of religion, speech, association, assembly, and the media, and by restoring and resolutely defending an independent judiciary.

The U.S. government should:

- use its civilian financial assistance to Pakistan to strengthen institutions crucial to Pakistan's democratic development, particularly the judiciary and the police, which are reported to be especially corrupt, ineffective, and lacking accountability, thereby contributing to violations of human rights, including religious freedom;

- ensure that non-military assistance emphasizes respect for human rights, civil society, constitutional processes, and democratic institutions, rather than the previous strategy of emphasizing the importance of certain political parties or particular political or military leaders to Pakistan's stability;

- expand U.S. government contacts beyond the Pakistani government to include substantially more open and public dialogue with a variety of civil society representatives, including groups and political parties that may be critical of the government or represent diverse viewpoints; and

- recognizing that lasting stability in Pakistan will come from a vibrant civil society, expand programs leading to the sustained engagement of the United States with the Pakistani people, such as the Fulbright Program, the International Visitor Program, and other exchanges for professionals, students, and religious and civil society leaders from all of Pakistan's diverse communities.

III. Fighting Extremism and Government Alliances with Extremist Groups

The U.S. government should urge the government of Pakistan to:

- cease toleration or support of the Taliban or other terrorist groups by any element of the Pakistani government, including the intelligence services; and

- confront and work to address the consequences of the political alliances maintained by past military-dominated governments with Islamist political parties, which afforded an excessive amount of influence to these groups, and which, in turn, had a strong negative impact on religious freedom in Pakistan.

The U.S. government should:

- set detailed, transparent, and measurable benchmarks for the use of civilian and military assistance to ensure, inter alia, that U.S. aid does not bolster Taliban-associated or other violent extremist groups; serves as a confidence-building measure that can help restore the trust of the Pakistani people in the United States and its commitment to Pakistan's security, stability and prosperity; and promotes consistency in how aid is disbursed and goals are pursued.

IV. Focusing on Education and Tolerance in Schools

The U.S. government should urge the government of Pakistan to:

- investigate and close any religious schools that provide weapons or illegal arms training in perpetrating acts of violence;

- set national textbook and curricula standards that actively promote tolerance towards all religions, and establish appropriate review and enforcement mechanisms to guarantee that such standards are being met in government (public) schools; and

- ensure that a *madrassa* oversight board is empowered to develop, implement, and train teachers in human rights standards, and to provide oversight of *madrassa* curricula and teaching standards.

The U.S. government should:

- in administering its education assistance to Pakistan, focus more specifically on promoting reform in the state schools and madrassas, where textbooks regularly present religious intolerance as acceptable and include derogatory statements about religious minorities, particularly Jews and Hindus; and

- request an annual progress report from the U.S. State Department and/or the U.S. Agency for International Development to Congress and the U.S. Commission on International Religious Freedom regarding U.S. education assistance to diminish intolerance in Pakistan's state schools and madrassas, and progress made toward detailed, transparent, and measurable benchmarks.

People's Republic of China

The Chinese government engages in systematic and egregious violations of the freedom of religion or belief. Religious activities are tightly controlled and some religious adherents were detained, imprisoned, fined, beaten, and harassed. Yet, religious communities continue to grow rapidly in China and the freedom to participate in officially-sanctioned religious activity increased in many areas of the country over the past year. High-ranking Chinese government officials, including President Hu Jintao, have praised the positive role of religious communities in China and articulated a desire to have religious groups promote "economic and social development"—an endorsement that some believe may open legal space in the future for religious groups to conduct charitable, medical, and economic development activities. However, despite a growing "zone of toleration" for religious worship and charitable activities, the government continues to restrict religious practice to government-approved religious associations and seeks to control the activities, growth, and leadership of both "registered" and "unregistered" religious groups. In addition, the Chinese government hinders cooperation between religious communities and co-religionists abroad. In Tibetan Buddhist areas, religious freedom conditions may be worse now than at any time since the Commission's inception. In the year leading up to the 2008 Beijing Olympic Games, the Chinese government placed severe restrictions on the peaceful religious activity of Uighur Muslims and increased the number of arrests and detentions of "unregistered" Protestants, Catholics, Tibetan Buddhist, and Falun Gong adherents. These restrictions have not been lifted in the months following the Olympics. Since 1999, the Commission has recommended that China be designated a "country of particular concern," or CPC. China has been designated a CPC by the Department of State since 2000.

The law governing religion in China is the National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007. The regulations include provisions that require all religious groups and religious venues to affiliate with one of seven government-approved religious associations. When registered, religious communities can apply for permission to possess property, provide social services, accept donations from overseas, conduct religious education and training, and host inter-provincial religious meetings. Within the bounds allowed by the Chinese legal system where legal protections are sometimes overridden by political considerations, the NRRA expanded some protections for registered religious communities to carry out religious activities. However, the NRRA imposes restrictions that violate international norms regarding the protection of the freedom of thought, conscience, and religion, and it has been used to justify some arrests. By stipulating registration in government-sanctioned religious associations, insisting that permission be sought for most routine religious activities, and including specific requirements for government approval of Catholic and Tibetan Buddhist groups' leadership decisions, the NRRA strengthens governmental management or supervision of religious affairs, thereby offering Party officials extensive control over religious practice and related activities. In addition, vague national security provisions in the NRRA override stated protections if a religious group is deemed to disrupt national unity or solidarity.

The NRRA only protects what the government considers "normal" religious activity, making unregistered religious groups illegal and subject to restriction, harassment or other punishments, including coercion, forced closure, beatings, confiscation of personal property, fines, and criminal prosecution. Enforcement varies by region and unregistered religious activity is tolerated in some provinces. Some Catholics, Protestants, Muslims, and members of spiritual movements have refused to join the officially-sanctioned religious organizations due to their reluctance to: 1) provide the names and contact information of their followers; 2) submit leadership decisions to the government or to one of the government-approved religious organizations; and 3) seek advance permission from the government for all major religious activities or theological positions. During the past year, Protestant "house church" groups and "underground"

Catholic priests faced pressure to register with government-approved associations increased.

In the lead up to the 2008 Olympic Games, many unregistered Protestant and Catholic groups reported increased harassment, detentions, and arrest. In May 2008, the Beijing Police raided the unregistered Shouwang Church and ordered the members to leave and stop meeting. The Shouwang Church has tried to register with the local government, but their application has been denied repeatedly because their clergy was not trained by the officially recognized Christian association. "Unregistered" Catholic priest Wang Zhong was sentenced to three years imprisonment for organizing a July ceremony at a new church that was legally registered with the government. Provincial authorities in Sichuan also interfered with the humanitarian activities sponsored by unregistered house church Protestants following the May 2008 earthquake. Two Protestants from Henan Province were detained and questioned about their efforts to help earthquake victims; they were held for about a week and ordered to pay a hefty fine for engaging in "illegal religious activity."

In Tibetan Buddhist and Muslim regions, the NRRA sets forth additional restrictions on peaceful religious activity. During the past year, the government continued to pursue an intense campaign of "patriotic education" among monks, nuns, and imams. The government has long required Tibetan Buddhist and Uighur Muslim religious leaders to demonstrate political loyalty, but new laws give provincial officials the power to monitor the training, assembly, publications, selection, education, and speeches of Muslim and Tibetan Buddhist leaders. Patriotic education campaigns are intended to quell any activities viewed as political dissent and to promote leaders who are considered "patriotic and devoted." In addition to patriotism classes for clergy, the Education Ministry also announced in 2008 that children in both regions will be required to attend courses on "ethnic unity." These classes are a reaction to the religious and ethnic based uprisings in Tibet and the unrest in Xinjiang province over the past few years. Authorities in Lhasa also warned parents about allowing their children to participate in religious holidays, including activities such as visiting or circumambulating temples and deities or wearing amulet cords. Students failing to comply with the orders were threatened with expulsion from school.

Religious repression and restrictions in Tibetan Buddhist areas continue unabated. Hundreds of Buddhists monks and nuns are in prison or subject to intense restrictions on their religious activities, some monasteries and other holy sites are being forcibly closed or destroyed, and Chinese officials have stepped up campaigns to pressure Buddhist monks and nuns to denounce the Dalai Lama and show loyalty to the Chinese communist rule. The Chinese government's active attempts to mold and control the traditional norms of Tibetan Buddhism have nurtured deep resentments among Tibetans.

On January 1, 2008, the government issued implementation guidelines for the NRRA in the Tibetan Autonomous Region (TAR). The regulations assert state control over all aspects of Tibetan Buddhist belief and practice, including more specific control over the movement and education of monks and nuns, the building or repairing of religious venues, and the conducting of large-scale religious gatherings. When the new implementation guidelines were issued, official media reports indicated that they were intended to "resist the Dalai Clique's separatist activities."

In September 2007, the government also issued regulations allowing it to directly interfere in the selection of reincarnated lamas, an essential element of Tibetan Buddhist religious practice. These rules appear to be intended to ensure government control over the selection of the next Dalai Lama. Under the regulations, government officials must approve the choice of all reincarnated lamas and no individual or entity outside the country can influence the selection process. Depending on the importance of the reincarnation itself, candidates must receive permission from either provincial level government officials or from officials in Beijing. Monasteries must seek government permission to search for a reincarnated lama and to maintain one in residence.

These regulations are part of the Chinese government's continued campaign to diminish the stature and influence of the Dalai Lama among Tibetans. Zhang Qingli, party secretary of the TAR, during the closing ceremonies of the Olympic Torch rally last June, predicted that China would "smash completely" the Dalai Lama's "separatist plot." He then referred to the Dalai Lama as a "wolf in monk's robes" and "a devil with a human face but the heart of a beast." He dismissed the exiled leader's supporters as the "scum of Buddhism" and ordered monks, nuns, students, government workers, and business people throughout Tibet to participate in patriotic education and publicly denounce the Dalai Lama. Monks and nuns who refuse to denounce the Dalai Lama or to pledge loyalty to Beijing have been expelled from their monasteries, imprisoned, and tortured. Phurbu Tsering, a Tibetan Buddhist religious teacher was detained on May 19, 2008 after police detained more than fifty of his students for staging a peaceful protest against requirements that they denounce the Dalai Lama and their teacher. In October 2008 authorities closed Pangsa Monastery in Lhasa after an increased flow of Tibetans came to pay tribute to a statute that had received a blessing from the Dalai Lama.

Chinese government actions and policies to suppress peaceful religious activity in Tibetan areas played a primary role in stoking last year's demonstrations there. On March 10, 2008, the anniversary of the failed 1959 uprising against Chinese control of Tibet, monks from Drepung monastery peacefully protested against patriotic education and other religious freedom restrictions. In response, the Chinese government sealed off monasteries and arrested monks, touching off demonstrations in Lhasa that led to property destruction, arrests, and numerous deaths. Demonstrations spread to Tibetan areas outside the TAR. For example, on April 14, 2008, Chinese soldiers fired on several hundred monks and local residents at the Tongkor monastery in Ganzi prefecture, Sichuan province; witnesses claim that between eight and 15 people were killed and others were arrested. Reports have identified hundreds of Tibetan Buddhist monks and nuns whom security officials detained for participating in the 2008 protests, in which protesters called for the return of the Dalai Lama, the release of the Panchen Lama (Gedun Choekyi Nyima), the end to "patriotic education," and more religious freedom in general. The Chinese government has not provided full details or a credible accounting of the monks and nuns detained. Over the past year, a security presence has remained at some monasteries and nunneries, and local government officials have escalated their campaigns to require monks and nuns to sign statements denouncing the Dalai Lama. In Ganzi (Kardze) Prefecture, the local government issued regulations in June 2008 to both punish and remove from Ganzi monks and nuns accused of participating in peaceful protests. Punishments include arrest, re-education, closure of a monastery or nunnery, and the forced removal of a religious teacher (reincarnated trulku) from his position. Ganzi has more political and religious prisoners than any other Tibetan region outside of the TAR.

The Chinese government continues to deny repeated international requests for access to 19-year-old Gedhun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. No one has seen him since, nor have any independent or transparent interviews taken place. While he is a "disappeared" person, government officials claim that he is in fact alive and well and being "held for his own safety." They insist that another boy, Gyaltsen Norbu, is the "true" Panchen Lama. In recent years, Chinese authorities have, on several occasions, featured Norbu in public ceremonies where he stresses the importance of loyalty to the Communist government and endorses the government's official version of Tibetan history.

In the Xinjiang Uighur Autonomous Region (XUAR), governmental repression of religious freedom increased in the past year. Chinese government authorities routinely have equated peaceful religious practices among Uighur Muslims with religious extremism and separatism and have used the global war on terror as a pretext to crack down on even the most peaceful forms of dissent or religious activity. 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." XUAR Party Secretary Wang Lequan stated that the government would use "preemptive attacks" and institute "anti-separatist reeducation" in the XUAR to ensure national safety.

The government continues to limit access to mosques, including the participation of women, children, communist party members, and government employees. All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces monitor imams and other religious leaders. Imams at Uighur mosques are reportedly required to meet monthly with officials from the Religious Affairs Bureau and the Public Security Bureau to receive "advice" on the content of their sermons. Failure to report to such meetings can result in the imam's expulsion or detention. Over the past year, XUAR officials have issued new orders to extend governmental control over religion. For example, in August 2008, authorities in Kashgar called for increased surveillance and management of religious activity. In June 2008, officials in Kazakh Autonomous Prefecture called for increased inspections of mosques and religious venues to prevent "illegal reading of scriptures" and for the "infiltration" of religious groups. In June 2008, a mosque near Aksu city was demolished reportedly for "illegal renovations," for having "illegal copies" of the Koran, and for engaging in "illegal religious activities." In February 2009, officials in Hotan started a campaign to halt "illegal" religious schools. According to reports, armed security personnel conducted nighttime searches, closing seven schools and detaining 39 people. In March 2009, according to a Radio Free Asia report, Hotan officials stated that anyone engaged in "cross-village worship" will be charged with a "social crime" and subject to detention or fines.

Religious leaders and activists who attempt to publicize or criticize human rights abuses in the XUAR have received prolonged prison terms, on charges of "separatism," "endangering social order," and "incitement to subvert state power." Numerous Uighur Muslims have been arrested for peacefully organizing and demonstrating for their religious freedom, including in the past year. In February 2009, Abdukadir Mahsum was sentenced to 15 years imprisonment for organizing peaceful demonstrations promoting religious freedom and other human rights concerns for Uighurs. In March 2008, Mutallip Hajim died in detention after being arrested for his activities helping underground Muslim schools. He was reportedly tortured, but his family was warned not to publicize his death. On August 10, 2008, Imam Adil Qarim was arrested, and has since disappeared, allegedly because some suspects in a bomb attack attended his mosque. The imam denied having any links to the attacks.

Officials in the XUAR prohibit teaching Islam outside the home to minors, and police have stepped up attempts to halt private religious education programs in some parts of Xinjiang province. Teachers and organizers can be charged with conducting an "illegal religious gathering," a criminal offense. During the Commission's 2005 visit to China, local government officials confirmed that minors were prohibited from participating in any religious activity or instruction before finishing nine years of compulsory public education. This policy contradicts statements made by officials in the central government who claim that there are no restrictions prohibiting the religious activities of minors. Furthermore, in several localities in Xinjiang, plainclothes police are reportedly stationed outside mosques to enforce rules forbidding children and government employees from attending services. There are also reports that in some areas, individuals under the age of 30 are prohibited from attending a mosque. Throughout Xinjiang, teachers, professors, university students, and other government employees are prohibited from engaging in religious activities, such as reciting daily prayers, distributing religious materials, observing Ramadan, and wearing head coverings; they are reportedly subject to fines if they attempt to do so. These standards are enforced more strictly in southern Xinjiang and other areas where Uighurs account for a higher percentage of the population. In March 2009, 600 protestors, mostly women, marched in Hotan to protest a proposed ban on headscarves and other religious freedom restrictions.

Regulations in the XUAR ensure that all *hajj* pilgrimages are controlled by the government-approved Chinese Patriotic Islamic Association. To enforce these regulations, XUAR authorities require Muslims to surrender their passports to local government offices for registration. To retrieve their passports, they must provide detailed information regarding their *hajj* travel plans to ensure their foreign visa is authorized. Uighur human rights activists outside of China are concerned that this policy will be used to identify and punish Uighurs who travel outside of the XUAR. Their worries may have been proved justified when the government confiscated the passports of more than 2,000 Uighur Muslims in 2007 and arbitrarily detained men between the ages of 50 to 70 for participating in the *hajj*.

The State Department estimates that over 1,300 people were arrested in the XUAR on charges related to state security over the past year, a large increase from the previous year. Such charges have been used to detain religious adherents and other dissidents in the past. Due to the lack of judicial transparency, and the government's equation of peaceful religious activity with religious extremism and terrorism, it is difficult to determine how many prisoners are being held for peaceful religious activity or for peacefully protesting restrictions on the freedom of thought, conscience, and religion. Three family members of Rebiya Kadeer, one of the most prominent Uighur advocates, remain in prison. Kadeer's three sons, Kahar, Alim, and Ablikim, were arrested in June 2006 to prevent them from meeting with a visiting U.S. congressional delegation. The following October, Kahar and Alim were tried for tax evasion, and Alim was sentenced to seven years imprisonment. The two were also fined a total of over $75,000. In February 2007, Ablikim was tried in secret on charges of "subversion of state power" and later sentenced to nine years imprisonment. In December 2007, family members were allowed to visit Ablikim for the first time in a year. Both Alim and Ablikim remain in prison, where they are reported to have been tortured and abused, and Ablikim is reported to be in poor physical health without adequate medical care.

The officially-sanctioned Catholic Patriotic Association (CPA) does not allow its members or clergy to have relations or communication with the Vatican or other foreign Catholic organizations. This prohibition continues to strain relations between the CPA and the unregistered Catholic Church in China and between the Chinese government and the Holy See. Despite the official policy, an estimated 90 percent of CPA bishops and priests are secretly ordained by the Vatican and in many provinces, CPA and unregistered Catholic clergy and congregations work closely together. In some cases, the Vatican and the Chinese government have worked together on the selections of bishops. For example, in September 2007, bishops were ordained in Beijing, Guizhou, and three other dioceses with the approval of both the government and the Vatican. These ordinations reversed a trend of the government appointing bishops without Vatican approval. Nonetheless, the Chinese government took active steps to halt distribution of Pope Benedict's 2007 open letter to Chinese Catholics, including twice detaining Bishop Jia Zhiguo of Hebei province, and beating him while in custody, to prevent him from distributing the letter. In that letter, the Pope recognized that, although there have been some improvements, "grave limitations" on religious freedom in China remain, which the Church cannot accept. Nevertheless, the Pope called on Chinese Catholics to adopt the approach of "respectful and constructive dialogue." More recently, Bishop Jia was arrested again on March 30, 2009 to prevent him from meeting with another bishop who had reconciled with the Vatican. Chinese officials objected to the relationship between the two bishops because it was "desired by a foreign power," the Vatican, not by the government and the CPA. The Chinese government continues to maintain that normalization of ties with the Holy See will begin only if the Vatican revokes its diplomatic relations with Taiwan and agrees to cease its "use of religion as a means to interfere in China's internal affairs."

In the past year, harassment and detention of Catholics in China, especially unregistered bishops and priests, continued. The whereabouts of Catholic Bishop Wu Qinjing of the Zhouzhi diocese, who was detained in March 2007 by authorities in Shaanxi province, remain unknown. Bishop Wu was ordained

in 2006 with Vatican approval, but without the approval of the local CPA. Fr. Wang Zhong is still serving the three-year sentence imposed in 2007 for reportedly organizing a ceremony to consecrate a new church registered with the government. In May 2008, Fr. Zhang Jianlin and Fr. Zhang Li were detained in Hebei province as they travelled to a well-known shrine in Shanghai; they reportedly remain in some sort of detention at this time. Although Bishop Yao Ling was released in January 2009 after serving a two year sentence, at least 40 Roman Catholic bishops or priests remain imprisoned, detained, or disappeared, including the elderly Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. In addition, there is still no information on the whereabouts of Bishop Shi Enxiang, who was arrested in April 2001.

Members and leaders of unregistered Protestant groups in China continued to face harassment and harsh punishments, including detention, fines, beatings, confiscation of property, arrest, and mistreatment and torture in custody. In the last year, according to credible reports, 764 Protestant leaders and adherents were arrested for some period of time during the past year, 35 of whom were sentenced to terms of imprisonment over one year, including in China's infamous "re-education through labor" system. The State Department estimates that "thousands" of house church members were detained for short periods in the last year. Arrests for and harassment of peaceful Protestant religious activity occurred in at least 17 provinces and two municipalities, with the most incidents occurring in Henan, Xinjiang, Shandong, Hebei, and Zhejiang provinces. Members of unregistered churches that the government deems "evil cults" were the most vulnerable to detention. An extrajudicial security apparatus called the 6-10 Office, which was started to monitor and suppress Falun Gong activity, has broadened its mandate reportedly to include groups that self-identify as Protestant.

The Chinese government also took active steps to impede religious groups and human rights defenders access to visiting foreign delegations and overseas contact, threatening to "strike hard" against anyone involved with "hostile" foreign groups. During the Olympics, religious leaders were prevented from attending a worship service with President George W. Bush, and several human rights defenders active in religious cases were prevented from meeting with visiting Members of Congress. Pastor Zhang "Bike" Mingxuan, head of the Chinese House Church Alliance, was prevented from meeting a visiting European Parliament delegation and reporters covering the Beijing Olympics Games. Over the past year Pastor Mingxuan was detained several times, forcibly removed from Beijing during the Olympics, fined, evicted from his apartment, and his sons were beaten by police. In March 2009, Pastor Mingxuan was arrested again in Beijing and sent to Henan Province to be questioned and detained.

In the lead up to the Beijing Olympic Games, the government's repression of house church and unregistered Protestant groups increased dramatically. Many house churches report that they were asked by local public security officials to disband during the Games, especially high-profile congregations that met near Olympic venues. The Beijing Gospel Church, with a membership of 1,000 people, was raided by officials from four different agencies in May 2008. The congregation's minister, Pastor Gao Zhen, was detained, interrogated, and then released. Also in May, local police raided the Chengdu Qiuyu Blessings Church near Shangliu, Chengdu Province, telling church they were suspected of "illegal religious practices" and confiscating Bibles, hymnals, and other educational materials. Five members of a church associated with the Honghui Coal Mine in Baiyin City, Gansu Province, were detained in June 2008. They were sentenced to administrative detention and forced to pay fines of $145. Several prominent Christian leaders were placed under strict surveillance during the Olympic Games last August including Christian writer Yu Jie and Pastor Zhang Mingxuan and his wife. Approximately 100 foreign Christians were detained, interrogated, and eventually expelled from the country during the Olympics on charges of "illegal religious activity."

The Chairman of the XUAR, Ismail Tiliwaldi, has urged local police and religious affairs officials to "exercise stronger management" over Protestantism and Catholicism and to guard strictly against foreign infiltration and sabotage. In May 2007, police in the XUAR detained 30 house church leaders who were meeting with foreign religious leaders; those detained were mistreated or, in some cases beaten in custody before they were released. In April 2008, XUAR police arrested 46 Christians while they worshipped in a house church. They were forced to pay fines, study government handbooks on religious policy, and were sentenced to 15 days of administrative detention. Osman Imin (also known as Wusimanyiming) was arrested in November 2007 and sentenced to two years of "re-education through labor" on charges that he assisted foreigners in conducting "illegal religious activities" related to public religious expression and persuasion among the Uighur community. Lou Yuanqi, the pastor of a growing house church, was detained on May 17, 2008 on charges of "utilizing superstition to undermine the law." A XUAR court refused to take his case because of insufficient evidence; however, he remains in detention. In January 2008, Alimjan Himit (Alimujiang Yimiti)—a house church leader in the XUAR who had previously worked for a foreign-owned company shut down for "illegal religious infiltration activities"—was detained and charged with subverting state power and endangering national security. Although a court in Kashgar returned Himit's case to the procuratorate due to insufficient evidence in May 2008, he remains in detention. In September 2008, the UN Working Group on Arbitrary Detention decided that Himit had been arbitrarily detained in violation of international standards.

Chinese officials continue to use charges of "illegal business activity" to sentence house church leaders who are involved in the printing and distribution of Bibles and other religious materials. In November 2007, Shi Weihan served 37 days of criminal detention in Beijing for illegally publishing Bibles and Christian literature. He was arrested again in March 2008 and denied access to his lawyer until April; in June his sentence was extended for two months. He is currently awaiting trial. In May 2008, Pastor Dong Yutao was arrested for receiving a shipment of illegally imported Bibles.

The Chinese government continues to maintain a harsh campaign against adherents of the Falun Gong spiritual movement, which it considers an "evil cult" and has banned since 1999. Police continued to detain current and former Falun Gong practitioners and to place them in re-education through labor camps (RTL) without trial or in mental health institutions. There is no credible information on just how many Falun Gong practitioners were imprisoned over the past decade, but some international observers claim that they may be as many as half of the total number of the 250,000 Chinese detained in RTL camps. Provincial officials reportedly offer sizable rewards to anyone who provides information leading to the arrest of a Falun Gong practioner. In the year before the Olympic Games, police waged a concerted campaign to harass and detain known Falun Gong practioners and brutally suppress their activity, an estimated 8,037 Falun Gong were detained between December 2007 and August 2008. In February 2008, Falun Gong practitioner Yu Zhou died in police custody. Police claimed that he died of complications related to diabetes, but his family claims he was healthy before his arrest and they were denied an autopsy. In November 2008, Xu Na, a member of Falun Gong, and her husband were detained for possessing Falun Gong materials, which is considered a criminal offense. Her husband died after 11 days in detention, and Xu Na was sentenced to three years in prison. In May, 2008 Yang Xiyao of Yanshan county, Hebei province, was detained after police raided his home and found Falun Gong publications. Most recently, in July 2008, Chen Zhenping was arrested and tried in secret without legal representation for being a Falun Gong practioner. She was sentenced to eight years imprisonment.

The 6–10 Offices throughout China are tasked with surveillance, investigations, "transformation," and detention of Falun Gong practioners. The 6-10 office reportedly has extrajudicial detention facilities used exclusively to hold Falun Gong practioners who have completed RTL terms, but who are still considered harmful.

Imprisoned Falun Gong reportedly are subject to mistreatment and torture. The UN Special Rapporteur on Torture reported that Falun Gong practitioners make up two-thirds of the alleged victims of torture. Numerous allegations of government-sanctioned organ harvesting from incarcerated practitioners have surfaced within the last several years as well. Independent investigation into the practices of a hospital in Sujiatun, Shenyang proved inconclusive. However, based upon a report from two prominent Canadian human rights activists, international human rights organizations have called for an independent investigation and for continued international attention to allegations of organ harvesting from prisoners. The UN Committee on Torture, during its 2008 review of China, also called on the government to conduct independent investigations to clarify discrepancies in statistics related to organ transplants and allegations of torture of Falun Gong practitioners.

In August 2007, authorities in Hunan Province issued provincial-level regulations to administer folk religion venues. Folk religion, also called "feudal superstition," has been a legal grey area in China because it does not fall within the five recognized religious groups (Buddhism, Daoism, Protestantism, Catholicism and Islam), but is often tolerated by local officials. The regulations are significant because they offer protections for religious practice outside the five recognized communities and because they allow venues to register directly with provincial government officials. However, the new regulations allow registration only of existing venues and stipulate that no new sites may be built. In addition, any venue that is destroyed may not be rebuilt unless it retains "historical stature" and "great influence." The State Administration for Religious Affairs (SARA), the government agency tasked with overseeing most of China's religious life, has established a division to deal directly with the management of folk religions.

During the past several years, there has been a continuing crackdown against human rights activists, lawyers, and others who attempted to use the Chinese legal system to defend the rights of Chinese citizens, including those who sought to practice their right to freedom of religion. Lawyers have been harassed, beaten, threatened, disappeared, or have lost their legal licenses over the past year. In September 2007, attorney Li Heping, a prominent religious freedom advocate, was beaten with electronic batons for nearly five hours and ordered to stop practicing law. He refused and his legal license was revoked. In November 2007, human rights lawyer Yang Maodong (also known as Guo Feixiong) was sentenced to five years imprisonment on charges of "illegal business practices." According to his wife and lawyer, he has been subjected to shocks from electric batons and other mistreatment while in prison. Yang Maodong is the former law partner of Gao Zhisheng, one of China's best known human rights lawyers, who defended Falun Gong and unregistered Protestants and was a vocal critic of the Chinese government's human rights record. Gao disappeared in February 2009 and his whereabouts, at this time, remain unknown. Before his disappearance, Gao published a report of the torture he endured during a September 2007 interrogation. In February 2008, police seized lawyer Teng Biao in Beijing for questioning, warned him to stop writing articles criticizing China's human rights record, and threatened him with jail time and the loss of his university job. After Teng agreed to defend Tibetans arrested following the March 2008 protests, officials refused to renew his legal license. On March 3, 2009, the Chinese government revoked the legal license of Beijing's Yitong Law Firm, whose lawyers handled human rights cases, including representing unregistered house church Protestants and the Falun Gong. Lawyers Li Subin, Liu Xiaoyuan, Zhang Jianguo, Cheng Hai, Wen Haibo, and Yang Huiwen were singled out for censure, in particular, because of their human rights work.

Despite experiencing ongoing harassment, arrest, and restrictions, human rights defenders have had some minimal success using the legal system to challenge official abuse or have sentences reduced. For example, in November 2007, house church members in Shandong province successfully filed suit against the local public security bureau and were awarded confiscated Bibles, computers, and other goods taken in a raid. In September 2008, a Chengdu church filed a suit against the local religious affairs

bureau (RAB) for closing down the church earlier in the year. The provincial RAB reportedly later issued a decision overturning the local bureau's decision. In some cases, lawyers for the Falun Gong have also been able to represent their clients without prior approval from the Ministry of Justice. This occasionally has led to reduced or suspended sentences; however, the practice is only allowed in Beijing and not in other parts of China.

Recommendations for U.S. Policy

Given that religious freedom and related human rights concerns are directly related to expanding the rule of law, security, and China's compliance with international obligations, the Commission urges the Obama Administration, as it reviews various policy approaches, to included religious freedom concerns in discussions at that highest level and signal clearly that human rights are a vital U.S. interest that will affect the flexibility and scope of U.S.-China relations. In both bilateral relations and in multilateral institutions where the United States and China are members, the Commission makes the following recommendations concerning U.S. policy toward China.

I. Ending Human Rights Abuses in China

The U.S. government should:

- fully employ all the available tools specified in the International Religious Freedom Act (IRFA) for countries designated as "countries of particular concern" (CPCs), including sanctions or some other commensurate action, and cease the practice of prior Administrations of relying on "pre-existing sanctions" that do not address specific religious freedom abuses, by issuing a new presidential action that would focus on either state agencies or actors who perpetrate religious freedom abuses or on provinces or localities where religious freedom conditions are most egregious; and

- raise publicly concerns about Chinese human rights abuses in appropriate multilateral and international fora, including the UN General Assembly and Human Rights Council, and ensure that preparations for such actions be made at appropriately high levels with other UN member states.

In addition, 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 religion or belief; torture and ill-treatment of persons in prisons, labor camps, psychiatric facilities, and other places of confinement; and the coercion of individuals to renounce or condemn any religion or belief;

- release all those imprisoned, detained, or disappeared on account of their manifestation of religious belief or activities, including Gao Zhisheng, Xu Na, Fr. Zhang Li, Chen Zhenping, Bishop Jia Zhiguo, Shi Weihan, Alimjan Himit, Yang Maodong, Osman Imin, Abdukadir Mahsum, Imam Adil Qarim, Fr. Zhang Jianlin, Bishop Su Zhimin, and Gedhun Choekyi Nyima;

- provide a full accounting of all those detained, released, tried and sentenced in public order disturbances in Tibet in the last year; allow immediate access for international observers, including the International Committee of the Red Cross, to all acknowledged or unacknowledged detention facilities; and implement all Tibet-related recommendations of the UN High Commissioner for Human Rights, the Committee on Torture, and the Special Rapporteurs on Torture, Freedom of Religion or Belief, Extrajudicial and Summary Executions, and Human Rights Defenders;

- cease the use of torture and implement and mechanisms so that alleged incidents are consistently and impartially investigated, evidence procured through torture is excluded at trial, mistreatment of North Korean refugees in detention is halted and no asylum-seeker in

China is returned to a country where they face a real possibility of torture;

- issue a national decree that guarantees the right of minors to manifest their religion or belief and the right of parents to ensure the religious and moral education of their children;

- establish a mechanism for reviewing cases of persons, including religious leaders, 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; and

- extend an unconditional invitation to visit China to the UN Special Rapporteur on the Independence of Lawyers and Judges to visit China with full access in compliance with the terms of reference required by the Special Rapporteur, and determine dates for visits to China by both the Special Rapporteur on the Freedom of Religion or Belief and the Special Rapporteur on Human Rights Defenders, with full access in compliance with the terms of reference required by the Special Rapporteurs.

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 by continuing to urge the Chinese government to:

- ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998, without reservations undermining religious freedom protections, and sign and ratify the Optional Protocol to the ICCPR;

- amend Article 36 of the Constitution to explicitly protect the right not only to believe but to manifest one's religious belief without state interference;

- amend or repeal Article 306 of the Criminal Procedure Code, which has been used against attorneys who have vigorously defended the rights of their clients;

- amend or repeal Article 111 of the Criminal Procedure Code, which labels as "state secrets" any published information deemed embarrassing to the government, and raise the issue of China's use of "state security" as a rationale for suppressing dissent in bilateral and multilateral discussions and exchanges;

- repeal the Guiding Opinion on Lawyers Handling Collective Cases and similar local regulations that interfere with the ability of lawyers to represent the interests of their clients in collective cases, including cases involving the defense of religious freedom or related rights or violations on account of religion or belief;

- abolish the system of re-education through labor (RTL) camps and all other administration and extrajudicial detention centers, including the "transformation through reeducation" facilities of the 6-10 office;

- revise the Ministry of Justice's "Methods for the Management of Lawyers Professional Licenses" and similar local regulations to ensure that lawyers' annual registration is not subject to political considerations or other arbitrary factors and make sure that no lawyer should be denied renewal of registration on the basis of the cases he or she has represented or is representing;

- repeal Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with "evil cults," and also its associated legislation, the Decision of the Standing Committee of the National People's Congress on Banning Heretical Cult Organizations, Preventing and Punishing Cult Activities; and

- end the use of government filters on Web sites and e-mail and remove official restrictions on Internet message boards and text messaging,

including the blockage of access to certain Web sites related to religion, belief, or human rights; and revise the September 2000 State Council regulations on Internet Content Providers (ICPs) and offer ICPs clear and consistent guidelines for Web site content and usage to ensure that Chinese law and practice in this area conform to international standards on the freedoms of opinion and expression.

III. Building Programs to Support Chinese Rights Defenders

To strengthen the ability of Chinese lawyers and activists to defend religious freedom or related rights or violations on account of religion or belief and encourage a vibrant civil society, media, and the rule of law the U.S. government should:

- through the State Department's Human Rights and Democracy Fund, institute new programs that:

  --increase the capacity and networking ability of non-governmental organizations in China that address issues of human rights, including religious freedom, as well as the freedoms of expression, association, and assembly;

  --expand contacts between U.S. human rights experts and Chinese government officials, academics, representatives of both registered and unregistered religious communities, and non-governmental organizations on international standards relating to the right of freedom of religion or belief; on the importance and benefits of upholding human rights, including religious freedom; on reforms to the Chinese criminal justice system, including planned changes in the criminal procedure code; and on the role of defense lawyers; and

  --increase consultations between international human rights experts and Chinese officials, judges and lawyers on the compatibility of Chinese laws, regulations, and practices with international standards on freedom of religion or belief;

- through the Human Rights Defenders Fund, make support available to Chinese lawyers and others who defend the internationally recognized rights of individuals and communities targeted because of their religious belief or practice.

IV. Expanding U.S. Public Diplomacy and Human Rights Programs in Tibet and Xinjiang

The U.S. government should:

- urge the Chinese government to allow a U.S. government presence, such as consulates in Lhasa, Tibet and Urumqi, Xinjiang which could monitor religious freedom and other human rights conditions;

- appoint promptly a Special Coordinator on Tibetan issues at the State Department in order to press Beijing to end the criminalization of peaceful advocacy in Tibet, to engage in constructive dialogue over the future of Tibetans within China, and to coordinate with other nations on issues related to Tibet for bilateral discussion and multilateral diplomacy; and

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

  --increasing educational opportunities in the United States for religious and other leaders from these regions, in order to enhance their understanding of religious freedom and other human rights according to international standards;

  --creating legal clinics to assist those in areas with high concentrations of Uighur Muslims and Tibetan Buddhists to enforce their human rights under the Chinese Constitution and international law, similar to existing programs that serve other ethnic minority areas in China;

--giving political and financial support to programs that address chronic needs, as articulated by the Tibetan and Uighur people, in such areas as education, work force development, language and culture preservation, environmental protection, and sustainable development; and

--as the Broadcasting Board of Governors modifies its global priorities, ensuring continued availability of funds to maintain appropriate Tibetan and Uighur language broadcasting through the Voice of America and Radio Free Asia.

V. The U.S.-China Senior Strategic Dialogue & Human Rights Protections

Within the planning and structure of the new Senior Strategic Dialogue, the U.S. government should:

- prioritize human rights and religious freedom issues as key issues in the Senior Dialogue's agenda, in addition to raising them in a regular human rights dialogue; raise a full range of religious freedom concerns in high-level discussions in each session and, where appropriate, invite human rights experts from within the State Department and other U.S. government agencies, as well as non-governmental experts, to participate in both pre-Dialogue planning and negotiating sessions; and

- ensure that religious freedom priorities raised in the Senior Dialogue are implemented through appropriate U.S. government foreign assistance programs on such issues as legal reform, civil society capacity-building, public diplomacy, and cultural and religious preservation and exchanges.

In addition, the U.S. Congress should:

- ensure that congressional oversight of U.S.-China human rights diplomacy is maintained by requiring the State Department to submit a regular public report to the appropriate congressional committees detailing issues of concern discussed during the Senior Dialogue, or any future bilateral human rights dialogues, and describing progress made toward a series of "benchmarks" initiated by Congress.

VI. Protecting and Aiding North Korean Refugees in China

The U.S. government should urge the Chinese government to:

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

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

- allow greater numbers of North Korean migrants who desire resettlement to have safe haven and secure transit until they reach third countries; and

- grant legal residence to the North Korean spouses of Chinese citizens and their children.

Saudi Arabia

Since 2000, the Commission has raised serious concerns about religious freedom conditions in Saudi Arabia and recommended that the country be designated by the Secretary of State as a "country of particular concern," or CPC, for engaging in systematic, ongoing, and egregious violations of the right to freedom of religion or belief. In September 2004, the State Department followed the Commission's recommendation and designated Saudi Arabia a CPC for the first time. Despite King Abdullah undertaking some limited reform measures and promoting inter-religious dialogue in international fora over the past year, the Saudi government 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 even interferes with private religious practice. In addition, numerous Ismaili Muslims continue to remain in prison on account of their religion or belief and there has been an increased crackdown on Shi'a Muslim dissidents, which has resulted in numerous arrests and detentions. Moreover, the government continues to be involved in supporting activities globally that promote an extremist ideology, and in some cases, violence toward non-Muslims and disfavored Muslims. Nearly three years after the State Department announced that the Saudi government had confirmed that it would advance various policies with the aim of improving religious freedom conditions, the Commission concludes that very little progress has been made. Therefore, the Commission again recommends that Saudi Arabia should continue to be designated a CPC.

The Commission played an active role in advocating for the initial designation of Saudi Arabia as a CPC. But even after formally naming Saudi Arabia as a CPC, then-Secretary of State Condoleezza Rice, in September 2005, approved a temporary 180-day waiver of further action in consequence of CPC designation, to allow for continued diplomatic discussions between the U.S. and Saudi governments and "to further the purposes of the International Religious Freedom Act" (IRFA). In July 2006, Secretary Rice left the waiver in place and announced that ongoing bilateral discussions with Saudi Arabia had enabled the U.S. government to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups." The Commission traveled to Saudi Arabia in May-June 2007 to discuss religious freedom concerns and assess the Saudi government's progress in implementing its stated policies related to religious practice and tolerance. In January 2009, the State Department re-designated Saudi Arabia a CPC but kept in place a waiver of any action to "further the purposes" of IRFA.

The Saudi government continues to engage in an array of severe violations of human rights as part of its repression of freedom of religion or belief. Abuses include: 1) torture and cruel and degrading treatment or punishment imposed by judicial and administrative authorities; 2) prolonged detention without charges and often incommunicado; and 3) blatant denials of the right to liberty and security of the person, including through coercive measures aimed at women and the broad jurisdiction of the Commission to Promote Virtue and Prevent Vice (CPVPV), or religious police. The CPVPV's powers are vaguely defined and exercised in ways that violate the religious freedom of others, including the use of physical force and ill-treatment. The Commission continues to conclude that if the Saudi government were to implement fully the July 2006 policies it has previously identified and confirmed to the U.S. government, it would begin to diminish some of its institutionalized abusive practices that have resulted in severe violations of freedom of thought, conscience, and religion or belief in Saudi Arabia and worldwide. However, the Commission also concludes again that the Saudi government has not demonstrated evidence of progress on these policies, nor established adequate measures to implement universal human rights standards and provide enforceable remedies to alleged victims.

State Enforcement of Religious Conformity

Saudi Arabia has a very diverse population, both regionally and religiously, despite decades of

Saudi government enforcement of religious conformity. The Saudi government persists in severely restricting all forms of public religious expression other than the government's interpretation and enforcement of its version of Sunni Islam. This policy is implemented in violation of the human rights of large, indigenous communities of Muslims from a variety of schools of Islam who reside in Saudi Arabia, including large populations of Sunnis who follow other schools of thought, Shi'a Muslims, and Ismailis, as well as both Muslim and non-Muslim expatriate workers. The government tightly controls even the restricted religious activity it does permit—through limits on the building of mosques, the appointment of imams, the regulation of sermons and public celebrations, and the content of religious education in public schools—and suppresses the religious views of Saudi and non-Saudi Muslims who do not conform to official positions. In addition, the Saudi government continues its systematic practice of short-term detentions, without trial, of minority Muslims, particularly Shi'a Muslims, for religious practice that is not in accordance with the government's interpretation of Islam; this practice constitutes a form of intimidation and harassment.

The Saudi government's policy toward expatriate workers, particularly non-Muslim workers, reflects the view that they have come to Saudi Arabia only to work. As a result, the government curtails universal rights for non-Saudi visitors to the country and inhibits the enjoyment of human rights on an equal basis for expatriate workers, particularly for the two to three million non-Muslim workers, including Christians, Hindus, Buddhists, and others, who have come to Saudi Arabia for temporary employment. Restrictions and abusive provisions are often included in labor contracts requiring expatriate workers to conform to Saudi religious customs and traditions, thereby forcing them to waive their inalienable human rights and submitting them to the limitations, and even human rights abuses, enforced by Saudi employers.

Shi'a and Ismaili Muslims

Shi'a Muslims—who comprise approximately 10-15 percent of the population—and members of indigenous Muslim communities who follow other schools of thought than that favored by the government are subject to government restrictions on public religious practices and official discrimination in numerous areas, particularly in government employment and education. There are no Shi'a ministers in the government, only three of the 150 member Consultative Council (Shura) are Shi'a Muslims, and there are very few Shi'a Muslim leaders in large corporations or in high-level government positions, particularly in the security agencies.

Moreover, in recent years, *fatwas* (religious edicts) have been issued by conservative Sunni clerics that justify committing violent acts against Shi'a Muslims. Over the past year, the Shi'a community has expressed a desire to see more active government intervention when clerics issue such provocative edicts. Furthermore, in many cases, application of criminal law includes harsher punishments for Shi'a Muslims as well as Ismailis. Since many Saudi judges consider Shi'a and Ismaili Muslims to be "non-believers," they are frequently dealt with more severely by the courts.

Over the past few years, Saudi authorities have carried out a series of short-term detentions of members of the Shi'a community, a pattern which continued in 2008-2009. Since January 2007, dozens of members of the Shi'a community in the Eastern Province have been detained for up to 30 days and then released for holding small religious gatherings in private homes. None have been charged with any crime, nor have Saudi authorities offered any explanation other than suggesting that the short-term detentions were punishment for holding private religious gatherings. In addition, over the past year, several Shi'a mosques have been closed down by Saudi authorities.

In June 2008, at least 22 Sunni Muslim clerics in the Kingdom released a statement accusing the Shi'a community of destabilizing Muslim countries and humiliating Sunnis. In response, a Shi'a cleric, Sheikh Tawfiq Al-Amer, in Al-Ahsa in the Eastern Province criticized the statement, and within days, was arrested by Saudi authorities. He

was released only after spending a week in detention. In September, Sheikh Al-Amer was arrested again, this time for performing prayers according to Shi'a practice. He was released after 11 days in detention.

In February 2009, members of the CPVPV reportedly videotaped female Shi'a Muslim pilgrims in Medina who were visiting a cemetery containing the graves of revered Shi'a figures. Some of the Shi'a pilgrims demanded the videotape from the religious police claiming that it infringed the women's privacy and insulted their modesty. Saudi officials accused the Shi'a pilgrims of performing rituals offensive to other non-Shi'a pilgrims. Consequently, some Shi'a pilgrims protested outside of CPVPV offices in Medina and nearly 20 were arrested, with some suffering injuries in the clashes; all were released after a week in detention. In March 2009, another 10 Shi'a Muslims, including several juveniles, were arrested for "disturbing public order" in the Eastern Province in connection with protests related to the clashes described above in Medina; as of this writing, they remain in detention. Also in March, a Shi'a cleric, Nimer Al-Nimer, publicly stated that Shi'a Muslims might one day secede from the country if authorities continue to discriminate against them. Saudi authorities issued an arrest warrant for the cleric, who reportedly remains in hiding.

On a positive note, there have been some improvements for the Shi'a community in the Eastern Province, particularly regarding the public expression of religious practice. Members of the Shi'a community in Qatif, where they represent the majority of the population, held large public gatherings in 2007 and 2008 in observance of Ashura without government interference. However, authorities continue to prohibit observance in other areas of the Eastern Province, such as in Al-Ahsa and Dammam. While there has been increased dialogue between the Shi'a community and the Saudi government, there is limited progress on a number of practical issues, such as the ability to teach Shi'a beliefs to Shi'a children in schools and the inability to re-open mosques and *hussainiyas* (Shi'a community centers) in Al-Ahsa and Dammam that have long been closed by the government.

Ismailis, a Shi'a sect numbering some 700,000 inside Saudi Arabia, continue to suffer severe discrimination and abuse by Saudi authorities, particularly in religious practice, government employment, the justice system, and education. Unlike support for other Muslim houses of worship, the government does not finance the building of mosques for Ismailis and has closed down several Shi'a places of worship in recent years. In 2000, after members of the CPVPV raided and closed down an Ismaili mosque in the Najran region, approximately 100 Ismailis, including clerics, were arrested. Many were released after serving reduced sentences, but dozens remained in prison for several years. As of this writing, at least 17 Ismailis remain in prison, some of whom reportedly have been flogged.

Another Ismaili, Hadi Al-Mutaif, also remains in prison after originally being sentenced to death for apostasy in 1994 for a remark which he made as a teenager that was deemed blasphemous. Al-Mutaif continues to serve a life sentence on reduced blasphemy charges. According to Saudi government officials, because Al-Mutaif's offense is considered a *hadd* crime by the court and not a *tahzir* crime, there are fewer options for intervention.[1] Al-Mutaif, whose mental health has been adversely impacted due to his lengthy incarceration, has spent long periods of time in solitary confinement, particularly after numerous suicide attempts.

In May 2008, Ahmad Turki al-Saab, an Ismaili activist, was detained in Riyadh after he was summoned from Najran to the capital for organizing a petition campaign demanding the removal from office of Najran's Governor, Prince Mishaal bin Saud, for alleged discrimination against Ismaili Muslims. As of this writing, al-Saab remains in detention. In November 2008, King Abdullah issued a royal decree relieving Prince Mishaal of his post as governor of Najran; a subsequent statement issued by the Saudi Embassy in Washington, DC said Prince Mishaal himself requested to be relieved of the post.

Other Dissident Muslims

Criminal charges of apostasy, blasphemy, and criticizing the nature of the regime are used by the Saudi government to suppress discussion and debate and to silence dissidents. Promoters of political and human rights reforms, as well as those seeking to debate the appropriate role of religion in relation to the state, its laws, and society are typically the target of such charges. In January 2009, authorities arrested Hamoud Saleh Al-Amri, a Saudi blogger who described his conversion from Islam to Christianity on his Web site; he was released in March, after more than two months in prison, on condition that he not leave the country or speak to the media. After his conviction in 2007, a Turkish barber, Sabri Bogday, was sentenced to death for blasphemy in March 2008; in May, an appellate court upheld his conviction. In January 2009, after more than two years in prison, the barber was pardoned by King Abdullah after he allegedly repented. Bogday returned to Turkey upon his release. In May 2008, another Turkish barber was arrested by the CPVPV for allegedly blaspheming the Prophet Muhammad. After nearly one month in detention, he was released and all charges were dropped after a reported intervention by the Turkish Embassy.

Also in May, Saudi writer and blogger Ra'if Badawi was charged by a Saudi court with "setting up an electronic site that insults Islam" after it became known that Badawi had set up a website to document abuses by the CPVPV and the Saudi government interpretation of Islam. Facing a potentially lengthy prison sentence and fine, Badawi fled the country. In March 2008, a senior Sunni Muslim cleric, Sheikh Abdul-Rahman al-Barrak, issued a *fatwa* calling for the death of two writers who questioned why Christians and Jews should be considered apostates.

Several Sunni Muslims remain in prison on alleged sorcery charges. Historically, spurious charges of "sorcery" and "witchcraft" have been used by Saudi authorities against Muslims who do not adhere to the government's interpretation of Islam. For example, in October 2008, an appeals court confirmed the conviction of a Sudanese woman, who was charged with practicing sorcery and sentenced to three years in prison, 1500 lashes, and deportation.

In addition, over the past few years, members of the Sufi community have been harassed, arrested, and detained because of their non-conforming religious views, but no such incidents were reported in the past year.

The Human Rights of Women

The government's monopoly on the interpretation of Islam and other violations of freedom of religion adversely affect the human rights of women in Saudi Arabia, including freedom of speech, movement, association, and religion, freedom from coercion, access to education, and full equality before the law. Over the past few years, there has been some increase in public space to discuss human rights practices affecting women. Nevertheless, the Saudi government has continued discriminatory measures aimed at the destruction, rather than realization, of many of the human rights guaranteed to women. For example, women seeking medical care, whether emergency or not, can be admitted to a hospital for medical treatment only with the consent of a male relative. When appearing in public women must adhere to a strict dress code. Women require written permission from a male relative to travel inside or outside the country and are not permitted to drive motor vehicles. In addition, the Saudi justice system, in which courts apply Islamic law to the cases before them, does not grant a woman legal status equal to that of a man. Testimony by a woman is equivalent to one-half the testimony of a man; daughters receive half the inheritance that their brothers receive; and women have to demonstrate legally specified grounds for divorce, while men may divorce without giving cause.

In February 2008, the UN Special Rapporteur on Violence Against Women, Yakin Ertürk, undertook a formal visit to Saudi Arabia and offered several observations and recommendations. Among them, the Special Rapporteur found that while there has been a "demystification of the taboo around violence against women" in recent years, there still exist "practices surrounding divorce and

child custody, the absence of a law criminalizing violence against women and inconsistencies in the application of laws and procedures" that "continue to prevent many women from escaping abusive environments." She urged the Saudi government to develop "a legal framework based on international human rights standards," including a law criminalizing violence against women and a family law on marriage and divorce. Furthermore, the Special Rapporteur found that members of the CPVPV were "responsible for serious human rights abuses in harassing, threatening and arresting women who 'deviate from accepted norms,'" and she also highlighted the situation facing female migrant domestic workers who continue to suffer serious human rights abuses.

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

Non-Muslims are not permitted to be citizens of Saudi Arabia and no places of worship other than mosques are permitted in the country. In addition, the Saudi government enforces and limits public worship to its sanctioned version of Sunni Islam.

For years, Saudi officials have argued that it is impossible to have places of worship other than mosques in the Kingdom because Saudi Arabia is home to Islam's two holiest sites: Mecca and Medina. Moreover, government officials point to a *hadith* (oral tradition) from the Prophet Muhammad which says that only Islam can exist on the Arabian Peninsula, although other Islamic experts contend that this *hadith* is subject to differing interpretations. Qatar, another country on the Arabian Peninsula that shares the same religious ideology as Saudi Arabia, permits non-Muslim public places of worship. Nevertheless, some Saudi officials continue to assert that having non-Muslim places of worship on Saudi soil would be equivalent to building mosques on Vatican property in Italy. In previous meetings with Saudi officials, the Commission drew a distinction between a geographic entity in Italy of two square miles with 800-900 residents versus a country the size of Saudi Arabia with between two and three million non-Muslim residents.

In 2008, Saudi officials reiterated the government position that non-Muslim expatriate workers are permitted to worship in private. However, guidelines as to what constitutes "private" worship remain unclear and vague. The Saudi government has said that as long as non-Muslims practice their religion in small groups in private homes, no security entity would interfere, since there is no law that prohibits non-Muslims from practicing in this manner.

Nevertheless, the Saudi government continues in practice to violate its public position about permitting private worship. There continue to be instances in which members of the CPVPV have entered and raided private homes where non-Muslim expatriate workers were worshipping, although the number of such incidents reportedly decreased over the past year. Expatriate workers from countries such as the Philippines, India, Pakistan, and some African countries continue to be subject to surveillance and raids by Saudi authorities, despite the fact that CPVPV members technically are not permitted to conduct such surveillance. In fact, representatives of non-Muslim communities continue to assert that, in practice, religious freedom simply does not exist in the Kingdom. In the Nejd region in the central part of the country, private religious services continue to be surveilled and, in some cases, raided by Saudi authorities. Conditions for private worship reportedly are better in the Eastern Province than elsewhere in the country.

Other than at a few compounds populated by foreign workers, where private worship is allowed to take place, expatriate workers continue to fear government interference with their private worship. This interference can occur for many reasons, such as if the worship service is too loud, has too many people in attendance, or occurs too often in the same place. Furthermore, Saudi officials do not accept that for members of some religious groups, the practice of religion requires more than an individual or a small group worshipping in private, but includes the need for religious leaders to conduct services in

community with others. Foreign religious leaders continue to be prohibited from seeking and obtaining visas to enter Saudi Arabia and minister to local religious communities.

According to the State Department, during the past year, a number of people were detained for non-public, non-Muslim worship. Several cases involving non-Muslim detentions were not publicized in order to secure releases, largely as a result of U.S. government intervention. In May 2008, government officials arrested 15 Indian Christians in the Qassim Province for conducting their religious worship in private. During the raid, a CPVPV member reportedly beat the pastor, and Christian songbooks and Bibles were confiscated. All detainees were released after less than 24 hours in detention. In April 2008, Saudi officials arrested 16 Asian Christians, including women and children, for conducting a worship service in the Western part of the country. Police raided a private residence, questioned the group, and then transported them to jail. All were released within days.

On a positive note, there has been a decrease in recent years in the practice by customs officials of confiscating personal religious materials when expatriate workers or visitors enter the Kingdom. Also, in recent years, senior Saudi government officials, including King Abdullah and the Grand Mufti, have made statements with the reported aim of improving the climate of tolerance toward other religions; both also continued publicly to call for moderation. In early 2008, press reports confirmed that representatives of the Vatican were in negotiations with the Saudi government about building the first church in Saudi Arabia; as of this writing, the outcome of these discussions is unknown.

Official Harassment of Religious Practice

Restrictions on public religious practice by both Saudis and non-Saudis are officially enforced in large part by the Commission to Promote Virtue and Prevent Vice, the government entity that includes a force of approximately 5,000 field officers and 10,000 employees in over 500 offices throughout the country. There are also hundreds of "unofficial" volunteers who take it upon themselves to carry out the work of the CPVPV. Saudi government officials claim it is the latter group, who are untrained and often over-zealous, who commit the most egregious violations of the right to freedom of thought, conscience, religion or belief. The CPVPV, which reports to the King, is tasked with enforcing public morality based on the Saudi government's interpretation of Islamic law. Members of the CPVPV patrol the streets enforcing dress codes, maintaining the strict separation of men and women, and ensuring that restaurants and shops are closed during daily prayers.

Members and volunteers of the CPVPV regularly overstep its authority with impunity and are not subject to judicial review. Despite the fact that the CPVPV is not allowed to engage in surveillance, detain individuals for more than 24 hours, arrest individuals without police accompaniment, or carry out any kind of punishment, its members have been accused of killing, beating, whipping, detaining, and otherwise harassing individuals. Saudi government officials claim to have dismissed and/or disciplined members of the CPVPV for abuses of power, although reports of abuse persist and no details have been provided demonstrating that CPVPV members are, in fact, held accountable for abusive conduct.

In June 2008, Saudi human rights lawyer Abdel Rahman al-Lahem appealed a Riyadh court's acquittal of two members of the CPVPV in the beating death of Salman al-Huraisi, who was detained for possessing and selling alcohol in May 2007. As of this writing, the appeal is ongoing. In July 2007, the General Investigation and Prosecution Authority in the northern town of Tabuk cleared members of the CPVPV of any wrongdoing in the June 2007 case of Ahmad al-Bulaiwi, who died in CPVPV custody after officers arrested him on suspicion of being in "illegal seclusion" with an unrelated woman. It was later established that al-Bulaiwi was a part-time driver for the woman's family. An autopsy revealed he had been beaten.

Over the past few years, CPVPV abuses were the subject of numerous articles in the Arabic and English press, garnering unprecedented attention by the public and in international media. Numerous cases have gone to trial or are proceeding to trial, including alleged beatings and deaths of Saudi citizens. The number of investigations of abuses has increased, yet in the recent cases that have been prosecuted, CPVPV members have not been held accountable and complainants report summary dismissals of cases without due process.

Intolerant References in Educational Materials and Textbooks

In July 2006, the State Department stated that the Saudi government had confirmed that it planned to "revise and update textbooks to remove remaining intolerant references that disparage Muslims or non-Muslims or that promote hatred toward other religions or religious groups, a process the Saudi government expects to complete in one to two years [by July 2008]." In March 2006 and May 2008, the Saudi Embassy in Washington published reports summarizing the government's efforts to revise the state curriculum and the school textbooks published by the Ministry of Education.

Early in 2008, the Saudi government posted on one of its Web sites[2] the current school year's curriculum, including all relevant religious texts taught in primary, middle, and secondary schools in Saudi Arabia. However, an independent report from a U.S.-based group which surveyed the Web site concluded that these textbooks still contained highly intolerant and discriminatory language, including encouraging violence, particularly against Shi'a Muslims, Jews, and Christians.[3] The State Department's 2008 human rights report, released in February 2009, also concluded that Saudi government "elementary and secondary education textbooks still retained some language that was intolerant of other religious traditions, especially Jewish, Christian, and Shia beliefs, and in some cases provided justification for violence against non-Muslims." The State Department's 2008 religious freedom report, released in September 2008, similarly reported "concerns about Saudi textbooks that continued to contain overtly intolerant statements against Jews and Christians and subtly intolerant statements against Shi'a, Isma'ilis, and other religious groups, notwithstanding government claims that it was reviewing educational materials to remove or revise such statements." In addition, there continues to be very little transparency regarding the textbook revision process, curriculum reform, and teacher training efforts.

During and after its visit to Saudi Arabia in 2007, the Commission requested copies of Ministry of Education textbooks, which to this date have never been provided. A July 2007 letter to the Commission from the Saudi Human Rights Commission stated that textbooks currently were being reviewed and copies would be sent to the Commission upon completion, although no completion date was given. Despite the promise of several officials to send the books to the Commission's office in Washington and additional written requests by the Commission, as of this writing nothing has been received.

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

For years, the Commission has expressed concern that Saudi government funding and other funding originating in Saudi Arabia have been used globally to finance religious schools, hate literature, and other activities that support religious intolerance and, in some cases, violence toward non-Muslims and disfavored Muslims. During the past year, there were continued reports, including from the State Department, of virulently anti-Semitic and anti-Christian sentiments expressed in the official media and in sermons delivered by clerics, who in some cases continue to pray for the death of Jews and Christians, despite having been disciplined for preaching extremist views. Despite requests for further clarification, the Commission has not been able to confirm whether a formal mechanism exists in Saudi Arabia to review thoroughly and revise educational materials and other materials exported from the country.

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

In March 2008, the Saudi government announced that the Ministry of Islamic Affairs and the King Abdul Aziz National Center for Dialogue would carry out the retraining of 40,000 additional Muslim clerics in the Kingdom as part of a program to promote tolerance and moderation in Saudi society. Imams are reportedly provided special training that exposes them to more moderate views. According to the Saudi government, teachers, imams, or professors who promote hatred and intolerance are dismissed, although such assertions by the government regarding dismissals have not been supported by any statistics or details. During its 2007 visit, the Commission was informed by Saudi officials that even those who are dismissed continue to receive government salaries.

Islamic Affairs sections in Saudi embassies worldwide reportedly have been responsible for both distributing extremist and intolerant materials and providing diplomatic status to Muslim, even non-Saudi, clerics. According to the Saudi government, these sections have been closed temporarily due to such reports. Their current status is unknown.

Empowerment of Officially Sanctioned Human Rights Institutions

In September 2005, the Council of Ministers, chaired by King Abdullah, approved the establishment of a government-appointed, 24-member Human Rights Commission (HRC) that reports directly to the King. The membership of the HRC was not finalized until early 2007 and does not include any women, although in March 2008, the HRC's Chair, Turki Al Sudairy, announced that a new royal decree would allow women to be members of the Commission. In September, the HRC announced the formation of a women's branch to look into human rights abuses against women and children. The HRC is mandated to "protect and promote human rights in conformity with international human rights standards in all fields, to propagate awareness thereof, and to help ensure their application in a manner consistent with the provisions of the Islamic Sharia." The HRC continues to engage the Saudi government on a variety of human rights concerns, although evidence of specific actions on religious freedom issues has been limited.

In March 2004, the Saudi government approved the formation of a National Society for Human Rights (NSHR), the country's first and only independent, legally recognized human rights body. The NSHR is comprised of 41 members, including 10 women, and is chaired by a member of Saudi Arabia's Consultative Council (or Shura), a 150-member advisory body. The NSHR, which was originally endowed by King Fahd, submits its reports and recommendations directly to King Abdullah.

At times throughout the year, the NSHR publicly criticized alleged human rights violations committed by the Saudi government. The NSHR released its second annual report in March 2009, detailing abuses in the Kingdom on most international human rights issues and offering numerous recommendations for the Saudi government. While the report praised the government for taking some positive steps in protecting human rights, the NSHR criticized the manner in which the CPVPV operates and the slow pace of judicial reforms, and highlighted wide-ranging restrictions on the rights of women.

Other Developments

In July 2008, King Abdullah hosted an interfaith conference in Madrid, Spain which included representatives from Muslim, Christian, Jewish, Hindu and other faith communities. The communiqué issued after the event included a troubling conclusion seeking to criminalize the so-called defamation of religions. In November, the UN General Assembly hosted a high-level meeting on the "Promotion of Inter-Religious and Inter-Cultural

Dialogue, Understanding and Cooperation for Peace," an event initiated by King Abdullah as a follow-up to the Madrid conference. The original Saudi proposed declaration included language reflecting the Madrid conference that would have condemned the "mocking of religious symbols." However, several European countries rejected the text, citing infringement on freedom of speech. The final declaration included no mention of defamation of religions or religious symbols.

The text of the final declaration is noteworthy for other reasons. The text noted that the General Assembly meeting was convened at the initiative of King Abdullah. The declaration next stated, *inter alia*, that, "[t]he meeting reaffirmed the purposes and principles enshrined in the Charter of the United Nations and in the Universal Declaration of Human Rights. The meeting further "recalled that all States have pledged themselves under the Charter to promote respect for human rights and fundamental freedoms for all, including freedoms of belief and expression, without distinction as to race, sex, language or religion."

The affiliation of King Abdullah to the declaration and its references to the Universal Declaration of Human Rights (UDHR) and the "freedoms of belief and expression" are significant, as Saudi Arabia was the only country to abstain during the vote on the UDHR in 1948. The explicit linkage of religious freedom and freedom of expression to the UN Charter's language on human rights and fundamental freedoms, all under the name of King Abdullah, more directly ties the Kingdom to the international human rights framework. Saudi Arabia has affirmed the UDHR previously in other UN resolutions, instruments, and conferences. However, doing so explicitly at a conference focused on religion is noteworthy.

In February 2009, King Abdullah announced several changes among senior government officials. Among the King's new appointments are a new head of the Commission to Promote Virtue and Prevent Vice, a new Minister of Education, a new Minister of Justice, a new head of the Supreme Judicial Council, and a new deputy minister for women's education, the first ever woman in this post. Some observers have suggested that several of the appointees are known to be reform-minded, replacing some of the more conservative members among senior government leadership. It is too early to tell if the new appointees will help dismantle some of the Saudi government policies that negatively impact religious freedom conditions in the country.

Commission Activities

Over the past year, the Commission has spoken out numerous times about religious freedom concerns in Saudi Arabia. In February 2009, the Commission recommended that Secretary of State Hillary Clinton urge U.S. representatives to ask tough and incisive questions about religious freedom and related human rights violations in Saudi Arabia at the UN Human Rights Council's Universal Periodic Review of that country. In November 2008, an op-ed by Commissioners Don Argue and Leonard Leo was published in the *Christian Science Monitor* outlining the Commission's concerns about the Saudi-sponsored two-day session on interfaith dialogue at the UN General Assembly. Also in November, the Commission wrote a private letter to then-President Bush urging him to raise some specific religious prisoner cases with Saudi King Abdullah at their meeting at the UN General Assembly event. In June 2008, the Commission released findings which confirmed that some of the Arabic language textbooks used at the Islamic Saudi Academy in Fairfax, Virginia continue to justify violence and promote intolerance. In January 2008, the Commission released a public statement calling on President Bush to raise ongoing Saudi violations of the freedom of religion and other human rights during his meetings that month with Saudi leaders in the Kingdom.

Recommendations for U.S. Policy

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

The U.S. government should:

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

- lift the waiver, in place since 2005, as a consequence of CPC designation, and take action as mandated under IRFA due to the continuance of systematic abuses and the lack of sufficient progress by the Saudi government in implementing its July 2006 confirmed policies related to religious practice and tolerance;

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

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

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

- expand the religious educators program—which brings Saudi religious leaders and scholars to the United States through a three week International Visitor Program (IVP) to learn about religious freedom in the United States—to include visits to Saudi Arabia by appropriate American leaders and educators, and increase the numbers and diversity and range of experience of visitors to both countries;

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

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

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

  --offering to facilitate training and fund international experts from the Office of the High Commissioner for Human Rights or elsewhere on universal human rights standards, including the right to freedom of thought, conscience, and religion or belief, as well as to provide limited technical support on universal norms to the HRC and NSHR;

  --urging the Saudi government to implement recommendations from the NSHR's May 2007 and March 2009 reports, which, if implemented, could be a welcome initial step towards improving overall human rights compliance in the Kingdom; and

- press Saudi Arabia to uphold the human rights norms found in the Universal Declaration of Human Rights, especially the freedoms of religion and expression, which Saudi Arabia affirmed, inter alia, in the declaration of the high-level meeting on the Promotion of Inter-Religious and Inter-Cultural Dialogue, Understanding and Cooperation for Peace in November 2008.

II. Addressing the Exportation of Extremist Ideology and Intolerance in Education Materials in Saudi Arabia and around the World

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

- undertake and make public an assessment of the Ministry of Education textbooks used during the 2008-2009 school year in Saudi Arabia to determine if they have been revised to remove passages that teach religious intolerance or hatred, which the Saudi government confirmed in July 2006 that it would do within one to two years;

- request that the Saudi government:

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

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

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

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

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

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

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

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

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

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

- establish genuine safeguards for the freedom to worship in accordance with international standards;

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

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

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

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

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

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

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

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

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

[2] *http://www.eschool.gov.sa/index.php?option=com_wrapper&Itemid=109.*

[3] See the Center for Religious Freedom and Institute for Gulf Affairs July 2008 report here: http://www.hudson.org/files/publications/saudi_textbooks_final.pdf.

Sudan

The government of Sudan commits egregious and systematic violations of freedom of religion or belief in the areas under its control, particularly against Christians, Muslims who do not follow the government's extreme interpretation of Islam, and followers of traditional African religions. Since January 2005, Sudan has been governed by an unusual power-sharing arrangement between the Northern-dominated National Congress Party, which had seized power in Khartoum in 1989 with an Islamist agenda, and the Southern-dominated Sudan People's Liberation Movement/Army (SPLM/A), most but not all of whose supporters are Christians or followers of traditional African religions. Security forces under the control of both parties, various militias, rebel groups in Darfur, and the Ugandan Lord's Resistance Army (LRA), which has made incursions into Southern Sudan, have engaged in serious human rights abuses in the past year. Due to these ongoing, severe violations, the Commission continues to recommend that Sudan be named a "country of particular concern," or CPC, which the State Department has done annually since 1999.

During the North-South civil war (1983-2005), the Commission identified Sudan as the world's most violent abuser of the right to freedom of religion or belief. The Commission also has drawn attention to the Sudanese government's genocidal atrocities against civilian populations in other regions. Successive regimes in Khartoum have emphasized Sudan's identity as being Arab and Muslim, thus effectively relegating non-Arabs and non-Muslims to a secondary status in the society. Resistance to Khartoum's policies of Islamization and Arabization was a major factor in the North-South civil war. Northern leaders, including Sudan's current President Omar Hassan Ahmad al-Bashir, used religion as a tool for popular mobilization against both non-Muslim Southerners and Muslims who opposed the regime's policies. The civilian victims of that conflict, two million dead and four million driven from their homes, were overwhelmingly Southern Christians and followers of traditional African religions, in contrast to the Arabic-speaking Muslims dominant in Khartoum.

Since the signing of the Comprehensive Peace Agreement (CPA) ending the North-South civil war on January 9, 2005, conditions for religious freedom have improved in the South and in the contested areas in central Sudan. The Commission continues to be seriously concerned, however, about severe human rights violations being committed by the Sudanese government in other regions of the country, including against both non-Muslims and Muslims who dissent from the government's interpretation of Islam, as well as in the western region of Darfur, where the State Department has determined that acts of genocide have taken place and may still be ongoing.

The responsibility of the highest levels of the Sudanese government in egregious human rights violations was underlined by the March 2009 decision of the International Criminal Court (ICC) to authorize an arrest warrant against President Bashir on five counts of crimes against humanity and two counts of war crimes in regard to his actions in the Darfur conflict. Sudan's President was the first head of state to be so charged. In response to the ICC action, President Bashir expelled 13 international humanitarian organizations which had provided roughly half of the international assistance to Darfur. This action threatens the well-being and potentially the survival of many victims of the Darfur conflict who are dependent on international assistance for access to food, water, and medical care, including a vaccination program in the face of an imminent meningitis epidemic.

Khartoum's expulsion of international humanitarian organizations not only demonstrates a callous disregard for the welfare of Darfur's civilian population, but also diverts needed attention from international efforts to press for further progress in implementing the CPA. Continued attention and monitoring by the United States and the international community are necessary to ensure that the terms of the CPA, particularly those relating to freedom of religion or belief and other universal human rights, are implemented fully.

The CPA followed and subsumed a series of partial and preliminary agreements addressing the

relationship of state and religion, the national capital, power-sharing, wealth-sharing (i.e., of oil revenue), and security. The CPA affirmed the Machakos Protocol of July 2002, whose Agreed Text on State and Religion established a number of principles regarding freedom of religion or belief, and the Protocol on Power-Sharing of May 2004, which committed the parties to respecting a range of human rights. Moreover, the Protocol on Power-Sharing states explicitly that "The Republic of Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which it is or becomes a party."

The CPA committed the parties to a number of interim measures for the governance of Sudan during a six-year Interim Period, to end in July 2011. According to the CPA:

- the Southern Sudanese people will determine in a referendum to be held at the end of the Interim Period whether the South stays within a united Sudan or becomes independent;

- the 10 Southern states would be exempt from sharia (Islamic law), which would continue to prevail in the North, and special provision would be made to protect the rights of non-Muslims in the national capital;

- the National Congress Party in power in Khartoum and the Sudan People's Liberation Movement/Army (SPLM/A) dominant in the South would form a Government of National Unity, with the SPLM/A having a minority share of offices; the SPLM/A would assume responsibility for the government of Southern Sudan;

- local autonomy would be granted to the contested areas of the Nuba Mountains and Southern Blue Nile State, which would remain part of the North, and a special administration would be established in the oil-rich area of Abyei, whose boundaries would be determined by an independent commission; a popular referendum would determine whether Abyei continues to have a special status in the North or becomes part of the South;

- elections for President of Sudan, President of Southern Sudan, the national legislature, state governors, and all state legislatures would be held "not later than the end of the fourth year of the Interim Period" (i.e., by July 2009, but now delayed until February 2010); and

- constitutional arrangements for the Interim Period would be according to an Interim National Constitution and an Interim Constitution for Southern Sudan.

Since July 2005, Sudan's current Government of National Unity officially has governed under the Interim National Constitution, which contains provisions guaranteeing universal human rights, including freedom of religion or belief. As of this writing, however, many of these provisions, including those advancing human rights, have yet to be implemented or have experienced prolonged delays. For example, over two years passed between the signing of the CPA and the appointment in February 2007 of a chairman for the constitutionally-required Commission on the Rights of Non-Muslims in the National Capital. The chair of the Commission is a Christian Southerner. Other members of the Commission include judges, national and Khartoum State officials, and representatives of various Muslim, Christian, and other religious communities. Since its establishment, the Commission reportedly has handled a number of complaints from non-Muslims, particularly regarding difficulties in obtaining permission for church construction, treatment of non-Muslims by the police, and educational issues such as an Islamic bias in the teaching of history and inadequate numbers of Christian teachers for religious education. The Commission is reported to have intervened successfully to obtain the return of a portion of a Christian cemetery from the Khartoum State Government. The National Human Rights

Commission, called for in Sudan's Interim Constitution, has yet to be created.

In the now-autonomous South, the Interim Constitution of Southern Sudan, adopted in December 2005, separates religion and state and contains provisions for freedom of religion and for equality before the law regardless of religious belief. These provisions appear to be observed in practice.

In government-controlled areas of the North, the religious freedom and other human rights protections agreed to in the CPA and enshrined in Sudan's Interim National Constitution have not yet resulted in significant changes to the government's practice of enforcing its interpretation of Islam to the detriment of those holding other views. Muslims reportedly receive preferential access to limited government services and preferential treatment in court cases involving Muslims against non-Muslims. All Sudanese in the North, including Christians and followers of traditional African religions, are subject to sharia. Corporal punishments adopted from sharia are imposed on both non-Muslims and on Muslims who do not traditionally follow such practices.

There is discrimination in granting governmental approvals required for the construction and use of places of worship. Although permits are routinely granted to build mosques, permission to build churches often is difficult to obtain. Since the establishment of the Commission on the Rights of Non-Muslims in the National Capital, there appears to have been some progress on this issue; three churches have received building permits and are under construction. Churches built without such official permission by owners who register land for personal rather than church use exist at the authorities' sufferance. Church-owned properties that legally are recognized are nevertheless vulnerable to seizure in a legal atmosphere in which government action is not constrained by an independent judiciary. Prior to the establishment of the Government of National Unity, governments confiscated church property in the North without adequate compensation.

Public religious expression and persuasion of non-Muslims by Muslims is allowed, but that of Muslims by non-Muslims is forbidden. Conversion from Islam is a crime legally punishable by death. In practice, suspected converts are subjected to intense scrutiny, intimidation, and sometimes torture by government security personnel who act with impunity. Converts to Christianity from Islam face societal pressures and harassment from the security services to the point that they typically cannot remain in Sudan. The law against apostasy is also of concern to Muslims; the last instance in which the death penalty was applied was to a Muslim reformer in 1985. Those charged with blasphemy also are subject to harsh punishment.

In contrast, government policies and societal pressure promote conversion to Islam. During the North-South civil war, some children from non-Muslim families who were captured and sold into slavery by pro-government militias were reportedly forced to convert. Reports continue of coerced conversions in government-controlled camps for internally displaced persons, as well as among prison inmates, Popular Defense Force trainees, and children in camps for vagrant minors. The government also has allegedly tolerated the use of humanitarian assistance to induce conversion to Islam. In government-controlled areas, children who have been abandoned or whose parentage is unknown are considered by the government to be Muslims and may not be adopted by non-Muslims.

Although relative North-South peace has brought improvements in human rights conditions in the South and in the Nuba Mountains, in the western region of Darfur, government forces and "Janjaweed" soldiers (government-backed militias from Arab tribes) since 2003 have employed abusive tactics and brutal violence against African Muslim civilians, tactics similar to those used previously against non-Muslim Africans during the North-South civil war. Serious human rights abuses have included aerial bombardment of civilians, forced starvation as the result of deliberate denial of international humanitarian assistance, and the forcible displacement of civilian populations. To date, efforts by the international community to protect Darfur's civilian population have been wholly inadequate. With villages destroyed and lives at risk from further

attack by Khartoum's armed forces or government-supported Arab militiamen, many civilians remain in camps, dependent upon international humanitarian assistance.

The perpetrators of these crimes, both members of the Sudanese armed forces and allied militias, have acted with impunity. The government of Sudan thus far has refused to surrender to the International Criminal Court any of the individuals, including President Bashir, charged with crimes against humanity and war crimes. This lack of accountability and the persistent use of tactics amounting to crimes against humanity and war crimes by the government of Sudan and its agents against civilian populations raise serious questions about the government's commitment to abide by the terms of the CPA.

Actions resulting in mass killings by the government of Sudan against its own citizens repeatedly have been condemned as genocide. In the Sudan Peace Act of 2002, Congress found that the Sudanese government had committed acts of genocide during the civil war. By concurrent resolution in July 2004, Congress found the atrocities being committed in Darfur to constitute genocide. In congressional testimony delivered in September 2004, then-Secretary of State Colin L. Powell announced that the State Department "had concluded that genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility—and genocide may still be continuing." In a statement issued by the White House the same day, then-President Bush urged the international community to work with the United States to prevent and suppress acts of genocide in Darfur. In April 2007, in an address announcing new sanctions against Sudan and individuals responsible for the violence in Darfur, President Bush once again referred to actions in Darfur as genocide.

The government's genocidal actions stem in part from a policy of the governing elite in Khartoum to advance forcibly an Arab and Muslim identity in all parts of Sudan. This policy effectively relegates non-Arabs and non-Muslims to a secondary status. It also conflicts with the reality that Sudan is a religiously diverse country with a large minority of Christians and followers of traditional African beliefs, as well as Muslims from a variety of Islamic traditions. Opposition to this coercive policy has fueled support for armed resistance by non-Muslim and non-Arab populations in the South, the Nuba Mountains, and elsewhere. During the North-South civil war, the current regime in particular used appeals to Islam, including calls by senior government officials for *jihad*, to mobilize northern Muslim opinion. Religious incitement by government officials contributed to the horrific human rights abuses perpetrated by government security forces and government-backed militias.

The Plight of Sudan's Internally Displaced Persons and Refugees

One of the major issues facing Sudan is the situation of refugees and internally displaced persons (IDPs). The North-South civil war and the conflict in Darfur have together driven approximately 7 million Sudanese from their homes, including 5.4 million who are currently internally displaced, making Sudan the locus of the largest IDP crisis in the world. Sudan's total population today is just over 40 million. Most of the 4 million displaced from the North-South civil war are displaced internally, having fled to other parts of Sudan, particularly to the North. Of the 4 million, 500,000 became refugees in the Central African Republic, the Democratic Republic of Congo, Ethiopia, Egypt, Kenya, and Uganda. The overwhelming majority of those who fled as a result of the North-South civil war are Christians or followers of traditional African religions. Since 2003, the Darfur conflict has produced an additional two million IDPs and sent another 250,000 into neighboring Chad and the Central African Republic as refugees. Unlike those who fled the North-South civil war, the Darfuris are almost all Muslims, members of tribes identified as African rather than Arab.

The UN High Commissioner for Refugees (UNHCR) oversees refugee returns, and the International Organization for Migration (IOM), in collaboration with Southern and central Sudanese authorities, coordinates IDP returns in Sudan. Both

agencies emphasize that all returns by refugees and IDPs must be voluntary. Surveys indicate that most displaced Southerners indeed wish to return to the South because of a desire to return to their areas of origin, to take part in a new Southern Sudan, and to leave the harsh or restrictive living conditions in camps.

Since the signing of the CPA in 2005, more than 2 million refugees and IDPs have returned to the South. However, only 13 percent of all returnees have returned through a process organized by the UNHCR, IOM, a state government, or the Government of Southern Sudan (GoSS). Returnees assisted by the UN or IOM receive a reintegration kit, which includes food rations for three months, cooking utensils, agricultural tools, landmine protection kits, and applications for micro-credit schemes to support the local economy. Those who return on their own, however, receive little assistance, either in transit or in their destination community. Furthermore, poor coordination among return operations has left many returnees and local communities without the proper resources for integration. Most of the returnees are settling in urban areas, because either rural areas lack the services required to integrate them or they have become accustomed to urban living after years of living in urban-like camp settings or in Khartoum. This has led to a significant "squatter" problem, increased competition for overtaxed resources, and in some cases, discrimination against returnees.

The return of refugees and IDPs to the South is important for the planned elections and 2011 referendum. A much-delayed national census was finally conducted at the end of April 2008, despite SPLM objections that IDPs and refugees who had not yet returned to the South were not to be included in the count. Returns to the South increased prior to the April census, as many refugees and IDPs wanted to take part in that process and state governments and the GoSS heavily promoted returns. UNHCR expects a similar uptick in returns prior to the elections and 2011 referendum. (In Darfur, many IDPs refused to cooperate with the census, presumably further skewing the results in favor of populations under Khartoum's control.) As of this writing, the final results of the census have not yet been announced.

Southern Sudan faces major challenges in its capacity to absorb and provide services to the large number of returnees. Years of civil war have devastated the South, making the development of infrastructure, including mass communications, schools, health clinics, and water and sanitation facilities, one of the steepest challenges to be met by the new government. Returnees also face limited employment opportunities, continuing security concerns, difficulties obtaining restitution for land and property, potential communal tensions, and a lack of assistance and development. These challenges, coupled with the expectation by many Sudanese that development in the South should be faster, have led many IDPs to return to Khartoum, despite pressure from authorities there, including discrimination and harassment based on religious identification, and terrible camp conditions. There are also reports of families splitting up, with children remaining in Khartoum or in refugee camps so that they can access better education services.

Commission visit to Southern Sudan

In October 2008, a Commission delegation led by Commissioner Leonard Leo visited Southern Sudan, including Juba, the regional capital, and Malakal, the capital of Upper Nile State. Accompanied by State Department officers from the U.S. Embassy in Khartoum and the Consulate General in Juba, the delegation met with a number of officials of the Government of Southern Sudan, officials of the ruling SPLM, and representatives of the Christian and Muslim religious communities and of civil society. Among the senior officials with whom the Commission delegation met in Juba were First Vice President of Sudan and President of Southern Sudan Salva Kiir Mayardit, the GoSS Minister for Legal Affairs and Constitutional Development, the Secretary General of the SPLM, and the Chair of the Southern Sudan Human Rights Commission. In Malakal, the delegation was received by the governor of Upper Nile State Sudan Armed Forces Major General Tatluak Deng Garang, the only governor among the ten Southern states who

is a member of the Northern-dominated National Congress Party.

Major findings of the Commission's visit to Southern Sudan were:

- Religious freedom conditions are relatively good in Southern Sudan and the GoSS generally appears to respect freedom of religion or belief. A GoSS registration requirement for new religious organizations could, however, be abused to exclude groups on the basis of their beliefs.

- The GoSS is to be commended for the establishment of the Southern Sudan Human Rights Commission, which appears to be operating under energetic leadership, in stark contrast to the yet-to-be-established national Human Rights Commission called for in the CPA and Sudan's Interim National Constitution.

- The GoSS promotes inter-religious harmony. Official occasions typically begin with prayer by both Christian and Muslim clergy. On the other hand, the secular stance taken by the GoSS has disappointed some Christian leaders who had expected more deference in view of the churches' role in the liberation struggle, as well as government support for the churches' educational and social programs. Major Christian groups actively promote conflict resolution across ethnic and religious lines.

- Although Islam no longer receives preferential treatment as it did when Juba and other urban centers were under Northern occupation, the National Congress Party is still trying to influence Southern Muslims. On the other hand, the concerns of Southern Muslims about their security appear to have eased since the earlier Commission visit.

- Despite serious problems with CPA implementation and questions regarding Khartoum's willingness to complete the peace process, the CPA has brought tangible benefits to the people of Southern Sudan: a real albeit uneasy peace with the North, a functioning regional government, real though limited economic development, and greater freedom, including in the exercise of the freedom of religion or belief.

- The ruling party in the South, the Sudan People's Liberation Movement (SPLM) is to be commended for the progress made in assuming the responsibilities of government at the state, regional (in the GoSS), and national levels (in the Government of National Unity).

- With U.S. assistance, progress is being made in professionalizing an insurgent force, the Sudan People's Liberation Army (SPLA). However, more could be done, including by the U.S. military, to strengthen and to professionalize the SPLA. The South is particularly vulnerable to aerial bombardment, a fact that Khartoum exploited during the civil war. Improved air defense and communications would help to deter or counter aerial bombardment by the North. Improved radar, air traffic control, and communications, all crucial for air defense, also would have civilian benefits and would aid Southern Sudan's economic development.

- The human rights performance of Southern Sudan's security forces would benefit from greater professionalism on the part of the SPLA and the police. Improved security also would enhance the prospects for free, fair, and peaceful elections.

- U.S. leadership remains crucial to protecting the gains made by the CPA. The Commission delegation was impressed by the strong expression of support, both by GoSS officials and by representatives of civil society, for past U.S. diplomatic and humanitarian efforts in Sudan.

- Southern Sudan should be strengthened – in terms of economic development, institutional resources, human capacity, and defensive ability – in order to deter Khartoum from reneging on the CPA's promise of free and fair elections and of referenda on Southern independence and on whether the border region of Abyei will go with the North or the South. More emphasis needs to be given to development, as opposed to humanitarian assistance, in order to strengthen the South in ways that produce a better climate for peace with the North.

- Southern Sudan's judicial sector is particularly weak and under-resourced. Not only are some judges holding court under trees and in dilapidated buildings, according to the Chief Justice of Southern Sudan's Supreme Court, but many younger judges lacked both training and access to reference materials.

- Due in significant part to foot-dragging by Khartoum, Sudan is unlikely to be able to hold credible elections on the schedule mandated by the Comprehensive Peace Agreement, i.e., before July 2009.

- U.S. sanctions continue to have a negative impact on the South, including in the development of a viable banking system, necessary for increased economic growth and greater stability.

- The facilities and personnel resources of the U.S. Consulate General in Juba should be significantly upgraded and strengthened in order to support increased U.S. engagement and programming in Southern Sudan.

Other Commission Actions on Sudan

Sudan was one of the first countries to be a focus of the Commission's attention. Since its inception, the Commission has met with a broad range of government officials, religious leaders, human rights monitors, civil society representatives, and others knowledgeable about Sudan; held public events to focus attention on religious freedom abuses in Sudan; testified on Sudan at congressional hearings; and visited Sudan three times to see conditions on the ground first hand.

Following a serious outbreak of fighting in the sensitive North-South border region of Abyei in May 2008, the Commission issued a public statement calling on the U.S. government to tell President Bashir that nothing less than full implementation of the CPA, including provisions relating to Abyei and other contested areas, is acceptable. Beginning in mid-May in Abyei, units of the Northern-controlled Sudan Armed Forces and associated tribal militia brutally attacked local residents and destroyed private property, laying waste to the region's main town, also called Abyei, and driving 90,000 civilians from their homes.

In September 2008, the Commission held the first of a series of public hearings exploring the impact of religious extremism on U.S. national security interests, including one on Sudan entitled *Sudan's Unraveling Peace and the Challenge to U.S. Policy*. Witnesses, including the U.S. Special Envoy on Sudan, Ambassador Richard Williamson, examined U.S. options for encouraging the full implementation of the CPA. Representatives Capuano (D-MA), Payne (D-NJ), and McGovern (D-MA) gave remarks at the hearing and Senator Feingold (D-WI) and Representative Chris Smith (R-NJ) provided statements for the record.

In February 2009, the Commission held a press conference to announce its latest set of recommendations for U.S. policy on Sudan. The recommendations reflect the public hearing and visit to Southern Sudan described above. Representatives Payne (D-NJ), Chris Smith (R-NJ), Wolf (R-VA), and Lee (D-CA) participated in the press conference, and Representative McGovern (D-MA) provided a statement.

The Commission, since its establishment, has made a series of recommendations regarding U.S. policy toward Sudan. In September 2001, following a Commission recommendation that the U.S.

government appoint a nationally prominent individual to bring about a peaceful and just settlement of the North-South civil war in Sudan, then-President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the peace process. Senator Danforth was followed in September 2006 by former USAID Administrator and Special Humanitarian Coordinator for Sudan Andrew Natsios, and in January 2008 by Richard Williamson. Following the inauguration of the Obama Administration, the Commission announced a new set of recommendations for U.S. policy in Sudan, including a call for a new Special Envoy who would demonstrate continued U.S. commitment to peace in Sudan. On March 18, 2009, President Obama appointed retired Major General J. Scott Gration to this position. The Commission has successfully influenced other U.S. actions, including the Administration's decisions to give peace in Sudan a higher priority on its foreign policy agenda, engage actively to move the warring parties toward peace, monitor progress toward implementation of a series of partial and preliminary peace agreements, limit the impact of U.S. Sudan sanctions on the South and other areas that have suffered from Khartoum's abuses, and use U.S. assistance more effectively in alleviating the suffering of the Sudanese people and in aiding development in Southern Sudan.

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. The Commission believes that the normalization of relations with Sudan and the lifting of U.S. sanctions must be preceded by concrete action and demonstrated progress by Khartoum in ending abuses, cooperating with international peacekeeping and humanitarian assistance operations in Darfur, and fully implementing the CPA.

I. Focusing U.S. diplomacy on the successful implementation of the CPA

In order to maintain the level of U.S. engagement during the early part of the new U.S. Administration, the U.S. government should:

- ensure that the Special Envoy for Sudan has the bureaucratic authority, the appropriate personnel, and other support needed to coordinate successfully U.S. efforts toward the complete and timely implementation of the CPA and secure a just and lasting peace for all of Sudan, including in Darfur; and

- build on past efforts by the Special Envoy to enlist international support for peace in Sudan, including from China and other nations that have major economic investments in Sudan, to press Khartoum to end its delaying tactics on CPA implementation.

II. Encouraging the parties to implement the CPA fully

The U.S. government should:

- insist on the full implementation of the CPA (including power-sharing, wealth-sharing, respect for human rights, democratic accountability through elections, resolution of the Abyei issue, the 2011 referenda, and termination of all support for militias) as the agreed basis for North-South peace and a model for political accommodation of legitimate grievances in other regions such as Darfur;

- help ensure that the parties conduct the national, Southern, and state elections mandated by the CPA; insist that these elections be free and fair, that adequate security be provided to enable participation by all eligible voters regardless of religious or ethnic background, and that the results be accepted by both the National Congress Party and the Sudan People's Liberation Movement;

- recognize the importance of a peaceful resolution of the Abyei issue to continued North-South peace and the role of the United States in formulating the compromise on Abyei that was incorporated in the CPA; insist upon acceptance by the parties of the findings of the Abyei Boundaries Commission and implementation of the Abyei Roadmap Agreement;

- investigate and publicly report to the Congress every six months on the status of implementation of the CPA, with a particular focus on violations, assessing responsibility and indicating what actions are to be taken by the U.S. government in response;

- make clear that the United States expects the choice of the people of Southern Sudan, as expressed in a free and fair referendum to be held in 2011 in accordance with the CPA, to be respected, whether the people of Southern Sudan choose to remain in Sudan or be independent;

- strengthen the capability of the U.S. Embassy in Khartoum to monitor implementation of the crucial human rights provisions of the CPA and to report on human rights abuses, including religious freedom in the North, as well as to advance the U.S. human rights agenda in Sudan by appointing a ranking official reporting to the Ambassador and working full-time on human rights;

- consider new sanctions as needed to respond to non-compliance with the terms of the CPA, including targeted sanctions such as asset freezes and travel bans against individuals and institutions, such as the National Congress Party, identified as responsible for serious human rights abuses or for impeding CPA implementation; and

- 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.

III. Protecting civilians

To prevent violence against civilians (including mass atrocities and genocidal acts) that would result from renewed conflict, the U.S. government should:

- take the steps necessary to make feasible the establishment of various security guarantees for Southern Sudan in order to deter Khartoum from renewing the North-South civil war or otherwise impose its will by force in violation of the CPA;

- provide Southern Sudan with the technical assistance and expertise or other capacity it might need to bolster professionalization of the Sudan People's Liberation Army, such as International Military Education and Training (IMET), and secure radar, communications, and other passive, defensive equipment, as appropriate, to improve the South's ability to detect air attacks and therefore reduce civilian casualties; and

- support the Government of Southern Sudan's current, active efforts toward disarmament, demobilization, and reintegration of Southern Sudan's many ex-combatants.

IV. Strengthening reconciliation and the rule of law in Southern Sudan

The U.S. government should:

- utilize existing social institutions, including indigenous religious bodies, and strengthen civil society organizations that have special expertise and a demonstrated commitment in the areas of inter-religious and inter-ethnic reconciliation and conflict prevention, to promote a peaceful civil society;

- continue and strengthen existing programs through the State Department's Bureau of

International Narcotics and Law Enforcement Affairs to improve the professional competence and human rights performance of Southern Sudan's police and security forces;

- expand U.S. assistance to the court system in Southern Sudan, which is in dire need of training, reference materials, improved court security, and facilities; encourage greater involvement by the U.S. private sector, including professional associations, law schools, and corporations, in this effort; and

- provide scholarships to promising students to attend law school in the United States under the requirement that they return home at the completion of their training to build a modern legal system in Southern Sudan, including a law school with an advanced curriculum built upon democratic principles, but targeted to the needs of the area.

V. Strengthening human rights protections

The U.S. government should:

- continue to support and strengthen the Government of Southern Sudan's institutions and infrastructure, including the Southern Sudan Human Rights Commission, necessary to protect, monitor, and investigate human rights abuses and promote respect for internationally recognized freedom of religion or belief and related human rights;

- improve citizen awareness and enforcement of the legal protections for human rights included in the CPA, the Interim National Constitution, the Interim Constitution of Southern Sudan, and the international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), to which Sudan is a party;

- urge the establishment of an independent and impartial national Human Rights Commission as called for in the Interim National Constitution and in accordance with international standards[1] for such bodies in terms of independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief; and

- urge the Government of National Unity to cooperate fully with international mechanisms on human rights issues, including inviting further visits by the UN Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Situation of Human Rights in Sudan, the UN Working Group on Arbitrary Detention, and the UN Human Rights Council's High-Level Mission on the Situation of Human Rights in Darfur and comply with the Mission's recommendations.

VI. Building a successful indigenous economy in Southern Sudan

The U.S. government should:

- support the creation of an effective banking system in Southern Sudan, recognizing that such a system is crucial for the South's economic development and political stability;

- encourage U.S. private investment in Southern Sudan while ensuring that U.S. sanctions are targeted more effectively in support of U.S. diplomatic efforts to ensure a just and lasting peace in all of Sudan;

- alleviate the impact of remaining U.S. sanctions on all areas under the control of the Government of Southern Sudan and local institutions in the border areas of Abyei, Southern Blue Nile, and the Nuba Mountains, including sanctions on communications equipment;

- expand U.S. educational assistance, including building the capacity of the University of Juba, to enhance Southern Sudanese expertise in agriculture, business, law, and other areas to support development efforts;

- promote agricultural development in Southern Sudan with the goal of promoting greater food security;

- expand the provision of U.S. assistance to indigenous civil-society, private-sector groups and provide appropriate technical assistance to enable such groups to prepare project proposals for U.S. grants;

- explore providing the Sudan People's Liberation Army with needed technical expertise and capacity, such as in road construction and other public works, to assist in creating an infrastructure that bolsters economic development; and

- while recognizing the urgent need for continued U.S. assistance for returning refugees and internally displaced persons, begin shifting from humanitarian to development assistance in order to enhance the economic viability and political stability of Southern Sudan in anticipation of the 2011 referendum on the South's political future.

VII. Expanding U.S. diplomatic capacity in Southern Sudan

The U.S. government should:

- enhance the facilities and personnel resources of the U.S. Consulate General in Juba in order to support increased U.S. engagement and programming in Southern Sudan.

VIII. Promoting Freedom of Religion or Belief

The U.S. government should:

- use U.S. bilateral discussions with Sudan, as well as UN mechanisms and bilateral discussions with third countries with influence in Sudan, to urge Sudan's Government of National Unity to:

  --allow all religious groups to conduct their activities without harassment, discrimination or undue interference, including publishing or importing religious literature, building, repairing, and operating houses of worship, and operating social service programs;

  --repeal laws that punish changing one's religion or encouraging another to do so and end official accusations of blasphemy, apostasy, "offending Islam," or similar charges used to stifle public debate or restrict the right to freedom of expression;

  --eliminate the bureaucratic obstacles the government places on international humanitarian assistance and remove the state security services from their current role in regulating humanitarian assistance;

  --abandon efforts to force religious organizations to register as non-governmental organizations under regulations that give government officials control over their activities;

  --permit relations between national religious communities and their co-religionists abroad in accordance with universal human rights norms;

  --reform the state security services to be representative of all Sudanese and ensure that all national institutions such as the military, law enforcement agencies, and the highest levels of the judiciary are representative and equally protective of all Sudanese regardless of religious affiliation or belief;

  --end the impunity with which members of the security forces and others acting as agents of the government have engaged in human rights abuses; urge the establishment of effective mechanisms for accountability for past abuses; and in the absence of such bodies, provide full cooperation with international institutions, including those mandated by the UN Security Council;

  --cease using government-controlled media for messages of intolerance and discrimination against non-Muslims; and

--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; and incorporate into history texts the religious and cultural diversity of Sudan's past.

IX. Assisting Refugees and Internally Displaced Persons

The U.S. government should:

- increase support to UN agencies and their NGO partners in facilitating the voluntary return of refugees and the internally displaced, including through intensified efforts to monitor spontaneous or "self-assisted" returns to the South, provide safer modes of transportation, de-mine roadways, and develop a comprehensive return and reintegration strategy, as well as development plans, to enhance the capacity of Southern Sudan to absorb large numbers of IDPs and refugees;

- increase technical assistance programs to assist the Government of Southern Sudan in providing basic services, including education, health, and water sanitation, to the returnees;

- work with UN agencies and NGO partners to ensure that the populations that remain in refugee and IDP camps continue to receive at least the same level of humanitarian assistance as before, so they are not unduly pressured into making 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, 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.

X. Protecting Victims of Slavery and Human Trafficking

The U.S. government should:

- urge Sudan's Government of National Unity to prosecute the crime of abduction into slavery, most of whose victims are women and children taken during the North-South civil war or in Darfur by government-sponsored militias, and ensure the speedy identification, voluntary return, and family reunification of victims, as well as measures for their rehabilitation and reparation.

XI. Protecting Civilians and Promoting Peace in Darfur

The U.S. government should:

- support a stronger international presence in Sudan sufficient to protect civilian populations and to monitor compliance with the peace accords and UN Security Council resolutions, including by:

  --urging the United Nations-African Union Mission in Darfur (UNAMID) to protect civilians in accordance with the highest international standards for peacekeeping operations;

  --providing resources such as improved communications equipment, reliable vehicles and helicopters, and logistics assistance to enable peacekeepers to move quickly to places where abuses are occurring;

  --bringing in advisers on civilian protection issues in armed conflict to train and work with international force commanders;

  --ensuring that there is a secure environment for the delivery of humanitarian aid and the

return of refugees and the internally displaced and 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 the UN Security Council's resolution of March 29, 2005, which calls for the immediate cessation of "offensive military flights in and over the Darfur region";

--taking measures to prevent—and providing aid to those victimized by—widespread sexual violence and rape in Darfur, including by training advisers for the international forces in Darfur and by encouraging participating nations to include female troops and female police officers in their deployment to handle rape cases effectively; and

--supporting a substantial increase in the number of human rights monitors from the UN Office of the High Commissioner for Human Rights and in the number of international peacekeepers deployed in Darfur;

- lead an international effort to pressure the government of Sudan to reinstate all international relief organizations expelled following the International Criminal Court's authorization of an arrest warrant against President Bashir and permit unimpeded, safe access by such organizations to the region so that necessary humanitarian assistance can be provided to refugees and internally displaced persons;

- work with international partners to end the suffering of the civilian population of Darfur, including by seeking an end to killing, ethnic cleansing, forced displacement, and interference with the distribution of international humanitarian assistance; by assisting refugees and internally displaced persons to return home in safety; and by promoting a ceasefire as well as a peaceful and just resolution of the grievances that underlie the crisis; and

- use bilateral and multilateral diplomacy to mount an international campaign to pressure the Sudanese authorities to cooperate fully with the International Criminal Court.

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[1] *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights*, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (*http://www.unhchr.ch/html/menu6/2/fs19.htm,* accessed April 6, 2009).

Turkmenistan

The Commission has recommended every year since 2000 that Turkmenistan be designated by the Secretary of State as a "country of particular concern," or CPC, under the International Religious Freedom Act of 1998 for its systematic, ongoing, and egregious violations of religious freedom. Despite the Commission's repeated recommendations, the U.S. government has never designated the country as a CPC. The Commission has noted initial steps undertaken by the government of President Berdimuhamedov to lessen certain aspects of the repression mandated by former President Niyazov, and encourages the new government to implement further specific steps to bring Turkmenistan's law, policies, and practices in line with international human rights norms, including for freedom of religion or belief. Nevertheless, in light of persistent and severe problems, until tangible and systemic reforms have been implemented, the Commission continues to recommend that the U.S. government designate Turkmenistan as a CPC.

Under the late President Saparmurat Niyazov, who died in December 2006, Turkmenistan was among the world's most repressive and isolated states. Virtually no independent public activity was allowed. In effect, the 2003 religion law banned most religious activity. Moreover, Turkmenistan's public life was dominated by Niyazov's quasi-religious personality cult, expressed in his work of "spiritual thoughts," the *Ruhnama,* which the state imposed on the country's educational and religious life.

In early 2007 Gurbanguly Berdimuhamedov succeeded Niyasov as president. He has ordered educational reforms and, while he has not made changes to the country's oppressive laws, he has made a few positive steps relevant to human rights and religious freedom. These steps include the 2007 release of 11 political prisoners, including the former chief mufti; some limits on Niyazov's personality cult; the establishment of two new official human rights commissions; an expressed willingness to reform of the country's religion law; and the registration of 13 minority religious groups. Police and street controls on travel inside Turkmenistan have been eased and the country has been made more open to the outside world. According to the State Department's 2008 religious freedom report, "There were small improvements in the status of respect for religious freedom by the Government . . . but troubling developments in the treatment of some registered and unregistered groups continued." Human Rights Watch also noted in 2008 that, "although the Turkmen government of President Berdimuhamedov has begun to reverse some of the most ruinous social policies and the cult of personality that characterized President Niyazov's rule, Turkmenistan remains one of the most repressive and authoritarian in the world."

In order to examine religious freedom and related human rights conditions under the new Turkmen government, the Commission traveled to the country in August 2007 and discussed relevant concerns with President Berdimuhamedov and other government officials, as well as with diverse religious communities and civil society members. The Commission delegation also took part in the first public meeting with the country's former chief mufti, Nasrullah ibn Ibadullah, who was released from prison on the eve of the Commission's visit. In addition, the delegation met with representatives of the Organization for Security and Cooperation in Europe (OSCE), the Papal Nuncio, and ambassadors from several Western countries.

Religious matters technically are governed by the Council on Religious Affairs (CRA), whose members are appointed by the government and report to the president. CRA membership includes government officials and Sunni Muslim and Russian Orthodox Church representatives, but does not include other minority religious groups. The CRA controls the hiring, promotion, and firing of Sunni Muslim and Russian Orthodox clergy, who are required to report regularly to the CRA. It also examines and controls all religious publications and activities.

CRA Deputy Chair Andrei Sapunov, a Russian Orthodox Church (ROC) priest, has oversight for Christian affairs, reportedly including official veto power over other Christian groups. According to Forum 18, Sapunov's permission is a precondition for the functioning of other Christian groups. Moreover, according to a 2008 Forum 18 report, some ROC members claim that Sapunov provides confidential information from the confessional to the secret police and members of religious minorities also claim that CRA officials appointed under President Berdimuhamedov tend to favor state-controlled Islam and deny permission for non-Muslim activity even more often than did their predecessors appointed under Niyazov.

The Turkmen government continues to interfere in the internal leadership and organizational arrangements of various religious communities. Former President Niyazov requested that the Russian Orthodox Church in Turkmenistan fall under Moscow Patriarchate jurisdiction and be removed from the Central Asian diocese in Tashkent. In October 2007, the ROC Holy Synod in Moscow placed Turkmenistan's 12 ROC parishes and convent in Ashgabat under the Moscow Patriarchate's jurisdiction. One year later, the ROC Holy Synod named Bishop Feofilakt (Kuryanov) as the first head of the Patriarchal Deanery. The Commission also was informed in 2007 that the Turkmen Justice Ministry reportedly has taken upon itself to advise several smaller unregistered groups to combine with other, currently registered communities, without giving any consideration to possible doctrinal differences or some groups' need for organizational autonomy.

According to the State Department, members of religious minority communities in 2008 faced less harassment and detention than in previous years, although the situation reportedly remains more difficult outside Ashgabat. Several religious communities have been registered since 2004, a requirement in order for communities to engage in "legal" religious activities in the country. Registered religious communities, however, are also subject to check-up visits by local government or by secret or regular police units, Forum 18 reported in August 2008.

In response to international pressure, President Niyazov issued a decree in March 2004 stating that religious communities may register "in the prescribed manner," and reduced the registration requirement from 500 members to five. Nine small minority religious groups were registered soon after its enactment, including the Baha'i, several Pentecostal communities, Adventists, several Evangelical churches and the Society for Krishna Consciousness. In 2004, President Niyazov issued several additional decrees decriminalizing unregistered religious activities and easing other requirements for registration. These changes afforded officials the legal right to access information about the meetings of a religious group, and unregistered religious groups that did not meet the often arbitrary registration rules still faced administrative penalties that may include imprisonment and large fines. However, the Ashgabat parish of the Russian Orthodox Church was reregistered in 2005 and the Turkmenabat ROC parish reregistered in early 2006. The Source of Life Church in Turkmenabat and a Muslim group in Akhal were registered in late 2007. Reportedly, Shi'a Muslim groups were allowed to register collectively, but it is unclear when that occurred. Minority Christian religious groups reported that the climate for religious freedom did improve somewhat after the passage of the decrees.

The benefits of such formal registration are not fully clear, since even registered groups still face bans on meeting for worship in private homes, printing and importing religious literature, and on foreign citizens leading religious communities; they are also subject to financial restrictions. The religion law remains highly problematic and some of its provisions continue to violate international standards with regard to freedom of religion or belief. These problems include: intrusive registration criteria; the requirement that the government be informed of all financial support received from abroad; a ban on worship in private homes for unregistered groups; a prohibition on the public wearing of religious garb except by religious leaders; and severe and

discriminatory restrictions on public and private religious education.

Under the official registration procedure, the CRA advises the government on registration, the Justice Ministry manages the actual registration process and all applications are reviewed by a commission which also includes representatives from the Ministries of Justice and Internal Affairs, and the Security Service. The review process should take from one to three months and groups denied registration are supposed to receive a written explanation. In practice, however, various difficulties arise. For example, the CRA may not find problems with a registration application, but the Justice Ministry may oppose it reportedly for arbitrary reasons. Officials refuse to issue written registration denials, but reportedly Justice Ministry officials have not only based refusals on spurious clerical errors but have sometimes suggested that in order to be registered, religious groups must remove points from their church charter documents. In addition, the registration status of branch religious organizations remains unclear, despite a temporary registration procedure in 2005. The head of the Justice Ministry's Registration Department told the Commission in 2007 that a branch organization automatically receives legal status after it is entered in the national register.

Reportedly, Jehovah's Witnesses applied for registration in April 2008, but are not known to have received a response up to the present. Roman Catholics have not requested registration because their senior priest is required under Turkmen law to be a Turkmen citizen, but they are permitted to hold services administered by two Polish priests in a Vatican diplomatic entity in Ashgabat. Ethnic Turkmen Protestant congregations hesitate to apply to register since they still cite likely official opposition due to the view of many Turkmen officials that ethnic Turkmen are supposed to be Muslim. The Armenian Apostolic Church is not registered and local residents told Forum 18 that Armenians constitute about 15 percent of Russian Orthodox Church attendees in Turkmenistan.

In February 2007, President Berdimuhamedov ordered the establishment of a government commission, led by the Chairman of the Supreme Court, to examine citizens' petitions on the work of law enforcement bodies, though neither its membership nor procedures were specified. This commission continued a Niyazov tradition that citizens may petition the president, but this time government agencies were designated to respond to petitions. Reportedly, this commission received thousands of petitions on police abuse, bribery, and unjust arrests and prosecutions. However, it is not known if authorities have followed up on these complaints or whether they have addressed these petitions either individually or through the adoption of new policies.

In August 2007, the new commission issued its first decision, namely to pardon and release 11 prisoners of conscience, including former Chief Mufti Nasrullah ibn Ibadullah, who had been serving a 22-year prison term imposed in a closed 2004 trial. The former chief mufti, who had opposed Niyazov's decree that the *Ruhnama* be displayed in mosques, had been charged with treason for an alleged role in a 2002 coup attempt against Niyazov. Ibadullah was allowed to resume work with the official Council of Religious Affairs, no longer as a deputy chairman but as a senior adviser. There is currently another reported case of a Sunni mullah who reportedly has been held since 2006 in a closed psychiatric hospital in the Lebap region after giving sermons critical of the Turkmen government in a village in the Kaakha district near Ashgabat, according to Forum 18. His name and current status are unknown.

Turkmen law requires all males to serve in the military, makes criminal the refusal to do so, and provides no civilian service alternative for conscientious objectors. In September 2008, the UN Special Rapporteur on the Freedom of Religion and Belief, Asma Jahangir, expressed concern over this issue, stressing that the right to perform an alternative, non-military service is part of the freedom of thought, conscience, and religion guaranteed in Article 18 of the International Covenant on Civil and Political Rights. The introduction of alternative civilian service was one

recommendation to Turkmenistan under the December 2008 Universal Periodic Review of that country by the UN Human Rights Council. In March 2009, however, a Turkmen government official rejected that recommendation. Shirin Akhmedova, director of the Presidential Institute on Democracy and Human Rights, pointed to the Turkmen Constitution, as revised by President Berdimuhamedov in September 2008, which refers to the defense of Turkmenistan as the "sacred duty of every citizen." The Commission also raised the issue of alternative service during its meeting with President Berdimuhamedov in August 2007.

Those who refuse to serve in the Turkmen military face a maximum penalty of two years' imprisonment. In 2007, six members of the Jehovah's Witnesses were sentenced to prison for their refusal of military service, though four were later pardoned and the other two received suspended sentences; those with suspended sentences also had some of their wages garnished by the state. In 2008 and 2009, three other Jehovah's Witnesses also received suspended sentences for refusal to serve in the military. Of these, one Jehovah's Witness has indicated that his local military commission intends to reinstate charges against him at the end of the suspended sentence, according to Forum 18.

During the Commission's visit to Turkmenistan, President Berdimuhamedov announced a new commission to examine how the country's laws conform to international human rights commitments. President Berdimuhamedov acknowledged in August 2007 that his country "may have some shortcomings on religion and other issues." In February 2008, Forum 18 reported that the director of the Presidential Institute on Democracy and Human Rights, Shirin Akhmedova, pledged that the process of amending the Turkmen religion law would be "transparent" and would involve "international experts" and claimed that Turkmen citizens could also suggest amendments.

The Turkmen government requested in 2008 that the U.S. Agency for International Development (USAID) provide a technical critique of Turkmen laws affecting religious freedom. USAID awarded a grant in 2008 to a U.S. non-governmental group, the International Center for Not-for-Profit Law, (ICNPL) to analyze the laws. As of this date, the ICNPL legal review is not known to have been incorporated into new legislation.

By requiring official permission for construction, the Turkmen government restricts the number of mosques and other houses of worship. Many denominations are not allowed a place of worship and it is illegal for unregistered religious groups to rent, purchase, or construct buildings. Even registered communities often cannot rent premises for worship and therefore cannot meet as communities. Some registered religious communities have had to move their meeting places more than a dozen times over the period of a year, Forum 18 reported in 2008. Meeting for worship in unapproved areas, such as private homes, can lead to police raids and court-imposed fines. For instance, in 2008, several Jehovah's Witnesses were threatened by police with rape and forced to recant their faith, according to Forum 18.

President Berdimuhamedov told the Commission in 2007 that the Turkmen government recently had granted land to build a new Russian Orthodox Church in Ashgabat. Reportedly, construction of the Russian Orthodox cathedral is proceeding, albeit slowly, allegedly due to the need to design the building to withstand earthquakes.

Five registered minority religious communities have managed to establish places of worship, three of which are rented and two are in the private homes of Baha'i and Krishna Consciousness community members. It is illegal for religious groups to rent or buy worship space. Worship in private homes is limited to members of nuclear families who belong to registered religious communities, although Turkmen officials have told the State Department that worship in private homes is allowed if neighbors do not object. Nevertheless, security police reportedly break up religious meetings in private homes and search homes without warrants. The leader of a registered Christian community told the Commission in 2007 that after his group was registered he could no longer invite friends and

family to worship, even in his own apartment. His group reportedly was told by the government that private worship must be limited to husband and wife and children and could not include adult parents and siblings.

Reportedly, the Turkmen government has pressured some groups to write letters stating that they will not gather for worship until they are officially registered and that the registration requirements promulgated in 2004 still will require religious adherents to request official permission before holding worship services. One leader of a registered Pentecostal church told the Commission in 2007 that his home in Ashgabat had been confiscated by the government in 2003 because unsanctioned worship services were held there. Despite years of effort, he has been unsuccessful in efforts to have his personal property returned to him.

Under the new government there have been no reports of the destruction of any houses of worship by the Turkmen authorities, unlike under the Niyazov government when at least a dozen houses of worship were reported to have been closed, confiscated, or destroyed. Some new construction of houses of worship is underway, although according to the State Department, the government refuses to allow the construction of three Shi'a mosques. In March 2007, the parliament voted funds to finish construction of a mosque in the city of Mary and in October, the governor of the Dashoguz region announced a tender for construction of a large new mosque. The Turkmen state announced in 2008 that it is building mosques at state expense in Koneürgench in the northern Dashoguz region, and in Mary in the east of the country. Reportedly, a mosque is under construction in 2009 and will be named in honor of President Berdimuhamedov; one million dollars for the building will be drawn from a special presidential fund. In all these cases, however, the Turkmen government has provided grossly inadequate compensation to the owners of private houses destroyed on the sites of the future state-funded mosques.

A court ruling in 2006 denied compensation to the Seventh Day Adventist community for the government's destruction of its church. Despite the country's vast financial resources from the sale of natural gas (most funds reportedly are held in personal accounts in western banks) Turkmen officials told Forum 18 in August 2008 that no compensation would be paid to any religious community for the destruction or confiscation of their houses of worship under Niyazov. Thus, Muslims in various parts of Turkmenistan will not receive any compensation for the dozen destroyed or confiscated mosques; the Armenian Apostolic Church would get neither compensation nor the return of their century-old church in Turkmenbashi, partially destroyed by the state in 2005; the Adventist and Hare Krishna communities would not be compensated for their places of worship destroyed by the state in 1999; nor would Ashgabat's Baptist and Pentecostal communities be returned their places of worship confiscated by the government in 2001.

The publication of religious literature inside Turkmenistan is banned by decree. The CRA must approve the content of all religious literature, but since Islam and Russian Orthodoxy are the only religions represented, CRA experts' knowledge on other religions is limited. The local CRA frequently confiscates literature and photocopies it. Religious communities reportedly need a government license to reproduce religious literature already in their possession. One leader of a registered Protestant community said that the Justice Ministry had threatened his church for attempting to make copies of religious material without a license.

By law, only registered religious communities are permitted to import religious literature, depending on the number of people in a given congregation. Unlike in previous years, ethnic Turkmen members of unregistered religious groups accused of disseminating religious material were not singled out for harsh treatment, the State Department reported. Members of religious minority communities report that they are usually denied official permission to import religious literature and it is often confiscated before it can be submitted for official examination. One leader of a registered religious minority community told the Commission in 2007 that one may receive some religious material

from abroad, but it cannot be shared. The head of one registered religious community told the Commission in 2007 that no pastor in his church had received official permission to import the legal allotment of any religious text, even though his church had translated some religious literature into Turkmen for government officials. The leader of one minority religious community told the Commission in 2007 that he had been detained for receiving Christian materials in the mail and was instructed to ask the sender not to send any more religious material.

The Russian Orthodox Church can receive and distribute Bibles easily, but reportedly it does not share them with Protestants because they are viewed as competitors. Moreover, the Russian Orthodox community was itself affected by past official policies, which banned Turkmen residents from receiving Russian publications by mail, including the *Journal of the Moscow Patriarchate*. As of this writing, that ban remains in effect.

Most international religious websites are not accessible by Internet users in Turkmenistan, especially since Internet access is provided only via state providers. Moreover, a special computer program reportedly searches emails for coded words that could be used to send "unreliable information", and "a suspicious message" will not reach the intended addressee, Forum 18 reported in 2008. Religious literature, CDs, and DVDs found during police raids on private religious meetings are routinely confiscated and rarely returned unless owners persist in their efforts at risk to themselves. Bibles and other literature were confiscated from Jehovah's Witnesses in Ashgabat in March 2008.

Customs officers restrict returning travelers, regardless of citizenship, to only a small amount of religious literature for personal use. One Orthodox believer told Forum 18 in 2008 that on at least five occasions religious material had been confiscated from Orthodox priests at the Turkmen border. Some Russian Orthodox churches have small bookstalls, but supplies of books, baptismal crosses, and icons are limited and often too expensive for local people. Protestants have expressed regret to Forum 18 that neither a Bible Society nor Christian bookshops are allowed to exist. When the Commission delegation raised the issue of religious literature with the CRA, ROC representative Father Sapunov stated that in his church's view, Turkmenistan had enough religious literature. Deputy Chairman Nurmukhamet Gurbanov said that there is no evidence that Turkmen citizens did not have the right to import religious literature.

Turkmenistan's religion law bans the private teaching of religion and those who engage in such instruction are legally liable. Only those who have graduated from institutions of higher religious education (domestic or foreign is not specified) and approved by the CRA may offer religious instruction. Citizens have the right to receive religious education alone or with others from these official institutions; some independent religious education takes place unofficially.

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

Until its 2005 dissolution under the Niyazov government, Turkmen State University maintained a Muslim theology faculty. The State Department reported that the CRA planned to reestablish the theology faculty, but no action has yet been taken. Devout Muslims have also expressed concern that the government had replaced imams with Islamic theological education by those without such training, Forum 18 reported in 2008. Muslims have stated that they view the authorities' removal from office of ethnic Uzbek minority imams and their replacement with ethnic Turkmen imams, as constituting ethnic discrimination, Forum 18 reported in August 2008.

The country's largest religious minority, the Russian Orthodox, has no institution for religious

education in Turkmenistan, although under Niyazov, men were allowed to leave the country to train for the clergy. The Shi'a, mainly found among Iranian and Azeri ethnic minorities, also have no religious training institutions in Turkmenistan. Religious minorities, even those with registration status, are also in a difficult situation. One religious minority leader has said that most religious training is conducted informally, in private homes.

Under Niyazov, there was deliberate official interference in the ability of Turkmen religious adherents to travel outside the country. Many of these policies have continued under the new government. Entry visas are refused to religious workers who are, in many cases, critical to the functions of a particular religious community, and other individuals known to participate in religious activities have been prevented from leaving the country. In 2008, Turkmen authorities continued to limit the number of Muslims permitted to perform the *hajj* to only 188 of the country's official quota of 4,600. President Berdimuhamedov has claimed that while the government will pay for only one planeload (188 people) of Muslim *hajj* pilgrims, there is no legal limit on those who make the *hajj* at their own expense. The State Department reported that apparently "significantly" more self-financed pilgrims were permitted in 2008 to undertake the *hajj* than in previous years.

Although the Turkmen government has opened the country to numerous representatives of international organizations and has somewhat eased foreign travel, nevertheless, in March 2009 it rejected a Russian proposal for visa-free travel between their countries. Moreover, despite official denials, the Turkmen government reportedly maintains a secret "black list" of individuals who are denied permission to enter or leave the country. A Baha'i activist told the Commission in 2007 that there is a secret ban on invitations for relatives to visit Turkmenistan, although Baha'i adherents can leave the country on visits. Artygul Atakova, wife of former Baptist prisoner Shageldy Atakov, was not allowed to leave Turkmenistan in June 2008. The last known visit to Turkmenistan by a clergyman of the Armenian Apostolic Church was in 1999, although the country has a long-standing ethnic Armenian minority. The State Department reported that in April 2008, a Turkmen Evangelical pastor was prevented from travelling to Ukraine to attend a wedding.

Nevertheless, the new Turkmen government has also allowed international travel for the representatives of certain religious communities. In 2007, the government granted visas to four priests who are Russian citizens invited by the church to serve in Turkmenistan. ROC Metropolitan Kyril visited Turkmenistan in May 2008, the first visit by a ROC leader since 2003. Though Muslims are not allowed to travel abroad for religious education, ROC men are allowed to study for the priesthood at ROC seminaries outside Turkmenistan. For the first time in many years, a Hare Krishna devotee was allowed to travel to India in early 2008 to take part in a religious festival. In March 2008, regional Catholic leaders visited the country for a religious retreat. A few foreign visitors invited by local religious communities have also been able to visit Turkmenistan. For example, the head of the Seventh Day Adventist's Euro-Asia Division visited in September 2008, the first time in eight years that a member of that denomination was permitted to visit the country on an official work visa.

There is evidence that the new Turkmen government is moving away from Niyazov's personality cult and the forceful official promotion of a book containing the late president's "spiritual thoughts," known as *Ruhnama*. Under Niyazov, imams were also reportedly instructed to repeat a loyalty oath to the "fatherland" and to Niyazov after each daily prayer. The oath of loyalty to Niyazov has been curtailed and limited only to certain occasions. Students were also required to study the *Ruhnama* at public schools and institutes and study of that text replaced many academic subjects. The Turkmen Academy of Sciences, closed at Niyazov's order, has been re-opened. Articles by Turkmen historians and the works of four classical Turkmen authors have been published. In August 2008, the country hosted an international conference on the archeology of Turkmenistan, in a shift from Niyazov's insistence that such topics be viewed through the distorted prism of the *Ruhnama*.

Nevertheless, the future of the presidential personality cult in Turkmenistan remains unclear. A Turkmen official told Radio Free Europe/Radio Liberty in February 2008 that Berdimuhamedov had ordered the removal of all Niyazov portraits and of *Ruhnama* citations from the outside of buildings throughout the country. Although Niyazov's portraits are being removed, many large portraits and posters of the new president are now visible, marking the possible start of a new presidential personality cult, but without religious overtones. Indeed, according to the March 2009 Silk Road publication, "Dismantling Totalitarianism? Turkmenistan under Berdimuhamedow," the new presidential concept of the "Great Renaissance" has supplanted Niyazov's "Golden Age of the Turkmens" and is linked to the new president's grandiose project of economic, social, as well as spiritual advance; by 2008 all references to the *Ruhnama* and Niyazov had disappeared. In this regard, according to the Silk Road publication, President Berdimuhamedow is "pragmatic and cautious" as he "gradually dismantles old ideological concepts without causing major disruptions." The new president preserves "selected elements and institutions of the old regime, which can lend support" to his ideology, but at least for now, Berdimuhamedov seems less interested than [Niyazov] "in calling upon the divine nature of the presidency or other extreme manifestations of the personality cult."

The State Department reported that the *Ruhnama* has been removed from many mosques, including the large mosque in Niyazov's native village of Gipchak, although the *Ruhnama* inscriptions continue to dominate the exterior and interior walls. The Commission delegation visited the Gipchak mosque, and inside, above the *mikhrab*, or the special bay in the main mosque wall directed toward Mecca, was inscribed the word "Turkmenbashi," Niyazov's self-designated title, in a display that most Muslims would consider deeply offensive. Turkmenistan's chief mufti stated that "the *Ruhnama* citations do not violate Islamic law because there is no requirement that there be writings inside a mosque." An Interior Ministry official claimed that the mosque inscriptions had been discussed with Arab representatives prior to the mosque construction and that no one had expressed concern "because all of the verses from the *Ruhnama* that appear within the mosque relate to Turkmenistan's relationship with God." Nevertheless, a new mosque has reportedly been dedicated to the new president and its one million-dollar construction cost comes from a special presidential fund.

Official and unofficial sources report a decreased role for the *Ruhnama* in the Turkmen educational system, although it is difficult to assess as press freedom and internal travel by foreigners are severely curtailed. Under Niyazov, one hour per day in institutions of higher learning was devoted to study of the text; currently, reportedly study of the *Ruhnama* has been reduced to one hour per week, although students apparently must still pass exams on it. The State Department reported that President Berdimuhamedov continued with plans first developed in 2006 to open a *Ruhnama* university in 2009, though the projected university's focus reportedly includes a more international outlook. In fact, all of Niyazov's texts remain in the curriculum but teachers are now advised not to mention the chapters about Niyazov and his family, the Turkmen Initiative for Human Rights (TIHR) reported in March 2009. Copies of the *Ruhnama* are being removed by officials from the Presidential Administration from government agencies and organizations in various regions of the country. The *Ruhnama* corners in every public institution are also reportedly being closed. New textbooks hurriedly produced and printed in the past year, reportedly are a mix of new and Soviet-era educational materials, embellished with photographs of the new president in place of those of Niyazov. In addition, reportedly Presidential Administration representatives now sell public institutions, including schools, books on medicine, on the history of his family and on Akhal-Tekke horses written by President Berdimukhamedov.

In 2008, Turkmenistan has hosted representatives of various international organizations, such as the United Nations and OSCE. In September

2008, after five years of requests, Asma Jahangir, the UN Special Rapporteur on Freedom of Religion or Belief, visited Turkmenistan. In her report, she noted that religious freedom has improved since 2007. Nevertheless, she raised concerns about: vague or excessive legislation on religion and its arbitrary implementation; prohibition of the activities of unregistered religious communities, and continued restrictions on places of worship and on the import of religious material. As the Special Rapporteur stated in a press release, however, these concerns were ignored in the official Turkmen media, which reported only her remarks that praised the reforms initiated by the new Turkmen president. The OSCE's Ashgabat Center held a May 2008 workshop to provide Turkmen lawmakers with the tools for an effective legal reform process.

During the initial universal periodic review of Turkmenistan in December 2008 by the UN Human Rights Council, the country rejected calls for various human rights reforms, such as the release of political prisoners. The Turkmen government representative, however, said that the inter-agency Commission established in August 2007 had sent a proposal to parliament to amend the religion law and address registration issues, citing the USAID-funded study as the basis for that proposal. To date, no known proposal has been sent to the parliament.

Recommendations for U.S. Policy

I. Expanding U.S.-Turkmen Bilateral Relations

The Commission recommends that the U.S. government should:

- appoint an ambassador to Turkmenistan as soon as possible, as the United States has not been represented by a fully accredited ambassador for three years; previous U.S. ambassadors have played an important role in highlighting the importance of respect for human rights in Turkmenistan; and
- establish a program of bilateral meetings with the government of Turkmenistan on human rights and on freedom of religion or belief, to discuss ways Turkmenistan can implement laws and practices to comply with international human rights standards, as well as establish a regular reporting mechanism on these issues.

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

The Commission recommends that the U.S. government should encourage the government of Turkmenistan to:

- repeal all laws, decrees or regulations, including through amendments to those articles of the religion law, that are found to be in violation of international norms on freedom of religion or belief, for example, by implementation of the recommendations of the recent USAID-funded analysis of that law;
- eliminate intrusive and onerous registration procedures and abolish criminal or other penalties for engaging in religious or other peaceful activity solely because it has not been approved by the state;
- halt unlawful arrest, detention, harassment, deportation, fines, as well as residential and workplace intimidation of members of religious communities due to their peaceful practice of religious or other beliefs;
- end fully the harassment and unlawfully deportation of religious leaders and the imposition of fines on members of peaceful unregistered religious communities whose activities officially are deemed "illegal;"
- end the imposition of the *Ruhnama* or other state-sponsored texts or ideology in public institutions and religious organizations;
- promulgate new regulations and adopt new policies to ease the importation of religious and other material and permit the domestic printing

and dissemination of such material in accordance with international standards;

- reestablish the Muslim theology faculty at Turkmen State University;

- restore genuine legal alternatives to military service on grounds of religious or conscientious objection based on international precedents, including those of the OSCE, and cease the criminal prosecution of, and fully restore the civil and political rights of, Jehovah's Witnesses and others who refuse to serve in the army on the grounds of conscience;

- expand and regularize the work of the government's Commission to Examine Turkmenistan's Legal Obligations under International Human Rights Law, established in August 2007, including by the systematic and effective involvement of international legal experts, such as those of the OSCE Panel of Experts on Religion or Belief and the OSCE Panel on Freedom of Association, and relevant UN experts;

- reform the government's other policies toward religious practice, including the end of state interference in the management of religious communities and the selection and training of religious leaders, including from Sunni and Shi'a Muslim and the Russian Orthodox communities, as well as from Protestant and other minority communities; and

- permit a Commission delegation to return to Turkmenistan to assess progress on implementation on freedom of religion or belief, including Constitutional amendments and legislative reforms, to speak with current or former prisoners of conscience in places of detention and to speak unimpeded with religious and other organizations and their members.

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

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

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

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

  --restoring Voice of America's Russian-language television and radio broadcasts to Central Asia, particularly relating to human rights, including freedom of religion or belief.

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

  --expanding "American corner" reading rooms and Internet access in various regions;

  --reprinting Russian and Turkmen-language materials on human rights, particularly on international norms on freedom of religion or belief including civic education materials, such as "The Law that Unifies Us," first published and distributed by the OSCE Center in Ashgabat; and

  --providing funds for libraries in Ashgabat and other cities, including materials on human rights, as well as on freedom of religion or belief,

tolerance, civic education, and international legal standards;

- develop assistance programs to encourage civil society groups that protect human rights and promote freedom of religion or belief, including by expanding legal assistance programs for representatives of religious communities through grants that address freedom of religion or belief via the USAID Democracy and Conflict Mitigation or the Democracy Commission Small Grants program administered by the U.S. Embassy;

- expand international contacts and increase U.S. involvement in communities in Turkmenistan by increasing the budgets of Peace Corps and USAID programs, include religious leaders in community projects in efforts to address social problems and to increase religious and ethnic tolerance, and expand exchange programs, including with civil society leaders, students, and others concerned with human rights; and

- cooperating with the OSCE Center in Ashgabat, including by resuming joint activities with human rights activists from Turkmenistan to encourage civic education, including on international norms on freedom of religion or belief as well as other human rights, and also by encouraging the OSCE officially to respond to the Turkmen government's offer in May 2007 to host an OSCE experts' level meeting.

III. Strengthening Efforts in the International Arena

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

- implement the recommendations of the October 2006 Report of the UN Secretary General on the Situation of Human Rights in Turkmenistan and the 2008 recommendations of the UN Human Rights Council during the Universal Periodic Review of Turkmenistan;

- agree to the numerous requests for visits by the UN Special Rapporteurs, as well as representatives of the OSCE, including its Panel of Experts on Freedom of Religion or Belief, and provide the full and necessary conditions for such visits; and

- participate fully in the OSCE, including in the annual Human Dimension meeting in Warsaw and expanding the activities of the OSCE Center in Ashgabat, particularly on human rights, including programs with local schools, universities, and institutes on human rights standards, including on freedom of religion or belief.

Uzbekistan

Since Uzbekistan gained independence in 1991, fundamental human rights, including freedom of religion or belief, have been under assault. A restrictive law on religion severely limits the ability of religious communities to function and facilitates the Uzbek government's exercise of a high degree of control over religious communities and the approved manner in which the Islamic religion is practiced. The Uzbek government has continued to arrest Muslim individuals and harshly repress those groups and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This policy has resulted in the imprisonment of thousands of persons in recent years; many are reportedly denied the right to due process and are subjected to torture. Though security threats do exist in Uzbekistan, including from members of *Hizb ut-Tahrir* and other groups that claim a religious linkage, these threats do not excuse or justify the scope and harshness of the government's ill-treatment of religious believers. The Commission recommends that the Secretary of State continue to designate Uzbekistan as a "country of particular concern," or CPC. The Commission's CPC recommendation for Uzbekistan should not be construed as an exculpatory defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred of the West, moderate Muslims, Jews, and others. Since 2006, the State Department has designated Uzbekistan a CPC.

Despite the constitutional separation of religion and state, the Uzbek government strictly regulates Islamic institutions and practice through the officially sanctioned Muslim Spiritual Board (the Muftiate). In 1998, the Uzbek government closed down approximately 3,000 of the 5,000 mosques that were open at that time. According to the State Department, a few independent mosques were allowed to operate quietly under the watch of official imams. In the Ferghana Valley, viewed as the country's most actively religious region, the state has confiscated a number of mosques and used them as warehouses or for other state purposes. Several years ago, the government introduced various administrative and other obstacles to daily practice in this region. For example, in the Andijon area, the regional head of administration instituted restrictions on Islamic practice, such as bans on the five daily public calls to prayer from mosques and on the preaching by mullahs at weddings. The State Department reported in 2006 that regional officials in Uzbekistan have been instructed that children should not attend mosque.

The state fully controls the training, appointments, and dismissals of Muslim leaders through the Muftiate. There are 10 state-controlled *madrassas* (including two for women) that provide secondary education in Uzbekistan and an official Islamic Institute and Islamic University in Tashkent that provides higher educational instruction. Despite the presence of a Shi'a minority in the country, there is no training for Shi'a religious leaders, nor does the government recognize foreign Shi'a religious education, though the State Department reports that Sunni *madrassas* offer some courses in Shi'a jurisprudence. The state also closes or confiscates privately-funded religious schools.

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 whom the government claims are associated with extremist groups such as *Hizb ut-Tahrir*. As of 2007, according to a State Department estimate, there were at least 5,000–5,500 such persons in prison, including individuals sent to psychiatric hospitals. According to international and Uzbek human rights activists, the only "crime" of these individuals is performing daily prayers and studying Islam. In 2008, the State Department reported that the Uzbek government has instructed some neighborhood committees and imams to identify local residents who might become involved in extremist activity or groups, using those who prayed daily or were overtly devout as criteria. Moreover, "authorities made little distinction between actual members [of the extremist group *Hizb ut-Tahrir*] and those with marginal affiliation with the group, such as persons who had attended Koranic

study sessions with the group." Human rights organizations report that many of those in detention were arrested on false drug charges or for possession of literature of a banned organization. Once arrested, they often are denied access to a lawyer or are held incommunicado for weeks or months. Many of those imprisoned or detained for charges related to religion are treated particularly harshly; prisoners who pray or observe Muslim religious festivals reportedly are subjected to further harassment, beatings, and torture in an effort to force them to renounce their religious or political views.

The use of torture continues to be widespread in Uzbekistan, despite promises from the government to halt the practice. The UN Special Rapporteur on Torture, in his February 2003 report on Uzbekistan, concluded that "torture or similar ill-treatment is systematic" and that the "pervasive and persistent nature of torture throughout the investigative process cannot be denied." Reliance on the use of torture in detention did not significantly decrease, despite the Uzbek Supreme Court's 2004 decree banning the use of evidence obtained by torture or other illegal means. In 2007, the UN Committee against Torture confirmed numerous, on-going, and consistent allegations that torture continues to be used during criminal procedures, often before formal charges are brought. The Uzbek government has taken some limited steps to eliminate torture in detention, but there were numerous reports that ill-treatment remained routine and systemic and that those who engaged in torture were rarely punished.

Torture and other abuses are common in prisons, pretrial facilities, and local police and security service precincts. In August 2008, Forum 18 reported that "the threat or use of physical violence, including rape and the use of gasmasks to block victims' air supply," are among the methods used to "try to force adults and children to renounce their beliefs or to make confessions implicating themselves or others. Torture and threats often follow frequent police and secret police raids against unregistered religious communities, frequently while people are detained after arrest." In May 2008, authorities delivered to his family the body of Odil Azizov, who had been sentenced to a 15 year-term for alleged religious extremism; according to the State Department, there reportedly were signs of torture on his body. Informants reported several cases of medical abuse, including forced psychiatric treatment on political grounds. There were also reports of attempted suicides by prisoners. Convictions in the cases described above are based almost entirely on confessions, which, according to the State Department, are frequently gained through the use of torture. Human Rights Watch reported that particularly since the 2005 Andijon events (see below), it has become much more difficult to verify independently government claims of combating torture and improving prison conditions. What is more, Uzbek authorities reportedly do not release prisoners, especially those convicted of religious extremism, at the end of their terms. Instead, prison authorities often extend inmates' terms simply by accusing them—without judicial review—of new crimes and claiming that the prisoners still represent a danger to society. According to the State Department, in 2008 the Uzbek government permitted a prison visit by the International Committee of the Red Cross.

The government of Uzbekistan does face threats to its security from certain extremist or terrorist groups that claim religious links, including the Islamic Movement of Uzbekistan, which has used violence but whose membership reportedly declined after U.S. military action in Afghanistan in late 2001 killed its leaders. Uzbekistan continues to experience occasional violent attacks of unclear motivation. In May 2005, after several thousand mostly unarmed civilians gathered on the Andijon central square to protest the trial of 23 local businessmen for alleged ties to Islamic extremism, Uzbek armed forces fired without warning into the crowd. Estimated fatalities range from an official Uzbek total of 187 to over 700, according to the Organization for Security and Cooperation in Europe (OSCE); some non-governmental organizations (NGOs) report that as many as 1,000 men, women, and children were killed. The Uzbek government continues to reject calls from the United States, the European Union

(EU), the OSCE, and the UN High Commissioner for Human Rights for an independent international investigation into these events.

In the aftermath of Andijon, Uzbek authorities jailed hundreds of local residents, human rights activists, and journalists on suspicion of involvement in the events. Human Rights Watch reported in December 2008 that the Uzbek government "continues to seek out and persecute anyone it deems to have a connection to, or information about, the Andijan events." One such individual is Saidjahon Zaynabitdinov, who had shown journalists bullet casings reportedly used by Uzbek armed forces in Andijon and with whom the Commission met on its visit to Uzbekistan in 2004. In February 2008, Zaynabitdinov, together with five other political prisoners, was released from his seven-year prison term—the day before the Uzbek government met with officials from the EU. Relatives of human rights defenders have also been targeted in attempts to pressure activists to stop speaking out about human rights violations; relatives of human rights activists have reportedly been threatened, dismissed from their jobs, beaten, and sometimes arrested, prosecuted, and imprisoned on fabricated criminal charges. The State Department reported that in several cases, the Uzbek government has pressured other countries forcibly to return Uzbek refugees who fled the Andijon events and who were under the protection of the Office of the UN High Commissioner for Refugees (UNHCR). In 2007, the UN Committee against Torture pointed to reports that some persons who had sought refuge abroad and were returned to Uzbekistan were kept in isolation in unknown places, and possibly subjected to breaches of the Convention against Torture.

Hizb ut-Tahrir, banned in most Muslim countries, purports not to engage in violence but is intolerant of other religions and has in some circumstances sanctioned violence. The group calls for a worldwide caliphate to replace existing governments and for the imposition of an extremist interpretation of Islamic law. Although it does not specify the methods it would use to attain those goals, it does, according to the State Department's religious freedom report, reserve the "possibility that its own members might resort to violence." In addition, the State Department reports that *Hizb ut-Tahrir* material includes "strong anti-Semitic and anti-Western rhetoric." Alleged members of *Hizb ut-Tahrir* comprise many of the thousands in prison; in most court cases, however, Uzbek authorities have not presented evidence that these persons took part in violent acts. Many of those arrested are wrongfully accused of membership or association, sometimes due to alleged—or planted—possession of *Hizb ut-Tahrir* literature at the time of arrest. The State Department reported in 2008 that as many as 4,500 of the estimated 5,000–5,500 political prisoners being held in detention were imprisoned based on alleged *Hizb ut-Tahrir* membership. It was also reported that in November 2007, three men who had been convicted of membership in *Hizb ut-Tahrir* died at a prison in Andijon; the bodies of reportedly showed signs of torture. According to the State Department, local human rights activists reported in the past year that police and security service officers, acting under pressure to break up *Hizb ut-Tahrir* cells, frequently detained family members and close associates of suspected members.

After the May 2005 Andijon events, the number of court cases against independent Muslims in Uzbekistan reportedly increased markedly. Before May 2005, the authorities often accused arrested Muslims of being members of *Hizb ut-Tahrir*; since that time, however, arrested Muslims are usually accused—frequently without evidence—of being "Wahhabis" or members of another banned Islamist group, *Akromiya* (see below), which played a key role in the Andijon events. Although in Saudi Arabia the term "Wahhabi" usually refers to followers of a highly restrictive interpretation of Sunni Islam, in Uzbekistan, it is an official catchphrase used to refer to a wide range of Muslim individuals and groups, including genuine extremists, those that are political opponents to the Karimov regime, and those who practice Islam independently of government strictures. For the Uzbek authorities, all these groups and individuals are equally suspect and subject to government repression. In June 2006, police confiscated a copy of the Koran, the *hadith* (sayings attributed to the prophet Muhammad), other religious books, and tape recordings of the exiled mullah Obid

kori Nazarov and his pupil Hairullah Hamidov, the Human Rights Initiative Group in Uzbekistan reported. The two men were arrested and accused of "Wahhabism," although reportedly they only sought independent religious education. Human rights sources indicate that Nazarov, forced to flee the country after the authorities branded him a "Wahhabi" leader, was not promoting extremism, but simply operating outside of government strictures.

The Uzbek authorities have also adopted repressive measures against entire families on charges of alleged religious extremism. Akhmadjan Madmarov, a human rights activist from the city of Margilan with whom the Commission met in 2004, is one example. In September 2007, Uzbek authorities extended by 16 and one-half years the sentence on Akhmadjan's son, Habibullah, charged with an alleged extremist conspiracy while he was in Navoi prison. Although one of Madmarov's sons was released on parole after he completed his seven-year term, another son and two nephews remain in prison; all have been charged with religious extremism, the State Department reported in 2008.

The Uzbek criminal code distinguishes between "illegal" groups, which are not properly registered, and "prohibited" groups, such as *Hizb ut-Tahrir*, *Tabligh,* a Muslim missionary movement which originated in South Asia in 1920, and *Akromiya*, a group based on the 1992 writings of an imprisoned Uzbek mathematics teacher, Akram Yuldashev, which, according to human rights defenders in Uzbekistan, espouse charitable work and a return to Islamic moral principles. According to the State Department, the Uzbek government has pressured and prosecuted members of *Akromiya* (also known as *Akromiylar*) since 1997, claiming that the group is a branch of *Hizb ut-Tahrir*, and that it attempted, together with the Islamic Movement of Uzbekistan, to overthrow the government through an armed rebellion in May 2005 in Andijon. The charges against the 23 businessmen on trial at that time included alleged membership in *Akromiya.*

Followers of the Turkish theologian Said Nursi appear to be the latest movement to have joined the roster of officially "prohibited" groups in Uzbekistan, although reportedly the "Nursular" are only a voluntary group of Muslims studying about their religion. Most recently, two groups of Nursi's followers were tried on charges of religious extremism in February 2009, including a group of five journalists who were sentenced to eight years in prison for producing a journal, "Spring," supposedly linked to Nursi. In December 2008, a third group of nine men were arrested in Bukhara after a secret police raid on a home of where the nine were discussing Nursi's writings. The police confiscated 79 religious books and other materials, although they reportedly had no search warrants. At a closed court hearing in late December, a criminal court ordered their continued detention in isolation. Their trial on charges of belonging to an extremist organization began in late April 2009.

Uzbekistan's Law on Freedom of Conscience and Religious Organizations, passed in May 1998, severely restricts the exercise of religious freedom. Through regulations that are often arbitrarily applied, the law imposes onerous hurdles for the registration of religious groups, particularly minority religious groups, such as stipulating that a group must have a list of at least 100 members who are Uzbek citizens and a legal address; criminalizing unregistered religious activity; banning the production and distribution of unofficial religious publications; prohibiting minors from participating in religious organizations; prohibiting private teaching of religious principles; and forbidding the wearing of religious clothing in public by anyone other than clerics. Only six entities meet the law's requirement that religious groups must have a registered central administrative body so as to train religious personnel. The law also limits religious instruction to officially sanctioned religious schools and state-approved instructors, does not permit private instruction, and levies fines for violations.

The government modified the country's criminal and administrative codes in late 2005 to introduce heavier fines for repeated violations of rules on religious meetings, processions, and other religious ceremonies, as well as for violations of the law on religious organizations. Forum 18 reported

in 2007 that the Uzbek National Security Service (NSS or secret police), particularly its Department to Fight Terrorism, enforces controls on all religious activity. According to an official Andijon regional government document, a regional branch of the Muftiate and the state Religious Affairs Committee were ordered "to bring under constant close observation" all registered religious organizations. Methods included stationing agents in and around places of worship, planting hidden microphones in houses of worship, and recruiting spies within communities. They were also ordered to "strengthen the struggle with individuals conducting illegal religious education and organizing small religious gatherings."

The law's effects on minority religious groups are evident. Many churches, particularly evangelical churches with ethnic Uzbek members, did not apply or reapply for registration because they did not expect local officials to approve their registration applications. Other groups, particularly those with too few members to qualify for registration, reported that they did not want to bring themselves to the attention of the authorities and possibly invite harassment, the State Department reported in 2008. Churches whose registration requests have been repeatedly refused included Bethany Baptist Church in the Mirzo-Ulugbek District of Tashkent, the Pentecostal Church in Chirchik, the Emmanuel and *Mir* (Peace) Churches in Nukus, the Hushkhabar Church in Guliston, the Pentecostal Church in Andijon, the Baptist Church in Gazalkent, and the Adventist, Greater Grace Christian, and Miral Protestant Churches, all in Samarkand. No Baptist church has successfully registered in the country since 1999; however, some groups, such as the Council of Churches Baptists, refuse on principle to seek registration. In November 2007, the Tashkent City Civil Court revoked the registration of the Grace Presbyterian Church of Tashkent by invalidating its property title and thereby depriving it of the legal address required for registration. The Uzbek government continues to threaten to halt the practicing of the country's last registered Jehovah's Witnesses community in Chirchik. The 10 Jehovah's Witnesses applied for registration at the local, regional, and national levels and received either a denial or no official answer, the State Department reported in 2008.

Uzbek government repression of non-Muslim groups increased in 2008, including threats of violence and arrest, police raids, massive fines, confiscation and destruction of religious literature, disruption of religious services, and detentions. Like Muslims who practice their faith outside of state-sanctioned structures, Protestants and Jehovah's Witnesses are frequently branded "extremists," and face ongoing harassment, detention, and arrest for "illegal religious activity," such as holding private prayer meetings or possessing "illegal" religious literature. In what may mark the start of a new repressive tactic, Uzbek police invited a Russian Orthodox priest to take part in a March 2009 raid on a group of Baptists holding a prayer meeting in a private house, Forum 18 reported. Also in March 2009, 20 officials raided the worship service of a registered ethnic Korean Baptist church in Tashkent, because official permission for the service had not been requested 10 days in advance; its pastor was later jailed for 10 days. After receiving an official warning for alleged violations of laws on public religious expression, the Presbyterian Church of Tashkent ceased regular worship in March 2008. In February 2008, a Baptist in the city of Ferghana was fined the equivalent of nine months' average wages for holding an unauthorized prayer meeting at his house, and the pastor of a registered Pentecostal church near Tashkent was fined over two months' average wages for violating the rules on teaching religion.

Although previously Protestants had not been threatened with lengthy prison sentences, in 2007 Pentecostal pastor Dmitri Shestakov from the city of Andijon was sentenced to a four-year term. Reportedly, Shestakov had been involved in the conversion of some ethnic Uzbeks to Christianity, but the official charges against him consisted of organizing an illegal religious group, inciting religious hatred, and distributing religious extremist literature. Four Jehovah's Witnesses, Abdumanob Ahmedov, Sergei Ivanov, Irfan Hamidov and Olim Turayev are serving prison terms ranging from two to four years on charges of teaching religion without

official permission or for organizing unauthorized religious meetings or organizations. Some regions, such as Karakalpakstan and Khorezm, are noted for particularly severe anti-religious campaigns, including expulsion of Hare Krishna and evangelical Protestant students from university and the state-ordered closure of almost all churches.

Although the Council on Religious Affairs (CRA) must approve all religious literature, the Ministry of Internal Affairs (MVD), NSS, Customs Service, and police may also suppress or confiscate religious literature, the State Department reports. Under the Religion Law, only seven registered religious organizations (an interdenominational Bible Society, the Muslim Board of Uzbekistan, two Islamic centers, and Russian Orthodox, Full Gospel, Baptist, and Roman Catholic offices) have the legal right to publish, import, and distribute religious literature. Under 2006 amendments to the criminal and administrative codes, those who engage repeatedly in the "illegal" production, storage, import, and distribution of religious literature can be imprisoned for up to three years. Moreover, a secret 2006 instruction reportedly limits the press runs of any religious book to fewer than 1,000 copies.

It is remains very difficult to secure permission from the CRA and the Muftiate to publish Muslim literature, and the CRA chairman has reportedly said that the import of foreign literature for Muslims had practically ceased. Imam Obidkhon Nazarov, the exiled former imam of Tashkent's Tukhtaboi mosque, told Forum 18 in 2008 that even books by renowned Muslim scholars were no longer published in Uzbekistan, including those of Said Nursi, whose followers continue to face arrests, as noted above. However, in addition to some books and periodicals published by the state-controlled Muslim Board, the independent former Chief Mufti, Muhamad Sadyk Muhamad Yusuf, does publish materials and host a regular radio show. Nonetheless, even legal imports of religious literature are subject to confiscation by police, while unregistered religious minority communities are banned entirely from producing religious literature, especially in the Uzbek language. Uzbek authorities continued to seize and destroy religious literature from Protestants, Hare Krishna adherents, Jehovah's Witnesses and others. In July 2008, the CRA informed the Bible Society that it had denied the import of 11,000 Bibles and Bible-related books in Uzbek, Karakalpak, and Russian, Forum 18 reported.

The Uzbek government continues to restrict international travel for religious purposes. In April 2008, the Ministry of Justice rejected the visa renewal application of Rabbi David Gurevich, who is a dual American-Israeli citizen and Head Emissary of the Hasidic World Lubavitch Movement; in June 2008 he was deported. For many years, the Uzbek government has allowed only 20 percent of the country's official quota of 25,000 pilgrims to make the religious *hajj* to Mecca, according to the State Department; in 2007, only 5,000 were permitted to go. Those who go must be approved by local authorities, the secret police, the CRA's *Hajj* Commission, and the Muftiate. Furthermore, *hajj* pilgrims reportedly must travel on state-run Uzbekistan Airlines and pay the equivalent of 200 times the monthly wage.

The Uzbek government has intensified its efforts to isolate the people of Uzbekistan since the 2005 Andijon events, cracking down on both domestic and foreign-based NGOs, particularly those that focus on human rights, and closing almost three-fourths of them in 2006. None of the 17 or more foreign-funded organizations closed temporarily or permanently by court decisions in 2006 and 2007 were able to reopen during the past year. Human Rights Watch re-established an office in Tashkent in early 2008, but in May 2007 its Uzbek staff member, Umida Niyazova, had been given a suspended seven-year prison term for allegedly storing "extremist materials" on her computer, referring to the organization's report on the Andijon events. One day before a meeting between EU and Uzbek officials in February 2008, Niyazova was "amnestied." In July 2008, however, the Uzbek government refused to accredit Human Rights Watch's country director, thereby effectively ending that organization's presence in Uzbekistan. Foreign NGOs accused by

the Uzbek government of engaging in proselytism also remained closed, the State Department reported in 2008. The Justice Ministry controls the accreditation required for the foreign staff of any NGO, enabling the government to expel or deny entry to those it suspects of proselytism. In December 2008, the Ministry of Justice re-registered the American Jewish Joint Distribution Committee (JDC), which distributes humanitarian aid, despite a threat the previous April to de-register the organization for allegedly violating Uzbek law.

Recommendations for U.S. Policy

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

I. Speaking in a Unified Voice in its Relations with the Uzbek Government

- 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 its dealings with the Uzbek government;

- following the European Union's October 2005 decision, reduce aid and arms sales to Uzbekistan and ban visits by high-level Uzbek officials in response to the Uzbek government's refusal to allow an independent investigation into the violence in Andijon in May 2005;

- ensure that U.S. assistance to the Uzbek government, with the exception of assistance to improve humanitarian conditions and advance human rights, be made contingent upon establishing and implementing a specific timetable for the government to take concrete steps to improve conditions of freedom of religion or belief and observe international human rights standards, steps which should include:

  --ending reliance on convictions based solely on confessions, a practice that often is linked to ill-treatment of prisoners, and implementing the recommendations of the UN Committee Against Torture (June 2002) and the UN Special Rapporteur on Torture (February 2003);

  --establishing a mechanism to review the cases of persons previously detained under suspicion of or charged with religious, political, or security offenses, including Criminal Code Articles 159 (criminalizing "anti-state activity") and 216 (criminalizing membership in a "forbidden religious organization"); releasing those who have been imprisoned solely because of their religious beliefs or practices as well as any others who have been unjustly detained or sentenced; and making public a list of specific and detailed information about individuals who are currently detained under these articles or imprisoned following conviction;

  --implementing the recommendations of the Organization for Security and Cooperation in Europe (OSCE) Panel of Experts on Religion or Belief to revise the 1998 Law on Freedom of Conscience and Religious Organizations and bring it into accordance with international standards;

  --registering religious groups that have sought to comply with the legal requirements; and

  --ensuring that every prisoner has access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments, and allowing prisoners to practice their religion while in detention to the fullest extent compatible with the specific nature of their detention;

- ensure that U.S. security and other forms of assistance are scrutinized to make certain that this assistance does not go to Uzbek government agencies, such as certain branches of the Interior and Justice Ministries, which have been responsible for particularly severe violations of

religious freedom as defined by the International Religious Freedom Act of 1998 (IRFA); and

- use appropriate avenues of public diplomacy to explain to the people of Uzbekistan both why religious freedom is an important element of U.S. foreign policy, and what specific concerns about violations of religious freedom exist in their country.

II. Encouraging Greater International Scrutiny of Uzbekistan's Human Rights Record

- work with other governments to urge the UN Human Rights Council to reverse its recent decision to end human rights scrutiny of Uzbekistan under confidential resolution 1503 and to address this situation in a public country resolution at the Council;

- encourage scrutiny of Uzbek human rights concerns in appropriate international fora such as the OSCE and other multilateral venues, and facilitate the participation of Uzbek human rights defenders in multilateral human rights mechanisms; and

- urge the Uzbek government to agree to a visit by UN Special Rapporteurs on Freedom of Religion or Belief and the Independence of the Judiciary and provide the full and necessary conditions for such a visit.

III. Supporting Uzbek Human Rights Defenders and Religious Freedom Initiatives

- respond publicly and privately to the recent expulsions of U.S. non-governmental organizations and the numerous new restrictions placed on their activities; unless these restrictions are rescinded, the U.S. government should make clear that there will be serious consequences in the U.S.-Uzbek bilateral relationship, including a ban on high-level meetings;

- continue the careful monitoring of the status of individuals who are arrested for alleged religious, political, and security offenses and continue efforts to improve the situation of Uzbek human rights defenders, including by pressing for the registration of human rights groups and religious communities;

- support efforts to counteract the Uzbek government's blockade on information into the country by increasing radio, Internet, and other broadcasting of objective news and information on issues relevant to Uzbekistan, including education, human rights, freedom of religion, and religious tolerance;

- continue funding for the Voice of America (VOA) Uzbek Language Service so as to meet the Broadcasting Board of Governors' stated goal of outreach to the Muslim world, including reaching the news-deprived population of Uzbekistan, as well as the large Uzbek diaspora in Afghanistan and other neighboring countries;

- increase foreign travel opportunities for civil society activists, religious leaders, and others in Uzbekistan concerned with religious freedom to permit them to take part in relevant international conferences;

- continue to attempt to overcome the objections of the Uzbek government in order to develop assistance programs for Uzbekistan designed to encourage the creation of institutions of civil society that protect human rights and promote religious freedom, programs that could include training in human rights, the rule of law, and crime investigation for police and other law enforcement officials; since such programs have been attempted in the past with little effect, they should be carefully structured to accomplish, and carefully monitored and conditioned upon fulfillment of, these specific goals:

  --expanding legal assistance programs for Uzbek relatives of detainees, which have sometimes led to the release of detainees;

  -- expanding "train-the-trainer" legal assistance programs for representatives of religious

communities to act as legal advisers in the registration process;

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

--encouraging national and local public roundtables between Uzbek officials and representatives of Uzbek civil society on freedom of religion; and

- increase opportunities in its exchange programs for Uzbek human rights advocates and religious figures, and more specifically:

--expand exchange programs for Uzbek religious leaders to include representatives from all religious communities; and

--ensure that the U.S. Embassy vigorously protests cases when an Uzbek participant in an exchange program encounters difficulties with the Uzbek authorities upon return to Uzbekistan, and if such difficulties continue, inform the Uzbek authorities that there will be negative consequences in other areas of U.S.-Uzbek bilateral relations, including a ban on high-level meetings.

Vietnam

The Commission has recommended that Vietnam be named a "country of particular concern" (CPC) every year since 2001. The State Department named Vietnam a CPC in 2004 and 2005, but removed the designation in 2006, two months before Vietnam received Permanent Normal Trade Relations (PNTR) with the United States, which enabled Vietnam to join the World Trade Organization (WTO). At the time, the State Department cited religious freedom progress and the release of "prisoners of concern" as reasons for lifting the CPC designation. The Commission recognizes that the CPC designation spurred important changes in Vietnam, including: the release of prisoners; new legal protections for nationally recognized religious groups; the prohibition of the policy of, and an ensuing overall reduction in, forced renunciations of faith; and an expanded zone of toleration for worship activities, particularly in urban areas. Nevertheless, there continue to be far too many serious abuses and restrictions of religious freedom in the country. Individuals continue to be imprisoned or detained for reasons related to their religious activity or religious freedom advocacy; police and government officials are not held fully accountable for abuses; independent religious activity remains illegal; and legal protections for government-approved religious organizations are both vague and subject to arbitrary or discriminatory interpretations based on political factors. In addition, improvements experienced by some religious communities are not experienced by others, including the Unified Buddhist Church of Vietnam (UBCV), independent Hoa Hao, Cao Dai, and Protestant groups, and some ethnic minority Protestants and Buddhists. Also, over the past year, property disputes between the government and the Catholic Church in Hanoi led to detentions, threats, harassment, and violence by "contract thugs" against peaceful prayer vigils and religious leaders. Given the ongoing and serious problems faced by Vietnam's religious communities, the uneven pace of religious freedom progress after the CPC designation was lifted, the continued detention of prisoners of concern, and a deteriorating human rights situation overall, the Commission again recommends that Vietnam be designated as a CPC in 2009.

Over the past year, religious freedom conditions have not improved as quickly or as readily as other areas of the U.S.-Vietnamese relationship. Nevertheless, there is reason to believe that the government of Vietnam will engage on the international community's concerns about restrictions and abuses of religious freedom. The Commission traveled to Vietnam in October 2007 and was given access to high level government and provincial officials, religious prisoners and their families, and other dissidents. Non-governmental organizations (NGOs) have also engaged the government on religious freedom concerns over the past year, and religious freedom was a part of the renewed annual U.S.-Vietnam human rights dialogue. However, the frequency of these exchanges is neither as structured nor as focused on concrete results as those between 2004 and 2006, when Vietnam was named a CPC. The Commission will seek to travel to Vietnam in 2009 to engage government officials on ongoing concerns and seek additional information on current conditions. The Commission urges the Obama Administration to re-evaluate its use of diplomatic and political resources to advance religious freedom and related human rights in its relations with Vietnam, and encourages the Administration to view CPC designation as a flexible tool in light of its previous success in spurring serious diplomatic engagement and achieving measurable improvements, while not hampering progress on other areas in the U.S.-Vietnam relationship.

Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam joined the WTO in January 2007. Vietnam is an authoritarian state governed by the Communist Party. Over the past two years, the government has moved decisively to repress any perceived challenges to its authority, tightening controls on the freedom of expression, association, and assembly. New decrees were issued last year prohibiting peaceful protest in property disputes and limiting speech on the internet. As many as 40 legal and political reform advocates, free speech activists, human rights defenders, labor unionists, journalists, bloggers, and independent religious leaders and religious freedom advocates have been arrested and others have been placed under

home detention or surveillance, threatened, intimidated, and harassed. Given the prominence of religious leaders in advocating for the legal and political reforms needed to fully guarantee religious freedom, their continued imprisonment or detention must be considered when measuring religious freedom progress in Vietnam. Over the past two years, individuals motivated by conscience or religion to peacefully organize or to speak out against restrictions on religious freedom and related human rights continue to be arrested or detained, including Nguyen Van Dai, Fr. Nguyen Van Ly, Le Thi Cong Nhan, and at least two dozen members from the Hoa Hao, Cao Dai, and Khmer Buddhist communities.

Yet despite these significant problems, the number of religious adherents continues to grow in Vietnam. In large urban areas, the Vietnamese government continues to expand the zone of permissible religious activity for Catholics, non-UBCV Buddhists, and some Protestant groups. Religious leaders in Hanoi and Ho Chi Minh City report few overt restrictions on their normal worship activities, and the government continues to support, for the most part, the building of religious venues and the training of religious leaders. However, lingering property disputes over venues and facilities previously confiscated by the Communist government created serious tensions in Hanoi last year, including church demolitions, arrests, and societal violence. In some parts of the Central Highlands, particularly Gia Lai province, most of the churches and meeting points closed after 2001 and 2004 demonstrations by ethnic minority Montagnards were re-opened, and the government and the officially-recognized Protestant organization have established a working relationship.

Vietnam's legal framework on religion, the 2004 Ordinance on Religion and Belief, regularizes rules for religious groups seeking legal recognition and promises groups granted "national" legal status fewer government intrusions in regular religious activity. Religious communities granted "national" legal status over the past year include the Baha'is, the Adventists, Grace Baptist, the Pure Land Home Worship Buddhist group, and Mennonite congregations not affiliated with Pastor Nguyen Quang. However, there continue to be serious problems in the implementation of the Ordinance, with reports that some provincial officials ignore recognition applications, require them to include the names of all religious adherents in a church, or pressure religious leaders to join groups already given legal recognition, despite theological or other objections. In addition, the Ordinance provides for two other levels of legal recognition, neither of which provides the same protections as "national" recognition. In fact, at the first level, "permission for religious operation," religious groups report government intrusions in daily religious activity, including seeking from religious leaders the names of congregants or limiting participation in and the scope of worship services. Religious groups whose applications for legal recognition are denied or who do not meet the Ordinance's vague standards are technically illegal and can be closed without warning.

In the past year, religious groups were harassed and their venues destroyed because they did not have legal status. In addition, there were reports that ethnic minority Protestants were arrested and detained for over a month because their meeting point was not legally recognized or because they were not affiliated with the government approved religious organization. Nevertheless, during the Commission's October 2007 trip to Vietnam, Protestant religious leaders reported that in recent years police harassment had declined overall, particularly in urban areas, though improvements often depended on geographic area, ethnicity, the relationship established with local or provincial officials, or perceived "political" activity. Most religious leaders attributed these changes to the CPC designation and the priority placed on religious freedom concerns in U.S.-Vietnamese bilateral relations.

The Ordinance is also problematic because some of its provisions do not meet international standards and are sometimes used to restrict and discriminate rather than promote religious freedom. For example, national security and national solidarity provisions in the Ordinance are similar to those included in Vietnam's Constitution and override any legal protections in the Ordinance or other laws

guaranteeing the religious rights of ethnic minorities. Vietnam's Penal Code also contains penalties for vaguely-defined offenses, such as "attempting to undermine national unity" by promoting "division between religious believers and nonbelievers." The government continued to significantly limit the organized activities of independent religious groups and individuals regarded as a threat to party authority on these grounds. There are some reports that Vietnamese officials are considering revising the Ordinance on Religion and Belief, offering the international community an opportunity to engage the government on ways to change Vietnam's legal structure on religion so that it conforms to international standards.

In the past, the State Department maintained that one of the reasons Vietnam's CPC designation was lifted was because there are no longer any "prisoners of concern." The Commission contends that there remain dozens of prisoners of concern in Vietnam, individuals arrested or detained for actions related their religious vocation, practice, activity, or conscience. Along with those incarcerated, over a dozen religious leaders are held under long-term administrative detention, such as United Buddhist Church of Vietnam (UBCV) leader Thich Quang Do and Catholic Fr. Phan Van Loi. In addition, hundreds of Montagnard Protestants arrested after 2001 and 2004 demonstrations for religious freedom and land rights remain in detention in the Central Highlands. The circumstances and charges leveled against them are difficult to determine, but there is enough evidence available to determine that peaceful religious leaders and adherents were arrested and are still incarcerated. The continued detention of prisoners of concern, and the existence of vague "national security" laws used to arrest them, should be a primary factor in determining whether Vietnam remains a "serious violator of religious freedom."

In the past, the State Department has contended that only those individuals who are arrested "for reasons connected to their faith" will be considered in evaluating religious freedom conditions in Vietnam, as if the internationally recognized right to the freedom of religion guarantees only the freedom to worship. It remains the Commission's contention that this narrow definition excludes from consideration anyone arrested or detained for peaceful public advocacy to protect religious freedom including expressing support for the legal or political reforms needed to fully ensure it. The State Department's criterion also excludes those who monitor the freedom of religion and are arrested or otherwise punished for the publication of their findings. It also excludes those who, motivated by ongoing restrictions on religious practice or the arrests of fellow-believers, peacefully organize or protest to draw attention to government repression. The State Department's standard for determining who is a religious "prisoner of concern" draws an arbitrary line between "political" and "religious" activity not found in international human rights law. It is the Commission's contention that, in all the most recent cases of arrest and imprisonment, religious leaders or religious-freedom advocates engaged in legitimate actions, protected by international treaties and covenants to which both the United States and Vietnam are signatories. In addition to the freedoms to believe and to worship, the freedom to peacefully advocate for religious freedom is a legitimate activity guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect not only the right to freedom of thought, conscience, and religion[1] but also the related rights to freedom of opinion and expression[2] and to freedom of peaceful assembly and association.[3] Moreover, the right to freedom of thought, conscience, and religion or belief is "far-reaching and profound" and "encompasses freedom of thought on all matters [and] personal conviction," as well as "the commitment to religion or belief."[4]

Most of the prisoners of concern previously cited by the Commission and other human rights organizations remain incarcerated. Over the past year, six prisoners of concern were released, including Cambodian monk Tim Sarkhorn and five Khmer Buddhist monks convicted for leading February 2007 religious freedom protests in Soc Trang province. The five monks, however, have not been allowed to rejoin their monasteries or return to their studies, and Tim Sarkhorn, though released from prison in July 2008, was held under house arrest

and constant police surveillance until early April 2009.

During the past year, UBCV monk Thich Tri Khai was arrested at his monastery in Lam Dong province, and remains missing. Also in the past year, Montagnard Protestants have been subject to a number of short-term detentions, disappearances, and one possible beating death in custody. According to reports from NGOs and several members of the European Parliament, Montagnard Protestant Puih H'Bat was arrested in April 2008 for leading an illegal prayer service in her home in Chu Se district, Gia Lai province—an area where there have been protests over land rights and religious freedom abuses in the past. In fact, according to Human Rights Watch, in April 2008 police arrested dozens of Montagnards in that area and forcibly dispersed crowds peacefully protesting recent land confiscations. Given historical animosities, past repression, and the region's remoteness, it is difficult to determine the exact reasons why Puih H'Bat was arrested, though the fact that police have refused to allow her family to visit her and the lack of police and judicial transparency in the case is disturbing. Also in the same Gia Lai province district, as many as 11 Montagnard Protestants were detained in February 2009, after police reportedly entered a worship service and asked everyone present to renounce their faith or join the officially recognized Southern Evangelical Church of Vietnam (SECV). Everyone who refused was arrested. Nine were released a month later, and two remain in detention at this writing. The State Department was able to confirm, from other religious leaders in the region, that these individuals were arrested for trying to organize an independent Protestant organization, an activity the Vietnamese government has refused to allow in this area since the large religious freedom protests in 2001 and 2004. In other parts of Gia Lai province, however, ethnic Montagnard Protestants associated with the government-approved SECV have established a working relationship with provincial officials, leading to the re-opening of many religious venues closed after 2001, new religious training courses for pastors, and the building of at least one new church property.

In other ethnic minority areas of the Central Highlands and Central Coast region, religious freedom conditions varied with reports of restrictions, land seizures, discrimination, destruction of property, and other egregious religious freedom abuses. In particular, in Dak Lak province, there was active harassment of independent Protestant groups who refused to join the SECV or those suspected of affiliation with the banned *Tin Lanh Dega* (Dega Protestant Church), which the government claims combines religion with advocacy of political autonomy. However, a 2007 study by the UN High Commissioner for Refugees, based on interviews with Montagnard asylum-seekers in Cambodia, found that few self-identified adherents of *Tin Lanh Dega* sought political autonomy or had a political agenda, apart from "enhancement of their human rights position" and the "need to gather in independent *Tin Lahn Dega* church communities" separate from what they viewed as the Vietnamese-led SECV. Even those *Tin Lanh Dega* leaders who expressed a desire for greater political autonomy sought to advance this position peacefully, according to the study.

Suspicion of engagement with the *Tin Lanh Dega* may have lead to at least one beating death in the past year. According to Human Rights Watch, Montagnard Protestant Y Ben Hdok died while in detention at a provincial police station in Dak Lak province in May 2008. Police claim that he was detained for suspicion of inciting demonstrations, though the family claims that he was organizing a group to seek asylum in Cambodia for reasons including religious persecution. In previous years, the Commission has raised the cases of other ethnic minority Protestants beaten to death in police custody. There were no new developments related to the 2006 and 2007 deaths of Y Ngo Adrong or Y Vin Het. In the latter case, credible reports indicated that the ethnic minority Protestant was beaten to death by police officers for refusing to recant his faith.

According to the State Department, all ethnic minority religious communities in the Central Highlands, both legally recognized and independent groups, experience close government scrutiny, particularly in Dak Lak and Bien Phuoc provinces.

In March 2008, religious leaders from the Inter-Evangelistic Movement (IEM) in Bien Phuoc were reportedly beaten and insulted by police when they traveled to Dak Nong province to hold services. On November 11, 2008, Vietnamese government officials issued fines and summons to everyone affiliated with an independent Protestant church of EahLeo hamlet, Dak Lak province. Charges were later filed accusing the church of operating an illegal Bible school for people outside the province, and ordering it to dismantle the school and to cease religious activity because it was not legally recognized. The church continues to meet in another location. Also in November, in EaSup hamlet, Dak Lak province, police and provincial officials confiscated lumber purchased to build a chapel and issued an order telling the church in EaSup not to meet. In December 2008, hundreds of police and provincial officials destroyed a new Protestant church structure in Cu Dram hamlet; ethnic minority Protestants who protested the demolition were beaten with sticks and electric prods, some were severely injured and later were refused medical treatment. Leaders of this Cu Drom hamlet church continue to be threatened with arrest at this writing. Other independent ethnic minority congregations in EaSol and Thay Ynge hamlets and Krong Bong district of Dak Lak report that their leaders are regularly summoned to police stations and forced to sign papers agreeing that they will not gather "new" Christians for worship and that churches cannot be organized with believers from other hamlets or districts. Vietnamese government policy does not permit anyone who belongs to an unofficial religious group to speak publicly about their beliefs.

There is also disturbing evidence that provincial officials in the Central Highlands are targeting ethnic minority Protestants for official discrimination. Children are denied access to high school, based on outdated laws prohibiting entrance of children from religious families. There are also reports that Protestants are denied access to government benefits readily available to non-Protestants, including housing and medical assistance programs. In addition, local officials reportedly pressure family elders, threatening to take away their government benefits unless they convince younger family members to renounce their faith. Montagnard Protestants have long complained of targeted discrimination, but at least one eyewitness report indicates that provincial officials are being trained in discriminatory tactics. At a 2007 religious training workshop in Kontum conducted by central government officials, local police and government officials were taught how to deny medical, educational, housing, financial, and other government services to "religious families" and families of recent converts. In addition, officials were instructed to divert foreign aid projects from known Protestant villages. It is not clear if this incident in Kontum is an isolated case, as the details of the official content of these training courses are unknown. The central government continues to conduct training courses for provincial officials on implementing Vietnam's legal framework on religion.

The government continues to view the growth of Christianity among Hmong in Vietnam's northwest provinces with suspicion. According to the State Department, over the past several years, the Vietnamese government has started to allow Hmong Protestants to organize religious venues and conduct religious activity in homes and "during the daytime." However, unlike in some parts of the Central Highlands, the government has moved very slowly in extending legal recognition to Hmong Protestant churches. The number of legally recognized churches and meeting points has reached 100 in the past year, but an estimated 1,000 religious groups are seeking affiliation with the Evangelical Church of Vietnam (ECVN). Hundreds of applications for legal recognition have been declined or ignored, despite provisions in the Ordinance on Religion and Belief requiring government officials to respond to applications in a timely manner.

The Vietnamese government recognizes that there is a "genuine need" for religion in the northwest provinces, opening the way for at least some religious activity in the region to be legally recognized. However, government policy seems focused on making sure that "new" religious growth is controlled and "new" converts discouraged. According to the State Department, over the past year, local officials repressed Protestant believers in some parts of the

northwest provinces by forcing church gatherings to cease, closing house churches, and pressuring individuals to renounce their religious beliefs, though often unsuccessfully, despite the prohibition on forced renunciations in the Prime Minister's 2005 Instruction on Protestantism.

In the recent past, Hmong religious leaders reported that security officials attended religious services, checked church membership lists, and forced anyone not on the list to leave. In some locations, security officials reportedly barred anyone under the age of 14 from attending services, banned mid-week meetings and programs for children and young people, and insisted that religious leaders be chosen under their supervision. Since the Commission's last Annual Report, in Bat Xat district, Lao Cai province, police harassed and confiscated food and other materials from a group of unregistered "house church" Protestants celebrating Christmas. In another village in Bat Xat district, police reportedly confiscated livestock and other belongings from members of another Protestant "house church" celebrating the Lunar New Year. In August 2008, in Huoi Leng commune, Lao Cai province, a Protestant house church leader claimed that local officials constantly were pressuring him to give up his faith and threatening his congregants with deportation and cattle prods. Also, in Si Ma Cai district, Lao Cai province police beat and choked two Hmong Protestants in an attempt to force them to recant their faith. Police told them that there "could not be….Christians in the district." In Son La province, ethnic minority Catholics reported that government officials and police regularly threatened the loss of government benefits and services unless they returned to traditional religious practices and in Ha Giang province, local officials have used similar tactics in the past and have refused to allow a Catholic priest residence in the province. In other regions, local authorities reportedly encouraged clan elders to pressure members of their extended families to cease practicing Christianity and to return to traditional practices. Religious leaders also report that local authorities sometimes use "contract thugs" to harass, threaten, or beat them, according to the State Department. For example, in July 2007, a veterans group in Ha Giang province burned down a home where ethnic minority Protestant met for worship and damaged other buildings in an attempt to stop all worship activities. Though such activities are prohibited by law, there are no known cases of prosecution or punishment for attempted forced conversations or property destruction.

It remains unclear whether the abuses and restrictions targeting ethnic minority Christians are the actions of recalcitrant provincial officials or part of central government policy. In 2006, the Committee on Religious Affairs in Hanoi published a handbook instructing provincial officials in the northwest provinces on how to manage and control religious practice among ethnic minorities. The Commission was critical of the handbook because it offered instructions on ways to restrict religious freedom, including a command to "resolutely subdue" new religious growth, "mobilize and persuade" new converts to return to their traditional religious practice, and halt anyone who "abuses religion" to undermine "the revolution"—thus seemingly condoning forced renunciations of faith. Although the 2006 handbook does recognize the legitimacy of some religious activity, it also indicates that the Vietnamese government continues to control and manage religious growth, label anyone spreading Christianity in the northwest provinces as a national security threat, and use unspecified tactics to "persuade" new converts to renounce their beliefs. In 2007, the Committee on Religious Affairs promised to revise the handbook and, since its 2007 visit to Vietnam, the Commission has received two new versions. Neither, however, improves much on the original. In the 2007 revision, provincial officials continue to be urged to control and manage existing religious practice through law, halt "enemy forces" from "abusing religion" to undermine the Vietnamese state, and "overcome the extraordinary…growth of Protestantism." This last instruction is especially problematic, since it again suggests that the growth of Protestantism among ethnic minority groups should be viewed as a potential threat to public security and that it is the "responsibility" of officials to stem it. The 2007 revised version also states that local officials must try to "solve the root cause" of Protestant growth by "mobilizing" ethnic groups to "preserve their own beautiful religious traditions." A

2008 version of the handbook contains all the language used in the 2007 revision but adds a final chapter which chides local officials for "loose control" over Protestantism leading to an increase in illegal meetings places. Local officials are instructed that these meeting places "must be…disbanded." These instructions are not consistent with Vietnam's international obligations to protect the freedom of religion and belief and can be read as instructions to abuse and restrict religious freedom.

The government continues to actively discourage any independent Buddhist religious activity and refuses to legally recognize the UBCV and some Hoa Hao and Cao Dai groups. The government requires UBCV, Hoa Hao, and Cao Dai religious leaders and followers to affiliate only with the government approved religious organization; those who do not face ongoing and serious religious freedom abuses, including arrests, detentions, fines, forced renunciations of faith, destruction of property, and other harassment. This fact is important when deciding whether religious freedom conditions have improved in Vietnam overall, given that these groups, along with the ethnic minority Khmer Buddhists, represent the largest number of religious adherents in Vietnam.

The UBCV's attempts to create an independent organizational structure have been met with violence, harassment, interrogations, public denouncements, and long-term administrative detention of the UBCV leadership, including the Most Venerable Thich Quang. The freedom of movement, expression, and assembly of UBCV leaders continues to be restricted and there continues to be official harassment of monks, nuns, youth leaders associated with the UBCV. Senior UBCV monks remain under some form of administration probation or "pagoda arrest." Charges issued in October 2004 against UBCV leaders for "possessing state secrets" have never been rescinded. Local attempts by monks to organize UBCV "provincial boards" or carry out charitable activities are also thwarted. In the recent past, UBCV monks have been detained and threatened and ordered to withdraw their names from such boards and cease all connections with the UBCV. Over the past year, police and government officials in Lam Dong province sought to depose Thich Tri Khai from his post as superior monk of the Giac Hai pagoda, reportedly offering bribes to anyone who would denounce him and urging 12 monks in the region to sign a petition supporting his ouster. Two hundred and thirty nine monks affiliated with the UBCV signed a letter opposing the government's action and, as a result, were threatened and subjected to "working sessions" with police. In April 2008, police arrested Thich Tri Khai, who remains missing; two UBCV monks attempting to visit Khai were detained and questioned by police. Also in April 2008, police harassed, assaulted, and briefly detained monks from, and vandalized, the Phuoc Hue monastery in Quang Tri province, whose head Abbot, Thich Tu Giao, had declared allegiance to the UBCV. Police also assaulted and detained Thich Tu Giao's mother and members of the Buddhist Youth Movement. Local officials set up barriers on roads leading to the pagoda and put up signs claiming the pagoda as a "Forbidden Area." It was the second time police vandalized the pagoda. The previous year, police destroyed a newly built kitchen and warehouse, and stole money contributed by local Buddhists for other buildings. In January 2007, security officials in Binh Dinh province issued orders prohibiting future religious gatherings at the Thap Thap monastery, reportedly threatening that local Buddhists would lose their jobs or their children would be expelled from school if they did not stop patronizing the monastery.

The UBCV's Supreme Patriarch Thich Huyen Quang, who had been administratively detained since 2003, died in July 2008. Most of the UBCV leadership, including Thich Quang Do and Thich Thien Hanh were allowed to attend the funeral and UBCV leaders were allowed to elect Thich Quang Do as Supreme Patriarch. The State Department reports that some UBCV monks were not allowed to attend the funeral. UCBV monks report that 19 out of 21 provincial committee leaders were prevented from attending the funeral, one monk was physically assaulted while preparing to leave for the funeral. Both Thich Quang Do and Thich Thien Hanh have been allowed to meet with foreign diplomats during the past year.

The State Department also reports that, in the past year, a UBCV monk was detained and later expelled from his monastery for distributing humanitarian aid and food to land rights protestors in Hanoi. A UBCV monk in Ho Chi Minh City resigned from monastic life reportedly because of the constant harassment by police for his activities to organize a Buddhist Youth Movement, and a UBCV nun was also forced to leave the pagoda she founded in Khanh Hoa Province reportedly because she openly affiliated with the UBCV.

The Vietnamese government continues to ban and actively discourage participation in independent factions of the Hoa Hao and Cao Dai, two religious traditions unique to Vietnam claiming memberships of four and three million respectively. Both the Cao Dai and the Hoa Hao report ongoing government oversight and control of their communities' internal affairs, including their rituals, celebrations, funerals, and selection of religious leaders. Other complaints concern the government's rejection of the Cao Dai charter drawn up before the 1950s, the official unwillingness to allow the community to maintain its own independent source of income, and the seizure without compensation of Cao Dai properties after 1975. Some Cao Dai traditionalists have refused to participate in the government-appointed management committees and have formed independent groups. Eight Cao Dai were arrested in 2005 for protesting government intrusion in Cao Dai affairs; five remain in prison.

Independent Hoa Hao groups face severe restrictions and abuses of religious freedom, particularly in An Giang province. According to the State Department, members of the independent Hoa Hao Central Buddhist Church (HHCBC) face "significant official repression," and there is continued friction between independent Hoa Hao and government officials in the Mekong Delta region, including reports of confiscation and destruction of HHCBC affiliated buildings. HHCBC religious leaders refuse to affiliate with the government-approved Hoa Hao Administrative Council (HHAC) and are openly critical of it, claiming that it is subservient to the government. HHCBC leaders and their followers have been arrested for distributing the writings of their founding prophet, have had ceremonies and holiday celebrations broken up by police, and have had sacred properties confiscated or destroyed. At least 12 Hoa Hao were arrested and sentenced for protesting religious freedom restrictions, including four who were sentenced to four years in prison for staging a peaceful hunger strike.

The Vietnamese government's ongoing repression of the language, culture, and religion of ethnic Khmer living in Vietnam has led to growing resentment. Khmer Buddhism is associated with Theravada branch of Buddhism and has religious and ethnic traditions distinct from the dominant Mahayana Buddhist tradition practiced in most places of Vietnam. Some Khmer Buddhists have called for a separate religious organization, distinct from the government-approved Vietnamese Buddhist Sangha (VBS). Religious freedom concerns continue to be central to demands of ethnic minority Khmer for human rights protections and preservation of their unique language and culture.

There are as many as one million ethnic minority Khmer Buddhists in Vietnam, centered in the Mekong Delta region. Long simmering tensions emerged there in 2006 and 2007, as Khmer Buddhist monks peacefully started to protest government restrictions on their freedom of religion and movement and Khmer language training. On January 19, 2007, according to Human Rights Watch, Buddhist monks in Tra Vinh province protested the arrest of a monk for possessing a publication from an overseas Khmer advocacy group. The protesting monks were interrogated and accused of allegedly separatist activities, and three monks were detained in their pagodas for three months and later defrocked. In February 2007, more than 200 monks staged a peaceful demonstration in Soc Trang province protesting the government's restriction on the number of days allowed for certain Khmer religious festivals and calling on the government to allow Khmer Buddhist leaders—not government appointees—to make decisions regarding the ordinations of monks and the content of religious studies at pagoda schools. The protestors also called for more education in

Khmer language and culture. Provincial officials initially promised to address the monk's concerns, but several days later, monks suspected of leading the protest were arrested and some reportedly beaten during interrogations. At least 20 monks were defrocked and expelled from their pagodas, and five monks sentenced to between two and four years in prison. Defrocked monks were sent home to their villages were they were placed under house arrest or police detention. As mentioned above, in January 2009, the five Khmer monks were released from prison, but they were not allowed to return to the monkhood.

After the 2007 demonstrations in Tra Vinh and Soc Trang, provincial officials and police expanded surveillance and restrictions on Khmer Buddhists religious activity and pressured Khmer Buddhist leaders to identify and defrock monks critical of the government. In July 2007, the Vietnamese government arrested Tim Sarkhorn, a Cambodian Khmer Buddhist monk on charges of "illegally crossing the border." Sarkhorn was released in November 2008 but placed under house arrest. He has since reportedly been allowed to return to Cambodia and is seeking asylum.

The relationship between the Vietnamese government and the Catholic Church deteriorated over the past year over the issue of property confiscated by the Communist Party in the 1950s. Peaceful prayer vigils for the return of two formerly Catholic owned properties in Hanoi ended with the police using tear gas and batons and arresting participants. The government also harassed, threatened, and restricted the movement of Hanoi Archbishop Joseph Ngo Quang Kiet, who publicly defended the rights of the Catholic protesters and visited the families of those arrested.

In January 2008, Catholic parishioners conducted large-scale prayer vigils at the residence of the former papal nuncio in Hanoi, which was confiscated by the government in 1954. In February, after the government promised to resolve the problem, the prayer vigils ceased. However, on September 19, 2008 city officials announced that they would turn two sites formerly owned by the Catholic Church into public parks and make the former papal nuncio's home into a library. City officials immediately began demolishing buildings on the site of the Papal Nuncio and the former Redemptorist monastery in Thai Ha parish. Large-scale protests followed, with as many as 15,000 Catholic parishioners attending a special Mass and prayer vigil conducted by Archbishop Kiet on September 21, 2008. Police used violence to disband crowds at the two sites and used "contract thugs," some wearing the blue uniforms of the Communist Youth League, to harass and best Catholic parishioners and vandalize churches. Eight individuals who participated in the vigils were arrested, and authorities detained and beat an American reporter covering the events.

The Hanoi People's Committee has called for the "severe punishment" and removal of Archbishop Kiet and the transfer of four priests from the Thai Ha parish for "inciting riots," "disrespecting the nation," and "breaking the law." Catholic leaders in Hanoi have refused these demands and the Catholic Bishops Conference issued a public defense of the Archbishop and local priests, raising concerns about the government's commitment to religious freedom, the right of property, the government's control over the media, and other human rights issues.

On December 8, 2008 the eight individuals arrested for participating in the prayer vigils at the Thai Ha parish were tried jointly at the Dong Da People's Court in Hanoi and convicted of disturbing public order and destroying public property. Seven were given suspended sentences ranging from 12 to 15 months; of these, four were also sentenced to additional administrative probation ranging from 22 to 24 months. The eighth individual was given a warning. All were released with time served. The eight Catholics filed an appeal of the guilty verdict; it was denied in April, 2009.

During the Commission's 2007 visit, Vietnamese Catholics reported that the relationship between the Catholic Church and the Vietnamese government was evolving, with some progress and some restrictions remaining, and that Catholicism

continued to grow rapidly in Vietnam. The government maintains veto power over appointments of bishops, but often cooperates with the Vatican in the appointment process, though in 2007 two bishops and two priests were rejected because of inappropriate "family backgrounds." However, Catholic leaders in Ho Chi Minh City reported that they often move ahead with ordinations without seeking government approval. All students must be approved by local authorities before enrolling in a seminary and again prior to their ordination as priests, and the province of Thua Thien-Hue restricted the number of seminarians. However, the government allowed a new Jesuit seminary to be built in Ho Chi Minh City and permitted several local dioceses to conduct religious education classes for minors on weekends and some charitable activities. Archbishop Kiet told the Commission that he was restricted from traveling to dioceses in northwest Vietnam and that provincial authorities in Son La and Dien Bien provinces refused to register a local Catholic diocese and mistreated lay Catholic leaders. There continue to be problems for ethnic minority Catholics in some parts of the Central Highlands and northwest provinces as well. There also are credible reports that Catholic students were discriminated against in gaining entrance to colleges and schools at the beginning of 2008.

Hanoi continues to discuss with the Holy See conditions for the normalization of relations, discussions that included a meeting between Pope Benedict XVI and Prime Minister Nguyen Tan Dung at the Vatican and a corresponding visit of a high-level Vatican delegation to Vietnam in February 2007. In February 2009, a Vatican delegation came to Hanoi to discuss establishing relations between the Holy See and Hanoi. The delegation announced that Pope Benedict would like to visit Vietnam by the end of 2009.

Over the past year, the Vietnamese government has also harassed, threatened, detained and sentenced lawyers and human rights defenders who have assisted religious communities and other vulnerable populations in cases against the state. On March 1, 2009, Ho Chi Minh city police raided the law office and seized the property of, and detained for questioning, human rights lawyer Le Tran Luat, who is defending Catholics arrested for taking part in peaceful prayer vigils in Hanoi. The government revoked his legal license in April 2009 and the official media has alleged tax fraud and other business related improprieties in what is often an act of political intimidation that signals a future arrest. Hanoi lawyer Le Quoc Quan also had his legal license revoked, allegedly because he was under investigation for assisting in the Thai Ha protests, and he has not been able to get his license renewed. Le Quoc Quan also was arrested in 2007 when he returned to Vietnam upon completion of a fellowship at the National Endowment for Democracy.

Mennonite pastor and human rights advocate, Nguyen Thi Hong was given a three year sentence in January 2009 for "fraud" and other illegal business practices, allegedly for debts incurred by her late husband in 1999. Her lawyer claims that the debts were repaid and that she was singled out for her work as a human rights advocate and for being associated with the Mennonite group associated with Pastor Nguyen Quang.

Recommendations for U.S. Policy

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

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

In both its bilateral relations and in multilateral fora, the U.S. government should urge the Vietnamese government to:

Prisoner Releases

- release or commute the sentences of all religious prisoners of concern, including those imprisoned or detained on account of their peaceful advocacy of religious freedom and related human rights including, among others, Fr. Nguyen Van Ly, Nguyen Van Dai, LeThi Cong Nhan, members of ethnic minorities in the

Central Highlands and northwest provinces, the Cao Dai and Hoa Hao followers, and those held under administrative detention including Fr. Phan Van Loi, Thich Quang Do, and other UBCV leaders detained since the 2003 crackdown on the UBCV's leadership;

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

The Revision of Laws to Reflect International Human Rights Standards

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

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

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

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

- revise or repeal ordinances and decrees that limit the freedom of expression, assembly or association, including new regulations banning peaceful public protests of property disputes;

- end the harassment, threats, arrest, and revocation of legal licenses of human rights lawyers who take up political sensitive cases;

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

- investigate and publicly report on the beating deaths of Hmong and Montagnard Protestants and prosecute any government official or police found responsible for these deaths;

Protecting Independent Religious Practice

- 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 any officially registered religious organization, for example:

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

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

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

--allow Protestant house church groups in the Central Highlands, central coast, and north and northwest provinces to organize independently and without harassment, and allowing them to operate, if desired, outside of either the Southern Evangelical Church of Vietnam (SECV) or the Northern Evangelical Church of Vietnam (ECVN);

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

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

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

The Training of Government Officials

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

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

- issue a "National Handbook for Religious Work" to train the estimated 21,000 new government officials engaged in "religious work," that should include an unambiguous statement about the need to respect international standards regarding religious freedom; guidelines for interpreting the Ordinance on Religion and Belief; detailed procedures on how to oversee the legal recognition process; a clear explanation of the duties of provincial officials under the law; and a description of the rights of religious communities under Vietnamese law and international human rights standards, including providing avenues to report inappropriate actions by local officials or police;

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

Asylum and Refugee Issues

- allow ethnic minorities in the Central Highlands or northwest provinces to seek asylum safely in Cambodia and continue to allow representatives of the UN High Commissioner for Refugees (UNCHR) and other appropriate international organizations unimpeded access to the Central

Highlands in order voluntarily to monitor repatriated Montagnards consistent with the Memorandum of Understanding (MoU) signed on January 25, 2005 between the UNHCR, Cambodia, and Vietnam, and provide unhindered access for diplomats, journalists, and NGOs to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces; and

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

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

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

- fully implement the Montagnard Development Program (MDP) created as part of the House and Senate Foreign Operations conference report of 2005 and continued in the 2008 conference report, and use the MDP to provide targeted humanitarian and development funds to ethnic minorities whose demands for land rights and religious freedom are closely connected;

- re-allocate some funds that formerly supported the STAR (Support for Trade Acceleration Program) to new projects in human rights training, civil society capacity-building, non-commercial rule of law programs in Vietnam, education programs for minors and young adults, and exchange programs between the Vietnamese National Assembly and the U.S. Congress—for example by creating a pilot program in Vietnam to be the Asian counterpart to Supporting Eastern European Democracy (SEED) program, which could be called Promoting Universal Rights and the Rule of Law (PURRL);

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

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

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

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

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

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

In addition, the U.S. Congress should:

- continue oversight, establish benchmarks, and measure progress of the U.S.-Vietnam Human Rights Dialogues, renewed in 2007, by holding appropriate hearings on the progress report the State Department is required to submit to

Congress on the trajectory and outcomes of bilateral discussions on human rights (see Sec. 702 of PL 107-228);

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

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

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[1] Universal Declaration of Human Rights (UDHR), Art. 18; International Covenant of Civil and Political Rights (ICCPR), Art. 18.
[2] UDHR, Art. 19; ICCPR, Art. 19.
[3] UDHR, Art. 20; ICCPR, Arts. 21 & 22.
[4] United Nations Human Rights Committee General Comment 22, Article 18 (Forty-eighth session, 1993), para 1.

THE COMMISSION'S WATCH LIST

Afghanistan

Conditions for freedom of religion or belief in Afghanistan have become increasingly problematic in recent years. The failure of the new constitution to protect individuals from within the majority Muslim community to dissent from the prevailing Islamic orthodoxy continues to result in serious abuses, including criminal court cases that violate the country's international commitments. 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 related human rights in many of the provinces. Although the status of religious freedom has improved since the fall of the Taliban regime, religious extremism, including violence and intimidation by resurgent Taliban insurgents, poses an increasingly serious threat to human rights in the country. In light of these very real dangers to the progress made toward establishing democracy, rule of law, and human rights protections in Afghanistan, the Commission has determined that Afghanistan should remain on its Watch List. Considering the major role the United States plays in Afghanistan's defense and institutional development, the Commission will continue to monitor the deteriorating situation in the country for religious freedom and related human rights.

In January 2004, Afghanistan adopted a new constitution that provides for the freedom of non-Muslim religious groups to exercise their faith, contains an explicit recognition of equality between men and women, and declares the state will abide by "the UN charter, international treaties, international conventions . . . and the Universal Declaration of Human Rights." However, the constitution does not extend explicit protections for the right to freedom of religion or belief to every individual, particularly to individual Muslims, the overwhelming majority of Afghanistan's population, or minority religious communities. Other fundamental rights, such as the right to life and free expression, can be superseded by ordinary legislation. These shortcomings are 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 sharia (Islamic) jurisprudence to cases where there is no other applicable law.

The absence of a guarantee of the individual right to religious freedom and the empowerment of the judicial system to enforce Islamic principles and sharia law mean that the 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 few protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and religious minorities, and to question interpretations of Islamic precepts without fear of retribution or being charged with "insulting Islam." These legal deficiencies have permitted the official imposition of harsh, unfair, and at times even abusive interpretations of religious orthodoxy, violating numerous human rights of individuals by stifling dissent within the Afghan population.

For instance, in January 2008 in Balkh province, student journalist Parwiz Kambakhsh was sentenced to death for blasphemy. The conduct that led to this charge was circulating to other students material, some of which he had downloaded from the Internet, concerning women's rights in Islam. Although an influential council of religious scholars pressed for the execution to be carried out, others—including human rights and other civic organizations and groups of journalists—staged public protests in his defense. In October 2008, an appeals court in Kabul changed his sentence to 20 years in prison. Similarly, in September 2008, a court in Kabul sentenced veteran journalist Ahmed Ghous Zalmai and mosque leader Mullah Qari Mushtaq to 20 years in prison for publishing an independent translation of the Koran. Authorities were influenced by Afghan religious scholars who alleged that the translation misinterpreted verses on social issues, was un-

Islamic, and did not have a parallel Arabic text next to the Dari translation.

Such cases involving Muslim individuals exercising their internationally guaranteed rights demonstrate the inadequate guarantees for individual human rights in the constitution. These cases represent a significant problem for the country's development as a democratic state based on the rule of law where fundamental human rights are protected. This problem has been exacerbated by the persistent weakness of the country's central government, which continues to face substantial challenges that include mounting insecurity, a lack of basic infrastructure, massive corruption, an expanding illegal drug trade, and unresolved human rights violations from previous conflicts that have given rise to a climate of impunity in many parts of the country.

Religious sensitivities, heightened by the ongoing conflict with Taliban insurgents, have increasingly limited freedom of expression in the country. Observers note a growing "backlash" by Afghanistan's powerful traditionalist religious forces against the liberalization that occurred after the fall of the Taliban. A new media law passed by parliament in September 2008 prohibits works and material that are contrary to the principles of Islam, works and materials offensive to other religions and sects, and propagation of religions other than Islam. Media outlets, including radio and television, face pressure and occasional legal action from authorities influenced by Muslim clerics who object to particular content, such as references to other religions or the scenes of women dancing common in Indian films.

These religious freedom concerns take place in a context of declining respect for democratic norms and human rights, including with regard to freedom of speech and the press. In addition to cases involving views on religious interpretation, journalists in Afghanistan are coming under increasing pressure—and facing legal consequences—for criticizing political leaders, powerful local politicians, drug dealers, or warlords.

The security situation continues to deteriorate, and 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 precarious in many parts of the country. Some experts claim that Afghanistan is at risk of collapsing into chaos due to the resurgence of the Taliban, the failure of reconstruction efforts, and record-level opium production. Concerns that the government of Pakistan has been providing sanctuary to the Taliban intensified in the past year, as the Taliban stepped up attacks inside Afghanistan, posing a threat to the stability of the government. In addition, illegal militias have not been disarmed. Numerous illegally armed groups, some of them nominally allied with the government, continue to exercise power throughout the country and often perpetrate human rights abuses. These abuses include political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls, sometimes with the active support of the local courts and police. In some areas of Afghanistan, the Taliban administer a virtual parallel state, and Afghans are increasingly receptive to Taliban courts, as they are seen as less corrupt than government courts. These substantial security threats, which have increased in the past year, present a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan.

As far back as 2002, the Commission raised concerns about the decision not to extend the international security presence outside of Kabul and the repercussions for religious freedom and related human rights. In its report from that year, the Commission recommended that the "U.S. government should actively support expanding the international security presence beyond Kabul, as there [is] an urgent need to expand security in order to safeguard the process of political reconstruction in the country and to protect religious freedom and other human rights for all Afghans both in the near term and into the future." The deteriorating security conditions over the past year continue to threaten the political reconstruction process.

The rights of women were severely and egregiously violated in the name of religion by the Taliban regime. Since then, rights for women have improved significantly, especially in light of the fact that Afghan society has hardly ever experienced the notion of gender equality. However, women's progress in the public sphere is threatened today both by the Taliban resurgence and the increased influence of religious traditionalists. Although there are a number of women serving in the parliament and on provincial councils, as well as a few women judges and prosecutors, the number of women in senior government positions has decreased since President Karzai dropped three female ministers from his cabinet in 2006. Currently, the Minister of Women's Affairs is the sole female Minister. There are no women on the Supreme Court. According to a January 2009 report by the UN High Commissioner for Human Rights, "important gains made recently by women in the public sphere are in danger of receding."

Although the all-covering burqa, required during the Taliban regime, is less common in Kabul, almost all women wear some form of head covering, either out of personal piety or fear of communal pressure. The State Department reported that in rural areas, local religious leaders continue to pressure women about their dress and most women wear the burqa. The UN report cited above also noted the widespread problem of violence and discrimination against women, which appears "deeply rooted in conservative religious and traditional values in Afghan society" and continues to place women in a second-class status. Women in Afghanistan frequently are denied equal access to legal representation and due process, especially in rural areas, where traditional councils mete out justice. Lack of access to the legal system hampers efforts to combat violence against women, particularly domestic violence.

Court cases on family issues are dealt with under a civil code based on the Hanafi school of Sunni Islam, which is applied regardless of whether the individuals are Sunni or Shi'a. In April 2009, Parliament passed and President Hamid Karzai signed a law to enact a Shi'a Muslim family code. However, as written, the code would have sanctioned marital rape and the inability of a woman to leave home without her husband's permission, except in emergencies. Proponents of the measure stated it would have recognized the distinct practices of Afghanistan's Shi'a minority, constituting about 15 percent of the population. However, a swift international outcry prompted suspension of the legislation. According to Afghan government officials, the law will be reviewed for its permissibility under the Afghan Constitution and international human rights instruments.

Despite these concerns, some religious freedom problems have diminished since the rule of the Taliban. For example, the active persecution of Afghanistan's Shi'a minority perpetrated by the Taliban has largely ended, and Shi'as once again are able to perform their traditional processions and to participate in public life, including in parliament and in senior positions in the Karzai government. Afghanistan's Second Vice President Abdul Karim Khalili is a member of the Shi'a minority. According to news reports, the Shi'a commemoration in Kabul of *Ashura*, banned under the Taliban, was particularly prominent, as well as incident-free, in January 2009. Most Shi'a are from the Hazara ethnic group, which traditionally has been harshly discriminated against and segregated from the rest of society due to a combination of political, ethnic, and religious reasons.

The situation of Afghanistan's small communities of Hindus and Sikhs also has improved since the fall of the Taliban, as there is no longer any official discrimination. Hindus and Sikhs are allowed to practice their faith and to have places of public worship. However, they are effectively barred from most government jobs, and face societal hostility and harassment. The few Afghan Christians, converts from Islam or their children, are forced to conceal their faith and are unable to worship openly. Members of Afghanistan's small Baha'i community also lead an essentially covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled that their faith is a form of blasphemy and that all Muslims who convert to the Baha'i faith are apostates.

Recommendations for U.S. Policy

In light of these serious concerns, the priority placed on the U.S.-Afghanistan relationship by President Obama and Special Representative for Afghanistan and Pakistan Richard Holbrooke, and the direct involvement of the United States in Afghanistan's political reconstruction, the Commission believes that the U.S. government should increase its diplomatic, development, and military engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, including freedom of religion or belief. Beyond the commitment of more troops, this engagement will involve new strategies for development assistance to promote human rights, transparency and mutual accountability.

In this regard, the Commission welcomes the Administration's announcement on March 27, 2009 of "a comprehensive, new strategy for Afghanistan and Pakistan," including the allocation of "significantly more resources" to civilian efforts to both countries and new diplomatic efforts to enlist the cooperation of "all who should have a stake in the security of the region," specifically naming the United Nations, NATO, the Central Asian states, the Gulf nations, Iran, Russia, India, and China. The Commission notes that the failure of these U.S.-led efforts 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 also recommends that the U.S. government should:

I. Vigorously Promote Every Individual's Human Right to Religious Freedom and Other Related Rights

- clearly articulate a concern for religious freedom and related human rights as an essential element of the new U.S. strategy in Afghanistan;

- vigorously support respect for the right of every individual to freedom of thought, conscience, and religion or belief, and increase efforts to ensure the protection, in law and practice, 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, religious freedom and human rights, since those persons currently are on the defensive and are threatened and need U.S. support to counter the influence of those who advocate an Islamic extremist agenda;

- amplify the voices of political reformers and human rights defenders by, among other things, encouraging President Karzai to appoint independent human rights defenders to the country's independent national human rights commission and court system;

II. Address Deteriorating Security Conditions

- make greater efforts to improve security outside Kabul in order for Afghanistan's political reconstruction to succeed, because without adequate security, Taliban insurgents will continue to hold sway over much of the country, undermining the rule of law and Afghanistan's nascent democratic institutions;

- direct concrete support and benefits, including the improved, country-wide security referred to above, to the Afghan people, which, in turn, will enable the Karzai government and other moderates to make the hard choices necessary to oppose religious extremism;

III. Advance Institutional Reform

- ensure that programs administered by the U.S. Agency for International Development to help develop primary and secondary education, including through printing textbooks and providing 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 by helping to develop needed infrastructure and supporting the reconstruction of a judicial sector operating under the rule of law and upholding civil law and international standards of human rights;

- undertake efforts to reform the legal system to ensure that laws and legal systems uphold international standards on human rights;

- work to ensure that all judges and prosecutors are trained in civil law and international human rights standards, women are recruited into the judiciary at all levels, and all Afghans have equal access to the courts; and

- assist legal experts in visiting Afghanistan, engaging their Afghan counterparts, and providing information to the Afghan public on the universality of human rights and the compatibility of Islam and human rights, including freedom of religion and belief, and expand existing programs to bring Afghans to the United States to experience how Islam and other faiths may be practiced in a free society.

Belarus

Belarus has a highly authoritarian government, with almost all political power concentrated in the hands of President Aleksandr Lukashenko and his small circle of advisors. The Lukashenko regime has engaged in numerous serious human rights abuses, including involvement in the "disappearances" of several key opposition figures, the imprisonment of political opponents and journalists, and strict controls on the media and civil society. 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. In 2008, the Belarusian government kept in place its pervasive and highly restrictive apparatus to control freedom of religion or belief; therefore, the Commission continues to place Belarus on its Watch List.

Government structures to control and restrict religious communities are extensive and intrusive, leading some human rights groups to compare the situation for religious freedom in Belarus to that under the former Soviet regime. For example, Belarus has maintained its Soviet-era religious affairs bureaucracy, which maintains offices in the capitol of Minsk, in each of the country's six regions, and in 20 districts. The country's religion law, passed in October 2002, set up severe regulatory obstacles and major bureaucratic and legal restrictions on the activities of many religious communities. Essentially, the 2002 law prohibits all religious activity by unregistered groups, any activity by religious communities except in areas in which they are registered, foreign citizens from leading religious activities, and unapproved religious activity in private homes, with the exception of small, occasional prayer meetings. The law set up a three-tiered system of registration and particularly restricts the activities of groups on the lowest tier. The law also mandated that all existing religious communities in Belarus re-register with the government by November 2004. While most previously registered groups were re-registered, the law increased official mechanisms to deny registration to disfavored religious groups.

Since coming to power in 1994, President Lukashenko has openly favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church, resulting in a privileged position for the BOC. Indeed, the 2002 religion law pointedly notes the key role of the BOC in the development of Belarusian traditions. This relationship was further codified in June 2003, when the Belarus government and the BOC signed a concordat setting out the Church's influence in public life, which has contributed to the difficulties for many religious minorities (see below). In March 2004, the Belarusian government granted the BOC the exclusive right to use the word "Orthodox" in its title. As a consequence, several "independent" Orthodox churches that do not accept the authority of the Orthodox Patriarch in Moscow continue to be denied registration, including the Belarusian 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. Another independent Orthodox group frequently denied registration is the Russian Orthodox Church Abroad, whose members in recent years have been ordered to pay multiple fines for worshiping in private homes.

Despite its privileged status, the BOC is itself not immune from government harassment. Forum 18 reported that in March 2007 the Committee for State Security (KGB) raided a prayer meeting of the BOC Transfiguration Fellowship in the city of Gomel, in the first known instance since the Soviet period of BOC adherents being targeted in Belarus for their religious activity. Moreover, Belarusian officials have discouraged the BOC from commemorating those Orthodox Christians in Belarus who were killed during the Soviet period on account of their religion. The Belarusian KGB has tried to convince BOC clergy to remove icons of the Orthodox "New Martyrs" from the city of Grodno cathedral, although the local bishop refused to take them down. In addition, KGB officers often monitor visitors to the town of Kuropaty, where New Martyrs are among the mass graves; a BOC chapel planned for the site has never been built.

Other religious groups have consistently been denied registration and in many cases officials do not provide any reason for repeated denials of requests to re-register. One frequent basis for registration or re-registration denials has been failure to provide a valid legal address, although in some cases, registration is required before such an address can be obtained, leaving these communities in a no-win situation. Another ground for denial can be the religious group's alleged failure to limit activities to a specified location. In 2006, the Belarus government rejected a decision of the UN Human Rights Committee that the government had violated religious freedom by refusing to register a nationwide Hare Krishna association. The Committee found that the government's requirement that a group must secure state-approved physical premises before legal registration can be granted is "a disproportionate limitation of the Krishna devotees' right to manifest their religion" under the International Covenant on Civil and Political Rights. In 2008, after six years of registration applications, law suits, and fines, Belarusian officials registered six of the country's seven Hare Krishna communities, according to the State Department; the one community that remains unregistered also has been able to function.

Without state registration, religious communities can be liable for fines. Since 2004, the Belarus courts have increased the amount of the fines, as well as expanded the range of religious groups that are subject to them. Until three years ago, such fines were usually in the range of $15, and most often imposed on Council of Churches Baptist congregations, which refuse on theological grounds to register with any state authorities. Since 2006, however, fines have been increased, in some cases dramatically. For example, in January 2009 a court in Bobruisk fined Aleksandr Yermalitsky $65 (a considerable sum in Belarus) for holding a worship service in his home. Forum 18 reported that in January 2008 the Baranovichi Emergencies Department fined the pastor and administrator of the New Life Pentecostal Church a total of $228 for fire safety violations, which is the equivalent of almost three weeks' average wages. The head of the church suggested that the fire safety demands were an indirect way of putting pressure on his church. In July 2008, a Russian Orthodox priest of an unregistered Russian Orthodox Abroad parish, who previously had been fined for holding religious services, was shown a reported KGB order banning him from conducting a funeral in the village of Ruzhany, Forum 18 reported. Local villagers reportedly protested the ban; the priest was allowed to conduct the funeral.

In March 2009, the Belarusian Supreme Court rejected an appeal brought by a Pentecostal pastor against a fine for leading an unregistered religious organization, Forum 18 reported. The pastor argued that the legal requirement to register violated the Belarusian Constitution and the International Covenant on Civil and Political Rights, but the court ruled that the pastor's rights had not been violated.

In addition to fines, the Belarusian authorities, over several years in the recent past, have ordered short-term detentions and imprisonment of church leaders and parishioners for participation in unregistered religious activity. In March 2006, the pastor of the Minsk-based Christ's Covenant Reformed Baptist Church received a 10-day prison term for conducting religious worship in his home. It was the first time in 20 years that a religious leader had been sentenced to imprisonment in Belarus. Pentecostal Bishop Sergey Tsvor faced similar charges, but they were dropped because of technical errors made by the police. Also in March 2006, human rights lawyer Sergey Shavtsov was sentenced to 10 days in detention for holding an unsanctioned seminar on religion in a private cafe. In June 2007, Baptist Pastor Antoni Bokun was given a three-day prison term for leading a service, making him the third known person to be sentenced to short-term detention in post-Soviet Belarus for religious activity. There also have been more recent reports that political prisoners in Belarus have been denied access to clergy.

While re-registered religious organizations, including Muslims, Lutherans, and Baha'is, have held worship services at residential addresses without prosecution, the 2002 religion law forbids most

religious activity outside designated houses of worship without advance approval from state authorities. A first offense is punishable by a warning, a fine of 20 to 150 times the minimum monthly wage, or three to 15 days' imprisonment. A second violation within one year is punishable by a fine of 150 to 300 times the minimum monthly wage or 10 to 15 days' imprisonment. Although the law, at least in theory, permits persons to gather in private homes to pray, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes, which, in practice, is usually denied. Moreover, a religious organization cannot be located at a residential address unless that location has been re-designated as nonresidential. For five years, Protestant leaders have unsuccessfully attempted to resolve this situation. Despite confirmation from the Presidential Administration's Department for Communication with Citizens that religious organizations may legally meet in private homes if local state authorities agree, in 2008 police interfered with private religious meetings on several occasions, sometimes fining participants.

In addition, the government continues to limit the ability of a number of groups to own or use other property for religious purposes, including via the requirement that residential property may be used for religious services only after it has been formally re-designated from residential use. Authorities continue to reject requests for property registration from many Protestant churches and other groups viewed as new to Belarus. Such communities also have faced difficulty in renting property from state proprietors. Moreover, Protestants in particular have reported that securing permission to build new churches is almost impossible. In Minsk, city planners, according to official documents, will not grant any such permits until 2030. Protestant churches seeking property permits also report that they are treated as commercial organizations and charged fees set by Minsk authorities that may range into hundreds of thousands of dollars. Forum 18 also reports that some of the smaller religious communities continue to face great difficulties in rebuilding premises for worship.

In February 2008, in response to the indefinite adjournment of a court case on the fate of their church building, the New Life Church in Minsk opted for civil disobedience, refusing to allow state inspectors, who can impose fines, onto church property. In January 2009, after two years of delays, the Belarus Higher Economic Court denied the New Life Church's appeal to prevent government authorities from seizing its building.

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. In the summer of 2008, officials in the Grodno region prevented three Protestant communities from conducting religious activities because they were officially registered in a different region. If a registered religious community does not qualify as a "central association"—meaning it has not been legally recognized for over 20 years or it does not have enough members—it cannot own media outlets or invite people from outside Belarus to work with the community, as in the case of the Greek Catholic Church (also known as the Byzantine Rite or Uniate Catholic Church). The Society for Krishna Consciousness also does not qualify as a central association and therefore cannot rent a hall or produce a publication with a print run of over 300.

In 2007, thousands of individuals from various religious communities, as well as nonbelievers, signed a petition to the Belarusian government to protest the country's 2002 religion law and other restrictions on freedom of religion or belief. In July 2007, Belarusian police in Minsk and at a Catholic pilgrimage site in Budslav detained individuals involved in obtaining signatures for the petition and confiscated literature related to it. In March 2008, the petition gained the necessary 50,000 signatures and was submitted to the Constitutional Court, parliament, and Presidential Administration. The Constitutional Court rejected it that same month, on the grounds that only the head of state or other government officials can question the constitutionality of laws. Parliamentary and presidential authorities also rejected the petition, claiming that there were no religious freedom

violations in the country. In April 2008, three human rights defenders were fined an amount equal to two months of the average monthly wage for their involvement with the petition protesting the Belarus religion law and other religious freedom restrictions.

Belarusian officials took measures in 2008 against other public activities linked to religious expression. In September 2008, Forum 18 reported that a local ideology official halted a six-day music festival, organized by local Catholic, Orthodox, and Protestant groups in Borisov, despite the fact that event organizers had obtained written state permission one week in advance, as required by law.

All religious literature is subject to compulsory government censorship. Religious publishing is restricted to religious groups that have 10 registered communities, including at least one that was in existence in 1982. This requirement is onerous, since 1982 was during the Soviet period of religious repression when few religious groups could operate. Some members of religious communities are harassed, fined, and detained for "illegally" distributing religious literature. In January 2009, two Council of Churches Baptist members who operated a Christian street library in Osipovichi in the Mogilev region were detained and their literature was confiscated, Forum 18 reported. In December 2008, 15 members of an unregistered Baptist community who ran a street library in the city of Kobrin were detained by police for illegally distributing religious literature and referred to court; the group was reportedly issued an official warning—but was not subjected to fines—in January 2009.

The Belarus government continues to demonstrate a lax attitude towards the problem of anti-Semitism and has not adopted effective measures in regard to those responsible for vandalism against Jewish memorials, cemeteries, or other property. During 2008, anti-Semitic incidents were investigated only sporadically, according to the State Department. Although official periodicals did not attack Jewish groups in the past year, the sale and distribution of anti-Semitic literature continued through state press distributors, government agencies, and stores affiliated with the BOC. Anti-Semitic and ultranationalist Russian newspapers and literature, digital video disks, and videocassettes also continued to be sold at Pravoslavnaya Kniga (Orthodox Bookstore), which also sells the literature of the BOC, the officially-favored church.

Although Judaism is viewed under the 2002 religion law as "traditional" to Belarus, Jews have been the targets of offensive remarks by government officials and the state media. In past years, President Lukashenko himself is reported to have made public anti-Semitic comments. For example, in October 2007, on live national radio, he referred to the Belarusian town of Babruysk as a "pigsty," and "mainly a Jewish town—and you know how Jews treat the place where they are living." In contrast with 2007, according to the State Department, the president and other government officials have not made anti-Semitic remarks in public during the past year. In October 2008, President Lukashenko took part in a commemoration of the 65th anniversary of the Nazi destruction of the Minsk Jewish ghetto. Reportedly, he publicly remembered the victims and their families, stating that Belarus "took the grief of the Jewish people as its own grief."

In 2008 the Belarusian authorities continued to use textbooks that promoted intolerance towards religions officially considered "non-traditional" to Belarus. Leaders of Protestant groups criticized the chapter entitled "Beware of Sects," which includes a paragraph on Seventh-Day Adventists and Jehovah's Witnesses. The Ministry of Education continued to use another textbook which labels Protestants and Hare Krishnas as "sects," although according to the State Department, the authorities promised to change the language in the next edition. In the recent past, state-controlled print and broadcast media have also promoted intolerant views of "new" religious groups. Religious communities are also sometimes denigrated by official bodies. Forum 18 reported in January 2008 that a secret ruling by the State Committee for Religious and Ethnic Affairs allegedly denied official registration to 12 groups it termed "destructive sects," including Ahmadiyya Muslims.

The 2002 religion law states that religious organizations do not have priority in reclaiming property confiscated in Soviet times if a former worship building is now used for culture or sports activities. As a result, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country gained independence in 1991. Lutheran and Calvinist communities have also had little success in the return of their historical churches from the Belarusian government.

In January 2008, Belarus issued a decree that further tightened strict government regulations on foreign religious workers. A government official, the Plenipotentiary for Religious and Nationality Affairs, has the sole discretion to decide whether religious activity by foreign citizens is necessary. In addition, that official is not required to provide reasons for denials of a foreign religious worker's request to visit. Moreover, there is no avenue for appeal of denials. A foreign religious worker must be invited by a registered religious association. The visa application must include relevant work experience, the timetable and syllabus of the relevant religious educational institution and proof of knowledge of the Belarusian and Russian languages, as well as the proposed dates and reason for the visit. The application procedure for visits by foreign religious workers is usually lengthy and highly bureaucratic.

In the past year, Belarusian authorities have often questioned foreign religious workers, humanitarian workers, and local citizens on the sources and uses of their funding. There were also credible reports that foreign religious workers were under surveillance by security personnel. Since 2004, a total of 31 foreigners have been expelled or have been denied extension of their residence permits due to their religious activities, according to Forum 18. In December 2008, a foreign Catholic priest and three foreign nuns working in the Minsk-Mohilov Archdiocese, as well as three foreign Catholic priests working in the Grodno diocese, were expelled. In October 2008, a bishop in the Pentecostal Full Gospel Church, who is a Ukrainian citizen, was deported from the country. Furthermore, if foreign citizens have not explicitly stated that they plan to participate in religious activities in Belarus, they can be reprimanded or expelled. In February 2009, two Danish visitors to Belarus were detained by police and banned from the country for one year due to their expressions of "ideas of a religious nature," in the words of the deportation order. Both were attending—but were not leading—a church service in the city of Gomel.

Nevertheless, the situation for the Roman Catholic Church in Belarus improved somewhat in the past year, as have Catholic relations with the BOC. According to the State Department, the Belarusian government in April 2008 reportedly scaled back plans to convert the Bernadine Monastery in Minsk—which Belarusian authorities have long promised to return to the Catholic community—into a luxury hotel and entertainment complex. However, the Belarus authorities did not, as promised, find a new location for the state archives stored in that monastery. Vatican Secretary of State Cardinal Bertone visited Minsk in June 2008, where he held services and consecrated the cornerstone of the first Catholic Church to be built in Minsk since 1910. The Cardinal also held meetings with President Lukashenko, the BOC Metropolitan Filaret, and other officials.

In that same month, the Greek Catholic Church (also known as the Byzantine Rite or the Uniate Catholic Church) opened the St. Joseph Greek Catholic Center with a chapel and library in Minsk; the center reportedly offers Sunday school classes as well as charity assistance.

In May 2008, the European Parliament passed a resolution criticizing the 2002 Belarusian religion law and the government's "harassment, prosecution, fines, and imprisonment" of religious communities and leaders. The resolution urged the government of Belarus to comply with international principles of religious freedom and human rights.

Recommendations for U.S. Policy

Regarding multilateral approaches and international organizations, the Commission recommends that the U.S. government should:

- use every measure of public and private diplomacy to advance the protection of human rights, including religious freedom, in Belarus, such as enhanced monitoring and public reporting by the U.S. Department of State, including the Special Envoy on Anti-Semitism and the Ambassador-at-Large on International Religious Freedom, and by the appropriate international organizations, including the OSCE and the UN;

- 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; and

- urge the Belarus government to issue invitations to relevant UN Human Rights Council Special Procedures, including: the Special Rapporteur on the Situation of Human Rights in Belarus; the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief, as well as the Working Group on Enforced and Involuntary Disappearances.

Regarding its bilateral relations with Belarus, the U.S. government should:

- urge the Belarus government to take immediate steps to end repression, including:

  --repeal of the highly restrictive 2002 religion law, as several of its provision violate international norms on freedom of religion or belief;

  --end the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;

  --provide the right to conduct religious education and distribute religious material;

  --adopt effective measures to halt attacks on the persons and property of minority religious groups and prosecute individuals who perpetrate such attacks;

  --ensure 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

  -- provide free access by domestic and international human rights groups and others to sites of religious violence or the destruction of places of worship;

- urge the Belarus government to ensure that no religious community is given a status that may result in or be used to justify discrimination against or impairment of the rights of members of other religious groups;

- urge the Belarus government to publicly condemn, investigate, and prosecute criminal acts targeting Jews and the Jewish community, as well as members of other ethnic and religious communities;

- continue to support, publicly and privately, persons and groups engaged in the struggle against repression in Belarus, including the group of religious and opposition activists who make up the Freedom of Religion Initiative that published the "White Book"; and

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

freedom of religion, particularly the OSCE Panel of Experts on Freedom of Religion or Belief.

Regarding U.S. programs and policies, the U.S. government should:

- institute fully the measures in the 2007 Belarus Democracy Reauthorization Act, which expresses the sense of Congress that sanctions be applied against the government of Belarus until it makes significant human rights progress; specific sanctions would include: the denial of entry into the United States to high-ranking Belarusian officials, and the prohibition of strategic exports and U.S. government financing to the Belarusian government, except for humanitarian goods and agricultural or medical products;

- ensure that the activities to promote democracy authorized by the Belarus Democracy Reauthorization Act, as well as in the Belarus civil society programs of the National Endowment for Democracy, include the right to freedom of religion or belief and the promotion of religious tolerance;

- urge Congress and the State Department to ensure that U.S. government-funded radio broadcasts to Belarus, including those of Radio Free Europe/Radio Liberty (RFE/RL), continue at least at their present levels, that efforts are made to secure sufficient transmission capacity to ensure reliable reception throughout that country, and that RFE/RL programs discuss issues relating to freedom of thought, conscience, and religion or belief; and

- provide increased international travel opportunities, particularly to attend international conferences, for Belarusian civil society leaders, including representatives of human rights groups and religious leaders, and others who defend freedom of religion in that country.

Cuba

Religious belief and practice continue to be tightly controlled in Cuba. Although Cuba seeks to project the image that the right to religious freedom is respected, the potential influence of religious organizations is perceived by state authorities as a threat to the revolution and hence, the government's legitimacy. Within this reporting period, the government expanded its efforts to silence critics of its religious freedom policies and crack down on religious leaders whose churches operate outside of the government-recognized umbrella organization for Protestant denominations. Furthermore, despite becoming a signatory to the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, and some positive developments regarding the Catholic Church, President Raul Castro and the government have yet to institute or indicate plans for large-scale improvements in freedom of religion or belief and related human rights. While welcoming the small, positive steps taken by the Cuban government in the past year, 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 the country's designation as a "country of particular concern," or CPC.

The government's main interaction with, and control over, religious denominations is through the regular surveillance, infiltration, and/or harassment of religious professionals and lay persons and administrative mechanisms. The Cuban government requires churches and other religious groups to register with the relevant provincial office of the Registry of Associations within the Ministry of Justice. Registration requires religious communities to identify locations and funding sources for activities, as well as a government certificate that states the community is not duplicating the activities of other registered religious communities. Registration permits religious leaders to receive foreign visitors, import religious materials, meet in approved houses of worship, and if permitted, travel abroad for religious purposes. There are approximately 50 state-recognized religious groups, primarily Christian denominations, more than half of which have some form of association with the government-recognized Cuban Council of Churches (CCC). The government has not prevented activities of the Baha'is and the Church of Jesus Christ of Latter-day Saints (Mormons), groups that are not officially registered, and has registered groups that do not belong to the CCC, including the Jehovah's Witnesses. There is also a small Jewish community, primarily in Havana. In recent years, the government has not granted recognition to new religious groups.

According to the State Department, the Cuban government is most tolerant of those religious groups that maintain "close relations" with the state or those who "often [support] government policies." In 2008, the Greek Orthodox Church and Pentecostal Church of Sovereign Grace in Cuba became full CCC members and three churches became associate members. The CCC is the distributor of Bibles.

As in past years, government permission to build new houses of worship is difficult to obtain, although in 2008 a new Russian Orthodox church opened and construction of a Catholic seminary continued. While it is still administratively difficult for existing houses of worship to repair or expand facilities, according to the CCC and the State Department, in 2008 many houses of worship did receive permission. Construction, however, remains logistically expensive and time-consuming.

Because of the difficulty in obtaining permission to build new houses of worship, many religious groups, registered and unregistered, hold services in private homes or similar accommodations, commonly known as "house churches." There are reports that at least 10,000 house churches exist nationwide, the majority of which are technically illegal. A September 2005 law requires the registration of all house churches and the submission of detailed information on the number of members, schedule of services, and names and ages of the house's inhabitants. Moreover, no more than three meetings may be held per week, no foreign citizens may participate in services without government permission, and a house church cannot be within two kilometers of another house church of the same

denomination. The State Department reports that Pentecostal church officials feel targeted by these regulations because they meet more than three times a week. If a complaint is made against a house church meeting, it can be broken up and the attendees imprisoned. Although there is no evidence that the new legislation has resulted in a systematic crackdown on house churches, since 2005 several house churches from registered and unregistered denominations reportedly have been confiscated or destroyed. In many of these cases, local authorities told house church leaders and members that their buildings were "unsuitable" and then seized the buildings. There are also reports that individual worshippers have received citations and some churches are forced to pay large fines. Such reports continued in 2008.

All publications are required to be registered with the Ministry of Culture. However, the Cuban Conference of Catholic Bishops has refused to register its publications, arguing that such registration would mean a loss of content and format control. Although the government has not blocked the printing or publication of Catholic publications, increased government pressure in recent years, sometimes in the form of questioning by state security agents and blocking the distribution of supplies, has led to the closing of several publications. In April 2007, *Vitral* magazine, an independent Catholic magazine that in the past published articles critical of the Cuban government, announced that due to a lack of paper, ink, and Internet access, it would shut down. The magazine resumed publication in June 2007 under new management and with less politically sensitive content.

Other means by which the government restricts religious practice include: the 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 denial of religious literature such as Bibles to persons in prison. Additionally, there is a requirement that religious groups receive permission from local Communist Party officials prior to holding processions or events outside of religious buildings. Refusal of such permission often is based on the decision of individual government officials rather than in accordance with the law. According to the State Department, since 2005 the Catholic Church has not sought permits for religious processions in some areas.

In the past year, both registered and unregistered religious groups continued to be subject to varying degrees of official interference, harassment, and repression. Because an estimated 70 percent of the Afro-Caribbean population engages in at least some religious practice, which the government views as a potential grassroots threat, the government targets religious groups in these communities more heavily than political opposition organizations. According to the State Department, in the past year, independent Santeria priests have been threatened and pressured to assimilate into the government-sanctioned Yoruba Cultural Association.

The government continues to harass churches whose members include pro-democracy or human rights activists and the leaders of such churches. On March 20, 2008, state security agents and members of the Cuban Revolution Association and the Committees for the Defense of the Revolution (CDRs) surrounded the First Baptist Church of Santa Clara during a church service. Several pro-democracy activists were present during the service. In May 2008, state security agents and Rapid Response Brigade members were present at an inter-denominational event organized by the same church. The agents' presence was meant to intimate the 300 participants, including 15 pro-democracy and human rights activists, as they publicly celebrated the Baptist campaign, "Fifty Days of Prayer for Cuba." Harassment continued of church leaders of the Santa Teresita de Nino Jesus Roman Catholic Church in Santiago, where on Dec. 6, 2007, security officers

forcefully entered the church and beat several human rights activists attending mass.

In 2008, the government expanded efforts to threaten religious leaders who are perceived to be critical of the government or outside of the government's control of religion. For example, religious leaders who have withdrawn from denominations that are part of the CCC have reportedly been watched, had their phones tapped, or faced other threats. Some have fled the country due to state harassment. Several evangelical pastors whose churches are outside of the CCC and who have attracted large followings, as well as pastors who have criticized the government's interference in their churches, have been arrested and detained in the past year.

A father and two sons were arrested and charged with "offensive behavior" in October 2008. The previous month, the father, Reverend Robert Rodriguez, president of the Interdenominational Fellowship of Evangelical Pastors and Ministers, had pulled out of the CCC after publishing a letter complaining about state interference in church affairs. Prior to the arrest, the Cuban government stripped Reverend Rodriguez of his position as president of the umbrella organization, a move the organization condemned as unconstitutional. One of his sons, Pastor Eric Gabriel Rodriguez, was convicted of "offensive behavior" and sentenced to three months to one year of house arrest, with the possibility of imprisonment if he "re-offends". The trial date for his father, originally set for December 29, 2008, was moved to late February 2009, and then to March 19, 2009. The trial has since been suspended again, and no new date has been set.

One pastor, Omar Gude Perez, has been imprisoned since May 2008 because of his leadership position in the "Apostolic Reformation," a growing evangelical non-denominational and non-political religious movement. His family was told he would be charged with "human trafficking," but thus far no charges have been filed and no date set for his trial. Similar charges also were brought against another evangelical pastor in 2006 after he criticized the state's interference in his church, though those charges were eventually dropped. Following Pastor Perez's imprisonment, government officials conducted a full inventory of his family's home and threatened to confiscate the house and possessions. Leaders of the unregistered Apostolic Nations for Christ Movement have reported that their phones are tapped, they are watched and threatened, and their members have been threatened with loss of employment if they do not leave their churches.

In December 2008, parishioners of an unregistered church in Havana were abused by men who entered their church and threatened them with the loss of their jobs if they continued to attend the church. Also in the past year, some pastors from non-CCC churches have had their work deemed "illegal," and have received threats that unless they stop their activities, their homes would be confiscated.

There are also reports that the Bible Committee of the CCC is refusing to supply non-CCC denominations and churches with Bibles to distribute. Reportedly, the Bible Committee has acknowledged that a denomination's refusal to join the CCC is the reason for the denial of Bibles.

Political prisoners continue to be limited in their right to practice their religion, although the State Department reports access to religious leaders has improved in the past year. These prisoners report that they are not being informed of their right to religious assistance, there are frequent delays in their receiving responses to requests for religious visits, they are denied the right to receive visits from clergy members, Bibles and rosaries are confiscated, and they are prevented from attending religious services with other prisoners.

The government sometimes discriminates in the area of employment. Converts to Christianity are reportedly encouraged to "retire," are not given promotions or pay raises, or are excluded from work functions or meetings because colleagues no longer consider them "trustworthy." Unofficially, people who are overtly religious also are excluded from diplomatic work or careers in journalism.

Additionally, many are prohibited from joining the police, military, or other security forces.

Discrimination against Jehovah's Witnesses and Seventh-day Adventists persists. There continue to be many reports of discrimination and maltreatment in schools, in part because of the groups' refusal to participate in mandatory patriotic activities on Saturdays. Students who are Jehovah's Witnesses reported being severely punished, including public ridicule and physical abuse by school staff, for not saluting the flag or singing the national anthem. The State Department reports that many Seventh-day Adventists and Jehovah's Witnesses reportedly left school after the ninth grade because of ridicule and harassment and students from these groups who graduated with good grades reportedly were denied university admittance.

There were some small, positive religious freedom developments in Cuba in 2008, particularly for the Catholic Church following a February 2008 visit by the Vatican's Secretary of State, Cardinal Tarcisio Bertone. In November, the Catholic Church held its first beatification ceremony in Cuba. President Castro and thousands of followers attended the ceremony, which was publicized countrywide leading up to the event. Additionally, for the first time in 50 years, five Catholic bishops celebrated Christmas mass in Cuba's largest prison, Combinado del Este penitentiary. The bishops were able to speak with inmates after the mass. The auxiliary bishop of Havana also said mass at La Condesa, a prison for foreigners in Havana province. More generally, there are reports that in the aftermath of the three hurricanes that hit Cuba in the fall of 2008, the government permitted religious organizations to expand their social service operations to assist those affected by the storms.

In 2008, the "Ladies in White"—the wives of those arrested on "Black Spring," the day in 2003 when 75 human rights activists, independent journalists, and opposition political figures were arrested on various charges—were for the most part not harassed as they attended Santa Rita Church in Havana, nor were they prevented from attending mass. However, the women were prevented from attending a mass in January 2009 at which Argentina President Kristina de Kirchner was in attendance.

Religious denominations were granted some increased access to the state media. As in years past, Santeria, viewed as representative of the country's culture, is a regular feature of television programming. The government granted the CCC time for periodic broadcasts early Sunday mornings, and the Catholic Church, generally not allowed access to the public media, was permitted 15 minutes on Christmas day to air the Cardinal's Christmas mass.

Recommendations for U.S. Policy

With regard to Cuba, the Commission recommends that the U.S. government should use all diplomatic means to urge the Cuban government to undertake the following measures aimed at bringing Cuba into compliance with its international legal obligations with respect to the freedom of thought, conscience, and religion or belief:

- instruct, publicly and officially, the state security agencies to end the following practices and to hold those involved in any further such practices accountable for their conduct: the harassment of religious persons and other human rights activists, including those recently released from prison; the mistreatment of indigenous religious communities; and the harassment during religious services of the spouses of imprisoned human rights activists;

- revise government Directive 43 and Resolution 46 restricting religious services in homes or on other personal property, as well as other national laws and regulations on religious activities, to bring them into conformity with international standards on freedom of religion or belief;

- cease, in accordance with international standards, interference with religious activities and the internal affairs of religious communities, such as denials of visas to religious workers, limitations on freedom of movement of religious workers, infiltration and intimidation of religious

communities, arbitrary prevention of religious ceremonies and processions, and attempted interference in elections in religious bodies; and

- take immediate steps to end restrictions on religious activities protected by international treaties and covenants, including:

  --ending the practice of arbitrarily denying registration to religious groups, as well as detaining or harassing members of religious groups and interfering with religious activities because of that unregistered status;

  --issuing permits for construction of new places of worship;

  --ending the practice of evictions and requisition of personal property of religious individuals or communities without due process, restitution, or provision of alternative accommodation;

  --securing the right to conduct religious education and distribute religious materials; and

  --lifting restrictions on humanitarian, medical, charitable, or social service work provided by religious communities and protecting persons who conduct such.

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. The government has not taken sufficient steps to halt the repression of and discrimination against religious believers, including indigenous Coptic Orthodox Christians, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. The government also has not responded adequately to combat widespread and virulent anti-Semitism in the government-controlled media. On a positive note, in March 2009, Egypt's Supreme Administrative Court dismissed final appeals to a 2008 lower court verdict which overturned the ban on providing official identity documents to members of the Baha'i faith, thus paving the way for Baha'is to obtain such documents—though it is too soon to tell if this ruling will be implemented. In addition, there was increased public space to discuss and debate a wide range of religious freedom concerns in the media and other public fora, which, in previous years, was discouraged and prevented by Egyptian authorities. Nevertheless, due to persistent, serious concerns, Egypt remains on the Commission's Watch List and the situation will continue to be monitored to determine if it rises to a level that warrants designation as a "country of particular concern," or CPC.

Egypt has a poor overall human rights record, including repressive practices that seriously violate freedom of thought, conscience, and religion or belief. The government maintains tight control over all Muslim religious institutions, including mosques and religious endowments, which are encouraged to promote an officially sanctioned interpretation of Islam. According to Egyptian officials, the government regulates these Muslim institutions and activities as a necessary precaution against religious extremism and terrorism. The state appoints and pays the salaries of all Sunni Muslim imams, all mosques must be licensed by the government, and sermons are monitored by the government.

Human rights organizations inside the country are concerned that Islamist extremism continues to advance in Egypt, with detrimental effects on the prospects for democratic reform, religious tolerance, and the rights of women, girls, and members of religious minorities. Some believe that the government is not acting to counteract this problem, especially in the areas of public education and the media, where extremist influence is growing.

There is continued prosecution in state security courts and imprisonment for those accused of "unorthodox" Islamic religious beliefs or practices that insult the three "heavenly religions": Judaism, Christianity, and Islam. Article 98(f) of the Penal Code, which prohibits citizens from "ridiculing or insulting heavenly religions or inciting sectarian strife," has been applied to prosecute alleged acts by purportedly "unorthodox" Muslims. These include Muslim groups, such as the Koranists—a very small group in Egypt that accepts only the Koran as the sole source of religious guidance and thus has been accused by the Egyptian government of deviating from Islamic law. In October 2008, an Egyptian blogger, Reda Abdel Rahman, affiliated with the Koranist movement, was arrested and charged with "insulting Islam," reportedly because his blog called for political and religious reform in Egypt. After nearly three months in detention, during which he alleges he was physically abused, Rahman was released in January 2009.

In February 2007, a court in Alexandria convicted and sentenced Abdel Karim Suleiman, a 22 year-old Internet blogger and former student at Al-Azhar University, to four years in prison: three years for blaspheming Islam and inciting sectarian strife and one year for criticizing Egyptian President Hosni Mubarak. Suleiman had used his blog to criticize some activities of Al-Azhar University and attacks on Coptic Christians in Alexandria in October 2005. In March 2007, an appeals court upheld his sentence. He currently is serving the remainder of the four-year prison term.

The Emergency Law, which has been in effect since 1981 and was renewed for another two years in May 2008, restricts many human rights, including freedom of religion or belief as well as freedom of expression, assembly, and association. Under the Emergency Law, the security forces mistreat and torture prisoners, arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, and occasionally engage in mass arrests. Thousands of persons have been detained without charge on suspicion of illegal terrorist or political activity; others are serving sentences after being convicted on similar charges. Egyptian and international human rights groups have asserted that the primary purpose of the State Emergency and Military Courts is to punish political activism and dissent, even when that dissent is peaceful. These courts also are used to detain and try individuals deemed by the state to have "unorthodox" or "deviant" Islamic or other religious beliefs or practices. Since 2005, Egypt's National Human Rights Commission has called for the Emergency Law to be lifted.

Members of Egypt's non-Muslim religious minorities, particularly Christians and Baha'is, report discrimination, interference, harassment, and surveillance by the Egyptian state security services. Over the past few years, there has been an upsurge of attacks by Islamists targeting Coptic Orthodox Christians. Only in very few cases have perpetrators been arrested and convicted. In November 2008, thousands of Muslim protestors attacked a Coptic Orthodox church in a Cairo suburb, burning part of it as well as a nearby shop, and leaving five people injured. In January and May 2008, armed Muslim Bedouins attacked the Abu Fana monastery in Minya province. In the May attack, one Muslim died, at least three Christians were wounded, and several monks were abducted and abused. Three abducted monks reportedly were rescued by Egyptian security services. Even though ownership of the land at issue is disputed, Christian advocacy groups claim that Egyptian authorities' repeated characterization of the incident as a "land dispute" ignores the severity of violence faced by Coptic Orthodox Christians. Several of the Muslim attackers remain in custody, but no charges have been filed against them. Two Christians were detained and accused of killing the Muslim man; they have alleged physical abuse while in detention. Following the May incident and other previous attacks on the monastery, Egyptian authorities organized "reconciliation meetings" between the local Bedouin population and the monks.

In September 2008, six Christians in Port Said were arrested after local authorities raided their café because it remained open during the Muslim fasting period of Ramadan. The six were charged with resisting arrest and assaulting authorities and were sentenced in January 2009 to three years in prison. They also alleged physical abuse. In February 2008, Muslims set fire to Christian-owned shops in the village of Armant in Upper Egypt after reports surfaced of a relationship between a Muslim woman and a Coptic Christian man. Security forces closed shops under a security decree and detained eight Muslims and one Copt, all of whom were subsequently released. In December 2007, in the Upper Egypt town of Esna, a number of Muslims attacked a church and 26 Christian-owned shops. This incident reportedly was sparked by rumors that a Coptic Christian shop owner lifted the veil of a Muslim women he suspected of shoplifting. Local authorities responded by arresting more than a dozen alleged perpetrators. However, the authorities subsequently released them without charges. Instead, the local and national governments agreed to provide compensation to the Coptic victims. The governor of Qena distributed compensation that totaled $230,000 to the shop owners whose property had been destroyed or damaged.

Violent attacks on Christian communities over the years have resulted in very few prosecutions, including the 2004 Court of Cassation decision to uphold the acquittal of 94 of 96 persons suspected of involvement in the killing of 21 Christians in Al-Kosheh in late 1999 and early 2000. Some Egyptian human rights advocates believe that Egyptian authorities should investigate claims of police negligence and inadequate prosecution of those involved in this violence.

In addition to violence, Christians face official and societal discrimination. Although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces *de facto* discrimination in appointments to high-level government and military posts. There are only a handful of Christians in the upper ranks of the security services and armed forces. There is one Christian governor out of 28, one elected Member of Parliament out of 454 seats, no known university presidents or deans, and very few legislators or judges. According to the State Department, public university training programs for Arabic-language teachers exclude non-Muslims because the curriculum involves the study of the Koran. Under Egyptian law, Muslim men can marry Christian women but Muslim women are prohibited from marrying Christian men. Contacts between such persons are often a source of tension between Muslim and Christian communities in Egypt.

For all Christian groups, government permission is required to build a new church or repair an existing one, and the approval process for church construction is time-consuming and inflexible. President Mubarak has the authority to approve applications for new construction of churches, and more than 100 applications to build new churches await his decision. Although most of these applications were submitted more than five years ago, the majority have not received a response. Even some permits that have been approved cannot, in fact, be acted upon because of interference by the state security services at both the local and national levels. In December 2005, President Mubarak signed a decree transferring authority for granting permits to renovate or repair existing churches from the president to the country's 28 governors. Although this was initially viewed as a welcome step, some churches continue to face significant delays in receiving permits and some local authorities continue to prevent maintenance and renovation of existing churches.

Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the State Department has observed that the Egyptian government uses Article 98(f) of the Penal Code to prosecute any alleged proselytizing by non-Muslims. Known converts from Islam to Christianity generally receive scrutiny from the state security services; most conversions therefore are done privately. In some instances, converts, who fear government harassment if they officially register their change in religion from Islam to Christianity, reportedly have altered their own identification cards and other official documents to reflect their new religious affiliation. Some individuals have been arrested for falsifying identity documents following conversion. Other converts have fled the country for fear of government and societal repercussions.

In February 2008, in an important case, Egypt's Supreme Administrative Court reversed a lower court's ruling prohibiting citizens from returning to Christianity after converting to Islam. However, the court also ruled that, while the 12 individuals' identity cards could list their religious affiliation as "Christian," the documents also must state that the individual is a "formerly declared Muslim"—opening a new potential justification for police harassment, prejudicial treatment by officials responsible for providing public services, and/or societal violence. The ruling, moreover, may be short-lived. In March 2008, an Egyptian judge appealed it to the Supreme Constitutional Court, arguing that the decision conflicts with the Egyptian constitutional provision that makes Islamic law the principal source of legislation. As of this writing, the appeal is pending. In December 2008, an administrative court in Alexandria awarded Fathi Labib Yousef the right to register as a Christian after spending 31 years officially identified as a Muslim. Yousef was raised Coptic Orthodox Christian but converted to Islam in 1974 in order to divorce his Christian wife. He returned to Christianity in 2005, but the local civil registry office refused to acknowledge his change of religion. Despite the favorable court ruling, however, it is not clear if Yousef has been able to obtain his new documents. In recent years, many local government registry offices have not changed official identity documents to reflect new religious affiliations, citing various excuses, despite judicial rulings that legally mandate such action.

In contrast to these re-conversion cases, the Egyptian government generally does not recognize conversions of Muslims to other religions. In January 2008, an Egyptian court denied Mohammed Hegazy the right to change his identity card to reflect his conversion to Christianity from Islam. Citing the constitutional provision that Islamic law is the principal source of legislation, the judge ruled that, since Hegazy was born Muslim and Islam is the "final and most complete religion," he could not convert to another, allegedly less "complete" belief. Hegazy, the first Egyptian Muslim convert to Christianity to sue the government to recognize such a conversion, has received death threats for trying to exercise the right to change his religion and is in hiding. Hegazy has appealed the January 2008 ruling. In the past year, a second convert from Islam to Christianity, Maher El-Gohary, who also is in hiding because of threats from extremists, has sued to change the religious status on his identity card. Islamist lawyers who are not parties to the case have argued that the court not only should deny the change, but convict El-Gohary of apostasy. In February 2009, when requesting legal documents at the local registry office, a government official berated him, which incited some patrons to verbally assault and shove him, and one individual struck El-Gohary with a broom. Because El-Gohary felt compelled to leave the office without obtaining the desired papers needed for the court hearing in the case, the judge postponed the case citing the lack of documentation.

All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is, who number approximately 2000 in Egypt, are unable to meet or engage in group religious activities. Over the years, Baha'is have been arrested and imprisoned because of their religious beliefs, often on charges of insulting Islam. Almost all Baha'i community members are known to the state security services, and many are regularly subject to surveillance and other forms of harassment. Al-Azhar's Islamic Research Center has issued *fatwas* (religious edicts) in recent years urging the continued ban on the Baha'i community and condemning Baha'is as apostates.

There has been increased intolerance of Baha'is in both the independent and government-controlled media in recent years. In March 2009, several Baha'i homes in a village in the Sohag province were vandalized by Muslim villagers. Egyptian human rights groups immediately condemned the violence and said that a contributing factor to the attacks was incitement by a media commentator who, during a television program, labeled an individual member of the Baha'i faith an apostate and called for her to be killed. According to the Egyptian Interior Ministry, several alleged perpetrators have been arrested.

In January 2008, Cairo's Court of Administrative Justice overturned the ban on providing official identity documents to members of the Baha'i faith, allowing them to put a dash or a symbol in the space designated for religious affiliation. Until this ruling, identity documents permitted registration in only one of the three officially approved religions—Islam, Christianity, or Judaism—thereby effectively preventing Baha'is from obtaining such documents, which are required in Egypt for many basic transactions and public services, and without which it is illegal to go out in public. However, the ruling only permits Baha'is who were issued identity documents in the past to receive the new version, and does not apply to those who have never been issued such documents. Over the past few years, some Baha'is lost their jobs and a few young Baha'is were dismissed from universities because they did not have identity cards. Because the Baha'i faith is banned, the community also has difficulty obtaining birth and death certificates, as well as obtaining or renewing passports.

Although the Egyptian government did not challenge the January 2008 court ruling within the time period in which a party to the case could appeal, the implementation of the verdict was stalled for more than a year due to lawsuits filed by Islamist groups who were not parties. Finally, in March 2009, the Supreme Administrative Court ruled that it would dismiss all remaining appeals and thus pave the way for Baha'is to obtain government-mandated identity cards. In April, the Egyptian Ministry of Interior

published a decree permitting individuals to obtain government documents without identifying themselves as belonging to any particular religion. As of this writing, however, it is not clear if the decree has been implemented in practice and whether or not any Baha'is in Egypt have been able to secure official identity documents.

Material vilifying Jews—with both historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes anti-Semitic cartoons, television programming such as a 24-part series based on the notorious anti-Semitic "Protocols of the Elders of Zion," and Holocaust denial literature. Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media, despite official claims that they have advised journalists to avoid anti-Semitism. According to the State Department, in 2008, anti-Semitism in the media was common but "less prevalent than in recent years." Human rights groups cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamist extremists, a development the Egyptian government has not adequately addressed. The small Jewish community of approximately 125 people owns its property, and finances required maintenance largely through private donations. In 2007, Egyptian authorities, including the Minister of Culture and the head of the Ministry's Supreme Council of Antiquities, pledged to move forward over the next few years with the restoration of at least seven synagogues under the Council's supervision as well as the possible development of a Jewish museum in Egypt.

After several years of close surveillance, authorities increased repressive measures in late 2005 and early 2006 against the small community of Jehovah's Witnesses, who are not recognized by the Egyptian government. After a period of improved conditions and a significant decrease in harassment and abuse by government officials in 2006, the number of interrogations by Egypt's state security services of Jehovah's Witnesses increased in 2007 and 2008. In particular, one member of the state security services in Cairo increasingly has used intimidation and threats of physical abuse to extract information about co-religionists. Jehovah's Witnesses in Egypt continued to pursue legal recognition but have not made any significant progress with Egyptian authorities in the past year.

The Muslim Brotherhood and other Islamist political groups which advocate or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law are illegal organizations under a law prohibiting political parties based on religion. Despite these restrictions, the Muslim Brotherhood has become much more visible in Egypt's political landscape. In fact, more than 100 members of the Muslim Brotherhood ran as independent candidates in the December 2005 parliamentary elections and won 88 seats, up significantly from their previous 15. The Muslim Brotherhood and other Islamist political groups have used violence in the past to achieve their aims, including the assassination of President Anwar al-Sadat in 1981 and attacks on foreign tourists. Some of these groups persist in advocating violence. Egyptian security forces continue to arrest hundreds of suspected Islamists every year, and some are subject to torture and/or prolonged detention without charge. Human rights groups that closely monitor the detention of such individuals claim that the vast majority are in prison as a result of their political beliefs or activities, and not on the basis of religion.

On a positive note, in 2008 the National Council for Human Rights (NCHR), a government-appointed advisory body, released its fourth annual report in which it documented cases impacting Coptic Orthodox and other Christians, recommended a resolution for official recognition of Baha'is, discussed concerns facing the Jehovah's Witnesses, and criticized both religious textbooks in schools and the curriculum in the Ministry of Higher Education's Imams' Institution for failing to address human rights topics. The report also encouraged the Egyptian government to pass a law for all religious groups addressing the construction of new places of worship. The NCHR also called for the formation of a permanent national anti-discrimination league which would be charged with the elimination of any form of discrimination based on religion, gender, or ethnic origin.

In addition, over the past few years, the Egyptian government has adopted several measures to acknowledge the religious pluralism of Egyptian society, including increased efforts to promote interfaith activity. In April 2008, the first national conference of the organization Egyptians Against Religious Discrimination was held in Cairo. In February 2008, Sheikh Tantawy of Al-Azhar University opened the Al-Azhar-Vatican Inter-religious Dialogue Conference. This conference issued a final communiqué highlighting statements by Pope Benedict on the need for Christianity and Islam to respect each other's religious beliefs and symbols.

Throughout the past year, the Commission continued to meet with representatives of the various religious communities in Egypt, as well as with human rights organizations, academics, and other experts.

In March 2009, the Commission wrote to U.S. Ambassador to Egypt Margaret Scobey urging her to raise specific religious freedom issues with Egyptian officials. In February, H.Res. 200, a resolution calling on the Egyptian government to respect human rights, was introduced in the U.S. House of Representatives; the resolution includes findings and recommendations from the Commission's May 2008 annual report. In October 2008, Commission staff presented on religious freedom conditions in Egypt at the American Islamic Congress' Capitol Hill Distinguished Speaker's Series on "Democracy in Egypt: Can it Wait?" In February 2008, the Commission issued a statement calling on the Egyptian government to respect the judicial rulings discussed above on identity cards for Baha'is and Christian converts.

Recommendations for U.S. Policy

I. Taking Most Responsibility for Religious Affairs Out of the Hands of the Egyptian Security Services

The Commission recommends that the U.S. government urge the Egyptian government to:

- remove *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence or the advocacy of violence, including conspiracy to commit acts of terror;

- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;

- implement procedures that would ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance, and take special measures to preserve Coptic Orthodox and other Christian properties and antiquities, which too often are subject to societal violence and official neglect; and

- repeal Article 98(f) of the Penal Code, which "prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife"; allow for full access to the constitutional and international guarantees of the rule of law and due process for those individuals charged with violating Article 98(f); and release all individuals convicted under Article 98(f) on account of their religion or belief.

II. Implementing Additional Reform in Order to Comply with International Human Rights Standards

The U.S. government should also urge the Egyptian government to:

- repeal a 1960 presidential decree banning members of the Baha'i community from practicing their faith;

- exclude from all educational textbooks any language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on faith, gender, ethnicity, or nationality, and include in school curricula, textbooks, and teacher training the concepts of tolerance and respect for human rights, including

religious freedom, ensuring that textbooks meet the standards set out in the Universal Declaration of Human Rights;[*]

- permit any Egyptian citizen to learn voluntarily the Coptic language in the public school system;

- cease all messages of hatred and intolerance, particularly toward Jews and Baha'is, in the government-controlled media and take active measures to promote understanding and respect for members of these and other minority religious communities;

- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;

- fully implement the January 2008 ruling of the Court of Administrative Justice, which overturned the ban on providing official identity documents to members of the Baha'i faith;

- remove the designation "formerly declared Muslim" from identity cards for those Christians who have converted back to Christianity from Islam, which makes the persons involved vulnerable to official harassment and societal violence;

- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either to omit mention of religious affiliation or make optional any mention of religious affiliation;

- more actively investigate religious-based violence against Egyptian citizens, particularly Coptic Christians, prosecute perpetrators responsible for the violence, and ensure compensation for victims;

- investigate claims of police negligence and inadequate prosecution of those involved in the Al-Kosheh case, as well as other recent instances of violence targeting individuals on account of their religion or belief, particularly members of the vulnerable Coptic Orthodox Christian community;

- implement the 2002 recommendations of the UN Committee Against Torture, as well as other relevant international human rights treaties to which Egypt is a party; and

- halt its practice at the UN Human Rights Council and other international fora of introducing the so-called "defamation of religions" resolution, which violates the internationally-guaranteed rights to freedom of religion and expression.

III. Ensuring that U.S. Government Aid Promotes Prompt and Genuine Political and Legal Reforms and is Offered Directly to Egyptian Civil Society Groups

In addition, the Commission recommends that the U.S. government should:

- establish a timetable for implementation of political and human rights reforms, including steps described in the recommendations above; if deadlines are not met, the U.S. government should reconsider the appropriate allocation of its assistance to the Egyptian government;

- continue direct support for human rights and other civil society or non-governmental organizations (NGOs) without vetting by the Egyptian government;

- urge the Egyptian government to ensure that NGOs engaged in human rights work can pursue their activities without undue government interference, and monitor and report to what extent this is accomplished; and

[*] Criteria for reviewing textbooks and other educational materials have been developed by several international bodies, including UNESCO. For the UNESCO criteria, see http://www.unesco.org/education/pdf/34_71.pdf.

- 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 publicly accessible sites, such as a museum, so that all Egyptians can better understand past and present Jewish contributions to their history and culture.

The Commission also recommends that the U.S. Congress should:

- in the context of the annual congressional appropriation for U.S. assistance to Egypt, require the State Department to report every six months on the government of Egypt's progress on the issues described in this chapter, as well as on the U.S. government's progress in offering funding directly to Egyptian NGOs without prior Egyptian government approval.

Indonesia

Indonesia's transition to democracy since 1998 has contributed to an overall improvement in conditions for human rights in the country. The majority of Indonesia's diverse religious communities operate openly and with few restrictions, and there are vibrant public discussions among politicians and religious leaders about the role of religion in political life. However, over the past several years, minority religious groups have faced increased discrimination, harassment, and even violence perpetrated by extremist groups, state agencies, and community organizations and sometimes tolerated by segments of the Indonesian government. Indonesia was placed on the Commission's Watch List in 2002 due to sectarian violence in Central Sulawesi and the Malukus. President Susilo Bambang Yudhoyono's government continues to take active steps to address terrorism and past sectarian violence in these regions. The Commission remains concerned, however, about new government decrees used to severely restrict, and even ban, the activities of the Ahmadi community; forced closures and vandalism of places of worship belonging to religious minorities; the growth and political influence of religious extremists; human rights abuses perpetrated by the military and police; and the harassment and arrest of individuals considered "deviant" under Indonesian law. Because of these persistent concerns, the Commission continues to place Indonesia on its Watch List in 2009. Given the Obama Administration's interest in creating a new "comprehensive partnership" with Indonesia, there will be important opportunities to work together to advance the freedom of thought, conscience, and religion and related human rights in both Indonesia and the Southeast Asian region.

Islam in Indonesia is known historically for its tolerance and accommodation of a variety of indigenous cultural traditions. Over the past decade, there has been a revival of Islamic awareness and piety, previously repressed by the former military government. The wearing of Islamic dress has re-emerged as an outward sign of devotion; the number of Islamic banks, businesses, and publications is growing; and Islamic-themed art and fiction are becoming more popular. Indonesian Muslim leaders have engaged in lively discussions on the nature of democracy and pluralism, the separation of religion and state, women's rights, and human rights more generally. There are numerous religiously-based political parties and the role of Islam in politics and society, as well as the growth of religiously-justified terrorism, are topics discussed widely on television and radio and in numerous public fora.

The revival of Islamic piety, coupled with Indonesia's new democratic openness, has strengthened Indonesia's mainstream Muslim institutions, but it also has nurtured a small but growing number of groups espousing intolerance and extremism under the banner of Islamic orthodoxy. Over the past several years, the influence, visibility, and activities of extremist groups have increased. Although the most radical groups do not have deep political support, as evidenced by initial results of the April 2009 parliamentary elections, they have successfully pressed their agenda both publicly and politically, pressuring government officials through private lobbying, demonstrations, threats, and mob action. The recent Joint Ministerial Decree on the Ahmadi and the Anti-Pornography Law, as well as the proliferation of local sharia-inspired laws in provincial areas, were supported actively by extremist groups to advance a certain religious agenda. Coalitions of moderate Muslims, Christians, Hindus, Buddhists, and other religious and civil society groups have opposed these measures, but without much recent success. In addition to the measures cited above, there continue to be a disturbing number of instances of societal violence targeting religious minorities and the intimidation, arrest, detention, and harassment of allegedly heterodox Muslims and some non-Muslims for allegedly "denigrating religion," "deviancy," or "blasphemy." Given that 2009 is an important election year in Indonesia, the full protection of religious freedom for all of Indonesia's diverse religious communities will be an important bellwether of Indonesia's commitment to democracy, religious tolerance, and pluralism.

In 2002, the Commission placed Indonesia on its Watch List after sectarian violence in Central

Sulawesi and the Malukus claimed thousands of lives and displaced tens of thousands of others. The Commission remains concerned about ongoing sectarian tensions in these regions, but notes that religiously-motivated violence has declined sharply in recent years and police have arrested or killed—and local courts have sentenced or executed—individuals responsible for past acts of violence. Local civic and religious leaders and government officials, including Vice President Josef Kalla, have worked to promote reconciliation and defuse tensions in former conflict areas. The Indonesian Government reportedly has committed funds for local programs in conflict mediation and interfaith economic development. Local governments have instituted interfaith development projects to rebuild churches, mosques, and homes destroyed in past violence. According to the State Department's 2008 *Country Reports on Human Rights Practices*, police have arrested dozens of suspects, both Christians and Muslims, for past involvement in sectarian violence. Sectarian tensions, however, persisted in the Malukus during the past year. Isolated incidents of sectarian violence caused at least five deaths and the destruction of dozens of homes and religious venues in the region. Over the past year, the village of Horale on the island of Seram was attacked, leaving four dead and dozens injured. Police quickly named four suspects, but there is no indication that arrests have been made. In December 2008, police and military units were sent to calm tensions in Masohi, Northern Maluku as a mob burned houses and a church and injured dozens after a Christian teacher was accused of denigrating Islam in her classroom. Both the teacher and the leader of the mob were arrested. The local inter-religious harmony board (FKUB) criticized the police for not taking preventive action when the accusations against the teacher first surfaced. These incidents were the largest of several clashes between Christians and Muslims in the Malukus, including bomb blasts, fights, and drive-by shootings. Reports indicate that the police acted quickly in most cases. Local religious leaders also have condemned violence and jointly expressed their desire to avoid the type of large-scale violence that occurred between 1999 and 2002.

Extremist and terrorist groups continue to train, recruit, and operate in Central and South Sulawesi. These groups frequently have been responsible for attacks on members of religious minorities and police, instigating mob actions to restrict religious activities, and organizing political efforts to segregate Central Sulwesi into Muslim and Christian enclaves. Since widespread rioting and sectarian clashes in late 2007, there have been few new incidents of violence. The Indonesian government has taken active steps to promote stability, but tensions continue to exist in the region stoked by political and economic rivalries between Muslim and Christian elites. Police action has led to the arrest and sentencing of individuals who organized the beheading of three young girls in 2006. Police also have apprehended recently at least 10 others who confessed to participating in various bombings, beheadings, and shootings in Central Sulawesi over the past two years. Police in Central Sulawesi claim that they have arrested or killed 18 of the 29 individuals "most wanted" for sectarian violence in that region, including two individuals accused of the 2006 assassination of Reverend Irianto Kongkoli. However, despite some successes in rooting out suspected terrorists, police tactics, particularly those of an elite counter-terrorism unit Detachment 88, may be exacerbating sectarian tensions in Sulawesi. Local religious leaders claim that Detachment 88's harsh tactics increased sympathy for extremists in Central Sulawesi and attracted religious militants from other regions. Many grievances remain from the sectarian conflict that occurred in 1999-2001, including fears that few of the instigators of the violence will be held accountable, and a large number of persons remain displaced. Extremist groups, such as *Mujahidin Kompak* (MK) and *Tanah Runtuh* continue to train and operate in remote areas of Sulawesi. The June 2007 arrest of suspected terrorist leader Abu Dujana confirmed that terrorist networks aim to stoke sectarian tensions in Central Sulawesi through bombings and assassinations of religious leaders.

The Indonesian government continues to make notable progress in capturing and prosecuting persons accused of specific terrorist activities, including individuals on the United States' most

wanted list. In 2008, police raided a *Jemaah Islamiyah* (JI) compound in Central Sulawesi and arrested dozens of suspects including Ainul Bahri and Zuhroni, two top JI leaders. Ustadz Rian, one of the primary organizers of JI's terrorist operations, was killed during the raid. In April 2008, an Indonesian court officially declared JI a terrorist organization and sentenced its military commander, Abu Dujana, to 15 years imprisonment for stockpiling weapons, harboring fugitives, and committing terrorist violence. The court's decision could pave the way for the banning of JI in Indonesia, something that the Indonesian government has heretofore been reluctant to do. In January 2009 ten militants with ties to JI were tried for killing a Christian schoolteacher, illegally possessing explosives, harboring fugitives, and plotting to bomb a café. The primary suspect, Mohammad Hasan, a Singaporean English teacher, trained with al-Qaeda in Afghanistan and served as a courier for Osama bin Laden in 2000.

Public support for terrorist organizations and tactics has declined dramatically in Indonesia since the 2005 Bali bombing. However, at the same time, the number and influence of groups pressing political and religious agendas under the banner of Islamic orthodoxy continues to grow. Though these groups are a small minority of Indonesia's diverse Muslim community, they are a challenge to Indonesia's image as a democracy committed to religious tolerance and pluralism. Mainstream Muslim leaders and members of religious minorities report that they continue to face pressure, intimidation, or sometimes violence from protests organized by extremist groups. According to the Indonesian Institute on Democracy and Peace (SETARA) and the Wahid Institute, two Indonesian think tanks tracking human rights conditions in the country, communal violence and the arrest and detention of predominantly Muslim individuals considered "deviant" under Indonesia law have expanded in recent years, and mob violence targeting the Ahmadi community and some Christian religious venues also have continued to increase. Members of extremist religious groups such as the Islamic Defenders Front (FPI), the Indonesian Council of Martyrs (MMI), the Alliances for Anti-Apostates (AGAP), the Islamic Umat Forum (FUI), and *Laskar Jundullah* have used pressure, intimidation, and violence against those whose views or actions they found unacceptable. Their actions have included intimidating judges and local officials; vandalizing and destroying buildings belonging to religious minorities, including Christian churches, Hindu temples, and Ahmadi and Shi'a mosques; threatening moderate Muslims or those considered to have "deviant" theological views; and forcing the closure of some non-Muslim businesses during Ramadan. The Indonesian government does not officially condone or encourage societal violence by extremist groups and has sometimes spoken out strongly against it. Nevertheless, perpetrators of violence are not always arrested by local officials, provincial laws that differ from national laws concerning the protection of religious minorities are not challenged, and the government continues to provide funds for the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pacem) and the Indonesian Ulemas Council (MUI), both which have called for action to ban "deviant" religious groups and other peaceful religious activities, including interfaith prayer, interfaith marriage, religious pluralism, and yoga.

In the past year, according to Indonesian religious groups and human rights activists, there have been at least 35 separate incidents of mob action targeting the worship activities, venues, or activities of religious groups and organizations. Members of the Ahmadi Muslim religious minority continue to experience the most severe restrictions. Violence and legal restrictions targeting the Ahmadi have risen dramatically since the July 2005 *fatwa* by the Indonesian Ulemas Council (MUI) that condemned them as a heretical sect. Since the MUI *fatwa* was issued, extremist groups, some religious leaders, and the government's Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem) have sought a nationwide ban on Ahmadi practice. In June 2008, the Ministry of Religious Affairs and the Home Ministry issued a Joint Ministerial Letter on the Restriction of Ahmadi. While not an outright ban, the Joint Ministerial letter "froze" their activities to private worship and prohibited them from proselytizing, although it also outlawed vigilantism against them. Following the decree, provincial governors in West Sumatra, South Sumatra, and West

Nusa Tenngarra issued outright bans on Ahmadi activity. The National Commission of the Indonesian Human Rights (Komnas-HAM) issued a report condemning atrocities against Ahmadi in the past, blaming the MUI *fatwa* for trigging the violence and some governmental officials for helping to implement the *fatwa*. The Indonesian government has not yet signaled whether it will review or overturn the provincial bans under the authority granted it by the 2000 Regional Autonomy Law.

The SETARA Institute tallied 188 incidents of violence and "religious intolerance" targeting the Ahmadi since January 2008, including the vandalizing or closure of 20 mosques and other facilities owned by the Ahmadi community. On April 28, 2008, a mob attacked and tried to burn down a house where members of the Ahmadi religious group were meeting in Sukabumi, Curug district, West Java. During April 2008, four additional Ahmadi meeting places were vandalized in West Java. Police arrested and interrogated several suspects and are reportedly now guarding Ahmadi mosques in the region. In June 2008, mobs attacked Ahmadi mosques in Cianjur, West Java and forcibly closed the local Ahmadi headquarters in Makassar, South Sulawesi. There continue to be at least 180 Ahmadi residents living in an internally displaced persons (IDP) camp in Mataram, Lombok after a mob attacked their residences in 2005. They have not been allowed to return to their homes and some have indicated that they want to seek asylum. On June 1, 2008, the National Alliance for the Freedom of Religion and Faith (AKKBB) held a rally in Jakarta to support the right of the Ahmadi to exist free from persecution. The rally was attacked by members of the FPI, and more than 70 people were injured, some seriously. Reports indicate that approximately 1,200 police were present during the attacks, but they neither stopped the violence nor arrested anyone at the scene. President Yudhoyono condemned the FPI attack and police arrested 10 suspects, including FPI chief Rizieq Shibab and chair Munarman, who were given 18 month sentences for inciting the June 1 attacks.

The restrictions and violence faced by the Ahmadi community reflect a larger trend in Indonesia, as provincial officials have harassed, detained, and sentenced allegedly hereterodox Muslims for "deviancy." Since 2003, over 150 individuals have been arrested or briefly detained under Article 156a of the criminal code, according to which "expressing feelings of hostility, hatred or contempt against religions" and "disgracing a religion" are punishable by up to five years in jail. Over the past two years, police and local officials have taken concerted actions to break up the sect Al-Qiyadah al-Islamiyah. The group has approximately 40,000 followers and its leaders claim to be prophets. In October and November 2007, police detained 125 members of Al-Qiyadah during raids in West Lombok, Yogyakarta, East Lombok, and Central Java. Ninety six members of Al-Qiyadah publically signed documents renouncing their beliefs, including the sect's leader, Ahmad Moshaddeq. Despite his recantation, Moshaddeq was sentenced to four years in prison in April 2008 for "violating the criminal code by committing blasphemous acts." On May 2, 2008, Dedi Priadi and Gerry Lufthi Yudistira, members of al-Qiyadah al-Islamiyah sect, were sentenced in Padang district court to three years in prison under Article 156a. Over the past several years, other small, primarily "messianic" Muslim groups were labeled "deviant" by local religious leaders and faced government harassment or communal violence, including Dzikir Asmaul Husa, Dayak Segandhu LosarangIndramayu, Tarekat Naqsabandiyah, Islam Model Baru, Hidup di Balik Hidup, and Nural Yaqin.

In the past, Indonesia's "deviancy laws" primarily have targeted small groups regarded as heterodox by Muslim religious leaders. However, in April 2007, police in Malang, East Java detained 42 Protestants for disseminating a "prayer" video that instructs individuals to put the Koran on the ground and pray for the conversion of Indonesia's Muslim political leaders. In September 2007, a local court found all 42 guilty of "insulting religion" and sentenced each to five years in prison. An appeal of the convictions is pending in the East Java High Court.

Indonesia's Christians and other religious minorities faced additional societal violence in the

past year, including mob attacks, harassment, and church closures. However, the number of church closures and mob attacks were slightly fewer than in the past. In July 2008, armed residents in Kampun Pulo District of West Jakarta attacked the Arastamar Evangelical School of Theology, known as Setia College, because they claimed students were responsible for a recent spate of petty thefts and public disturbances. The students and faculty deny these allegations. The police refused to intervene and 20 students were injured. Staff and students were forced to evacuate and the campus remains closed. In August 2008, Father Benny Susetyo, the General Secretary of the Interreligious Commission of the Indonesian Bishops' Conference and an outspoken advocate for religious freedom for the Ahmadi community, was severely beaten by unknown assailants. In January 2008 in Madura province, villagers surrounded the house of Shi'a followers demanding they stop religious activities. Local officials and religious leaders intervened to disperse the crowd. In recent years, Shi'a communities in East Java and Madura faced attacks, vandalism, threats, and legal actions. In January 2008, a mob burned the Sangkareang Hindu temple in Keru district, West Lombok, destroying the building and its contents. As of this writing, the temple has not received a permit to rebuild. That same month, the Love Evangelical Bethel Church in Riau province, North Sumatra ceased its services after 60 Muslim protestors demanded it be closed.

In some cases, police have arrested individuals responsible for vandalizing or destroying property of minority religious groups and have intervened to prevent property destruction and disperse crowds. But mob violence remains too frequent and punishments of perpetrators too infrequent to act as a deterrent. Local government officials also have sought to mediate between militant groups and religious minorities in some cases, but sometimes acquiesce to pressure from militants and revoke permits for longstanding places of worship or allow the destruction of religious venues operating without permits. In response to persistent criticism from religious minorities and international observers over the number of religious venues closed or destroyed in Indonesia, the Ministry of Religion issued Joint Ministerial Decree 1/2006 to replace a previous, vaguely-worded decree that required religious groups to gain "community approval" before they could expand, renovate, or open new religious venues. Decree 1/2006 requires a religious group with a membership of more than 90 persons to obtain the support of 60 local residents for any plans to build or expand a religious venue. That petition must then be sent to the Joint Forum for Religious Tolerance (FKUB), a provincial panel of religious leaders chosen proportionally by the number of religious adherents in the province. If there remains strong community opposition to the religious venue, the FKUB can find an alternative location.

At the time, critics of the decree claimed that it was designed to stop the proliferation of "house churches" and small Hindu temples (of fewer than 90 members). Prominent Muslim religious leaders have stated publicly that the new decree might violate Article 18 of the International Covenant on Civil and Political Rights. Overall, the number of church, temple, and mosque closures has declined slightly since Joint Ministerial Decree 1/2006 was issued. In addition, over the past year, the Ministry of Religion has made efforts to establish provincial FKUB panels. Former President Abdurrahman Wahid has commended the "sincere efforts" of FKUB panels to promote religious tolerance, but added that without sufficient "control, evaluation, monitoring…and sanctions" the panels can be "used to promote the interests of the majority religion." Indeed, despite the existence of FKUB panels, Hindu and Christian groups report that they are sometimes refused building permits even though they have accumulated the necessary signatures. For example, five Protestant churches in North Bekasi, Jabotabek region, East Jakarta continue to face vandalism and sporadic protests from the group Musholla (Cooperating Bureau of Mosques and Praying Rooms) because they meet in private homes. Although police continue to protect the worship activities of these groups, local officials have refused to grant them permission to build permanent structures, despite their having met the criteria established in the 2006 decree. A similar situation occurred in South Rawa Badak, Koja region, North Jakarta in August 2008, when local officials

pressured the pastor of a Protestant church to cease worship activities, despite his having received permission from the FKUB to operate the church.

The Commission continues to monitor the implementation of sharia in Aceh. In August 2005, the Indonesian government concluded a comprehensive peace agreement with the insurgent group Free Aceh Movement (GAM), ending a 30-year conflict that had resulted in significant human rights abuses. The agreement led to a newly elected government and hope for a region hard hit by the tsunami and decades of civil conflict. However, neither the peace agreement nor the elections overturned Presidential Decree 11/2003, which allowed the province to establish and implement sharia law and establish sharia courts. Since the end of the civil war, sharia courts and their vice patrols, locally known as the *Wilayatul Hisbah*, have taken on a prominent public profile, enforcing dress codes and banning alcohol consumption, gambling, and unchaperoned liaisons between the opposite sex. The jurisdiction of sharia courts and the power of the *Wilayatul Hisbah* are controversial issues for the new Acehnese government. Local non-governmental organizations (NGOs) in Aceh report that government oversight of *Wilayatul Hisbah* has improved recently, making the vice patrols less intrusive than in the past. In addition, the new Acehnese government disbanded vice patrols in the city of Banda Aceh and civil courts gradually are taking up case loads previously heard in sharia courts. The number of public canings in Aceh decreased from 90 to 36 in the past year, all related to gambling. Political parties that won an estimated 80% of the vote in regional elections in April 2009 promised to de-emphasize the continuation of sharia in Aceh and instead to fully implement the Helsinki Peace Accords granting Aceh political autonomy, except in international relations, defense, fiscal and monetary policy, and religious affairs, which would be managed in Jakarta.

The expansion of sharia in Aceh has influenced local initiatives elsewhere in Indonesia. Efforts to implement sharia provisions nationally consistently have been defeated by a coalition of the largest Muslim organizations together with religious minorities. However, some provinces and localities are enforcing Islamic law at the municipal and regional levels. Indonesian NGOs estimate that at least 66 *perda syaria*, or local sharia laws, have been promulgated and enforced in the past five years. According to the International Center for Islam and Pluralism, an Indonesian think tank, half of Indonesia's 32 provinces have enacted sharia-inspired laws. In South Sulawesi, Madura, and West Sumatra, local authorities issued laws enforcing Islamic dress, prohibiting alcohol, and imposing public caning punishments. In Madura and South Sulawesi, civil servants are required to cease work activities during the call to prayer, and recitation of the Koran reportedly is being required for promotion. In Padang, West Sumatra, the local mayor instructed all schoolgirls, regardless of their religion, to wear a headscarf. In Bulukumba regency, any woman not wearing a headscarf can be denied government services. Similar laws have already been implemented in parts of West Java, including Cianjur, Tasikmalaya, and Garut. In the city of Tangerang, Banten province, local laws have banned both Muslims and non-Muslims from public displays of affection, alcohol consumption, and prostitution. The anti-prostitution ban is being challenged in Indonesian courts because it defines a prostitute as anyone who draws attention to himself or herself by attitude, behavior, or dress or any woman found "loitering" alone on the street after 10 pm. In the past year, according to the State Department, 31 women were arrested as prostitutes, including a married mother waiting alone at a bus stop during the early evening.

Recently, 56 Indonesian parliamentarians issued a petition calling for a review of local sharia-inspired laws to determine if they violate constitutional protections and national laws. Home Affairs Minister Mardiyanto announced that there was no need to review or overturn most sharia-inspired laws, although the Indonesian government promised to review 37 ordinances deemed discriminatory and at odds with the constitution. However, this review is not likely to be completed until after the 2009 election season.

Indonesian human rights advocates have expressed fears that local *perda syaria* ordinances are a backdoor attempt to implement sharia nationally and may be used to mobilize political support for the more extremist Muslim political parties during the 2009 elections. These laws also could threaten Indonesia's fragile political consensus supporting pluralism, tolerance, and democracy. The head of Indonesia's Constitutional Court, Dr. Mohammad Mahfud, recently told the *Jakarta Post* that, in his view, all *perda syaria* laws should be overturned because they promote religious intolerance, particularly against minorities, violate the constitution, and "threaten…national integrity."

Recommendations for U.S. Policy

U.S. assistance to Indonesia currently supports programs in conflict resolution, multi-religious dialogue and tolerance, pluralism, public diplomacy, and education that are in line with recommendations made by the Commission in previous years. During a February 2009 visit to Indonesia, Secretary of State Hillary Clinton called for establishing a "comprehensive partnership" between the United States and Indonesia. To advance that partnership, the Commission recommends that the U.S. government create a bilateral human rights dialogue with the government of Indonesia and discuss issues regarding the protection and promotion of religious freedom and related human rights, including:

- urging the Indonesian government to overturn the Joint Ministerial Decree on the Ahmadi, fully protect the ability of religious minority communities to freely practice in ways consistent with the Indonesian constitution and international law, arrest or hold accountable any individual who organizes, allows or participates in violence or harassment of religious communities, and amend or overturn any provincial or local laws or practice inconsistent with Indonesia's constitution or international human right standards, including Article 156a of the Penal Code;

- urging the Indonesian government to amend the Joint Ministerial Decree No. 1/2006 (Regulation on Building Houses of Worship) to bring it into compliance with the Indonesian constitution's protection of religious freedom as well as international standards, remove any restrictive barriers on building and refurbishing places of worship for all religious groups in Indonesia, expand the role of provincial Joint Forums for Religious Tolerance (FKUB), and provide protection for religious venues, as well as restitution to religious communities whose venues have been destroyed or closed due to mob violence or protests, and ensure that those responsible for such acts are prosecuted;

- supporting Indonesia's evolving legal and human rights reform agenda by providing training, capacity building, and targeted exchanges with Indonesian government agencies, legal and judicial institutions, and legal and human rights-focused civil society organizations, including the National Human Rights Commission (Komnas HAM), the Supreme Court, and the Directorate General of Human Rights in the Ministry of Justice and Human Rights;

- expanding exchange programs that bring Indonesian scholars, judges, lawyers, and activists to the United States to initiate discussions with governmental, academic, and non-governmental experts on human rights, including religious freedom, rule of law, and the relationship between religion and the state;

- establishing programs to support monitoring of the implementation of sharia law in Aceh and other parts of Indonesia to determine if individual rights and freedoms, including religious freedom, are being guaranteed for all citizens, and making sure that U.S. humanitarian and foreign assistance programs do not support sharia police or courts in Aceh or other municipalities in Indonesia;

- establishing programs that promote training and capacity-building for Indonesian human rights-focused civil society organizations involved in

programs of building multi-religious coalitions to promote legal, political, and economic programs consistent with Indonesia's constitution and international human rights standards;

- prioritizing financial support for 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, and public interest law 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.

In addition, as part of U.S.-Indonesian counter-terrorism cooperation, the U.S. should ensure that any future ties with the Indonesian military and police should include, as priorities:

- reform of the Indonesian military, including transfer to civilian control, training in international human rights standards, and technical assistance in military law and tribunals;

- transfer or removal from Papua, the Malukus, or Central Sulawesi any security, police, and militia personnel 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;

- dedicated funds for training Indonesian police in counter-terrorism techniques and protecting human rights in areas of sectarian conflict, including fellowships to the International Law Enforcement Academy (ILEA) in Bangkok, Thailand and participation in UN Police training programs (UNPOL); and

- denial of U.S. assistance, training, or visas for any police or military unit or security agency personnel found to have engaged in violations of human rights.

Laos

The Commission removed Laos from the Watch List in 2005, citing the Lao government's steps to address serious religious freedom concerns in advance of the U.S. decision to grant Laos permanent normal trade relations (PNTR). At the time, the government's actions brought about some positive changes for religious groups in Laos, particularly in urban areas and for the majority Buddhist community. However, for several years the Commission has been concerned about the rising number of religious freedom abuses occurring in provincial areas. Over the last year, there have been arrests, detentions, forced renunciations of faith, and forced evictions from villages, particularly in Luang Prabang, Xiang Khoung, Bolikhamsai, Phongsali, Oudomsai, and Bokeo provinces, and the central government seems unable or unwilling to hold provincial authorities fully accountable for these abuses. Because of an increase in religious freedom abuses and restrictions targeting ethnic minority Protestants in provincial areas in the past year, the Commission is returning Laos to the Watch List. These developments are particularly troubling given the positive direction the central government has taken in some other areas and the willingness of some elements of the Lao government to engage on religious freedom concerns. The Commission will continue to monitor closely the actions of the Lao government with regard to religious freedom.

Laos is a single party, communist, authoritarian state with a poor human rights record overall, including harsh prison conditions; severe restrictions on the freedoms of expression, association, and assembly; and widespread corruption among local police, administrators, and judges. The Lao Constitution provides for freedom of religion, but the Prime Minister's 2002 Decree on Religious Practice (Decree 92) contains numerous mechanisms for government control of and interference in religious activities. Although Decree 92 legitimized religious activities previously regarded as illegal (such as public religious persuasion, printing religious material, owning and building places of worship, and maintaining contact with overseas religious groups), many of these activities can be conducted only with government approval. Moreover, the decree contains a prohibition on activities that create "social division" or "chaos" that reiterates parts of the Lao criminal code used in the past by government officials to arrest and arbitrarily detain ethnic minority Christians. The Lao Front for National Construction (LFNC), a front group for the Lao People's Revolutionary Party, is the organization tasked with monitoring religious activity and carrying out the Lao government's policy on religion. Decree 92 requires religious groups to register with the LFNC.

The government of Laos officially recognizes five religions, Buddhism, the Baha'i faith, Catholicism, Islam, and, Protestantism. Theravada Buddhism, the largest religion in Laos, occupies an elevated position in Lao society, a position ensured by government promotion. Despite its communist roots, the Lao government actively promotes Theravada Buddhism by incorporating its rituals and ceremonies into state functions and by exempting Buddhism from most of the legal requirements imposed on other religions. The government supports Buddhist temples administratively and financially. Buddhists in Laos generally do not report religious freedom abuses or restrictions, though in February 2007 two Buddhist monks were arrested and briefly detained for being ordained without government permission.

Non-Buddhist religious leaders report few restrictions on their worship activities in urban areas. The government has allowed the officially recognized religious groups to re-open, build, and expand religious venues in recent years. Baha'is were permitted to reclaim two pieces of property seized by the government in 1975. The government also issued permits to build four new Baha'i centers in Vientianne province. Lao Protestants and Catholics also reclaimed several properties confiscated previously in Vientianne and Bokeo provinces. Four new Protestant churches were built in the former Saisomboun Special Zone and Bolikhamsai province, and churches formerly closed or destroyed were permitted to re-open in Bolikhamsai, Vientiane, and Bokeo provinces. Two Catholic churches were built in villages where

permits were long denied. Travel restrictions on the Roman Catholic Bishop of Luang Prabang were lifted and he was able to visit parish churches in northern Laos. The government permitted the ordination of a Catholic deacon in Champassak province, and the government eventually allowed the ordination of three new Catholic priests in Vientianne, despite initially blocking the ceremony. These were the first ordinations of Catholic clergy permitted in the country since 1975. In January 2008, 3,000 people, including foreign dignitaries and the regional Archbishop from Bangkok were allowed to attend the ordination of Father Benedict Bennakhone Inthirath, who now serves the Vientiane vicariate. Catholic ordinations continued into early 2009 with the ordination of Father Matthieu Somdet Kaluan on January 10, 2009 in central Laos, a ceremony that also drew thousands of Laotian Catholics.

Most religious freedom abuses in Laos have affected the small but fast growing Protestant groups in ethnic minority areas. Lao authorities in some areas continue to view the spread of Christianity among ethnic minorities as an "American import" that poses a potential threat to the communist political system, particularly as some ethnic minority groups have long resisted government control.

The Lao government recognizes the Lao Evangelical Church (LEC) and the Seventh Day Adventists, but has refused to recognize legally the Methodists and other small independent Protestant congregations. Most new Christian groups are required to join either the LEC or the Adventists to make it easier for the government to exercise management and oversight. Last year, there were more reports of provincial authorities restricting the activities of ethnic minority Protestants, particularly those who have not joined the LEC or who have established connections with other denominations abroad. For example, in some provincial areas, Methodist congregations cannot gather for worship, build religious venues, or conduct Christian funeral services. Decree 92 restricts worship services to officially sanctioned houses of worship, and both LEC and non-LEC affiliated "house churches" have experienced various levels of harassment, particularly in Luang Namtha, Oudomasai and Bolikhamsai provinces. In the last year, a religious leader and several congregates in Savannakhet were briefly detained and charged with holding "illegal worship services." The religious leader was released and ordered to cease operation of his "house church" until he received permission from provincial authorities. In August 2008, a congregation of 150 adherents in Bolikhamsai province was banned from meeting in a member's home by local authorities, who asserted that under current law they could only meet in a church. However, these local officials reportedly destroyed the group's church earlier in the year and sought to get church members to renounce their faith. In the past, provincial authorities have refused to grant Protestants permission to build church structures.

In the past year, according to a variety of sources, the number of individuals arrested and detained for reasons related to religion increased. Individuals arrested for their religious activities were held for varying lengths of time up to a year without charges being filed. Many were forced to sign a renunciation of faith while they were imprisoned. Ethnic minority Protestants were detained in Phongsali province during 2008 for the purpose of forcing them to renounce their faith. In February 2008, 58 Hmong Christians were arrested in Bokeo province. The Lao government denies their imprisonment and claims they were in the country illegally and were deported to Vietnam. However, other reports indicate that these arrests are related to village and family level religious conflict stoked by provincial officials. In July, 80 Christians in Saravan province were detained to force a renunciation of their faith following the murder of a local Christian by non-Christian residents. Recent arrests and detentions occurred most often in Oudomsai, Luang Namtha, and Salavan provinces. The Lao government released some prisoners this past year: in November 2008, 8 Khmu pastors were released, but each was charged $350 for detention fees. According to the State Department these pastors may not have been held solely on religious grounds. Some reports indicate that they were arrested for trying to cross the border into Thailand without authorization, while others suggest that they may have been carrying

documentation about religious discrimination in Laos.

In addition to forced renunciations concerning prisoners, there are reports that over 500 Christians around the country were pressured to renounce their faith in July 2008. It is difficult to verify exactly the numbers of Christians harassed in this way, but Protestant families in Attapeu Province were pressured to give up their Christian faith. Reports also indicate that an LFNC official was able to resolve this dispute with provincial officials. In November 2008, seven families from Nam Reng Village in Oudomsai Province were forced to sign a statement renouncing their faith or face expulsion from the village. Other methods of forced renunciation included threats to deny government identification cards and household registration documents, denying education opportunities, and withholding food from prisoners. Some Christians have also been forced to leave their villages as a result of the discrimination perpetrated by local officials. In August 2008, 55 Christian villagers from Boukham village in Savannakhet were expelled from their village. The local security officers were unable to provide any explanation for this action.

In recent years, the LFNC reportedly has sought to resolve disputes between religious groups and provincial officials, including intervening in some cases of detention or arrest, and sometimes resulting in positive outcomes. However, the growing numbers of religious freedom abuses in provincial areas in the past year may indicate that local officials can act with impunity, particularly against ethnic minority Protestants.

Recommendations for U.S. Policy

With regard to Laos, the Commission recommends that the U.S. government should:

- establish measurable goals and benchmarks, in consultation with the Commission, for further human rights progress in Laos as a guide for diplomatic engagement between Laos and the United States or for initiating a formal human rights dialogue with the government of Laos, addressing such human rights issues as ethnic and religious discrimination, torture and other forms of ill-treatment in prisons, unlawful arrest and detention, lack of due process, and practical steps to ensure the rights to freedom of expression, association, and assembly;

- make clear to the government of Laos that continued improvements in the protection of freedom of thought, conscience, and religion or belief, including legal reforms, political accountability for government officials who perpetrate religious freedom abuses, and the release of any prisoners detained because of religious affiliation or activity, is essential to further improvements in, and expansion of, U.S.-Laos relations;

- expand Lao language broadcasts on Voice of America (VOA) and Radio Free Asia (RFA) while ensuring that the content of the Lao language broadcasts on VOA and RFA includes adequate information about the importance of human rights, including religious freedom, within Laos; and

- initiate and expand technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:

  --rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations, including Laos' law on religion;

  --human rights and religious freedom training programs for specific sectors of Lao society, including government officials, religious leaders, academics, lawyers, police, and representatives of international non-governmental organizations;

  --training, networking, and capacity-building for Lao groups that carry out charitable, medical, and development activities;

--educational initiatives to combat intolerance of religious and ethnic minorities and to promote human rights education; and

--the expansion of the number and funding of educational, academic, government, and private exchange programs with Laos that will bring a wide cross-section of Lao society to the United States.

Russian Federation

For ten years the Commission has reported on the status of freedom of religion or belief in Russia. Although the Commission has never recommended that Russia be named a "country of particular concern," or CPC, for the most severe violations of religious freedom, this year the Commission decided to add Russia to its Watch List. The decision to place Russia on the Commission's Watch List is based on several negative new policies and trends, particularly the establishment in early 2009 of a new body in the Ministry of Justice with unprecedented powers to control religious groups. There also are increasing violations of religious freedom by government officials, particularly against allegedly "non-traditional" religious groups and Muslims, based on the government's interpretation and application of various Russian laws including the laws on religious organizations, non-governmental organizations, and extremism. The Russian government also uses laws against incitement of hatred to suppress or punish critical or humorous portrayals of religion in publications or visual art. Russian officials continue to describe certain religious and other groups as alien to Russian culture and society, and there has been a sharp rise in the country in xenophobia and intolerance, including anti-Semitism, which has resulted in numerous violent attacks and other hate crimes. The Russian government has chronically failed to address these serious problems adequately, consistently or effectively.

In recent years, Russia has steadily retreated from democratic reform, endangering post-Soviet human rights gains, including in regard to freedom of religion or belief. Evidence of this retreat includes further limitations on media freedom and on political parties; tighter controls on non-governmental organizations (NGOs) and religious communities; concerted harassment of human rights activists and organizations; legal restrictions on freedom of assembly; and constraints on popular referenda. Increasingly, Russian journalists, lawyers and others who have defended human rights have been subjected to brazen killings and attacks, and the perpetrators usually act with impunity.[1] Moreover, Moscow has rallied other countries with dubious human rights practices to oppose international efforts to draw attention to these serious problems by terming such inquiries "meddling" or "interference in internal affairs." This sharp deterioration in the human rights climate appears to be a direct consequence of the authoritarian stance of the Russian government, as well as the growing influence of chauvinistic groups in Russian society, which seem to be tolerated by the government.

In February 2009, the Justice Ministry established the Expert Religious Studies Council, which was given extremely wide powers to investigate religious organizations, including their activities and literature, for a broad array of reasons, including extremism. While governments have a duty to combat acts of violent extremism as part of their obligation to protect citizens, there have been expressions of serious concern over the establishment, as well as the composition and expansive mandate, of this new council. The Expert Religious Studies Council's powers enable it to investigate religious organizations during the registration procedure; to assess whether the activity of a registered group accords with its charter; to ascertain if an organization, one of its members, or the literature it produces or distributes is extremist; and to conduct investigations in "other cases requiring specialist knowledge" which might arise when the Russian Justice Ministry is monitoring the activity of religious organizations.

The Expert Religious Studies Council's new chairman, Aleksandr Dvorkin, is Russia's most prominent "anti-cult" activist and he lacks academic credentials as a religion specialist. Furthermore, Dvorkin's deputy, Roman Silantyev, is noted for intolerant articles on so-called radical Islam. Observers are concerned that under Dvorkin's leadership, the council may call for the closure of registered as well as unregistered minority religious communities. This concern is based on Dvorkin's previous positions on independent Muslims, Jehovah's Witnesses, Hare Krishnas, "neo-Pentecostals," and other new religious movements. Concerns have also been expressed that the new council's members include five individuals reported

to be close to the Moscow Patriarchate Russian Orthodox Church who are known for "anti-sect" activities.

Many of the problems faced by Russia's diverse minority religious communities stem from the notion set forth in the preface to the 1997 religion law that four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have "traditional" status in that country. The *de facto* favored status of the Moscow Patriarchate Russian Orthodox Church (MPROC) results in restrictions and discrimination against other religious groups. Officials of the MPROC also sometimes use their influence with regional authorities to restrict the activities of other religious groups. There are frequent reports, particularly on the local level, that minority religious communities must secure MPROC permission before officials grant access to houses of worship and that local authorities sometimes deny them registration at the behest of local MPROC officials. According to the State Department, Russian government officials and police often make public negative comments about Protestant churches and other allegedly new religious movements, referring to them as "totalitarian sects," stressing their alien character and foreign funding, and making implications of espionage.

The MPROC, the world's largest Orthodox church which claims adherents among 60 percent of Russians, has played a special role in Russian history and culture; it receives the bulk of state support for religious groups, including subsidies for church maintenance and construction. The three other so-called "traditional" religious communities, Islam, Buddhism and Judaism, also sometimes benefit from government funding. In addition, the Moscow city government has funded extensive renovations of Old Believer buildings. The MPROC also has agreements with government ministries on guidelines for public education, religious training for military personnel and on law enforcement decisions. The authorities permit MPROC chapels and priests on army bases, but provide some Protestant groups limited access to military facilities. In late 2007, the Russian military appointed its first Jewish chaplain since 1917, according to the State Department. Authorities largely ban Islamic services in the military and usually fail to give Muslim conscripts time for daily prayers or alternatives to pork-based meals. According to the SOVA Center, a leading Russian NGO monitoring group, some Muslim army recruits reported that their fellow servicemen insulted and abused them on the basis of their religion

Other systemic problems result from Russia's weak judicial system, inconsistent adherence to the rule of law, and local officials' arbitrary interpretations regarding the status of the so-called "traditional" religions. These problems include denials of registration (status of legal person) requests; refusals to allot land or to grant construction permits for places of worship; restrictions on rental space for religious activities; lengthy delays in the return of religious property; and attacks in the state-controlled media that incite intolerance. Official respect for freedom of religion or belief varies widely from region to region. In Chechnya, for example, President Ramzan Kadyrov announced in 2006 that his republic "would be better off" if it were ruled by sharia law, and he has also justified polygamy and honor killings. In many parts of Russia, however, a given religious community's relationship with individual state officials is frequently the key to determining government respect for its rights.

In October 2007, a Russian law came into effect setting out the conditions and procedures for state-owned land appropriation that permits religious organizations to retain their current land plots for unlimited use until January 1, 2010. Prior to this amendment, there had been no legal mechanism for religious organizations to privatize land plots. In early 2009, Russia was considering a draft law on the transfer of property of religious significance to religious organizations and which would define the procedure for allocating such property. The draft law also grants religious organizations ownership of all historical property currently in their use. Currently, religious organizations have the right to use such property indefinitely, but it remains in the possession of the Russian state. If this draft law were to be passed, the MPROC would become one of the largest property holders in Russia.

In 2008, Russian regional and local officials continued to confiscate buildings already in use by religious communities. The mayor of St. Petersburg ordered that a Lutheran church be given to the MPROC, according to the SOVA Center. A Baptist congregation in the city of Lipetsk lost its rented prayer house in 2008 because the local MPROC had filed suit for the building, the State Department reported. Another case involved properties of the Russian Orthodox Autonomous Church (ROAC), which is not affiliated with the Moscow Patriarchate, in the town of Suzdal. In February 2009, a regional court ordered that the 11 historic churches and 2 bell towers must be returned to the state, although the ROAC has used these properties since the 1990s.

The 1997 religion law requires registration at both federal and local levels, thereby creating difficulties for previously unregistered as well as new religious groups. At the federal level, most religious organizations have been registered by federal officials and the Russian Constitutional Court. Religious groups that have gone to court to overturn denials of registration have often been successful, but administrative authorities have sometimes been unwilling or slow to implement court decisions. The Salvation Army was finally re-registered in the city of Moscow in April 2009, as required by a 2002 Russian Constitutional Court ruling and a 2006 European Court for Human Rights (ECtHR) ruling. In cases when the ECtHR has ruled against Russia, the state has later paid full compensation, for example, to the Jehovah's Witnesses in the city of Chelyabinsk and to an evangelical church in Chekhov. The Salvation Army case marks the first known instance involving a religious community in which the Russian state has taken remedial action as required by the ECtHR.

Moreover, Russian authorities have denied registration to certain religious communities based on the allegedly insufficient time they have existed. Such denials continue, even though the Russian Constitutional Court ruled in 2002 that an active religious organization registered before the 1997 law could not be deprived of legal status for failing to re-register. Local officials sometimes simply refuse to register groups or create prohibitive obstacles to registration.

The 1997 religion law gives 10 citizens the right to form a religious association, which, in turn, provides them the legal right to a house of worship. Yet, despite this legal guarantee, building or renting worship space remains difficult for a number of religious communities. Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints (Mormons), and Pentecostal congregations face particular problems, as do Orthodox groups that do not recognize the Moscow Patriarchate, Molokans, and Old Believer communities. Protestant, Catholic, Muslim and some Orthodox congregations allege inordinate official interest in fire safety and other details in regard to their worship buildings, which may result in court-ordered fines, temporary closures or official demolition threats, Forum 18 reported in February 2009.

Russian authorities also continue to deny registration to certain religious communities, particularly those deemed by Russian officials to be "non-traditional." A local religious organization was even banned in June 2004, when the Russian Supreme Court upheld a Moscow court decision banning the Jehovah's Witnesses in that city, making them the first national religious organization to have a local branch banned under the 1997 religion law. According to Forum 18, Jehovah's Witnesses viewed the 500 coordinated and centrally directed investigations by procuracy officials in March 2009 as "trawling" for grounds to shut down their St. Petersburg headquarters and over 400 dependent organizations. In 2008, two Baptist congregations in the city of Lipetsk lost their legal status due to alleged tax violations, the State Department reported.

Under the 1997 religion law, religious organizations encounter confusing definitions over what type of religious activity requires an education license: "educational" activity might require a license, while "teaching" does not. In March 2008, the Smolensk Regional Court dissolved a local Methodist church for running a Sunday school with only four pupils without an education license. In June 2008, Russia's Supreme Court overturned that

ruling, holding that a license is needed only if it is "accompanied by confirmation that the student has attained levels of education prescribed by the state." A Pentecostal Bible center in the Volga republic of Chuvashia lost its registration for allegedly conducting unlicensed educational activity in August 2007; in April 2008 the Pentecostal center appealed to the ECtHR, Forum 18 reported.

In September 2008, the Russian Justice Ministry published a list of 22 religious organizations for which it was seeking to liquidate their registration status through the courts for the alleged conduct of unlicensed educational activities. Four of these organizations (the Russian Union of Independent Churches of Evangelical Christian Baptists in Rostov-on-Don, the Theological Seminary of the Siberian Association of Evangelical-Lutheran Missions in Novosibirsk, and two Moscow yeshivas) have successfully challenged immediate liquidation. Two others, the Presbyterian Christian Theological Academy and the Institute of Contemporary Judaism, liquidated their own registration status, while five of the groups were no longer functioning, according to Forum 18. In March 2009, the Russian media reported that the Ministry of Justice recently had been granted the right to conduct state inspections of theological institutions and that it planned to establish an expert council for that purpose.

In January 2006, then-President Putin signed a restrictive law on non-governmental organizations (NGOs) that also affects the country's 23,000 registered religious communities and granted the Ministry of Justice's Federal Registration Service (FRS) extensive oversight functions. The law enables the FRS to interfere with the activities of NGOs, examine their documents, attend their meetings with advance notice, and initiate court proceedings which may result in denials of the registration of groups that do not meet numerous legal requirements, including minor or trivial ones. NGOs are required to submit detailed annual reports on their activities, governing bodies, and funding, including from foreign sources. (The FRS was eliminated as a separate unit in the Ministry of Justice in July 2008 and its functions transferred to another office. It is too early to ascertain what impact, if any, this change will have in regard to religious freedom and related human rights in Russia.)

The provisions of the NGO law which are applicable to religious organizations went into effect in mid-2007. Several months later, however, after lobbying by many religious groups, including the Russian Orthodox Church, the government reduced their reporting requirements. Russian religious organizations are no longer required to report income from Russian individuals or the Russian state, but they must document foreign donations. Each religious group must still report the full names, addresses, and passport details of its governing body members, although requirements were dropped that they provide details of religious congresses, conferences, or meetings of governing bodies. In addition, accounting procedures for such organizations were simplified, though financial documents must also be supplied to the Russian tax authorities.

In October 2008, the Justice Ministry published a list of 56 centralized religious organizations throughout Russia for which it planned to request the deprivation of legal status for alleged violations of reporting requirements under the NGO law. The list includes Old Believer, Armenian Apostolic, Catholic, Protestant, Nestorian, Muslim and Buddhist organizations. Fifteen groups on that list had not received any prior warning from the Ministry on alleged violations, Forum 18 reported. The Coordinating Center of North Caucasus Muslims publicly noted that it had neglected to file a minor financial report. Although 309 of Russia's 562 centralized religious organizations belong to the MPROC, no MPROC groups appeared on the Justice Ministry's list. Some groups have alleged that the Justice Ministry provided the MPROC advance notice on how to file reports.

In March 2009, Russian President Medvedev chaired the Presidential Council on Cooperation with Religious Associations, an official advisory body previously headed by a Presidential Administration official. Medvedev also announced

that he planned to convene the group more regularly and give it decision-making power. In April 2009, President Medvedev named Ivan Demidov the head of the Presidential Administration's department for humanitarian policy and social relations, which includes responsibility for relations with Russia's religious communities. Reportedly, Demidov has close connections to the MPROC Patriarch and is a proponent of Russian nationalist causes, including in his previous role as coordinator of "Young Guard," the youth branch of the ruling political party "United Russia."

A voluntary course on the "Foundations of Russian Orthodox Culture" in the national school curriculum, proposed by the MPROC and adopted in at least nine regions of Russia, reportedly will be dropped as of the 2009 academic year. Instead, students reportedly will be able to choose an ethics course or a course on world religions for which the Russian Ministry of Education is drafting a 300-page text "The Basis of Moral Culture." Religious figures allegedly will be barred from teaching courses on religion in state schools. Informed observers note, however, that these alleged curriculum changes are part of a general educational reform that will likely take many years. In this context, a recent legal case in the Voronezh oblast is relevant. A Protestant pastor brought suit after his son was beaten by schoolmates because the boy refused to participate in MPROC prayers in his local public school. In December 2008, the court refused to rule that MPROC prayers in a public school had violated the religious freedom of the pastor's son or that the pastor had been denied the right to educate his child in accordance with his religious principles, the SOVA Center reported. In a case that caused numerous protests, university instructor Svetlana Shestakova in the Siberian city of Tyumen was charged in August 2008 for criminal incitement of hatred for her public insults of Jews, Muslims, Catholics and Protestants during her training sessions for instructors for the "Foundations" course.

Over the past several years, a serious threat to religious freedom has emerged in the Russian government's amendment and application of the country's anti-extremism laws. The June 2002 Extremism Law defines extremist activity in a religious context, by referring to "propaganda of the exclusivity, superiority or inferiority of citizens according to their attitude towards religion or religious affiliation; incitement of religious hatred; obstruction of the lawful activity of religious associations accompanied by violence or the threat of violence; committing a crime motivated by religious hatred." In 2006, the legal definition of extremism was expanded to encompass "violation of the rights and freedoms of the person and citizen" and "harm to the health or property of citizens in connection with their beliefs." In 2007, the definition was further broadened to include "obstruction of the lawful activity (…) of social, religious or other organizations" without requiring the threat or application of actual violence. In addition, those alleged to have defended or even expressed sympathy with individuals charged with extremism were also made liable to charges of extremism. Indeed, according to Forum 18, the "gravest current threat to freedom of religion or belief in Russia comes from the federal government's approach to combating religious extremism."

Even a low-level court may rule literature extremist, with the result that the literature is automatically added to the Justice Ministry's Federal List of Extremist Materials and thereby banned throughout Russia. This list, established in July 2007 with 14 titles and updated four times a year, by April 2009 had expanded to 365 items, according to the SOVA Center. While the list of banned texts includes some extreme nationalist and virulently anti-Semitic materials, Islamic materials, such as the works of Said Nursi and "The Personality of a Muslim" (see below), constitute the majority of theological entries. According to Forum 18, local courts have also banned some Jehovah's Witness and Russian Orthodox literature even though one senior Russian official recently admitted that some titles were blacklisted "by mistake."

In November 2008, the chair of Russia's Council of Muftis, Ravil Gainutdin, accused some local courts of "poor understanding of religious and theological issues" in their bans of Islamic texts. He

noted that courts had even banned books recommended by his own Council, such as "The Personality of a Muslim" by Muhammad ali Al-Hashimi, a Koran-based life guide which advocates kindness and generosity, including towards non-Muslims. In May 2008, a criminal case for "incitement to religious hatred" was brought against Aslambek Ezhayev, the Moscow publisher of "The Personality of a Muslim." In October 2008, Ezhayev's offices were subjected to a six-hour police search, but no further official action has been taken against him as of this date.

In 2007, a Russian court banned as extremist the Russian translations of the works of Said Nursi, a pacifist Turkish Islamic theologian with six million adherents in Turkey. According to Forum 18, regional public prosecutors' offices and the secret police have searched homes of Nursi readers and confiscated his texts across Russia, and students of Nursi's work in Tatarstan have been subjected to forced psychiatric examinations. In April 2008, Tatarstan officials issued warnings about extremist activity to its Tatar-Turkish secular secondary schools as part of a criminal investigation into Nursi's followers. Because of the ban, those who popularize Nursi's writings may receive a four-year prison sentence under Criminal Code Article 282. Reportedly, Nursi's Russian translator and his family were forced to flee Russia in 2008 as a result of police harassment. Russia's Human Rights Ombudsman has denounced the ban on Nursi's writings, warning that "it is very important that we do not allow interference in the convictions and beliefs of millions of citizens on the poorly grounded, unproven pretext of fighting against extremism."

As is the case in many other countries, the Russian government does face major challenges as it addresses extremism and acts of terrorism that claim a religious linkage, while also protecting freedom of religion or belief and other human rights. The rapid post-Soviet revival of Islam, along with the ongoing violence in Chechnya and growing instability throughout the North Caucasus, compound difficulties for the Russian government in dealing with its 20 million Muslims, the country's second largest religious community. Security threats from domestic terrorism, particularly those related to the conflict in Chechnya, are genuine. The North Caucasus region also faces chronic instability due to various other factors: severe economic dislocation, especially among young men; some radical foreign influences on indigenous Muslims; endemic corruption and local political grievances, particularly in Ingushetia and Kabardino-Balkaria. All these factors have combined to fuel volatile and increasingly widespread expressions of popular dissatisfaction by Muslims with the local and national Russian government.

Yet human rights groups are concerned that the methods used by the Russian government to address security threats could increase instability and exacerbate radicalism among Russia's Muslim community. NGOs and human rights activists have provided evidence of numerous cases of Muslims being prosecuted for extremism or terrorism although these individuals had no apparent relation to such activities. For example, there are dozens of cases of detentions for possession of religious literature, such as the Koran, or on the basis of evidence—including banned literature, drugs, or explosives—allegedly planted by the police. The Commission has been informed of at least 200 cases of Muslims imprisoned on reportedly fabricated criminal charges of possession of weapons and drugs. Moreover, according to human rights groups, a 2003 Russian Supreme Court decision to ban 15 Muslim groups for alleged ties to international terrorism has made it easier for officials arbitrarily to detain and courts to imprison hundreds of individuals on extremism charges for alleged ties to these groups. It was not until July 2006 that the official government newspaper *Rossiiskaya gazeta* published a list of terrorist-designated organizations drawn up by the Federal Security Service (FSB)—a necessary step to give the ruling legal force—and this list contained the names of two additional groups, without any supporting explanation for their inclusion.

The Russian human rights group "Memorial" reports that Muslims perceived as "overly devout" are now viewed with suspicion and may be arrested or "be disappeared" on vague official accusations of alleged Islamist extremism or for

allegedly displaying Islamist sympathies, particularly in the volatile North Caucasus region. For example, Forum 18 reported in August 2008 that the government of the republic of Kabardino-Balkaria had brutally cracked down on young devout Muslims there. According to a February 2008 report by the Institute for War and Peace Reporting, more than 150 people were abducted in Ingushetia by Russian authorities or were "disappeared" in recent years, including many who have no proven relationship to Islamist militancy. In early 2008, outside Ingushetia's largest city, Nazran, three men were shot without warning as alleged extremists by security forces. In November 2008, "Memorial" reported an operation by security forces against "religious residents" of a village in Dagestan that resulted in three deaths. Persons suspected of involvement in alleged Islamist extremism have also reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps. Indeed, Muslim prisoners in the Murmansk oblast filed suit in 2008 with the ECtHR alleging official mistreatment on the basis of their religion, the SOVA Center reported in 2009.

This hostile atmosphere also affects Muslims' ability to open and maintain mosques. Although local authorities in Kaliningrad and Kostomushki in 2008 finally granted Muslim communities land for mosque construction, there reportedly has been no official response to longstanding requests from Muslim communities in Sochi and St. Petersburg for permission to build mosques. In August 2006, the Russian Supreme Court upheld a lower court decision ordering that the local Muslim community in the city of Astrakhan pay for the demolition of its new mosque. In May 2007, the Supreme Court agreed to reconsider the case. Allegedly, the city's Muslim community had not received all the required building permits, although construction of the mosque had been partly funded by the previous local government. In July 2007, the ECtHR prioritized the Astrakhan case application and, as of this writing, it is still under consideration.

Russian officials, especially on the local level, continue to respond inadequately to numerous violent hate crimes directed against members of various religious communities. For example, in April 2008 a group shouting "you must be destroyed!" burst into the Pentecostal Living Word Church in Kuznetsk, threatening parishioners with pistols and beating up the church's pastor. Three weeks later, the pastor appealed to local police and two hours later seven men attacked the congregation. In response, the local prosecutor brought an administrative charge of petty hooliganism against the attack's leader. Moreover, chauvinist groups have stepped up their campaign against individuals and groups who defend the rights of religious and ethnic minorities as well as migrants, including issuing death threats. While Russian police have offered some assistance to these defenders, their efforts remain ineffective and inconsistent. Due to such threats, Aleksandr Verkhovsky and Galina Kozhevnikov, co-directors of the SOVA Center, decided in March 2009 to take up temporary residence outside Russia.

Russian law includes several provisions that address crimes motivated by ethnic or religious hatred. For example, Article 282 of the Russian Criminal Code forbids the incitement of ethnic and religious hatred. Unfortunately, Russia's law enforcement agencies and the judicial system apply these provisions infrequently, inconsistently, and even arbitrarily and inappropriately. In all too many cases involving members of Russia's ethnic and religious minorities, Russian authorities, particularly on the local level, have not treated hate crimes in a serious and consistent manner. On November 7, 2008, the anniversary of the 1917 Bolshevik revolution, President Dmitri Medvedev instructed police officers to "pay particular attention to investigation of cases related to extremism and xenophobia" and called on law enforcement bodies at federal and regional levels to try to prevent such crimes and to develop "high-quality" legal materials, including the application of relevant criminal code articles.

Human rights groups have expressed concern that hate crimes, often the result of attacks by "skinhead" racist groups, are growing dramatically in Russia, particularly against people from Central Asia, who are predominately Muslim. The Office of the Russian Procuracy reported in early

2009 that 460 extremism-related crimes were registered in the country in 2008, a 30 percent increase from 2007, although the official attributed this increase to amendments in the criminal code and not to increased violence. Russian NGOs assert that in 2008 there were 269 hate crimes in the country, resulting in the deaths of 114 people, more than twice as many as in 2007. The SOVA Center reported that in 2008, 33 guilty verdicts for hate crimes had been handed down in 19 regions of Russia.

In 2008, the SOVA Center documented 78 acts of vandalism of the property of religious and ethnic minorities; of the 36 affected houses of worship and cemeteries, 48 were Russian Orthodox, 13 were synagogues and Jewish cemeteries, 9 were Muslim mosques and cemeteries, 6 were Protestant churches, one was a Jehovah's Witness Kingdom Hall, one was a pagan site and one was an Armenian cemetery. While illegal activities motivated by religious hatred are usually investigated with appropriate charges by law enforcement officials, very few cases result in conviction. As a result, members of religious communities often feel that they lack protection even during religious services, and express concerns about the security of their organizations' property.

Most officials and NGOs agree that many of these attacks are motivated largely by ethnic intolerance, although religious and ethnic identities often overlap. Nevertheless, members of Muslim, Jewish, Protestant, and other religious communities have been subjected to attacks motivated by religious factors. Religious minority leaders are apprehensive that Russian government officials provide tacit or active support for a view held by many ethnic Russians that their country should be reserved for them and that Russian Orthodoxy is the country's so-called "true religion." Civil society leaders link this view to a perception that Russian identity is currently threatened due to a demographic crisis stemming from a declining birthrate and high mortality among ethnic Russians.

Russian officials also display an inconsistent—and often inadequate—record in responding to media attacks and violence associated with anti-Semitism. *Kommersant* reported that during a Moscow rally of several hundred nationalists in April 2008, in addition to expressions of hatred of Jews, there were calls for the murder of some Jewish government officials, but police reportedly did not react. Moreover, there are at least 80 Russia-based anti-Semitic Web sites and, in various regions of Russia, approximately 100 small, ultranationalist newspapers that regularly print anti-Semitic, anti-Muslim, and other religiously and ethnically-based intolerant content. The St. Petersburg Ministry of Internal Affairs (MVD) University, which trains future leaders of Russian police agencies, reportedly authored and published anti-Semitic materials twice in 2008. After protests from the Jewish community and human rights groups, the MVD recalled all 1,000 copies of a textbook that promoted Jewish conspiracy theories from the university.

Russian rights advocates say that senior Russian government officials should do more to publicly support the multi-ethnic and multi-confessional nature of the Russian state and society. In fact, some western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes. The Kremlin is believed, for example, to have supported the formation of the ultra-nationalist *Rodina* political party and the nationalist youth movement *Nashi*. Others have observed that the Kremlin, by issuing nationalistic statements as well as demonstrating a tendency to blame non-Russians for crime, has encouraged intolerant attitudes toward non-Russians and people who do not identify with the Russian Orthodox Church. In the Commission's view, more can and should be done to ensure that Russian law enforcement agencies do not dismiss hate crimes as "hooliganism," but recognize them for what they are—human rights abuses—and take steps to prevent and punish such crimes, including those involving ethnicity and religion.

Protestant groups in Russia are frequent victims of hostile media attacks. According to the SOVA Center, journalists often seek guidance from the Russian Orthodox Church when researching articles about Protestants, and as a result the media

tend to portray Protestants as dangerous "sectarians." Moreover, pro-Kremlin nationalist youth movements have staged so-called "anti-sectarian," i.e., anti-Protestant, public protests. For several months in 2008, *Nashi* activists worked with the local government in Mordovia to prevent a planned Baptist conference. In Bryansk oblast, also in 2008, a Russian Orthodox branch of *Nashi* acted with local militia to break up a Baptist procession.

The National Security Concept of the Russian Federation, last updated in 2000, states that "ensuring national security includes countering the negative influence of foreign religious organizations and missionaries." As in previous years, the Russian authorities in 2008 denied a visa request from the Dalai Lama to visit Buddhist-majority regions, such as Kalmykia. Over 50 foreign religious workers, including Catholics, Protestants, Muslims, Buddhists and Jews, have been barred from Russia since 1998 and only a small number of those barred have since been allowed to return. New visa rules introduced in October 2007 for business or humanitarian visas, including religious work, permit visa holders to spend only 90 out of every 180 days in Russia; procedures for visa arrangements to allow more extended stays are lengthy and complex. The new visa regulations have had a harsh impact on many religious organizations, particularly those which for historical reasons depend upon foreigners, such as the Catholic Church. An American rabbi who had been working in the Primorye region for over two years was expelled from Russia after a court ruled in February 2009 that he had violated his visa by serving as a religious leader. Two rabbis in Rostov-on-Don were also expelled recently on similar charges. In March 2009, the Justice Ministry told the Russian media that by December 2009 it planned to introduce amendments to the religion law setting out new conditions of activity by foreign religious workers as well as administrative liability for unlawful activity.

Also in March 2009, the Ministry of Justice replaced a 1998 law governing representations of foreign religious organizations operating in Russia. The new law reportedly established new and complex procedures for registration of such representations, as well as rules for their opening and closing. The law also defined requirements for the proof of registration for foreign religious organizations and set up an official register. It is too early to assess the impact of this new law.

Free speech concerns also arise in connection to several recent law suits brought under Russia's law against "insulting religious feelings." For example, two cases, allegedly instigated by elements within the Moscow Patriarchate of the Russian Orthodox Church, were brought against Yuri Samodurov for art shows he organized in the Sakharov Museum; Samodurov faces a trial in May 2009. A Pentecostal leader also brought suit against the "2x2" television channel for airing a particular episode of the program "South Park." In addition, Russia's official Muslim community pressured the Russian version of "Newsweek" magazine to issue a public apology for reprinting one of the Danish cartoons of Muhammed in a special issue on Islam in Europe.

Recommendations for U.S. Policy

I. Ensuring the Equal Legal Status and Treatment of the Members of Russia's Religious Communities

The U.S. government should encourage the Russian government to:

- dissolve the Ministry of Justice's Expert Religious Studies Council, established in February 2009;

- ensure that law enforcement officials vigorously investigate and prosecute acts of violence, arson, and desecration perpetrated against members of any religious community, their property, or houses of worship; and set up a credible, impartial and effective review mechanism outside the procuracy to ensure that government authorities and law enforcement personnel are investigated and sanctioned, as appropriate, if they are found to have encouraged or condoned such incidents;

- affirm publicly on a high political level the positive significance of the multi-ethnic and multi-confessional nature of Russian society;

- affirm publicly that all religious communities in Russia are equal under the law and entitled to equal treatment, whether registered or unregistered, "traditional" or other; publicly express opposition to any legislation that would grant preferences to the purported "traditional" religions over other groups; and direct national government agencies to address and resolve continuing violations of religious freedom at the regional and local levels, including by:

  --issuing instructions to local law enforcement, prosecutors, and registration officials as well as publicly affirming that members of all religious communities are to be treated equally under the law;

  --enforcing non-discriminatory, generally applicable zoning and building codes, and ordering an end to the practice of using local public opinion surveys that serve as a basis to deny land and building permits to minority religious communities; and

  --deleting from the preface to the 1997 Law on "Freedom of Conscience and Religious Organizations" the reference to the four "traditional" religions—Russian Orthodoxy, Islam, Judaism, and Buddhism— as that reference, although it does not have legal standing, implicitly contradicts the Russian constitutional provision that "religious associations are separate from the state and are equal before the law" and has led Russian officials to establish inappropriate limits or demands against members of Russia's other religious communities;

- refrain from media attacks on any religious community and adopt administrative measures against government officials who fuel them;

- cease all forms of interference in the internal affairs of religious communities, unless stipulated by law and in conformity with international human rights standards;

- avoid taking steps that could exacerbate religious extremism by 1) developing policies and strategies to protect the religious freedom and other human rights of the members of Russia's Muslim community and 2) reviewing and remedying past cases of alleged arbitrary detention or arrest of members of this community;

- distribute on a regular basis updated information on freedom of religion or belief, as well as on Russian constitutional provisions and jurisprudence on separation of church and state and the equal status of religious denominations, to the Russian judiciary, religious affairs officials at all levels of government, the FRS, the procuracy, and all law enforcement bodies;

- extend the current annual training program for regional and local religious affairs officials to include their counterparts in the judiciary, procuracy, law enforcement agencies, and to the FRS;

- direct the Russian Federation Human Rights Ombudsman to set up a nationwide monitoring system on the status of freedom of religion or belief in the 84 regions of Russia; and

- accept a site visit to Russia from the UN Special Rapporteur on Freedom of Religion or Belief and grant her unrestricted access to religious communities and regions where religious freedom abuses are reported.

II. Combating Xenophobia, Intolerance, and Hate Crimes

The U.S. government should urge the Russian government to:

- condemn specific acts of xenophobia, anti-Semitism, and intolerance, as well as incidents

of hate crimes, and to make clear that such crimes are to be treated by officials as human rights abuses, not "hooliganism," and that they will be fully and promptly investigated and prosecuted;

- while vigorously promoting freedom of expression, publicly condemn rhetoric that promotes xenophobia or intolerance, including religious intolerance;

- provide special training and other programs for law enforcement officers and other officials to address ethnic hatred and promote tolerance;

- establish a special nationwide anti-discrimination body, as recommended by the Council of Europe's European Commission Against Racism and Intolerance, that provides regular reports to the public, press and parliament about its findings;

- implement the numerous specific recommendations made by Russia's Presidential Council on Human Rights, the official Russian Human Rights Ombudsman, and the Council of Europe's Commission against Racism and Intolerance to address anti-Semitism and xenophobia and prevent and punish hate crimes, including full implementation by regional and local law enforcement personnel of criminal code provisions prohibiting incitement and violence motivated by ethnic or religious hatred, in accordance with standards established by the European Court of Human Rights (ECtHR); and

- report, as required, to the Organization for Security and Cooperation in Europe (OSCE) on the specific measures that have been undertaken on a national level to address hate crimes, including maintaining statistics on these crimes, and strengthening legislative initiatives to combat them, and to take advantage of relevant OSCE training programs for Russian law enforcement and judicial officials.

III. Reforming or Withdrawing the 2006 Russian Law on Non-Commercial Organizations

The U.S. government should:

- establish a program to monitor implementation of Russia's law on NGOs, including its impact on religious organizations; and

- encourage the Russian government to withdraw or substantially amend the NGO law; failing that, the government should be urged to develop regulations that clarify and sharply limit the state's discretion to interfere with the activities of NGOs, including religious organizations. These regulations should be developed in accordance with international standards and in conformance with international best practices.

IV. Strengthening Attention to the Issue of Freedom of Religion or Belief in U.S. Diplomacy

The U.S. government should:

- ensure that the U.S. Congress maintains a mechanism to monitor publicly the status of human rights in Russia, including freedom of religion or belief, particularly in the case of any repeal of the Jackson-Vanik amendment with respect to Russia, and maintain the Smith Amendment as U.S. law;

- urge the government of the Russian Federation to invite each of the three OSCE Personal Representatives on combating intolerance as well as the UN Special Rapporteur on Freedom of Religion or Belief to visit the Russian Federation during 2009-2010, without this being made contingent on other visits to other countries;

- ensure that U.S. Embassy officials and programs 1) engage with regional and local officials throughout the Russian Federation, especially when violations of freedom of religion occur, and 2) disseminate information to local officials concerning international legal norms on freedom of religion or belief, including the rights of unregistered religious communities;

- ensure that the issue of human rights, including freedom of religion or belief, be raised within the context of negotiations on Russian accession to the World Trade Organization; and

- work with the other members of the G-8 to ensure that the issue of human rights, including the human rights aspects of migration and protecting human rights in the context of counter-terrorism, are raised at all bilateral and multilateral meetings.

V. Strengthening U.S. Programs on Promoting Religious Freedom and Combating Religious Intolerance

The U.S. government should:

- ensure that U.S. government-funded grants to NGOs and other sectors in Russian society include the promotion of legal protections and respect for religious freedom as well as methods to combat xenophobia, including intolerance based on religion, ensure that solicitations and requests for proposals should include these objectives and monitor the effectiveness of such grants;

- support programs developed by Russian institutions, including universities, libraries, NGOs, and associations of journalists, particularly those who have engaged in the activities described in the above recommendation, to organize conferences and training programs on issues relating to freedom of religion or belief, as well as on promoting inter-religious cooperation, encouraging pluralism, and combating hate crimes and xenophobia;

- support programs to train lawyers to contest violations of the rights to freedom of religion or belief as guaranteed in Russian law and under its international obligations both in Russian courts and before the ECtHR;

- translate where necessary into Russian and print or otherwise make available to Russian citizens relevant documents and materials, including:

  --hate crimes guidelines developed by the U.S. Federal Bureau of Investigation, as well as U.S. Department of Justice materials on combating hate crimes and religiously-motivated attacks; and

  --international documents and materials generated by Russian institutions relating to freedom of religion or belief, xenophobia, and hate crimes, as well as relevant U.S. Department of State and Commission reports, posting such documents on the U.S. Embassy Web site;

- ensure that Russia's citizens continue to have access to alternative sources of information through U.S.-government-funded radio and TV broadcasts, as well as Internet communications, and that these broadcasts include information about freedom of religion or belief and the need to combat xenophobia and hate crimes; in particular by:

  --restoring the broadcast hours of Russian-language radio broadcasts of Voice of America and Radio Free Europe/Radio Liberty (RFE/RL) that have been cut, restoring staffing levels, and considering new vehicles for delivery of broadcasts; and

  --increasing funding for radio broadcast programs in minority languages spoken in Russia, including the RFE/RL Tatar and North Caucasus services, which are often the primary source of independent broadcast media in regions of Russia with majority Muslim populations;

- include in U.S.-funded exchange programs a wider ethnic and religious cross section of the Russian population, with particular focus on educational and leadership development programs for students from the North Caucasus, Tatarstan, and other regions of Russia with

sizeable Muslim and other religious and ethnic minority populations; and

- initiate International Visitor's Programs relating to the prevention and prosecution of hate crimes for Russian officials and other relevant figures.

VI. Addressing the Crisis in Chechnya and the North Caucasus

The U.S. government should:

- ensure that the continued humanitarian crisis in Chechnya and allegations of human rights abuses perpetrated by the Russian federal military and local security and police forces there and in other North Caucasus republics remain a key issue in U.S. bilateral relations with Russia;

- urge the Russian government to end and vigorously prosecute all alleged acts of involuntary detention, torture, rape, and other human rights abuses perpetrated by members of the Russian security services in Chechnya, including those by pro-Kremlin Chechen forces;

- urge the Russian government to address the conclusions and recommendations of the UN Universal Periodic Review and relevant treaty bodies in regard to Chechnya and abide by all resolutions passed by the Parliamentary Assembly of the Council of Europe relating to the human rights and humanitarian situation in the North Caucasus, and reinstate regular on-site visits by the Council of Europe's Special Rapporteur for Chechnya;

- urge the Russian government to accept a site visit to Chechnya from the UN Special Rapporteur on Extrajudicial Executions, to reconsider the October 2006 decision to deny access to the UN Special Rapporteur on Torture and to extend full cooperation in accordance with the standard mandates of those special procedures;

- work with other OSCE Member States to ensure that issues related to human rights abuses in the North Caucasus play a more prominent role in OSCE deliberations, and encourage the OSCE to raise humanitarian and other forms of assistance to the civilian populations affected by the decade-long conflict in Chechnya; and

- ensure that U.S.-funded conflict resolution and post-conflict reconstruction programs for the North Caucasus also fund credible local partners in Chechnya, Ingushetia, and Daghestan.

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[1] The most frequent targets of such attacks seem to be those who bring Russian human rights violations to international attention, particularly to the European Court of Human Rights (ECtHR), as well as government critics, particularly of Chechen President Ramzan Kadyrov. For example, in January 2009, Moscow human rights lawyer Stanislav Merkelov was shot dead and Anastasiya Baburova, an intern for *Novaya Gazeta*, was mortally wounded near the Kremlin. President Medvedev did not issue an official statement denouncing these killings; instead, he held a private Kremlin meeting with the *Novaya Gazeta* editor and former President Mikhail Gorbachev nine days after the attacks, to express his sympathy. In February 2009, four ethnic Chechen suspects on trial for the 2006 murder of journalist Anna Politkovskaya were acquitted for lack of evidence. In March 2009, the Ingush Prosecutor's Office launched an official 4-day probe into the 2008 killing of Ingush human rights activist Magomed Yevloyev, "accidentally" shot while in police custody. Also in March 2009, human rights activist Lev Ponomaryov was beaten in Moscow; his passport had been revoked one month earlier and he was charged with slander for his statements on Russian human-rights abuses. Moreover, at least six Chechen opposition leaders have been killed in the past six months, including Umar Izrailov, who had filed a case against Russia at the ECtHR and was shot dead in Vienna in January 2009.

Somalia

Somalia has not had an effective, central government since 1991. In the absence of the rule of law, freedom of religion or belief, like all other human rights, is circumscribed by insurgents, warlords, self-appointed officials, local authorities, and prevailing societal attitudes. Although Somalis have traditionally practiced a Sufi-influenced version of Islam, radical interpretations of Islam are increasingly manifested. Throughout 2008, al-Shabaab (literally "the Youth" in Arabic) increased control over central and southern parts of the country, killed followers of other religions, forcibly implemented a strict interpretation of Islamic law reminiscent of the Taliban, and suppressed practices it deemed "un-Islamic." Al-Shabaab has links to al-Qaeda and has been formally designated a "foreign terrorist organization" by the United States. Reports of non-Muslims and Christian converts being attacked and killed throughout the country arose throughout the reporting period. The Commission places Somalia on its Watch List because of the deteriorating situation for freedom of religion or belief and related human rights and the inability of the Transitional Federal Government (TFG) to limit such abuses and protect religious freedom. The Commission will continue to monitor religious freedom in Somalia to determine whether conditions warrant it be named a country of particular concern.

After the fall of former Somali dictator Siad Barre from power in January 1991, inter-clan and inter-factional warfare created a massive humanitarian crisis. The UN and U.S. intervention starting in 1992 ended in 1994. Subsequent, repeated internal and international efforts to stabilize Somalia proved unsuccessful, with local clans and neighboring states competing for dominance. In the north, two regional governments emerged: Puntland and the self-declared "Republic of Somaliland," the latter based on the former British Somaliland Protectorate. Although in existence since 1991, the Republic of Somaliland has failed to gain international recognition of its *de facto* independence. Puntland, under control of a local strongman, has claimed only autonomy within a hypothetical future federal structure for Somalia.

Somalia has no universally recognized or enforced constitution and no legal provision for the protection of religious freedom or any other human rights. The TFG adopted a Transitional Federal Charter that establishes Islam as the national religion. The *de facto* administrations in Somaliland and Puntland have made Islam the official religion in their respective regions. The judiciary, in most regions, relies on some combination of sharia, traditional, and customary law, as well as the pre-1991 penal code. A newly elected government will implement a variation of sharia; the new president has said it will respect human rights and women's rights.

The failure of the TFG, created in 2004, to provide law and order and deliver government services led to an atmosphere of corruption and lawlessness, and allowed warlords to impose themselves over local communities. Seeking to oust the warlords and re-establish law and order through a clan-based sharia court system, the Union of Islamic Courts (UIC) emerged in 2006. The UIC was a loose coalition composed of moderate and extremist Muslims, sharia court judges, and businessmen. Backed by local supporters, militia groups affiliated with the UIC captured the capital Mogadishu from the warlords in June 2006 and by fall, the movement established military dominance over most of southern and central Somalia and began to threaten the TFG based in Baidoa.

However, the UIC quickly came under the influence of radical elements that sought to impose a more extreme version of Islamic behavior reminiscent of the Taliban in Afghanistan. One of the most radical elements, al-Shabaab, served as an important and successful militia wing of the UIC. The militia was well-armed, well-trained, and led by Adan Hashi `Ayro, who fought in Afghanistan and had links with al-Qaeda. `Ayro worked with Hassan Dahir Aweys, the most radical of the UIC leadership and a U.S.-designated terror suspect.

The U.S. and Ethiopian governments viewed the strengthening and radicalization of the UIC with alarm, particularly in light of suspected links to al-

Qaeda. In December 2006, the TFG and Ethiopian forces launched a counteroffensive. The allied forces quickly routed the UIC, seizing control of Mogadishu and much of the south. The U.S. government provided diplomatic and intelligence support and used U.S. airstrikes against al-Qaeda elements reported to be among the UIC forces retreating toward the Kenyan border. This attack and support for Ethiopia led Somalis to believe that the Ethiopian occupation of Somalia was directed by the United States in its global war on terror.

Following this defeat, the UIC splintered into several different factions. Some of the more radical elements, including al-Shabaab, regrouped to continue their insurgency against the TFG and oppose Ethiopia's presence in Somalia. Throughout 2007 and 2008, al-Shabaab scored military victories, winning control over key ports and towns in central and southern Somalia. At the end of 2008, al-Shabaab captured Baidoa, though not Mogadishu. By the end of January 2009, al-Shabaab and other militias succeeded in forcing the last Ethiopian troops to withdraw from the country, leaving behind an understaffed African Union (AU) peacekeeping force.

As the UIC had done, al-Shabaab and other Islamic insurgents gained popularity by providing law and order, opposing and defeating the Ethiopians, tackling corruption, dismantling illegal checkpoints, and providing some humanitarian assistance. As al-Shabaab fighters moved into towns, they imposed sharia law and settled disputes and tried criminals by means of a "mobile Sharia court."

Throughout 2008 al-Shabaab stopped "un-Islamic" behavior to "cleanse" Somali society of "moral pollution." The militia closed cinemas, set fire to markets selling *khat* (an indigenous plant whose leaves are chewed to produce a mild euphoric state), shaved the heads of men deemed to have "inappropriate hairstyles," forbade all forms of smoking, and banned music.

Al-Shabaab also perpetrated religiously-based violence. In April 2008, an al-Shabaab-affiliated militia group killed four Christian teachers, two of whom were reportedly Somali converts from Islam. In October 2008, a fifteen-year old girl in a town captured by the group was stoned to death by 50 men in front of 1,000 persons. The young girl's "crime" was that she had been raped by three men. In January 2009, Islamic insurgents killed a Somali politician because of his ties to the Ethiopian government after leveling the bogus charge of "apostasy."

This form of extremely strict interpretation of Islam promoted by al-Shabaab is new to Somali society, which has a reputation for following a more moderate, Sufi-influenced Islam. In fact, moderate elements of Somali society have voiced their concerns about some of the goals and tactics of the Islamic insurgent groups, including the use of suicide bombers, which is socially unacceptable to Somalis. In February 2009, a group of citizens, moderate clerics, and Islamists calling themselves *Ahlu Sunna wa Jamma* (apparently from an Arabic phrase meaning "People of the Tradition of the Prophet and the Community of Believers") came together to fight the more militant al-Shabaab. The group has had some success in driving al-Shabaab from some towns and remains in battle with the radical Islamic group. Nevertheless, al-Shabaab continues to control large parts of the country and attack AU troops, and is blamed for the killing of officials allied with the TFG.

In addition to scoring military victories, al-Shabaab increased its recruitment by exploiting the national hostility to Ethiopia's presence in Somalia and its use of indiscriminate force and human rights violations and by appealing to Islamic solidarity shared by many Somalis. The militia group portrayed Ethiopia as an "occupier" continuing an historical effort to expand Christianity in the Horn of Africa. Reportedly, al-Shabaab attracted unemployed youth by paying new recruits, indoctrinated and recruited students of mosque study circles, and used CDs and other electronic media to popularize martyrdom. Even those who did not approve of al-Shabaab's extremist interpretations of Islam or its heavy-handed military tactics provided passive support as they believed the group was justified in its operations against the Ethiopian troops.

Al-Shabaab also succeeded in recruiting internationally, including in the United States. Dozens of young Somali men living in America are fighting with al-Shabaab in Somalia; one young man from Minnesota was discovered to be the suicide bomber in an October 2008 attack in the northern part of the country. According to FBI officials, nationalist sentiments, not jihadism, are believed to be the reason the men were attracted to al-Shabaab. While there is no evidence they are planning attacks on the United States, the U.S. government is paying close attention to the recruitment effort. Individuals from Europe and elsewhere in Africa are also in Somalia for training and fighting with al-Shabaab.

It is widely known that there are links between al-Qaeda and al-Shabaab, including al-Qaeda providing training, funding, and weapons to the militia through Eritrea; the extent of the links is not known. There is no current evidence that al-Qaeda is using territory held by al-Shabaab to plan attacks on the West. It is known that al-Shabaab leadership has had contacts with al-Qaeda leaders in Pakistan's Federally Administered Tribal Areas (FATA), as well as those responsible for the 1998 bombings of U.S. embassies in Kenya and Tanzania. Al-Qaeda has made several public statements in support of al-Shabaab; in a February 2008 video, Ayman al-Zawahiri stated that al-Shabaab's success in Somalia was "a step on the path of victory of Islam." Despite the unknown strength of its ties to al-Qaeda, al-Shabaab remains quite dangerous.

After the withdrawal of Ethiopian troops, in January and February 2009 the TFG selected a new president, prime minister and parliament, and in February 2009 moved from its base in Djibouti to Mogadishu. The new Somali President, Sheik Sharif, was a former leader of the moderate wing of the UIC. In response, al-Shabaab's stated goal is to oppose the TFG and turn Somalia into an Islamic state where its interpretation of sharia law is implemented nationwide. In February 2009, President Sharif announced that sharia would become the basis for law in Somalia; this move was subsequently unanimously approved by the Somali parliament. However, it is not known what sharia in Somalia will look like in practice; President Sharif has stated that sharia in Somalia should respect human rights and women's rights. Experts believe that the creation of a new government with broad public support, the withdrawal of Ethiopian troops, and the new government's promise to implement sharia may succeed in undercutting support for the militias. Reports indicate that Somalis are tired of fighting and that popular support for al-Shabaab has fallen.

In addition to the increase of radical Islam in Somalia, the country's small and dwindling Christian community is under attack. The community maintains an extremely low profile and information about Somalia's non-Muslims is very limited. Christianity is considered suspect from the perspective of most Somalis because of its perceived identification with long-time enemy Ethiopia, as well as British and Italian colonialism. The few remaining Christians worship only in house churches.

Muslims converts to Christianity also have been attacked. Although conversion is not illegal in Somali, it is not accepted socially. Muslim extremists reportedly killed six Christian converts in 2008. Following one conversion, a church was demolished and the Christians worshipping at the church were attacked. This same church previously was attacked in 2007.

Followers of the Tabligh movement (an international Muslim missionary and revival group) also have been attacked. In May 2008, Ethiopian forces detained fifteen members of the movement for several hours, and, according to the State Department, nine clerics affiliated with the movement were killed in a Mogadishu mosque in April by Ethiopian troops.

Recommendations for U.S. Policy

The Commission concludes that the Transitional Federal Government (TFG) provides an opportunity for Somalia to address security, governance, human rights, and humanitarian needs and take prompt measures to limit the rise in violent religious extremism. The U.S. government should work with the international community to assist the

TFG as it moves forward to address the needs of the country and the citizens.

The Commission recommends that the U.S. government should:

I. Addressing the continuing security situation

- work with international partners and the Transitional Federal Government to bring peace and stability to Somalia, including ensuring that peacekeeping operations are fully staffed; militias are disarmed, demobilized, and reintegrated; Somali intelligence, military, and police officers do not commit human rights abuses and are well-educated on universal human rights; and abuses of human rights are not tolerated and perpetrators are held accountable;

II. Developing a successful governing structure

- work with international partners, the Transitional Federal Government, and the UN Secretary-General's Special Representative to Somalia to 1) develop a governing structure and institutions which are responsive to and address the needs of Somali citizens; 2) ensure that government officials and the legal system respect universal human rights, including freedom of religion or belief and 3) promote reconciliation among political leaders, and between political leaders and Somali citizens, to prevent factionalism from impeding the work of the new government;

III. Ensuring high-level and consistent U.S. engagement in Somalia

- ensure that Somalia receives attention at the highest levels of government and sustained U.S. engagement, including through the appointment of a Special Envoy, to address security, terrorism, governance, human rights, humanitarian, and piracy concerns, as well as work with regional partners to address the regional aspects of the problem; and

IV. Improving religious freedom and other human rights

- ensure that the protection of religious freedom and related human rights are addressed in Somalia, including by funding indigenous civil society organizations that promote human rights, including freedom of religion or belief; awareness programs; national reconciliation efforts; education programs to limit religious extremism; and human rights training and monitoring programs by the UN Office of the High Commissioner for Human Rights.

Tajikistan

The situation for religious freedom in Tajikistan has deteriorated significantly over the past several years. While under its constitution Tajikistan is a secular state and provides for freedom of religion or belief, Tajik law and government policies place major restrictions on this right. The Tajik government's efforts to control religious practice disproportionately affect Muslims, but Tajik state officials also single out religious organizations that are viewed as having "foreign influences." Moreover, in March 2009 a highly restrictive new religion law was adopted and signed by President Imamoli Rakhmon. Due to the marked decline in respect for and protection of freedom of religion or belief in Tajikistan, the Commission determined in 2009 that the country should be added to its Watch List. While religious freedom conditions in Tajikistan do not rise to the statutory level meriting designation as a "country of particular concern," they require additional monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the government.

Under the new Tajik religion law, the number required for registration is increased to 400; private religious education is prohibited; proselytism is banned; and religious associations cannot participate in political activities. The Tajik political opposition, various civil society activists, representatives of minority religious groups, and the international community, including the Organization for Security and Cooperation in Europe (OSCE) and this Commission, raised numerous concerns about various aspects of the law while it was under consideration. In March 2009, the United Nations Special Rapporteur on Freedom of Religion or Belief told the UN Human Rights Council that she was seriously concerned about the law, which had just been approved by the Tajik parliament. She warned that it "could lead to undue limitations on the rights of religious communities and could impermissibly restrict religious activities of minority communities." The OSCE's Advisory Panel of Experts on Freedom of Religion or Belief also found that many of the law's provisions do not meet international standards.

Nevertheless, President Emomali Rakhmon signed the new religion law on March 26, 2009. According to Forum 18, problematic parts of the law include the following: its preamble notes the "special role of the Hanafi school of Islam" in Tajik culture, ignoring the important role of the country's Ismaili Shia tradition; it limits the establishment of new mosques based on the number of local residents; it permits state interference in the appointment of imams (other faiths appear free to appoint their own leaders); and it limits worship locations to mosques, homes and cemeteries, and does not include places of work or on the streets around mosques. Moreover, while currently any mosque can hold Koran study classes, only central mosques licensed by the Culture Ministry will have permission to do this in the future.

The new law also requires that the legal founders of a religious organization seeking registration must present a document from their local government that they have lived in the area for at least five years and adhered to that religion. The government must now approve all published or "appropriate quantities" of imported religious literature. Written permission from both parents is required before children can take part in religious education. Police already try to prevent children from attending mosques, and it is unclear whether children attending a religious service will be viewed as involving children in religious education. Religious organizations must obtain the consent of the Ministry of Culture's Religious Affairs Committee to invite foreigners to the country or attend religious conferences outside the country. Statements made by the Deputy Minister of Culture after the passing of the new law gave rise to questions as to whether the Religious Affairs Committee must grant permission or be informed of certain activities, such as religious education, publishing specific literature, or inviting foreigners for religious purposes.

The country's former chief mufti Akbar Turajonzoda—who is a leading member of the Islamic Renaissance Party and had offered an alternative, more liberal, draft religion law—has condemned the new law on the grounds that it would severely restrict the rights of Muslims as well as non-

Muslims. Reportedly in reprisal for these remarks, Turajonzoda was deprived of his official transportation, on which he relies due to his severe disabilities, and he has tendered his resignation from the Tajik parliament. Minority religious communities have expressed similar concerns about the law's impact on freedom of religion or belief.

The State Department reported in 2008 that the Tajik government "expanded its efforts to control virtually all aspects of religious life, and government officials actively monitored religious groups, institutions, and figures." The new religion law will still require religious communities to register with the Department for Religious Affairs (DRA) in the Ministry of Culture, as has been required in the past. Moreover, the Law on Observing National Traditions and Rituals regulates private celebrations, allegedly to protect the public from spending excessive amounts of money. The law, however, restricts the manner in which individuals can conduct private celebrations, including those with religious significance, such as weddings, funerals, and the birthday of the Prophet Muhammad.

Muslims

The government has closed many unregistered mosques and prayer rooms, and while it usually allows most to reopen, in 2007-08 the government ordered the demolition of three unregistered mosques in the capital, Dushanbe. The Tajik government permits only one "Friday mosque" (for weekly prayers) per 15,000 residents in a given geographic area. The government also indirectly controls the selection and retention of imams, including through "attestations" with tests on Islamic teachings and religious principles. In addition, the government controls and limits the numbers of those who participate in the *hajj*.

Government officials, including members of the State Committee on National Security, monitor mosques throughout the country. Officials attend services to listen to imams and observe those attending the mosques, as well as listen to audio and video cassettes to ascertain the presence of alleged extremist and anti-government views. Officials also monitor weddings and funerals for compliance with the law on traditions and rituals. In addition, Tajik law enforcement officials reportedly remove children from mosques. Restrictions on home-based religious education remain in place.

In 2008, the Tajik government installed the former head of the Department for Religious Affairs as the chairman of the Islamic Center, which will oversee the country's Islamic institutions. A *fatwa* that bans women from praying in mosques was issued by the government-influenced Council of Ulema in 2004 and remains in effect, although reportedly on an unofficial basis some unregistered mosques still allow women to pray there. While the Council justified the *fatwa* based on the country's alleged historical tradition, other observers have said that it was a politically-motivated decision by the government to reduce women's access to the Islamic Renaissance Party, a legal Islamic opposition party, as well as their ability to provide religious teaching to their children.

Since 2007, the Ministry of Education has prohibited girls from wearing the *hijab,* an Islamic head covering, at public schools and universities. Although this ban is implemented unevenly throughout the country, female students and teachers have been expelled for wearing headscarves. Women wearing the *hijab* may be photographed for official identification purposes, particularly on the *hajj*. Nevertheless, there were reports that authorities prevented women from wearing "non-traditional" headscarves in public. In January 2008, the government nationalized the previously independent Islamic University, the country's only religious institution of higher learning. The government placed it under the administration of the Ministry of Education and teachers underwent an ideological vetting process.

In February 2009, the Tajik Supreme Court banned Salafism and Salafi literature. No Salafi Muslim has been charged with a crime, but a Religious Affairs Committee official reportedly claimed that Salafis may be "harmful" in the future. The Supreme Court decision has not been released, but reportedly the ban was imposed to protect the

constitutional order, strengthen national security, and prevent conflict on religious grounds.

Since 2000, the Tajik government has banned *Hizb ut-Tahrir* (HT), a highly intolerant organization that promotes hatred of the West, moderate Muslims, Jews, and others. In March 2008 the Tajik Supreme Court ruled that HT was an "extremist organization"—providing a legal basis for tighter restrictions on its Internet presence and media use. Despite lack of legal evidence of responsibility for violent crimes, the Tajik authorities in 2008 continued to arrest, detain, and sentence alleged HT members who face possible prison sentences of up to 12 years.

The government has, however, relaxed a ban on printing in Arabic script by government publishing houses, but only if the material is deemed by state officials to be nonthreatening.

Religious Minorities

Bans imposed in 2007 continued in effect on Jehovah's Witnesses and on two Protestant churches, Ehyo Church and Abundant Life Christian Center. Although the Jehovah's Witnesses had been registered since 1994, the Ministry of Culture banned the group in 2007 for alleged violations of the Constitution and the religion law. In 2008, a higher court in Dushanbe upheld the ban. The Grace Sunmin Church lost its appeal to save its property from repossession by local authorities, and the congregation was ordered to vacate its church.

The Ministry of Culture also banned religious literature from organizations it considered inappropriate, including from the Jehovah's Witnesses. In April 2008, the Tajik government refused to allow into the country a shipment of books by a Baptist organization because the size of the shipment was disproportionate to the organization's membership.

In 2008, the Abundant Life church and the nation's only synagogue in Dushanbe were bulldozed; neither of the two communities was compensated for the destruction. The Rabbi reportedly asked authorities to allow the community to disassemble the synagogue brick by brick, but the chief engineer grew impatient and ordered bulldozers to complete the task. The Jewish community was forced to halt its worship and its food aid program. At a 2008 OSCE conference, the Tajik delegation stated that the government could not provide compensation for the building, citing "separation of church and state." The Jewish community has been unable to conduct religious services since the destruction. A week before the signing of the new religion law, Dushanbe's Jewish community was donated a building for use as a synagogue and that building is currently being used for worship services. The new building was not provided as compensation by the city of Dushanbe, however, but by a private businessman, who reportedly is the brother-in-law of President Rakhmon.

In addition, government officials have occasionally expressed their opinions in the press that minority religious groups undermine national unity.

Recommendations for U.S. Policy

The Commission recommends that the U.S. Government should:

- urge the Tajik government, particularly President Rakhmon, to publicly affirm his intention to fully comply with Tajikistan's international commitments to respect freedom of religion or belief, as well as the rights of members of all peaceful religious communities in his country;

- work with relevant Tajik government officials responsible for religious affairs, human rights and legal issues, as well as with Tajik parliamentarians, civil society, and the international community, to amend the new religion law to bring it into conformity with Tajikistan's international commitments on freedom of religion or belief;

- continue to monitor the trials of leaders or members of religious communities that lose their registration and work with the international community in Tajikistan to provide training for

judges and prosecutors in civil law and international human rights standards;

- urge United States officials, as well as the U.S. delegation to the OSCE, to publicly criticize violations by the government of Tajikistan of OSCE commitments on human rights, including respect for freedom of religion or belief; and

- urge the OSCE Mission in Tajikistan to continue to pay particular attention to violations of freedom of religion or belief and to undertake specific programs in that regard, including by conducting training sessions with the local media on international obligation.

Turkey

Turkey has a democratic government and a strong tradition of "secularism," defined in that country as the exclusion of religion from public life. Turkey's active civil society, media, and political parties influence the climate for religious freedom as part of that country's continuing debate about the appropriate role of religion in society. Nevertheless, the Turkish state's interpretation of secularism has resulted in religious freedom violations for many of Turkey's citizens, including members of majority and, especially, for minority religious communities. According to the State Department's 2008 religious freedom report, the government of Turkey "generally respected religious freedom in practice; however, the government imposes limitations on Islamic and other religious groups and significant restrictions on Islamic religious expression in government offices and state-run institutions, including universities, for the stated reason of preserving the 'secular state.'" In February 2008, the Turkish parliament passed amendments to the constitution removing the longstanding ban on wearing headscarves on university campuses. However, in June, the Constitutional Court held that these amendments violated the secular nature of the Turkish state and were unconstitutional, and the amendments were not implemented. The significant restrictions on religious freedom for religious minority communities, including state policies and actions that effectively deny non-Muslim communities the right to own and maintain property, to train religious clergy, and to offer religious education, have led to the decline—and in some cases virtual disappearance—of some religious minorities on lands they have inhabited for millennia. Because these and other religious freedom problems persist, and the existence of several religious communities in Turkey remains imperiled, the Commission decided this year to place Turkey on its Watch List.

In 2001, the European Union (EU) accepted Turkey's bid to join the Union, which encouraged Turkey to undertake a series of reforms. Despite some improvements, however, a late 2008 EU report stated, "Turkey needs to make further efforts to create an environment conducive to full respect for freedom of religion in practice." The Commission traveled to Turkey in November 2006 and met with Turkish government religious affairs officials, as well as parliamentarians and leaders of diverse religious communities and civil society activists. Throughout the Commission's visit, people of almost every religious tradition stated that, despite serious problems regarding the opening, maintaining, and operation of houses of worship, they were free to gather and worship as provided in the country's constitution. Moreover, most groups reported that conditions for religious freedom had improved in the past decade, particularly citing the reforms undertaken during the EU accession process. However, the Commission also learned of significant restrictions on religious freedom, including for the majority Sunni Muslim community, the minority Alevis (usually viewed as a unique sect of Islam), as well as Christian and other minority communities. As will be discussed below, these concerns continue.

Secularism and Political Parties

Turkey's constitution establishes the country as a "secular state," under a policy set by Mustafa Kemal Ataturk, the country's founder and first president. This concept of secularism was built on Ataturk's conviction that religion was the primary cause for the Ottoman Empire's lag in modernization vis à vis Europe. Consequently, Ataturk and Turkey's subsequent political leaders were determined to remove the influence of religion, including expressions of personal belief, from public life in Turkey and to subject religion to state control. As such, the Turkish government's concept of secularism differs from the American version of separation of religion and state, as it reflects state control over any religious activity in the public sphere.

Over the decades, political parties that confronted the state's definition of secularism have been suppressed or banned under Article 68 of the Turkish Constitution. Nevertheless, for many Turks the absence of religion from public life has remained controversial. In 1950, the Democrat Party, which was less rigid on government policies of religious expression for Muslims, won the country's first free

parliamentary elections but was overthrown by a 1960 military coup. The military has staged two additional coups to oust governments in 1971 and 1980, the latter in part because the military determined that the policy of secularism was under threat. In the 1990s, the *Refah* (Welfare) Party, which also confronted the state's definition of secularism, won a plurality in the polls, but was "maneuvered" out of power by the military in 1997 in a "soft coup" and forced to disband.

Turkey's current governing party, the Justice and Development Party (known by its initials in Turkish, the AKP, or the AK Party), which has roots in the *Refah* Party, won a majority 34 percent in national elections in November 2002. Although its platform under leader Recep Tayyip Erdoğan included Turkey's accession to the EU and the reintegration of Islam into public life in a manner consistent with modernity and democracy, observers in and outside Turkey have conflicting views on the AK Party's true goals. Some view the party as a moderate, religiously-oriented party that espouses Islamic religious values within a modern, democratic society, while others contend that the AK Party has more radical intentions, including the eventual introduction of Islamic law in Turkey. In July 2007, the AK Party won parliamentary elections in Turkey by a wide margin of 47 percent; in March 2009 local elections, however, AK Party support declined to 39 percent.

In April 2009, the Turkish Military General Staff Chief, General İlker Başbuğ, publicly addressed a range of issues, including religion and secularism. Unlike his predecessors who assert their claim as the traditional defenders of Ataturk-style secularism, the general reportedly avoided politically charged terms referring to religious fundamentalism in the country. Rather, he distinguished the religious practices of devout Turks from certain faith "communities" with significant economic and media profiles, a possible reference to particular independent Islamic movements in Turkey.

Muslims

The Directorate of Religious Affairs, or the *Diyanet*, a government body under the Prime Minister's office, controls all 80,000 mosques in Turkey and employs all imams as state functionaries. Through the *Diyanet*, the government is able to exert control over the practice of Islam by permitting only government-sponsored mosques and government-paid imams to teach, while also only allowing the propagation of the Hanafi Sunni branch of Islam. Religious practice and education (compulsory in the state schools for all Muslim children, but non-Muslim religious minorities are exempted) exclusively follows Hanafi doctrines, although up to 20 percent of Turkey's Muslims are Alevis (see below). The individual or communal practice of Islam outside of government-regulated institutions is not condoned. For example, although Turkey is renowned for its Sufi orders and while they still exist, they have been officially prohibited since the 1920s. Only the *Diyanet* is authorized to provide religious education courses outside of school, and only children ages 12 and older may register for these state-sanctioned classes.

Under the Turkish concept of secularism, religious dress, including the wearing of a head scarf, has long been banned in all public institutions, including government buildings, both state and private universities, and schools. Women who wore headscarves or their advocates lost their public sector jobs, including as nurses or teachers. Students who wore headscarves were not officially permitted to register for classes, even at private institutions. Members of the military have been charged with "lack of discipline" for performing Muslim prayers or for allowing their wives to wear headscarves. Even the private sphere is affected, as in 2006, a court upheld a school's decision to fire a teacher who wore the headscarf outside of school hours. More recently, in March 2009, the Supreme Election Committee declared that workers at polling stations could not wear the headscarf during their work at the station.

The "headscarf issue" has long been the subject of considerable political debate in Turkey. In 2005, the issue went before the European Court of

Human Rights (ECtHR), which ruled that while the headscarf ban by a Turkish university contravened religious freedom standards, it did not violate the European Convention on Human Rights in view of Turkey's historical legal definition of secularism. In February 2008, the Turkish Parliament voted overwhelmingly to change the 1982 constitution (which had been written by a military-led caretaker government that took power in 1980) to guarantee all citizens the right to attend university regardless of dress. Under the amendment, only traditional scarves—tied loosely under the chin—would be allowed; headscarves that cover the neck, as well as the full veil, would still be banned, as would headscarves in government buildings. On June 5, 2008, however, the Turkish Constitutional Court ruled that these amendments violated the secular state and were therefore unconstitutional. As a result, the ban on the wearing of Islamic headscarves in government offices, as well as in public educational institutions, remains in effect.

Alevis

Alevis are a minority religious community in Turkey comprising 15 to 25 percent of the population, though they are not recognized as an official minority by the state. The beliefs and practices of the Alevis are described in many, often contradictory, ways and even today, remain somewhat obscure. Some consider the Alevi to be a sect of Twelver Shi'a Islam, which also incorporates aspects of Sufi, Gnostic, and Zoroastrian theology and pre-Islamic ritual. The Turkish government generally views the Alevis as heterodox Muslims, but many Sunnis and some Alevis maintain that Alevis are not Muslims. Though not granted status as a religious minority, Alevis reportedly are able to practice their beliefs relatively freely. Nevertheless, the Alevi continue to be subject to some discriminatory state practices, though reportedly their situation has improved in recent years.

Alevis do not worship in mosques but in what are called "gathering places" (or "*cem evleri*," in Turkish). Technically, however, *cem* houses are not officially recognized as houses of worship and officials usually referred to them as "cultural centers." In 2008, a Turkish regional court affirmed that policy by ruling that *cem evleri* are not houses of worship, though two municipalities also ruled in 2008 that in their jurisdiction they will consider *cem* houses as places of worship. While they generally are allowed to build *cem* houses, Alevis reportedly sometimes have been denied permission to do so. According to an Alevi leader, obstacles to building new *cem* houses include long delays—often lasting years—on building requests, although reportedly the process recently has become easier. Alevis also point out that while Turkish taxpayers, including Alevis, fund the building of Sunni mosques in Alevi villages, Alevis may be denied permission to build *cem* houses even in areas where they constitute the majority population.

Some of the 300 groups within the Alevi community have called for the abolition of the *Diyanet* because it exercises state control over Islamic religious life, totally favors Sunni Islam, and is funded by taxes from all Turkish citizens, including the Alevi. Important *Diyanet* functions include the recruiting of tens of thousands of Muslim imams and paying their salaries, as well as making *hajj* arrangements, though neither of these is relevant to the Alevi community. Nevertheless, the Alevi community is divided on appropriate remedies. Some question whether the Alevi community should fall under the jurisdiction of the *Diyanet*; others contend that private contributions should fund the *Diyanet*; while others advocate the establishment of a government department for Alevis either inside or outside the *Diyanet*.

Alevis report some harassment and official discrimination, particularly regarding compulsory religious education for Muslims. Again, the community is divided as to possible remedies: some Alevis believe that these classes should be optional for members of their community, others have advocated for curriculum reform to ensure that their religion is presented in an accurate fashion, while others advocate the abolition of required religion courses. A member of the Turkish Alevi community brought the issue of compulsory Muslim education before the ECtHR, which in October 2007 ruled that religious education should be optional for Alevis

since the curriculum only presented information about Sunni Islam. A Turkish regional court has since upheld that ECtHR opinion. While the religion curriculum for Turkish schools was modified in 2008, Alevis maintain that the new texts relegate their community to the status of a mystic order within Islam, which they contend does not adequately represent their religion.

Reha Çamuroğlu**,** an AK Party deputy of Alevi origin and formerly Prime Minister Erdoğan's consultant on the Alevi community, resigned from his post in June 2008, claiming that the promises regarding the Alevis had not been kept. In November 2008, the Alevi Bektaşi Federation held a rally in Ankara in which thousands of Alevis took part to urge the government to make state-run religious courses optional; to abolish the *Diyanet*, which they alleged conducts missionary activities to convert Alevis to Sunni Islam; to grant official recognition to *cem evleri*; and to establish a museum at the Madimak Hotel, where 37 Alevis were killed 15 years ago. They also demanded that the principle of "equal citizenship" be implemented. In a positive response, the AKP government announced in November 2008 that it will pay a monthly salary to Alevi religious leaders, provide state-funded water and electricity to *cem evleri* as is the case for mosques, establish a museum at the Madimak hotel, and make religion courses optional as of the 2009 academic year. In another significant move, the Turkish Culture and Tourism Minister, Ertuğrul Günay, made an official apology in December 2008 to the Alevi community "for past mistakes."

Non-Muslim Minorities and Property Issues

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish military forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for all non-Muslim religious minorities, which have since been interpreted by the Turkish government to refer only to the Greek Orthodox, the Armenian Orthodox, and the Jewish communities. There are approximately 65,000 Armenian Orthodox in Turkey, 23,000 Jews, and 2,500 Greek Orthodox in Turkey today. Despite their unique status, legal recognition of these religious minority communities has not been implemented in Turkish law and practice, and religious groups which fall outside the Turkish government's view of the Lausanne Treaty's definition of religious minorities are severely limited in their means to obtain official government recognition. The absence of legal personality has, over the decades, resulted in serious problems with regard to minority communities' right to own, maintain, and transfer property as a community and as individuals, and to train religious clergy, leading in some cases to a critical decline in these communities on their historic lands. The problems for the Christian minorities—including on property rights, education, and, in some instances, physical security— partly arise from the fact that most are not only religious but also ethnic minorities, and thus face suspicion by some ethnic Turks about their loyalty to the Turkish state.

The three officially-designated "Lausanne minorities" may operate community primary and secondary schools under the supervision of the Ministry of Education. Until February 2007, in violation of the Lausanne Treaty, these schools were required to appoint a Muslim as deputy principal; but a new law was passed allowing non-Muslims to take up the position. Nevertheless, regulations dating back to the 1980's have made it more difficult for non-Muslim children to register and attend their community schools. School registration must be carried out in the presence of inspectors from the Ministry of National Education, who reportedly ensure that the child's father is from the relevant minority community—thereby leading to the gradual disappearance of the community schools protected under Lausanne.

Many of the problems faced by religious minorities in Turkey involve property rights and ownership. While the Directorate of Religious Affairs has oversight and control of Sunni Muslim affairs, another government agency, the General Directorate for Foundations (*Vakiflar*), regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. The Lausanne Treaty also permits the three minority

communities to establish foundations to own property, including worship buildings, schools, and other institutions. In practice, the Turkish Government has only permitted the three Lausanne religious minorities to open foundations. Although establishing a foundation enables a religious community to gain the status of a collective legal entity, the rules on foundations are intrusive and onerous. The Commission also learned during the country visit that, contrary to the Lausanne provisions, minority properties are systematically expropriated and requirements for legal personality for existing and new religious groups are either irregularly applied or arbitrarily suspended.

A religious organization may also apply to register as an association, which provides a certain official status. Associations must be nonprofit in nature, can only receive income through donations, and cannot own property. The State Department reports that the process for obtaining association status is simpler and faster than that to gain foundation status. However, association status is granted by provincial governors, and can be also removed by them, thereby providing fewer long-term protections than foundation status.

Over more than fifty years, the Turkish government has used convoluted regulations and undemocratic laws to confiscate hundreds of religious minority properties, primarily those belonging to the Greek Orthodox community, as well as Armenian Orthodox, Catholics, and Jews. The state also has closed seminaries, denying these communities the right to train clergy. In 1936, the government required all foundations to declare their sources of income; in 1974, at the time of Turkey's invasion of Cyprus, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those listed in those 1936 declarations. Since that time, the government has seized control of hundreds of properties acquired after 1936. Religious minority foundations that are recognized by the state can acquire property, but previously expropriated property cannot be reclaimed, nor is there any compensation provided by the state for expropriated properties. These government actions are not subject to appeal, so there is no due process available to these religious minority groups on property rights. Greek and Armenian Christians have also been subjected to limitations on the maintenance of religious and cultural sites, due in part to bureaucratic obstacles in gaining the required official documents. Groups cannot use funds from their properties in one part of Turkey to support their existing population elsewhere in the country.

In November 2006, the Turkish parliament, as part of the reforms related to possible EU accession, passed a new law governing Lausanne religious minority foundations, easing procedures to establish foundations and allowing non-Turkish citizens in Turkey to open them. The law also enabled religious minorities to recover limited categories of expropriated property: the law did not enable foundations to regain property that the state had already sold to third parties, nor did it enable religious minority foundations to recover property that is under government control, reportedly a major category. The law also enabled the *Vakiflar* to continue to expropriate additional properties. Then-President Ahmet Necdet Sezer, however, vetoed the legislation. In February 2008, the parliament passed a similar law on the return of property confiscated from non-Muslim minorities, including orphanages, hospitals, and churches, although this law still does not apply to property sold to third parties and left in place the Vakiflar's expropriation authority.. President Gul signed the legislation, which was also supported by Prime Minister Erdoğan, but was vehemently opposed by Turkish nationalists on the grounds that the law granted too many rights to minority communities. Reportedly, 13 non-Muslim congregations have applied to Turkish courts to reclaim 128 properties; as of this writing, three of these cases have been successful.

Other Issues for Non-Muslim Minorities

Members of non-Muslim communities continue to face other governmental and societal obstacles to the full enjoyment of their religious freedoms. Many Turkish nationalists view these communities with suspicion due to past conflicts with Christian European powers and believe that they constitute a potential threat to Turkey's territorial

integrity or national identity. In addition to the so-called Lausanne minorities, in Turkey there are approximately 15,000 Syriac Christians, 10,000 Baha'is, 5,000 Yezidis, 3,300 Jehovah's Witnesses, and 3,000 Protestant Christians, as well as small communities of Chaldean, Nestorian, Georgian Orthodox, Roman Catholic, and Maronite Christians.

When Turkey was founded in 1923, there were approximately 200,000 Greek Orthodox Christians in the country. In 1955, by which time the number had fallen to 100,000, progroms targeted the Greek Orthodox community, resulting in destruction of private and commercial properties, desecration of religious sites, and killings. As a result of these pogroms and other difficulties, the Greek Orthodox Christian community has fallen to its current low level, which the State Department reports to be no more than 3,000. Although the Ecumenical Patriarch of the Greek Orthodox community in Turkey has been under Ottoman Turkish jurisdiction since 1453, the Turkish government today still does not recognize the Greek Ecumenical Patriarchate as a legal entity. Moreover, the Turkish government also refuses to acknowledge the Patriarch's Ecumenical status, recognizing only his role as head of the Greek Orthodox community in Turkey. Although Prime Minister Erdoğan reportedly stated in parliament in January 2008 that the issue of Patriarch Bartholomew's title as "Ecumenical" is an "internal" one for the Patriarchate and that the state should not interfere, the Turkish government still does not officially recognize the Patriarch's Ecumenical status. The Turkish government also maintains that only Turkish citizens can be candidates for the position of Ecumenical Patriarch and for hierarchs in the Church's Holy Synod.

In 1971, the government's nationalization of institutions of higher education included the Orthodox Theological School of Halki on the island of Heybeli, thereby depriving the Greek Orthodox community of its only educational institution for its leadership in Turkey. Furthermore, in November 1998, the school's Board of Trustees was dismissed by the General Authority for Public Institutions. Due to the factors mentioned above and because of the continuing expropriation of income-generating properties from Greek Orthodox private citizens, the very survival of the Ecumenical Patriarchate and the Greek Orthodox community in Turkey is at risk.

In the summer of 2008, the European Court of Human Rights ruled unanimously in a case brought by the Greek Orthodox Ecumenical Patriarchate that Turkey was in violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights. The case concerned an orphanage on the Turkish island of Buyukada owned by the Ecumenical Patriarchate. The Turkish government has yet to implement the court's ruling.

The Armenian Patriarch, head of the Armenian Orthodox Church, also lacks the status of legal personality and there is no seminary in Turkey to educate its clerics. As with the Ecumenical Patriarch, the Armenian Patriarchate experiences direct Turkish government interference in the selection of its religious leadership, and the Turkish state also prevents the Armenian Orthodox community, which the State Department estimates at 65,000, from operating an independent seminary. In 2006, the Armenian Patriarch submitted a proposal to the Minister of Education to enable his community to establish a faculty in Armenian at a state university with instruction by the Patriarch. Under current restrictions, only the Sunni Muslim community can legally operate institutions to train new clergy in Turkey for future leadership.

Syriac Christians experience problems similar to those of the Greek and Armenian Orthodox, particularly in obtaining permission to maintain ancient sites. The number of Syriac Christians in southeastern Turkey was once much higher, but government pressure and the war against secessionist Kurdish forces resulted in a significant migration from that area to other countries. In recent years, some older members of the Syriac community have returned, and in one case, the Turkish government helped to evict a local group who had occupied the homes which had belonged to Syriac Christians. Metropolitan Yusuf Çetin of the Syrian Orthodox Church told the Commission in 2006 that the Turkish government had also provided some

assistance in restoring churches and monasteries. In November 2007, a Syrian Orthodox priest in southeastern Turkey was kidnapped and released unharmed several days later. The motive apparently was ransom.

More recently, a dispute has arisen over the attempted seizure by Turkish authorities of the territory of the 1,600-year-old Mor Gabriel Syrian Orthodox monastery. Turkish officials reportedly have attempted to redraw the monastery's boundary lines, claiming that when the monastery had drawn the boundaries 15 years ago, it impinged on land belonging to three neighboring, primarily Kurdish, villages. Some village leaders also have accused the local monks of "proselytism" for communicating their beliefs and language (Aramaic) to their students. Earlier efforts reportedly had been made to declare that the monastery had been reconstructed illegally. Two local court hearings in the case, initiated in early 2009, are ongoing.

Most Jews in Turkey (96 percent) are descendants of those who fled religious persecution in Spain or Portugal in 1492 and have lived in Turkey for centuries. According to representatives of the Jewish community in Turkey, the situation for Jews in Turkey is better than in other majority Muslim countries. Jews report being able to worship freely and their places of worship generally receive government protection when it is required. Jews also operate their own schools, hospitals, two elderly persons' homes, and welfare institutions, as well as a newspaper.

Nevertheless, concerns have arisen in recent years because of attacks by extremists on synagogues in 2003 and 2004, as well as growing anti-Semitism in some sectors of the Turkish media and society. Such anti-Semitism is viewed by some as linked to wide popular opposition in Turkey to the U.S. invasion of Iraq and to the 2009 Israeli military campaign in Gaza. The traditionally warm relations between Turkey and Israel were severely strained in late January 2009 after Prime Minister Erdogan left a roundtable at the G-8 meeting in Davos to protest comments by Israeli President Peres about his country's military campaign in Gaza. During the Gaza campaign, virulently anti-Semitic signs, posters and caricatures appeared at anti-Israel demonstrations and in many newspapers throughout Turkey, and Jewish community organizations reportedly received anti-Semitic mailings and phone calls. Nevertheless, in a January 2009 interview with Turkey's *Milliyet* newspaper, the president of the Turkish Jewish Community said that he "does not believe that anti-Semitism exists throughout Turkey." He also praised Prime Minister Erdoğan for publicly denouncing anti-Semitism, stating that the Jewish community's "only problem is the majority's tendency to view minorities as removed from the general population."

Roman Catholics have sometimes also been subjected to violent societal attacks. In February 2006, an Italian Catholic priest was shot to death in his church in Trabzon, reportedly by a youth angered over the caricatures of the Muslim prophet in Danish newspapers. Prime Minister Erdoğan and other government officials strongly condemned the killing. A 16 year-old boy was subsequently charged with the murder and sentenced to 19 years in prison. In December 2007, a 19 year-old stabbed a Catholic priest outside a church in Izmir; the priest was treated and released the following day. According to newspaper reports, the assailant, who had been arrested, admitted that he had been influenced by a recent television program that depicted Christian missionaries as "infiltrators" who take advantage of poor people. Roman Catholics also have had their property confiscated by the government.

Protestants in Turkey, who number about 3,000, are primarily ethnic Turkish converts from other religions. Protestant Christians often meet in the churches of other denominations, homes, and in other venues. Meeting in homes is often viewed with suspicion and possibly subversive. Police sometimes bar Protestant groups from holding services in private homes and have detained and prosecuted individual Protestants for holding unauthorized gatherings. Although engaging in public religious expression and persuasion is not illegal in Turkey, persons involved in such activities are sometimes harassed and arrested.

Protestant individuals and/or property also have been subject to violent attacks. In April 2007, three employees of an Evangelical Protestant publishing house in the city of Malatya were murdered. Five persons suspected of committing the murders were arrested soon after the attack, and five others were detained days later. Later evidence indicated that the five who confessed to the murders were linked to local political officers, members of the special military forces, as well as regional members of Turkey's nationalist political party. In December 2007, Turkey's Interior Ministry also opened a judicial investigation into the alleged collusion of public officials in these murders. By January 2009, lawyers in the case reportedly were lining up additional witnesses to include members of the Turkish ultra-nationalist group *Ergenekon*, which allegedly had planned to engineer a coup d'état in Turkey as well as the killings of members of religious and ethnic minorities.

The murder of Hrant Dink in January 2007 was also allegedly linked to the *Ergenekon* group. Dink, a Turkish citizen and respected journalist of Armenian ethnicity whom the Commission met in 2006, had been convicted under Article 301 of the Turkish Penal Code for "insulting" the Turkish state due to his public use of "Armenian genocide." Dink's conviction on this charge was later changed to a suspended sentence due to pressure from the EU and other foreign governments. Some reports suggested that Dink had been targeted because he was not a Muslim, indicating that for some religious extremism has fused with extreme nationalism. When Commission members met with Dink in Istanbul in 2006, he referred to the repeated threats against his life, which included references to his identity as an Armenian Christian.

Jehovah's Witnesses reportedly experienced continuing harassment of their worship services because they are not members of an officially recognized religion. In a positive development, the EU reported in November 2007 that the Jehovah's Witnesses gained legal personality as an association, thereby enabling the group to rent meeting space and collectively defend its legal interests in court. The State Department reported, however, that the group's stance on conscientious objection to military service often results in governmental and societal harassment.

Religious affiliation is listed on national identity cards, but some religious groups, such as the Baha'is, are unable to state their religion because it is not included on the official list of options. In April 2006, Parliament adopted legislation allowing persons to leave the religion section of their identity cards blank or change the religious designation by written application. However, according to the State Department, the government reportedly continued to restrict applicants' choice of religion and individual Baha'is have reportedly been informed they would not be able to list their religion. The lack of a correct religious identity also makes it difficult for students from minority religious communities to opt out of Islamic religion classes in public schools.

Legal Reforms and EU Accession

In March 2001, the EU adopted the Accession Partnership as a roadmap for the process of Turkey's bid to join the Union, requiring the Turkish government to implement numerous reforms to ensure that its laws are consistent with EU standards. As part of his aim of EU membership, Prime Minister Erdoğan since 2002 has instituted a number of unprecedented democratic reforms, including domestic human rights reforms. Various laws, including the Penal Code, Anti-Terror Law, and the Press Law, have been amended; the Constitution was also amended to ensure the primacy of international and European human rights conventions over domestic law. The changes to the Penal Code included limiting convictions on incitement charges, narrowing the scope of defamation, and strengthening the principle of equality between men and women. In addition, Turkey has boosted efforts since 2002 to comply with the decisions of the ECtHR.

The most recent Progress Report on Turkey issued by the European Commission (EC) in late 2008 stated that, "The government expressed its commitment to the EU accession process and to political reforms." However, the report also added that, "despite its strong political mandate, the

government did not put forward a consistent and comprehensive programme of political reforms." The EC report also noted that while Turkey has continued to make progress on implementation of ECtHR judgments, further efforts are needed, such as the ratification of additional international human rights instruments and increased independence and transparency for the Turkish institutional human rights framework. For example, the Human Rights Advisory Board, a Turkish body representing NGOs, experts and ministries, has not operated since it published a report on minority rights in October 2004.

Regarding religious freedom, the progress report stated that, "freedom of worship continues to be generally respected. The Law on Foundations adopted in February 2008 addresses, among other things, a number of property issues regarding non-Muslim minorities." However, the report cited as continuing problems the inability of minority religious groups to obtain legal personality and the limitations on religious training. The report also cited attacks against non-Muslim clergy and places of worship throughout the country, and said that "[m]issionaries continue to be portrayed and/or perceived as a threat to the integrity of the country and to the Muslim religion." The report also criticized Turkey for "not following through" on its initiative to increase dialogue with the Alevis. The report concluded that "[a] legal framework in line with the [European Convention on Human Rights] has yet to be established, so that all non-Muslim religious communities and Alevis can function without undue constraints" and that "Turkey needs to make further efforts to create an environment conducive to full respect for freedom of religion in practice and to carry out consistent initiatives aimed at improving dialogue with the various religious communities."

The Turkish government has ratified three major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) in September 2003. However, the Turkish government placed a reservation on Article 27 of the ICCPR, thereby setting conditions on its commitment to religious freedom for those religious minority groups to which the Lausanne Treaty refers. Article 27 reads, "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 other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The Turkish government reservation stated, "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes." Considering the government's narrow definition of the rights and status of those minorities under the treaty, the reservation potentially undermines the guarantees to "profess and practice" religion in Article 27, and possibly the more extensive religious freedom guarantees found in ICCPR Article 18.

Finally, in a set of EU reforms passed in April 2008, the parliament amended Article 301of the Turkish Criminal Code, which criminalizes alleged insults to the Turkish state or "Turkish identity." While the amendment seems to expand free speech protections, its vague language increases the possibility of abuse, as has occurred in the past. The EC progress report highlights these shortcomings in regard to freedom of expression, but there are also implications for freedom of religion or belief. Turkish prosecutors have brought suit under Article 301 to restrict the rights of religious expression and persuasion of members of minority religious and ethnic groups.

Recommendations for U.S. Policy

Regarding Turkey, the Commission recommends that that U.S. government should:

I. Urging Legal Reforms to Improve Religious Freedom

- explore cooperation with Turkish authorities to allow women the freedom to express their religious or nonreligious views through dress so

as to respect their beliefs as well as the secular status of the Turkish republic, while ensuring a lack of coercion for those choosing not to wear headscarves and protecting the rights and freedoms of others, and providing access to public education and to public sector employment for those choosing to wear a headscarf;

- urge the government of Turkey to remove restrictions on the ability of leaders of majority and minority religious communities to wear clerical garb in public areas, state institutions, and public and private universities, and to remove restrictions on leaders of the Christian, Jewish or other communities from wearing clerical garb in the public space;

- urge Prime Minister Erdogan to follow-up on his January 2008 statement that the Ecumenical status of the Greek Orthodox Patriarchate should be an internal church issue by granting official recognition to the Ecumenical status of the Patriarch;

- urge the government of Turkey to permit all religious minorities, including those not covered by the Lausanne Treaty, to train religious clergy, including by:

  --permitting the reopening of the Halki Seminary under the control of the Ecumenical Patriarch, and not under the supervision of the Turkish government, and allowing for religious training to occur;

  --instructing officials to drop their legal case to seize the property of the Mor Gabriel Syrian Orthodox monastery; and

  --encouraging the Ministry of Education to respond favorably to the official request of the Armenian Patriarch to permit his community to establish an Armenian language faculty at a Turkish state university, including instruction by the Patriarch;

- urge expansion of the process to regain clear title or fair compensation for expropriated holdings to include properties sold to third parties or held by the government, and to end the authority of the *Vakiflar* or any government agency to seize the property of any religious community;

- urge the government of Turkey to permit religious communities to select and appoint their leadership in accordance with their internal guidelines and beliefs;

- urge Turkish officials to allow for the independent and peaceful practice of Islam outside of the *Diyanet* and end the prohibition on Sufi spiritual orders;

- encourage the Prime Minister's office and the *Diyanet* to work with the Alevi community regarding the recognition and the administration of that community in Turkey, and grant official status to Alevi *cem* houses of worship to those communities which have applied for such status; and to prevent general societal discrimination against Alevis in other areas of life in Turkey;

- urge the government of Turkey to address the absence of full legal recognition for religious minorities, including Alevis; Greek, Armenian, Georgian and Syrian Orthodox; Roman and Syriac Catholics; Protestants; and Jews; by:

  --fully implementing the 1923 Lausanne treaty and providing all non-Muslim communities with legal status that affords them the right to inherit, purchase, possess, maintain, and sell property; or

  --amending the Law on Associations so that it provides religious communities with legal status that affords them the right to inherit, purchase, possess, maintain, and sell property;

- urge the Turkish government to further amend Article 301 of the Turkish Penal Code, which restricts freedom of expression and has

associated negative effects on freedom of religion or belief;

- urge the government of Turkey to omit the legal requirement to list religious affiliation on official identification cards;

- encourage the Turkish government to undertake practical initiatives to establish and enhance trust among the country's diverse religious and ethnic communities, including convening public roundtables on the local and national levels; at a high political level publicly expressing commitments to a democratic and diverse Turkish society; and developing civic education programs that reflect the religious and ethnic diversity of Turkish society, past and present;

- urge Turkish officials to continue to condemn violent hate crimes against members of religious and ethnic communities and to ensure prompt investigation and prosecutions, especially in regard to the Alevi, Greek and Armenian Orthodox communities, as well as against members of the Catholic and Protestant communities, and growing anti-Semitism in some sectors of the Turkish media;

II. Raising Religious Freedom Concerns through Multilateral Fora

- in view of Turkey's standing invitation to receive visits by UN special rapporteurs on human rights, encourage the government to invite relevant rapporteurs, including the UN Special Rapporteur on the Freedom of Religion or Belief, in the near future;

- encourage the Turkish government to remove its reservation to Art. 27 of the ICCPR, which limits the protection of freedom of religion or belief for members of minority communities;

- urge the European Commission to raise with the Turkish government the issue of the headscarf ban, its implications for freedom of religion or belief as well as the right of Turkish women to education and perform professional functions consistent with their beliefs and without fear of coercion;

- speak out publicly at Organization for Security and Cooperation in Europe (OSCE) meetings and events about violations by the government of Turkey of OSCE human rights commitments, including on respect for freedom of religion or belief; and

- urge the Turkish government to request that the OSCE Office of Democratic Institutions and Human Rights (ODIHR) Panel of Experts on Freedom of Religion or Belief to:

  --provide an assessment of Turkey's legislation relating to that issue;

  --conduct conferences with relevant government officials, leaders of religious communities, and members of civil society on teaching about religion in public schools from a human rights perspective; and

  --provide training sessions for members of the Turkish judiciary and law enforcement on how to combat hate crimes, including those motivated by religious prejudice.

Venezuela

Since Hugo Chavez became president of Venezuela in 1998, the country has witnessed a steady increase in government rhetoric, and in some cases government actions, against the Venezuelan Jewish and Catholic communities and U.S.-based Protestant groups. These developments occurred against a backdrop of efforts by President Chavez to extend his political control over government institutions, the economy, and society, his backtracking on democracy, and his imposition of socialism. While there are no official restrictions on religious practice, actions by President Chavez and other government officials have created an environment where Jewish and Catholic religious leaders and institutions are at risk of attack. Furthermore, the Venezuelan government has failed to take adequate measures to hold perpetrators of attacks on Jewish and Catholic religious leaders and institutions accountable. For these reasons, the Commission places Venezuela on its Watch List and will continue to monitor closely the conditions in the country.

The Constitution of Venezuela provides for freedom of religion on the condition that its practice does not violate public morality, decency, or public order. While the government of Venezuela generally respects the rights of citizens and religious leaders to practice religion, religious communities and leaders viewed as political opponents are routinely targeted and harassed by government officials.

Religious groups are required to register with the Directorate of Justice and Religion (DJR) within the Ministry of Interior and Justice, but this is largely an administrative requirement. The DJR provides religious groups with subsidies to conduct educational and social programs, which has historically been distributed to Catholic organizations. Recent years have seen a reduction in subsidies provided to Catholic organizations and the Episcopal Conference of Venezuela, and an increase in funding to evangelical groups implementing government-approved social programs, as well as larger shares of government revenue directed to state-operated social programs.

Thousands of Jews have left the country in the 10 years since President Chavez came to power in part due to fear of potential negative results of the president's socialist agenda, but more recently because of anti-Semitism. The Jewish population today is estimated to be between 10,000 and 15,000, down from an estimated 22,000. The targeting of the Jewish community and subsequent emigration is new to the country. Prior to President Chavez's rule, the country was not known to have problems of anti-Semitism; rather it enjoyed a reputation of welcoming Jews during and after the Holocaust. However, the increase of societal incidents of anti-Semitism and the increasing rate of verbal attacks on the community by government officials is undermining that legacy and is creating fear in the Venezuelan Jewish community of future attacks.

For many years, President Chavez, government officials, government-controlled media, and President Chavez's supporters have used a variety of methods to intimidate the country's Jewish community. Anti-Semitism in the country has appeared in waves, with upsurges corresponding with important international events or domestic political periods, such as the 2006 Lebanon-Israel conflict and the lead-up to a 2007 national referendum on proposed changes to the Venezuelan constitution. Anti-Semitic rhetoric and acts in Venezuela escalated to a new level at the end of 2008 and in the early months of 2009, which fostered a climate permissive of anti-Semitic actions.

Observers note a pattern in the recent incidents of anti-Semitism, where the actions of the state of Israel are conflated with Venezuelan Jews, who are then held responsible for Israel's policies. During both the 2006 Lebanon-Israel and 2008-2009 Israel-Gaza conflicts, President Chavez and other senior government officials severely criticized the actions of Israel, often crossing the line into anti-Semitism. For instance, the President compared the actions of Israel to the Nazis. Government media then echoed these sentiments across the country. Anti-Semitic statements appeared in cartoons and opinion pieces in state media, were heard on state radio programs and in rallies, and were graffitied on

synagogues and other Jewish institutions. Anti-Semitic cartoons and graffiti repeatedly equated the Star of David with a swastika. While reports of anti-Semitism in Venezuela have decreased since February 2009, this pattern suggests that government and societal anti-Semitic statements and actions can target Venezuelan Jews at any time, especially if Israel undertakes policies criticized by the Venezuelan government.

While it is not anti-Semitic to criticize the policies of the state of Israel, such criticism can take on anti-Semitic qualities. Several international organizations in Europe have noted that anti-Semitism can include actions beyond verbal and physical assaults, such as promoting the stereotype that Jews control the media, economy, and government and social institutions; questioning the loyalty of Jews to Israel or their own nations; comparing Israel's actions to those of Nazis; and holding Jews responsible for Israeli actions.

As stated above, President Chavez, members of the Venezuelan government, government-controlled media, and pro-Chavez media outlets have publicly made anti-Semitic remarks and published anti-Semitic cartoons and opinions. President Chavez and other government officials have blamed Israel and Jews for the world's problems and promoted stereotypes of Jewish financial influence and control. In 2005, President Chavez referred to Jews as the "descendants of those who crucified Christ and threw founding father Simon Bolivar out of Venezuela..." In the same speech, the President stated, "A minority has taken possession of all of the wealth of the world…" Government-affiliated media have called for Jews to be expelled from Venezuela and printed cartoons with the Star of David imposed over or adjacent to a swastika. Similar graphics have appeared as graffiti on synagogue walls.

The highest profile government actions against the Jewish community occurred in 2004 and 2007, when government security agents raided a Jewish community center in Caracas, La Hebraica, supposedly looking for weapons. The center is the focal point for Jewish communal life in the country, housing a private school and providing a venue for weddings and other religious ceremonies, and the raids have been viewed as an attack on the entire Jewish community. The November 2004 raid occurred as parents and children were arriving for the start of the school day. The political context of the December 2007 raid was the referendum on constitutional changes proposed by President Chavez, which occurred that same day. Government security agents entered the facility as a wedding was taking place. Despite calls to do so, the government has not taken any action to investigate the raids. Since the two raids, enrollment at the Hebraica Community School has dropped by half.

These statements and incidents led the State Department to list Venezuela as a state sponsor of anti-Semitism in the March 2008 *Contemporary Global Anti-Semitism* report.

The government did make overtures to the Jewish community in 2008, including meetings between government officials and community leaders, and the signing by President Chavez of a declaration to condemn and fight anti-Semitism in South America. However, the situation worsened significantly during the Israeli-Gaza conflict at the end of 2008 and the beginning of 2009. During this period, President Chavez and other Venezuelan government officials escalated their denunciations of and opposition to the state of Israel, reportedly stating that Israel, as an "assassin government," was committing "genocide" in Gaza. Venezuela severed ties with Israel and President Chavez also called on all Jews in Venezuela to denounce Israel. He said, "I hope that the Jewish community in Venezuela pronounces itself against these barbaric acts. Do it! Don't you reject forcefully any act of persecution? Don't the Jews reject the Holocaust? And what are we living now? Do it! Put your hands in the air. Be fair." A similar anti-Semitic statement was made by Foreign Minister Nicolás Maduro.

As the official rhetoric against the state of Israel increased, some Venezuelans attacked the Jewish community in late 2008 and 2009. A rabbi was assaulted on the street; a death threat was sent to another; other rabbis were harassed and threatened,

causing some to flee the country; tear gas was thrown into a synagogue; synagogues and Jewish businesses were sprayed with anti-Semitic slogans; and there were calls for a boycott of all Jewish businesses in Venezuela. There were also reports that congregants at some synagogues in Caracas were filmed as they entered the houses of worship and that some Venezuelans questioned the "Venezuelanness" of the Jewish community and called on Jews to profess their loyalty to Venezuela.

On January 30, 2009, 15 masked men overran security guards and broke into, and vandalized, the Tiferet Israel synagogue in Caracas. For five hours the attackers threw Torah scrolls on the floor, and spray-painted hateful messages, such as "Death to all" and "Jews, get out." The intruders also stole the synagogue's computers which contained personal information about the congregants. This was the second time in a month that the synagogue was graffitied with anti-Semitic messages; earlier in January the message "Property of Islam" had been sprayed on the walls.

President Chavez publicly condemned the synagogue attack the next day, and the foreign minister and communications minister met with Jewish leaders. Following an international outcry, 11 individuals, including the bodyguard to a rabbi at the synagogue and eight intelligence officers, were arrested on suspected involvement in the attacks. The men have been charged with robbery, "acts of contempt against a religion," and concealing firearms. However, President Chavez also used the synagogue attack as a political opportunity before the February 15 referendum on presidential term limits to assail his opposition, stating several times that the "oligarchs" and those opposed to his government were behind the attack. Further, many government officials described the attack as "just a burglary" rather than an incident of anti-Semitism.

Following the Tiferet Israel attack, a small grenade was thrown into the Beth Shmuel synagogue on February 26. No injuries were reported and no investigations have been made into this incident. Since this last incident, the state has provided police protection to Jewish institutions.

There are also tensions between the Venezuelan government and the Catholic Church. Over the past few years, several Catholic leaders in Venezuela have criticized actions of the Chavez government. For example, Catholic leaders have stated that Venezuela had "lost its democratic course and presents the semblance of a dictatorship."

In response, President Chavez has claimed that Venezuela's Catholic Church and the Vatican are conspiring with the United States against his government, and on several occasions he has accused the Church of attempting a coup or being party to plans to assassinate him. In the past, President Chavez referred to the Church as a "tumor" and its leaders as "mental retards" and the "devil." Senior government officials have called on Church leaders to refrain from making political statements, saying it should instead focus only on its spiritual mission. In response, the Vatican stated that it is the Church's duty to "defend the dignity of the human person" and reiterated the important role the Church plays in providing social and educational services to the people of Venezuela.

Thus far, this strong rhetoric has not been accompanied by any official actions against Catholic Church activities. However, there have been several reported attacks by pro-Chavez groups on Catholic leaders and institutions. The government has made no arrests.

In January 2009, a pro-Chavez organization, "La Piedrita," threw tear gas canisters into the house of the Apostolic Nunciature—reportedly the sixth attack by this organization on the Nunciature in the past year— and the attackers left pamphlets insulting Catholic leaders who have criticized President Chavez. The attacks are believed to be due to the Nunciature providing asylum to a student activist and opposition members. No arrests have been made in the attacks on the Nunciature, although President Chavez recently said a manhunt is underway for the leader of "La Piedrita." In February 2008, some pro-Chavez supporters forcefully entered and occupied

the residence of the archbishop of Caracas and held a press conference to denounce leaders of the Catholic Church and the Papal Nunciature. No arrests have been made in this incident, which President Chavez described as an attempt by infiltrators to discredit his government.

In recent months, the Ibrahim al-Ibrahim mosque, the largest mosque in Venezuela and second largest in Latin America, has been robbed and vandalized twice, although the reasons for the attacks are unknown and the mosque is located in a crime-ridden part of Caracas. The most recent attack took place on March 23, 2009 when intruders stole jewels, computers, and other objects, threw sacred objects on the floor, and vandalized copies of the Koran. The mosque has asked for the government to provide protection for holy places in Venezuela.

The Venezuelan government has also restricted foreign missionary activity in the country. Foreign missionaries are required to hold special visas to operate in the country, and for several years the rates of refusal for first-time applicants have increased and the rates of renewals decreased, particularly for groups based in the United States.

In recent years, two U.S. Protestant groups have had to leave the country. In October 2005, President Chavez accused members from the New Tribes Mission (NTM) of being "agents of imperial penetration" that were "contaminating" the cultures of indigenous populations," as well as "gathering strategic information for the United States." The government rescinded the NTM's permission, granted in 1953, to conduct social programs among indigenous tribes, and in November 2008 the Supreme Court affirmed the removal order. More than 100 NTM missionaries left the country in compliance with the government's order. In 2005, 219 U.S. missionaries from the Church of Jesus-Christ of Latter-day Saints also withdrew from the country after having difficulties obtaining visas to conduct its activities.

According to Christian Solidarity Worldwide, in 2007 and 2008 the government requested Evangelical churches to provide it with the names and addresses of any foreigners who attend services.

Recommendations for U.S. Policy

The Commission recommends that the U.S. government should:

I. Stopping Abuses of Religious Freedom and Related Human Rights

- at the highest levels, publicly denounce Venezuelan government rhetoric against and raids on, as well as societal attacks on, religious communities, institutions, and leaders;
- at the highest levels, speak out publicly and continue to draw international attention to state-sponsored anti-Semitism in Venezuela;
- urge the Venezuelan government to immediately stop the use of hostile rhetoric that places religious communities, institutions, and leaders at risk of attack;
- urge the Venezuelan government to arrest all persons responsible for attacks on religious communities, institutions, and leaders and vigorously prosecute and hold perpetrators accountable;
- monitor religious freedom in Venezuela, and if conditions deteriorate to where there are systematic, egregious, and ongoing violations of religious freedom, work to restrict the sale of oil from Venezuela;
- work within the current overall policy framework to ensure that violations of freedom of religion and belief, and related human rights, are included in all bilateral discussions with the Venezuelan government;
- ensure that funding for democracy and human rights promotion in Venezuela includes support for activities advancing freedom of religion or belief;

- instruct the Ambassador-at-Large for Religious Freedom and the Special Envoy to Monitor and Combat Anti-Semitism to travel to Venezuela and report on religious freedom abuses in that country;

II. Undertaking Multilateral Approaches and Working with International Organizations to Improve Respect for Religious Communities, Institutions, and Leaders

- work with countries who may have influence with the Venezuelan government to encourage the government to end anti-Semitic activities taking place in the country, including anti-Semitic statements by government officials and anti-Semitic cartoons and statements in the state media, as well as to fully investigate all reported incidents of anti-Semitism and bring perpetrators to justice;

- work with countries who may have influence with the Venezuelan government to encourage the government to fully investigate attacks on religious communities, institutions, and leaders, and hold perpetrators accountable;

- work with the Organization of American States, including the OAS General Assembly and the Inter-American Commission on Human Rights, to investigate and condemn instances of religious freedom violations in Venezuela, including state-sponsored anti-Semitism and attacks on religious communities, institutions, and leaders;

- encourage the UN Special Rapporteur on the Freedom of Religion or Belief and the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression to request a visit to the country; and

- support a UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Venezuela, and calling for officials responsible for such violations to be held accountable.

ADDITIONAL COUNTRIES CLOSELY MONITORED

Bangladesh

The Commission placed Bangladesh on its Watch List from 2005 to 2008 due to a number of concerns, including past election related violence targeting religious minorities and a range of serious violations of human rights under the previous military-backed "caretaker government." On December 29, 2008, national elections took place, ending a two-year suspension of democratic governance. International and local observers characterized the elections as free, fair, and peaceful. The elections brought the Awami League to power, headed by Prime Minister Sheikh Hasina. The Awami League is considered more favorably disposed toward minority rights protection, based in part on the fact that the 1997 Chittagong Hill Tracts Peace Accords and the Vested Property Return Act, both measures meant to safeguard minority rights, were established under a previous Awami League administration. The 2008 elections allowed for minorities to exercise their voting rights and proceeded without the anti-minority violence that followed the last national elections in 2001. At that time, the Bangladesh Nationalist Party (BNP)-led government failed to investigate or prosecute acts of severe violence, including killings, rape, land seizures, arson, and extortion against religious minorities, particularly Hindus, who were perceived to be allied with the then-opposition Awami League. The absence of measures to promote minority voting rights and the failure of the government to investigate the severe anti-minority violence of 2001 were among the reasons for placing Bangladesh on the Watch List from 2005 to 2008. In light of the positive developments witnessed during the 2008 elections, the Commission is removing Bangladesh from its Watch List in 2009.

Despite these improvements, Bangladesh continues to have outstanding religious freedom issues and face threats from religious extremism. The Commission therefore urges the new Awami League administration to strengthen protections for all Bangladeshis to enjoy the right to freedom of religion or belief, and undertake efforts to improve conditions for minority religious communities. The Commission hopes that the government of Bangladesh will investigate and prosecute to the fullest extent of the law perpetrators of violent acts against members of minority religious communities, women, and non-governmental organizations. Reforms of the judiciary and the police are also necessary to ensure that law enforcement and security services are equally protective of the rights of all, including Hindus, Buddhists, Christians, Ahmadis, and other minorities. Additional efforts are needed to counter societal and governmental discrimination in access to public services, the legal system, and government, military, and police employment.

Following independence from Pakistan in 1971, Bangladesh was established as a secular state in which national identity was based on Bengali language and culture. Although the 1972 constitution guaranteed the freedom of religion, subsequent military regimes added amendments affirming that "absolute trust and faith in Allah" is "the basis for all [government] actions." Islam was made Bangladesh's state religion in 1988 under H.M. Ershad's military dictatorship.

Aided by the expansion of Islamic schools (*madrassas*) and charities, many of which receive foreign funding with varying degrees of government oversight, Islamist activists have gained significantly in political, economic, and social influence in recent years. Members of Jamaat-e-Islami allegedly used their influence in the previous BNP-led government to deny funding to or otherwise disadvantage groups viewed as opposing Jamaat's Islamist political and social agenda. Although some calling for a more Islamist Bangladesh engaged in peaceful political and social activities, others adopted an approach sanctioning violence towards perceived opponents of Islam.

On January 11, 2007, threats by the then-opposition party, the Awami League, to boycott the national elections, alongside an ongoing controversy

over voter registration and the impartiality of the electoral process, prompted the caretaker government to declare emergency rule and indefinitely suspend the upcoming national elections. The military was given sanction to enforce emergency rule, which included the suspension of the freedoms of speech and assembly, and due process, among other rights. The caretaker government was widely criticized by international and local human rights agencies for serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, curbs on press freedom, and violations of the right of due process.

Even during periods of democratic governance, Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremist groups to engage in criminal activities with relative impunity. Authors, journalists, academics, and women's rights and civil society activists debating sensitive social or political issues, or expressing opinions deemed by radical Islamists to be offensive to Islam, have been subject to violent, sometimes fatal, attacks. Some Muslim clerics, especially in rural areas, have also sanctioned vigilante punishments against women for alleged moral transgressions. Rape is reportedly a common form of anti-minority violence, and sexual assaults on Hindu women were reported in 2008. The government commonly fails to punish perpetrators, since the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference. Bangladesh was ranked tenth from the bottom on Transparency International's 2008 Corruption Perceptions Index. From 2001-2005, Bangladesh was ranked at the bottom of the list.

Islamist extremists coordinated a wave of hundreds of almost simultaneous bomb attacks, carried out in all but one of Bangladesh's 64 districts on August 17, 2005. These extremists were also implicated in a series of bomb attacks on Bangladesh's judiciary in October-November 2005 which accompanied a demand to substitute sharia law for Bangladesh's secular jurisprudence system. In March 2007, six members of the armed Islamist group Jamaat-ul-Mujahideen Bangladesh (JMB), including JMB leader Sheikh Abdur Rahman and Siddiqul Islam, alias "Bangla Bhai," were executed for their involvement in the 2005 bombings.

During the 2007-2008 emergency, Islamist groups rose in political prominence and public visibility. In September 2007, emergency restrictions on assembly were apparently waived to allow Jamaat and other Islamist supporters to burn effigies and stage public protests against the publication of a newspaper cartoon they believed mocked an element of Bangladeshi Islamic culture. Cartoonist Arifur Rahman was jailed without charge for six months. In March 2008, restrictions on assembly were again ostensibly lifted to allow protests by Islamic groups against a policy proposed by a consortium of women's organizations to strengthen constitutional provision for the equal rights of women. In October 2008, federal agencies removed five sculptures of traditional Bengali musicians opposite Zia International Airport in Dhaka at the behest of Islamic leaders, who allegedly deemed the sculptures "un-Islamic."

In February 2009, during a mutiny of the border security force, the Bangladesh Rifles, 74 Army officers were killed. Some news reports alleged the involvement of Bangladesh- and Pakistan-based Islamists, although details surrounding the revolt remain unclear. In March 2009, a cache of weapons was found at a *madrassa* in the south of Bangladesh. According to news reports, some government officials fear a re-arming of Islamist extremist groups in the lull following the government crackdown and executions.

Although the constitution provides protections for women and minorities, Hindus, Buddhists, Christians, Ahmadis, and other minorities must regularly grapple with societal discrimination, as well as face prejudice that hinders their ability to access public services, the legal system, and government, military, and police employment. Religious minorities are also underrepresented in elected political offices, including the national parliament. The Vested Property Act (VPA) continues to be used as justification by some Muslims to seize Hindu-owned land. The VPA's

implicit presumption that Hindus do not belong in Bangladesh contributes to the perception that Hindu-owned property can be seized with impunity.

The most serious and sustained conflict along ethnic and religious lines has been in the Chittagong Hill Tracts (CHT), an area with a high concentration of non-Bengali, non-Muslim indigenous peoples (often referred to as *Adivasis, Paharis,* or *Jumma*). Resentment among members of indigenous groups remains strong over settler encroachment, human rights abuses by the Bangladeshi military, and the slow, inconsistent implementation of the 1997 Chittagong Hill Tracts Peace Accords. Muslim Bengalis, once a tiny minority in the CHT, now reportedly equal or outnumber indigenous groups. In 2007, Bangladesh human rights organizations reported a surge in Bengali settlements on tribal land in the CHT. In 2008 in the Sajek area of the CHT, tribal residents endured military-backed encroachment by Muslim Bengali settlers, via home burnings and land seizures. On December 29, 2008, a few hours before the general elections, a Buddhist temple and three homes in a minority-dominated part of Fatikchari, CHT were subject to an arson attack, reportedly to intimidate minorities and scare them into non-participation on voting day.

Bangladesh's small Ahmadi community of about 100,000 is the target of a campaign to designate the Ahmadis as "non-Muslim" heretics. In January 2004, the BNP government bent to extremist Islamist pressure and banned the publication and distribution of Ahmadi religious literature. Police seized Ahmadi publications on a few occasions before the ban was stayed by the courts in December 2004. The ban is not currently enforced. An Ahmadi library, closed by local officials in Dinajur district in March 2008, remained closed through the reporting period. In some instances, local anti-Ahmadi agitation has been accompanied by mob violence in which Ahmadi homes have been destroyed and Ahmadis are held against their will and pressured to recant. However, violence against Ahmadis has diminished due to improved and more vigorous police protection.

The Commission has recommended that the U.S. government encourage the new government of Bangladesh to take early action on the following issues and ensure consistent implementation: 1) investigate and prosecute perpetrators of the anti-minority violence that occurred in the wake of the 2001 national elections; 2) repeal the Vested Property Act and commit to restoring or compensating for properties seized, including to the heirs of original owners; 3) rescind the 2004 order banning Ahmadi publications, and ensure adequate police response to attacks against Ahmadis; 4) enforce all provisions of the Chittagong Hill Tracts Peace Accords and declare that members of Bangladesh's tribal communities are deserving of the full rights of Bangladeshi citizenship; 5) create and support the promised National Human Rights Commission, which should be independent, adequately funded, inclusive of women and minorities, and defined by a broad mandate that includes freedom of religion or belief; 6) include in all public and *madrassa* school curricula, textbooks, and teacher trainings information on tolerance and respect for freedom of religion or belief; and 7) ensure that members of minority communities have equal access to government services and public employment, including in the judiciary and high-level government positions.

Kazakhstan

Kazakhstan's record on religious freedom and related human rights has come under increasing international scrutiny because in 2010 it will serve as Chair of the 56-nation Organization for Security and Cooperation in Europe (OSCE). The Kazakh government had been noted for its relatively good human rights record and tolerant policies towards its more than 90 ethnic minorities. In recent years, however, the country's civil society sector, particularly independent journalists and members of the political opposition, has come under increasing pressure. Moreover, the government's recent efforts to amend the country's religion law threatened increased official control over Kazakhstan's highly diverse religious communities.

In late 2008, Kazakhstan's parliament passed highly restrictive amendments to the country's religion law. The amendments established more restrictive registration procedures and required all existing religious groups to re-register; prohibited proselytism and the production of religious literature; prohibited groups from maintaining worship facilities open to the public; and significantly increased fines and penalties for violations of the law. According to Kazakh human rights activists, these amendments originated in the office of the Kazakh Presidential Administration. Kazakh human rights defenders, as well as Muslim, Russian Orthodox, Catholic, Lutheran, Hare Krishna, and Baptist representatives, expressed concern over the amendments.

International experts also expressed concern. The OSCE's Panel of Experts on Freedom of Religion or Belief (the Panel) analyzed two versions of the amendments and found "many serious compliance issues with human rights standards, including OSCE commitments." The Kazakh government, which had requested the Panel's analysis, refused to publish its findings, claiming that this was done at the request of the OSCE; OSCE officials, however, publicly refuted this claim. The United Nations Special Rapporteur on the Freedom of Religion or Belief also concluded that the amendments "would impose undue restrictions on freedom of religion or belief." Her concerns included the ban on unregistered religious activity; the restrictions on missionary activity; the controls on the distribution of religious materials; the "theological analysis" of registration applications; the ban on private religious education; "vague provisions" giving rise to possible "abusive interpretation and discrimination" by law enforcement agencies; and the lack of "public and open debate" about the proposed law.

On February 12, 2009, Kazakhstan's Constitutional Council declared the amendments unconstitutional. The Constitutional Council's Chair stated that the proposals violated the constitutional principle of equality before the law by setting different registration conditions for religions "previously unknown in Kazakhstan" and not affording legal residents the same rights as citizens. Nevertheless, some Kazakh officials reportedly still treat the overturned amendments as valid, and Kazakh human rights activists claim that the government will enact the changes after Kazakhstan's OSCE chairmanship in 2010.

The constitution defines Kazakhstan as a secular state and provides for freedom of religion. Under 2005 amendments to the country's religion law, religious organizations must register both with the national and regional Ministry of Justice offices. Unregistered religious activity is an administrative offense, and the authorities may suspend the activities or impose fines on the leaders of unregistered groups. To register, a religious organization is required to have at least 10 members and to submit an application to the Ministry of Justice; registration may be denied if the organization lacks sufficient membership or if its charter violates the law. If literature has not been vetted during the registration process, it is deemed illegal. Foreigners may register religious organizations, but Kazakh citizens must comprise the majority of the 10 founders.

Under the current religion law, a religious organization whose charter includes religious education may be denied registration if it does not obtain approval from the Ministry of Education. Religious instruction is not permitted in public schools, but parents may enroll children in supplemental religious classes provided by registered religious organizations. Neither law nor regulation prohibits foreign missionary activity, although foreign missionaries are required to register annually with the Justice Ministry and provide data on religious affiliation, geographic area, and duration of stay, as well as on all religious literature. "The religion laws narrow the legal protections of religious freedom found in the Constitution," the State Department reported in 2008.

The National Administration of Muslims in Kazakhstan (SAMK), headed by the Chief Mufti, exerts significant influence over the country's practice of Islam, including selecting imams and regulating the construction of mosques. In 2002, however, the Kazakh Constitutional Council ruled against a proposed legal requirement that the SAMK must approve the registration of any Muslim group. Nevertheless, the SAMK reportedly occasionally

pressures non-aligned imams and congregations to join it, but, according to the State Department, the Kazakh government continues to register some mosques and Muslim communities not affiliated with the SAMK.

The Law on Extremism, effective since February 2005, gives the government wide latitude to identify and designate religious or other groups as extremist organizations, to ban a designated group's activities, and to criminalize membership in a banned organization. Government officials have expressed concern about possible political and religious extremism, particularly in southern Kazakhstan, where many Uzbeks reside. The Kazakh government has imprisoned individuals alleged to be members of certain Muslim groups, including some groups that espouse extremist political agendas. For example, in 2007 65 individuals in the cities of Karaganda, Stepnogorsk, and Shymkent were sentenced to lengthy terms of imprisonment in secret trials for alleged membership in various Muslim groups. Human rights groups have expressed concerns that the government has also used this law to punish non-extremist Muslims for independent views. Kazakh civil society activists maintain that due process is not followed in many of these trials, and that police, investigatory, and judicial officials have not provided public access either to trials or to information about these cases. Indeed, according to some leading Kazakh human rights activists, as many as 300 Muslim individuals may be imprisoned in Kazakhstan on religion-related charges. Due to the lack of information, however, it is impossible to ascertain the veracity of these claims.

The government's 2007-2009 "Program for Ensuring Religious Freedom and Improvement of Relations between the Government and Religions" outlined plans for "increasing the stability of the religious situation" and called for new laws to increase control over activities by foreign religious workers and the dissemination of religious materials. Two official documents issued in April 2007 give rise to concern: the "State Program of Patriotic Education," approved by presidential decree, and a Justice Ministry booklet, "How not to fall under the influence of religious sects" which includes the claim that "transferring to other religious faiths represents treason to one's country and faith."

Statements by Kazakh authorities that single out certain minority religious groups officially viewed as "sects" or "non-traditional," including Jehovah's Witnesses and Hare Krishnas, have created a hostile public atmosphere. In early 2008, President Nursultan Nazarbayev publicly criticized foreign religious workers, saying that they should not be allowed to operate freely, as "we don't know their purposes and intentions." He also declared that "religion is separate from the state, but it does not mean that Kazakhstan should become a dumping ground for various religious movements." The President has not retracted these remarks, and since the speech, there has been a marked increase in governmental restrictions targeting unregistered and minority religious communities.

At an April 2008 press conference, an official Kazakh spokesperson claimed that 40,000 adherents of 1,870 religious organizations, including Scientologists and the New Life Church, represented a national security threat. In February 2008, the national *Express-K* newspaper interviewed a Kazakh secret service officer who described the dangers of what he called "sects," claimed that foreign intelligence agents may work undercover as "missionaries," and equated new Christian and Buddhist organizations with Islamic extremists. In early 2008, several media outlets published or broadcast stories critical of "non-traditional" religious groups such as evangelical Protestant Christians, Jehovah's Witnesses, Scientologists, and Hare Krishnas, depicting them as dangerous "sects."

Nevertheless, in practice, most minority religious communities registered with the government without difficulty, although some Protestant groups and other groups viewed by officials as non-traditional have experienced long delays. There were no reported incidents of official anti-Semitism. Although local officials may attempt to limit the practice of religion by some "non-traditional" groups, higher-level officials or courts, at least until recently, have usually overturned such attempts.

Members of unregistered religious communities, including the Council of Churches Baptists, who refuse on principle to register any of

their congregations with the state, continue to face official harassment. In a notable case, authorities fined the pastor of a Council of Churches Baptist congregation in the Akmola region for unregistered religious activity, and in February 2009, a court order permanently banned his church—the first time that such a ban has been imposed in Kazakhstan. Council of Churches Baptist churches also continue to report surveillance, secret recordings of services and sermons, raids, short-term detentions, and court-ordered fines for unregistered religious activity, which they usually refuse to pay. In February 2009, Pastor Yuri Rudenko from the Almaty region was jailed for three days for refusing to pay fines for unregistered worship and his musical instruments were confiscated. Authorities have raided Baptist churches in the Akmola region and their members have been interrogated.

Other unregistered Protestant communities are increasingly subject to official harassment. In November 2008, officers from the Aktobe city Department for the Struggle against Extremism, Separatism, and Terrorism raided a restaurant dinner held by members of the New Life Church, Forum 18 reported. Several months earlier, the New Life Church had been evicted from its church building and was attempting to obtain an official permit to purchase land on which to build a church. In October 2008, police raided the Sunday service of a small unregistered Protestant Church in Kazakhstan's Kyzylorda region.

Although the Hare Krishna movement is registered at the national and local levels, its leaders report continuing harassment, dating back to an April 2006 appeals court decision that the community's farm outside Almaty must revert to the county government, allegedly because the farmer from whom the Hare Krishnas bought the land in 1999 did not hold title. The government has ordered the community to leave the farm by March 1, 2009, and to take as compensation a garbage dump without irrigation or potable water, or face new legal proceedings. Moreover, on January 27, 2009, a Hare Krishna leader, Govinda Swami, an American citizen, was denied entry into Kazakhstan, reportedly because he was on an entry blacklist. One month later, however, Kazakh officials allowed Govinda Swami to re-enter the country, RFE/RL Kazakh Service reported.

The national Jehovah's Witnesses Religious Center alleged that local officials harass its communities. Reportedly, a local religious affairs official told Jehovah's Witnesses not to go to Atyrau because "that's where Muslims live." It also has been reported that for seven years, the Justice Ministry in Atyrau has used minor technical infractions to deny numerous registration applications of the local Jehovah's Witness community. In January 2009, however, a court in the southern city of Kentau closed a case against the Jehovah's Witnesses and later the local government head cancelled a 2008 decision alleging violation of rules for the use of a building for religious purposes. Nevertheless, the Jehovah's Witnesses reported in mid-February that they are still waiting for official authorization to use the house.

As of July 2008, the Kazakh Ministry of Justice reported that 362 foreign religious workers of various denominations were present in Kazakhstan. Several groups reported difficulty in registering foreign religious workers, while others reported greater difficulties than in previous years with the issuance of visas, denials of special visas, or shorter-term visas. In 2008, the Kazakh Justice Minister is reported to have said that "a large number of foreigners from the United States, Georgia, South Korea, and Japan were expelled from the country by law enforcement authorities after courts have ruled that they violated regulations because they worked as missionaries without the required registration."

In January 2009, a court in Almaty sentenced Elizaveta Drenicheva, a Russian citizen, to two years in a general regime labor camp for teaching Unification Church beliefs at private seminars. Drenicheva was convicted under a criminal law provision prohibiting "incitement to social, national, racial or religious hatred." In March 2009, Drenicheva's prison term was commuted to a fine of 25 times the minimum monthly wage, approximately $211. Since she had already served two months' imprisonment, she will not have to pay the fine, but she will still have a criminal record. Her case has been perceived by human rights groups as

an official warning on the strict limits to officially tolerated activities.

On the international level, however, the Kazakh government has organized events to showcase what it views as its record of official religious tolerance. Kazakh President Nursultan Nazarbayev has hosted two conferences attended by hundreds of leaders of religious communities from around the world; a third such conference is planned for July 2009. In February 2009 several official Kazakh organizations and the OSCE Astana Center hosted a meeting for several representatives of registered religious organizations and civil society groups, as well as the diplomatic community, on Kazahkstan's "unique experience of interethnic and interdenominational accord."

Despite such official Kazakh promotion, the Commission believes that, in view of Kazakhstan's upcoming OSCE chairmanship, the Kazakh government should publicly clarify its actual policies on human rights, including on freedom of religion or belief, and ensure that its laws conform to OSCE and other international commitments. Such official clarifications are particularly necessary in light of President Nazarbayev's hostile public statements about various religious groups and the Kazakh government's publications along these lines. Moreover, even though the Constitutional Council has rejected the restrictive draft religion law as unconstitutional, Kazakh law enforcement bodies reportedly have undertaken repressive actions against various religious groups that fly in the face of that constitutional ruling. Finally, the Commission calls on the Kazakh government to include relevant government officials and Kazakh legal and other experts in official exchange programs and to allow them to participate in international conferences, particularly those of the OSCE.

Sri Lanka

The Commission has remained concerned in recent years about religious freedom in Sri Lanka because of attacks targeting members of religious minorities and their places of worship and proposed legislation on religious conversion that, if enacted, would have violated international law norms and resulted in abuses of freedom of thought, conscience, and religion or belief. Both issues are occurring against the backdrop of a 26-year civil war between government troops and the Liberation Tigers of Tamil Eelam (LTTE), who are seeking an independent state in the north of the country.

In January 2009, ongoing violence escalated dramatically in the northern Vanni region of the Mullaithivu district, as the LTTE sought to maintain control of a narrow conflict zone. The Commission joins the international human rights community in expressing its serious concern about the humanitarian crisis that has emerged in the wake of the renewed violence. According to estimates from early April, 60,000 individuals have fled the violence and 150,000 to 200,000 civilians remained trapped in 17-square kilometers controlled by the LTTE. UN agencies place the civilian death toll from late January to March at 2,800, with at least an additional 7,000 injured.

Despite harassment, killings, and restrictions upon the movement of human rights activists and journalists throughout the 26 year conflict, evidence of severe atrocities carried out on both sides of the conflict has been well-documented. In the context of the civil war, violence against civilians based on ethnicity and/or religion has occurred throughout the country. Reports indicate that both sides in the conflict fail to take steps to prevent or stop incidents of communal violence between or among Buddhist Sinhalese, Hindu Tamils, Muslims, and Christians in Sri Lanka. Places of worship from various faith communities have been targeted by both government and LTTE forces. Attacks have occurred on religious holidays or during festivals. Moreover, for years, entire communities of Sri Lankan Muslims in the north and northeastern parts of the country have been displaced by LTTE forces seeking to consolidate Tamil hold over certain areas. While the LTTE has apparently encouraged displaced Muslims in some areas to return, a lack of safety guarantees has kept many Muslims from returning to LTTE-dominated areas.

Not directly connected to the civil conflict, there have been continuing instances 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, who comprise approximately 7 percent of the population, have been physically assaulted by one or more persons or by large groups, particularly for alleged attempts to convert Buddhists to Christianity. According to activists with whom the Commission delegation met during its February 2006 visit, there were about 400 incidents against Christian institutions or persons between 2000 and 2005; approximately half of those involved violence of varying levels and half were verbal threats. More recently, in June 2008, an anti-Christian rally and petition against a local church was sponsored in Hambantota district by a local Buddhist temple. Prior to the rally, which attracted 500 participants, a Christian girl was attacked for attending church in the district. In March 2008, a crowd of 200 surrounded the home of a pastor in Galle district and threatened him with death if he did not permanently leave the area. Arson attacks on church properties and assaults on Christians leaving church services were also reported. In February 2008, two men killed Neil Sampson Edirisinghe, pastor of the House Church Foundation in Ampara District. According to news reports, the pastor was ordered killed by a man whose wife converted to Christianity.

The UN Special Rapporteur for Freedom of Religion or Belief noted in her 2005 report on Sri Lanka that attacks against religious minorities by non-state actors were neither adequately investigated nor punished by the government, resulting in a culture of impunity. This problem is compounded by wider, more chronic deficiencies in the judicial system in Sri Lanka, including corruption, a lack of police training, and inadequate infrastructure.

In recent years, there have been allegations, particularly in the period immediately after the December 2004 tsunami, of groups and individuals engaging in "unethical practices" to encourage people to change their religion, which are said to take advantage of impoverished populations and lead to increased tensions among religious communities in Sri Lanka. These practices allegedly 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. Some religious organizations claim to have evidence that the poverty and unemployment of Buddhists in particular is being exploited via conversions to other religions by unethical or unfair means.

With regard to these reports and allegations, the UN Special Rapporteur reported after her May 2005 visit to Sri Lanka that "despite repeated requests, the Special Rapporteur did not meet any person who had changed his or her religion because of allurement or other form of inducement. She has also not received any substantiated cases of conversion that would constitute a violation of the right to freedom of religion or belief, such as forced conversions." However, she noted that that "some religious communities or religiously-affiliated non-governmental organizations have demonstrated behavior that, while not constituting per se violations of the freedom of religion of others, were very disrespectful and dishonest vis-à-vis the local population they were addressing."

In January 2009, the Jathika Hela Urumaya (JHU) party, which is comprised of nationalist Buddhist monks, again brought to Parliament a draft anti-conversion law, the Prohibition of Forcible Conversion of Religion Bill. The bill, if enacted, would provide for prison terms of up to five years for anyone who, by "the use of force or by allurement or by any fraudulent means," converts or attempts to convert a person from one religion to another, or aids or abets such conversion. Because women, minors, inmates, the poor, and the physically or mentally disabled are considered by the bill's proponents to be particularly vulnerable, their conversion would warrant even harsher prison terms of up to seven years.

The bill defines "allurement" as the offer of any temptation for the purpose of converting, including any gift, gratification, or material benefit. It describes "force" as including not only threat of physical harm, but also the "threat of religious

disgrace or condemnation of any religion for the purpose of converting." The bill defines "fraudulent" as "any willful misinterpretation or any other fraudulent contrivance." Opponents of the bill are concerned that its broad language would encompass all religious conversions, not just "unethical conversions," and would criminalize the charitable activities of religious groups.

The bill is largely the same proposal put forth in 2004 by the JHU, except without provisions requiring that conversions be reported to the government and providing punishments for failure to report, which the Sri Lankan Supreme Court ruled would be unconstitutional in August 2004. Regarding the bill's other provisions, however, the court found that the provisions criminalizing conversion by force, allurement, and fraudulent means were designed to ensure public order and welfare and therefore were constitutional. After amending the bill in light of the Supreme Court's decision, the bill had its first and second readings, and in 2005 was referred to a parliamentary committee. The Commission investigated the status of the proposed bill during its February 2006 fact-finding trip to Sri Lanka. In February 2009, the bill was submitted back to Parliament for its third reading and vote, which was then expected to take place in March 2009.

The JHU contends that the views of all religious communities in Sri Lanka have been incorporated into the bill, but this assertion has been challenged by both government and opposition party leaders. Proponents of anti-conversion legislation assert that their proposals are promulgated in response to reports of forced or unethical conversions. Indeed, the preamble to the 2004 and 2009 draft anti-conversion law states that Buddhism and other religions are faced with a threat from forcible conversions, and that religious leaders have realized the need to protect religious harmony in Sri Lanka. However, 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 law." In February 2009, amidst international pressure, including from members of the U.S. Congress, the Sri Lankan government referred the anti-conversion bill to the Consultative Committee on Religious Affairs and Moral Upliftment for discussion. In April 2009, the Religious Liberty Partnership, an international coalition of Christian organizations, expressed its support for this action in its Toronto Statement: "although extreme elements within religious sectors have called for anti-conversion laws, the government of Sri Lanka has taken care to protect the constitutional right to freedom of religious choice by not enacting proposed laws subjecting religious conversion to criminal scrutiny."

Although the committee's meeting has been indefinitely postponed, thus also indefinitely postponing further discussion of the draft anti-conversion legislation, the Commission will continue to monitor closely the status of the draft bill.

In February 2006, the Commission visited Sri Lanka and met with government officials, Members of Parliament, political parties, human rights organizations, and representatives of the Buddhist, Hindu, Christian, and Muslim communities.

PENDING

India

The Commission is planning to travel to India for the first time in June 2009. Therefore the Commission will release its report on India during this summer.

PROMOTING INTERNATIONAL RELIGIOUS FREEDOM THROUGH MULTILATERAL INSTITUTIONS

The International Religious Freedom Act of 1998 (IRFA) specifically cites U.S. participation in multilateral organizations as an avenue for advancing freedom of religion or belief, which is enshrined in numerous international human rights declarations and conventions.

The 192 member states of the United Nations have agreed, by signing the UN Charter, to "practice tolerance" and to "promot[e] and encourag[e] respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." These fundamental freedoms include the freedom of thought, conscience, and religion, which is protected and affirmed in numerous international human rights instruments, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

The 56 participating States of the Organization for Security and Cooperation in Europe (OSCE), comprising Eastern and Western Europe, the states of the former Soviet Union, the United States, and Canada, also have committed themselves to uphold extensive standards to protect freedom of religion or belief and to combat discrimination, xenophobia, intolerance, and anti-Semitism. Freedom of thought, conscience, and religion or belief is singled out in the OSCE founding document, the 1975 Helsinki Final Act, and in many subsequent political agreements.

The United Nations

The UN Human Rights Council

In 2006, the UN Commission on Human Rights was replaced by a new body, the UN Human Rights Council, which meets more often, is marginally smaller, and has certain new procedures such as the "universal periodic review" (UPR), to which all UN member states are subject. The Human Rights Council was intended to address and correct the perception that the Commission on Human Rights unfairly singled out some states for repeated scrutiny while ignoring many others. The UPR process offers UN members the opportunity to assess the human rights performance of all 192 member states, some of whose records have

never before been subject to human rights review by an intergovernmental body.

In February 2009, the Commission wrote to Secretary of State Clinton to urge the United States to ask questions and make recommendations concerning key countries being reviewed in that month's UPR session, such as China and Saudi Arabia, that are designated as "countries of particular concern" under the International Religious Freedom Act. While the Bush Administration participated in the initial sessions of the UPR process, this was halted in the latter part of 2008 as part of that administration's policy of not engaging with the Human Rights Council except in narrow circumstances. The Obama Administration did not speak in the February UPR session, but on March 31, 2009, the State Department announced that the U.S. will run for election to the Council. The Commission hopes that the new administration will take advantage of the opportunity, in future sessions of the UPR, to ask hard questions of nations whose records on religious freedom and related human rights do not meet UN standards. In various country-specific chapters of this report, the Commission also recommends that the United States should vigorously demand scrutiny of such states, with special attention to freedom of religion and related human rights.

The Special Rapporteur on Freedom of Religion or Belief

In 1986, on the initiative of the United States, the former UN Commission on Human Rights (the aforementioned predecessor to the Human

Rights Council) appointed an independent expert, or Special Rapporteur, to investigate and report on instances of religious intolerance and violations of the internationally-protected right to freedom of religion or belief around the world. The Special Rapporteur on Freedom of Religion or Belief monitors this fundamental freedom worldwide, communicates with governments about alleged violations, conducts country visits, and, perhaps most importantly, brings religious freedom concerns to the UN and public attention. The Special Rapporteur's mandate was most recently renewed by the Human Rights Council in December 2007, at which USCIRF participated as part of the U.S. delegation.

At that session, the Organization of the Islamic Conference (OIC)— a regional organization headquartered in Jeddah, Saudi Arabia, comprised of 57 nations with Muslim majority or significant Muslim populations—attempted to amend the resolution extending the Special Rapporteur's mandate to remove a reference to the right of individuals to change their religion. The U.S., European Union members, and Canada mounted a vigorous opposition effort, and ultimately the resolution was passed without the OIC's desired change. However, because of the rejection of their request, the OIC members of the Council abstained.[1]

The position of Special Rapporteur was held from 1986 to 1993 by Mr. Angelo d'Almeida Ribeiro of Portugal, from 1993 to 2004 by Mr. Abdelfattah Amor of Tunisia, and since 2004 by Ms. Asma Jahangir of Pakistan. Over the years, the successive Special Rapporteurs have visited and reported on the religious freedom situations in 25 countries: China, Pakistan, Iran, Sudan, Greece, India, Australia, Germany, the United States, Vietnam, Turkey, Bangladesh, Argentina, Algeria, Georgia, Romania, Nigeria, Sri Lanka, France, Azerbaijan, the Maldives, Angola, Israel and the Palestinian territories, India, and Turkmenistan. The Special Rapporteur reports to the Human Rights Council and the Third Committee of the UN General Assembly each year. During the 2008 interactive dialogue at the Third Committee, the U.S. Ambassador-at-Large for International Religious Freedom for the first time participated in the discussion and spoke publicly in support of the Special Rapporteur's work.

The Campaign to Protect Religions from Alleged Defamation

Over the past several years, the Commission has become increasingly concerned about the campaign by some UN member states to create an international legal principle protecting religions, rather than individuals, from alleged "defamation," which would violate key principles that guarantee the freedoms of religion and expression. At the Human Rights Council, these efforts have been led by Pakistan, as chair of the OIC. OIC member Egypt has played a leading role at the General Assembly in New York, as well as in Geneva.

In recent years, and particularly since the controversy over a Danish newspaper's publication of cartoons of the Prophet Muhammed in September 2005, some countries with predominately Muslim populations have increasingly demanded formal measures to combat the so-called "defamation of religions," a flawed concept without basis in international law. Though justified by its proponents as protecting religious practice and promoting tolerance, the "defamation of religions" concept in fact promotes intolerance and human rights violations, including violations of religious freedom and freedom of expression. The concept subverts international human rights law by subordinating individual rights to the purported rights of religions. It also empowers repressive governments and religious extremists to suppress and punish whatever they deem to be offensive or unacceptable speech about a particular, favored religion or sect. The concept has been used in some states to justify actions that selectively curtail civil dissent, halt criticism of political or religious structures, and restrict the religious speech of members of minority faith communities, dissenting members of the majority faith, and persons of no religious faith.

The "defamation of religions" concept seeks to export the blasphemy laws found in some OIC countries to the international level. Under these laws, criminal charges can be levied against individuals for

defaming, denigrating, insulting, offending, disparaging, and blaspheming Islam, often resulting in gross human rights violations.[2] For example, in Pakistan, the domestic law makes blasphemy against Islam a criminal offense subject to severe penalties, including death. These broad provisions have been abused by extremists to intimidate members of religious minorities, including members of disfavored minority Muslim sects, and others with whom they disagree. Blasphemy allegations in Pakistan, which are often false, have resulted in the lengthy detention of, as well as threats of violence and actual violence against, the accused. Even persons who have been acquitted of blasphemy have been forced into hiding or to flee the country because of fears of vigilante violence. Recent cases in Pakistan include the following: In June 2008, four Ahmadis were arrested and charged with blasphemy following a dispute over the construction of an Ahmadi prayer center and protests from local mullahs. In May 2008, authorities arrested a Christian after a mob that suspected him of committing blasphemy attacked his home; local Islamist groups reportedly have threatened to kill the man if he is acquitted.

Since 1999, the OIC has brought annual resolutions to the UN Human Rights Council and its predecessor, the UN Commission on Human Rights, calling on UN member states to outlaw "defamation of religions"—most recently, in March 2009. Similar resolutions have been adopted at the General Assembly each year since 2005. At the March 2008 Human Rights Council session, the OIC succeeded in amending the mandate of the Special Rapporteur on the Freedom of Opinion and Expression to require that expert "to report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination"—by which they mean instances of "defamation of religions." The OIC has indicated that its goal is the adoption of a binding international covenant to protect religions, particularly Islam, from "defamation."

International support for the flawed "defamation of religions" concept appears to be eroding, however. While the resolutions continue to pass, the last three times the world community has considered these resolutions, the votes in favor diminished, resulting in a plurality instead of a clear majority of all members. At both the March 2008 and March 2009 Human Rights Council sessions, as well as the December 2008 General Assembly, the no votes and abstentions combined outnumbered the yes votes, although those voting for the defamation resolutions still outnumbered those voting against. Countries in Asia, North America, and Europe, including the Holy See, have consistently voted or spoken out against the concept. In addition, in December 2008, the four international experts serving as freedom of expression rapporteurs of, respectively, the United Nations, the OSCE, the Organization of American States, and the African Commission on Human and Peoples' Rights issued a joint statement urging international organizations to stop issuing statements supporting the idea of "defamation of religions," because it "does not accord with international standards accepted by pluralistic and free societies." The UN Special Rapporteur on the Freedom of Religion or Belief also has spoken separately against the concept, pointing out that international human rights law protects individuals, not belief systems, and the individual right to freedom of religion or belief does not include the right to have one's religion or belief be free from criticism.

Recently, some countries advancing the flawed "defamation of religions" concept have begun to argue that speech insulting or criticizing religions is outlawed under existing international norms. They mainly cite the prohibition of "advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence" in Article 20 of the International Covenant on Civil and Political Rights (ICCPR), but also point to Article 4 of the Covenant on the Elimination of Racial Discrimination (CERD), which prohibits the "dissemination of ideas based on racial superiority or hatred" and "incitement to racial discrimination." The United States has reservations to both ICCPR Article 20 and CERD Article 4 to the extent that they restrict the rights to free expression and association protected under the U.S. Constitution.

Article 20 is a narrow exception to the ICCPR's broad free speech guarantee, and requires

much more than the expression of critical or even insulting views on religious matters. As the Special Rapporteur on the Freedom of Religion or Belief has explained,

> [t]he threshold of the acts that are referred to in article 20 is relatively high because they have to constitute advocacy of national, racial, or religious hatred…. [E]xpressions should only be prohibited under article 20 if they constitute incitement to imminent acts of violence or discrimination against a specific individual or group…. At the global level, any attempt to lower the threshold of article 20 of the Covenant would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself. Such an attempt could be counterproductive and may promote an atmosphere of religious intolerance.[3]

The Special Rapporteur on the Freedom of Opinion and Expression also has noted that the limitation in Article 20 is narrow and meant to protect individuals, not belief systems, and that the freedom of expression applies "not only to comfortable, inoffensive or politically correct opinions, but also to ideas that 'offend, shock and disturb.'"[4]

The Commission is seriously concerned by these efforts. The UN Human Rights Committee has decided to prepare a new General Comment interpreting Article 19 of the ICCPR, which protects the freedom of opinion and expression. In so doing it should resist attempts to lower Article 20's high standard and thereby limit Article 18 and 19 religion and expression rights. The Human Rights Council's Ad Hoc Committee on the Elaboration of Complementary Standards, which is working on a possible additional protocol to the CERD, also should not include allegedly religiously defamatory speech within the ambit of Article 4 of the CERD, which addresses race, not religion.

A related issue has arisen in connection with the European Union's annual resolution in both the UN Human Rights Council and the General Assembly entitled "Elimination of all forms of intolerance and of discrimination based on religion or belief." This resolution traditionally has had two foci—ways to combat religious intolerance, and also admonitions to member states on the importance of protecting religious freedom. Over the past two years, however, the European Union has proposed new language limiting speech freedoms, urging member states to ensure that "any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law." In the past, the resolutions have merely sought condemnation of this kind of speech. Going further to call for legal prohibitions is problematic, as it introduces language from ICCPR Article 20 into the context of religious freedom. An express call for legal prohibitions on forms of speech concerning religions could lend support to the efforts of OIC countries to reinterpret Article 20 to fulfill their goal of prohibiting "defamation of religions."

Recommendations for U.S. Policy

In order to ensure that the United Nations fully upholds its crucial mandate to protect and promote freedom of thought, conscience, and religion, the U.S. government should:

- participate actively in the UN Human Rights Council, including its Universal Periodic Review process, and in particular seek to ensure that each country's compliance with international religious freedom standards constitutes an important part of the UPR review, as well as all country-specific resolutions;

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

- continue to support the existing UN Special Rapporteur positions that focus on the human rights situations in countries that have been designated as "countries of particular concern" (CPCs) under IRFA, and seek either the creation of additional Special Rapporteur positions for the other countries on that list or visits to those countries by teams of thematic Special Rapporteurs including the Special Rapporteur on the Freedom of Religion or Belief and the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression;

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

- if a Special Envoy to the Organization of the Islamic Conference is reappointed, include in the Special Envoy's mandate the task of raising with OIC countries U.S. concerns about "defamation of religions" and efforts to reinterpret ICCPR Article 20 and CERD Article 4;

- work diplomatically, through its ambassadors in OIC countries, its Special Envoy to the OIC (if reappointed), its Ambassador-at-Large for International Religious Freedom, and its Ambassadors to the UN in New York and Geneva to persuade OIC members that religious intolerance and discrimination can best be fought not through national or international legal prohibitions that purport to stop criticism or "defamation" of religions, but rather through efforts to encourage respect for the human rights of every individual;

- continue to educate member states who have not voted against past "defamation" resolutions, as well as moderate OIC countries, about the human rights abuses perpetrated under this concept and urge them to oppose the resolutions and any attempts to reinterpret ICCPR Article 20 or CERD Article 4;

- reach out to the OIC Secretary General and to the governments of Pakistan and Egypt, among others, to raise concerns about the "defamation of religions," ICCPR Article 20, and CERD Article 4 initiatives, and to make clear that their continuance will negatively impact the emerging relationship between the OIC and the United States, as well as the bilateral relationships between other governments and the United States;

- clarify to members of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, and the Ad Hoc Committee on the Elaboration of Complementary Standards the nature of U.S. concerns, given its previous reservations on these provisions, with any reinterpretation of ICCPR Article 20 or CERD Article 4; and

- urge the European Union to stop offering language in their annual resolution on "Elimination of all forms of intolerance and of discrimination based on religion or belief" calling for legal prohibitions against "advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence" and explain how this could support OIC efforts to undermine international human rights norms.

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[1] The OIC members also expressly disassociated themselves from the resolution's reference to the right to change one's religion, which they said they do not consider to be binding—despite the fact that this right is a long-recognized element of international human rights law. *See* Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), para. 5 ("The Committee observes that the freedom to 'have or adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views. . . .").

[2] The Commission has spoken out repeatedly against repressive domestic blasphemy laws in Pakistan and elsewhere. See, e.g., U.S. Commission on

International Religious Freedom, *Sudan: USCIRF Condemns Punishment of Teacher for Allegedly Insulting Religion, Urges her Release and Safe Passage*, December 1, 2007; U.S. Commission on International Religious Freedom, Pakistan*: USCIRF Decries Abuse of Blasphemy Laws, Apostasy Bill*, June 11, 2007.

[3] A/HRC/2/3, paras 44-47 (2006).

[4] A/HRC/7/14, paras 63-66 (2008).

The OSCE

After the fall of the Soviet Union, the OSCE continues to be an important forum in which participating States are accountable for their human rights and religious freedom commitments. In recent years, however, some participating states have sought to curtail or derail the organization's focus on human rights activities. Russia, in particular, has often protested that the OSCE focuses too much of its criticism on the countries of the former USSR, while downplaying human rights problems in the West, and has also proposed that OSCE should be primarily concerned with military security. In 2008, for example, the Kremlin launched a major "Helsinki Plus" initiative to negotiate a new treaty on European security, allegedly based on the OSCE. In the past, Russia has withheld needed consensus approval for the OSCE budget, thereby putting in jeopardy many of the OSCE's human rights activities. These OSCE activities are particularly important at a time when the governments of Russia and many other countries of the former Soviet Union are demonstrating an increasing lack of commitment to their human rights obligations, including efforts to combat racism, xenophobia, and other forms of intolerance and discrimination.

OSCE Venues for Addressing Freedom of Religion or Belief Issues

In 1975, the Helsinki Final Act affirmed freedom of religion or belief as a basic human rights principle; this was later expanded and reinforced through later OSCE agreements. OSCE participating States are held accountable to these commitments through a variety of mechanisms, such as periodic review meetings by the OSCE and its Office of Democratic Institutions and Human Rights (ODIHR); ODIHR reports; and the monitoring, reports, and related program activities of many of the 18 OSCE Field Presences.

Under the auspices of the ODIHR, the OSCE convenes an annual conference, traditionally held in Warsaw in October, to review implementation by the 56 OSCE participating States of their human rights commitments, including freedom of religion or belief. Known as the Human Dimension Implementation Meeting (HDIM), these 10-day meetings bring together diplomats, representatives of other international organizations and hundreds of NGOs. Reportedly, the HDIM is the largest European human rights conference. In 2008, at a U.S. initiative, the HDIM had a special focus on freedom of religion or belief, with a day set aside for review of participating States compliance with the OSCE commitments on freedom of religion or belief and on promotion in this regard. The OSCE also decided to convene a special two-day July 2009 Supplementary Human Dimension Meeting in Vienna to further discuss issues relating to freedom of religion or belief.

ODIHR provides technical assistance to participating States on religious freedom matters through its Advisory Panel of Experts on Freedom of Religion or Belief, comprised of 60 persons nominated by countries throughout the OSCE region, including an Advisory Council of 15 members. A unique international body focused solely on freedom of religion or belief, the Panel functions primarily as a consultative resource for the governments of participating States which are considering new or amended legislation affecting freedom of religion, as well as for providing expert opinions on individual cases. The Panel reviews both proposed and enacted legislation under guidelines developed by the ODIHR and the Council of Europe Venice Commission based on international conventions and OSCE commitments. The Panel then issues recommendations to the participating States on bringing such legislation into conformity with international human rights standards. The Panel also issues publications to provide guidance on frequently raised concerns, most recently, the 2007 "Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools," which offers a human rights framework for curricula.

The Panel has advised governments, including those of Macedonia, Romania, Serbia, Tajikistan, and Kyrgyzstan, on relevant legislation. The Panel's recommendations on legislation have been taken into consideration by the government of Bulgaria. In the case of Uzbekistan, however, the

government has not responded to the Panel's 2003 recommendations for revisions to its religion laws. In 2008, at the request of the Kazakh government, the Panel conducted two expert reviews of a highly restrictive draft religion law then under consideration in that country. The Kazakh government refused to make public the Panel's reviews, which were critical of the draft law, claiming that the refusal was at ODIHR's request. This claim, however, was publicly rejected in November 2008 by Ambassador Janez Lenarcic, ODIHR director. While the restrictive draft law was passed by the Kazakh parliament and signed by President Nazarbayev, it was ruled unconstitutional by the country's Constitutional Council in February 2009.

In two examples of expert opinions on individual cases, the Panel determined that the situation of Jehovah's Witnesses in Moscow is illustrative of a systemic problem in other post-Soviet countries, where registration requirements are used to control peaceful religious groups. The Panel has also been critical of official threats to destroy Hare Krishna property in an agricultural cooperative in Kazakhstan, and has offered its assistance in resolving this dispute. The Commission has observed that the activities of the Panel should be better publicized and more transparent, in particular with respect to those governments that ignore its recommendations. In addition, every year the Panel should hold at least one meeting of its entire membership.

The OSCE Response to Racism, Xenophobia, Discrimination, and Intolerance

The past few years have witnessed a rise in incidents of racist discrimination, xenophobia, and intolerance toward members of religious and ethnic minorities in the OSCE region, including, for example, in Russia, Ukraine, and Kazakhstan, as well as in such democratic countries as France, Germany, and the United Kingdom. Extremist rhetoric that goes uncontested by political and societal leaders has also promoted an environment of intolerance toward members of various ethnic and religious minorities. Indeed, officials and state-run media are sometimes involved in efforts to inflame public opinion against minority groups in some parts of the OSCE region.

Anti-Semitic views and actions also continue to be problems in many OSCE participating States and officials often fail to hold the perpetrators of anti-Semitic attacks to account. Anti-Zionism and vilification of Israel can also mask anti-Semitism. Individuals and organizations monitoring these incidents, including OSCE's ODIHR, have found that when tensions escalate in the Middle East, such as during the late 2008/early 2009 Israel-Gaza conflict, anti-Semitic incidents increase worldwide. Opposition to the existence of Israel and political resentment regarding the conflict in the Middle East can cross the line into anti-Semitic acts. "Skinhead" gangs and neo-Nazi groups are other sources of hate-filled rhetoric and violence in many countries in the OSCE region. Migrants and members of various ethnic and religious minorities, including Muslims and Jews, are targeted. Vandalism against religious and other property is also on the rise. Violent acts are often well documented, but they are rarely investigated and prosecuted as hate crimes. Instead, officials, prosecutors, and judges often trivialize such violence by treating it as "hooliganism," particularly in Russia. When burnings, beatings, and other acts of violence target members of a particular group because of who they are and what they believe, such acts should be viewed not merely as police problems, but as human rights violations that require an unequivocal response.

In the last few years, the OSCE has set up several mechanisms to address intolerance and related human rights issues. As a result of U.S. diplomatic leadership on this issue, since 2003 the OSCE has convened 10 high-level and expert conferences to address racism, xenophobia, anti-Semitism, discrimination against Muslims and Christians, and other tolerance-related issues. As the Commission recommended, in late 2004, the OSCE Chairman-in-Office appointed three Personal Representatives to promote tolerance. The OSCE also became the first international organization to name a prominent independent appointee specifically to examine anti-Semitism. At the same time, it established a Personal Representative monitoring

intolerance toward Muslims, and a third who tracks other forms of intolerance, including xenophobia, racism, and intolerance against Christians and members of other religions. Finally, a new Tolerance Program within the OSCE's Office of Human Rights and Democratic Institutions (ODIHR) was set up in late 2004 to monitor and encourage compliance with OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia, as well as to promote freedom of religion or belief.

OSCE Meetings on Tolerance and Related Topics

The OSCE Ministerial Council in 2003 mandated a major international conference to address anti-Semitism in the then-55 states of the OSCE region. Since then, the Organization has held many high level meetings to discuss anti-Semitism and other forms of intolerance. In 2007, there were two other tolerance-related OSCE conferences, in Romania on Combating Discrimination and Promoting Mutual Respect and Understanding, and in Spain the Spanish OSCE Chair hosted a conference on Intolerance and Discrimination against Muslims. These conferences have mobilized political support within OSCE participating States to address anti-Semitism and other forms of intolerance in a sustained manner and have raised awareness among NGOs and the public regarding anti-Semitism, discrimination against Muslims, and other tolerance-related issues in the OSCE region. The challenge remains, however, for the OSCE and its 56 participating States to act on the ideas that have emerged from these conferences and reports and to translate them into activities and programs that will combat these forms of intolerance in all the OSCE participating States.

In December 2008, the OSCE sponsored a NGO roundtable focusing on intolerance and discrimination in the area of education and Muslim youth. In March 2009, the OSCE convened a Roundtable on Intolerance and Discrimination against Christians in Vienna. Mario Mauro, the Personal Representative of the Greek OSCE Chairmanship on this issue, chaired the event where delegations, religious groups and NGOs discussed ways to promote tolerance and combat racism, xenophobia and discrimination against Christians. ODIHR hosted another event in March 2009 on the International Day for the Elimination of Racial Discrimination, a discussion on methods to combat racism and discrimination in the OSCE region. On April 15, 2009, OSCE Secretary General Marc Perrin de Brichambaut had a private audience with Pope Benedict XVI, in which they discussed cooperation on security in the OSCE region as well as the promotion of tolerance and non-discrimination.

OSCE Personal Representatives

In December 2004, the 55 OSCE participating States authorized the then-Chairman-in-Office (CiO), Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance. The mandates of the three Personal Representatives address separate but interrelated issues that call for distinct, yet coordinated, responses, and all focus on better implementation of decisions by the OSCE Ministerial and Permanent Councils on Tolerance and Non-discrimination. The persons selected by the OSCE CiO for these part-time and unpaid positions come from a variety of backgrounds.

For the first time since 2004, the Greek CiO appointed new representatives in January 2009: Rabbi Andrew Baker, Director of International Affairs at the American Jewish Committee, was named the Personal Representative on Combating Anti-Semitism; Ambassador Vyacheslav Gizzatov, former Kazakh ambassador to Turkmenistan, Germany and Iran, was named the Personal Representative on Combating Intolerance and Discrimination against Muslims; and Mario Mauro, an Italian parliamentarian, was named the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions.

The Commission remains concerned that the work of the Representatives has been hampered by inadequate funding for staff and travel expenses, as well as other demands on their time and attention.

The Commission also has recommended that the activities of the Personal Representatives should be given more prominence in the OSCE. For example, they should report in person to the annual OSCE ministerial meetings and their reports should be published and disseminated throughout and beyond the OSCE system. In addition, the OSCE CiO should invite them on some of her visits, refer to their work and conclusions in speeches, and encourage OSCE participating States and the 18 OSCE Field Presences to invite them on official visits. Such measures could help enhance the prominence of the Personal Representatives on Tolerance, but also increase the impact of their findings and recommendations.

During 2008 and 2009, the Personal Representatives made contributions to various relevant OSCE meetings. These include the Warsaw HDIM as well as meetings with the ODIHR, the Permanent Council, and the CiO. Rabbi Andrew Baker, Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism, spoke at a conference on combating anti-Semitism, held in London in February 2009; his remarks were published by the OSCE in March. Country visits play a key role in the work of the Personal Representatives and in their regular reports to the OSCE Permanent Council. According to an OSCE CiO report, invitations from additional participating States to the Personal Representatives would enable them to meet with relevant government officials and raise key issues of concern directly with them, as well as to meet with NGOs and community and religious leaders without interference. The Commission also encourages each of the three Personal Representatives to undertake events with relevant NGOs as well as with the media.

The Office of Democratic Institutions and Human Rights Tolerance Program

One of the major institutional responses of the OSCE to growing concerns regarding religious intolerance was to set up a new Tolerance Program within the ODIHR in late 2004. The mandate of the Tolerance Program includes OSCE efforts to promote tolerance and to combat intolerance and xenophobia, as well as to advance freedom of religion or belief. The United States was a strong advocate for the establishment of the program and for sufficient funding for its activities. The Tolerance Program staff monitors a range of issues, as well as provides expertise for the three Personal Representatives and the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief. The Tolerance Program was charged with setting up a database of information, as well as data collection on hate crimes legislation, police training on hate crimes, and Holocaust education in specific countries.

The Tolerance Program has also developed a "Web site Guide to Tolerance Education," a curriculum unit on "Holocaust Education and Anti-Semitism," and "Teaching Materials on the History of Jews and Anti-Semitism in Europe." A "Reference Guide on Muslims in Spain," developed by Casa Arabe with ODIHR and released in April 2009, is the first in a series intended to raise awareness among journalists, educators and public officials of anti-Muslim prejudices and stereotypes with information on the history, demography, diversity and role of Spanish Muslims. The Tolerance Program also has issued several useful publications on addressing priorities in various OSCE States. For example, in June 2008, the OSCE/ODIHR Panel on Freedom of Assembly issued "Guidelines on Freedom of Peaceful Assembly," released in conjunction with the Council of Europe's Venice Commission. In March 2009, ODIHR published "Hate Crime Laws: a Practical Guide" in several languages, including Russian and English. The purpose of this guide is to provide States with benchmarks for drafting hate crime legislation within a simple, clear and accessible document. The guide will assist states who wish either to enact new legislation or to review and improve their current legislation. It will also be a resource for civil society when advocating for better laws. The Tolerance Program continues to translate many of its key publications into the Russian language—particularly useful in light of the rising levels of xenophobia, racism, and various forms of intolerance in Russia and other former Soviet republics.

To date, the ODIHR's Tolerance Program has emphasized activities with external organizations, although the Program could further expand its work with the 18 OSCE Field Presences and other OSCE institutions. The 2003 OSCE Ministerial Council also tasked the Tolerance Program with acting as a focal point for the various national contact points on hate crime set up by the OSCE participating States. Information about practical initiatives from participating States, NGOs, and other institutions can also be submitted online.

As mentioned above, part of the Tolerance Program's current mandate is to address freedom of religion or belief. Responsibility for the issue of religious freedom was removed from the ODIHR Human Rights Department when the issue was assigned to the Tolerance Program in late 2004. The Commission is concerned that as a result of this bureaucratic reassignment, freedom of religion or belief will be treated solely as a corollary to tolerance activities and no longer will be part of the ODIHR human rights programs. Instead, it should be anchored in the Human Rights Department and cooperate with the activities of the Tolerance Program. Furthermore, only one staff person in the Tolerance Program is assigned part-time to the issue of freedom of religion or belief since that person is also assigned to work with NGOs; in 2007, this position was removed from the unified budget, thus endangering its permanent status and changing its recruitment basis.

Commission Activities

Since 2001, the Commission has participated with and often been members of U.S. delegations to OSCE meetings. The Commission has also 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 2008, Commissioners Gaer and Cromartie served on the official U.S. delegation to the HDIM conference, during which they met with various delegations, the Personal Representatives on Tolerance, and ODIHR staff. 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. In February 2008, Commissioner Gaer testified at a hearing of the Commission on Security and Cooperation in Europe (the Helsinki Commission) entitled, "U.S. and Civil Society Efforts to Combat Anti-Semitism." In her testimony, Gaer addressed Commission concerns about the rise of anti-Semitism, racial discrimination, xenophobia, discrimination, and intolerance in the OSCE region, the OSCE's efforts to deal with these problems, and the record of the U.S. government on combating anti-Semitism and other forms of intolerance through OSCE mechanisms.

Commission staff participated in the March 2009 OSCE roundtable on Intolerance and Discrimination against Christians, and Commissioner Leonard Leo participated in his personal capacity.

Recommendations for U.S. Policy

I. Supporting the OSCE

The U.S. government should:

- express strong support for the OSCE at the highest levels of the U.S. government in the face of attacks led by the Russian government, particularly on the OSCE's human rights, freedom of religion or belief, and tolerance activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR);

- authorize and appropriate specially designated funds in addition to 2008 U.S. contributions to the OSCE for the purpose of expanding programs developing ways to advance freedom of thought, conscience, and religion or belief and that combat anti-Semitism, xenophobia, and discrimination against Muslims, Christians, and members of other religions;

- hold regular briefings at the State Department for members of the U.S. government and NGO community concerned with OSCE issues and

make efforts to expand the number and scope of invitees;

- recommend that the State Department routinely include in U.S. OSCE delegations representatives of relevant U.S. government agencies, such as Homeland Security and the Justice Department, as well as expand the number and range of civil society groups involved in the OSCE process; and

- ensure that U.S. OSCE delegations organize regular informational briefings for the civil society groups at OSCE meetings.

II. Promoting Religious Freedom and Tolerance within the OSCE's Participating States

The U.S. government should urge that OSCE participating States undertake the following steps:

- ensure compliance with their commitments to protect freedom of religion or belief, as well as combat discrimination, xenophobia, and anti-Semitism, as detailed in the Vienna and Copenhagen Documents on the Human Dimension;

- engage in a regular public review of compliance with OSCE commitments on freedom of religion or belief, on racial and religious discrimination, and on anti-Semitism, including by facilitating a more active role by NGOs as part of that process;

- commit to condemn promptly, publicly, and specifically hate crimes and to investigate and prosecute their perpetrators;

- take all appropriate steps to prevent and punish acts of anti-Semitism, such as to condemn publicly specific anti-Semitic acts, to pursue and prosecute the perpetrators of attacks on Jews and their communal property, and, while vigorously protecting freedom of expression, to counteract anti-Semitic rhetoric and organized anti-Semitic activities;

- condemn in a public fashion, while vigorously protecting freedom of expression, attacks targeting Muslims and pursue and prosecute the perpetrators of such attacks;

- ensure that efforts to combat terrorism not be used as an unrestrained justification to restrict the human rights, including freedom of religion or belief, of members of religious minorities;

- bring national legislation and practice, as well as local laws, into conformity with international human rights standards and OSCE commitments by: permitting all religious groups to organize and conduct their activities without undue interference; discontinuing excessive regulation of the free practice of religion, including registration or recognition requirements that effectively prevent members of religious communities from exercising their freedom to manifest religion or belief; and permitting limitations on the right to freedom of religion or belief only as provided by law and consistent with participating States' obligations under international law;

- monitor the actions of regional and local officials who violate the right to freedom of religion or belief and provide effective remedies for any such violations; and

- establish mechanisms to review the cases of persons detained under suspicion of, or charged with, religious, political, or security offenses and to release those who have been imprisoned solely because of their religious beliefs or practices, as well as any others who have been unjustly detained or sentenced.

III. Promoting Religious Freedom and Tolerance through the OSCE's Institutional Mechanisms

The U.S. government should urge the OSCE to:

- promote freedom of thought, conscience, religion and belief throughout the OSCE region, both east

and west of Vienna, including focusing on issues such as discriminatory registration systems, limitations on religious expression, and limitations on the rights of parents to ensure the religious and moral education of their children in conformity with their own peaceful religious or other beliefs;

- consider ways to bring greater public attention to the activities of the OSCE Panel of Experts on Freedom of Religion or Belief, such as enhancing the transparency to its activities, involving prominent cultural figures in its proceedings and providing funds to enable the Panel to hold training seminars, including in the Mediterranean Partner States, about pertinent information on freedom of religious or belief;

- encourage the convening of an annual meeting of the OSCE Panel of Experts on Freedom of Religion or Belief that is open to its entire membership;

- ensure, as a matter of priority, the reappointment of the three Chairman-in-Office Personal Representatives on tolerance issues, and make the country-specific reports of the three Personal Representatives available to the public;

- request that the three Personal Representatives report in person to the annual OSCE ministerial meetings, and that the OSCE Chairman-in-Office to invite the three Personal Representatives to participate on his or her official visits and refer to their work and conclusions in speeches and other presentations;

- encourage OSCE participating States and the 18 OSCE Field Presences to invite the Personal Representatives on official visits;

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

- ensure that all participating States individually are taking concrete actions to live up to their commitments to combat discrimination and intolerance, in particular to combat anti-Semitism, as detailed in the 1990 Copenhagen Document, action which should include adopting laws to protect against incitement to violence based on discrimination, including anti-Semitism, and providing the individual with effective remedies to initiate complaints against acts of discrimination;

- convene expert conferences on anti-Semitism and freedom of religion or belief, as well as other tolerance issues, during 2008 and 2009;

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

- assist ODIHR in making it possible for the OSCE Field Presences and the ODIHR to hold public roundtables with local government officials, NGOs, and community leaders to discuss commitments on freedom of religion or belief, as well as the concept and definition of hate crimes and the implementation of hate crimes legislation;

- provide voluntary, extra-budgetary funding for added staff to deal with freedom of religion or belief, working within the ODIHR Human Rights Program, and encourage the ODIHR Tolerance Program staff take part in ODIHR training of Field Presences and other OSCE staff;

- provide the ODIHR the necessary mandate and adequate resources to hire as part of the Unified Budget experienced staff at the working level, to direct the Tolerance Program, to monitor compliance with OSCE obligations on freedom of religion or belief, and to combat

discrimination, xenophobia, and anti-Semitism; and

- provide funding for the translation of additional ODIHR Tolerance Program reports into OSCE languages, particularly Russian, and for the employment of at least one ODIHR Tolerance Program staffer with Russian-language capability.

The Commission's Expedited Removal Study: Four Years Later

The International Religious Freedom Act of 1998 (IRFA) authorized the Commission to examine whether asylum seekers subject to Expedited Removal[1] are being detained under inappropriate conditions and whether they are being returned to countries where they might face persecution. Specifically, IRFA authorized the Commission to appoint experts to examine whether immigration officers, in exercising Expedited Removal authority over aliens who may be eligible for asylum, were:

> (1) improperly encouraging withdrawals of applications for admission;
> (2) incorrectly failing to refer such aliens for credible fear determinations;
> (3) incorrectly removing such aliens to countries where they may face persecution; or
> (4) improperly detaining such aliens, or detaining them under inappropriate conditions.

With these four questions as the basis for investigation, the Commission launched a major research study in 2003 and 2004. The findings were released in the 2005 *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study). The Study identified serious flaws that place asylum seekers at risk of being returned to countries where they may face persecution, as well as serious flaws in the treatment of refugees and asylum seekers in detention. To address these concerns, the Commission made a series of recommendations, none of which require Congressional action, to the responsible agencies in the Departments of Homeland Security and Justice. These recommendations would further the aims of both protecting U.S. borders and ensuring fair and humane treatment for *bona fide* asylum seekers—goals of the 1996 immigration reform law that established the Expedited Removal procedure. In 2007, two years after the release of the Study, the Commission released a "report card" grading the federal agencies on their implementation of the Study's recommendations.[2] To date, few of the Commission's recommendations have been adequately or fully implemented by the responsible agencies, particularly those within the Department of Homeland Security (DHS). An official DHS response to the Study was not issued until November 28, 2008, almost four years after the Study and in the last days of the Bush Administration.

The Commission hopes that the Obama Administration will fully implement the Study's recommendations. A number of areas of concern identified in the Study have yet to be adequately addressed by DHS, including: the low profile and lack of inter-bureau coordination of asylum issues; the use of jail-like facilities to house asylum seekers; the need for parole policies that ensure that asylum seekers who pose no risk of flight or danger are not subject to unnecessary detention; and insufficient oversight of the Expedited Removal process.

At least five separate entities play a role in Expedited Removal. Within DHS, Customs and Border Protection (CBP) first encounters aliens, either at a port-of-entry or anywhere within 100 miles of U.S. land or sea borders, and is responsible for identifying those subject to Expedited Removal, and from that group, those seeking asylum. Immigration and Customs Enforcement (ICE) is responsible for detaining asylum seekers until Citizenship and Immigration Services (USCIS) makes the credible fear determination. For those asylum seekers found to have a credible fear, the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) takes over; immigration judges (IJs) hear the cases, and the Board of Immigration Appeals (BIA) reviews any appeals. With so many immigration officers involved in so many locations, coordination has been and remains a major challenge within DHS and between DHS and DOJ.

Customs and Border Protection (CBP)

The Study found that in more than half of the Expedited Removal interviews observed, immigration officers failed to read a script advising aliens that they should ask for protection without delay if they have any reason to fear being returned home. The Study further found that in 72 percent of the cases reviewed, asylum seekers were not provided an opportunity before signing to review and correct sworn statements taken by immigration officers. The Study also found that, although they resemble verbatim transcripts, these sworn statements are neither verbatim nor verifiable, often suggest that information was conveyed to the asylum seeker which was in fact never conveyed, and sometimes contain questions that never were asked. The Study found that these unreliable documents often are used against asylum seekers when their cases are presented before an immigration judge.

DHS regulations require that, when an asylum seeker expresses a fear of return, he or she must be referred to an Asylum Officer to determine whether the fear is "credible." Yet, in nearly 15 percent of the cases that Study experts observed in person, asylum seekers who expressed a fear of return were nevertheless removed without a referral to an Asylum Officer. Of those cases, nearly half of the files indicated that the asylum seeker had not expressed any fear.

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

Since the Study was released in 2005, CBP has implemented few of the Commission's recommendations. DHS has told the Commission that CBP did take steps to increase enforcement and review of its procedures and field guidance related to cases of Expedited Removal, as well as to improve and enhance training of field officers. CBP also has informed the Commission that it is willing to train immigration judges, as well as other DHS officers, on the sworn statements. However, the Commission's primary recommendations, the expansion of existing videotape systems and the employment of "testers" to verify that procedures are correctly followed, have yet to be implemented.

Immigration and Customs Enforcement (ICE)

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

penal institution, but Broward, unfortunately, remains the exception.

The Study put forth five recommendations to ICE: 1) train detention center personnel to work with non-criminal, psychologically vulnerable asylum-seekers; 2) work with the immigration courts to ensure that detained aliens in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers; 3) change detention standards so that non-criminal asylum seekers are not detained under penal conditions; 4) codify existing parole criteria into regulations; and 5) ensure consistent and correct parole decisions by developing standardized forms and national review procedures.

Since the release of the 2007 report card, ICE has taken some steps to address concerns raised in the Study. In December 2007, in compliance with a Commission recommendation, ICE and the DHS Office of Civil Rights and Civil Liberties jointly released a training module on cultural awareness and asylum issues for detention officers. The Commission welcomes this module and the fact that it is available to all USCIS staff and has been integrated into some CBP training programs. This training, however, is not mandatory for intergovernmental service agreement (IGSA) staff, who work at facilities where more than 50 percent of asylum seekers are held.

Unfortunately, ICE also enacted policies contrary to Commission recommendations. In November 2007, ICE announced new quality assurance procedures to track and bi-annually review parole decisions and statistics. Yet, the same policy directive expanded the criteria that must be met to allow asylum seekers to be paroled, rather than simply codify the existing criteria as the Commission recommended. Unfortunately, this actually may extend detention for asylum seekers. According to ICE, from the time the parole directive was announced through June 2008, only 107 asylum seekers were granted parole out of 215 who requested it. The Commission was not given further information about the number of asylum seekers who were informed of the parole possibilities, those who did not apply for parole because they did not meet the parole criteria, or the reasons why parole was denied for half of those who requested it.

ICE also has been unwilling to develop alternatives to detention. A December 2006 Audit Report by the DHS Office of the Inspector General (OIG) found instances of non-compliance with existing ICE Detention Standards at all five of the facilities surveyed, three of which were included in the Commission's Study. Moreover, an April 2006 DHS OIG Audit Report recommended that ICE expedite alternatives to detention and improve the capacity of data management systems to track the rationale underlying parole decisions. In addition, HRF reports that, contrary to the Commission's recommendation, use of jails and jail-like detention facilities have increased since the release of the Study in 2005. ICE has responded that new performance-based standards for detention facilities have been implemented, but the new standards do not address this recommendation, and the Commission is concerned that they are based on correctional standards which are inappropriate for asylum seekers.

Secretary of Homeland Security Janet Napolitano has made two announcements regarding U.S. detention centers. The first was naming a Special Advisor on Detention and Removal Operations, Dora Schriro. Secondly, in a January 30, 2009 agency-wide directive requiring a review of DHS's immigration and border security programs, Secretary Napolitano specifically ordered that immigration detention policies be evaluated, including the new performance-based detention standards, efforts to segregate different groups of detainees, and the prospects of expanding community-based alternatives to detention or facilities such as the one in Broward County, Florida.

U.S. Citizenship and Immigration Services (USCIS)

The Study found that, despite their expertise and authority to grant asylum outside the Expedited Removal context, USCIS Asylum Officers have a limited role in the Expedited Removal process. The Study found a high rate of positive credible fear determinations, reflecting the deliberately generous

preliminary screening standard used to ensure that *bona fide* refugees are not mistakenly returned. However, review procedures for negative credible fear determinations were found to be more onerous, and might have the unintended consequence of encouraging positive determinations. The Study also found that the partnership between the Arlington, Virginia Asylum Office and the Capital Area Immigrants Rights Coalition to ensure *pro bono* legal advice for asylum seekers in the credible fear determinations was a success worth repeating. The partnership not only provides detained asylum seekers with legal advice, but has also improved efficiency by increasing the number of asylum seekers who, following consultation with counsel, chose not to pursue their claims.

The Study put forth three recommendations to USCIS: 1) subject both positive and negative credible fear findings to similar review procedures; 2) expand the existing *pro bono* program for the credible fear process to all eight asylum offices; and 3) allow Asylum Officers to grant asylum at the credible fear stage.

The Commission commends USCIS for its April 2006 memorandum increasing quality assurance review for positive credible fear determinations, its 2007 release of an updated Asylum Officer Basic Training Course Lesson Plan, and its announcement in December 2006 that it welcomes approaches by non-governmental organizations (NGOs) to expand the existing *pro bono* legal program to the other seven asylum offices.

Department of Homeland Security (DHS) Agency-wide

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

While former Secretary Chertoff did appoint a Senior Advisor for Refugee and Asylum Policy in February 2006, no other recommendations were implemented. Moreover, the Commission remains concerned that, unless supported by a fully staffed office and with the necessary authority within DHS to make the needed changes, the Senior Advisor cannot implement the Study's recommendations, ensure consistent asylum policy and legal interpretations, and monitor the Expedited Removal system to ensure that changes remain in place and problems are addressed as they arise. The Commission is further concerned that the Senior Advisor was given the additional responsibility to address broader immigration reform and recently was moved under the jurisdiction of the Senior Advisor on Immigration, impairing the advisor's ability to address effectively refugee and asylum policy.

The Commission's overarching recommendation was that Expedited Removal should not be expanded until the serious problems identified in the Study were resolved. Despite this recommendation—and the failure to resolve the problems cited in the Study—in 2006 DHS expanded Expedited Removal from a port-of-entry program to encompass the entire land and sea border of the United States to a distance of 100 miles inland. The Commission has expressed concern about this expansion of Expedited Removal.

The Commission learned from the April 2006 DHS OIG Audit Report that ICE lacks data analysis capabilities to manage the detention and removal program in an efficient and effective manner. DHS has informed the Commission that in 2008 it began using a computer program called the ENFORCE Alien Removal Module to allow for real-time tracking of asylum seekers as they moved through the Expedited Removal process. The Commission tentatively welcomes this move, but

urges regular reviews of the system to ensure that information sharing is functioning.

In DHS's November 28, 2008 response to the Study, the Commission was told that the agency had concluded that allowing Asylum Officers to grant asylum at the credible fear stage would be too resource-intensive, would only benefit a small number of asylum-seekers and may disadvantage others, and therefore, it will not implement the recommendation.

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

The Study found that sworn statements taken at ports of entry and the border are inaccurate and incomplete, and that credible fear determination records do not document the asylum seeker's entire claim. Nevertheless, the Study found that in 57 percent of all cases, immigration judges allowed sworn statements and/or credible fear determination records to be used to impeach the asylum seeker. In 39 percent of all cases, the immigration judge (IJ) cited these documents in denying the claim. The Study also found that one in four asylum seekers who are represented by *pro bono* attorneys are granted asylum, compared to only one in 40 unrepresented asylum seekers. The U.S. Government Accountability Office (GAO) also has found that having an attorney more than doubled an asylum seeker's chance of being granted asylum.

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

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

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

EOIR also has increased training opportunities provided to all immigration judges, including some country-specific trainings; expanded training and mentorship opportunities for new judges; and provided judges with more resource materials. In August 2006 and August 2007, all IJs participated in a five-day training conference, which included presentations on religious freedom by the Commission and the State Department's Office of International Religious Freedom, and mandatory workshops concerning asylum law and procedures

and improving oral decisions. Additionally, a one-week training course for new IJs was held in March 2007 that included lectures on asylum, withholding of removal and protection under the Convention against Torture, a discussion of credibility issues, and a mock asylum hearing. The Commission was disappointed to learn that in 2008, due to decreased funding, in-person IJ training was replaced with pre-recorded video presentations.

The Commission was pleased to learn that EOIR in January 2007 doubled the number of LOP sites from six to 12, with an additional four pilot sites for unaccompanied minors in the custody of the Office of Refugee Resettlement. The Commission has further learned that 13 new LOP sites were opened in 2008. In addition, EOIR formed a *Pro Bono* Committee to oversee expansion and improvement of its *pro bono* programs.

The Commission further notes that the BIA has decreased the number of summary affirmances and also has added new Board members. It continues to urge the BIA to increase the number of written opinions in asylum cases.

Recommendations

The Department of Homeland Security should:

- maintain and strengthen the position of Senior Advisor for Refugee and Asylum Affairs, including giving the position the necessary status and resources, including staff, to coordinate DHS policy and regulations and monitor the implementation of procedures affecting refugees or asylum seekers, particularly those in Expedited Removal, and tasking this position only with addressing refugee policy, not broader immigration reform efforts;

- under the supervision of the strengthened Senior Advisor for Refugee and Asylum Affairs, formulate and implement nationwide detention standards created specifically for asylum seekers that are not based on correctional standards, to be implemented by an office dedicated to the detention of non-criminal asylum seekers;

- decrease the use of jails and jail-like facilities to detain asylum seekers and develop a small number of centrally-managed facilities specific to and appropriate for these individuals;

- rescind the November 2007 ICE Policy Directive on parole criteria which imposes additional hurdles for the parole of asylum seekers, and in its place codify the 1997 INS memorandum that "parole is a viable option and should be considered for aliens who meet the credible fear standard, can establish identity and community ties, and are not subject to any possible bars to asylum involving violence or misconduct;"[3]

- allow asylum officers to grant asylum to asylum seekers in Expedited Removal at the time of the credible fear interview, just as they are already trained and authorized to do for other asylum seekers;

- ensure that parole criteria are applied consistently nation-wide, including by developing standardized forms and conducting routine national reviews that are made public;

- require intergovernmental service agreement (IGSA) staff to take the training course on cultural awareness and the unique characteristics of asylum seekers developed by the Office of Civil Rights and Civil Liberties, and continue to require that this course be taken by personnel at Contract Detention Facilities;

- require Customs and Border Protection to include an explanation on Sworn Statement Form I-867B stating the document's purpose and limitations, and conduct training for immigration judges and other DHS personnel on the statement as offered in the past;

- expand and enhance the videotape systems currently used at only two locations to all major ports of entry and Border Patrol stations to record all secondary interviews, and employ undercover "testers" to verify that Expedited

Removal procedures are being properly followed;

- monitor more vigorously current DHS procedures concerning the administration of the Forms I-867A and B;
- exercise the discretion to not place a properly documented alien in Expedited Removal and mandatory detention when the sole basis for doing so is the alien's expression of a desire to apply for asylum at the port of entry;
- ensure that the new ENFORCE Alien Removal Module adequately allows for reliable data management of asylum seekers in Expedited Removal, conduct routine reviews to ensure that the system functions properly, and make such reviews public; and
- continue to work with the Executive Office of Immigration Review within the Justice Department to ensure that detained asylum seekers in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers.

The Department of Justice should:

- expand existing *pro bono* legal programs for the credible fear process from Arlington, Virginia, San Francisco, California, and Atlanta, Georgia, to all eight asylum offices;
- increase funding for immigration judge training;
- continue to expand the Legal Orientation Program (LOP) nationwide, in partnership with non-governmental organizations (NGOs), and further expand the program to asylum seekers not yet in proceedings;
- continue to work with Immigration and Customs Enforcement within the Department of Homeland Security to ensure that detained asylum seekers in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers;
- continue to improve the quality of immigration court decisions through training of immigration judges and the decreased use of summary affirmances; and
- continue to improve administrative review of asylum appeals.

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[1] The Expedited Removal process authorizes immigration officials to summarily return people arriving in the United States without proper documentation to their country of origin. Concerned, however, that *bona fide* asylum seekers, who often travel without proper documents, might be mistakenly returned to their persecutors, Congress also included provisions to prevent the Expedited Removal of refugees fleeing persecution, including detention of asylum seekers while a determination is made if the alien has a "credible fear" of persecution (credible fear determination) and, if the asylum seeker goes before an immigration judge (IJ), allowing some to be paroled while their asylum case is pending. If it is determined that the asylum seeker does not have a credible fear of persecution, he or she is put back in the Expedited Removal process and removed promptly.

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

[3] INS Memorandum from Michael A. Pearson, Executive Associate Commissioner for Field Operations, Office of Field Operations, to Regional Directors, District Directors, Asylum Office Directors, *Expedited Removal: Additional Policy Guidance* (Dec. 30, 1997), reproduced in 75 *Interpreter Releases* 270 (Feb. 23, 1998).

APPENDIX 1

BIOGRAPHIES OF MEMBERS OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Felice D. Gaer, Chair

Felice D. Gaer directs the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, which conducts research and advocacy to strengthen international human rights protections and institutions.

Ms. Gaer is the first American to serve as an Independent Expert on the UN Committee against Torture. Nominated by the Clinton Administration and renominated by the Bush Administration, she has served on the Committee since 2000, including as Vice Chair (2004-2006), as General Rapporteur (2006-2008), and as year-round Rapporteur on Follow-up to Country Conclusions (2003 to present).

A member of the Council on Foreign Relations, Ms. Gaer serves on the advisory committee of Human Rights Watch/Europe and Central Asia and is Vice President of the International League for Human Rights. *Encyclopedia Judaica* describes Ms. Gaer as having "played the key role in assuring passage by consensus of the UN General Assembly's first-ever condemnation of anti-Semitism" in 1998, and being an "architect of many initiatives linking women's rights to human rights."

Ms. Gaer writes and lectures widely on U.S. and UN human rights policy, addressing issues including protecting civilians under threat, advancing the human rights of women, eradicating religious persecution abroad, resolving ethnic conflicts, and preventing genocide. One of the first to call for the issue of rape in armed conflicts to be addressed by the international war crimes tribunal on former Yugoslavia, she was a key negotiator on the U.S. delegation to the Beijing World Conference on Women. Most recently, her article "Echoes of the Future? Religious Repression as a Challenge to US Human Rights Policy" appears in the volume, *The Future of Human Rights: US Policy for a New Era*, published in April 2008 by the University of Pennsylvania Press.

Ms. Gaer was a public member of nine U.S. delegations to UN human rights negotiations in the 1990s and has served on several OSCE delegations since then in her capacity as Chair and Vice Chair of the U.S. Commission. She serves on the board of the Andrei Sakharov Foundation, the Eleanor Roosevelt Center and the Franklin and Eleanor Roosevelt Institute. In 2002 and 2003 she was cited in the annual *Forward 50* list of Jewish Americans who are making a difference.

Ms. Gaer is a graduate of Wellesley College, from which she received the Alumni Achievement Award in 1995. She also received advanced degrees from Columbia University.

Commissioner Gaer, who has served on the Commission since 2001, including two terms as Chair, three terms as Vice Chair, and one term on the Executive Committee, was appointed by Speaker Nancy Pelosi (D-Calif.).

Michael Cromartie, Vice Chair

Michael Cromartie is Vice President of the Ethics and Public Policy Center in Washington, D.C., where he directs the Evangelicals in Civic Life and the Media and Religion programs. The Ethics and Public Policy Center was established in 1976 to clarify and reinforce the bond between the Judeo-Christian moral tradition and domestic and foreign policy issues. Cromartie is also a Senior Advisor to The Pew Forum on Religion and Public Life in Washington and a Senior Fellow with The Trinity Forum.

Mr. Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture, The Washington Post*, *The Washington Times*, *The Reformed Journal, Insight*, *Christianity Today, Stewardship Journal*, and *World*. He is the editor of 16 books on religion and politics including, most recently, *Religion, Culture, and International*

Conflict: A Conversation; *Religion and Politics in America: A Conversation*; and *A Public Faith: Evangelicals and Civic Engagement*.

He is an advisory editor at *Christianity Today* and an adjunct professor at Reformed Theological Seminary, and was an advisor to the PBS documentary series "With God on Our Side: The Rise of the Christian Right in America."

Frequently asked to comment on the dynamics between religious faith and political convictions, Mr. Cromartie has been interviewed on numerous radio and television programs, including National Public Radio, CNN, ABC News, The News Hour with Jim Lehrer, MSNBC, and PBS. He has been quoted frequently in the *Washington Post*, *New York Times*, *The New Republic*, *Christianity Today, Time*, the *National Catholic Reporter,* and *U.S. News and World Report*. He holds an M.A. in Justice from The American University and a B.A. from Covenant College in Georgia.

Commissioner Cromartie was appointed by President George W. Bush.

Dr. Elizabeth H. Prodromou, Vice Chair

Dr. Elizabeth H. Prodromou is Assistant Professor in the Department of International Relations at Boston University, where she is also a Research Associate at the Institute on Culture, Religion, and World Affairs. She has published widely on issues of religion and security, and democracy and human rights in Europe and the United States. Her publications have appeared in scholarly and policy journals such as *European Journal of Political Research, Social Compass, Journal of the American Academy of Religion, Orbis,* and *Survival*, as well as in numerous anthologies dealing with religion and world affairs.

A regional expert on Southeastern Europe and the Eastern Mediterranean, Dr. Prodromou has been an invited policy consultant in the United States and Europe, and has received academic awards and grants from Harvard University, New York University, Princeton University, and the Commission of the European Union; she was recently awarded a Distinguished Service Award by the Tufts Alumni Association.

She is author of the forthcoming *Church-State Relations in Greece: European Enlargement, Democracy, and Religion*, and is the co-editor of *Thinking through Faith: Perspectives from Orthodox Christian Scholars*.

Dr. Prodromou holds a Ph.D. and an M.S. in political science from the Massachusetts Institute of Technology (MIT), as well as an M.A.L.D. from The Fletcher School of Law and Diplomacy and a B.A. in International Relations and History from Tufts University. She has served as consultant at the U.S. State Department, the Foreign Affairs Training Center of the Foreign Service Institute, the U.S. Defense Intelligence Council, the U.S. Central Intelligence Agency, and the Council on Foreign Relations.

Commissioner Prodromou was appointed to the Commission by then-House Minority Leader Nancy Pelosi (D-CA) in October 2004. She served as Commission Vice Chair in 2007. She is currently in her third term on the USCIRF and is serving again as Commission Vice Chair.

Dr. Don Argue

Don Argue, Ed.D., was appointed Chancellor of Northwest University in Kirkland, Washington, on August 15, 2007, after serving as President of Northwest for nine years. During his tenure as President, Northwest experienced substantial growth, including an increase in the number of faculty and the addition of 14 new buildings, including the Center for Graduate and Professional Studies and the Health and Sciences Center. During his tenure, enrollment also grew by 52 percent.

Dr. Argue previously served as president of the National Association of Evangelicals (NAE). The NAE is comprised of approximately 42,500 congregations nationwide from 51 member denominations, and individual congregations from an additional 26 denominations, as well as several hundred independent churches.

He also served as President of North Central University in Minneapolis, Minnesota, for 16 years. Under his leadership, the university received the *Christianity Today* "Decade of Growth Award" in recognition of being the fastest-growing college of its kind in the nation.

Dr. Argue earned a Bachelor's degree at Central Bible College in Springfield, Missouri, a Master's degree at Santa Clara University in Santa Clara, California, and a Doctorate in Education at the University of the Pacific in Stockton, California.

President Bill Clinton and Secretary of State Madeleine Albright invited Dr. Argue to serve on the President's Advisory Committee on International Religious Freedom, for which he chaired the subcommittee dealing with international religious persecution.

President Clinton appointed Dr. Argue, Theodore Cardinal McCarrick (Washington, DC) and Rabbi Arthur Schneier (New York City) to the first official delegation of religious leaders from the United States to visit The People's Republic of China to discuss religious freedom and religious persecution with high-ranking officials including President Jiang Zemin.

Commissioner Argue was appointed by Senate Majority Leader Harry Reid (D-NV).

Preeta D. Bansal (until February 9, 2009)

Preeta D. Bansal is a lawyer whose career has spanned government service and private practice. A partner at the international law firm of Skadden, Arps, Slate, Meagher & Flom LLP, Ms. Bansal heads the appellate litigation group. She regularly represents major Wall Street and corporate clients on significant issues of law before the federal and state appellate courts, including the United States Supreme Court. A member of the Council on Foreign Relations, she also serves on the advisory boards of several leading human rights and civil rights organizations, including Human Rights Watch, the Lawyers' Committee for Civil Rights Under Law, and the National Women's Law Center.

Ms. Bansal served as the Solicitor General of the State of New York from 1999 through 2001. The New York Times called her a "legal superstar" and the New York Law Journal referred to her as "one of the most gifted lawyers of her generation, who combines a brilliant analytical mind with solid, mature judgment."

Ms. Bansal is a *magna cum laude*, Phi Beta Kappa graduate of Harvard-Radcliffe College, and a *magna cum laude* graduate of Harvard Law School, where she was Supervising Editor of the *Harvard Law Review*. She served as a law clerk to Justice John Paul Stevens of the United States Supreme Court (1990-1991) and to Chief Judge James L. Oakes of the United States Court of Appeals for the Second Circuit (1989-1990). She served as Counselor in the U.S. Justice Department and as Special Counsel in the Office of the White House Counsel from 1993-1996. She has taught constitutional law, and was a Visiting Fellow at the Institute of Politics at Harvard University's John F. Kennedy School of Government.

Ms. Bansal was appointed to the Commission by former Senate Minority Leader Thomas Daschle (D-SD), and reappointed by Senate Majority Leader Harry Reid (D-NV). She served as Chair of the Commission in 2004-2005.

Imam Talal Y. Eid

Imam Talal Eid is Founder and Executive/Religious Director of the Islamic Institute of Boston. He is also the Muslim chaplain at Brandeis University and at the Massachusetts General Hospital. He is an Adjunct Professor of Arts of Ministry at Hartford Seminary, Connecticut. A native of Lebanon, he served as Imam at Al-Naaser Mosque in Tripoli for six years and as Imam and Religious Director of the Islamic Center of New England (MA) for 23 years.

Imam Eid earned a Doctor of Theology (Th.D.) in Comparative Religion in 2005 from Harvard Divinity School, where he also earned his Master of Theological Studies (MTS) in 1991. He wrote his Th.D. thesis on "Marriage, Divorce, and Child Custody as Experienced by American Muslims: Religious, Social, and Legal Considerations." Imam Eid also holds a Licensee degree in Islamic Law and Sharī'ah, which he received in 1974 from Al-Azhar University in Cairo, Egypt.

Imam Eid is a well-known Muslim scholar, activist, and lecturer on Islam and Muslims, and on Christian, Jewish, and Muslim relations in North America. He promotes the knowledge of Islam through local and national radio and television programs, and through articles published in local and national magazines. He is a marital and family therapist and acts as an expert consultant on Islamic law, including on issues of marital dispute, marital violence, divorce, and child custody.

Imam Eid has served for a period of 20 years as the Chairman of Majlis Ash-Shura (Committee on Islamic Consultation) of the Islamic Council of New England in Massachusetts. He is also a member of the Quincy and Boston Clergy associations. He co-chaired the *Archives for Historical Documentation* of Boston, Massachusetts. He has received recognition awards from many local and national institutions, including the Massachusetts State Senate; the office of the District Attorney of Norfolk, Massachusetts; the Quincy (MA) City Council; the Quincy Human Rights Commission, Partners in Excellence Award (MGH); and Toastmasters International.

Commissioner Eid was appointed by President George W. Bush.

Dr. Richard D. Land

Dr. Richard Land has served as president of the Southern Baptist Convention's Ethics & Religious Liberty Commission since 1988. During his tenure as representative for the largest Protestant denomination in the country, Dr. Land has represented Southern Baptist and other Evangelicals' concerns in the halls of Congress, before U.S. Presidents, and in the media.

As host of *For Faith & Family*, *For Faith & Family's Insight*, and *Richard Land Live!,* three nationally syndicated radio programs, Dr. Land has spoken widely on the social, ethical, and public policy issues facing the United States. He is also Executive Editor of *FFV*, a national magazine dedicated to coverage of traditional religious values, Christian ethics, and cultural trends.

Dr. Land was featured in *Time* Magazine in 2005 as one of "The Twenty-five Most Influential Evangelicals in America." The previous year, he was recognized by the *National Journal* as one of the 10 top church-state experts "politicians will call on when they get serious about addressing an important public policy issue."

Dr. Land earned his A.B. magna cum laude at Princeton University and his D.Phil. at Oxford University.

His latest book is *The Divided States of America? What Liberals and Conservatives are Missing in the God-and-Country Shouting Match*. Dr. Land has also recently authored *Imagine! A God-Blessed America* (2005) and *Real Homeland Security* (2004).

Dr. Land is currently serving his fourth term with the Commission. Former President Bush selected him for his first two terms (September 2001 to September 2004). Then-Senate Majority Leader Bill Frist reappointed Dr. Land in 2005, and Senator Mitch McConnell reappointed him in 2007.

Leonard A. Leo

Leonard A. Leo serves as the Executive Vice President of the Federalist Society for Law & Public Policy Studies, an organization of over 40,000 conservatives and libertarians dedicated to limited, constitutional government and interested in the current state of the legal order. He manages the projects, programs and publications of the Lawyers

Division. He also helps manage the Federalist Society's government, media, and corporate relations, as well as special initiatives such as the organization's Supreme Court Project and International Law Project.

Mr. Leo has participated actively in a number of international forums. He served as a U.S. delegate to the U.N. Commission on Human Rights in 2005, has been an observer to the World Intellectual Property Organization, participated in two World Health Organization delegations in 2007, and is involved with the U.S. National Commission to UNESCO.

Mr. Leo has published articles on religious liberty under the U.S. Constitution, presidential war powers, executive privilege, legislative responses to judicial activism, property rights, and several federal civil procedure issues. With James Taranto of the Wall Street Journal, he is the co-editor of *Presidential Leadership: Rating the Best and Worst in the White House* (Simon & Shuster, 2004).

Mr. Leo received his undergraduate degree with high honors from Cornell University in 1987 and his law degree from Cornell Law School with honors in 1989.

Mr. Leo is active in the affairs of the Catholic Church, serving as a member of the Sovereign Military Order of Malta and a member of the board of the National Catholic Prayer Breakfast.

Commissioner Leo was appointed by President George W. Bush.

Nina Shea

An international human-rights lawyer for 25 years, Nina Shea joined Hudson Institute as a senior scholar, where she directs the Center for Religious Freedom, in November 2006.

For the 10 years prior to joining Hudson, Ms. Shea worked at Freedom House, where she directed the Center for Religious Freedom, an office which she had helped found in 1986 as the Puebla Institute.

Ms. Shea has served as a Commissioner on the U.S. Commission on International Religious Freedom since its founding in 1999. She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations. In January 2009, Ms. Shea was appointed as a commissioner on the U.S. National Commission to UNESCO.

For over a decade, she has worked extensively for the advancement of individual religious freedom and other human rights in U.S. foreign policy as it confronts Islamist extremism, as well as authoritarian regimes. For seven years, until 2005, she helped organize and lead a coalition of churches and religious groups that worked to end a religious war against Christians, traditional African believers, and dissident Muslims in southern Sudan; in 2004 and 2005, she contributed to the drafting of the Iraqi Constitution's religious freedom provision; and she authored and edited two widely acclaimed reports, *Saudi Arabia's Curriculum of Intolerance* (2006) and *Saudi Publications on Hate Ideology Invade American Mosques* (2005), both of which translated and analyzed Saudi governmental publications that teach hatred and violence against the religious "other." She regularly presents testimony before Congress, delivers public lectures, organizes briefings and conferences, and writes frequently on religious freedom issues. Her 1997 book on anti-Christian persecution, *In the Lion's Den*, remains a standard in the field.

Ms. Shea is a member of the bar of the District of Columbia. She is a graduate of Smith College and American University's Washington College of Law.

Commissioner Shea was appointed to the Commission by then-Speaker of the House Dennis Hastert (R-IL).

APPENDIX 2

THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998[6]

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)

(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[7] shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated

[6] 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.

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 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.

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[7] The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

[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 thought, 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.[8]

5. Permissible Limitations on the Freedom to Manifest Religion or Belief
[ICCPR, Art. 18(3) and UN 1981 Dec., Art. 1(3)]
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[9] 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 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)]

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[8] See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document.
[9] 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.

This right includes the following components:

1. States Undertake to Respect and to Ensure for All Individuals Within its Territory and Subject to its Jurisdiction the Rights Recognized in the ICCPR Without Distinction of Any Kind, Including Religion
[ICCPR Art. 2(1)]

2. All Persons Are Equal Before the Law and Are Entitled Without Any Discrimination to the Equal Protection of the Law.
[ICCPR, Art. 26]

3. The Law Shall Prohibit Any Discrimination and Guarantee to All Persons Equal and Effective Protection Against Discrimination on Any Ground, Including Religion.
[ICCPR, Art. 26]

- The application of the principle of non-discrimination contained in article 26 of the ICCPR is not limited to those rights which are provided for in the Covenant, and extends to prohibit discrimination in law or in fact in any field regulated and protected by public authorities;
- The term "discrimination" as used in the ICCPR should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms;
- The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance;
- The principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the ICCPR; and
- Not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the ICCPR.

—HRC General Comment No. 18 (paras. 7, 8, 10, 12, 13)

4. Protection Against Discrimination by Any State, Institution, Group of Persons or Person on the Grounds of Religion or Other Belief
[UN 1981 Dec., Arts. 2(1) and 4]

- States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
- States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination.
- States shall take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

—UN 1981 Dec., Arts. 4(1) and 4(2)

- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups ….

—UDHR Art. 26(2)

- State parties will "foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers."

—OSCE Vienna Document, principle 16b

D. STATES SHALL PROHIBIT BY LAW ANY ADVOCACY OF NATIONAL, RACIAL OR RELIGIOUS HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE
[ICCPR, Art. 20]

- No manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination; hostility or violence… [and] States parties are under the obligation to enact laws to prohibit such acts.

—HRC General Comment No. 22 (para. 7)

- State parties should take the measures necessary to fulfill the obligations contained in article 20 of the ICCPR, and should themselves refrain from any such propaganda or advocacy.

—HRC General Comment No. 11 (para. 2)

- Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.

—United States reservation to ICCPR Art. 20

- States will take effective measures, including the adoption of laws, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism.

—OSCE Copenhagen Document

- States commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

—OSCE Copenhagen Document

E. THE RIGHTS OF PARENTS IN RELATION TO FREEDOM OF RELIGION OR BELIEF

[ICCPR Art. 18(4), OSCE Vienna Document Art. 16(f) and 16(g)]

- State Parties undertake to respect the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

—ICCPR Article 18(4)

- The liberty of parents and guardians to ensure religious and moral education cannot be restricted.
- Public school instruction in subjects such as the general history of religions and ethics is permitted if it is given in a neutral and objective way.
- Public education that includes instruction in a particular religion or belief is inconsistent with ICCPR Art. 18 (4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

—HRC General Comment No. 22 (paras. 6 & 8)

- Parents or legal guardians have the right to organize family life in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
- Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
- The child shall be protected from any form of discrimination on the ground of religion or belief.
- In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
- Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1(3) of the present Declaration.

—UN 1981 Dec., art. 5

F. FURTHER ELABORATION ON SELECTED TOPICS

1. Obligation to Ensure Rights/Provide Remedies for Violations

[ICCPR Arts. 2(2) and 2(3), UDHR Art. 8, UN 1981 Dec. Art. 7]

The ICCPR requires State parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. This obligation includes ensuring:

- effective remedies for any person whose rights or freedoms are violated;
- that such remedies are determined by competent judicial, administrative or legislative authorities; and
- that such remedies are enforced when granted.

2. Relationship between Religion and the State

- The fact that a religion is recognized as a state religion or established as official or traditional, or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the ICCPR, nor in any discrimination against adherents to other religions or non-believers.
- In particular, measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to them, or imposing special restrictions on the practice of other faiths are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under ICCPR article 26.
- If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the ICCPR nor in any discrimination against persons who do not accept the official ideology or who oppose it.

—HRC General Comment No. 22 (para. 9)

- State parties are required to grant communities of believers, practicing or prepared to practice their faith within constitutional boundaries, "recognition of the status provided for them in their respective countries."

—OSCE Vienna Document

3. Women's Equal Right to Freedom of Religion or Belief

- The principle of non-discrimination is so basic that each State party is obligated to ensure the equal right of men and women to the enjoyment of the rights set forth in the ICCPR.

—HRC General Comment No. 18 (para. 2)

- Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all ICCPR rights.
- State parties should report and provide data on a number of issues related to religion and women's rights, including:
    - pregnancy- and childbirth-related deaths of women, as well as gender-disaggregated data on infant mortality rates;
    - information on the extent of any practice of genital mutilation, and on measures to eliminate it;
    - measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings;
    - regulation of clothing to be worn by women in public; and
    - whether women may give evidence as witnesses on the same terms as men; whether measures are taken to ensure women equal access to legal aid, in particular in family matters; and whether certain categories of women are denied the enjoyment of the presumption of innocence.
- Freedoms protected by article 18 must not be subject to restrictions other than those authorized by the ICCPR and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion;
- The commission of so-called "honor crimes" which remain unpunished constitutes a serious violation of the ICCPR and laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment.

—HRC General Comment No. 28 (paras. 5, 10, 11, 13, 18, 21, 31)

- Certain religious practices have an adverse effect on women's rights. These practices include :
    - cultural stereotypes, including preference for male children, religious extremism, and regulation of women's clothing;
    - discrimination in medical well-being, including genital mutilation, traditional childbirth practices, and dietary restrictions;
    - discrimination resulting from the condition of women within the family, including practices related to marriage and divorce (e.g.: polygamy, family planning, division of responsibilities);

- discrimination related to transmission of nationality;
- discrimination related to inheritance and independent management of finances;
- discrimination related to right to life, including infanticide, cruel treatment of widows, and honor crimes,
- attacks on dignity, including sexual abuse;
- social ostracism, including denial of the right to education, and denial of access to professional fields such as politics and religion; and
- aggravated discrimination against women who also are members of a minority community.

To ensure that freedom of religion does not undermine the rights of women, it is essential that this freedom not be understood as a right of indifference with respect to the status of women.

—UN Special Rapporteur on Freedom of Religion or Belief, Study on Freedom of Religion or Belief and the Status of Women with Regard to Religion and Traditions (Amor Report)[10]

[10] Commission staff translation.