UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Annual Report 2007

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Annual Report

MAY 2007

U.S. Commission on International Religious Freedom
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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2007

The PRESIDENT
The White House

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

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

Sincerely,

Felice D. Gaer
Chair

Enclosure

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2007

Hon. CONDOLEEZZA RICE
Secretary of State
Department of State

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

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UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2007

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

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

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UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

Washington, DC, May 1, 2007

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

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

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Felice D. Gaer
Chair

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

ABOUT THE COMMISSION

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

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

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

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

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

In June of 2006, Michael Cromartie completed his term as the Chair of the Commission, during which Felice D. Gaer and Nina Shea served as Vice Chairs. In July 2006, Felice D. Gaer became Chair, and Michael Cromartie, Dr. Elizabeth H. Prodromou, and Nina Shea became Vice Chairs. Commissioners serve a two-year term and can be reappointed.

In carrying out its mandate, the Commission reviews information on violations of religious freedom as presented in the Department of State's *Country Reports on Human Rights Practices* and its *Annual Report on International Religious Freedom*. The Commission also consults regularly with State Department and National Security Council officials, U.S. Ambassadors, and officials of foreign governments, as well as with representatives of religious communities and institutions, human rights groups, other nongovernmental organizations, academics, and other policy experts. It visits foreign countries to examine religious freedom conditions firsthand. The Commission also holds public hearings, briefings and roundtables.

The Commission has met with President George W. Bush and senior members of his Administration, including the Secretary of State and the National Security Advisor, to discuss its findings and recommendations. The Commission also briefs Members of Congress, U.S. Ambassadors, and officials from international organizations. In addition, the Commission testifies before Congress, participates with U.S. delegations to international meetings and

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

conferences, helps provide training to Foreign Service officers and other U.S. officials, and advises the Administration and Members of Congress and their staff on executive and legislative initiatives.

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

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

While the work of the Commission is conducted year round, the Commission delivers an annual report of its policy recommendations in May to the President, the Secretary of State, and Congress. This report covers the period May 2006 – April 2007.

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

May 2007

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INTRODUCTION

The protection of freedom of thought, conscience, and religion or belief is deeply intertwined with other human rights and is a foundation of peaceful, stable, and vibrant societies. Increasingly, advancing religious freedom means promoting fair and non-discriminatory policies across the board, in political events such as elections, refugee policies, and government treatment of the non-governmental sector.

"(T)he issue of religious freedom is now understood to have a profound impact on our own political and national security interests as well as on political stability throughout the world," Felice D. Gaer, the Commission chair, said in her testimony on the Department of State's 2006 *Annual Report on International Religious Freedom*. "Religious freedom can neither flourish nor be protected in a vacuum, without being affected by the wider conditions for human rights in any given society," Gaer said.

The wide range of activities of the U.S. Commission on International Religious Freedom in 2006 – 2007 reflects this understanding. Whether advocating vigorous implementation of Sudan's Comprehensive Peace Agreement, pressing for free and fair elections in Bangladesh, demanding respect for the rights of those defending religious freedom in China and Vietnam, or analyzing Russia's new legislation governing non-governmental organizations (NGOs), the Commission is working to advance freedom of religion and the conditions necessary to protect it.

Policymakers have come to recognize the central place that religious freedom has not only in the area of advancing human rights but also in promoting accountability, conflict resolution, and reconciliation within societies. In approving the International Religious Freedom Act of 1998 (IRFA), Congress determined that it would be the policy of the United States to use all appropriate tools in U.S. foreign policy to promote respect for this right.

The U.S. Commission on International Religious Freedom is an independent, bipartisan federal agency mandated by Congress through IRFA to advance freedom of religion or belief. It monitors international respect for religious freedom and makes recommendations to the President, State Department, and Congress on how best to ensure that people the world over are free to believe and manifest their belief, in accordance with international human rights norms.

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

- describing conditions for religious freedom and related human rights in the countries of central concern to the Commission and highlighting key findings;
- presenting the Commission's policy recommendations to ensure that the promotion of freedom of religion or belief becomes a more integral part of U.S. foreign policy, furthering our nation's humanitarian as well as national security interests; and
- reporting on the actions the Commission has taken to raise public awareness of religious freedom violations, and summarizing the Commission's efforts to keep Congress informed of religious freedom conditions throughout the world.

> *Religious freedom can neither flourish nor be protected in a vacuum, without being affected by the wider conditions for human rights in any given society.*
>
> *Felice D. Gaer, USCIRF Chair*

Assessing the Status of Religious Freedom Firsthand

Every year, Commissioners visit foreign countries to examine threats to religious freedom and to learn about strategies to protect that freedom. During the current reporting period, delegations traveled to Russia and Turkey to examine the state management of religion. The trip to Russia was prompted in part by the introduction of a restrictive new law govern-

ing NGOs, including religious groups, as well as the nation's retreat from democracy. In the case of Turkey, the Commission wanted to examine more closely the relationship between religion and state and to learn more about religious freedom and related human right challenges encountered by the only overwhelmingly majority Muslim country on the European continent.

Russia

The Commission delegation traveled to Russia in June 2006, visiting Moscow, St. Petersburg, and Kazan, the capital of the Republic of Tatarstan, a region inhabited by nearly equal numbers of Christians and Muslims. It identified five major areas of concern:

- the rise in xenophobia and ethnic and religious intolerance, resulting in an increased number of violent attacks and other hate crimes, and the government's failure to address the problem adequately;
- the Russian government's challenge to international human rights institutions and its persistent claims that foreign funding of Russian human rights organizations constitutes illegitimate interference in Russia's internal affairs;
- official actions related to countering terrorism that result in harassment of individual Muslims and Muslim communities;
- new amendments to the law on non-commercial organizations, including religious groups, which may be used to restrict severely their ability to function; and
- continued restrictions by Russian authorities on the exercise of freedom of religion or belief, particularly at the regional and local levels.

Upon the delegation's return from Russia, the Commission issued a series of recommendations to the leaders of the Group of Eight, which Russia chaired in 2006 and which was convening a July summit in St. Petersburg. In December, the Commission published *Policy Focus: Russia*, which examined its religious freedom and other human rights concerns in-depth and offered a series of U.S. policy recommendations. In February 2007, it published the first independent legal analysis of Russia's newly amended law on non-commercial organizations and urged the Russian government to rescind or significantly rework the legislation in order to minimize the adverse impact on NGOs, including religious groups. More information about the Commission's findings from the trip and concerns surrounding the NGO law can be found in the chapter on the Russian Federation in this report.

Turkey

A Commission delegation visited Turkey in November. During its meetings in Istanbul and Ankara, the delegation looked into broader issues of democracy, human rights, rule of law, and civil liberties within Turkey, as well as associated questions of Turkey's model of secularism and the relevance of the country's accession negotiations with the European Union to all of these matters.

The delegation examined a number of problems that have been reported both for the majority Muslim community and for all of Turkey's religious minorities. The delegation heard about the capacity of religious groups to gather and worship, but also about:

- restraints on Muslims' ability to manifest their religious beliefs in public spaces;
- state actions that effectively prevent religious minority communities from maintaining themselves, denying them full property rights, including the right to own and maintain property, and to train religious clergy; and
- incidents of anti-minority violence, especially against Greek Orthodox, Catholics and Protestants, as well as growing anti-Semitism in some sectors of the country.

The Commission's report on Turkey can be found in the chapter that immediately follows this Introduction.

Keeping Congress Apprised of Religious Freedom Issues

Commissioners presented expert testimony at numerous congressional hearings during the reporting period, including an assessment of the religious freedom climate in Vietnam, Egypt, and Russia and an analysis of the impact of anti-conversion and blasphemy laws in the Middle East and South Asia.

Commission Chair Gaer testified before the Congressional Human Rights Caucus on the broader problems of human rights protection in the Middle East and South Asia, as well as the state of religious freedom in Afghanistan. "Because the United States has been directly involved in the country's political reconstruction, it has a special obligation to act vigorously, together with the Karzai government, to identify and remedy the systemic flaws which continue to

Unlike other refugee applicants who face persecution due to a more external characteristic such as race, nationality, group membership or political opinion, religion-based refugees fled persecution for carrying a much less visible characteristic: faith, belief, and/or a way of life.

Michael Cromartie, USCIRF Vice Chair

undermine the progress of democracy and protection of internationally recognized human rights in Afghanistan," Gaer told the Caucus.

Gaer also testified before the U.S. Commission on Security and Cooperation in Europe about the Commission delegation's trip to Russia and its findings ahead of the July summit of the Group of Eight.

Commission Vice Chair Nina Shea presented testimony on religious freedom conditions in Egypt, Iran, Iraq, Pakistan, and Saudi Arabia, and specifically on the extent to which their governments perpetuate hatred against religious minorities and foster religious extremism through the education system, the official media, and other government policies.

Commission Vice Chair Michael Cromartie testified on religious freedom and U.S. refugee policy. "Unlike other refugee applicants who face persecution due to a more external characteristic such as race, nationality, group membership or political opinion, religion-based refugees fled persecution for carrying a much less visible characteristic: faith, belief, and/or a way of life," Cromartie told the House Subcommittee on Africa, Global Human Rights and International Operations. "The intangibles of religious faith make religion-based refugee claims the most difficult to prove for *bona fide* asylum seekers."

The Commission sponsored briefings for congressional staff on the situations in Russia, North Korea, and China, as well as on the plight of Iraqi refugees. One such briefing, held in May 2006, explored U.S. policy options on North Korean refugees in China.

Over 30 separate pieces of legislation in the last0. Congress included Commission findings and recommendations on countries including Afghanistan, Bangladesh, China, Russia, Saudi Arabia, and Sudan. For example, the House of Representatives passed a resolution urging President George W. Bush to appoint a special envoy for Sudan. That official, Andrew Natsios, was appointed in September 2006.

Countries of Particular Concern and the Watch List

Among the Commission's most important tasks is the annual recommendation to the Department of State of countries of particular concern or CPCs: countries whose governments have engaged in or tolerated systematic and egregious violations of the universal right to freedom of religion or belief. Once a country is so designated, the U.S. president is required by law to oppose the violations by taking actions specified in IRFA. The Commission emphasizes that under IRFA, CPC designation is just the beginning of diplomatic activity intended to promote freedom of religion or belief.

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

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

Instead of refuge, asylum seekers all too often are coming up against bureaucratic walls and getting stuck in bureaucratic mazes.

Preeta D. Bansal, USCIRF Commissioner

Assessing U.S. Government Performance

In February 2007, the Commission issued a report card as follow-up to its congressionally-authorized 2005 study establishing that implementation of the Expedited Removal procedure, which allows U.S. border officials to quickly remove illegal aliens from the country, was seriously flawed. Some legitimate asylum seekers are being put at risk of being returned to countries where they faced repression and are being held in inappropriate, jail-like detention facilities pending review of their cases.

The report card, introduced by Commission Chair Gaer, noted that the relevant agencies, particularly the Department of Homeland Security, had not taken steps to address the serious problems identified in the study, which included recommendations on improving implementation of Expedited Removal. The overarching recommendation was to not expand Expedited Removal until the serious problems identified by the Commission study were resolved; yet the lead agency involved in the process, the Department of Homeland Security, expanded it from a port-of-entry program to one that extends to all U.S. borders.

"Instead of refuge, asylum seekers all too often are coming up against bureaucratic walls and getting stuck in bureaucratic mazes," Commissioner Preeta Bansal told a conference where the report card was presented in February. "Aliens without proper documents can be ordered deported without the benefit of consultation with an attorney or a hearing before an immigration judge."

The Commission has played a leading role in efforts to encourage the U.S. government to increase resettlement options for members of vulnerable groups fleeing religious repression. In November 2006, the Commission urged the State Department to allow members of Iraqi religious minority groups who have fled Iraq to be given access to the U.S. Refugee Program.

"Thousands of Iraqis are suffering and fleeing their country, and refugee protections should be available to all of them," Commissioners Gaer and Archbishop Charles Chaput wrote in a December op-ed in *The Washington Times*. "Surely countries can make 'room at the inn' for these vulnerable people so badly in need of help."

In February 2007, the State Department announced the formation of an Iraq Refugee and Internally Displaced Persons Task Force to coordinate the work of U.S. agencies and international organizations involved in assisting and resettling refugees and internally displaced persons. In a letter to Secretary of State Rice that same month, the Commission put forward a number of additional recommendations, including:

- developing strategies for protecting vulnerable religious minorities inside Iraq;
- urgently considering opening a priority category that would accelerate the processing of asylum applications from Iraqi minority members and would not require referral from the U.N. High Commissioner for Refugees (UNHCR), which can be time-consuming;
- assuring UNHCR that it can count on the United States to play a leading role in contributing the resources necessary to preserve first asylum for Iraqis and provide resettlement places; and
- urging that UNHCR take more active measures to ensure that the most vulnerable Iraqis in need of resettlement are identified and referred without undue delay.

The Commission has repeatedly expressed concern over inadequate training of consular and other Foreign Service Officers in refugee and resettlement issues. Commission staff have conducted training sessions on international religious freedom issues for immigration judges, the Board of Immigration Appeals, asylum officers, and other U.S. government officials involved in the asylum and refugee adjudication processes.

Raising Public Awareness

Over the past year, the Commission sponsored public discussions highlighting critical religious freedom concerns. In July 2006, together with Rep. Gary Ackerman, the Commission convened a town hall meeting in Flushing, New York, on human rights in North Korea. It used

the occasion to issue the Korean-language version of its report, *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience and Religion in North Korea*.

In October, the Commission held a public forum on the scheduled 2007 elections in Bangladesh and on promoting democracy and protecting rights in a Muslim-majority country. During its February-March 2006 visit to Bangladesh, the Commission had heard concerns that members of religious minority communities might be excluded from the voter rolls, intimidated from voting, or targeted by anti-minority violence such as had followed the last national election in October 2001. Also in October, the Commission held a staff discussion with Ibrahim al-Mugaiteeb, president of Human Rights First Society, the only independent human rights group in Saudi Arabia.

Commissioner Gaer delivered an address as a member of the U.S. delegation to the Human Dimension Implementation Meeting of the Organization for Security and Cooperation in Europe in Warsaw, Poland, in October 2006. She highlighted religious freedom problems in formerly Soviet Central Asia, Turkey, Russia, and Belarus, and voiced the U.S. government's concern over recently drafted and adopted religious laws in a number of countries. She also noted problems with official registration of religious communities, emphasizing that such registration "should not be used to discriminate or to unduly burden or repress peaceful religious practice."

In December 2006, together with the National Endowment on Democracy, the Commission held a public panel discussion on the threat to civic and religious freedom in Russia. The discussion featured veteran Russian rights campaigner Ludmilla Alexeyeva, as well as the president of NED, Carl Gershman, and Commissioners Gaer and Cromartie.

The Commission brought together representatives of five religious communities in China and two NGO experts at a January 2007 hearing to review policy recommendations intended to reverse the increasing religious repression in China. "In the year before the Beijing Olympics, Chinese authorities have raised the stakes, drawing a line between 'normal' religious activity and 'illegal' religious activity," Gaer said at that hearing. "Those not deemed 'normal'…face continued pressure, harassment, and arrest."

The Commission and the Woodrow Wilson Center for Scholars co-sponsored a discussion in February 2007 of a new survey of public opinion in Turkey on politics and religion. The discussion, in which Commissioners Gaer and Elizabeth H. Prodromou took part, focused on the findings of a recent country-wide poll by the Turkish Economic and Social Studies Foundation (TESEV).

Commissioner Bishop Ricardo Ramirez addressed a conference in Cape Town, South Africa, in March 2007 on "Combating Religious Hatred through the Freedom to Believe." Ramirez told the conference, which was sponsored by the International Religious Liberty Association, about U.S. efforts to advance the freedom of thought, conscience, and religion or belief around the world. "We don't base our work solely on U.S. legislation but on the international human rights covenants that the vast majority of the international community has ascribed to," Ramirez said. "So we push our own government to press other governments to live up to their commitments."

Throughout the reporting period, the Commission held numerous public and private briefings and published *Policy Focus* studies on Russia, Sudan, and Bangladesh. It issued a series of press statements and op-eds on religious freedom and related human rights issues. In addition to Iraq, the op-eds published in 2006 addressed problems in Iran, China, and Pakistan.

"The ability of Pakistan to build a sustainable democracy that is not a haven for terrorism depends on President Musharraf's willingness to change his own country's behavior when it comes to human rights and religious freedoms. It means limiting abusive actions and overbroad punishments by extremists, not encouraging them," Commissioners Chaput and Prodromou wrote in a September op-ed in *The Denver Post*.

In an op-ed published in the *New York Sun* in April, Commissioners Gaer and Cromartie stressed that the U.S.-China relationship is about more than trade and security, and that the Chinese government must understand that the state cannot regulate thought, conscience, and religion or belief.

Ortakoy Mosque, Istanbul

TURKEY

Turkey is located at a geographic, cultural, and religious crossroads. The country bridges the West and the East, Europe and Asia, and the Christian and Muslim worlds. By many standards modern, Western, and democratic, Turkey is also the only overwhelmingly majority Muslim country on the European continent. Since its founding as a republic in 1923, Turkey has struggled, with mixed results, to build a democratic polity where human rights, including religious freedom, are protected. Turkey's political leaders have intensified efforts to deepen and substantively expand the country's democratic reforms and human rights, driven by the pursuit of membership in the European Union (EU); however, it has encountered a number of difficulties, particularly with regard to religious freedom, that reflect the tensions and constraints that were built into the fabric of the country's founding. As Turkey confronts these tensions, questions have been raised, both in and outside Turkey, about whether Turkey should continue on its current reform path. Many experts argue that Turkey is at a critical juncture in its history.

The Commission traveled to Turkey in November 2006 to learn more about the country's experiences with religious freedom and other human rights, and to examine more closely the relationship between religion and the state. The Commission visit also addressed broader issues of democracy, human rights, rule of law, and civil liberties within Turkey, as well as associated questions of Turkey's model of secularism and the relevance of the country's EU accession negotiations to all of these matters. While in Turkey, the Commission met with Turkish government officials from the Foreign Ministry, the Directorate of Religious Affairs (*Diyanet*), the Directorate for Foundations (*Vakiflar*), and the Ministry of Education, as well as several members of Turkey's parliament and representatives of a variety of political parties not seated in the parliament. Additionally, the Commission met with representatives of the country's Muslim majority and minority communities, as well as non-Muslim minority communities. The delegation also met with academics, journalists, legal advocates, members of the business community, and representatives of human rights organizations.

According to the EU's November 10, 2006 Progress Report on Turkey, "freedom of worship continues to be generally respected" in Turkey.[1] Throughout the visit, the Commission noted the extent to which people of almost every tradition in Turkey confirmed that they were free to gather and worship as provided for in the country's constitution. However, the Commission also encountered restrictions on religious freedom in Turkey, including for the majority Sunni Muslim community and minority Muslim Alevis; for the "Lausanne minorities," that is, the Greek and Armenian Orthodox and Jews; and for other Christian minorities, including Assyrian Orthodox, Roman Catholics, and Protestants. For Muslims, there are restraints on the ability to manifest their religious beliefs in state institutions; for religious minority communities, there are state policies and actions that effectively prevent them from sustaining themselves, denying them the right to own property as a community, to maintain that property, to train religious clergy, and to offer religious education above high school. This has led to the decline—and some cases, virtual disappearance—of some of these religious minorities on lands they have inhabited for millennia.

Many experts argue that Turkey is at a critical juncture in its history.

Turkey's constitution establishes the country as a "secular state," according to the policy of "secularism" as defined by the country's founder and first president, Mustafa Kemal Ataturk, who defined secularism in terms of the French policy of *laïcité*. During the visit, the Commission noted the way in which many Turks are reclaiming their identity as Muslims as well as Turks. It became clear that these two currents in Turkey—the country's policy of secularism and the growing sense of Muslim identity—are among the premier political issues in Turkey today. It was also clear that the struggle between these two currents is

indicative of Turkey's position at the juncture of the Eastern and Western worlds—and is a crucial factor in the future of human rights protections in Turkey.

In March 2001, the EU officially adopted the Accession Partnership as a roadmap for the process of Turkey's bid to join that body. As a part of that endeavor, the Turkish government has been required to implement numerous reforms to ensure that its laws are consistent with EU standards. In the past several years, Turkey has taken significant positive steps toward passing new legislation to bring its laws into conformity with EU legislation. However, more remains to be done and clearly, certain religious freedom problems, some of them very serious, persist in Turkey.

Demographic Information

Turkey has a population of approximately 70 million people. According to government statistics, the population is 98-99 percent Muslim, the majority of whom are Sunni Muslims. There are an estimated 7-10 million Alevis in Turkey (estimates vary from 4.5 to 18 million), considered by some to be a sect of Shi'a Islam but who also incorporate Zoroastrian or other pre-Islamic elements. The Turkish state identifies the Alevis as heterodox Muslims, although some elements of the Sunni community consider the Alevis to be a heretical offshoot of Islam. Three religious groups, Greek Orthodox Christians, Armenian Orthodox Christians, and Jews, are specifically recognized by the state as religious minority communities pursuant to the 1923 Treaty of Lausanne (see below). Today, there are thought to be approximately 65,000 Armenian Orthodox, 23,000 Jews, and 2,500 Greek Orthodox in Turkey. In addition, there are approximately 15,000 Syriac Christians, 10,000 Baha'is, 5,000 Yezidis, 3,300 Jehovah's Witnesses, and 3,000 Protestant Christians, with smaller numbers of Chaldean, Nestorian, Georgian Orthodox, Roman Catholic, and Maronite Christians. A number of the Christian communities, including the Greek, Armenian, and Syrian Orthodox, lived on the land that is now Turkey for centuries before the arrival of the Turkic peoples to the region from Central Asia.

Secularism as practiced in Turkey does not reflect a separation but is instead based on state control over religious activity expressed in the public sphere in order to guard against that which Ataturk was distrustful of—the unchecked influence of religion on state policies and institutions.

Constitutional Provisions on Religious Practice and the Policy of Secularism

Article 24 of Turkey's Constitution clearly lays out the protections for religious freedom. This Article states that "(1) Everyone has the right to freedom of conscience, religious belief and conviction; (2) Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14;[2] and (3) No one shall be compelled to worship, or to participate in religious ceremonies and rites, to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions. This Article also governs religious education by stating that (4) Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

In July 1923, Turkey, together with France, Great Britain, Greece, and Italy, signed the Treaty of Lausanne to delineate Turkey's borders with Greece and Bulgaria.[3] Articles 38-44 of the Treaty contain guarantees for religious freedom and equal protection of the law, as well as prohibitions on discrimination. These articles also provide specific protections for non-Muslim religious communities in Turkey and for the freedom of those communities to establish charitable and religious institutions and schools. According to Article 37, the signatories to the Treaty accept that these protections are to be recognized as fundamental laws and the Turkish state, as with other Treaty signatories, "undertakes that the stipulations contained in Articles 38 to 44 shall be recognized as fundamental laws, and that no law, no regulation, nor official action shall conflict or interfere with these stipulations, nor shall any law, regulation, nor official action prevail over them."

Interior of Istanbul's Blue Mosque

The Policy of Secularism

A hallmark of the Constitution was its establishment of Turkey as a secular state, and every constitution since then has reiterated secularism as a defining feature of the Turkish state. The Preamble states that "[…] as required by the principle of secularism, there shall be no interference whatsoever of the sacred religious feelings in State affairs and politics…" Article 2 (states) that "The Republic of Turkey is a democratic, secular and social State governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Ataturk, and based on the fundamental tenets set forth in the Preamble." Secularism is underlined once more in Article 24, the provision that outlines religious freedom rights by noting that (5) No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets."

Turkey's concept of secularism was built on Ataturk's conviction that religion was the primary reason for the Ottoman Empire's lag in modernization relative to Europe. Consequently, Ataturk and Turkey's subsequent political leaders were determined to remove the influence of religion, including even indications of personal belief, from public life in Turkey and to subject religion to state control. To accomplish this aim, Ataturk instituted a series of domestic reforms, first and foremost separating the political process and workings of the government from the Islamic religion—the religion of the majority of Turkey's citizens—all the while retaining state control of religious institutions. He abolished religious courts and replaced them with secular ones, changed the alphabet for the Turkish language from a modified Arabic to the Latin script, purged the Turkish language of many Arabic and Persian words, insisted that the Koran be translated into and read in Turkish, and decreed that the call to prayer be in Turkish rather than Arabic.[4] In addition, in March 1924, Ataturk abolished the office of the Caliphate, or titular leader of the Muslim world, a position that had been held by the Ottoman sultan since the 16th century.

Separation or State Control of Religion? The Role of the Diyanet and Ministry of Education

During the Commission's visit to Turkey, it soon became clear that the Turkish government's concept of secularism is something altogether different from the American version of separation of religion and state. Secularism as practiced in Turkey does not reflect a separation but is instead based on state control over religious activity expressed in the public sphere in order to guard against that which Ataturk was distrustful of—the unchecked influence of religion on state policies and institutions. The state carries out this management role with regard to the majority Muslim community through the Directorate of Religious Affairs, or the *Diyanet*. The state, through the *Diyanet*, controls and supervises the religious institutions of the Sunni Muslim population, managing all 80,000 mosques in Turkey and employing all imams as state functionaries. In official terms, the *Diyanet* "is a public institution in the general administration, and is responsible for the execution of the duties specified in the special law in order to provide national unity and solidarity, and remain separate from all political views and thoughts in accordance with the principle of secularism. These duties in the related law are as follows: to execute the works concerning the beliefs, worship, and ethics of Islam, enlighten the public about their religion, and administer the sacred worshipping places."[5]

Ali Bardakoglu, the current Director General of the *Diyanet*, explained to the Commission that secularism is an important safeguard for freedom of religion in Turkey. The existence of the *Diyanet*, he noted, which operates independently of the government, does not mean government intervention in religious affairs; in fact, there are times when the positions of the *Diyanet* conflict with those of the government. Although salaries of religious officials are paid from the state budget and mosques are constructed and main-

Muslims are prohibited from wearing certain kinds of religious garb in state institutions, including government offices, the parliament, judicial buildings, and both public and private universities.

tained with state monies, mosques may also be built, with state permission, as a result of local initiative.

According to Hasan Huseyin Baysal, Deputy General for Religious Education in the Ministry of Education, during the Ottoman period, there were religious schools, or madrassas, in which theology was the only subject taught. Other subjects (such as science) were offered in separate schools. In 1924, the Law for the Unification of Schools brought all schools, including religious schools, together under the Ministry of National Education. There were two kinds of religious education: one to train religious officials, for which 24 schools, known as *imam hatip* high schools, were established; and another to teach all students religious knowledge and ethics within the principle of secularism. Until 1982, the latter was an elective. In that year, the constitution was changed so that religious education (the cultural and ethical dimensions of Islam) became compulsory in primary and secondary schools for Muslims, both Sunnis and non-Sunnis. According to the Deputy Minister, non-Muslims may opt out of this religious education.

Secularism and Political Parties

According to Article 68 of the Constitution, political parties based on religion are banned. This Article states that "the statutes and programs, as well as the activities of political parties, shall not be in conflict with the independence of the State, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, or the principles of the democratic and secular republic." Over the decades, political parties that aimed to confront the state's definition of secularism were regularly suppressed or banned. Nevertheless, the absence of religion from public life remained controversial for some Turks and 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. The Turkish military, which is constitutionally identified as the guardian of Ataturk's expression of secularism, became alarmed about this and other policies of the Democrat Party government and staged a coup against it in 1960. The military staged coups two more times in Turkey's politics to oust governments: in 1971 and 1980, the latter time primarily because of the left vs. right factional battles that were leaving dozens dead daily also because the military determined that the policy of secularism was under threat. In the 1990s, the *Refah* (Welfare) Party, which also aimed to confront the state's definition of secularism, gained a plurality in the polls, but was "maneuvered" out of power by the military in 1997 in what was termed 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), has roots in the *Refah* Party and Turkey's current Prime Minister, Recep Tayyip Erdogan, served two terms as Mayor of Istanbul under *Refah*. The AK Party won a majority 34 percent of the vote in national elections in November 2002, campaigning on a platform of Turkey's accession to the EU and the reintegration of Islam into public life in a manner consistent with modernity and democracy. Although the military had previously jailed Erdogan and banned him from politics because of his public recitation of a poem that included references to Islam, the national election results and the discredited leadership of the country's center-right parties led the military to permit Erdogan to assume the position of Prime Minister in early 2003. At that time, Erdogan stated that he wanted to promote democracy in Turkey and within that context, to institute a more liberal understanding of secularism. In particular, he suggested canceling the ban on wearing headscarves in state institutions (see below), though he also stated his opposition to state enforcement of Islamic dress codes. He later proposed a bill to ease the entry of *imam hatip* school graduates into

Ali Bardakoglu, President of the Religious Affairs Directorate (Diyanet), with USCIRF Chair Felice D. Gaer (center), Commissioner Preeta D. Bansal (far right) and a translator.

universities in Turkey, with the alleged aim of enabling more religious school attendees to take jobs in the state bureaucracy. This legislation was opposed by the military and shelved. At the same time, the AK Party platform contained strong support for Turkey's integration into the global economy and alignment with the West. Prime Minister Erdogan also declared it the policy of his government actively to seek membership in the EU and in pursuit of this aim, he has instituted a number of democratic reforms, many of which have dealt with some of Turkey's most notoriously undemocratic practices.

Observers both in and outside Turkey have conflicting views about the true aims of the AK Party government. Some judge the party to be a genuinely moderate, religiously-oriented party that espouses Islamic religious values but that would also like to see Turkey take its place as a democratic society within Europe. Others, however, contend that the AK Party is skillfully masking its more radical intentions, including the eventual introduction of Islamic law in Turkey. There were similarly mixed views about the AK Party among those with whom the Commission met during its visit to Turkey. One noted academic suggested that the AK Party represented the growing political influence of people in Turkey who had for decades not been adequately represented by Turkey's other political parties. Another told the Commission that Muslims in the AK Party have changed their rhetoric so that they are now more outwardly concerned about human rights and universal values, but that it is difficult to know whether their intentions are tactical or sincere. One journalist and academic suggested that the AK Party reflects the fact that there is a greater plurality within Islam, within Muslims' expression of Islam, in Turkey today compared to the past.

Those who saw the AK Party as genuine in its stated aims pointed to the AK government's efforts to implement far-reaching democratic reforms in the EU bid. Those expressing suspicion of AK pointed to the AK government's initiatives, for example, to criminalize adultery and assist graduates of religious or *imam hatip* schools in entering universities. General concerns about religious extremism were also reinforced by the May 2006 shooting by an Islamist activist of a number of judges from the Council of State, the country's chief administrative court, an attack that killed one and wounded four others. One of the wounded judges had reportedly been criticized for ruling against teachers wearing headscarves and had received death threats in the past. Erdogan immediately condemned the attack. Concerns have also been raised about the AK Party's reported attempt to interfere with the process of appointing judges to the country's highest court of appeals and the high administrative court. In March 2007, it was reported that the Supreme Board of Judges and Prosecutors in Turkey held a press conference at which members of the judiciary protested what they argued was the Erdogan government's obstruction of judicial appointments in order eventually to fill these positions with judges with an Islamist legal perspective.

During the visit to Turkey, Commissioners persistently raised the issue of whether the state imposition of religious law represents a threat in contemporary Turkey. Regardless of their views on the true aims of the AK Party, few with whom the Commission met expressed the concern that the full imposition of sharia was a serious threat, because they believed that secularism, in some form, was too ingrained in and accepted by the vast majority of Turks. However, the issue of whether aspects of sharia might, over time, become state policy was not explicitly discussed. Several persons in Turkey noted that the military nonetheless remains suspicious of the AK Party government and its intentions; however, virtually all of those with whom the delegation met expressed the conviction that any attempt on the part of the military to interfere with normal democratic practices would substantially set back Turkey's democratic reform process and be disastrous for the country's EU membership bid. The matter was to have come to a head during the 2007 presidential election, when Erdogan was expected be elected to that post by his party in Parliament. This move was reportedly firmly opposed by those who protect the policy of secularism as it currently exists in Turkey, as they feared that an Erdogan presidency would lead to the state enforcement of the AK Party's religious views. In the end, Turkish Foreign Minister Abdullah Gul was nominated as the AK Party's candidate for president.

The Commission understood from its visit to Turkey that due to this persistent tug of war between those promoting Ataturk's secularist legacy and those pressing for greater expression of popular religious symbols and clothing, the "headscarf issue" is, without doubt, the most politically and popularly charged issue in Turkey today, one that each side now views as a "zero-sum" matter, leaving little room for a reasonable compromise.

Religious Freedom in Practice: The Negative Impact of Turkey's Brand of Secularism and Attitudes Toward Religious Minorities

The Commission met with representatives of eight religious communities in Turkey, including seven minority religious communities. Although there were reports of serious problems regarding the opening, maintaining, and operation of houses of worship, as well as state expropriation of such properties without compensation, few reported problems regarding freedom to gather and worship. According to the U.S. State Department, there are no religious prisoners in Turkey and no group reported serious problems involving religious literature or the right to assemble and express their beliefs.[6] Moreover, virtually all groups also mentioned that conditions for religious freedom had improved in the past decade and particularly in the past several years as a result of the reforms undertaken by the current government during the EU accession process. For example, representatives of the Alevi and Protestant communities noted that they had been able to open foundations in recent years that provide them with a number of legal opportunities that had been unavailable in the past. In addition to worship services, a number of religious minorities operate schools, hospitals, and a variety of charitable organizations. Several persons the delegation met with claimed that Turkey's Ottoman past was a source for the relative tolerance, compared to neighboring Muslim countries, of freedom of worship in Turkey.

Despite these positive conditions for the freedom to practice, there are other significant problems in Turkey that seriously affect religious freedom for members of both the majority and minority groups. Muslims are prohibited from wearing certain kinds of religious garb in state institutions, including government offices, the parliament, judicial buildings, and both public and private universities. Religious minority communities, despite the rights their members do enjoy, are not recognized as legal entities in Turkey, resulting in serious difficulties for these groups and endless legal wrangling over property rights and the ability to train clergy and select leaders for future generations. Although some of these concerns have been addressed through the EU accession reform packages, many are still to be resolved.

The Sunni Muslim Community

Many of the Commission's interlocutors contended that secularism in Turkey as defined and instituted by Ataturk has resulted in a marked suspicion on the part of the Turkish state of religious piety and certain outward, public displays of religious adherence. Most of those with such views pointed to the government's control of Sunni religious practice in Turkey, symbolized most pointedly by the state's ban on the wearing of headscarves, which some—though clearly not all—observant Muslims believe is a religious obligation, in state buildings, including both public and private universities.[7] Some in Turkey claimed that secularism as applied there amounted in certain instances almost to a repression of religion, clearly resulting in religious freedom violations. One academic pointed out that most people in Turkey do not disagree with secularism—understood as the separation of religion from the workings of the state. However, he continued, some people do take issue with the form of secularism that is enforced in their country, a form that involves considerable state control over, and limitations on, religious expression.

Women who wear headscarves or those who advocate for the right to wear them have lost their jobs in the public sector, including as doctors, lawyers, nurses, and teachers, and students who wear headscarves are not officially permitted to register for university classes. Women in headscarves are also not permitted to get a university education at any private institutions. In practical terms, the prohibition on public displays of religion in state institutions means that a Muslim woman who believes that religious observance requires a head covering must choose between obtaining a university education in Turkey or following her religious principles and practices. In addition, members of the military have been charged with "lack of discipline" for performing Muslim prayers or being married to women who wear headscarves. Some individuals also reported that members of the government whose wives wear headscarves—including the current prime minister—are not allowed to bring their wives to official receptions.

Many persons with whom the delegation met in Turkey noted that Ataturk's secularist reforms, while dramatic and far-reaching, were a top-down phenomenon, rather than a natural progression arising from popular sentiments. Several persons suggested that those who back secularism in Turkey in its current form have an inaccurate understanding of what the policy is, since they see *any* kind of religious observance as a threat or a cause for suspicion, including such central practices as praying on Fridays or observing Ramadan. One person noted that because those that enforce this strict interpretation of secularism appear to have scorn for observant Muslims, the result is that observant Muslims are led to distrust and, in the worst-case scenario, even spurn secularism.

However, state and societal groups committed to secularism expressed repeatedly to the Commission that state control over religion is the only feasible policy for guarding against Islamist extremism in state institutions and society as a whole. Some who support the headscarf ban do so on the principle that they are protecting the rights of women, protecting them from societal and, in the worst instance, state pressure and coercion to conform to someone else's religious standards, rather than freely to choose what to wear in fulfillment of one's religious beliefs. Still others do so because they view the headscarf as a political symbol linked to what they see as an Islamist political platform which seeks to interlink the dominant religion in Turkey with all aspects of public life and governance. Supporters of the ban contend that those who oppose the headscarf ban have not satisfactorily addressed the fear of many women that wearing a scarf could become mandatory, and indeed, that all persons in Turkey will be subject to religion-based laws that will be determined by clerics, rather than laws determined through the democratic process.

The headscarf controversy in Turkey was brought to the European Court of Human Rights (ECtHR) by Turkish citizen Leyla Sahin, a medical student who in 1998 was expelled from her state university for wearing a headscarf. In 2004 and again in a 2005 Grand Chamber decision (16-1), the ECtHR held that the university's prohibition of the headscarf did not violate the European Convention on Human Rights (ECHR). The ECtHR ruling cited the Turkish Constitutional Court's finding that secularism's constitutional status in Turkey functions as a guarantor of freedom of religion and equality before the law, and in view of Turkey's history, the wearing of headscarves at universities could be viewed as an assault on the country's secular and democratic underpinnings. Under Article 9 of the Convention, freedom to manifest one's religion can be restricted if necessary to preserve the country's secular and democratic foundations. It was also decided that the headscarf in the Turkish context is often presented by some as a compulsory religious duty and form of expression, and as such, it may have a coercive

impact on students who choose not to wear it. Others present it as "a symbol of political Islam" in a "debate that has taken on political overtones." Imposing limitations in this sphere may, therefore, be permissible in order to preserve the secular nature of the universities, thus protecting the rights and freedoms of others, as well as public order, both being "legitimate aims." The court noted that "Article 9 does not protect every act motivated or inspired by a religion ..." and concluded that "it is established that institutions of higher education may regulate the manifestation of the rites and symbols of a religion by imposing restrictions as to the place and manner of such manifestation with the aim of ensuring peaceful co-existence between students of various faiths and thus protecting public order and the beliefs of others." The policy was also in compliance with Article 2 of the First Protocol, because the restriction did not impair "the essence of the applicant's right to education."

The Commission understood from its visit to Turkey that due to this persistent tug of war between those promoting Ataturk's secularist legacy and those pressing for greater expression of popular religious symbols and clothing, the "headscarf issue" is, without doubt, the most politically and popularly charged issue in Turkey today, one that each side now views as a "zero-sum" matter, leaving little room for a reasonable compromise. One interlocutor suggested that one form of compromise could be to allow headscarves at universities, but maintain the ban in state buildings. He contended that this would alleviate the need for a woman to be denied an education because of her professed religious obligation and would maintain the absence of religious garb in public buildings.

The "Dönme"

The Dönme are Muslims who are also descendants of the Jewish followers of a self-proclaimed messiah, Sabbatai Sebi (or Zevi, 1626-76), who was forced by the Ottoman sultan to convert to Islam in 1666. Their doctrine includes Jewish and Islamic elements, although they consider themselves Muslims and are officially recognized as such. Their name is the Turkish word for *convert* (it comes from the Turkish verb "dönmek," which means to turn or return) but it carries negative overtones of *turncoat* as well. Many among the Dönme kept up their original Jewish traditions through the centuries and are still known as having Judaism somewhere in their history. Though this community had experienced discrimination in the past in Turkey, in the 1980s and 1990s, overt discrimination had lessened, and intermarriage between Dönme and other Muslims grew more common.

The late Hrant Dink (center), who edited Agos, an Armenian-Turkish weekly, with Commissioners Elizabeth H. Prodromou and Michael Cromartie in November 2006. Dink was assassinated Jan. 19, 2007, allegedly by a 17-year-old Turkish ultranationalist.

In the past few years, however, several observers have noted the emergence of a campaign against the Dönme that has involved criticism of their not being "real" or "good" Muslims—and, it is implied, not good Turks (insinuating that this is because there is Judaism in their backgrounds). This campaign of intimidation, which was confirmed by several of the delegation's interlocutors during the visit to Turkey, is reportedly coming from political actors who, for political gain, wish to call into question the patriotism of their opponents. Several in Turkey confirmed that the Dönme in Turkey are subject to a wide variety of conspiracy theories and other attempts to malign them, and that the intimidation has been carried out within a wider pattern of rising anti-Semitism in Turkey in the last decade. To date, the government has done little or nothing to stem this pattern.

Problems for Religious Minorities

The consequences of some of Turkey's state policies toward religion have been particularly detrimental for religious minorities. These include the Greek, Armenian, and Syrian Orthodox communities, the Roman and Syriac Catholics, and the Jewish community, who together making up around 1 percent of the population, and the Alevis, a syncretic sect of Islam representing Turkey's largest religious minority. Several persons in Turkey pointed out that

in addition to the inauguration of Ataturk's conception of secularism, the establishment of the Turkish state in the aftermath of occupation by Allied powers with co-religionists in the Ottoman Empire had left an historical memory of fear—several of those the delegation spoke to used the word "paranoia"—of the possibility for contemporary dismemberment of Turkey. Thus, built into the founding of Turkish identity was the implicit understanding that citizens other than ethnic Turks residing in Turkey are potentially suspect, since they allegedly harbor a secret desire to secede from and hence, dismember the country. This fear of dismemberment, which has fueled a strain of virulent nationalism in Turkey, continues to hold sway in some sectors of society, resulting in state policies that actively undermine ethnic and minority religious communities, and, in some cases, threaten their very existence. The Commission learned in meetings that the Greek Orthodox and Armenian Orthodox communities are focal points for this perception and its resultant policies.

The January 2007 murder of Hrant Dink, a Turkish citizen and respected journalist of Armenian ethnicity, is just one example of the persistence of this extreme nationalism. Mr. Dink, with whom the Commission met on its visit to Turkey, had been convicted under Article 301 of the Turkish Penal Code for "insulting" the Turkish state because of his use of the term "Armenian genocide" in his public remarks and written publications. His conviction was converted to a suspended sentence following EU and other international pressure. Dink told members of the Commission that he continued to receive numerous death threats in the face of his discussion of issues of religious and political freedom considered by the Turkish government to be controversial. Prime Minister Erdogan quickly condemned the murder and the alleged perpetrator was promptly arrested. In addition, at a public meeting in New York in February 2007, Foreign Minister Abdullah Gul stated that the government had plans to amend Article 301. During the Commission's visit, the issue of the Armenian genocide was not raised by any interlocutors, but the continued refusal of the Turkish government to recognize the event continues to be a source of controversy in Turkey's relations with other Western countries, including the United States.

Alevis

Alevis are a minority Muslim community in Turkey that make up anywhere from 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. Though they are sometimes erroneously referred to as "Turkey's Shi'as," in fact, the Alevis are an offshoot of Shiism that many Sunnis—and Shi'as—view as heretical. The beliefs of the Alevis incorporate aspects of both Shi'a and Sunni Islam, as well as other, more ancient traditions found in Anatolia, and also include some mystical aspects of Sufism. Some more militant Sunnis do not regard the Alevis as Muslims.

The Alevis have generally been supporters of the policy of secularism in Turkey, as they have sometimes been fearful, in view of their perceived heterodoxy, that they will be discriminated against by any Sunni-oriented political authority. In fact, according to a representative of the Alevi community with whom the Commission met, as part of the general suspicion of "the other," until 1990, the word "Alevi" was not spoken in Turkey by state officials; the existence of the Alevis was not acknowledged until then. Since 1990, he noted, there has been progress for Alevis in Turkey.

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 are usually officially referred to as "cultural centers." Alevis are reportedly able to practice their beliefs relatively freely and build *cem evleri*, though there are cases in which Alevis have been denied permission to build a house for gathering purposes. According to an Alevi leader, obstacles to building new *cem evleri* include long delays—often lasting years—on building requests. Nevertheless, he noted, building *cem evleri* has become easier today than in the past. Another form of discrimination involves the fact that none of the budget of the *Diyanet* goes to the Alevis, as it is all reserved for the Sunni community. Alevis also reported experiencing harassment and discrimination in other aspects of life.

Alevi children are subject to the same compulsory religious education as all Muslims, which, Alevis contend—and Ministry of Education officials confirmed—involves instruction only about Sunni Islam. (Since Alevis are considered by the state to be Muslims, they are not able to opt out of this compulsory education.) According to the Alevi representative, Alevis are trying to use the judicial system to address this problem and currently have more than 4,000 court cases before the Ministry of Education. Several years ago, a member of the Alevi community in Turkey took this issue before the ECtHR, which has not yet issued a ruling

on the matter. The Turkish government had pledged—as early as 2004—to introduce instruction about Alevism into the school curriculum, but the Commission did not receive a definitive response to questions about whether or not this reform has been implemented.

It should be noted, however, that conversations with others in the Alevi community revealed a certain ambivalence about the effort to seek *Diyanet* funding or to include instruction about Alevism into the state's religion classes. Some are clearly in favor; others, however, fear that such state involvement and/or inclusion in the education system would lead to greater assimilation of Alevis into, or co-optation by, orthodox Sunni Islam.

Christian Minorities

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for non-Muslim religious minorities in Turkey, since interpreted by the Turkish government to refer only to the Greek Orthodox, the Armenian Orthodox, and the Jewish communities. Nevertheless, legal recognition of these and other religious minority communities has not been implemented in Turkish law and practice. The reason for this, according to a Foreign Affairs Ministry official, is that Turkey cannot tolerate the notion of legal personality based solely on religious identity, as it would undermine the country's secular system. Compounding this is the fact that, according to a representative of one minority community, there is no clear legal process through which these communities can even apply for legal status. The absence of legal personality has over the decades resulted in serious problems with regard to their right to own, maintain, and transfer property as a community and as individuals and to train religious clergy, leading in some cases to a critical decline in these communities on their historic lands.

His All Holiness Bartholomew I, Ecumenical Patriarch, with Commissioners Elizabeth H. Prodromou (left), Michael Cromartie, Preeta D. Bansal and Archbishop Charles J. Chaput.

The problems for the Christian minorities stem in part from the fact that most of them are, in addition to religious minorities, members of ethnic minorities also, and have thus faced some suspicion from the majority community with regard to their loyalty as Turkish citizens; indeed, in many instances, they are not fully accepted as Turkish citizens. At meetings with political party leaders and some Turkish think-tank representatives, the term "foreigner" was used to describe Christian minorities, particularly members of the Greek and Armenian Orthodox communities. Since the Turkish state has not officially recognized the existence of ethnic minorities inside the country, these groups are referred to and dealt with only as religious minorities, though not as legal entities. When the Commission met with members of these groups, all of them stressed their loyalty to the Turkish republic, the fact that they had proudly served in the Turkish military, and their chagrin at still not being treated as equal citizens of Turkey. It is this de facto status as "foreigners"—because they are Muslims and/or not ethnic Turks—that is behind so many of the problems that members of these communities face with regard to property rights, education, and, in some instances, physical security.

At the time Turkey was founded in 1923, there were approximately 200,000 Greek Orthodox Christians in the country. In 1955, by which time the number had fallen to 100,000, violent riots broke out targeting the Greek Orthodox community, resulting in destruction of private and commercial properties, desecration of religious sites, and killings. Due to the fallout from those riots and other difficulties for the Greek Orthodox minority, the number of Orthodox Christians has fallen to its current level of about 2,500. Although the Ecumenical Patriarch of the Greek Orthodox community in Turkey came under Ottoman Turkish rule in 1453, the Greek Ecumenical Patriarchate is

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not recognized as a legal entity by the Turkish government. Although the Ecumenical Patriarchate's constituencies include, in addition to Greek Orthodox Christians in Turkey, the Archdiocese of America, the international monastic community of Mt. Athos on the Chalcidice Peninsula, several small Orthodox Churches in EU member states, and the Orthodox Church of Australia, the Turkish authorities do not allow the Patriarch to use the term "ecumenical" in his title, recognizing him only as the head of Turkey's small (and decreasing) Greek Orthodox community. As a result, the government maintains that only Turkish citizens can be candidates for the position of Ecumenical Patriarch and for membership as hierarchs in the Church's Holy Synod. Yet, since the Turkish state does not protect the right of the Greek Orthodox minority to train its clergy, having closed down the Halki School of Theology in 1971 (see below), 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 are at risk.

Some state officials reported that opposition to the Ecumenical title of the Patriarch reflects, at least in part, the belief by Ankara that the Patriarchate will seek to build an Orthodox Christian status similar to that of the Vatican. In speaking with the Commission, His All Holiness Bartholomew I, the current Ecumenical Patriarch, confirmed that he is regularly accused of wanting to create a "second Vatican," a state within a state in Turkey. He rejected this notion outright, and explained that Orthodox theology does not allow the joining of church and state that characterizes the Vatican. He underscored that the accusation is wholly without merit.

The Armenian Patriarch similarly has no legal personality and there is no seminary in Turkey to educate clerics. There are 38 Armenian churches, the Commission was told, and only 20 clergy. A representative of the Armenian Orthodox community pointed out that it is costly to send people to Lebanon, Jerusalem, or Armenia to study, but the only religious education available to their community is high school. As with the Ecumenical Patriarch, the Armenian Patriarchate experiences direct interference in the selection of its religious leadership to the position of patriarch and to hierarchical positions in the synod, and the Turkish state also prevents Armenian Christians from operating an independent seminary to train new clergy members. The Armenian Patriarch recently submitted a proposal to the Minister of Education to enable the 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.

Metropolitan Yusuf Çetin of the Syrian Orthodox Church told the Commission that his community also does not have a seminary to train clergy. The Syrian churches face a particular problem in that their mother tongue is Aramaic, an ancient Semitic language dating back over 2,000 years, whose use is dying out in Turkey. The Metropolitan also described the way in which the decades-long conflict between the Turkish government and Kurdish rebels in the southeast had created serious difficulties for his community. He reported that violence between the Turkish military and the Kurds had led to the death of 60 members of the Syrian Orthodox community, as well as the evacuation of Syrian Christian villages. He reported that conditions have begun to improve, noting that the Turkish government has provided some assistance in restoring churches and monasteries.

The "Lausanne minorities," the Greek Orthodox, the Armenian Orthodox, and the Jewish community, may operate primary and secondary schools for children under the supervision of the Ministry of Education. However, such

schools are required to appoint a Muslim as deputy principal; reportedly, these deputies often have more authority than their nominal supervisors. In addition, regulations on the non-Muslim schools changed in the 1980s, making it more difficult for non-Muslim children to register and attend these schools. School registration now must be carried out in the presence of inspectors from the Ministry of National Education, who reportedly check to ensure that the child's father is in fact from the relevant minority community.

In addition to these difficulties, the members of some minority groups, particularly members of the Greek Orthodox, Roman Catholic, and Protestant communities, are sometimes subject to societal attacks, usually by nationalists or religious extremists. 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 Erdogan 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 the following October. Also in February 2006, a Slovenian Catholic monk was attacked in Izmir. In October 2004, a month after a group of nationalists and others marched on the Patriarchate in opposition to granting "foreigners" any rights, a bomb was thrown into the Patriarchal compound. During the visit to Turkey of Pope Benedict XVI in November 2006, the press office of the Ecumenical Patriarch was reportedly harassed in an effort to stifle press operations, and Orthodox believers in Turkey were reportedly improperly prevented from attending a special service that was celebrated by the Ecumenical Patriarch on the occasion of the Pope's visit to Turkey, for which they claimed to have had valid official authorization. In addition, Orthodox Christian pilgrims from outside Turkey also planning to attend the service were subjected to what were reported by some to be deliberate delays, intimidation, and other harassment on the part of Turkish officials.

Protestants in Turkey, who number approximately 3,000, are primarily converts from other religions and are predominantly Turks by ethnicity, and thus not members of an ethnic minority as are most other Christian groups. As the Turkish state largely rejects their legal personality, Protestant Christians often meet in the buildings of other churches, homes, and in other property that is either rented or owned. The head of the Protestant Church in Istanbul was able to register a foundation for his community in 2000 and was then able to register his church building under this foundation in 2006. According to a representative of the church, this move became possible as a result of changes in the wording of the zoning laws from "mosques" to "places of worship," a change that occurred in 2003 as part of the legislative reforms for the EU accession process.

Meeting in homes is often viewed with suspicion, as some in Turkey believe that such meetings indicate subversive intentions. Police sometimes bar Protestant groups from holding services in private homes and have detained and prosecuted individual Protestants for holding unauthorized gatherings. As an example of the difficulties they face in this regard, a Protestant leader described to the Commission the situation of the church's only building in the town of Eskisehir. The building was cited by the local authorities for demolition on the basis that it was not earthquake proof. In this case, the group sought publicity on the matter from foreign journalists and also contacted the Prime Minister's office; in the end, the Eskisehir municipality did not go forward with its demolition plans and pledged not to touch the building in the future.

Although engaging in public religious expression and persuasion is not illegal in Turkey, persons involved in such activities are sometimes harassed and arrested. In November 2006, two Christian men stood trial under Article 301 on charges of "insulting Turkish identity" for carrying out missionary activities. They attended their second court hearing in January 2007. The State Department reported that last year, the government "waged a public campaign" against Christian and Christian missionary activity, including by composing a sermon that was distributed to imams and delivered in the mosques suggesting that the presence of missionaries was part of a plot by foreigners to "steal the beliefs" of Turkish children. This campaign was reportedly accompanied by a significant increase in anti-Christian articles in the Turkish media.[8] Protestant individuals and/or property are also subject to societal attacks. In January 2007, a Protestant church in the Black Sea town of Samsun was vandalized; the church had also experienced similar stoning attacks in the past two years. In April, three employees of an Evangelical Protestant publishing house in the city of Malatya were murdered in a shockingly brutal manner, reportedly by youths associated with a nationalist group. Five persons suspected of committing the murders were arrested soon after the attack, and five others were detained days later.

Turkish tiles in Topkapi Palace, Istanbul

Property Issues and the Law on Foundations

Many of the most serious problems faced by religious minorities in Turkey, particularly the Christian groups, involve property rights and ownership. While the *Diyanet* runs Sunni Muslim affairs, another government agency, the General Directorate for Foundations (*Vakiflar*) regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. The establishment of a foundation is the mechanism through which a minority religious community can own property, including buildings of worship, schools, and other institutions. As noted above, the communities themselves have no legal status in Turkey. Therefore, there is no way other than through a foundation for a religious community to become a collective legal entity. The rules governing the foundations of minority religious communities in Turkey have been found to be intrusive and in many cases, onerous. During the visit, representatives of a number of minority religious groups reported extensive problems in the way their foundations are regulated by the state.

Over the previous five decades, the state has, using convoluted regulations and undemocratic laws, confiscated hundreds of religious minority properties, primarily those belonging to the Greek Orthodox community, although Armenian Orthodox, Catholics, and Jews also reported such expropriations. The state has also closed their seminaries, denying these communities the right to train clergy. In 1936, the government required all foundations (including those that supported religious activities) to declare their sources of income; in 1974, at the time of the Cyprus invasion, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those listed in those 1936 declarations. Particularly since that time, the government has seized control of hundreds of properties acquired after 1936; religious minority foundations that are recognized by the state can acquire property, but previously appropriated property cannot be reclaimed. In many cases, the government has prevented the Orthodox from using a particular property and then expropriated it—with the justification that it is not being utilized. There is also no right to appeal these government actions.

Renovation works undertaken by community foundations that exceed a certain cost amount require a permit from the *Vakiflar*. Moreover, a recently adopted procedure requires that a permit also be obtained from the Ministry of Foreign Affairs, confirming that religious minorities are still viewed as "foreign" in Turkey. Greek and Armenian Christians have been especially subjected to limitations on maintaining religious and cultural sites, due in part to bureaucratic obstacles in gaining the necessary authorization. Groups are prohibited from using funds from their properties in one part of Turkey to support their existing population elsewhere in the country. Roman Catholics have also had much of their property confiscated by the government. In 1993 – 1996, the state conducted political consultations at the Vatican, which concluded in a cooperation agreement between the University of Ankara and the Jesuit Consortium Gregorianum and the reopening of the chapel at Tarsus; however, in most cases the state has taken possession of Catholic property or prohibited its use for other purposes. The authorities have also imposed restrictions on the renovation of Catholic churches and monasteries.

Under pressure from the EU, the current AK Party government passed legislation three years ago giving the Greek Orthodox and other minorities the right to acquire property and regain property expropriated by the Turkish state. Nevertheless, even after this legislation was passed, it was reported that minority Greek and Greek Orthodox properties continued to be confiscated at a high rate, based on such criteria as disuse or absence of a sustaining population; between 1999 and 2005, it was reported that approximately 75 percent of Patriarchal and Patriarchal-affiliated properties owned at that time were confiscated.

In November 2006, the Turkish government, as part of the ninth reform package on EU accession, passed a new law governing foundations. However, though this legislation does

address some key concerns, it is thought by most observers not to go far enough to remove the shortcomings of the system as it has functioned in Turkey for so many decades. The law does make it easier to form a foundation by simplifying the process and allowing non-Turkish citizens resident in Turkey to open foundations. In addition, the new legislation allows groups to recover property that was registered after the 1936 decree but still confiscated by the state. However, the new law does not enable foundations to regain confiscated property that the state sold to third parties, a category that reportedly involves a considerable amount of property, nor does it end the *Vakiflar's* authority to continue expropriating foundation properties if the foundation is determined not to be carrying out its stated purpose or the population in question has declined (although no properties were in fact confiscated in 2006). Much of this was made moot, however, as the following December, Turkish President Ahmet Necdet Sezer vetoed the new legislation, stating that several of its provisions were incompatible with the Turkish Constitution. This was not the first time that President Sezer vetoed legislation passed to bring Turkey's legislation in line with EU standards, frequently with the claim that the legislation threatened the state's secular structure.

In one other important development whose impact is as yet unknown, in January 2007, the European Court of Human Rights (ECHR) ordered the government of Turkey to return the property of a charitable foundation (an orphanage) that had been seized in 1974 or pay compensation. This was the first ruling by the ECHR censuring Turkey on issues involving charitable foundations set up by religious minorities. As of this writing, the Turkish government has not complied with this ruling.

The Case of the Halki Seminary

After the military coup in 1971, the Turkish state nationalized all private institutions of higher learning, including those devoted to religious training. As a result, the Halki School of Theology, which is the theological seminary on the island of Heybeli that, since the nineteenth century, has trained religious leaders of the Ecumenical Patriarchate and Orthodox Christian communities worldwide, was closed. Despite repeated government promises that it would be reopened, it remains closed as of this writing. Since the Turkish state imposes a citizenship requirement on candidates to the religious leadership positions of the Ecumenical Patriarch but prevents training of such clergy by keeping Halki closed, the Ecumenical Patriarch has said that this policy is deliberately designed to eliminate the Greek Orthodox community from Turkey.

Several Turkish officials explained to the Commission that the Turkish government cannot agree to re-open the Halki Seminary because it will upset the balance of the state's position with regard to Muslim seminaries, or *madrassas*, which remain administered by the state. According to Ecumenical Patriarch Bartholomew, however, there are currently 24 divinity schools in operation in Turkey for teaching Muslim theology. What is more, the Halki Seminary was open and functioning from 1923-1971 without threatening the relationship between the state and Muslim institutions of higher learning. The Halki school would not operate independently from the state as some have claimed, the Patriarch said, but would operate under the Ministry of Education. With regard to the proposal by the Armenian Orthodox Church and others to establish a department of theology at a university, the Ecumenical Patriarch explained that the Greek Orthodox community does not want a university department of religion, but instead desires the reopening of the Halki school in order to train clergy. Bartholomew also reported that his numerous, formal written communications to Prime Minister Erdogan and other Turkish officials to request a discussion about Halki have received no response. In meetings with Turkish state officials in the *Vakiflar* and *Diyanet*, as well as with members of Turkish political parties, the Commission was told that the decision was a "political decision" that rested with the President's office.

Jews

According to several Jewish community leaders with whom the Commission met, there are 23,000 Jews in Turkey today. Jews operate their own schools, hospitals, two old-age homes, and welfare institutions, as well as a Jewish newspaper, which is in Turkish with one page in Ladino.[9] The majority of Jews in Turkey (96 percent) have ancestors who fled from Spain or Portugal. The situation for Jews in Turkey is better than the situation in other majority Muslim countries and Jews report being able to worship freely and their places of worship generally receive government protection when it is required. Nevertheless, concerns have arisen about attacks on synagogues in recent years and increasingly vocal anti-Semitism in some sectors of the media.

In 2001, a new Jewish Museum of Turkey was opened in Istanbul, the only museum of its kind in the Muslim world, illustrating 700 years of Jewish life in Turkey. Like the other religious minorities, Jews have experienced problems in operating their synagogues because of the laws governing foundations. For example, there was a law imposing a low limit on the amount of money that could be spent repairing a building, which is preventing the community from developing its property. Generally speaking, however, the Jewish community did not report the kind of difficulties with property and property rights that other religious minority communities have experienced. In fact, since the changes that have been made to the law during the EU accession process, Jewish representatives report that their foundations have bought and sold some property. Like the Alevis, Jews in Turkey tend to be wary of any attempt to inject religion—i.e., the majority religion—into state policies, which leads them, generally speaking, to be strong supporters of Ataturkist secularism. They expressed fears that changes in secularism could lead to further expressions of anti-Semitism and limits on religious freedom for Jews.

In November 2003 and August 2004, synagogues were bombed by terrorists associated with al-Qaeda, the first attack killing 25 persons and the second two persons. The attackers also bombed the British Consulate and a British bank in Istanbul. The Turkish state took prompt action to bring to justice the perpetrators of the attack, which was reportedly carried out by a Turkish al-Qaeda cell. As of the end of last year, more than 70 suspected al-Qaeda militants were on trial for their alleged roles in the bombings, though some of those suspected of involvement have fled the country. The authorities, as well as the public, reacted with outrage and sympathy for the victims. The day after the terrorist bombing in November 2002, in an apparently unprecedented move, Prime Minister Erdogan visited Turkey's Chief Rabbi to express condolences.

In meetings with representatives of the Jewish community of Istanbul, concern was expressed about increasing anti-Semitism in some sectors of the media that is generally coupled with anti-Americanism, particularly in media outlets that are viewed as either nationalist or religious extremist. In 2005, a new Turkish edition of Adolf Hitler's *Mein Kampf,* along with the notorious anti-Semitic *Protocols of the Elders of Zion,* were bestsellers on popular reading lists published in Turkey. The growing anti-Semitism is thought in part to be a reflection of increasingly politicized Islamist sentiments due to some degree to wide opposition in Turkey to the U.S. invasion of Iraq; there are a growing number of specious stories about Israeli and U.S. misdeeds in Iraq, as well as pieces containing more conventional anti-Semitic stereotyping. According to Turkey's Jewish leaders, anti-Semitism in the Turkish media is directly related to what is happening in the Middle East; Jews in Turkey report that they are held responsible for events in the Middle East, though they regularly try to emphasize that they are Turkish citizens and not involved in any way. All of these factors, together with the 2003 and 2004 bombings, have resulted in an increasing sense of fear and insecurity among members of the Jewish community that has generally not been present before in Turkey.

The Way Forward for Turkey

Without exception, everyone the delegation met with in Turkey, including those from among all of Turkey's religious communities, stressed EU membership as the most promising means to advance religious freedom and other human rights protections and to drive democracy forward in Turkey. In the past few years, in response to EU Commission reports regarding a start-date for Turkey's accession negotiations, Ankara undertook important legal changes that have included a series of domestic reforms in human rights matters. Notably, since accession negotiations began in late 2002, Turkey has ratified three major international human rights treaties, specifically the International Covenants and the Racial Discrimination Convention. Key among them is the International Covenant on Civil and Political Rights (ICCPR), which in article 18 sets forth the clear-cut obligations of states parties with regard to freedom of thought, conscience, and religion, and in article 19 specifies the wide-ranging elements of freedom of expression. Turkey also ratified its optional protocol, permitting individual complaints to be submitted to the UN treaty monitoring body. The International Covenant on Economic, Social, and Cultural Rights has also been ratified. The Convention on the Elimination of Racial Discrimination, ratified in 2002, prohibits discrimination in regard to a wide range of public actions by the state, including the right to freedom of thought, conscience, and religion, and such rights as to own property and to education.[10]

Various laws, including the Penal Code, Anti-Terror Law, and the Press Law, have been amended, lifting several

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legal restrictions on the exercise of freedom of expression. The new Penal Code narrows the scope of some articles that have been used to convict those expressing non-violent opinion, such as new Article 216, which limits convictions on incitement charges, and Article 125, which narrows the scope of defamation. The new Penal Code also strengthened the principle of equality between men and women.

In addition, since 2002, Turkey has also boosted efforts to comply with the decisions of the ECtHR. Some of the other reforms reported in European Commission Progress Reports on Turkey include a reduction in military prerogatives in civilian politics through the institution of the National Security Council; enshrining the principle of the primacy of international and European human rights conventions over domestic law in the Constitution (Article 90 of the Constitution was revised in May 2004 for this purpose); abolishing State Security Courts and transferring some of their responsibilities to newly created Regional Serious Felony Courts; the adoption by Parliament of a new Civil Code and a new Penal Code, both of which entered into force in April 2005; the creation of Intermediate Courts of Appeal and a family courts system (the law on family courts was amended in April 2004 in order to exclude their jurisdiction over all non-family law matters); the ratification of various international treaties; and the abolishment of the death penalty in January 2004. It was in 1987 that Turkey declared its recognition of the individual application procedure to the ECtHR. According to the November 2006 EU progress report, from September 2006 until August 2006, over 2,100 new applications with regard to Turkey were made to the ECtHR. The report goes on to note that Turkey has "made progress…in the execution of ECtHR judgments." However, the report also notes that more efforts at compliance are needed.

In the same way, more needs to be done to ensure that religious freedom and other human rights will be protected in Turkey. State control of religious life persists in Turkey, involving management through the Diyanet of the majority Sunni Muslim community—exemplified by the continued legal restrictions on religious dress in state buildings, including in both public and private institutions of higher education. According to international standards, each individual is guaranteed the freedom to manifest his or her religion or belief in public, or not to do so. At the same time, concerns must be addressed that a lifting of the ban on headscarves might jeopardize the rights of women, subjecting them to societal and possibly even state coercion on matters of religious observance.

Despite the constitutional protection for religious freedom, other of the problems described in this report remain. These problems include:

- the absence of full legal recognition for religious minorities, including Alevis; Greek, Armenian, and Syrian Orthodox; Roman and Syriac Catholics; Protestants; and Jews;
- the lack of full property rights for religious minorities, including the right to own and maintain property as a community, leading in some cases to a critical decline in these communities on their historic lands;
- the continued incidents of anti-minority violence, especially against members and property of the Greek Orthodox community, the growth in violence against members of the Catholic and Protestant communities, and the growing anti-Semitism in some sectors of the Turkish media;
- the continued existence of Article 301 of the Turkish penal code, which restricts freedom of expression through prohibitions on insulting "Turkishness" and the Turk-

ish state, with associated negative effects on religious freedom also, as evidenced by the charges against the two Protestants noted above;

- a decades-long government practice, through convoluted regulations, of expropriating the property of religious minorities, particularly the Greek and Armenian Orthodox, without a court administrative process or adequate compensation;
- the closure of and refusal to permit institutions for religious minorities to train religious clergy, depriving them of the ability to train future clerics, and the associated state demand that religious leaders must be Turkish citizens;
- the failure of the Diyanet to include the Alevi community, the country's largest religious minority, in its activities involving the administration of Muslims in Turkey, and the general societal discrimination against Alevis in other areas of life in Turkey;
- restrictions on the ability of leaders of majority and minority religious communities to wear clerical garb in public areas and state institutions and public and private universities and restrictions on the Christian and Jewish communities from wearing clerical garb in the public space writ large; and
- state policies that impede the opening or repair of churches and other worship buildings.

The Commission strongly urges the U.S. government to persist in raising these religious freedom concerns regularly with the government of Turkey. Clearly, the remaining problems are troubling enough to warrant their continued inclusion on the U.S.-Turkish bilateral agenda. It became apparent to the Commission after the visit that in order for Turkey to address the remaining problems faced by both the majority Muslim and minority religious communities, continuing the democratic reform process, which was intensified as a result of the EU accession project, is critical. In February 2007, Foreign Minister Gul announced at a meeting in New York that despite the December suspension by the EU, Turkey would open the chapters itself and continue with its reform program, since the reforms benefit the people of Turkey. Whether or not Turkey ever becomes an EU member, he continued, it is important that the country adopt the EU's democratic standards. In March 2007, Turkey resumed accession talks with the EU and also announced that it would set into motion a 13-step reform program in the following months. The Commission encourages the U.S. government to continue to support the Turkish government in its efforts to implement the remaining reforms needed to further the EU accession process and move Turkey forward on the democratic path.

Ayse Sucu, head of the Women's Branch, Religious Affairs Directorate (Diyanet), with Commissioner Preeta D. Bansal (left) and USCIRF Chair Felice D. Gaer.

COMMISSION RECOMMENDATIONS

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

- report fully and promptly to international supervisory mechanisms regarding the international human rights treaty obligations Turkey has accepted since 2002. Turkey should immediately submit its report on compliance with the ICCPR (due in 2004) to the UN Human Rights Committee for review, including a detailed report on its obligations under Article 18. Reports on compliance with the other newly ratified instruments should also be prepared and submitted;
- implement the judgments on religious freedom and related rights of the European Court of Human Rights, including the recent ECtHR decision ordering the government of Turkey to return the property of a Greek charity that had been seized in 1974 or pay compensation;
- continue with the legal reforms that will ensure conditions for the full exercise of all human rights, including religious freedom, for all individuals and religious communities in Turkey and implement fully and promptly the reform legislation already in force. The obligations under the Lausanne Treaty of 1923 for the Greek Orthodox, Armenian Orthodox, and Jewish communities should be implemented and treated as minimum obligations for the Turkish government for all Turkish citizens;
- take measures, in accordance with international standards, to establish a legal personality or status for religious communities and to address the restrictions on the right to own property and train clergy, including by re-opening the Halki School of Theology, to bring those restrictions into line with the requirements of the ICCPR and the 1981 UN Declaration on Religious Intolerance, and other relevant international norms;
- undertake significant steps to establish and enhance trust between the majority and minority religious communities in Turkey. Specifically, every effort should be made to acknowledge, as the EU states, that "the existence of minority religious groups is an aspect of pluralism that needs to be recognized and preserved as an asset to Turkish society, rather than perceived as a threat."[11] The government should consider measures such as 1) convening a public roundtable to air grievances, consider diverse opinions, and express commitments to a democratic, more inclusive Turkish society, and 2) developing civic education and public awareness programs that reflect the religiously plural nature of Turkish society and the diversity of Turkey's religious past; and
- In view of Turkey's standing invitation to receive visits from UN special rapporteurs on human rights, encourage a return of the relevant rapporteurs, including the Special Rapporteur on Freedom of Religion or Belief, in the near future.

ENDNOTES

[1] Commission of the European Communities, Turkey 2006 Progress Report, Commission Staff Working Document, 8 November 2006, SEC (2006) 1390, p. 16.

[2] Article 14 of the Constitution states that "None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas…"

[3] The United States participated as a non-signatory conference observer.

[4] Some of these changes have since been reversed, most notably the call to prayer, which, as for all other Muslims, is rendered in Arabic.

[5] This and much other information about the Diyanet can be found on its Web site, http://www.diyanet.gov.tr/english/default.asp.

[6] U.S. Department of State, 2006 International Religious Freedom Report, "Turkey" (http://www.state.gov/g/drl/rls/irf/2006/71413.htm).

[7] It was after the 1980 military intervention that the wearing of headscarves in public institutions was banned.

[8] U.S. Department of State, Annual Report on International Religious Freedom 2006, "Turkey," September 2006.

[9] Ladino is a Romance language, derived mainly from Old Castilian (Spanish) and Hebrew. Speakers are currently almost exclusively Sephardic Jews, found in (or from) Thessaloniki and Istanbul.

[10] Turkey was already a state party to the Convention Against Torture (CAT), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

[11] European Commission Against Racism and Intolerance, Third Report on Turkey, Adopted 25 June 2004, p. 25.

Following the fall of the Ba'athist regime and brief period of rule by the U.S.-led Coalition Provisional Authority, the United States returned full sovereignty to the Iraqi people in June 2004 under the terms of UN Security Council Resolution 1546. That resolution endorsed the formation of an interim Iraqi government, which was then followed by parliamentary elections in January 2005. Boycotted by many Sunni groups, those elections brought a Shi'a majority government to power in coalition with Kurdish parties. United States and foreign military forces subsequently remained in Iraq at the Iraqi government's invitation to support the new regime and help fight international terrorism.[1]

Despite ongoing efforts to stabilize the country, however, successive Iraqi governments have not curbed the growing scope and severity of human rights abuses. Instead, in the past year, there has been a dramatic increase in sectarian violence between Arab Sunni and Shi'a factions, combined with religiously-motivated human rights abuses targeting non-Muslims, secular Arabs, women, homosexuals, and other vulnerable groups, on which the Commission has previously reported. Although the Sunni-dominated insurgency and foreign *jihadi* groups are responsible for a substantial proportion of the sectarian violence and associated human rights abuses, Iraq's Shi'a-dominated government bears responsibility for the actions it engages in, as well as for tolerating abuses committed by Shi'a militias with ties to political factions in the governing coalition. What is more, the Iraqi government is a party to the International Covenant on Civil and Political Rights, which permits no government derogation from international protections for religious freedom, even during declared periods of national emergency.[2]

The Commission has identified two major areas of concern. The first is human rights violations committed by the Iraqi government through its state security forces, including arbitrary arrest, prolonged detention without due process, extrajudicial executions, and torture. Many such actions of the security forces are directed against suspected terrorists and insurgents. Some of these actions, however, fail to discriminate between those groups and ordinary Sunnis targeted on the basis of their religious identity. The second is the Iraqi government's apparent tolerance of religiously-motivated attacks and other religious freedom abuses carried out by armed Shi'a factions, including the *Jaysh al-Madhi* (Mahdi Army) and the Badr Organization (formerly the Badr Brigades). Abuses committed by these militias target Sunnis on the basis of religious identity and include abductions, beatings, extrajudicial executions, intimidation, forced resettlement, murder, rape, and torture.

Many of these militia-related abuses occur contrary to the stated policy of Iraq's senior national leadership, and despite considerable security assistance from the U.S.-led coalition forces. Nonetheless, relationships between these militias and leading Shi'a factions within Iraq's ministries and governing coalition indicate that the Madhi Army and

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Together with the rising tide of sectarian violence, conditions for religious minorities and the associated Iraqi refugee crisis require heightened attention and more effective action by the U.S. government.

Children's Hospital, Basra, Iraq (Courtesy of Frederick Gerber/ Project Hope)

Badr Organization are para-state actors, and operate with impunity or even governmental complicity. Given these ties, the Iraqi government's failure to control such actors could ultimately constitute tolerance of egregious, ongoing and systematic violations of religious freedom as defined in the International Religious Freedom Act of 1998 (IRFA).

The Commission is also concerned about the grave conditions affecting non-Muslims in Iraq, including Chaldo-Assyrian Christians, Yazidis, Sabean Mandaeans, and other minority religious communities. These groups face widespread violence from Sunni insurgents and foreign jihadis, and they also suffer pervasive discrimination and marginalization at the hands of the national government, regional governments, and para-state militias, including those in Kurdish areas. As a result, non-Muslims are fleeing the country in large numbers. The Commission continues to monitor conditions for Iraqi refugees and internally displaced persons (IDPs), particularly those minority groups experiencing a degree of religious intolerance and persecution vastly disproportionate to their numbers. Together with the rising tide of sectarian violence, conditions for religious minorities and the associated Iraqi refugee crisis require heightened attention and more effective action by the U.S. government.

The Secretary of State designated Saddam Hussein's Iraq a "country of particular concern" (CPC) under IRFA from 1999 until 2002, following Commission recommendations citing extensive, systematic government violations of religious freedom. The Secretary later dropped that designation in 2003, following the U.S. intervention and the subsequent collapse of Hussein's government. In the intervening years, the Commission has reported on religious freedom conditions in Iraq, noting improvements in some areas but new and continuing problems in others. Now, due to the alarming and deteriorating situation for freedom of religion and belief, and because the new Iraqi government has either engaged in or otherwise tolerated violations of freedom of religion as defined under IRFA, the Commission has placed Iraq on its Watch List with the understanding that it may designate Iraq as a CPC next year if improvements are not made by the Iraqi government.*

* Commissioners Bansal, Gaer, and Prodromou conclude that based on the severe human rights and religious freedom conditions now extant in that country, and the sovereign government's complicity with, or toleration of, abuses as outlined in this chapter, Iraq should be recommended for designation as a country of particular concern (CPC) at this time.

Abuses by the Sunni-Dominated Insurgency

IRFA addresses religious freedom violations that are either committed or tolerated by governments. It does not contemplate abuses committed by non-state actors, including groups engaged in military confrontations with state authorities. Accordingly, the Commission's Watch List designation does not reflect the actions of indigenous Sunni insurgents or foreign jihadis, whom the Iraqi government is fighting alongside U.S. and other coalition forces. Nonetheless, it is essential to note that these non-state militants continue to perpetrate severe abuses of religious freedom and other human rights.[7]

The Sunni-dominated insurgency is comprised of former Ba'athists, indigenous *Salafi* militants, tribal groups, and various organized criminal groups. This insurgency is hydra-headed, with each faction possessing varied objectives and *modus operandi*. Former Ba'athists systematically target Iraqi government officials and suspected coalition collaborators, including but not limited to fellow Sunni Arabs. Tribal factions and other Sunni nationalists, by comparison, appear to be locked in a cycle of violence and reprisal with government-linked Shi'a militias. These indigenous insurgents operate alongside a growing spectrum of foreign jihadi groups that cooperate in some instances and compete in others.[8]

The insurgency's effect on security and protections for universal human rights in Iraq is pernicious. As the U.S. Department of State observed, Sunni militants routinely "kidnapped and killed government officials and workers, common citizens, party activists participating in the electoral process, civil society activists, members of security forces, and members of the armed forces, as well as foreigners."[9] Other abuses include religiously-motivated attacks on Shi'as and Shi'a holy sites, such as the February 2006 bombing of the al-Askari Mosque in Samarra and the March 2007 suicide attacks that killed an estimated 120 Shi'a pilgrims traveling to Karbala to mark the end of Ashura.[10] Finally, Sunni insurgents and foreign jihadis are a principal source of violence between Arabs and Kurds in ethnically-mixed regions such as Mosul and Kirkuk, as well as violence targeting non-Muslim religious minorities living in northern and western Iraq.

Also significant are foreign Sunni fighters with links to al-Qaeda in Iraq (AQI) and similar transnational jihadi groups. Though small in number when compared with Iraq's indigenous insurgents, military observers widely acknowledge that these factions are responsible for many

PRIOR COMMISSION ACTION

This Watch List designation follows four years of Commission activity concerning U.S. efforts to advance protections for universal human rights, including religious freedom, for all in post-Saddam Hussein Iraq. As early as April 2003, the Commission urged President Bush to work with Iraqis to ensure that all Iraqis could exercise their religious freedom in full accordance with international human rights standards. In February 2004, the Commission notified the leadership of the Coalition Provisional Authority (CPA) that the initial drafts of Iraq's Transitional Administrative Law (TAL) did not guarantee the freedom of thought, conscience, religion or belief for all Iraqis. In a letter to then-CPA Chief Ambassador Paul Bremer, the Commission also expressed concern about provisions establishing Islam as a source of legislation and the potential impact of these provisions on protections for human rights. These warnings encouraged a substantial expansion of the TAL's guarantees for individual rights, including protections for religious freedom.

Later that same year, the Commission issued recommendations advocating extensive human rights protections in Iraq's permanent constitution, including the individual freedoms enumerated in the revised TAL. The Commission continued to press for these guarantees following the election of Iraq's National Assembly in 2005, urging both Iraqi civil society leaders and U.S. Ambassador to Iraq Zalmay Khalilzad to promote constitutional guarantees for freedom of thought, conscience, and religion or belief for all Iraqis, as well as provisions for the legal equality of religious minorities and women. These themes were featured prominently in an August 2005 op-ed by Commissioners Preeta Bansal and Nina Shea published in *The Washington Post*.[3]

The Commission also produced a detailed analysis of Iraq's draft constitution and a comparative study of constitutions in 44 Muslim-majority countries, which was published in the Georgetown University Journal of International Law. The Commission extended that analysis in March 2006, raising concerns regarding the newly adopted constitution's "repugnancy" clause, which mandated that no law be contrary to "the established provisions

(Continued on page 31)

Both the U.S. government and international human rights defenders locate the primary source of government-perpetrated human rights violations in the Iraqi Ministry of the Interior.

of the most provocative and egregious attacks upon Shi'a civilians, mosques and religious festivals. More than any other element in the Sunni-dominated insurgency, foreign fighters focus attacks on Shi'a religious leaders and sites with the stated object of fomenting and fueling sectarian discord.

The hatred with which foreign jihadis view Iraq's Shi'a majority is particularly evident in slain AQI leader Abu Musab al-Zarqawi's February 2004 letter to Osama bin Laden and Ayman al-Zawahiri. The letter accuses Shi'a of atheism, polytheism, treachery against Islam, and collusion with the West. Al-Zarqawi's indictments sketched a political and theological rationale for fomenting sectarian civil war, thus underscoring the importance of religion and religious identity as a motivating and exacerbating factor in the violence in Iraq.[11] Combined with abuses perpetrated by the Iraqi government, para-state militias and other non-state actors, AQI's presence amplifies the radicalization of Iraqi society along sectarian lines while fostering growing religious intolerance.

Violations by the Iraqi Government

Although the Sunni insurgency accounts for a significant proportion of religiously-motivated human rights abuses in Iraq, the Iraqi government remains responsible for those violations perpetrated by its own security forces and officials of national ministries, as well as by regional and local government authorities. These violations include arbitrary arrest, prolonged detention without due process, extrajudicial executions, and torture. Pervasive threats and abuses against women, members of religious minorities and other vulnerable groups are also common, as is the continued *de facto* marginalization of these vulnerable groups. These actions, including those evident in Kurdish regions, are discussed in greater detail later in this chapter.

Many of the documented human rights violations by Iraqi national security officials have been committed against suspected Sunni insurgents and criminals. Nonetheless, ordinary Sunnis have also been swept up in government dragnets and abused while in official custody. These individuals' religious affiliation appears to be a dominant factor in their arbitrary detention and subsequent maltreatment. Moreover, the Iraqi government has done little to date to hold government personnel who perpetrate these violations accountable. As a result, many Sunnis have come to believe that attacks on their community by Iraq's Shi'a-dominated security forces can be carried out with impunity.[12] This impression is further exacerbated by the fact that the Iraqi government has excluded Sunnis and non-Muslims from various state-sponsored benefits and programs.

Both the U.S. government and international human rights defenders locate the primary source of government-perpetrated human rights violations in the Iraqi Ministry of the Interior (MOI).[13] In January 2005, for example, human rights monitors published an extensive report documenting the routine torture of detainees by Interior Ministry officials, including beatings and electrocution, as well as their deprivation of food and water.[14] As noted above, detainees abused by this treatment included suspected insurgents and criminals, as well as other Sunnis who appear to have been targeted based on their religious identity. Most troubling, there "was little indication that MOI or other government officials took disciplinary action in cases alleging abuses, apart from some transfers within the ministry."[15]

Commissioner Preeta D. Bansal and Sheikh Fatih Kashif Al-Ghitta at a 2005 meeting of Iraqi civil society in Amman, Jordan, to discuss issues related to drafting Iraq's permanent constitution.

Human rights violations by MOI forces are also committed outside custodial settings. In May 2006, for example, the Iraqi government admitted the presence of a Shi'a terror group within the MOI's 16th Brigade, before arresting a Major General and 17 other MOI employees implicated in kidnapping and "death squad activities."[16] In October 2006, the U.S. military charged that Iraq's 8th Brigade, 2nd National Police had been responsible for the kidnapping of 26 Sunni factory workers in southwest Baghdad, 10 of whom were later executed. During the same period, print and broadcast media reported that the 8th Brigade wore government uniforms and used government vehicles during armed raids on civilians in Sunni neighborhoods.[17] The MOI subsequently disbanded the brigade, sending hundreds of officers to alternative units. To date, the Commission has not received reports indicating that 8th Brigade personnel were held accountable for these violations beyond receiving administrative transfers. In numerous other cases of MOI violations, there have been no reported actions to hold violators to account.

The Commission's concern over these violations is further amplified by new emergency regulations announced on February 13, 2007 in conjunction with the joint Iraqi-Coalition Baghdad Security Plan. Those regulations authorize arrests without warrants, as well as the interrogation of suspects without clear limitations on the amount of time they can be held in pre-trial detention. Despite government assurances that MOI and other officials would observe international human rights standards and conduct investigations in accordance with Iraq's Criminal Procedure Code, such commitments have seldom been respected in the past. Moreover, as the UN Assistance Mission for Iraq (UNAMI) noted, "the absence of effective monitoring and accountability mechanisms governing the conduct of law enforcement personnel only serves to exacerbate the problem."[18]

The violations described above accompany other government violations of religious freedom in Iraq, including the seizure of religious property by the Iraqi government and its security apparatus. In May 2006, for example, the MOI raided Baghdad's Abu Hanifa Mosque with the stated object of capturing alleged Sunni insurgents. National government officials subsequently converted this historic Sunni structure to Shi'a use, against the objection of Sunni leaders and clerics. This conversion of religious property followed the MOI's June 2005 seizure Amarra's Hetten Mosque in a similar operation. As with the Abu Hanifa Mosque, this incident also led to the transfer of historic

of Islam.[4] The Commission also expressed concern over constitutional provisions requiring that Islam serve as a "foundational source" for legislation while providing "no additional constitutional guidance to address the question of what governmental body, person or mechanism, if any, is charged with assessing legislation's conformity with Islamic principles or law.[5]

Later in 2006, the Commission concluded that the United States' direct involvement in Iraq's political reconstruction created a special obligation to remedy the systemic flaws that continue to undermine the protection of universal human rights.[6] The Commission also affirmed that international human rights standards must be understood to protect each Iraqi as an individual, and not just as a member of a particular ethnic, political, or religious group. With these concerns in mind, the Commission has met with senior U.S. and Iraqi officials, as well as Iraqi human rights activists, legal experts, and representatives of Iraq's diverse religious communities. The Commission has encouraged both U.S. and Iraqi officials to ensure that every Iraqi citizen has the freedom not only to worship and to practice his or her faith openly, but also the right to dissent from state-imposed orthodoxies on issues related to religion. The Commission further reiterated these concerns when briefing experts of the Iraq Study Group.

Finally, the Commission has consistently urged the U.S. government to expand opportunities for Iraqis fleeing religious persecution to access the U.S. Refugee Program. Chief among them are ChaldoAssyrian Christians, Sabean Mandeaens, Yazidis, and other religious minorities who now represent a vastly disproportionate share of Iraqis who are internally displaced or seeking refuge outside their country. As the Commission noted in its 2006 annual report and in subsequent letters to U.S. Secretary of State Condoleezza Rice, the future of communities inside Iraq now hangs in the balance.

Sunni property to Shi'a control. These and other actions prompted protests from Sunni political and religious leaders, who viewed government counterinsurgency operations as a pretext for state-sanctioned expropriation of prominent Sunni religious sanctuaries by the Shi'a majority.

Religious freedom violations by Iraqi authorities at the regional and local level include growing official pressure to adopt strict Islamic religious practices. This pressure has manifested in Sunni-dominated central and western Iraq, where the collapse of Saddam Hussein's regime removed a significant impediment to the activities of *Salafist* imams. Buoyed by anti-American sentiment among Sunnis and burgeoning sectarian conflict with Iraq's Shi'a majority, some of these imams have pressed for more stringent application of sharia by local government officials, particularly in Sunni insurgent strongholds such as Ramadi and Fallujah.[19] Similar pressures have also been evident in mixed ethnic and sectarian regions, as well as in the Shi'a-dominated south. In March 2005, for example, officials in the northern city of Mosul promulgated an ordinance requiring all female university students to wear the *hijab* regardless of their religious affiliation.[20] That same year, Basra's education director instituted a policy requiring all female schoolchildren to cover their heads, regardless of their religion.

Government complicity in religiously-motivated discrimination is also reported in the pro-Western Kurdish Regional Government (KRG). According to the State Department, Christians and other minorities "living in areas north of Mosul asserted that the KRG confiscated their property … without compensation and … Assyrian Christians also alleged that the Kurdish Democratic Party-dominated judiciary routinely discriminates against non-Muslims."[21] ChaldoAssyrian Christians have also alleged that KRG officials affiliated with the Kurdistan Democratic Party deny Christians key social benefits, including employment and housing.

Additional reports also alleged that foreign reconstruction assistance for ChaldoAssyrian communities was being controlled by the KRG without input from that community's legitimate leaders. KRG officials were also reported to have used public works projects to divert water and other vital resources from ChaldoAssyrian to Kurdish communities. These deprivations reportedly threatened the safety of ChaldoAssyrians leading to mass exodus, which was later followed by the seizure and conversion of abandoned ChaldoAssyrian property by the local Kurdish population. Turkmen groups in the region surrounding Tel Afer also report similar abuses by Kurdish officials, suggesting a pattern of pervasive discrimination, harassment, and marginalization. Combined with non-state sources of instability, including violence from foreign jihadis and Sunni insurgents, the KRG's practices add to the continuing flight of Iraq Christians and other ethnic and religious minorities to sanctuaries outside the country.

Abuses by Actors with Government Ties

In addition to human rights violations committed by Iraq's national, regional, and local governments, particularly severe violations of religious freedom are committed by armed groups with ties to the Iraqi government. Several armed Shi'a factions orchestrate and participate in sectarian violence and associated religious freedom abuses. Chief among those factions are the Mahdi Army and the Badr Organization. Conflict between these militias and the Sunni-dominated insurgency escalated following the February 2006 bombing of the al-Askari mosque in Samarra—a bombing some analysts attributed to foreign jihadis. In the month that followed, Sunnis launched hundreds of suicide and other bombing attacks against Shi'a civilian and religious targets, precipitating an equally dramatic escalation in the number of Shi'a militia raids on predominantly Sunni neighborhoods in Baghdad and elsewhere.

Those raids produced serious human rights abuses. Both the Mahdi Army and the Badr Organization routinely abduct, ransom, torture, and execute Sunnis based on their religious identity, as well as employ violence and the threat of violence to seize private property from Sunnis in an effort to drive Sunnis from Shi'a-majority neighborhoods. As the State Department has reported, "MOI-affiliated death squads targeted Sunnis and conducted kidnapping raids and killings in Baghdad and its environs, largely with impunity."[22] In turn, Sunni leaders and human rights monitors allege that Shi'a militias with ties to government ministries systematically target Sunni clerics and sheikhs for assassination.

These patterns of indiscriminate violence against Sunni civilians and community leaders add to mounting allegations that Shi'a militia counterparts are now pursuing "sectarian cleansing" strategies, with the object of further balkanizing the already divided country. The effects of that violence are clear. According to the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), the total estimate

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of Iraqis displaced by sectarian conflict since February 2006 is 707,000, or some 117,901 families. These numbers are in addition to the 1.6 million persons displaced prior to the al-Askari mosque bombing.[23]

Both the Mahdi Army and the Badr Organization have close ties to the United Iraqi Alliance (UIA), the dominant political faction within Iraq's ruling coalition.[24] The Badr Organization, for example, is the armed wing of the Supreme Council of the Islamic Revolution of Iraq (SCIRI), whose members now constitute the largest single party within the Council of Representatives, Iraq's lower parliamentary chamber. Like their former and allegedly current Iranian patrons, SCIRI and the Badr Organization favor the direct intervention of Shi'a clerics in Iraqi politics. Before quitting the government in April 2007, the political allies of Mahdi Army leader Moqtadeh al-Sadr also shared power in the national government with SCIRI under the UIA's auspices.

The Iraqi government's tolerance of severe and systematic human rights abuses committed by Shi'a militias is evident in connections between these militias and major government ministries. With power apportioned among governing coalition members, factions within these militia-linked Shi'a political parties effectively control most if not all of Iraq's key government ministries. Until recently, for example, allies of Moqtadeh al-Sadr controlled the Agriculture, Health, and Transportation ministries. Moreover, both the Mahdi Army and Badr Organization still maintain close ties with various MOI police units.[25] As one international human rights organization observed, these "militias have operated as quasi-independent security forces under the protection of the Ministry of Interior, abducting, torturing and killing hundreds of people every month and dumping mutilated corpses in public areas."[26]

Evidence for official Iraqi tolerance of such human rights abuses is further supported by the close relationship between Shi'a militias and the approximately 145,000 Iraqis currently employed by Iraq's Facilities Protection Services (FPS). Each government ministry maintains its own FPS to secure its buildings, assets, and other critical infrastructure. Many of "these units have questionable loyalties and capabilities."[27] FPS from the Agriculture, Health, and Transportation ministries, for example, fell under the control of Mahdi Army leader Moqtadeh al-Sadr. Under his direction, these forces became a *de facto* "source of funding and jobs for the Mahdi Army," with the result that there is now significant overlap between FPS employees and militia members.[28] As the State Department has noted, this "sectarian misappropriation of official authority within the security apparatus" consistently impedes "the right of citizens to worship freely."[29]

Iraqi Prime Minister Nouri al-Maliki's government has failed to exercise effective control over the various political factions in his coalition government, as well as affiliated Shi'a militias. This is due in part to al-Maliki's political alliance with SCIRI and, until recently, al-Sadr's movement. The result is minimal formal oversight of Iraq's security services by the elected political leadership. In some instances, human rights defenders report that the Iraqi government has failed to publish findings from internal government investigations of sectarian violence and other religiously-motivated abuses by these militias against Sunni civilians. In others, Shi'a government officials reportedly obstructed the criminal prosecution of human rights abuses against Sunnis by those same militias.[30]

Finally, as previously noted, the Iraqi government has, in the vast majority of cases, not held perpetrators to account for these actions, particularly in cases involving Sunnis. Even more troubling are credible allegations that Iraqi officials at the highest levels are protecting those who engage in such abuses. As recently as April 2007, for example, U.S. military sources reported that Iraqi Prime Minister al-Maliki's office was playing a leading role in the arrest of senior Iraqi army and police officials who had worked aggressively to combat violent Shi'a militias.[31]

There is also evidence indicating that Iraq's local and regional officials failed either to prevent or prosecute human rights abuses by government-linked militias. In 2005, for example, Mahdi Army militiamen attacked students at Basra University on the grounds that their dancing, singing and

Western-style dress violated Islamic principles. Local Interior Ministry police present at the incident failed to intervene, even when militants fired guns at students and beat them with sticks.[32] Such incidents underscore the Iraqi government's unwillingness to take action against Shi'a militias despite having the capability and opportunity to do so.

Abuses Against Non-Muslims and Other Vulnerable Groups

Against the backdrop of sectarian violence and other particularly severe violations of religious freedom, human rights conditions in Iraq are deteriorating dramatically for non-Muslims, women, and other vulnerable groups. As previously stated, members of non-Muslim groups, including ChaldoAssyrian Christians, Yazidis, and Sabean Mandaeans, appear to suffer a degree of attacks and other human rights abuses disproportionate to their numbers. As a result, thousands of members of Iraqi religious minorities have fled the country, seeking refuge in neighboring states and among growing diaspora communities in the West.

Some of these conditions approach the level of systematic, ongoing and egregious violations of religious freedom. Others flow from deficiencies in Iraqi law or discriminatory government action. Still others are the result of the Sunni-dominated insurgency and the concurrent sectarian violence. These abuses against minority groups further illustrate the diverse, pervasive and increasingly pernicious abuses and violations of freedom of religion or belief now evident in contemporary Iraq. As such, they merit heightened scrutiny and swift government action.

Commission Vice Chair Nina Shea testifying on religious minorities in Iraq and other countries before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations, June 2006.

Violence against members of Iraq's Christian community remains a significant concern, particularly in Baghdad and the northern Kurdish regions. Reported abuses include the assassination of Christian religious leaders, the bombing and destruction of churches, and violent threats intended to force Christians from their homes. Reports also document targeted violence against liquor stores, hair salons, and other Christian businesses by extremists claiming that such trades violate Islamic principles. In some areas, ordinary Christians have reportedly ceased their participation in public religious services for fear of inviting further violence.

Attacks on Christian religious sites continue unabated. Between 2004 and 2006, some 27 ChaldoAssyrian churches were attacked or bombed in Baghdad and the Kurdish areas, often in simultaneous operations. In some areas, conditions are so grave that priests from the Catholic Assyrian Church of the East no longer wear clerical robes, lest they be targets and attacked by Islamic militants.[33] Official discrimination, harassment, and marginalization by KRG officials and other local and regional governments, as described above, exacerbate these conditions. Between the Sunni-dominated insurgency and the KRG's reported diversion of critical services and reconstruction assistance, the current confluence of events has forced tens of thousands of Iraqi Christians to flee during the last three years.[34] According to some reports, nearly 50 percent of Iraq's indigenous Christian population is now living outside the country.

Though smaller in number, Sabean Mandaeans and Yazidis have suffered abuses similar to Christians. Foreign jihadis, Sunni insurgents, and Shi'a militias view members of these groups as infidels or outsiders. In addition, religious minority communities often lack the tribal base or militia structures that might otherwise provide security. As such, these groups are often targeted by both Sunni insurgents and Shi'a militias. The risks are particularly severe for isolated minority communities in areas where foreign jihadis and Sunni insurgents remain active. In April 2007, for example, unidentified gunmen killed 23 Yazidis in the Kurdish town of Bashika.[35] This incident represented one of the largest single attacks against the Yazidi community since the current Iraqi government came to power.

Some of this violence stems from the reported tendency of foreign jihadis and Sunni insurgents to associate Iraqi Christians and other non-Muslims with the United States and the U.S.-led military intervention. In other instances, however, religious minorities appear to be the victims of escalating intra-Muslim violence. In a meeting

The implementation of stricter customary and Islamic practices in some areas has made both Muslim and non-Muslim women fearful and feel compelled to wear headscarves or veils in order to protect themselves from violence.

with Commission staff, for example, a Mandaean delegation described how non-Muslims are often executed alongside Sunnis during attacks by Shi'a militants and alongside Shi'a during strikes by Sunni insurgents. This pervasive violence has had a devastating effect on this small community. According to the Mandaean Society of America, approximately 85 percent of Iraqi Mandaeans have fled their country since 2003.

The treatment of Iraq's dwindling Baha'i community is also at issue, as are Saddam-era laws that continue to mandate official discrimination against them. Law No. 105 of 1970, for example, expressly prohibits the practice of the Baha'i faith. Regulation 359 of 1975 prohibits the Iraqi government from issuing national identity cards to members of the Baha'i community.[36] Finally, adherence to the Baha'i faith is a capital offense under a decree passed in 1979 by Iraq's Revolutionary Command Council—a decree that was rescinded by the CPA, although the current legal status of Baha'is remains unclear. These laws are reportedly still enforced by some government ministries.[37]

Also significant is the apparent failure of Iraq's local and regional governments to protect those Muslims who reject clerical rule or challenge narrow, orthodox interpretations of sharia. The effects of that failure are particularly evident with respect to university professors, including legal and religious scholars. In one January 2007 incident documented by UNAMI, a group calling itself the Doctrine Battalion (*Saraya Nusrat al-Mathhab*) targeted a Basra University professor for intimidation and death threats based on his secular views and teachings. According to the Iraqi Ministry of Higher Education, there were 200 documented incidents of targeted assassinations and abductions of academic professionals between 2003 and March 2007. These incidents appear to have occurred along sectarian lines, or because of their allegedly secular views and teachings.[38]

Finally, religiously-motivated discrimination and targeted violence has undermined women's safety and their participation in political life, as well as their status within Iraqi society. As the Commission has previously reported, some attackers spray or throw acid onto women, including their face and eyes, for being "immodestly" dressed. There is growing social and religious pressure to wear the *hijab*. The implementation of stricter customary and Islamic practices in some areas has made both Muslim and non-Muslim women fearful and feel compelled to wear headscarves or veils in order to protect themselves from violence.[39]

Human rights abuses against women are also evident in the high incidence of so-called "honor killings" and the growing number of female injuries and deaths due to immolation documented in some Kurdish regions.[40] There are also regular reports of inter-sectarian abductions, rape, forced conversions, and forced marriages, as well as *mut'a*, or temporary marriage contracts permitted in some Shi'a communities. In predominantly Arab areas, human rights monitors have observed an increase in *de jure* and *de facto* government discrimination against women in the areas of divorce, inheritance, and marriage.[41] Against this backdrop, the continuing failure of Iraqi government officials to enforce existing laws prohibiting violence, holding perpetrators to account, and mandating non-discrimination, as well as to amend other overtly discriminatory legislation, exacerbates deteriorating human rights conditions for many Iraqi women.

A mosque in northern Iraq where many displaced Arab families have fled. (UNHCR/K. Brooks)

COMMISSION RECOMMENDATIONS

Sharply deteriorating conditions for freedom of religion or belief and other human rights in Iraq during the past year are evident in the growing scope and intensity of sectarian violence, a burgeoning refugee crisis and the possible imminent demise of religious communities that have lived in what is now Iraq for millennia. Many of these developments stem from the Sunni insurgency and the Sunni-Shi'a sectarian conflict, as well as from Iraqi government action or inaction. Although pervasive conditions of armed conflict provide a context for these violations and abuses, they do not absolve Iraqi government from the responsibility to take immediate, remedial action with respect to its own conduct and that of its constituent factions.

Nor does it absolve the U.S. government from pursuing a more active role. As the Commission has previously noted, the United States' direct and continuous involvement in Iraq's political reconstruction creates a special obligation to help remedy the circumstances that threaten religious freedom and other universal human rights.[42] In order to advance human rights protections for all Iraqis, including the freedom of thought, conscience, and religion or belief, the Commission urges the U.S. government to take the following steps:

1 U.S. Diplomacy

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;
  - bring the perpetrators of such abuses to justice;
  - suspend immediately any MOI or FPS personnel charged with or known to have been engaged in sectarian violence and other human rights abuses;
  - ensure that Iraqi government revenues are neither directed to nor indirectly support the Mahdi Army, Badr Organization or any other organization complicit in severe human rights abuses;
  - halt immediately the practice of seizing and converting places of worship and other religious properties, and restore previously seized and converted properties to their rightful owners; and
  - establish, with U.S. support, effective Iraqi institutions to protect human rights in accordance with international standards, including the establishments of an independent and adequately financed national human rights commission;
- continue to speak out at the highest levels to condemn religiously-motivated violence, including violence targeting women and members of religious minorities, as well as efforts by local officials and extremist groups to enforce religious law in violation of the Iraqi constitution and international human rights standards;
- take steps, in cooperation with Iraqi law enforcement officials, (a) to enhance security at places of worship, particularly in areas where religious minorities are known to be at risk, and (b) to locate and close illegal courts unlawfully imposing extremist interpretations of Islamic law;
- appoint and immediately dispatch a senior Foreign Service Officer to Embassy Baghdad to report directly to the Ambassador and to serve as the United States' lead human rights official in Iraq, as repeatedly endorsed by the U.S. Congress;
- urge the Shi'a dominated Iraqi government and its Kurdish allies to accommodate the pressing need for more Sunni government officials, and for greater independence of government officials and ministries from their political patrons;
- 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;

- advocate constitutional amendments to strengthen human rights guarantees, including the specific recommendations formulated by the Commission in its analysis of the constitution; and[43]
- urge the Iraqi government to reconsider and revise a proposed new law regulating NGOs, drafted by the Ministry of Civil Society, which reportedly imposes harsh restrictions on both national and international NGOs; any such regulations should comport with international human rights standards.

2 U.S. Foreign Assistance

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) Iraqi political parties or other organizations that advocate or condone policies at odds with Iraq's international human rights obligations, or whose aims include the destruction of such international human rights guarantees;
- give clear directives to U.S. officials and recipients of U.S. democracy building grants to assign priority to projects that promote multi-religious and multi-ethnic efforts to address religious tolerance and understanding, that foster knowledge among Iraqis about universal human rights standards, and encourage the inclusion of effective human rights guarantees for every Iraqi in the permanent constitution and its implementing legislation; and
- re-allocate Iraq Relief and Reconstruction Fund[44] resources to support human rights by:
  - directing unobligated Iraq reconstruction funds to deploy a group of human rights experts for consultations with the Iraqi Council of Representatives and the constitutional amendment committee, and to assist with legal drafting and implementation matters related to strengthening human rights provisions, including freedom of thought, conscience, and religion or belief;
  - funding workshops and training sessions on religion/state issues for Iraqi officials, policymakers, legal professionals, representatives of non-governmental organizations (NGOs), religious leaders, and other members of key sectors of society who will have input on constitutional amendments and implementation; and
  - establishing an Iraqi visitors program through the State Department to focus on exchange and education opportunities in the United States related to freedom of religion and religious tolerance for Iraqi officials, policymakers, legal professionals, representatives of NGOs, religious leaders, and other members of key sectors of society.

3 Regional and Minority Issues

The U.S. government should:

- declare and establish a proportional allocation of foreign assistance funding for ChaldoAssyrian, Yazidi, Sabaen Mandean, and other religious minority communities, ensure that the use of these funds is determined by independent ChaldoAssyrian or other minority national and town representatives, and establish direct lines of communication by such independent structures into the allocation process of the Iraqi national government in Baghdad, separate from the KRG, in order to ensure that U.S. assistance benefits all religious and ethnic minority groups and is not being withheld by Kurdish officials or other local and regional governments;
- address with regional Kurdish authorities the reports of attacks on religious and other minorities and the expropriation of ChaldoAssyrian property, and seek the return of property or restitution, as well as assurances that there will be no official discrimination practiced against minority communities; and
- collaborate with Iraqi and KRG officials to establish an independent commission to examine and resolve outstanding land claims involving ChaldoAssyrian and other religious minorities in the Kurdish regions.

THE PLIGHT OF IRAQI REFUGEES

The confluence of sectarian violence, religious discrimination, and other serious human rights violations has driven millions of Iraqis from their homes to seek refuge in the Nineveh plains in northern Iraq, and in predominantly Kurdish regions, as well as in countries outside of Iraq. For the past few years, the Commission has drawn attention to the growing refugee crisis and continues to emphasize the plight of those fleeing religious persecution in Iraq.

According to the UN High Commissioner for Refugees (UNHCR), more than 2 million Iraqis have been forced to take refuge in neighboring countries. Of the 2 million refugees, 750,000 are in Jordan, 1.2 million are in Syria, 100,000 in Egypt, 54,000 in Iran, 40,000 in Lebanon, 10,000 in Turkey, and 200,000 in various Persian Gulf states. In March, UNHCR announced that Iraqis top the list of asylum seekers in Western industrialized countries and that the number of Iraqi asylum claims increased by 77 percent in 2006. There are also almost 2 million internally displaced persons (IDPs) within Iraq, including 480,000 in 2006, and UNHCR estimates that the number could climb to 2.3 million by the end of 2007.

In the sectarian strife that has engulfed Iraq, members of many religious communities, Muslim and non-Muslim, have suffered violent attacks. Among the most vulnerable are ChaldoAssyrians, Sabean Mandaeans, and Yazidis, who make up a disproportionately large number of refugees from Iraq and who do not have militia or tribal structures to provide some measure of protection. These non-Muslim religious minorities report that they are targeted because they do not conform to orthodox Muslim religious practices or are perceived as working for the U.S.-led coalition forces. As discussed elsewhere in this report, members of these communities have been targeted in violent attacks, including murder, torture, abductions for ransom, and reportedly for forced conversion, rape and destruction or seizure of community property.

According to the Iraqi Ministry for Migration and Displacement, nearly half the members of Iraq's non-Muslim minorities have fled abroad. UNHCR estimates that these minorities, who account for 3 percent of the population, comprise more than a third of the Iraqis who have sought sanctuary outside their country. According to a study by the International Organization for Migration, members of these minorities also make up almost 10 percent of IDPs in Iraq. This exodus has not only caused tragic hardships and uncertainty, but could mean the end of the presence in Iraq of ancient Christian and other religious minority communities that have lived on that land for millennia.

Humanitarian and protection assistance remain of primary importance for the United States and international community for helping Iraqi refugees and IDPs. In neighboring countries, the initial welcome has been wearing increasingly thin, and refugees are currently faced with stricter border control policies and decreasing resources to support themselves and their families.

Neither Jordan, Lebanon, nor Syria is a signatory to the 1951 Refugee Convention, but all three countries work with UNHCR under a Memorandum of Understanding that requires UNHCR to resettle those it recognizes as refugees. Those who are not resettled within a year may be detained or deported to their country of origin. As the influx of refugees into neighboring countries increased in 2006, public service resources were strained and host countries implemented stricter border control policies that have led to the denial of entry of many of those seeking to flee. For example, in a report by the UN Office for the Coordination of Humanitarian Affairs, a Jordanian authority said that the new border control policies have led to denials for more than half who wished to enter the country. Those refugees already within Jordan who do not meet the entry requirements are subject to potential deportation and no longer receive renewed residency permits, forcing many to return to Iraq only to attempt re-entry into Jordan. The implementation of similar rigorous immigration policies in Syria has been relaxed following UNHCR appeals. Lebanon has stopped admitting Iraqi refugees altogether and some already within the country have been imprisoned or deported.

In addition to the fear of deportation from or imprisonment in their current country of residence, refugees are having difficulties supporting themselves and accessing basic social services. Refugees are not permitted to work in any of the countries in the region to which they have fled and are quickly running out of the money they brought with them from Iraq. For many, access to shelter and medical care remain serious problems. Finally, many children do not have access to education either due to state policies preventing Iraqis from attending public schools, or the inability of refugees to pay for supplies or private schools. Host countries are also facing resource shortages and are finding their basic service sectors overburdened and in need of assistance.

In the Commission's view, resettlement of the most vulnerable refugees needs to be a high priority for the U.S. government and the UNHCR. UNHCR has stated it is looking

to refer 20,000 refugees in 2007. In February, the State Department agreed to accept 7,000 referrals from UNHCR for U.S. resettlement. Since 2003, the United States has admitted only 692 Iraqi refugees, including 202 in 2006. The State Department's Bureau of Population, Refugees, and Migration (PRM) is working with UNHCR to prioritize vulnerable groups, including religious minorities, for resettlement as a potential durable solution and is also continuing to request UNHCR referrals. Assistant Secretary of State for PRM Ellen Sauerbrey stated that if the Bureau receives its full budget request of $20 million for Iraq in 2007, it can resettle more individuals. Nevertheless, the Commission has concluded that more needs to be done by the United States to provide direct access to the U.S. Refugee Program for vulnerable Iraqis, in addition to pressing UNHCR to make appropriate referrals.

In February, Secretary of State Condoleezza Rice announced that Under Secretary of State for Democracy and Global Affairs Paula Dobriansky will lead an Iraq Refugee and Internally Displaced Persons Task Force to coordinate assistance for refugees and IDPs as well as U.S. resettlement efforts. The Bureau's priority is to provide assistance (humanitarian relief) for the most vulnerable refugees and encourage open borders. In March, the United States announced it will contribute $18 million to UNHCR's appeal for $60 million to provide protection and assistance to Iraqi IDPs and refugees in Jordan, Syria, Egypt, Lebanon, and Turkey.

In 2004, the Commission first raised with President George W. Bush the drastic effect of escalating religious violence on Iraq's ancient Christian and other minorities. A Commission delegation met in Turkey last fall with representatives of Iraqi ChaldoAssyrian refugees in that country.

The Commission has since written to Secretary Rice and Under Secretary of State Paula Dobriansky about the urgent need to provide members of religious minorities who have fled Iraq with access to the U.S. Refugee Program. In December, the Commission published an op-ed on the subject in The *Washington Times*, which helped spur congressional hearings and led to the decision to establish the task force on Iraqi refugees.

ENDNOTES

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[2] Iraq ratified the International Covenant on Civil and Political Rights (ICCPR) in 1971. Successive governments are bound by this treaty obligation.

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[4] Iraq Const. Art. 2(1).

[5] Tad Stahnke and Robert C. Blitt, *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, 36 *Geo. J. Int'l L.* 947, 959 (2005).

[6] *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 8.

[7] "Iraq," *Country Reports on Human Rights Practices*, 2005 (Washington, DC: U.S. Department of State, March 8, 2006).

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[9] Id.

[10] *UNAMI Human Rights Report*, January-March 2007, 6.

[11] Abu Musab al-Zarqawi, *February 2004 Coalition Provisional Authority English translation of terrorist Musab al Zarqawi letter obtained by United States Government in Iraq* (Washington, DC: U.S. Department of State, February 2004).

[12] *Country Reports on Human Rights Practices, 2005.*

[13] *Country Reports on Human Rights Practices, 2005.*

[14] *The New Iraq? Torture and Ill-Treatment of Detainees in Iraqi Custody* (New York, NY: Human Rights Watch, January 2005).

[15] Ibid.

[16] "Iraq," *Country Reports on Human Rights Practices, 2006* (Washington, DC: U.S. Department of State, March 6, 2007).

[17] "Iraq police brigade suspected of aiding abductions pulled," *CNN* (October 4, 2006).

[18] *UNAMI Human Rights Report*, January-March 2007, 23.

[19] *Salafism* is a purist strain within Sunni Islam that seeks to reestablish the idealized Muslim community created by the Prophet Muhammad and his Companions through strict interpretation of Islamic practices. Commonly confused with *Wahhabism*, this tradition does not subscribe to any particular school of Islamic jurisprudence and is not connected to a particular state or national ideology. See Hashim, Ahmed S. Hashim, *Insurgency and Counter-Insurgency in Iraq* (London: Hurst, 2006), 116.

[20] *International Religious Freedom Report, 2006.*

[21] *Country Reports on Human Rights Practices, 2005.*

[22] *Country Reports on Human Rights Practices, 2006.*

[23] *UNAMI Human Rights Report, January-March 2007*, 19.

[24] The Mahdi Army is a Shi'a Islamist movement with a nationalist orientation. Led by radical Shi'a Cleric Moqtadeh al-Sadr, the organization and its affiliates control Baghdad's sprawling Sadr City district while dominating districts in the southern regions of Basra, Kufa, Najaf, and Samarra. The Badr Organization, in turn, is a longstanding Shi'a militia whose members fought against the Saddam Hussein regime during the 1980-1988 Iran-Iraq war. Based in Iran for two decades, the organization maintains a base of operations in and around Karbala, as well as in other central and southern Shi'a districts.

[25] *Country Reports on Human Rights Practices, 2005.*

[26] *Iraq: U.S. Plan Must Reign In Death Squads* (New York, NY: Human Rights Watch, January 8, 2007). See also Edward Wong and Paul von Zielbauer, "Iraq stumbling in bid to purge its rogue police," *International Herald Tribune*, September 16, 2006; Christopher Allbritton, "Why Iraq's Police are a Menace," *Time*, March 20, 2006; *Country Reports on Human Rights Practices, 2005*, etc.

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[31] Joshua Partlow, "Maliki's Office is Seen Behind Purge in Forces," *The Washington Post*, April 29, 2007.

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[39] *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 11.

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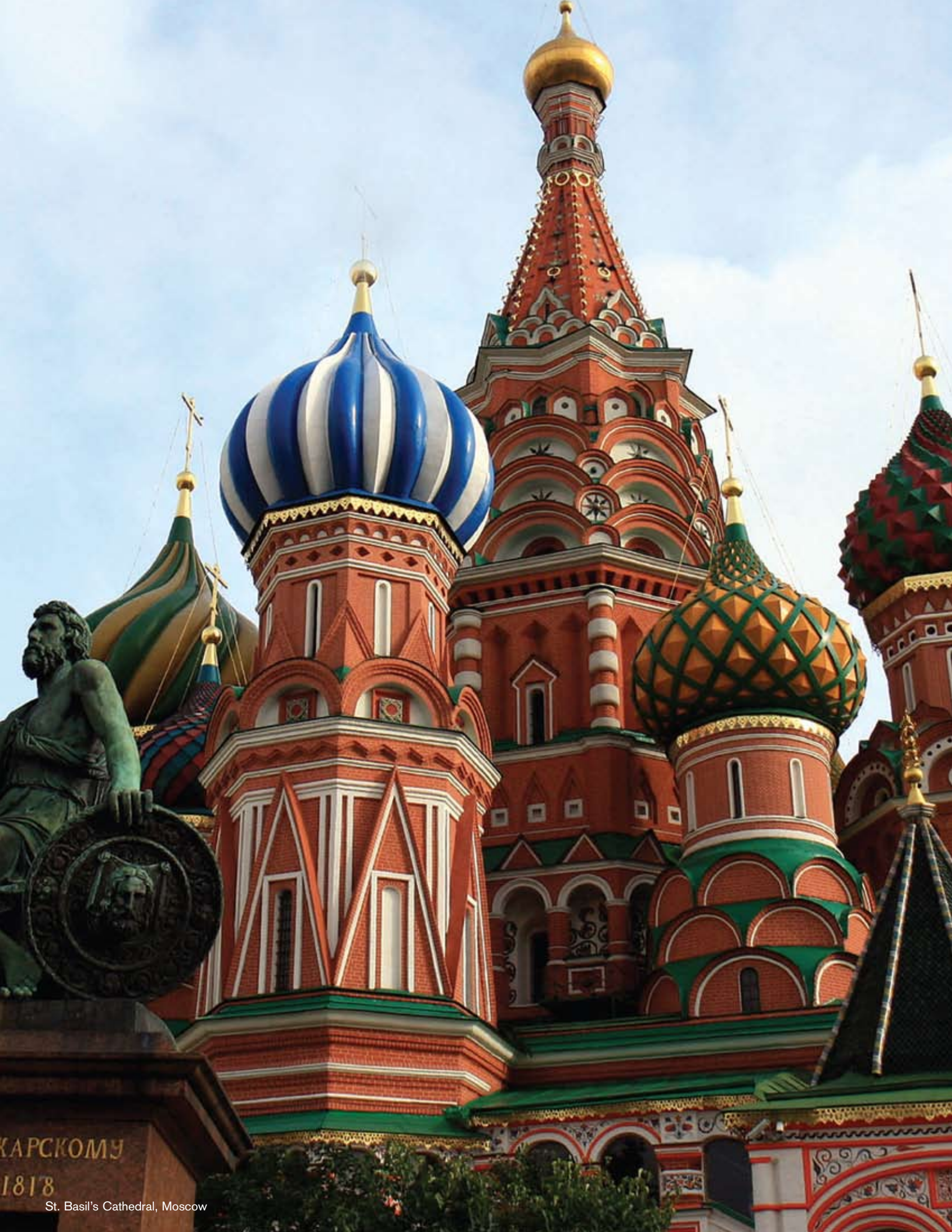
[41] *The Status of Women in Iraq Update to the Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards* (Washington, DC: American Bar Association, 2007). 178-79.

[42] *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 8.

[43] The analysis of the Iraq constitution and related recommendations, in English and Arabic, is available on the Commission's website, *www.uscirf.gov*.

[44] Pub. Law 108-106, 117 Stat. 1209 (November 6, 2003).



St. Basil's Cathedral, Moscow

President Vladimir Putin's Russia has steadily retreated from democratic reform, endangering significant gains in human rights made since the end of the Soviet era, including in the areas of freedom of religion or belief. Evidence of the backsliding includes increasing limitation of media freedom and of political parties' independence; tighter restrictions on non-governmental organizations (NGOs), religious communities, and other civil society groups; harassment of human rights organizations; legal restrictions on freedom of assembly; and constraints on the use of popular referenda. The deterioration in the human rights climate over the past few years appears to be a direct consequence of the increasingly authoritarian stance of the Russian government, as well as the growing influence of chauvinistic groups in Russian society, which seem to be tolerated by the government.

The past year saw a further retreat from democracy. In January 2006, Putin signed into law restrictive new legislation on NGOs that also affects the rights of religious communities. The law enables the Ministry of Justice's Federal Registration Service (FRS) to interfere with the activities of NGOs and deny the registration of groups that do not meet certain requirements, including minor or trivial ones. In addition, despite considerable domestic and international opposition, in July 2006 Putin signed an amended version of the 2002 law on counter-extremism. Citizens can now be charged with extremism if they are alleged, within the context of extremism, to have committed public slander of government officials, although these charges must be proven in court. Moreover, those who are alleged to have defended, or even expressed sympathy with, individuals charged with extremism are themselves liable to the same charges.

Since its inception in 1999, the Commission has reported on the situation in Russia, including on freedom of religion or belief, xenophobia, and the often violent acts of ethnic and religious intolerance. While the Commission has not recommended that Russia be named a "country of particular concern," or CPC, nor placed it on its Watch List, the Commission is nevertheless convinced that the fragile human rights situation in the country, which directly affects the status of religious freedom, merits particularly close scrutiny. Equally important, Russia is a model and bellwether for a wide swath of countries in transition, particularly in the former Soviet Union; negative human rights developments in Russia, such as newly restrictive laws or criticism of human rights standards and monitoring by international organizations, soon emerge in some

On the surface, Russian citizens have considerable personal freedom and some opportunities for public political debate, although these opportunities are increasingly limited by the threat or use of coercion. In many areas of civil life, however, including freedom for religious worship and practice, it is increasingly a particular group's or community's relationship to the state—rather than the rule of law—that defines the parameters on freedom to engage in public activities. The Commission finds that political authoritarianism—combined with rising nationalism and a sometimes arbitrary official response to domestic security concerns—is jeopardizing the human rights of Russia's citizens, including members of the country's religious and ethnic minorities.

of its neighbors. Moreover, Moscow has increasingly rallied a group of countries that violate human rights against what it terms "meddling" by the international community.

A Commission delegation traveled to Russia in June 2006, visiting Moscow, St. Petersburg, and Kazan, the capital of the Republic of Tatarstan. The visit, the Commission's second to Russia in three years, was prompted by the passage of the new law governing the work of NGOs. The legislation could have deep repercussions for civil society in Russia and a harmful impact on the protection of freedom of thought, conscience, and religion or belief in Russia. Such restrictions on NGOs negatively affect the work of non-profit, civil society groups, including foreign groups, operating in Russia, and could pave the way for amendments to the religious association law. Some of the NGO law's provisions directly limit the human rights of members of religious communities, including legitimate charitable activities, and have had a chilling—if not freezing—effect on the overall climate for human rights monitoring.

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The Inadequate Response to Increasing Xenophobia, Intolerance, and Hate Crimes

Russian law has several provisions that address crimes motivated by ethnic or religious hatred.[1] Unfortunately, Russia's law enforcement agencies and judicial system have a history of infrequent, inconsistent, and even arbitrary and inappropriate application of these provisions.

While no official statistics are available, groups in Russia that monitor hate crimes contend that xenophobic attacks have become more violent. The SOVA Center, a leading Russian NGO monitor of hate crimes, documented 54 racist killings and hate-based attacks on 539 individuals in 2006. In the first three months of 2007, the SOVA Center recorded 17 people killed and 92 wounded in racist attacks,

During 2006, the incidents of violent hate crimes increased not only in number, but also in scope.

and it said more serious weapons, notably guns and explosives, were being used increasingly in such attacks. It also reported at least 70 incidents of vandalism against religious targets, 36 of them against Jews, 12 against Russian Orthodox, and 11 against Muslims.

Persons who have investigated or been publicly critical of hate crimes in Russia have themselves been subject to violent attacks. Nikolai Girenko, a St. Petersburg expert on xenophobia who often testified in trials concerning hate crimes, was gunned down in June 2004. Local police claimed in May—two years after the murder and shortly before the meeting of the G-8 countries in July 2006—to have found the five men perpetrators and killed the ultranationalist gang's ringleader as he was violently resisting arrest. However, some who are familiar with the case have questioned whether these are the real perpetrators. In addition, several judges who have ruled against skinheads have also received death threats. In October, prominent Russian journalist Anna Politkovskaya, who reported extensively on the situation in Chechnya, was murdered in Moscow in a crime that prosecutors have reportedly linked to her work. Her name was among those on "hit lists" of liberals that had appeared on ultranationalist Internet sites in Russia.

During 2006, the incidents of violent hate crimes increased not only in number, but also in scope. Frequently, migrants are the victims, as are dark-skinned foreign students and other visitors. According to a May 2006 report to the UN Secretary General, Russia today has a population of 12 million migrants—the majority are Muslims from Central Asia and Azerbaijan—of whom only 10 percent are thought to have legal status. That roughly corresponds to the Russian Security Council's estimate of some 10 million illegal migrants in Russia.

In August 2006, four young skinheads were arrested after they bombed a Moscow market, killing 11 and injuring 45. They told the police that they had bombed the market because "too many people from Asia" worked

there.[2] According to the city police chief, the four are also responsible for eight additional bombings in Moscow and the Moscow region.

Most officials and NGOs agree that these attacks were motivated largely by ethnic intolerance, although religious and ethnic identities often overlap. Nevertheless, attacks have occurred against members of Muslim, Jewish, Protestant, and other religious communities that are explicitly motivated by religious factors. Leaders of these three communities have expressed concern to the Commission about the growth of chauvinism in Russia. They are also apprehensive that Russian government officials provided tacit or active support to a view held by many ethnic Russians that their country should be reserved for them and that Russian Orthodoxy is the country's so-called "true religion." Officials link this view to a perception that Russian identity is currently threatened due to a demographic crisis stemming from a declining birthrate and high mortality rate among ethnic Russians.

In a legal reflection of this perception as well as the palpably growing nationalist atmosphere, a new government decree went into effect prohibiting foreigners from retail jobs in Russia as of April 1. Since the indoor and outdoor markets that are prevalent in Russia have been dominated by vendors from former Soviet republics, foreign workers are being hit hard and many are leaving Russia. The new measures came on the heels of a highly public campaign of deportations of illegal migrants in fall 2006, which many alleged were used to target the citizens of Georgia and other countries with which Russia has tense relations. Putin lent his voice to the nationalist campaign, saying it was necessary to protect the rights of Russia's "indigenous" population on the labor market. At the same time, authorities announced a simpler process to file for foreign labor permits—which should result in less extortion by officials—as well as a quota of 6 million laborers from former Soviet republics for 2007, far more than before, according to press reports.

Many government officials whom the delegation met either tried to downplay the growing problem of hate crimes or explain it away. Officials from the Leningrad Oblast, or region, declined even to meet with the Commission because, in their words, there was no government official responsible for monitoring or prosecuting xenophobia and hate crimes since their "region did not have these problems." Like many other Russian officials including law enforcement authorities, local officials in Tatarstan and St. Petersburg labeled crimes targeting ethnic or religious communities simply "hooliganism," claiming that such crimes are motivated solely by economic hardships. In a similar vein, Nikolai Spasskiy, the deputy secretary of the Security Council, told the Commission that hate crimes were "rooted in socio-economic misery that is shared by the attackers and victims." Officials often noted that ethnic and migrant communities themselves were linked to criminal activities, or stated that they were "outsiders," by which officials meant migrants from Central Asia or the Caucasus.

Unlike in the Soviet period, the state does not act as the official sponsor of anti-Semitism. Yet anti-Semitic literature that includes accusations that Jews engage in the ritual murder of Christian children is sold in the Russian State Duma building. The Russian Procuracy has not responded to complaints that such literature violates Russian laws against incitement of ethnic and religious hostility.

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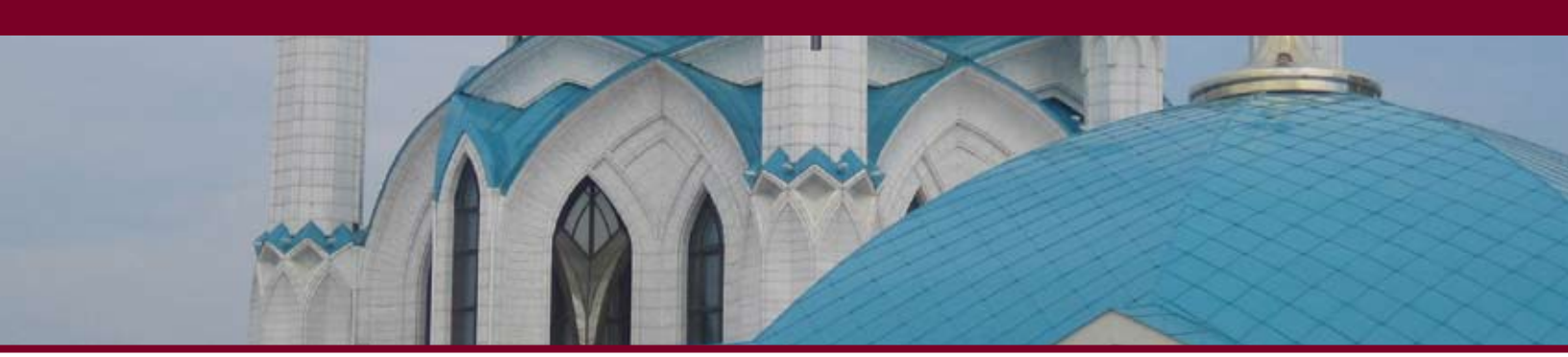
Chief Rabbi of Russia Adolf Shayevich (center), with Commissioners Felice D. Gaer, Michael Cromartie, Richard D. Land, and Elizabeth H. Prodromou, at Moscow Choral Synagogue.

Russian officials have an inconsistent—and often inadequate—record in responding to anti-Semitic incidents. Nevertheless, there are some reported cases when hate crimes legislation has been used. In 2006, a group of extremists who tried to kill Jews in the Siberian city of Tomsk were convicted of attempted murder and terrorism (they had injured a policeman by booby-trapping an anti-Semitic sign with an explosive). In June 2006, the Russian Supreme Court ordered a review of the 13-year sentence handed down in March against a young man who wounded nine worshippers during a January 2006 knife attack in a Moscow synagogue. Investigators had found anti-Semitic literature and ammunition in the attacker's apartment, but the lower court had not found the defendant guilty of incitement of ethnic or religious hatred under Article 282 of the Russian Criminal Code. In September, a Moscow court sentenced the young man to 16 years in prison for attempted murder and inciting racial hatred under Article 282.

Russian human rights advocates say that Putin and senior members of his administration have not spoken out strongly enough in support of the multi-ethnic and multi-confessional nature of the Russian state and society.[3] Some Western and other observers have suggested that Russian authorities have manipulated xenophobia for political purposes. The Kremlin is believed, for example, to have supported the formation of the ultra-nationalist "Rodina" political party—and then to have been unprepared for its popularity—as well as the politically active nationalist youth movement "Nashi." Putin has on occasion affirmed the value of pluralism in Russia, for instance at the meeting of the G-8 countries in July 2006, and has also decried anti-Semitism and hate crimes. Nevertheless, in the Commission's view, more can and should be done to ensure that Russian law enforcement agencies recognize hate crimes for what they are—human rights abuses—and to prevent and punish such crimes, including those involving ethnicity and religion.

Metropolitan Kirill, Metropolitan of Smolensk and Kaliningrad and External Affairs spokesman of the Moscow Patriarchate of the Russian Orthodox Church, meeting with the Commission delegation.



Kul Sharif Mosque, Kazan, Tatarstan

Attempts to Challenge International Human Rights Institutions and Undermine Domestic Human Rights Advocacy

Growing suspicion of foreign influence in Russia has been exacerbated by the repeated assertions by Putin and other Russian government officials that foreign funding of NGOs constitutes "meddling" in Russia's internal affairs. The official branding of Russian human rights organizations as "foreign" has increased the vulnerability of Russia's human rights advocates and those they defend. Moreover, although Russia has ratified international human rights treaties and agreements including the Helsinki Accords, government officials and other influential Russian figures have challenged international human rights institutions, as well as the validity of human rights advocacy in Russia, charging that both are being used for political purposes and, worse, that they represent "foreign" values. Furthermore, they have complained of "double standards," "selectivity," and "politicization" when there is an inquiry into Russia's human rights practices, particularly with reference to Chechnya.

These and similar views about human rights and the foreign funding of Russian NGOs have been expressed not only by Russian government officials, but also by Metropolitan Kirill, the Metropolitan of Smolensk and Kaliningrad and External Affairs spokesman of the Moscow Patriarchate of the Russian Orthodox Church. This gives particular cause for concern, in light of the increasingly prominent role provided to the Russian Orthodox Church in Russian state and public affairs.

In a meeting with the Commission delegation, Metropolitan Kirill affirmed the norms in the Universal Declaration of Human Rights. At the same time, however, he expressed three main concerns about international human rights standards and their application in Russia: human rights may be used "to offend or desecrate holy things;" human rights may "defame people" or be used as "an excuse for certain unacceptable acts;" and laws created under the guise of promoting human rights may be used "to destroy morality" and related values. In Kirill's view, human rights must be connected to ethical and moral "values" rather than what he claims are simply "political agendas."

Increasing Official Harassment of Muslims

As is the case in many other countries, the Russian government faces major challenges as it addresses religious 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 Islamic worship and religious education, along with the ongoing war in Chechnya and growing instability in the North Caucasus, compound difficulties for the Russian government in dealing with its 20 million strong Muslim population, the country's second largest religious community.

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Security threats from domestic terrorism, particularly those related to the conflict in Chechnya, are genuine. According to Spasskiy, the deputy secretary of the Security Council, the security threat emanating from the North Caucasus is driven by a religion hijacked by political extremism. The region faces chronic instability due to a variety of factors: severe economic dislocation, especially among young men;

the conflict in Chechnya; some radical foreign influences on indigenous Muslims; and other local grievances. All these factors have combined to fuel volatile, and increasingly violent, expressions among Muslims of popular dissatisfaction with the Russian government.

Yet human rights groups are concerned that the methods used by the Russian government to address security threats could increase instability and exacerbate radicalism among Russia's Muslim community. NGOs and human rights activists have provided evidence of numerous cases of Muslims being prosecuted for extremism or terrorism despite no apparent relation to such activities. These included dozens of cases of individuals detained for possessing religious literature, such as the Koran, or on the basis of evidence—including banned literature, drugs, or explosives—allegedly planted by the police. The Commission has been informed of at least 200 cases of Muslims imprisoned on what reportedly are fabricated criminal charges of possession of weapons and drugs. The Memorial human rights group reports that men with long beards, women wearing head scarves, and Muslims perceived as "overly devout" are viewed with suspicion by some Russian officials. Such individuals may be arrested on vague official accusations of alleged Islamic extremism or for displaying Islamist sympathies. Persons suspected by local police of involvement in alleged Islamic extremism have reportedly been subjected to torture and ill-treatment in pre-trial detention, prisons, and labor camps.

From right, Commission Deputy Director for Policy Tad Stahnke, Executive Director Joseph R. Crapa and Vice Chair Michael Cromartie outside the Russian Islamic University in Kazan, Tatarstan.

During the Commission delegation's trip to Kazan, officials spoke of local government support for preserving Tatarstan's traditionally moderate form of Islam in the republic, which has a Muslim majority and a sizeable Russian Orthodox minority. A potential complication arises, however, from the fact that nearly one-third of the imams in the republic's 1,100 mosques reportedly were trained in Saudi Arabia and other countries in the Middle East. The promotion of moderate Islam may also prove difficult due to the Tatarstan government's own actions. According to Memorial, Tatarstan officials sometimes threaten or imprison those Muslims who refuse to testify in court against their co-religionists or who provide humanitarian assistance to Muslim prisoners or their families.

Tatarstan President Mintimir Shaimiev and other regional officials supported the training of imams through the government-funded Russian Islamic University in Kazan. However, according to Rafik Mukhametshin, deputy head of the Islamic Studies Department at the Tatarstan Academy of Sciences, the University's approach to religious education is so secular that local Muslim leaders view it as insufficient to train imams.

Although local officials in Tatarstan report no danger from extremism, they did confirm that there had been several investigations into extremist activity. Furthermore, Tatarstan officials did acknowledge that in at least one case, individuals had been arrested when police erroneously identified the Koran as extremist material. In another case, charges were brought against an individual for distributing allegedly extremist material in Tatarstan: a textbook on the Arabic language printed in Moscow

Muslim leaders, too, have also been targeted by Russian officials. For example, Mansur Shangareev, a leading Muslim activist in the southern region of Astrakhan has been charged with incitement to religious hatred by the regional authorities, although his lawyer from the Slavic Legal Center insisted that the charges are "very crudely falsified."[4] In another incident, after a court in the North Caucasus

republic of Adygea rejected a case brought against a local imam for "incitement of hatred or hostility by insulting human dignity" under Article 282.1 of the Russian Criminal Code in March 2006, officials filed an administrative suit against the imam in September—for the "illegal sale of spoiled butter."

There are also concerns that certain government actions to counter extremism will have a chilling effect on freedom of expression in Russia. For example, Sheikh Nafigulla Ashirov, the Chairman of the Spiritual Directorate for Muslims of the Asian part of Russia, said that Russian officials had warned him that he could be charged with extremism for publishing a court-requested expert analysis of texts from the banned radical Muslim group *Hizb ut-Tahrir*. As a result of Ashirov's conclusion that the documents of the organization's Russian branch did not advocate violence, he claims that several defendants received lighter sentences from the courts. Memorial, which requested and then posted Ashirov's analysis on its Web site, was also informed that it could be charged with extremism.

The SOVA Center reported that courts had delivered much harsher sentences against alleged *Hizb ut-Tahrir* members in 2006 in comparison with the previous year, and it cited estimates by human rights groups that some 40 percent of *Hizb ut-Tahrir* defendants had been subjected to torture during investigations. The last two years have also seen a series of criminal cases filed against members of other alleged radical Muslim groups, the SOVA Center said.

According to human rights groups, a 2003 Russian Supreme Court decision to ban 15 Muslim groups for their alleged ties to international terrorism has made it much easier for officials to detain arbitrarily individuals on extremism charges for alleged connections to these groups. The Court decision to ban the 15 organizations was not made public for more than three years, yet police, prosecutors, and courts reportedly used the decision to arrest and imprison hundreds of Muslims. Indeed, it was not until July 2006 that the official government newspaper *Rossiiskaya gazeta* published a list with the names of the banned, terrorist-designated organizations drawn up by the Federal Security Service (FSB)—a necessary step to give the ruling legal force—and the list then contained the names of two additional groups, without any supporting explanation for their inclusion.[5]

The Commission has also received reports that Russian government officials have closed a number of mosques.

Commissioners Richard D. Land (left) and Michael Cromartie (right) with Sergei Movchan, Director of Russia's Federal Registration Service (center).

While some mosque closures may have been necessitated by security concerns, in other cases officials seem to have acted in an arbitrary fashion. For example, the late, former president of the Kabardino-Balkaria republic in the North Caucasus ordered the closure of six of the seven mosques in Nalchik, the regional capital. This decision, along with allegations by Russian analysts that local police had tortured young men suspected of Islamist sympathies, are seen as major contributing factors to the October 2005 violence in Nalchik, when Muslim radicals attacked police and other security offices and more than 100 people were killed in the fighting.[6] The new president of Kabardino-Balkaria said in September 2006 that he plans to reopen two of the Nalchik mosques. In August 2006, the Russian Supreme Court upheld a lower court decision ordering that the local Muslim community pay for the demolition of its new mosque in the city of Astrakhan on the Caspian Sea. Allegedly, the city's Muslim community had not received all the required building permits, although the construction of this mosque had been partly funded by the previous regional and city governments.

In September, a Moscow court took up a case on whether the writings of Said Nursi, a Turkish pacifist Islamic theologian with 6 million adherents in Turkey, should be declared extremist. The Tatarstan prosecutor had initiated a case against the private Tatarstan-based

Nuri-Badi Foundation, which has published Nursi's works. The Russian Council of Muftis, asked by the court to conduct an expert analysis of Nursi's writings, concluded that his writings were not extremist. Indeed, the extensive analysis, published by the Web site "portal-credo.ru" and signed by Mufti Ravil Gainutdin, concluded that in this case the analytical methods of the Tatarstan prosecutor's office had been "anti-religious," as well as prejudicial toward Islam.

A group of more than 3,000 Muslims, including four prominent imams, published an unprecedented open letter to Putin in March 2007 asking him to intervene and stop the repression of Muslims in the name of the struggle against terrorism. The letter, published in the *Izvestia* daily, complained of the phenomenon of alleged Muslim prisoners of conscience, including an arrested imam in the southern city of Pyatigorsk who they alleged was guilty only of having converted non-Muslims to his religion. The imam, Anton Stepanenko, received a suspended one-year sentence in March for inciting inter-ethnic and inter-religious hatred and for "arbitrariness." The letter also protested the criminal case against Nursi's writings, saying it could become "a precedent for practically all literature that cites the Koran to be outlawed in Russia." Russian officials have consistently denied discriminating against Muslims.

A Restrictive New NGO Law That Also Applies to Religious Organizations

The law passed in 2006 that restricts the activities of NGOs could have a significantly negative effect on religious groups. Although Aleksandr Kudryavtsev, Director of the Presidential Administration Liaison with Religious Organizations, told the Commission delegation that the new law would have little such impact, Sergei Movchan, until recently the director of the Federal Registration Service (FRS), confirmed that some of the law's most intrusive provisions do apply to religious organizations, charitable and educational entities set up by religious organizations, and groups defending human rights.

Fr. Gleb Yakunin of the All-Russian Movement for Human Rights (center) with Commissioners Felice D. Gaer, Michael Cromartie, and Richard Land

The FRS, established as a department in the Ministry of Justice in late 2004, is charged with enforcement of the NGO law, as well as the registration of all political parties and real property in Russia. Among its staff of 30,000, the FRS currently has 2,000 employees nationwide who are tasked with the oversight of NGOs, including religious organizations. During the next two years, the FRS plans to hire an additional total of 12,000 employees. Since the new NGO law took effect in April 2006, the FRS reports that it has received 6,000 requests for registration, of which 600 applications were refused, mainly, the agency claims, on technical grounds.

Under the new law, FRS officials can order an examination of an organization's documents, including financial information, as well as attend its events, without the group's consent or a court order. If violations are found, the FRS can call for court proceedings against the group, possibly resulting in the group's eventual liquidation. FRS officials told the Commission that the FRS regulations on the use of these powers had not yet been finalized, but that officials would be able to use this new authority if they believed that an organization was acting contrary to its charter.

In one such example, the FRS branch in Novosibirsk found in June 2006 that a registered local Pentecostal church, the Word of Life, had violated its charter when it organized a show in a Siberian military unit its representatives had been visiting for three years, the SOVA Center reported. If the church does not change its charter accordingly, it could face court proceedings leading to its liquidation. The SOVA Center also reported that FRS officials in the Novgorod region moved in June to shut down the local branch of the Salvation Army for violating its charter.

Moreover, the FRS has almost complete discretion to cancel programs and ban financial transactions by Russian branches of foreign organizations. Although the law provides only the vaguest guidance regarding the circumstances under which officials could take these actions, FRS officials confirmed to the delegation that no further regulations

These provisions of the NGO law on foreign funding are part of the broader effort by Russian officials . . . to link human rights groups to "foreign interference," and thus to discredit—and perhaps ultimately halt—their activities.

were being considered. Instead, they plan to wait until FRS actions are challenged in court to undertake any refinements in guidelines regarding the scope of these powers.

The new law also establishes extensive and onerous reporting requirements. NGOs are required to submit detailed annual reports regarding all of their activities, the composition of their governing bodies, as well as documentation of spending and the use of other property, including assets acquired from foreign sources. NGOs have expressed concern about the administrative and financial burdens of these requirements. Russian authorities simplified registration requirements for religious organizations in April 2007, after a wave of protest including from the majority, Kremlin-allied Moscow Patriarchate Russian Orthodox Church, suggesting an official admission that the rules were too stringent. They have not eliminated the requirements altogether, however, leaving in place excessively strict regulatory measures.

Given the unfettered discretion granted to FRS officials under the new law, its actual impact will be measured by its practical implementation. Security Council Deputy Secretary Spasskiy said that implementation of the law would be monitored by the Public Chamber, a new body consisting of civil society figures appointed by the Russian government with no formal oversight authority or accountability to the courts or the Duma. The Russian Ministry of Foreign Affairs insists that the new law is in line with those found in European and other Western countries. This assertion, however, is questioned by legal experts in the United States. the Council of Europe, and by the Commission.

FRS officials told the Commission that one of the problems the law was designed to address was that foreign funding had reached Russian political parties via NGOs or had otherwise influenced the political process. In Kazan, the Tatarstan Human Rights Ombudsman told the Commission delegation that one of the key purposes of the new legislation was to prevent NGOs and other non-commercial organizations from engaging in political activities, especially those entities that receive funding from foreign sources. Yet this purpose is not directly stated in the NGO law. Russia's human rights organizations are particularly vulnerable to this implicit prohibition, which is subject to arbitrary interpretation. These provisions of the NGO law on foreign funding are part of the broader effort by Russian officials, described above, to link human rights groups to "foreign interference," and thus to discredit—and perhaps ultimately halt—their activities.

Continuing Restrictions on Religious Freedom at the Regional and Local Levels

Unlike under the Soviet regime, most people in Russia today are generally able to gather for worship and profess and practice the religion of their choice. Nevertheless, minority religious groups continue to face some restrictions on religious activities, especially at the regional and local levels. These restrictions stem from a variety of factors, including Russia's weak judicial system, inconsistent adherence to the rule of law, and local officials' sometimes arbitrary interpretations regarding the status of the so-called "traditional" religions, deemed to be Russian Orthodoxy, Islam, Judaism, and Buddhism. These problems include denials of registration (status of legal person) requests; refusals to allot land to build places of worship; restrictions on rental space for religious activities and lengthy delays in the return of religious property; and attacks in the state-controlled media that incite intolerance.

The Russian Federation Human Rights Ombudsman's office (RFHRO) receives 200 – 250 religious freedom complaints every year, representing thousands of alleged individual violations; its investigations reveal that about three-quarters of these cases represent genuine violations of religious freedom guarantees under Russian law. The RFHRO reports that the restrictions and limitations that produce these problems are due to subjective factors, including the notion that Russian officials should accord

different treatment to the four so-called "traditional" religions than to the many alleged "non-traditional" religious communities in Russia. Another factor is the alleged preferential treatment given to the Russian Orthodox Church, and the documented influence of Russian Orthodox priests who object to the activities of other religious groups on local and regional government officials.

Official Barriers to Legal Status and Practice and Societal Intolerance

Since the passage of the 1997 law "On Freedom of Conscience and on Religious Communities," the number of registered religious communities has increased, but there has also been a steady rise in groups experiencing chronic difficulties in obtaining legal status. According to the RFHRO's 2006 annual report, religious groups experiencing such difficulties include various Orthodox churches that do not recognize the Moscow Patriarchate, Jehovah's Witnesses, the Hare Krishna Society, Pentecostal churches, and the Church of the Latter-day Saints.

Religious groups that have taken their cases to court to overturn denials of registration have often been successful, but some administrative authorities have been unwilling to implement court decisions. For example, the Salvation Army has not been re-registered in the city of Moscow, despite a 2002 Russian Constitutional Court ruling in its favor and an October 2006 ruling by the European Court of Human Rights that the Russian government should pay damages to the group. Russian authorities have also denied registration to certain religious communities because they allegedly have not been in existence for a sufficiently long period, despite a 2002 Russian Constitutional Court decision that an active religious organization registered before the 1997 law could not be deprived of legal status for failure to re-register. The problem is particularly acute at the local level, since local officials sometimes either refuse outright to register groups or create prohibitive obstacles to registration.

The 1997 religion law gives a minimum of 10 citizens the right to form a religious association, which, in turn, provides them the legal right for a house of worship. Yet, despite this legal guarantee, building or renting worship space remains a problem for a number of religious groups. For example, local authorities in Kaliningrad, Sochi, and St. Petersburg have not responded to longstanding requests from Muslim communities for permission to build mosques. Roman Catholics, Protestants, Old Believers, Molokans, and other alternative Orthodox communities have also reported difficulties in obtaining permission to build houses of worship.

Many of the problems faced by minority religious communities in Russia stem from the notion set forth in the preface to the 1997 law that only four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have "traditional" status in that country.

There are also concerns about property. The March 2007 RFHRO report noted many complaints concerning the inability of religious organizations to regain property that had been confiscated in the Soviet era or to acquire new property. That concern was echoed by the SOVA Center, which said that the property problem was most acute among Muslims, Protestants (especially Pentecostalists), and new religious movements. Throughout 2006, the SOVA Center reported, authorities had tried to take away facilities already in use by various religious groups**.** The *Itar-Tass* news agency reported in March 2007 that the government had made a preliminary decision to return to religious organizations land and real estate that they had controlled only by lease since the 1917 Bolshevik Revolution—with the exception of monuments on the UNESCO world culture and heritage lists—but implementation of the decision remains to be seen.

Muslim and Protestant leaders and non-governmental sources describe articles in the Russian media that frequently are hostile to Muslims or that spread falsehoods about Protestants. For example, according to the SOVA Center, in April 2006, in the Buddhist-majority republic of Kalmykia, a local parliamentarian branded Protestants as "Satanists" in a statement broadcast on TV. A Pentecostal church service in the Siberian city of Perm was disrupted by a gas attack in August 2006; the church's pastor believes the attack may be connected to negative articles in the local media, the SOVA Center reported.

Evangelical Protestants and members of other minority Christian communities have been targeted in violent attacks, to which local authorities reportedly do not

adequately respond. For example, the Forum 18 News Service reported that Russian police failed to respond after drunken youths attacked a Pentecostal service in the Siberian city of Spassk in April 2006, or when a Catholic service in St. Petersburg was disrupted by intruders in late May. In both incidents, only after church leaders complained did the authorities take action. Security police have also reportedly restricted the religious activities of certain religious minorities. In May 2006, Forum 18 reported that in Ivanovo near Moscow, the FSB raided a Baptist event at a rented cinema and detained two Baptists who were distributing religious literature.

"Traditional" vs. "Non-Traditional" Religions

Many of the problems faced by minority religious communities in Russia stem from the notion set forth in the preface to the 1997 law that only four religions—Russian Orthodoxy, Islam, Judaism, and Buddhism—have "traditional" status in that country. Others are held to be "non-traditional," and their activities and leaders are subject to official oversight. The Russian Orthodox Church (ROC), which has played a special role in Russian history and culture, receives the bulk of state support, including subsidies for the construction of churches, although other so-called "traditional" religious communities also sometimes benefit from such subsidies. The ROC also has agreements with a number of government ministries on guidelines for public education, religious training for military personnel, and law enforcement decisions.

Metropolitan Kirill has said that religious organizations will be empowered to operate based on "their weight in society," with proselytism "totally [prohibited]…to avoid conflict between faiths." ROC officials also sometimes use their influence with regional authorities to restrict the activities of other religious groups. There are frequent reports, particularly on the local level, that minority religious communities must secure permission from the ROC before being allowed to build, buy, or rent a house of worship and that local authorities sometimes deny registration to minority groups at the behest of local ROC officials.

The proposal of the ROC to add a voluntary course on Russian Orthodox culture as part of the national education curriculum can also be viewed as an example of the ROC's assertion of preferential status. As of September 2006, four regions of the Russian Federation—Kaluga, Belgorod, Bryansk, and Smolensk—had introduced compulsory classes focusing on Russian Orthodoxy. The course will be offered as an elective subject in at least six more regions and a variety of smaller districts, according to the SOVA Center. Representatives of the four "traditional" religions told the Commission that they favored religious instruction as part of the state curriculum, but only on a voluntary basis and available to members of all religious communities based on the number of participating students. However, several Muslim, Jewish, and Protestant leaders informed the Commission delegation that they objected to the proposal to introduce even voluntary courses on the "Russian Orthodox Culture," because it asserted one religious tradition to be the foundation of Russian culture.

Because of the threat to the constitutionally mandated secular status of the state and the separation of the state from religion set forth in Russian law, an RFHFO representative told the Commission delegation that teaching about religion in state schools must be conducted by academics and other experts on world religions rather than clerics. Moreover, in May 2006, Interfax reported that the Ombudsman had declared that the mandatory teaching of religious subjects in public schools would be unconstitutional. Andrei Fursenko, the Russian Federation Education Minister, told *Itar-Tass* in September 2006 that he disapproves of the introduction of the courses on Russian Orthodoxy, that he favors teaching children "the history of all religions," and that he would ask the Public Chamber to resolve the issue. In November, the Chamber largely ruled in favor of the supporters of the Russian Orthodox Culture curriculum, but stressed that students should be taught only with the permission of their parents or, if they are over 14 years of age, with their own consent, the SOVA Center reported.

COMMISSION RECOMMENDATIONS

1 Combating Xenophobia, Intolerance, and Hate Crimes

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

- condemn specific acts of xenophobia, anti-Semitism, and intolerance, as well as incidents of hate crimes, and to make clear that such crimes are to be treated by officials as human rights abuses, not "hooliganism," and that they will be fully and promptly investigated and prosecuted;
- while vigorously promoting freedom of expression, take steps to discourage rhetoric that promotes xenophobia or intolerance, including religious intolerance;
- provide special training and other programs for law enforcement officers and other officials to address ethnic hatred and promote tolerance;
- establish a special nationwide anti-discrimination body, as recommended by the Council of Europe's European Commission against Racism and Intolerance;
- implement the numerous specific recommendations made by Russia's Presidential Council on Human Rights, the official 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.

2 Reforming or Withdrawing the 2006 Russian Law on Non-Commercial Organizations

The U.S. government should:

- establish a program to monitor implementation of Russia's law on non-governmental organizations (NGOs), including its impact on religious organizations;
- encourage the Russian government to withdraw or substantially amend the NGO law; failing that, the government should be urged to develop regulations that clarify and sharply limit the state's discretion to interfere with the activities of NGOs, including religious organizations. These regulations should be developed in accordance with international standards and in conformance with international best practices;
- encourage the Russian government to publish precise and transparent statistical data on a regular basis regarding the Ministry of Justice's Federal Registration Service (FRS) activities related to implementation and enforcement of the NGO law; and
- devote added resources to legal training for Russian NGOs, giving them the tools to defend the civil society they have built, and speak out in support of defense attorneys who are harassed and threatened for defending their clients, including human rights defenders and religious groups.

3 Ensuring the Equal Legal Status and Treatment of the Members of Russia's Religious Communities

The U.S. government should encourage the Russian government to:

- ensure that law enforcement officials vigorously investigate and prosecute acts of violence, arson, and desecration perpetrated against members of any religious com-

munity, their property, or houses of worship; set up a review mechanism outside the procuracy to ensure that government authorities and law enforcement personnel are investigated and sanctioned, as appropriate, if they are found to have encouraged or condoned such incidents;

- affirm the multi-ethnic and multi-confessional nature of Russian society;
- affirm publicly that all religious communities in Russia are equal under the law and entitled to equal treatment, whether registered or unregistered; publicly express opposition to any legislation that would grant preferences to the purported "traditional" religions over other groups; and direct national government agencies to address and resolve continuing violations of religious freedom at the regional and local levels, including by:
  - issuing instructions to local law enforcement, prosecutors, and registration officials as well as publicly affirming that members of all religious communities are to be treated equally under the law;
  - enforcing non-discriminatory, generally applicable zoning and building codes, and ordering an end to the practice of using local public opinion surveys that serve as a basis to deny land and building permits to minority religious communities; and
  - deleting from the preface to the 1997 Law on "Freedom of Conscience and Religious Organizations" the reference to the four "traditional" religions—Russian Orthodoxy, Islam, Judaism, and Buddhism, as that reference 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 religions communities;
- denounce media attacks on any religious community and adopt administrative measures against government officials who fuel them;
- cease all forms of interference in the internal affairs of religious communities;
- avoid taking steps that could exacerbate religious extremism by (1) developing policies and strategies to protect the religious freedom and other human rights of the members of Russia's Muslim community and (2) reviewing past cases of alleged arbitrary detention or arrest of members of this community;
- distribute on a regular basis updated information on freedom of religion or belief, as well as on Russian constitutional provisions and jurisprudence on separation of church and state and the equal status of religious denominations, to the Russian judiciary, religious affairs officials at all levels of government, the FRS, the procuracy, and all law enforcement bodies;
- extend the current annual training program for regional and local religious affairs officials to include their counterparts in the judiciary, procuracy, law enforcement agencies, and to the FRS;
- direct the Russian Federation Human Rights Ombudsman to set up a nationwide monitoring system on the status of freedom of religion or belief in the 89 regions of Russia; and
- accept a site visit to Russia from the UN Special Rapporteur on Freedom of Religion or Belief and grant her unrestricted access to religious communities and to regions where religious freedom abuses are reported.

4 Strengthening Attention to the Issue of Freedom of Religion or Belief in U.S. Diplomacy

The U.S. government should:

- ensure that the U.S. Congress maintain a mechanism to monitor publicly the status of human rights in Russia, including freedom of religion or belief, particularly in the case of 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 2007-2008;
- ensure that U.S. Embassy officials and programs (a) engage with regional and local officials throughout the Russian Federation, especially when violations of freedom of religion occur, and (b) disseminate information to local officials concerning international legal norms on freedom of religion or belief, including the rights of unregistered religious communities;
- ensure that the issue of human rights, including freedom of religion

or belief, be raised within the context of negotiations on Russian accession to the World Trade Organization; and

- work with the other members of the G-8 to ensure that the issue of human rights, including the human rights aspects of migration and protecting human rights in the context of counter-terrorism, are raised at all bilateral and multilateral meetings.

5 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 freedom of religion or belief as well as methods to combat xenophobia, including intolerance based on religion; solicitations and requests for proposals should include these objectives;
- support programs developed by Russian institutions, including universities, libraries, NGOs, and associations of journalists, particularly those who have engaged in the activities described in the above recommendation, to organize conferences and training programs on issues relating to freedom of religion or belief, as well as on promoting inter-religious cooperation, encouraging pluralism, and combating hate crimes and xenophobia;
- support programs to train lawyers to contest violations of the rights to freedom of religion or belief as guaranteed in Russian law and under its international obligations both in Russian courts and before the ECtHR;
- translate, where necessary, into Russian and print or otherwise make available to Russian citizens relevant documents and materials, including:
- hate crimes guidelines developed by the U.S. Federal Bureau of Investigation, as well as U.S. Department of Justice expertise on combating hate crimes and religiously-motivated attacks; and
- international documents and materials generated by Russian institutions relating to freedom of religion or belief, xenophobia, and hate crimes, as well as relevant U.S. Department of State and Commission reports, posting such documents on the U.S. Embassy Web site;
- ensure that Russia's citizens continue to have access to alternative sources of information through U.S.-government-funded radio and TV broadcasts, as well as Internet communications, and that these broadcasts include information about freedom of religion or belief and the need to combat xenophobia and hate crimes; in particular by:
- restoring the funding of Russian-language radio broadcasts of Voice of America and Radio Free Europe/Radio Liberty (RFE/RL) to the levels of fiscal year 2007, restoring the broadcast hours that have been cut and planned staff reductions, and considering new vehicles for delivery of broadcasts and;
- increasing funding for radio broadcast programs in minority languages spoken in Russia, including the RFE/RL Tatar and North Caucasus services, which are often the primary source of independent broadcast media in regions of Russia with majority Muslim populations;
- include in U.S.-funded exchange programs a wider ethnic and religious cross section of the Russian population, with particular focus on educational and leadership development programs for students from the North Caucasus, Tatarstan, and other regions of Russia with sizeable Muslim and other religious and ethnic minority populations; and
- initiate International Visitor's Programs relating to the prevention and prosecution of hate crimes for Russian officials and other relevant figures.

6 Addressing the Crisis in Chechnya and the North Caucasus

The U.S. government should:

- ensure that the continued humanitarian crisis in Chechnya and allegations of human rights abuses perpetrated by the Russian military there and in other North Caucasus republics remain a key issue in U.S. bilateral relations with Russia;
- urge the Russian government to end and vigorously prosecute all alleged acts of involuntary detention, torture, rape, and other human rights abuses perpetrated by members of the Russian security services in Chechnya, including those by pro-Kremlin Chechen forces;
- urge the Russian government to abide by all resolutions passed by the Parliamentary Assembly of the Council of Europe relating to the human rights and humanitarian

situation in the North Caucasus, and reinstate regular on-site visits by the Council of Europe's Special Rapporteur for Chechnya;

- urge the Russian government to accept a site visit to Chechnya from the UN Special Rapporteur on Extrajudicial Executions and to reconsider the October 2006 decision to deny access to the UN Special Rapporteur on Torture;
- work with other OSCE Member States to ensure that issues related to human rights abuses in the North Caucasus play a more prominent role in OSCE deliberations, and encourage the OSCE to raise humanitarian and other forms of assistance to the civilian populations affected by the decade-long conflict in Chechnya; and
- ensure that U.S.-funded conflict resolution and post-conflict reconstruction programs for the North Caucasus also fund credible local partners in Chechnya, Ingushetia, and Daghestan.

ENDNOTES

[1] For example, Article 282 of the Russian Criminal Code forbids the incitement of ethnic and religious hatred. Article 63 contains a provision for enhanced penalties in violent crimes with evidence of bias motivation. The Russian Criminal Code also contains five articles (105, 111, 112, 117, 244) with explicit provisions for the punishment of violent hate crimes.

[2] The three men have been charged with multiple counts of racially motivated murders and investigators reportedly will order psychiatric examination. As of this writing, they are being held in jail awaiting trial.

[3] For example, President Putin has not condemned the August 2006 incident of communal violence in Kondopoga, in the northern republic of Karelia. In a televised question-and-answer session last year, Putin used a question about Kondopoga to advance his government's policy of restricting foreign labor. "We need neither provocateurs, on the one hand, nor corrupt (government officials), on the other," Putin said in remarks translated by Radio Free Europe/Radio Liberty. "We should bring order to the (retail and wholesale) trade system, to food markets, we should bring order on issues of migration and labor."

[4] Geraldine Fagan, "Russia: Muslim rivalry behind criminal charges?" Forum 18 News Service, February 8, 2006.

[5] According to the head of the FSB Department for Combating International Terrorism, there are three criteria for inclusion on this list: violent activities aimed at changing Russia's constitutional system; links to illegal armed groups and other extremist organizations operating in the North Caucasus; and connections to groups regarded as terrorist by the international community.

[6] In October 2005 in Nalchik, violence erupted in which some 300 persons attacked military garrisons and police stations, leaving 34 police and armed forces members dead.

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

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

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

Consistent with the language in these principles, Title VI of IRFA included several provisions related to asylum seekers, refugees, and immigrants, with particular attention to those individuals who have fled—or committed—severe violations of religious freedom. Title VI also authorized the Commission to conduct a major study of the impact of a new U.S. immigration procedure established in 1996, called "Expedited Removal," on asylum seekers.

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

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

- The Commission released a report card assessing the Department of Homeland Security and the Department of Justice on their implementation of Commission recommendations made in the Commission's *Report on Asylum Seekers in Expedited Removal* two years following the release of the report.[1]
- The Justice Department announced new reforms regarding immigration judges that were based on the Commission's recommendations to protect asylum seekers in the Expedited Removal process.
- Congress renewed the Lautenberg (formerly Specter) Amendment, adopting a Commission recommendation to promote consistent adjudications by the U.S. Refugee Program for members of religious minorities from Iran (P.L. 110-5, Section 20412).
- Legislation was drafted by Senators Joseph Lieberman and Sam Brownback in the Safe and Secure Detention and Asylum Act of 2006 as part of comprehensive immigration reform to implement many of the recommendations of the Commission's study on Expedited Removal.
- The Commission conducted trainings on international religious freedom issues for U.S. government officials with roles in the asylum and refugee adjudication processes, including the immigration judges and the Board of Immigration Appeals at the Executive Office for Immigration Review in the Department of Justice as well as the Refugee Corps and asylum officers of the U.S. Citizenship and Immigration Services in the Department of Homeland Security.

Expedited Removal Study Report Card: Two Years Later

The Commission released a report card assessing the Department of Justice (DOJ) and the Department of Homeland Security (DHS) on their implementation of recommendations put forth in its *Report on Asylum Seekers in Expedited Removal* (hereafter referred to as the Study). Congress authorized the Commission to do the Study to see how adequately the responsible agencies implemented Congressionally-mandated protections for asylum seekers

The Commission's overarching recommendation was that Expedited Removal not be expanded until the serious problems identified by the Study were resolved. Despite this recommendation, and the failure to resolve the problems cited in the study, DHS has in fact expanded Expedited Removal from a port-of-entry program to one that covers the entire land and sea border of the United States, to a distance of 100 miles inland.

facing Expedited Removal (see below). Senators Joseph I. Lieberman (ID-Ct) and Sam Brownback (R-KS) asked the Commission to prepare the report card.

Two years later, the Commission concluded that most of the serious implementation flaws identified in the Study have not been addressed, and most of the Study's recommendations have yet to be implemented. The Commission's overarching recommendation was that Expedited Removal not be expanded until the serious problems identified by the Study were resolved. Despite this recommendation, and the failure to resolve the problems cited in the study, DHS has in fact expanded Expedited Removal from a port-of-entry program to one that covers the entire land and sea border of the United States, to a distance of 100 miles inland.

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

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

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

DHS has not made any public response to the Study, despite a 2005 request from the Senate Appropriations Committee in Report 109-083 to consult with EOIR and report to the Committee by February 2006 on various aspects of the agency's implementation of the Study's recommendations. The House of Representatives Appropriations Committee in Report 109-79 also urged DHS to consider implementation of specific Study recommendations. It should be emphasized that none of the Study's recommendations require congressional action. However, because of concern over the agencies' failures to address the Study, Senators Lieberman and Brownback prepared legislation in 2006 that would mandate implementation of a number of the Commission's recommendations. Senator Lieberman

and Rep. Chris Smith have announced their intention to renew this legislation in 2007.

Customs and Border Protection (CBP)

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

DHS regulations also require that, when an asylum seeker expresses a fear of return, he or she must be referred to an Asylum Officer to determine whether the fear is "credible." Yet, in nearly 15 percent of the cases that Study experts observed directly and in person, asylum seekers who expressed a fear of return were nevertheless removed without a referral to an asylum officer. Of those cases, nearly half of the files indicated that the asylum seeker had not expressed any fear.

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

USCIRF Chair Felice D. Gaer (center) speaks at the February 2007 release of a report card on the Justice and Homeland Security Departments' implementation of USCIRF's recommendations in its 2005 congressionally authorized *Report on Asylum Seekers in Expedited Removal*. Left to right: Commissioners Richard D. Land and Preeta D. Bansal, Senator Joseph Lieberman, Commissioner Bishop Ricardo

CBP received an F grade on the implementation of all five recommendations. DHS failed to provide information on steps taken to address these issues and there was no public information available to indicate that any of the recommendations had been implemented. On the contrary, information provided by DHS during the course of the *Orantes* litigation revealed that supervisors continue to rely almost exclusively on file reviews of Expedited Removal orders, and that the DHS officials involved had no knowledge of DHS adopting the Commission's recommendations.

Immigration and Customs Enforcement (ICE)

The Study found that despite established national criteria to determine when asylum seekers in Expedited Removal should be released from detention pending their asylum hearing, there was no evidence that the criteria are actually being implemented. The Study found wide variations in release rates across the country, from 0.5 percent in New Orleans and 4 percent in New Jersey, to 94 percent in San Antonio and 81 percent in Chicago. Additionally, the overwhelming majority of asylum seekers referred for credible fear are detained—for weeks or months and occasionally years—in penal or penitentiary-like facilities. On average, asylum seekers with a credible fear of persecution are detained for 60 days; one third of them are held for 90 days or more. Many facilities are, in fact, jails and prisons, and in some of these facilities, asylum seekers

live alongside U.S. citizens serving criminal sentences or criminal aliens—even though ICE detention standards do not permit non-criminal detainees to be co-mingled with criminals. ICE has experimented with alternatives to detention, and has opened one secure facility—in Broward County, Florida—that is more in line with a refugee center than a penal institution. Broward, unfortunately, remains the exception.

The Study put forth five recommendations to ICE to ensure that detention standards and conditions are appropriate for asylum seekers and to implement more consistent parole criteria, including: 1) train detention center personnel to work with non-criminal, psychologically vulnerable asylum-seekers; 2) work with the immigration courts to ensure that detained aliens in Expedited Removal, including those who have not been referred for a credible fear determination, have access to legal service providers; 3) change detention standards so that non-criminal asylum seekers are not detained under penal conditions; 4) codify existing parole criteria into regulations; and 5) ensure consistent and correct parole decisions by developing standardized forms and national review procedures to ensure their proper application.

Many facilities are, in fact, jails and prisons, and in some of these facilities, asylum seekers live alongside U.S. citizens serving criminal sentences or criminal aliens—even though ICE detention standards do not permit non-criminal detainees to be co-mingled with criminals.

ICE received an overall D grade on implementation of the recommendations. The Commission was informed that ICE had jointly developed a new training module for its personnel on cultural awareness and asylum issues, although there was no time frame for its release. However, DHS failed to provide to the Commission information on steps taken to address the other four recommendations, nor was any public information available to indicate that any recommendations had been implemented. Rather, 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. Furthermore, an April 2006 DHS OIG Audit Report recommended that ICE expedite the development of alternatives to detention and improve the capacity of data management systems to track information on the rationale underlying parole decisions.

U.S. Citizenship and Immigration Services (USCIS)

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

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

USCIS received an overall B grade on implementation of the recommendations. The Commission applauds USCIS for its April 2006 memorandum on increasing quality assurance review for positive credible fear determinations, the release of an updated asylum officer Basic Training Course Lesson Plan, and the announcement in December 2006 that it welcomes approaches by non-governmental organizations (NGOs) to expand the existing *pro bono* program to the other seven asylum office cities. However,

The Commission applauds USCIS for its April 2006 memorandum on increasing quality assurance review for positive credible fear determinations, the release of an updated Asylum Officer Basic Training Course Lesson Plan, and the announcement in December 2006 that it welcomes approaches by non-governmental organizations (NGOs) to expand the existing pro bono program to the other seven asylum office cities.

the Commission continues to urge USCIS to allow asylum officers to grant asylum at the credible fear stage.

Department of Homeland Security (DHS) Agency-wide

The Study found extensive problems with the overall management and coordination of the Expedited Removal process, including insufficient quality assurance practices, inadequate data management systems, poor communication between responsible DHS bureaus, and no mechanism to address system-wide issues. The Commission put forth four recommendations to address these coordination and management flaws: 1) create a high-level Refugee Coordinator position; 2) address implementation and coordination issues before expanding Expedited Removal; 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.

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

Furthermore, the Commission is concerned that Expedited Removal has been extended, despite the specific recommendation that flaws in the process must be addressed before such an extension. The Commission also discovered in the DHS OIG Audit Report in April 2006 that ICE lacks data analysis capabilities to manage the detention and removal program in an efficient and effective manner.

The Commission continues to urge DHS to allow Asylum Officers to grant asylum at the credible fear stage.

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

The Study found that sworn statements taken at ports of entry and the border are inaccurate and incomplete, and that credible fear determinations are not intended to document the asylum seeker's entire claim. Nevertheless, the Study found that in 57 percent of all cases, sworn statements and/or credible fear determination records were used to impeach the asylum seeker. In 39 percent of all cases, the immigration judge cited these documents in denying the claim. The Study also found that one in four asylum seekers who are represented by *pro bono* attorneys are granted asylum, whereas only one in 40 unrepresented asylum seekers succeed.

The outcome of the asylum seeker's case also seems to depend largely on chance; namely, the IJ who is assigned to hear the case. Among IJs sitting in the same city who hear a significant number of asylum cases, some grant close to zero percent of applications, while others grant 80 percent. Of the asylum cases appealed to the BIA, only 2 to 4 percent are reversed. A particular concern is the use of "summary affirmances without opinion," whereby a single Board member can endorse the result reached by an IJ without providing a reasoned written opinion discussing the issues raised on

USCIRF provides expertise at a briefing at the Migration Policy Institute in Washington on asylum seekers in Expedited Removal, February 2007. Left to right Commissioners Bishop Ricardo Ramirez and Preeta D. Bansal, USCIRF Chair Felice D. Gaer.

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 short of requiring reversal of the decision are not caught or 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.

EOIR received an overall C+ grade on implementing the recommendations. In August 2006, the Commission welcomed new DOJ reforms based on the Commission's recommendations. The reforms include: implementation of performance and supervision measures to promote better consistence and quality of IJ decisions; improvement and increased explanation of BIA decisions; increased training of IJs, BIA members, and EOIR staff; and expansion and improvement of EOIR's *pro bono* programs.

The Commission was impressed by the increased training EOIR is providing to immigration judges. In January 2007, EOIR informed the Commission that it is expanding and improving training for all IJs. In August 2006, all IJs participated in a five-day training conference, which included presentations on religious freedom by the Commission and the State Department's Office of International Religious Freedom, and mandatory workshops concerning asylum law and procedures and improving oral decisions. The conference also included circuit-specific reference materials. A similar mandatory conference is planned for August 2007. In November 2006, all IJs received an in-depth outline on asylum credibility and corroborating evidence in the federal Courts of Appeals. Additionally, a one-week training course for new IJs was held in March 2007 that included lectures on asylum, withholding of removal and protection under the Convention against Torture, a discussion of credibility developments under the REAL-ID Act, and a mock asylum hearing.

The Commission was also pleased to learn in January 2007 that EOIR 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. This also corresponded with a funding increase in FY06 that is expected to remain at the $2 million level in FY07 and FY08. Finally, EOIR formed a Pro Bono Committee to oversee expansion and improvement of its *pro bono* programs.

The Commission noted efforts by EOIR to improve immigration adjudication through additional training and resource materials and the consideration of "quality assurance procedures (i.e., peer review) to address the significant variations in approval and denial rates among immigration judges." The Commission further notes that the BIA has decreased the number of summary affirmances from 36 percent in FY03 to 15 percent in FY06, and 10 percent in the first quarter of FY07, and has also added four new Board members. It continues to urge the BIA to increase the number of written opinions in asylum cases.

Following the release of the report card, the Commission received invitations to meet with staff from ICE and EOIR. During the meeting with ICE, members of the Commission staff were informed that the bureau will soon be releasing its training CD on cultural awareness and asylum issues and is conducting private working group

sessions with NGOs to discuss national parole criteria and family detention standards. The Commission was invited to participate in the working group sessions and has requested a copy of the training CD. In the meeting with EOIR, the Commission learned more about the training of IJs and the Board, including ongoing training with new materials, such as some country-specific materials and better reference materials for IJs. EOIR also explained that they are interested in meeting with CBP for training on the sworn statements.

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

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

The Departments of Justice, State, and Homeland Security may waive this so-called "material support bar" under certain circumstances. In 2006, Secretary of State Condoleezza Rice announced a waiver for the Burmese Karen, Karenni, and Chin ethnic groups and for the Tibetan Mustangs and Cuban Alzados, groups fighting for democracy in their respective countries. In January 2007, Secretary Chertoff announced that provisions of material support to terrorism do not apply to those seeking asylum or adjustment of status to those that provided support to the following groups: the Karen National Union and Karen National Liberation Army, Chin National Front and Chin National Army, China National League for Democracy, Kayam Mew Land Party, Arakan Liberation Party, Tibetan Mustangs, Cuban Alzados, and Karenni National Progressive Party. Additionally, a duress exemption has been granted for victims of Tier III terrorist groups.[3] The Departments also introduced legislation earlier this year to address problems raised by the material support provisions in the REAL-ID Act.

These steps have not fully addressed the situation, however. Individuals who provided support under duress to Tier I or II terrorist groups are still barred from entry into the United States. This issue may cause substantial problems and delays as the United States starts processing Iraqis fleeing religious and other forms of persecution. Additionally, the situation of Montagnards and Hmong from Southeast Asian countries has yet to be addressed. Finally, the U.S. government may rescind waivers without notice and without allowing asylum seekers to challenge the revocations, raising due process concerns.

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

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

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

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

The Congress also renewed for FY07 the Lautenberg (formerly Specter) Amendment, which provides relief to religious minority refugee applicants from Iran by clarifying

the adjudication standards specific to their claims.[5] The Commission recommends that Congress and the President continue to extend the Lautenberg Amendment until the government of Iran ceases to engage in systematic, ongoing, and egregious violations of religious freedom.

The United States has the largest program in the world to interview and process refugees in third countries for resettlement, with a proposed ceiling (for FY07) of up to 70,000 refugee admissions. With more than 8 million refugees in the world, however, access to the U.S. Refugee Program is tightly controlled, to the extent that for every year since 1991, the refugee admissions level has been undersubscribed by 5,000 refugees or more. Refugees overseas may not submit an application to the Refugee Program unless they are referred by the UN High Commissioner for Refugees (UNHCR), or unless they belong to a specific group that has been deemed a "processing priority" by the Secretary of State. U.S. embassies may also refer cases to the Refugee Program for resettlement, but such referrals are an insignificant percentage of the overall caseload.

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

Problems in Implementation of Title VI of IRFA

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

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

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

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

Although the State Department has made progress in complying with this provision by developing a "Worldwide Refugee Admissions Processing System" (WRAPS) to promote uniformity in the preparation of refugee case files, WRAPS does not provide any substantive guidance in two central aspects of the preparation of refugee case files: the preparation of each refugee applicant's persecution story and the filing of requests for reconsideration of refugee applications that are denied.

In the Commission's 2004 Annual Report, it was noted that the State Department's Bureau of Population, Refugees, and Migration (PRM) had expressed its intention to establish an internal working group on overseas processing entities. Professor David Martin, in the paper commissioned by the Department, also recommended that such a group

develop guidelines consistent with section 602 of IRFA.[8] The Commission reiterates its recommendation that the State Department's Population, Refugees, and Migration Bureau more fully implement the requirements set forth in this provision of IRFA.

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

Inadmissibility of Religious Freedom Violators

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

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

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

An Iranian Kurdish girl displaced in Iraq (UNHCR/K. Brooks)

ENDNOTES

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

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

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

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

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

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

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

[8] See Martin, p. 143.

EXPEDITED REMOVAL STUDY REPORT CARD

CUSTOMS AND BORDER PATROL (CBP)
(Inspections and Border Patrol)

RECOMMENDATION	GRADE
Expand existing videotape systems	F
Reconcile conflicting field guidance	F
Inform Immigration Judges about forms used at ports of entry	F
Do not place asylum seekers with valid passports in Expedited Removal	F
Improve monitoring	F
Overall Grade:	**F**

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)
(Detention)

RECOMMENDATION	GRADE
Train detention center personnel	C
Ensure legal access for detainees	D
Change detention standards	F
Codify existing parole criteria	F
Develop standardized forms and national review criteria	F
Overall Grade:	**D**

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)
(Credible Fear)

RECOMMENDATIION	GRADE
Amend credible fear review	A
Expand existing pro bono program	B
Allow Asylum Officers to grant asylum at the credible fear stage	F*
Overall Grade:	**B**

** grade shared by DHS, USCIS, EOIR*

DEPARTMENT OF HOMELAND SECURITY (DHS)
(Agency-Wide Coordination)

RECOMMENDATION	GRADE
Create a high-level Refugee Coordinator position	C
Correct implementation flaws before expanding Expedited Removal	F
Create a reliable data management system	F
Allow Asylum Officer to grant asylum at the credible fear stage	F*
Overall Grade:	**D**

** grade shared by DHS, USCIS, EOIR*

DEPARTMENT OF JUSTICE (DOJ)/EXECUTIVE OFFICE OF IMMIGRATION REVIEW (EOIR)
(Immigration Adjudication)

RECOMMENDATION	GRADE
Reinstate judicial training	A
Expand Legal Orientation Program	B
Improve quality of immigration court decisions	C
Ensure legal access for detainees	C
Improve administrative review of asylum appeals	C-
Allow Asylum Officer to grant asylum at the credible fear stage	F*
Overall Grade:	**C+**

** grade shared by DHS, USCIS, EOIR*

DHS/DOJ

RECOMMENDATION	GRADE
Ensure legal access for detainees	C (EOIR); D (ICE)
Allow Asylum Officer to grant asylum at the credible fear stage	F (shared by DHS, USCIS, EOIR)

North Korea, near the Chinese border

COUNTRIES OF PARTICULAR CONCERN & THE COMMISSION WATCH LIST

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

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

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

The designation of CPCs not only puts a spotlight on those countries where the most severe violations take place, but also lays the groundwork for important decisions in U.S. relations with these countries.

The 2006 State Department Designations

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

As required by IRFA and pursuant to the Commission's review of the facts and circumstances regarding violations of religious freedom around the world, the Commission wrote to Secretary of State Condoleezza Rice in May 2007, continuing to recommend that she, using authority delegated to her by the President, designate as CPCs the following 11 countries: **Burma, Democratic People's Republic of Korea (North Korea), Eritrea, Iran, Pakistan, People's Republic of China, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and Vietnam.**

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

Re-Designation of Severe Religious Freedom Violators

In November 2006, Secretary Rice re-designated **Saudi Arabia, China, North Korea, Sudan, Iran, Eritrea,** and **Burma** as CPCs. The Commission concurred with these 2006 CPC re-designations and concluded that there have been no changes substantial enough to warrant the removal of these seven countries from the list of CPC designations in 2007.

- The Commission finds, as did the U.S. Department of State in previous years, that there is no religious freedom in **Saudi Arabia**, where 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 interfering with private religious practice. The government also continues to be involved in financing activities throughout the world that support extreme religious intolerance, hatred, and, in some cases, violence toward non-Muslims and disfavored Muslims.
- Every religious community in **China** continues to be subject to serious restrictions, state control, and repression. The most severe religious freedom abuses are directed against Tibetan Buddhists, Uighur Muslims, Roman Catholics, house church and unregistered Protestants, and spiritual groups such as the Falun Gong, abuses involving imprisonment, torture, and other forms of ill treatment. Prominent religious leaders and others continue to be confined, imprisoned, tortured, "disappeared," and subjected to other forms of ill treatment on account of their religion or belief. Religious freedom conditions deteriorated for communities not affiliated with any of the seven government-approved religious organizations, those considered by the government to be "cults," and those closely associated with ethnic minority groups in China.
- There are no personal freedoms in **North Korea** and no protections for universal human rights, including religious freedom. The government severely represses public and private religious activities and maintains a policy of pervasive control over government-sanctioned religious practice. As confirmed by the Commission's study released in 2005 and based on new interviews with North Korean refugees, religious belief of any kind is viewed by the government as a potential competitor to the forcefully propagated cult of personality centered on Kim Jong Il and his late father, Kim Il Sung.
- In **Sudan**, an authoritarian government—which has pursued coercive policies of Arabization and Islamization resulting in genocide—severely restricts the religious freedom and other universal human rights of an ethnically and religiously diverse population. Sudanese security forces have not been held to account for the human rights abuses committed during Sudan's North-

South Civil War, most of the victims of which were Christians or followers of traditional African religions. With the signing of the Comprehensive Peace Agreement (CPA) in January 2005, religious freedom conditions have improved in southern and central Sudan. However, there are serious problems with implementing the CPA, and the agreement has not yet resulted in significant changes in practice in government-controlled areas of the North. The government's actions with regard to the continuing genocide in Darfur, as well as its failure to cooperate with the Security Council-mandated investigation by the International Criminal Court of alleged war crimes, impugn the commitment of Sudanese leaders to support human rights guarantees.

- Over the past year, the poor religious freedom record of the government of **Iran** deteriorated, especially for religious minorities and for Baha'is, Sufi Muslims, and Evangelical Christians in particular. All minority groups faced arrests, imprisonment, other forms of detention, and harassment. There is a consistent stream of virulent and inflammatory statements by political and religious leaders against such groups and an increase in harassment and, in some cases, imprisonment of and physical attacks against them. President Mahmoud Ahmadinejad's denials of the Holocaust have intensified fears among Iran's Jewish community. Dissidents and political reformers continue to be imprisoned on criminal charges of blasphemy and for criticizing the nature of the Islamic regime. More than 120 Baha'is have been arbitrarily arrested since early 2005, with dozens still awaiting trial; others have been sentenced to prison terms ranging from 90 days to one year on dubious charges that include "spreading propaganda against the regime."
- Religious freedom conditions continued to deteriorate in **Eritrea**, where the government engages in systematic and egregious religious freedom violations, including: a prolonged ban on public activities by all religious groups that are not officially recognized; arbitrary denials of recognition; closure of places of worship; disruption of private religious and social gatherings of members of unregistered groups; arbitrary arrests and detention without charge of their members; and the mistreatment or torture of religious detainees, sometimes resulting in death.

2007 USCIRF Annual Report Press Conference. From left, Commissioners Preeta D. Bansal, Felice D. Gaer, Michel Cromartie, Nina Shea, Elizabeth H. Prodromou and Richard D. Land.

- The military junta that governs **Burma** monitors the activities of all religious organizations through a pervasive internal security apparatus. The government imposes restrictions on certain religious practices, controls and censors all religious publications, has supported, allowed, or instigated violence against religious minorities, and in some areas of the country, has forcefully promoted Buddhism over other religions. Ethnic minority Christians and Muslims have encountered the most difficulties in recent years.

Vietnam: Still Deserving CPC Designation

Vietnam was removed from the State Department's CPC list in November 2006, on the eve of President Bush's visit to Hanoi for the Asian Pacific Economic Conference. The Commission expressed its disappointment that the CPC designation was lifted, citing continued arrests and detentions of individuals in part because of their religious activities and continued severe religious freedom restrictions targeting some ethnic minority Protestants and Buddhists, Vietnamese Mennonites, Hao Hoa Buddhists, and monks and nuns associated with the Unified Buddhist Church of Vietnam (UBCV). The Commission recognized positive religious freedom developments in Vietnam, as the government released prominent religious prisoners, introduced some legal reforms, facilitated the legal recognition of religious communities, and, except for isolated cases, ended large-scale forced renunciations of faith. However, the Commission

Congressional Task Force on International Religious Freedom Co-Chairs Trent Franks (R-AZ), foreground, and Emanuel Cleaver (D-MO), right, with USCIRF Chair Felice D. Gaer (left) and Vice Chair Nina Shea.

stated that these improvements were insufficient to warrant lifting the CPC designation because it was too soon to determine if legal protections would be permanent and whether such progress would last beyond Vietnam's accession to the World Trade Organization (WTO). Moreover, the designation potentially removed a positive diplomatic tool that proved an effective incentive to bilateral engagement on religious freedom, and related human rights.

Since the CPC designation was lifted and Vietnam joined the WTO, positive religious freedom trends have, for the most part, stalled, and Vietnam has initiated a severe crackdown on human rights defenders and advocates for the freedoms of speech, association and assembly, including many religious leaders who previously were the leading advocates for religious freedom in that country. Given the recent deterioration of human rights conditions in Vietnam and because of continued abuses of and restrictions on religious freedom, the Commission continues to believe that the lifting of the CPC designation was premature. The Commission therefore recommended that Vietnam be re-designated as a CPC in 2007.

The designation of an egregious religious freedom violator as a CPC, followed by the implementation of a clear and directed policy response, is an essential tool to promote religious freedom, and one explicitly required by IRFA.

Uzbekistan: Severe Violations Finally Acknowledged

In November 2006, for the first time, Secretary Rice designated **Uzbekistan** a severe violator of religious freedom. The Commission welcomes the designation of Uzbekistan as a CPC, which the Commission has recommended for two years. The Uzbek government continues to exercise a high degree of control over the practice of the Islamic religion and to arrest Muslim individuals and crack down harshly on groups and mosques that do not conform to state-prescribed practices or that the government claims are associated with extremist political programs. This has resulted in the imprisonment of thousands of persons in recent years, many of whom are denied the right to due process. There are credible reports that many of those arrested continue to be tortured or beaten in detention, despite official Uzbek promises to halt this practice. Moreover, Uzbekistan has a highly restrictive law on religion that severely limits the ability of religious communities to function, leaving more than 100 religious groups currently denied registration. The government of Uzbekistan faces threats to its security, but these threats do not excuse or justify the scope and harshness of the government's ill treatment of religious believers nor the continued practice of torture, which reportedly remains widespread.

Responding to the CPC Designation

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

of these pre-existing sanctions can be designated as meeting the requirements of IRFA.[4]

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

When used properly, the CPC designation:

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

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

In 2005, the State Department announced its decisions on three serious religious freedom violators, Saudi Arabia, Vietnam, and Eritrea, in fulfillment of statutory obligations outlined in IRFA. In September 2005, Secretary Rice announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted. This was the first unique presidential action to be undertaken under IRFA as a result of CPC designation. The Commission commended this action and has recommended subsequent actions that the Administration should take, in accordance with IRFA, in response to that designation.

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

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

freedom of religion or belief. This is the case with the five countries listed below.

Responding to the Designation of Saudi Arabia

In July 2006, the Secretary decided to leave in place a waiver "to further the purposes of the Act" by announcing that bilateral discussions with **Saudi Arabia** had enabled the United States to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups." Because previous reform pledges made by the Saudi government have not been implemented in practice, the Commission remains concerned about whether and how the newly reported Saudi policies will be implemented and how the United States will monitor them. The Commission therefore has recommended that the State Department report publicly to Congress every 120 days on the implementation of the policies identified in the bilateral discussions. The newly confirmed policies—if actually implemented in full—could advance much-needed efforts to dismantle some of the institutionalized policies that have promoted severe violations of freedom of religion or belief in Saudi Arabia and worldwide.

Additional Countries that Warrant CPC Designation

Of the countries not on the State Department's CPC list, in addition to Vietnam, the Commission found that **Pakistan** and **Turkmenistan** have engaged in or tolerated particularly severe violations of religious freedom. The Commission therefore continued this year to recommend that these countries be designated as CPCs.

- Sectarian and religiously motivated violence persists in **Pakistan**, particularly against Shi'as, Ahmadis, Christians, and Hindus, and the government's response to this problem, though improved, continues to be insufficient and not fully effective. In addition, a number of the country's laws, including legislation restricting the Ahmadi community and laws against blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. Just last month, six Christians in one city in Punjab province were charged with blasphemy under highly questionable circumstances; others in the area have reportedly gone into hiding out of fear of attack. These religious freedom concerns persist amidst the wider problem of the lack of democracy in Pakistan, an obstacle the current government has done little to address.
- The death of President Saparmurat Niyazov last December presents an opportunity for the United States to encourage the new leadership in **Turkmenistan** to act immediately to reverse Niyazov's gross abuses of human rights, including freedom of religion or belief. Among the urgent reforms needed are ending Niyazov's personality cult, which had reached the dimensions of a state-imposed religion; halting of the government's interference with, and excessive control over, religious activities and organizations; and bringing the country's religion law into conformity with Turkmenistan's constitution and its international legal commitments. Although some steps have been taken by the new president to end the country's isolation, they are not directly related to human rights and do not warrant the removal of Turkmenistan, one of the most repressive states in the world, from the Commission's CPC list.

Countries Requiring Close Monitoring: the Commission's Watch List

In addition to its CPC recommendations, the Commission has established a Watch List of countries where conditions do not rise to the statutory level requiring CPC designation but which require close monitoring due to the nature and extent of violations of religious freedom engaged in or tolerated by the governments. **Afghanistan**, where the former Taliban regime was once designated under IRFA as a particularly severe violator, was added to the Commission's Watch List last year, joining **Belarus, Egypt, Bangladesh, Cuba, Indonesia,** and **Nigeria**. The Commission is concerned about the serious abuses in these countries, and that the governments either have not halted repression and/or violence against persons amounting to severe violations of freedom of religion, or have failed to punish those responsible for perpetrating those acts. The Commission urges the U.S. government to pay particular attention to the poor situation for religious freedom in these countries, as the Commission itself will continue to do.

This year the Commission added **Iraq** to its Watch List, due to the alarming and deteriorating situation for freedom of religion and belief. Despite ongoing efforts to stabilize the country, successive Iraqi governments have not adequately curbed the growing scope and severity of human

Rebiya Kadeer, President of the World Uyghur Congress, with USCIRF Chair Felice D. Gaer at a March 2007 event honoring the Congressional Task Force on International Religious Freedom.

rights abuses. Although non-state actors, particularly the Sunni-dominated insurgency, are responsible for a substantial proportion of the sectarian violence and associated human rights violations, the Iraqi government also bears responsibility. That responsibility takes two forms. First, the Iraqi government has engaged in human rights violations through its state security forces, including arbitrary arrest, prolonged detention without due process, extrajudicial executions, and torture. These violations affect suspected Sunni insurgents, but also ordinary Sunnis who are targeted on the basis of their religious identity. Second, the Iraqi government tolerates religiously based attacks and other religious freedom abuses carried out by armed Shi'a factions including the *Jaysh al-Mehdi* (Mahdi Army) and the Badr Organization. These abuses include abductions, beatings, extrajudicial executions, torture and rape. Relationships between these para-state militias and leading Shi'a factions within Iraq's ministries and governing coalition indicate that these groups operate with impunity and often, governmental complicity. Although many of these militia-related violations reveal the challenges evident in Iraq's fragmented political system, they nonetheless reflect the Iraqi government's tolerance—and in some instances commission—of egregious violations of religious freedom. Finally, the Commission also noted the grave conditions for non-Muslims in Iraq, including ChaldoAssyrian Christians, Yazidis, and Sabean Mandaeans, who continue to suffer pervasive and severe violence and discrimination at the hands of both government and non-government actors. The Commission has added Iraq to its Watch List with the understanding that it may designate Iraq as a CPC next year if improvements are not made by the Iraqi government.[2]

- Conditions for freedom of religion or belief in **Afghanistan** remain increasingly problematic. Flaws in the country's new constitution, which does not contain clear protections for the right to freedom of religion or belief for individual Afghan citizens, failed to prevent a number of criminal court cases that were in violation of the rights of the accused. In addition, the failure or inability of the Afghan government to exercise authority effectively outside Kabul contributes to a progressively deteriorating situation for religious freedom and other human rights in many of the provinces. As far back as 2002, the Commission raised strong concerns about the decision not to extend the international security presence outside of Kabul; it now seems clear that the political reconstruction process has indeed become seriously threatened as a result of the alarming and deteriorating security conditions.
- In the past year, the government of **Belarus** appeared to be adopting increasingly tough sanctions against reli-

Former Secretary of State Madeleine Albright (right) speaking about her book *The Mighty and the Almighty: Reflections on America, God, and World Affairs*, with Commissioners (right to left) Preeta D. Bansal, Michael Cromartie, Nina Shea and Richard D. Land, and USCIRF Executive Director Joseph R. Crapa.

gious leaders and others who take part in unregistered religious activity, including through short-term imprisonment. In addition, the highly authoritarian government persists in enforcing the country's harsh 2002 law on religion, resulting in calculated and serious regulatory obstacles and bureaucratic and legal restrictions on the activities of many religious communities. In the past two years, the Belarusian authorities have increased the amount of the fines for "unauthorized" religious activity, as well as expanded the range of religious groups that are subject to fines, which in many cases now amount to five times the average monthly wage in Belarus.

- The Commission traveled to **Egypt** in 2004 and found that serious religious freedom violations affect Coptic Orthodox Christians, Jews, and Baha'is, as well as members of minority Muslim communities, all of whom are also subject to religiously-motivated attacks. The Commission is deeply concerned about a December 2006 decision by the Supreme Administrative Court of Egypt to uphold the Egyptian government's discriminatory policy of prohibiting Baha'is from obtaining a national identity card. A lower court decision in April 2006 had allowed members of the Baha'i faith in Egypt to obtain national identity cards and to list their religious affiliation, but the Egyptian government appealed that ruling to the Supreme Administrative Court. Known converts from Islam to Christianity also receive attention from the state security services, and converts have been arrested for attempting to change their religious affiliation on identity documents. In addition, although religious pluralism in Egypt has been acknowledged, more can and should be done by the government to punish those responsible for the rise in religious violence in recent years, and to combat widespread and virulent anti-Semitism and other intolerance in the media and in the education system.
- **Bangladesh** has been in the throes of a major political and constitutional crisis, the resolution of which will determine whether religious freedom and other human rights will be protected by the rule of law or the country will continue on a downward spiral toward authoritarianism and intolerance. The Commission placed Bangladesh on its Watch List in 2005 due to concerns about increasing Islamist radicalism and violence and the threatening conditions for and discrimination against religious minorities, including Hindus, Christians, and Ahmadis. Members of religious minority communities have expressed concerns about being excluded from voter rolls, intimidated from voting in the next national election, or targeted by anti-minority violence as had followed the last national election in October

2001. After the January 2007 postponement of the election and the installation of a new caretaker government that has given the military a high-profile role in domestic law enforcement, there have been numerous reports of serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, and curbs on press freedom.

- Religious belief and practice continue to be tightly controlled in **Cuba**, where a 2005 law on religion reinforces the government's efforts to maintain control over religious practice. Both registered and unregistered religious groups continued to experience varying degrees of official interference, harassment, and repression. Political prisoners and human rights and pro-democracy activists are increasingly being denied the right to worship. Religious leaders report pressure, sometimes blatant, by the government to expel pro-democracy or human rights activists from their church, and activists have been asked by church leaders to distance themselves from the congregation.
- Although the situation has continued to improve in **Indonesia**, the Commission remains concerned about ongoing sectarian violence and the Indonesian government's inability or unwillingness to hold those responsible to account; the forcible closures of places of worship belonging to religious minorities; and the growing political power and influence of religious extremists, who harass and sometimes instigate violence against moderate Muslim leaders and members of religious minorities. Violence targeting Ahmadiyah Muslims has risen dramatically in recent years and extremist groups are known to train, recruit, and operate in Central and South Sulawesi. In the last year, at least nine Protestant churches, four Ahmadiyah mosques, and one Hindu temple have been closed or damaged in areas of West Java, North Sumatra, South Sulawesi, and West Nusa Tenggara as a result of the influence of extremist groups who incited mobs and/or intimated local officials.
- In **Nigeria**, the government continues to have an inadequate—though improved—response to ongoing violent communal conflicts along religious lines, the expansion of sharia into the criminal codes of several northern states, and discrimination against minority communities of Christians and Muslims. In April 2006 in Plateau state, at least 25 people, both Christian and Muslim, were killed and hundreds fled their homes during sectarian clashes over land ownership. In September 2006, a mob of Muslim youths injured six Christians and burned nearly a dozen churches in Jigawa state in northern Nigeria.

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

ENDNOTES

[1] IRFA § 402 (b)(1)(A).

[2] IRFA § 3(13).

[3] The authority to make these decisions has been delegated by the President to the Secretary of State.

[4] IRFA § 402(c)(5).

THE STATE DEPARTMENT'S ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM

The Department of State's *Annual Report on International Religious Freedom* and the work of our Commission continue to demonstrate that the issue of religious freedom is connected to and affects numerous U.S. foreign policy concerns. In adopting the International Religious Freedom Act of 1998 (IRFA), Congress determined that it would be the policy of the United States to promote respect for this right as a matter of U.S. foreign policy. The State Department's Annual Report, which was released in September 2006, provides an opportunity to assess the status of religious freedom throughout the world, to focus on the countries that are particularly serious violators of religious freedom, and to appraise U.S. efforts to integrate this important freedom within its foreign policy.

The *Annual Report on International Religious Freedom* is a critical part of the process of promoting religious freedom throughout the world. The Commission continues to conclude that the Annual Report is an important achievement that demonstrates the significant efforts of the Foreign Service Officers in our embassies around the world, as well as the Ambassador at Large for International Religious Freedom and his staff at the State Department's Office of International Religious Freedom.

Individual Country Reports

As in the past, many of the individual country reports in the 2006 Annual Report are first-rate—thorough and accurate. However, the Commission is concerned about informational inaccuracies and troubling conclusions in a few important reports.

First and foremost, attention must be drawn to the country report on **Saudi Arabia**. When the Annual Report was released last September, the Commission noted the State Department's decision to remove longstanding and widely quoted language from its report that freedom of religion "does not exist" in Saudi Arabia. The Commission continues to conclude that freedom of religion does not exist in Saudi Arabia. The Department's own report states that "there generally was no change in the status of religious freedom during the reporting period."

The government of Saudi Arabia persists in banning all forms of public religious expression other than that of the government's own interpretation of one school of Sunni Islam and forcefully represses private religious practice. Members of the Shi'a and other non-Sunni Muslim communities, as well as non-conforming Sunnis, are subject to government restrictions on public religious practices as well as official discrimination. There is a continuing pattern of punishment and abuse of non-Muslim foreigners for private religious practice. The government also continues to be involved in financing activities throughout the world that support extreme religious intolerance, hatred, and, in some cases, violence toward non-Muslims and disfavored Muslims. Given the State Department's own conclusion that religious freedom conditions had not changed in Saudi Arabia, it is extremely troubling that its own report would omit language in such a way as to suggest that some significant improvement had taken place, which was not the case.

This year's report on **China** contains stronger language in many areas, reflecting the deterioration in religious freedom conditions that several religious communities have experienced over the past year. However the report stops short of concluding that overall conditions had deteriorated, a conclusion that the Commission would support. The report's assessment of China's National Regulations on Religious Affairs, as promulgated in March 2005, takes due consideration of the problems that have arisen in many localities where officials are using the law as a means to interfere in the activities and practices of registered religious groups and to intimidate and harass the activities and leaders of unregistered groups. The Commission continues to find that given the vague and sometimes contradictory language of the Regulations, they do not adequately protect the rights and security of religious adherents and are not fully consistent with international norms.

USCIRF Chair Felice D. Gaer testifying before the House International Relations Committee on the State Department's 2006 International Religious Freedom Report, December 2006.

However, it would be helpful if the report were to include more detail regarding the poor religious freedom conditions in Xinjiang, affecting primarily Uighur Muslims, as well as unregistered house church Christians and Orthodox Christians. The report contains language condemning the overall repression of religion in Xinjiang and especially the policies of the Chinese government that routinely conflate peaceful Uighur political opposition with violent separatist activities, extremism, and/or terrorism. On the other hand, it includes few details on the problems that religiously devout Uighur Muslims often face if they attempt to assemble for religious purposes, teach their children to be religiously observant, or celebrate certain Islamic traditions. In addition, according to statistics from the China Aid Association, instances of arrest of unregistered Christians are higher in Xinjiang than in all but one other province of China. Similarly, reports of torture of those arrested for illegal religious activity are more numerous in Xinjiang than in other localities. The country chapter on China contains a separate section on Tibet. Comparable treatment for the Xinjiang region may facilitate a more substantive and detailed accounting of the situation in that province.

The **North Korea** report admirably illustrates the systematic violations and brutality of the Kim Jong Il government. Despite the difficulties of getting credible information out of that closed society, the report is nevertheless unnecessarily thin on details and background. For example, there is a wealth of information increasingly available from refugee interviews, including the Commission's study *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience, and Religion in North Korea,* which provide specific information about executions, torture of repatriated refugees from China, and policies used to both control and suppress religious freedom in North Korea. A fuller accounting of these details would pull aside the curtain that envelops North Korea for an international audience and provide additional evidence that China's repatriation of North Koreans is a violation of its international obligation to protect refugees.

Religious Persecution and the U.S. Refugee Program

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

Appendix E of the report, the Overview of Refugee Policy, continues to improve, with more comprehensive coverage of religious persecution and the U.S. Refugee Program than in past years. Once again, however, the 2006 report contains little acknowledgment of the serious problem of intra-religious persecution, but instead focuses almost exclusively on the persecution of religious minorities by a majority religious community. Moreover, this section contains no mention of Iraq and only a passing reference to Eritrea; these are significant refugee-source countries where serious religious freedom problems persist. Indeed, the Secretary of State has designated Eritrea a "country of particular concern," or CPC, and problems in Iraq—particularly with regard to the security of religious minority communities—are acute.

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

In its Report to Congress on Refugee Admissions for FY2007, the Department of State provides a more complete description of the way in which it is facilitating access to the Refugee Program, at least for those asylum seekers who have fled CPCs. The Report to Congress is required to include such information under Section 304 of the North Korea Human Rights Act of 2004. Such information should

be in the *Annual Report on International Religious Freedom* as well, even if not required by law.

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

Finally, section 602(b) of IRFA requires that all consular officers be trained in refugee law and policy. Although consular officers do not adjudicate refugee applications, they are authorized to refer refugee applicants to the DHS for adjudication, since the vast majority of asylum seekers are not permitted to apply to the Refugee Program without a referral from a U.S. embassy or the UN High Commissioner for Refugees (UNHCR). Appendix C of the Report, "Training at the Foreign Service Institute Related to the International Religious Freedom Act," states that consular training "includes a lecture on Immigrant Visa (sic) that incorporates discussion of refugee and asylum issues as they pertain to consular officers." Based on inquiries made by the Commission, however, it appears that the only training received by consular officers relevant to the Refugee Program is on the processing of immediate relative petitions filed by refugees and asylees. Such training does not comply with the broad requirements of section 602(b).[1] Consequently, the Commission is concerned that consular officers remain unaware of their ability to facilitate access to the resettlement program for asylum seekers in need of protection. Once again, the Commission urges the Department of State to comply with this training requirement, which could save the lives of bona fide refugees, particularly those who may have access to a U.S. consulate but not UNHCR.

ENDNOTES

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

COMMISSION RECOMMENDATIONS

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

- the State Department expand and strengthen its reporting on specific U.S. policies and actions to advance religious freedom;
- the Annual Report describe the policies that the U.S. government has adopted and is implementing to oppose religious freedom violations, as well as to promote religious freedom, on a worldwide, regional, and individual country basis, including policies regarding foreign aid, public diplomacy, multilateral organizations, and international financial institutions;
- the Annual Report specify, for each foreign country in which religious freedom violations occur: the U.S. government's objectives to advance religious freedom; U.S. policies that have been adopted and are being implemented to advance religious freedom; the religious freedom concerns that the U.S. government has raised with the foreign government, and the response of that government, including any specific actions taken; and the results, or lack thereof, of the actions taken by the U.S. government;
- the State Department describe in the Annual Report the specific actions taken pursuant to the International Religious Freedom Act of 1998 in response to the designation of a country as a "country of particular concern" (CPC) or in response to a finding that a foreign government has engaged in or tolerated a violation of religious freedom;
- where appropriate, activities designed to promote rule of law, effective law enforcement, and accountability for religious freedom and related human rights violations should be a significant component of U.S. efforts to promote religious freedom, and they should be described in the Annual Report; and
- the Annual Report describe in detail what measures have been taken to facilitate access to the U.S. Refugee Program for individuals fleeing from countries where religious freedom violations occur, including from countries designated as CPCs.

ERITREA

The government of Eritrea continues to engage in systematic and egregious violations of religious freedom, and the situation appears to have deteriorated in the past year. Current violations include a prolonged ban on public religious activities by all religious groups that are not officially recognized, closure by the authorities of the places of worship of these religious groups, inordinate delays in acting on registration applications by religious groups, disruption of private religious and even social gatherings of members of unregistered groups, arbitrary arrests and detention without charge of their members, and the mistreatment or torture of religious detainees, sometimes resulting in death. In February 2004, the Commission recommended for the first time that the State Department designate Eritrea a "country of particular concern," or CPC, which the State Department did in September 2004 and again in 2005 and 2006. In September 2005 Secretary of State Rice announced the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted, the first unique presidential action to be undertaken under the International Religious Freedom Act of 1998 (IRFA) in response to the CPC designation, a move commended by the Commission. The Commission recommends that Eritrea remain a CPC.

The Eritrean government officially recognizes only four religious groups: the (Coptic) Orthodox Church of Eritrea, Sunni Islam, the Roman Catholic Church, and the Evangelical Church of Eritrea, a Lutheran-affiliated denomination. Although there is no state religion, the government has close ties to the Orthodox Church, the largest and oldest of Eritrea's Christian communities, and is suspicious of newer groups—in particular, Protestant Evangelical, Pentecostal, and other Christian denominations not traditional to Eritrea.

Although relations among the four government-recognized religious communities are generally good, leaders of the established groups, in particular the Orthodox Church, have expressed concerns about the growth of newer, more activist religious groups. Government officials have criticized non-traditional Christian groups for engaging in aggressive evangelism that is allegedly alien to Eritrea's cultural traditions and socially divisive. Government officials have also pointed to foreign or foreign-inspired Muslim fundamentalists as seeking to radicalize Eritrea's traditional, popular Islam and thus to create tensions in a society that is roughly half Christian and half Muslim. Government concerns regarding foreign backing for religious groups have resulted in strict controls both on humanitarian activities by international faith-based organizations and on foreign funding going to indigenous groups for religious or charitable activities.

Hundreds of members of unregistered religious groups, as well as dozens of Muslims who oppose the government-appointed mufti, are believed to be detained at any given time, typically without charges, even for extended periods.

In 2002, the government imposed a registration requirement on religious groups requiring each group applying for approval to provide detailed financial and membership information, as well as background on its presence in Eritrea. Affected groups included Protestant Evangelical and Pentecostal Christian denominations, as well as the Baha'is. Some of these groups have operated in Eritrea for several decades. Exempted from the new requirements for registration were the four "sanctioned" faiths. Jehovah's Witnesses were not among the groups offered the opportunity to register. By

stipulating that there could be no public religious activities pending registration, the decree effectively closed places of worship and prohibited public religious activities, including worship services, of all other religious communities in Eritrea. Although some groups submitted the required applications, to date, none have been approved. As a result of the registration requirement and of the government's inaction on registration applications, all of Eritrea's religious communities except the four government-sanctioned religious groups lack a legal basis on which to practice their faiths publicly. In September 2006, the government confiscated the assets and seized control of the charitable institutions, including schools and an orphanage, of one of the groups that had tried to register, the Kale Hiwot ("Word of Life") Protestant Church.

As part of the campaign against the religious activities of those persons not belonging to officially recognized religious denominations, Eritrean security forces have disrupted private worship, conducted mass arrests of participants at religious weddings, prayer meetings, and other gatherings, and detained those arrested without charge for indefinite periods of time. Hundreds of members of unregistered religious groups, as well as dozens of Muslims who oppose the government-appointed mufti, are believed to be detained at any given time, typically without charges, even for extended periods. Among those detained have been elderly individuals and persons in poor health. Following Eritrea's designation as a CPC, the government's religious crackdown intensified, with a series of arrests and detentions of clergy and hundreds of others. There are credible reports that the security forces have used coercion on detainees to secure repudiation of their faith. Some religious detainees have reportedly been beaten, tortured, confined in crowded conditions, or otherwise subjected to harsh conditions resulting in death.

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

Since 1994, the government of Eritrea has denied a range of government services and civil and political rights to members of the country's small community of Jehovah's Witnesses. Many Jehovah's Witnesses refused on religious grounds to participate in the 1993 referendum on independence or to accept the national military service required of all citizens, both male and female. The government chose to interpret these actions as a rejection of Eritrean citizenship. In accordance with a presidential decree issued in October 1994, Jehovah's Witnesses have been barred from obtaining government jobs, business licenses, and government-issued identity and travel documents. Lack of Eritrean identity cards prevents Jehovah's Witnesses from obtaining legal recognition of marriages and land purchases. Jehovah's Witnesses who have refused to serve in the military have been imprisoned without trial, some for over a decade. These government actions, which continued in the past year, are customarily taken without due process of law or any administrative appeal. Moreover, the requirement of a military training component for secondary school graduation effectively denies educational and employment opportunities to young Jehovah's Witnesses, encouraging many to flee their homeland. Some children of Jehovah's Witnesses have been expelled from school because of their refusal to salute the flag or to pay for membership in the officially sanctioned national organization for youth and students. Individual members of the Jehovah's Witnesses are regularly arrested and imprisoned for expressing their faith to others. Some are quickly released, while others are held indefinitely without charge. Although there have been no recent reports of mass arrests, in 2003 and 2004, whole congregations of Jehovah's Witnesses were arrested while attending worship services. Currently 26 Jehovah's Witnesses remain imprisoned because of their religious convictions.

Since 2005, the government has increasingly interfered in the internal affairs of the Orthodox Church of Eritrea. Security forces have targeted reformist elements in the Orthodox Church, arresting religious activists and preventing their meetings. The government has also tightened its grip on the highest levels of the Church. In August 2005, the Church's Synod, allegedly acting at the government's behest, stripped the Orthodox Patriarch of much of his authority, with his administrative duties being assumed by a government-appointed layperson. In January 2006, the Synod moved to depose the Patriarch. In a letter dated January 15, 2006, the Patriarch denounced the Synod's actions as

Eritrean boys in Asmara

illegal under canon law and announced the excommunication of the government-appointed administrator. These actions by the Patriarch, who, according to some reports, had been placed under virtual house arrest, have been ignored by Church leaders who are compliant in the government's actions. In December 2006, the government reportedly ordered that all tithes and offerings to the Church must be placed in a government account, that priests' salaries must be paid from this account, and that priests deemed by the government to be in excess of parish needs must report for military service.

The government's concerns regarding religious activities appear to be linked to real or perceived security threats, and government spokespersons have cited Pentecostals, along with Muslim extremists, as threats to national security. Islamic militants, operating out of Sudan, have engaged in a low-level insurgency against the government, occasionally employing terrorism as a tactic in their campaign to establish an Islamic state. However, human rights organizations report that they consider it likely that many of the Muslim suspects detained without charge by the security forces are being held primarily for their views, including their criticism of alleged anti-Muslim discrimination or their opposition to the government-recognized leadership of the Muslim community, rather than for supporting or engaging in violence. None of the suspect Christian groups is known to have engaged in or advocated violence.

The Commission has met on a number of occasions with State Department personnel, Eritrean diplomats, religious community representatives, and others concerned with religious freedom in Eritrea. In October 2004, the Commission sent a staff delegation to Eritrea to study religious freedom conditions firsthand. During a six-day visit, the delegation discussed the religious freedom situation with senior Eritrean government officials, leaders of the four major faiths sanctioned by the Eritrean government, as well as with unregistered religious groups, representatives of non-governmental organizations, United Nations personnel, and members of the U.S. and foreign diplomatic communities. In a January 2005 letter to Secretary of State Condoleezza Rice, the Commission commended the Administration for Eritrea's designation as a CPC and recommended subsequent actions that the Administration should take, in accordance with IRFA, in response to that designation. The Commission welcomed the Secretary's announcement in September 2005 that Eritrea would be subject to the first-ever presidential action under IRFA specifically taken in response to CPC designation.

ERITREA COMMISSION RECOMMENDATIONS

As a consequence of the designation of Eritrea as a CPC, the Commission has recommended that the U.S. government should:

- maintain the denial of commercial export to Eritrea of defense articles and services covered by the Arms Control Export Act, with some items exempted, as announced by the Secretary of State in September 2005;
- engage in vigorous advocacy of religious freedom and other universal human rights at all levels of involvement with the government of Eritrea and draw international attention to religious freedom abuses there, including in multilateral fora such as the United Nations; and
- review development assistance to Eritrea with the aim of redirecting such assistance to programs that contribute directly to democracy, human rights, and the rule of law; increases in other forms of development assistance should depend on measurable improvements in religious freedom. On December 31, 2005, USAID closed its offices and ended most assistance programs in Eritrea, with the exception of certain humanitarian activities. The Commission recommends that any resumption of U.S. development assistance should entail a thorough review as described.

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

- urge the government of Eritrea to undertake the following actions to improve respect for religious freedom in that country by:
  - releasing detainees held solely on account of their peaceful religious activities;
  - implementing the constitution's existing guarantees of freedom of thought, conscience, and religion, including the freedom to practice any religion and to manifest such practice;
  - instituting a registration process for religious groups that is transparent, non-discriminatory, not overly burdensome, and otherwise in accordance with international standards;
  - promptly registering those religious groups that comply with the requirements issued in 2002, and not requiring religious groups to provide identifying information on individual members;
  - taking official, public action to permit religious groups to resume their public religious activities pending registration, including reopening of places of worship closed by the ban in 2002;
  - issuing a public order to the security forces reminding them that religious practice is not to be interfered with except in those circumstances permitted by international law; and
  - extending an official invitation for visits by the UN Special Rapporteur on Freedom of Religion or Belief and by the UN Working Group on Arbitrary Detention.
- encourage unofficial dialogue with Eritreans on religious freedom issues, specifically by:
  - the promotion of a visit to Eritrea by U.S. leaders concerned with freedom of thought, conscience, and religion or belief in order to meet with Eritrean authorities and other opinion-makers and to facilitate dialogue among all of Eritrea's religious communities;
  - the expanded use of educational and cultural exchanges, such as the Fulbright Program, the International Visitor Program, and lectures by visiting American scholars and experts, in order to introduce more Eritreans to the workings and benefits of societies in which religious freedom and other human rights are respected; and
- seek the cooperation of other countries in promoting greater understanding by Eritreans of international standards regarding freedom of religion or belief;
- Intensify international efforts to resolve the current impasse between Eritrea and Ethiopia regarding implementation of the boundary demarcation as determined by the "final and binding" decision of the International Boundary Commission established following the 1998-2000 war; and
- support, and offer to provide funding for, the creation of an independent human rights commission in Eritrea, in line with the Paris Principles[1] for such organizations, including independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

[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).

NIGERIA

The response of the government of Nigeria to persistent religious freedom concerns in that country continues to be inadequate. These concerns include an ongoing series of violent communal conflicts along religious lines; the expansion of sharia (Islamic law) into the criminal codes of several northern Nigerian states; and discrimination against minority communities of Christians and Muslims. In addition, there are reports of foreign sources of funding and support for Islamic extremist activities in northern Nigeria, activities that threaten to fracture the already fragile relations between the two main religious groups. However, during the past two years, Nigerian security forces have responded more quickly to quell sectarian violence and have taken steps to address the activities of Islamic extremist groups. Because of persistent concerns, the Commission continues to place Nigeria on its Watch List.

Over the last year, Nigeria continued to experience incidents of violent communal conflict along religious and ethnic lines, which are often intertwined. The popular movement in 12 northern Nigerian states to expand the legal application of sharia to criminal matters continues to spark communal violence and is an ongoing source of volatility and tension between Muslims and Christians at both the national and local levels. Serious outbreaks of Muslim-Christian violence in the last few years threaten to divide further the populace along religious lines and to undermine the democratic transition and the foundations of freedom of thought, conscience, and religion or belief in Nigeria. Social, economic, and political conditions have not improved in the country, fostering a climate of even greater tension among ethnic and religious communities.

Since President Olusegun Obasanjo came to power through popular elections in 1999, more than 10,000 Nigerians have been killed in sectarian and communal attacks and reprisals between Muslims and Christians. The most serious of these clashes 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 more recently, in northern and southeastern Nigeria, in the wake of the controversy over depictions of the Prophet Muhammad in the Danish press (February 2006).

Ethnic and religious violence continued throughout the past year, although the number of deaths resulting from the violence decreased compared to previous years. Dozens of people were killed and dozens of churches and mosques destroyed in communal violence in several towns and villages in southeastern Nigeria, the Middle Belt region, and northern Nigeria. In February 2006, approximately 50,000 people were displaced and at least 150 Muslims and Christians were killed in four days of sectarian violence across Nigeria, particularly in the cities of Onitsha, Maiduguri, Katsina, and Bauchi, after protests over caricatures of the Prophet Muhammad fueled underlying religious and ethnic tensions. Independent reports indicate that both Muslim and Christian groups initiated attacks on each other and reprisal attacks followed. Unlike in the past, the Nigerian government eventually raised the security alert level and directed law enforcement agents to deal decisively with eruptions of violence in any part of the country. At least 400 people have since been arrested. In March 2006, the Nigerian Information Minister stated publicly that there are continuing efforts by some individuals, groups, and organizations to instigate "further violence and mayhem" in many northern and southern states and that those "already arrested for their roles in the violence will be fully prosecuted." Widespread destruction of property took place, with numerous churches, mosques, and homes burned down.

Despite the ongoing nature of sectarian violence, the number of those killed decreased in the past year due to a more rapid and effective response by security authorities. However, prosecution of those involved with instigating sectarian violence remains inadequate, and President Obasanjo has been criticized both inside and outside Nigeria for not responding more decisively to the violence and the communal tensions brought about by the sharia controversy.

Also in February 2006, students at a secondary school in the northern Nigerian state of Bauchi reportedly threatened a Christian teacher for handling the Koran improperly. In a subsequent demonstration that turned violent, two churches were burned and approximately 20 Christians were killed. The teacher reportedly came in contact with a copy of the Koran after taking it from a student who was reading it while class was in session. According to the State Department, although 25 arrests were made, the case was being handled as a state security matter with little information publicly available. In April 2006 in Plateau state, at least 25 people, both Christian and Muslim, were killed and hundreds fled their homes during sectarian clashes over land ownership between the Pan and Gomai people. In September 2006, a mob of Muslim youths injured six Christians and burned nearly a dozen churches in the predominantly Muslim town of Dutse, capital of Jigawa state in northern Nigeria. The attacks were sparked by allegations that a Christian woman had blasphemed the Prophet Muhammad. Demanding that she be stoned, angry Muslims incited a riot, destroying churches, 20 Christian homes, and 40 shops, leaving more than 1,000 Christians displaced. According to news reports, 25 persons were arrested in that incident. As of this writing, none of those arrested have been prosecuted.

Zaria, northern Nigeria

Despite the ongoing nature of sectarian violence, the number of those killed decreased in the past year due to a more rapid and effective response by security authorities. However, prosecution of those involved with instigating sectarian violence remains inadequate, and President Obasanjo has been criticized both inside and outside Nigeria for not responding more decisively to the violence and the communal tensions brought about by the sharia controversy. He has primarily played a mediating role, stressing political negotiations rather than ordering the government to intervene to stop or prevent further violence. Moreover, many Christians and Muslims have been identified as perpetrators of violence over the years, but very few, if any, have been prosecuted or brought to justice. In fact, security and police forces have sometimes been accused of using excessive force, including extrajudicial killings, to curb communal violence. In an unprecedented admission, in August 2005, President Obasanjo stated publicly that the Nigerian police force had been guilty of torture and extrajudicial killings in numerous instances, and vowed to enforce adherence by police to universal human rights standards. After her visit to Nigeria in February-March 2005, the UN Special Rapporteur on Freedom of Religion or Belief stated that the Nigerian government should ensure that investigations of communal and sectarian violence are thorough, including through the identification and prosecution of the alleged perpetrators. In addition, the Nigerian government "should take very firm positions whenever religion is at the origin of human rights violations, regardless of which religious community is concerned." In October 2006, the Sultan of Sokoto, Muhammadu Maccido, widely regarded as the spiritual leader of Nigerian Muslims, died in an airplane accident. In recent years, Maccido frequently spoke out in an effort to end sectarian and communal violence between Muslims and Christians in Nigeria.

Since October 1999, 12 northern Nigerian states have extended or announced plans to expand the application of sharia in the state's criminal law; however, there have not been further enactments in the past year. Although the particulars vary from state to state, each has adopted, or reportedly plans to adopt, a sharia-based penal code and provisions to extend the jurisdiction of sharia courts beyond personal status matters to include sharia crimes and punishments for Muslims only. Punishments include amputation, flogging, or death by stoning, oftentimes after

Zaria, northern Nigeria

trials that fall short of basic international legal standards. Defendants have limited rights of appeal and sometimes have no opportunity to seek legal representation. Women have faced particular discrimination under these codes, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt, and allegations of rape and sexual violence are rarely investigated by judges. In addition to criminal code changes that purportedly apply only to Muslims, some states have instituted or tolerated discriminatory practices such as banning the sale and consumption of alcohol and disadvantaging women in education, health care, and public transportation. These practices affect Muslims and non-Muslims alike. For example, in July 2005, the state government in Kano banned women from riding in the same buses as men and from riding behind men on motorcycles. Moreover, a few northern Nigerian states—Kano, Zamfara, and Katsina—have sanctioned quasi-official *Hisbah* (religious police) to enforce sharia violations and other discriminatory practices.

There have been several cases in which sharia courts have handed down sentences of death by stoning to Muslims for various offenses. In 2003, several such cases were overturned and thrown out on appeal; stoning sentences remain in several other cases pending appeal. No stoning punishments have been carried out as of the time of this report. Nevertheless, sentences involving amputation and flogging have been carried out in recent years, although no such sentences were carried out during the past year, and several cases of this kind have been reversed on appeal, are in the process of appeal, or are awaiting sentencing. There are pending amputation and/or stoning sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara states. Many of these cases have been delayed continuously for various reasons.

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

In addition to the sharia controversy and the violence it incites, Nigeria is plagued by a number of other serious problems regarding freedom of religion or belief. Christians in the northern states complain of what they view as discrimination at the hands of Muslim-controlled governments and describe their communities as having the status of "second-class citizens." Most complaints predate the recent initiatives regarding sharia, and include allegations of official discrimination in the denial of applications to build or repair places of worship, access to education and state-run media, representation in government bodies, and government employment. Muslim communities in southeastern Nigeria, where Muslims are a small fraction of the population, echo some of the complaints of minority Christian communities in northern Nigeria. Southern Muslim leaders report official or officially sanctioned discrimination in the media, education, and representation in government institutions. Although proselytizing is permitted by the Constitution, several northern states continue to ban some public religious activities to address public safety and security concerns.

Since 2003, there have been an increasing number of small, vocal Muslim groups in northern Nigeria that advocate strict application of sharia, and which, some argue, are helping create a haven for radical Islamic militants from outside Nigeria. Though not organized as a nationwide

Since October 1999, 12 northern Nigerian states have extended or announced plans to expand the application of sharia in the state's criminal law.... Punishments include amputation, flogging, or death by stoning, oftentimes after trials that fall short of basic international legal standards.

movement, some of these groups advocate a more forcible Islamization of all Nigerian society, regardless of religious affiliation. Over the past two years, Nigerian security forces have dealt more decisively with Islamic extremist groups, resulting in a decrease in the number of incidents related to these groups' activities, a positive development. However, in April 2007, 12 Nigerian police officers were killed after Islamist extremists attacked a police station in Kano. Nigerian security forces responded by killing at least 25 of the self-styled "Taliban" militants, who Nigerian authorities said came into Nigeria from neighboring Chad.

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

The Commission has traveled twice to Nigeria, most recently in August 2003. In August 2004, the Commission issued a Policy Focus on Nigeria, which included recommendations for the U.S. government in relation to communal and sectarian violence, the expansion of sharia law in the north, discrimination against religious minorities, and increasing Islamic extremist activity. In addition, throughout the past year, Commission staff met with members of non-governmental organizations representing various religious communities in Nigeria, as well as human rights organizations, academics, and other Nigeria experts.

A Nigerian shopkeeper

NIGERIA COMMISSION RECOMMENDATIONS

With regard to Nigeria, the Commission recommends that the U.S. government should:

- urge the Nigerian government to address the sharia controversy, oppose religious extremism, and hold accountable perpetrators of religious violence by:
  - ensuring that sharia codes, as applied, provide the principle of equality under the law between men and women and between Muslims and non-Muslims, and do not result in violations of international human rights standards with regard to freedom of religion or belief, due process of law, equal treatment before the law, freedom of expression, and discriminatory practices against women;
  - ensuring that sharia criminal codes do not apply to non-Muslims or to individual Muslims who do not wish to go before sharia courts, and preventing law enforcement activities in northern states by any quasi-official or private corps of sharia enforcers;
  - taking effective steps to prevent and contain acts of sectarian and communal violence, prevent reprisal attacks, and bring those responsible for such violence to justice;
  - ceasing immediately any official support for the so-called "religious police," or *Hisbah*, and ensuring that state governments make greater efforts to halt the activities of these vigilante groups, including prosecuting those found to have taken the law into their own hands;
- expand U.S. presence and outreach efforts, primarily in northern Nigeria, by:
  - opening a consulate or other official presence in Kano, or elsewhere in the north;
  - providing adequate Embassy and Consulate staff with appropriate local language skills, and require political and public affairs officers to regularly travel throughout Nigeria;
  - increasing the capacity of the Hausa Service of the Voice of America to report fair and balanced views on communal conflict and human rights; and
  - sponsor several exchange programs each year on the topics of freedom of religion or belief, religious tolerance, and Islamic law and human rights, targeting religious leaders, human rights advocates, government officials, and northern Nigerians;
- expand U.S. support for communal conflict prevention and mitigation, through U.S. foreign assistance programs or otherwise, by identifying and supporting:
  - Nigerian non-governmental organizations working on communal conflict prevention and mitigation, emphasizing capacity-building at the local level;
  - human rights defenders, including legal aid groups that defend the constitutional and internationally recognized rights of individuals, especially women, impacted by sharia-based criminal codes;
  - human rights defenders responding to credible allegations of religious discrimination in any part of Nigeria;
  - funds for the expansion of training for the Nigerian federal police in human rights protection;
  - programs and institutions, particularly where communal violence has occurred, that promote objective, unbiased, and non-inflammatory reporting, consistent with the right to freedom of expression; and
  - the expansion of Nigeria's Inter-Religious Council, formed to promote dialogue between Christians and Muslims, and replicate the Council at the state and local levels; and
- 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.

SUDAN

The government of Sudan commits egregious and systematic violations of freedom of religion or belief in the areas under its control, particularly against Christians, Muslims who do not follow the government's extreme interpretation of Islam, and followers of traditional African religions. Due to the ongoing severe human rights violations committed by the government throughout much of the country, the Commission continues to recommend that Sudan be named a "country of particular concern," or CPC. The State Department has repeatedly adopted the Commission's recommendation that Sudan be designated a CPC.

In the past, the Commission has identified Sudan as the world's most violent abuser of the right to freedom of religion or belief and has drawn attention to the Sudanese government's genocidal atrocities against civilian populations. As a result of the government's policies of Islamization and Arabization, more than two million people were killed and four million driven from their homes in the North-South civil war from 1983 until January 2005. The civilian victims of that conflict were overwhelmingly Southern Christians and followers of traditional African religions in contrast to the Arabic-speaking Muslims dominant in Khartoum.

Since the signing of the Comprehensive Peace Agreement (CPA) on January 9, 2005, conditions for religious freedom have improved in the South and in the contested areas in central Sudan. The Commission continues to be seriously concerned, however, over severe human rights violations being committed by the Sudanese government in other regions of the country, including against both non-Muslims and Muslims who dissent from the government's interpretation of Islam, as well as in the western region of Darfur, where the State Department has determined that acts of genocide have taken place and may still be ongoing. Continued attention and monitoring by the United States and the international community are necessary to ensure that the terms of the CPA, particularly those relating to freedom of religion or belief and other universal human rights, are implemented fully.

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

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

- a referendum would be held at the end of the Interim Period to determine whether the South stays within a united Sudan or becomes independent;
- the 10 Southern states would be exempt from sharia (Islamic law), which, however, would continue to prevail in the North, and special provision would be made to protect the rights of non-Muslims in the national capital;
- the National Congress Party in power in Khartoum and the Sudan People's Liberation Movement/Army (SPLM/A) dominant in the South would form a Government of National Unity, with the SPLM/A having a minority share of offices; the SPLM/A would assume responsibility for the government of Southern Sudan;
- local autonomy would be granted to the contested areas of the Nuba Mountains and Southern Blue Nile State, which would, however, remain part of the North, and a special administration would be established in the oil-rich area of Abyei, whose boundaries would be determined by an independent commission; a popular referendum would determine whether Abyei continues to have a special status in the North or becomes part of the South;

Tomb of the Mahdi, Omdurman, Sudan

- elections for President of Sudan, President of Southern Sudan, the national legislature, state governors, and all state legislatures would be held "not later than the end of the fourth year of the Interim Period" (i.e. by July 2009); and
- constitutional arrangements for the Interim Period would be according to an Interim National Constitution and an Interim Constitution for Southern Sudan.

Since July 2005, Sudan's current Government of National Unity has officially governed under the Interim National Constitution, which contains provisions guaranteeing universal human rights, including freedom of religion or belief. As of this writing, however, key institutions envisaged by the CPA and the Interim National Constitution for the protection of rights have not yet been established: e.g., the National Human Rights Commission and the Commission for the Protection of the Rights of Non-Muslims in the national capital area. In the now autonomous South, the Interim Constitution of Southern Sudan, adopted in December 2005, separates religion and state and contains provisions for freedom of religion and for equality before the law regardless of religious belief. The Government of Southern Sudan has established a human rights commission for the South, as well as a special court to prosecute crimes committed for religious reasons, including crimes against members of the South's Muslim minority.

In government-controlled areas of the North, the religious freedom and other human rights protections agreed to in the CPA and enshrined in Sudan's Interim National Constitution have not yet resulted in significant changes in the government's practice of enforcing its interpretation of Islam to the detriment of those holding other views. Muslims are reported to receive preferential access to limited government services and preferential treatment in court cases involving Muslim against non-Muslim. 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 non-Muslims and on Muslims who did not traditionally follow such practices. There is discrimination in granting governmental approvals required for the construction and use of places of worship. Although permits are routinely granted to build mosques, permission to build churches is usually withheld. Churches built without such official permission exist at the authorities' sufferance. Church-owned properties that are legally recognized are nevertheless vulnerable to seizure in a legal atmosphere in which government action is not constrained by an independent judiciary.

Public religious expression and persuasion of non-Muslims by Muslims is allowed, but that of Muslims by non-Muslims is forbidden. In May 2006, four Sudanese Christians, including an Episcopal priest, were detained following contact with a Muslim woman who may have been interested in converting to Christianity. As the woman was estranged from her family and in hiding, the police acted under cover of a "kidnapping" investigation. Although all the detained Christians were released after a few days, three of them reportedly had been beaten while in custody.

The woman was returned to her family and no further legal action was taken.

Conversion from Islam is a crime theoretically 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.

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

Although relative North-South peace has brought improvement in human rights conditions in the South and in the Nuba Mountains, in the western region of Darfur, government forces and "Janjaweed" (government-backed militia 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 UN and the African Union (AU) to protect Darfur's civilian population have been wholly inadequate. On April 16, after months of obstruction, Khartoum agreed to accept a UN "heavy support package" of troops, police officers, civilian staff, and equipment necessary to assist the AU peacekeeping mission and protect civilians. Agreements such as this have been violated several times in the past, however, and close monitoring of the Sudanese government's compliance with the agreement by the international community is necessary. Khartoum continues to block the deployment of a full, joint UN-AU peacekeeping force, as mandated by the UN Security Council. With villages destroyed and lives at risk from further attack by government-supported Arab militiamen, many civilians remain in camps, unable to return home to raise crops and thus end their dependence upon international humanitarian assistance. The perpetrators of these crimes, both members of the Sudanese armed forces and allied militias, have acted with impunity. This lack of accountability and the persistent use of such methods by the government of Sudan raise serious questions about the government's commitment to abide by the terms of the CPA.

Actions resulting in mass killings by the government of Sudan against its own citizens have been repeatedly condemned as genocide. In the Sudan Peace Act of 2002, Congress found that the Sudanese government had committed acts of genocide during the civil war. By concurrent resolution in July 2004, Congress found the atrocities being committed in Darfur to constitute genocide. In congressional testimony delivered in September 2004, then-Secretary of State Colin L. Powell announced that the State Department "had concluded that genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility—and genocide may still be continuing." In a statement issued by the White House the same day, President Bush urged the international community to work with the United States to prevent and suppress acts of genocide in Darfur. Likewise, the State Department's most recent annual report on human rights practices in Sudan, issued March 2007, stated "The government's human rights record remained poor, and there were numerous serious problems, including evidence of continuing genocide in Darfur, for which the government and janjaweed continued to bear responsibility."

The government's genocidal actions stem from a policy of the governing elite in Khartoum to advance an Arab and Muslim identity in all parts of Sudan. This policy effectively relegates non-Arabs and non-Muslims to a secondary status and, moreover, conflicts with the reality that Sudan is a religiously diverse country with a large minority of Christians and followers of traditional African beliefs, as well as Muslims from a variety of Islamic traditions. Opposition to this coercive policy has fueled support for armed resistance by non-Muslim and non-Arab populations in the South, the Nuba Mountains, and elsewhere. During the North-South civil war, the current regime in particular used appeals to

Sudanese girls in a refugee camp in Chad (Christian Children's Fund)

Islam, including calls by senior government officials for "jihad," to mobilize northern Muslim opinion. Religious incitement by government officials contributed to the horrific human rights abuses perpetrated by government security forces and government-backed militias.

The Plight of Sudan's Internally Displaced Persons and Refugees

One of the major issues facing Sudan is the situation of the refugees and internally displaced persons (IDPs). The North-South civil war and the conflict in Darfur have together driven approximately seven million people from their homes. Sudan's total population today is just over 40 million. Although most of those displaced from the North-South civil war fled to other parts of Sudan, particularly to the North, hundreds of thousands 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 over two million internally displaced persons and sent another quarter million into neighboring Chad and the Central African Republic as refugees. Unlike those who fled the North-South civil war, the Darfurians are almost all Muslims, members of tribes identified as African as distinct from Arab.

The UN High Commissioner for Refugees (UNHCR) oversees refugee returns, and the UN Office for the Coordination of Humanitarian Affairs coordinates IDP returns in Sudan. Both agencies emphasize that all return of refugees and IDPs must be voluntary. Surveys indicate that most Southerners indeed wish to return to the South. IDPs living in the Khartoum area, for example, have limited access to employment or basic services and continue to face discrimination and harassment based on religious identification. Since the signing of the CPA in 2005, more than 100,000 refugees have returned to the South, 30,000 with UNHCR assistance, and an estimated one million IDPs have returned spontaneously. Returnees face major challenges, however, including logistical hurtles, lack of infrastructure and health and education services, limited employment opportunities, funding shortages, and poor security.

The capacity of Southern Sudan and the transitional areas to absorb large numbers of IDPs and refugees must be enhanced. Otherwise, significant dangers will be faced, not only by the individuals who choose to return, but also to the peace process itself and to the development prospects for the region. Without adequate preparation, large scale influxes

Displaced Sudanese women in Darfur (Peter Biro/International Rescue Committee via InterAction)

would likely result in additional tensions within overstretched local communities, due to competition over scarce resources and services. This could result in further conflict and diversions of funding from recovery and development to pay for emergency humanitarian assistance.

A complicating factor for returns to some areas of Southern Sudan is the continued threat posed by the Lord's Resistance Army (LRA). Sudan's prolonged North-South civil war became intertwined with violence in neighboring Uganda, with the Sudanese military providing support to, and receiving support from, the LRA, a violent, cult-like insurgent group that draws its support from the Acholi, an ethnic group located principally in northern Uganda and neighboring areas of Sudan. Throughout 2006, the LRA remained a security threat in the South, with reports of LRA banditry targeting civilians, humanitarian workers, and the UN. Attacks by the LRA or by Sudanese groups imitating LRA methods have delayed the return of Sudanese refugees from Uganda.

The capacity of Southern Sudan and the transitional areas to absorb large numbers of IDPs and refugees must be enhanced. Otherwise, significant dangers will be faced, not only by the individuals who choose to return, but also to the peace process itself and to the development prospects for the region.

Commission Actions on Sudan

Sudan was one of the first countries to be a focus of attention by the Commission. Since its inception, the Commission has met with a broad range of government officials, religious leaders, human rights monitors, civil society representatives, and others knowledgeable about Sudan; has held public events to focus attention on religious freedom abuses in Sudan; has testified on Sudan at congressional hearings; and has visited Sudan to see the situation on the ground, traveling most recently to Khartoum, Kadugli in the Nuba Mountains and Juba, as well as to Nairobi and Lokichokio in Kenya in January 2006. In March 2006, the Commission issued *Policy Focus: Sudan* at a press conference with Members of Congress. In March 2007, the Commission co-sponsored a Capitol Hill event with the Hudson Institute's Center on Religious Freedom and the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, to highlight congressional efforts on human rights and religious freedom in Sudan, in particular the work of the Congressional Human Rights Caucus's Task Force on International Religious Freedom. The same day, the Commission sent a letter to President Bush urging renewed U.S. leadership to achieve implementation of the Comprehensive Peace Agreement and to advance United Nations protection efforts in Darfur.

The Commission has made a series of recommendations regarding U.S. policy toward Sudan. In September 2001, following a Commission recommendation that the U.S. government appoint a nationally prominent individual to bring about a peaceful and just settlement of the North-South civil war in Sudan, President Bush appointed former Senator John Danforth as Special Envoy for Peace in Sudan, energizing the peace process. In September 2006, President Bush appointed former USAID Administrator and Special Humanitarian Coordinator for Sudan Andrew Natsios as Special Envoy for Sudan, again following a Commission recommendation. Other U.S. actions

have followed Commission recommendations, including the Administration's decisions to give peace in Sudan a higher priority on its foreign policy agenda, engage actively to move the warring parties toward peace, monitor progress toward implementation of a series of partial and preliminary peace agreements, and use U.S. assistance more effectively in alleviating the suffering of the Sudanese people and in aiding development in southern Sudan.

In addition to recommending that Sudan continue to be designated a CPC, the Commission urges the U.S. government to remain engaged at the highest levels in bringing about a just and lasting peace for all of Sudan. Just as this report was being prepared, President Bush announced on April 18, in a major policy address on Sudan, that should diplomacy on Darfur continue to fail to secure Khartoum's compliance with UN Security Council resolutions, the Administration will impose stronger measures on Khartoum, several of which the Commission recommends below.

Commissioner Bishop Ricardo Ramirez at the Jebel Aulia camp for internally displaced persons near Khartoum.

Commissioner Michael Cromartie (second from right) with (right to left) John Prendergast of International Crisis Group, Ken Bacon of Refugees International, Assistant Secretary of State for African Affairs Jendayi Frazer, UN Under-Secretary General for Political Affairs Ibrahim Gambari and Jennifer Cooke of the Center for Strategic and International Studies at a discussion on consolidating peace in Sudan, June 2006.

SUDAN COMMISSION RECOMMENDATIONS

The Commission recommends that the U.S. government should take the lead in the following areas to:

1 Coalition Building

- build on the Special Envoy's efforts by lending the President's personal prestige to enlist international support, including from the European Union, Sudan's neighbors and nations such as China and India that have major economic investments in Sudan, to press Khartoum to end its delaying tactics on CPA implementation.

2 CPA Verification and Follow-through

- continue to press for the complete and timely implementation of the CPA's human rights, power-sharing, revenue-sharing, and security arrangements; complete compliance must include Khartoum's unconditional acceptance of the decision of the Abyei Boundary Commission, the verifiable termination of all support for militias or elements of the Ugandan insurgent Lord's Resistance Army operating in the South, and the lifting of restrictions on peaceful political activities throughout the country in advance of elections;
- hold both the Northern leadership and the SPLM/A to the current schedule for elections and referenda, ensuring that these are true expressions of popular will and that their results are accepted and implemented;
- investigate and publicly report to the Congress every six months on the status of implementation of the CPA, with a particular focus on violations, assessing responsibility and indicating what actions are to be taken by the U.S. government in response; violations to be investigated should include the role of the Sudanese Armed Forces and associated militias in the November 2006 fighting in Malakal and Khartoum's possible continued support for the Lord's Resistance Army; and
- consider new sanctions as needed to respond to non-compliance with the terms of the CPA, including targeted sanctions such as asset freezes and travel bans against individuals and institutions, e.g., the National Congress Party, identified as responsible for serious human rights abuses or for impeding CPA implementation.

3 Southern Sudan

- continue to support and strengthen the Government of Southern Sudan, assisting in the development of institutions and infrastructure necessary to protect human rights, to deter a resumption of civil war, to support the return of refugees and internally displaced persons, and to prepare the South for the 2011 referendum on the South's political future;
  - remove remaining U.S. sanctions from all areas under the control of the Government of Southern Sudan and local institutions in the border areas of Abyei, Southern Blue Nile, and the Nuba Mountains, including sanctions on communications equipment; and
  - provide, well in advance of the 2011 referendum, specific security guarantees for the South in the event that Khartoum seeks to renew the North-South civil war or otherwise impose its will by force in violation of the CPA.

4 Promotion of Human Rights, including Freedom of Religion or Belief

- use U.S. bilateral discussions with Sudan, as well as UN mechanisms and bilateral discussions with third countries with influence in Sudan, to urge Sudan's Government of National Unity to:
  - allow all religious groups to conduct their activities without harassment, discrimination or undue interference, including activities such as publishing or importing religious literature as well as building, repairing, and operating houses of worship and social service programs;
  - repeal laws that punish changing one's religion or encouraging another to do so; end official accusations of blasphemy, apostasy, "offending Islam," or similar charges used to stifle public debate or restrict the right to freedom of expression;
  - dismantle the burdensome bureaucratic obstacles the government places on international humanitarian assistance; remove the state security services from their current role in regulating humanitarian assistance;
  - establish an independent and impartial national Human Rights Commission as called for in the Interim National Constitution and in accordance with the interna-

tional standards[2] for such bodies in terms of independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief;

- abandon efforts to force religious organizations to register as non-governmental organizations under regulations that give government officials effective control over their activities;
- permit relations between national religious communities and their co-religionists abroad in accordance with universal human rights norms;
- reform the state security services to be representative of all Sudanese and ensure that all national institutions such as the military, law enforcement agencies, and the highest levels of the judiciary are representative and equally protective of all Sudanese regardless of religious affiliation or belief;
- end the impunity with which members of the security forces and others acting as agents of the government have engaged in human rights abuses; urge the establishment of effective mechanisms for accountability for past abuses; and in the absence of such bodies, provide full cooperation with international institutions, including those mandated by the UN Security Council;
- cease messages of intolerance and discrimination against non-Muslims in the government-controlled media;
- exclude negative stereotyping in school textbooks; include in school curricula, in textbooks, and in teacher training the concepts of tolerance and respect for human rights, including freedom of religion or belief; history texts should reflect the religious and cultural diversity of Sudan's past;
- undertake a comprehensive review, in collaboration with Sudanese civil society and independent international experts, to bring Sudanese law into compliance with Sudan's international human rights obligations; and
- cooperate fully with international mechanisms on human rights issues, including inviting further visits by the UN Special Rapporteur on Freedom of Religion or Belief, the Special Rapporteur on the Situation of Human Rights in Sudan, 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.

5 Personnel Resources

- ensure that the Special Envoy has the personnel and other support needed to fulfill his mandate of facilitating the implementation of the CPA and of pursuing peace in Darfur;
- appoint a high-level official to ensure that U.S. resources and influence are used effectively to assist the safe and voluntary return of Sudan's refugees and internally displaced persons; and
- strengthen the capability of the U.S. Embassy in Khartoum to monitor implementation of the crucial human rights provisions of the CPA and to report on human rights abuses, including religious freedom in the North, as well as to advance the U.S. human rights agenda in Sudan by appointing a ranking official reporting to the Ambassador and working full-time on human rights.

6 U.S. Foreign Assistance

- ensure that USAID, the State Department's Human Rights and Democracy Fund, and other providers of U.S. government assistance develop a strategy and fund specific programs to 1) promote implementation of the human rights and religious freedom provisions of the CPA, and 2) advance legal protections and respect for freedom of religion or belief throughout Sudan, in recognition of (a) the central role of religion as a factor in the North-South civil war, and (b) the emphasis within the CPA on religious freedom concerns; the programs funded by USAID's Office of Transition Initiatives should be expanded;
- adopt as specific objectives for these U.S. programs:
  - improved citizen awareness of and enforcement of the legal protections for human rights included in the CPA, the Interim National Constitution, the Interim Constitution of Southern Sudan, and the international human rights treaties, including the International Covenant on Civil and

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

Political Rights (ICCPR), to which Sudan is a party;

- grassroots reconciliation and "peace through dialogue" among Sudanese, including building on steps USAID has already taken to promote reconciliation among Southern Sudanese, recognizing that participants in such programs must be transported, housed, and fed; participants should specifically include religious and other civil society leaders from Sudan's diverse religious and ethnic communities;
- greater capacity of those elements of civil society throughout Sudan (i.e. the North, the South, and the transitional areas) that promote religious tolerance, respect for human rights, and the peaceful resolution of conflicts, to advance those goals on both the national and the local levels; and
- development of an independent and impartial judiciary in Southern Sudan, including through training of judges, prosecutors, and court administrators and support personnel, with the aim to ensure international standards of due process, fair trial, and nondiscrimination;

- expand the use of educational and cultural exchanges, such as the Fulbright Program, the International Visitors Program, and lectures by visiting American scholars and experts, in order to introduce more Sudanese to the experience of societies in which religious freedom and other human rights are protected by law; preference should be given to programs that bring together leaders from various religious and ethnic backgrounds from the North, South, and the transitional areas;
- expand international radio broadcasting to Sudan to provide objective sources of news and information and to improve awareness of the CPA and its implementation, including specific programming promoting grass-roots reconciliation and respect for freedom of religion; support independent television and radio broadcasting, including in the South, to the same end; and
- promptly dispense financial assistance for humanitarian purposes, to build civil society, and to promote economic development in Southern Sudan, including in the area of an independent telecommunications network.

7 Refugees and Internally Displaced Persons

- support UN agencies and their NGO partners in facilitating the spontaneous—as well as organized—voluntary return of refugees and the internally displaced, including by intensified efforts to provide safer modes of transportation, to demine roadways, to establish and maintain "way stations," and to develop practical, community-based solutions to the current lack of basic infrastructure and health and education services for returnees;
- work with UN agencies and NGO partners to ensure that the populations that remain in refugee and IDP camps continue to receive at least the same level of humanitarian assistance as before, so they are not unduly pressured into making "voluntary" returns; and
- work with other resettlement countries, UNHCR, and its NGO partners to ensure that UNHCR expeditiously identifies those refugees for whom repatriation is not an appropriate or imminent solution to their displacement, including those who have suffered from past persecution; secure, as appropriate, timely local integration in countries of first asylum or resettlement to third countries for such refugees; and promptly devise a strategy to achieve this concurrent with efforts to repatriate refugees to Sudan.

8 Victims of Slavery and Human Trafficking

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

9 Peace in Darfur

- closely monitor the Sudanese government's compliance with UN Security Council Resolutions addressing the conflict in Darfur;
- support a stronger international presence in Sudan sufficient to protect civilian populations and to monitor compliance with the peace accords and Security Council resolutions, including by:

- urging the expansion of the mandate for international peacekeepers in Darfur—whether UN, African Union, or some combination of the two—explicitly to include the active protection of civilians and preventive protection;
- providing resources such as improved communications equipment, reliable vehicles and helicopters, and logistics assistance to enable peacekeepers to move quickly to places where abuses are occurring;
- bringing in advisors on civilian protection issues in armed conflict to train and work with international force commanders;
- ensuring that there is a secure environment for the delivery of humanitarian aid and the return of refugees and the internally displaced; providing an early warning system with GPS (global positioning system) capability to warn camps and villages of approaching forces;
- supporting the assignment of designated protection teams to camps for internally displaced persons;
- supporting the active enforcement of the aerial "no-fly" zone already specified in Security Council Resolution of March 29, 2005, which calls for the immediate cessation of "offensive military flights in and over the Darfur region;"
- taking measures to prevent—and providing aid to those victimized by—widespread sexual violence and rape in Darfur, including by training advisors for the international forces in Darfur and by encouraging participating nations to include female troops and female police officers in their deployment to handle rape cases effectively; and
- supporting a substantial increase in the number of human rights monitors from the UN Office of the Higher Commissioner for Human Rights and in the number of international peacekeepers deployed in Darfur;

- prevail upon the government of Sudan to provide needed humanitarian access to international relief organizations;
- continue efforts to aid the suffering civilian population of Darfur, including by seeking an end to killing, to ethnic cleansing and forced displacement, and to Sudanese government impediments to the distribution of international humanitarian assistance; assisting refugees and internally displaced persons to return home in safety; and promoting a ceasefire as well as a peaceful and just resolution of the grievances that underlie the crisis; and
- urge the Sudanese authorities to cooperate with the international prosecution of those accused of violations of international humanitarian law and human rights law in connection with the events in Darfur since July 1, 2002, in accordance with Security Council Resolution 1593 of March 31, 2005.

A novice monk praying in front of a Buddha figure, Burma

BURMA

Serious human rights abuses perpetuated by Burma's military regime continue to be widespread, including systematic and egregious violations of religious freedom. According to the State Department's 2006 Country Reports on Human Rights Practices, the Burmese government's extremely poor human rights record worsened in the past year, with increasing hostility directed at ethnic minorities, democracy activists, and international humanitarian agencies. Since its inception, the Commission has recommended that Burma be designated a "country of particular concern," or CPC. The State Department has followed this recommendation and consistently named Burma a CPC.

The military junta that governs Burma, the State Peace and Development Council (SPDC), monitors the activities of all religious organizations through a pervasive internal security apparatus. The government imposes restrictions on certain religious practices, controls and censors all religious publications, has supported, allowed, or instigated violence against religious minorities, and, in some areas of the country, has forcibly promoted Buddhism over other religions. Ethnic minority Christians and Muslims have encountered the most difficulties in recent years. In the past year, SPDC policies have continued to isolate Burma from the international community, multilateral organizations, and its neighbors.

The SPDC remains locked in a decades-long conflict with the pro-democracy opposition in the cities and armed groups of ethnic minorities in the countryside. Some clergy and followers of Buddhism and members of minority religions are politically active in opposition to the regime. The military junta continues to be suspicious of all organized, independent religious activity. This includes persons from among the ethnic minorities, for whom religion is often a defining feature.

The SPDC maintains a policy promoting the predominance of the Burman ethnic group, which has included state support of Buddhist leadership that remains loyal to the current regime, coupled with efforts to minimize the influence and presence of other religious groups.

As a part of Burma's "Seven-Step Roadmap to Democracy," the National Convention, an assembly that meets periodically as part of the process to nullify the 1990 elections and draft a new constitution, met twice in the past year. The National Convention is made up of representatives from the military government, militia groups that have signed cease fire agreements with the government, political parties that are sanctioned by the regime and do not oppose its policies, and some ethnic groups. Opposition parties and ethnic groups critical of the current regime remain excluded from the Convention and the peace process. The National Convention has met several times since 2003 but has yet to produce a draft constitution. However, neither the National Convention, nor intermittent attempts to arrive at peace agreements with armed militia groups, have produced an improvement in the overall conditions for human rights and religious freedom in Burma. In fact, renewed government attacks on ethnic villages have resulted in additional human rights abuses, including killings, rapes, forced labor, communal violence, displaced persons, and forced renunciations of faith. Beginning in December 2005, during a renewed campaign of violence in Karen State, SPDC forces raided several villages, destroying churches and homes of Karen villagers. More than 25,000 people were internally displaced during this campaign alone.

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

In the past year, members of minority religious groups, especially Muslims and Christians, continued to face serious abuses of religious freedom and other human rights by the military. In some localities, military commanders have forcibly conscripted members of ethnic and religious minorities for forced labor. Those who refuse conscription are threatened with criminal prosecution or fined. Those who do not carry out their tasks have been shot or beaten to death. Christians and Muslims have been forced to engage in the destruction of mosques, churches, and graveyards and serve as military porters. They reportedly have also been forced to "donate" labor to build and maintain Buddhist pagodas and monasteries. In January 2006, military forces destroyed a 50-foot cross on a hillside in Chin State and forced Christians to erect Buddhist shrines in its place. During the same month, the SPDC forcibly confiscated 15 acres of land in Chin State for construction of a Buddhist Monastery. The Chin Christian landowners received no compensation.

Tensions between the Buddhist and Muslim communities have resulted in outbreaks of violence over the past several years, some of it instigated by Burmese security forces against ethnic minority Muslims. In 2003, Buddhists attacked shops, restaurants, and homes owned by Muslims in Irrawaddy Division. In January 2005, two Muslims were killed and one Buddhist monk severely injured in communal violence in Rakhine (formerly known as Arakan) state. Police and soldiers reportedly stood by and did not halt the violence against Muslims until Muslims started to fight back. In February 2006, violent clashes erupted between Muslims and Buddhists in Rakhine and local authorities were hesitant to respond. During the violence, at least three people reportedly died in the riots and three mosques were destroyed. Authorities have prevented local efforts to rebuild the mosques.

In addition to violence, overt discrimination against Muslims, particularly ethnic Rohingya Muslims, is widespread and severe. The government has denied citizenship to Rohingya Muslims, who number approximately 800,000 in Burma, on the grounds that their ancestors allegedly did not reside in the country prior to British colonial rule. Without citizenship, Rohingya face restrictions on their freedom of movement. Refugees report that some Rohingya are restricted from owning property legally, residing in certain townships, or attending state-run schools beyond the primary level. Since 1988, the government has permitted only three marriages per year per village in the predominantly Muslim parts of Rakhine state. Muslims also report difficulties in obtaining birth certificates for newborns. Enforcement of such policies widened in the past year. In June 2004, the UN Committee on the Rights of the Child expressed concern over the situation among Rohingya children, particularly with regard to the denial of their right to food, health care, and education, as well as to their ability to survive, develop, and enjoy their own culture and be protected from discrimination.

Muslims reported difficulties in constructing new mosques or re-building those previously destroyed. In 2002, authorities in Rakhine state destroyed 13 mosques, halting only in response to international pressure. Local authorities reportedly replaced the mosques with government-owned buildings and Buddhist temples and have refused to issue the necessary permission for mosque construction on other sites. In July 2005, authorities forced the closure of a Muslim school on the grounds that its teachers had tried to convert Buddhist children to Islam by offering private courses. In August 2006, Muslim sources in Rakhine state reported that border security forces issued an order requiring the closure of five mosques, four madrassas, and 18 pre-madrassas. At the end of 2006, only two madrassas had been permitted to reopen. Authorities in northern Rakhine state also stepped up arbitrary "inspections" of mosques. Congregation members reportedly were forced to destroy a total of nine mosques in the region when religious leaders failed to produce operation permits during inspection procedures.

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 1994 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 all these areas, Christians are required to obtain a permit for any gathering of more than five people outside of a Sunday service. Permission is regularly denied, or secured only through bribes. In Rangoon in 2001-2002, authorities closed more than 80 Protestant house churches because they did not have proper authorization to hold religious meetings. Authorities refused to grant applications to obtain such authorization. Few of these churches have since been reopened. Additional reports of church closings in Rangoon and Mandalay have been received within the last year. In February 2006, authorities in Rangoon issued a ban on the Phawkkan church, which had been in operation

A young monk in Burma

for over twenty years. In October 2006, a Christian orphanage in Chin State was reportedly forced to close.

Among the Chin and Naga ethnic minorities, there are credible reports that government and military authorities made active efforts to convert Christians to Buddhism. In 2004, numerous reports emerged alleging that under the guise of offering free education, local officials separated children from their parents, with the children instructed to convert to Buddhism without their parents' knowledge or consent. Some groups reported that these measures decreased in the past year; however, local human rights organizations report that the practice continues. In Chin state, there are continued reports that government authorities offered financial and career incentives to ethnic Burman Buddhist soldiers to marry Chin Christian women. Chin families who agreed to convert to Buddhism were offered monetary and material incentives, as well as exemption from forced labor. In February 2007, a Christian pastor was arrested for writing a letter to General Than Shwe, the chief of the military junta, urging an end to the persecution of Christians. Naga Christian refugees leaving Burma continually report that members of the army, together with Buddhist monks, closed churches in their villages and attempted to force adherents to convert to Buddhism. In January 2007, a UK-based human rights and religious advocacy organization released a report claiming that an order had been circulated in Rangoon entitled "Program to Destroy the Christian Religion in Burma." The document allegedly originated from the Ministry of Religious Affairs and reportedly instructed citizens to report the activities of Christian evangelists to the authorities.

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

Although the SPDC shows public preference for Theravada Buddhism, even the majority Buddhist religion is not immune from government repression. According to the State Department's 2006 human rights report, members of the Buddhist "sangha" are subject to a strict

Pagodas in Bagan, Burma

code of conduct that is reportedly enforced through criminal penalties. Monks are not allowed to preach political sermons or make public views critical of SPDC policies, nor are they permitted to join political parties. Military commanders retain jurisdiction to try Buddhist monks in military court for "activities inconsistent with and detrimental to Buddhism." Over the past several years, monks and nuns have been defrocked or imprisoned, and an estimated 100 monks and novices remain incarcerated. The number of Buddhist clergy in prison for supposed political activity has risen since May 2003, when the Burmese government organized an attack on the motorcade of Aung San Suu Kyi and placed her in "protective custody." Travel restrictions, including an overnight curfew, remain in effect at several monasteries. In August 2006, authorities arrested five Buddhist monks and 15 laymen at a monastery in Rakhine state on the charge that they were allowing members of the NLD, the democratic opposition party that won the annulled 1990 parliamentary elections, to meet on monastery premises. At year's end the 20 remained in prison.

There has been an unprecedented level of action from the UN in recent years concerning the deteriorating human rights situation in Burma. Only days after a meeting between UN Under Secretary General Ibrahim Gambari and Aung San Suu Kyi in November 2006, the government declared that Aung San Suu Kyi's detention would be extended for another year. In December 2005, the United States initiated a briefing before the UN Security Council to discuss human rights conditions in Burma. In January 2007, nine of the 15 nations represented on the Security Council voted in favor of a U.S.-sponsored resolution calling on the junta to halt persecution of ethnic minorities and political dissidents. However, Russia and China both vetoed the resolution, causing it to fail. Despite allowing Gambari's November 2006 visit, the UN Special Rapporteur on Human Rights in Myanmar has not been permitted to visit the country since 2003.

In 2006, Commission staff continued to meet with exiled Burmese ethnic and religious leaders, including Buddhists, Christians, and Muslims, and with members of congressional and international delegations that visited Burma. In February 2007, Commission staff participated in a briefing convened by the Congressional Taskforce on International Religious Freedom on religious persecution in Burma, which discussed the political and religious persecution of Christians and Muslims.

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.

BURMA COMMISSION RECOMMENDATIONS

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

- halt the arrest and detention of persons on the basis of religion or belief and immediately and unconditionally release any person who has been detained for the peaceful exercise of the right to religious freedom, including 100 – 300 Buddhist monks and novices;
- publicly and officially order security forces to end violations of religious freedom, including compulsory contributions by non-Buddhists to the construction of pagodas, the closure of churches and mosques, the destruction of religious shrines and symbols, the instigation of communal violence against Muslims, the forcible promotion of Buddhism among ethnic minorities, and forced renunciation of belief;
- lift restrictions on the construction and renovation of churches and mosques and on printing religious literature, consistent with international standards, and end policies of forced eviction from, followed by the confiscation and destruction of, Muslim and Christian properties, including mosques, churches, religious meeting points, schools, and cultural centers;
- end policies that discriminate on the basis of religion in land use, education, allocation of land, job promotion, marriage, access to government services, citizenship, freedom of movement, and marriage, and invite international technical assistance to help draft laws that conform to international legal standards on these matters;
- end the use of forced labor and the use of children and members of religious minorities as porters or military labor, and actively enforce its own Order 1/99 (May 1999) and Order Supplementing 1/99 (November 2000), which instruct SPDC officials and military commanders to refrain from employing forced labor of civilians, except in emergencies;
- comply 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;
- invite the UN Special Rapporteur on Freedom of Religion and Belief for an immediate visit and grant her unrestricted access to religious communities and to regions where religious freedom abuses are reported and also allow unrestricted access of other independent human rights monitors and humanitarian aid organizations to all parts of Burma;
- ratify core international human rights instruments, including the International Covenant on Civil and Political Rights; and
- immediately and unconditionally release National League for Democracy Chairman Aung San Suu Kyi and engage in meaningful dialogue with the democratic opposition leading to a peaceful transition to civilian rule.

In addition, the U.S. government should continue to:

- in light of the transnational problems stemming from Burma's serious human rights abuses, press for additional multinational responses, including resolutions at UN bodies, such as the Human Rights Council, General Assembly, and Security Council, and support for the initiatives of ASEAN and its member states, for example, the Inter-Parliamentary Myanmar Caucus, to address these problems where appropriate;
- work to organize a coalition of democratic nations in Asia to construct a roadmap outlining the steps Burma needs to take to address humanitarian and human rights abuses and end economic and political sanctions, a coalition that could replace the moribund Bangkok Process; and
- provide assistance, through the State Department's Economic Support Fund (ESF), that empowers Burmese civil society groups to organize humanitarian assistance, conduct human rights documentation efforts (particularly religious freedom abuses faced by the Muslim and Buddhist communities), and provide public advocacy, leadership, and legal training to Burmese and ethnic Burmese living outside Burma.

CHINA

The Chinese government continues to engage in systematic and egregious violations of freedom of religion or belief. Religious communities are growing rapidly in China and the freedom to participate in officially sanctioned religious activity increased in many areas of the country over the past year. All religious groups in China face some restrictions, monitoring, and surveillance, however, and religious freedom conditions deteriorated for communities not affiliated with one of the seven government-approved religious organizations, those considered by the government to be "cults," and those closely associated with ethnic minority groups. Religious communities particularly targeted include Uighur Muslims, Tibetan Buddhists, "underground" Roman Catholics, "house church" Protestants, and various spiritual movements such as Falun Gong. There continue to be reports that prominent religious leaders and laypersons alike are confined, tortured, "disappeared," imprisoned, or subjected to other forms of ill treatment on account of their religion or belief. Moreover, legal reforms, which were issued with the promise of increased religious freedom protections, have not halted abuses and are used in some cases to justify arrests and other restrictions. Since 1999, the Commission has recommended that China be designated as a "country of particular concern," or CPC. The State Department has followed the Commission's recommendations and named China a CPC.

Throughout the past year, the government continued to take steps to implement the National Regulations on Religious Affairs (NRRA), issued officially in March 2005. The regulations maintain procedures whereby all religious groups and religious venues are required to affiliate with one of seven government sanctioned and sponsored religious organizations. Provisions in the NRRA specify conditions with which registered religious communities must comply in order to gain permission to conduct religious activity, provide social services, accept donations from overseas, and host inter-provincial religious meetings. The NRRA includes provisions that protect government approved religious activity and safeguard the property of religious groups. However, it remains the Commission's conclusion that the NRRA strengthens governmental management of religious affairs, offering Party leaders more extensive control over religious groups and their activities. The NRRA also makes unregistered religious activity illegal and subject to restriction. In addition, vague national security provisions can be applied to any religious group deemed to disrupt national unity or solidarity. In many regions, local Religious Affairs Bureaus (RAB) pressure unregistered groups to register or merge with the government-sanctioned religious organizations. Religious groups that refuse registration have been shut down and their leaders have been detained or fined and, in some cases, made to face criminal prosecution.

In order to implement the NRRA at the local level, new regulations were introduced in Henan, Zhejiang, Annhu, and Shanxi provinces and in Beijing and Shanghai. The regulations generally mirrored provisions in the NRRA; in regions with a large number of unregistered religious groups, however, the regulations increased the level of governmental interference in religious practice. For example, in Henan, religious organizations applying for registration are required to submit information that includes complete membership lists, detailed descriptions of activities and sources of funding, and identification of their leadership.

Commissioner Bishop Ricardo Ramirez, right, with young monks at Drepung Monastery, Tibet.

The regulations also include vague provisions that "other materials as needed" will be required in the registration process, a standard that may be applied arbitrarily. In Zhejiang, provincial regulations specifically proscribe proselytizing, a term that is not defined in the regulation, and could be used arbitrarily to restrict religious teaching of any kind or to demand that it be conducted only in officially approved religious venues.

The Chinese government requires all religious organizations to become registered as a means for the government to manage religious activity and maintain control of independent religious institutions and practice. Some Catholics, Protestants, Muslims and spiritual movements have refused to join the officially-sanctioned religious organizations due to their reluctance to: 1) provide the government with the names and contact information of their followers; 2) submit leadership decisions to the government or to one of the government approved religious organizations; and 3) seek advance permission from the government for all religious activities or theological positions. In addition, these groups do not trust the leaders of the officially approved religious organizations because they have been complicit in arrests and restrictions placed on unregistered religious activity. As an example of government methods of interference in religious activities and procedures of registered religious groups, in July 2006, authorities from the RAB in Shanxi forced a pastor associated with the government-approved Protestant organization to quit his post because he had not received permission

The Chinese government acknowledges that more than 100 Tibetan Buddhist monks and nuns are being held in prison.

Lhasa, Tibet

to invite a pastor from Hong Kong to speak in his church. Religious leaders at the same church were also warned that children should not be permitted to listen to Bible stories or attend services. During the past year, police have closed unregistered mosques, churches, and temples, many with large memberships and networks, in the provinces of Henan, Zhejiang, Xinjiang, Shanxi, Anhui, and Hebei. Since passage of the March 2005 Regulations on Religious Affairs, in some areas, problems have also continued with arbitrary denials of applications to register. For example, in Beijing, the Shouwang Church has twice filed papers to register following the procedures of the March 2005 regulations; on both occasions, however, its application was denied without any official statement on reasons for the rejection.

In recent years, Chinese leaders have continued a campaign to root out what they view as "foreign infiltration," a campaign that has, in some cases, targeted individuals and religious organizations that attempt to maintain affiliation with co-religionists abroad, although such contact is affirmed in the UN Declaration on the Elimination of Religious Intolerance. The campaign originated from Politburo level leadership and has been carried out with the most intensity in regions that have the largest number of unregistered religious activity and in ethnic minority areas, such as the Tibet Autonomous Region (TAR) and the Xinjiang Uighur Autonomous Region (XUAR). In January 2006, Politburo Member Jia Qinling stated that religious organizations must continually guard against foreign infiltration while working for greater unity among religious believers. The campaign is reflected in renewed efforts of Communist Party leaders in Tibet to undermine the influence of the Dalai Lama among Tibetan Buddhists. In August 2006, Zhang Qingli, the Party Secretary of the TAR stated in an interview with a German news magazine that the Dalai Lama was a "splittist," a "false religious leader," and that his actions had "destabilized Tibet." Additionally, in May 2006, a South Korean pastor was expelled from China after he was detained during a police raid on a Bible study involving about 60 house church Protestants in Jiangsu Province.

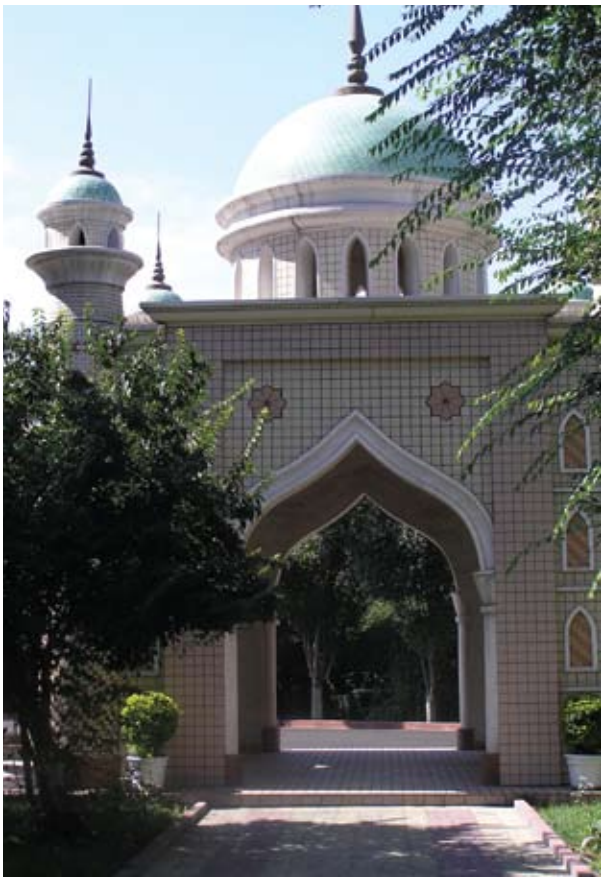
During the year, the Commission, along with the State Department and several independent human rights organizations, noted a crackdown throughout the country targeting human rights activists, lawyers and others who attempted to use the Chinese legal system to defend the rights of Chinese citizens, including those who sought to manifest their right to freedom of religion. For example, prominent civil rights attorney Gao Zhisheng was arrested on August 15 and held without charges for over a month and his family was placed under house arrest. Gao was well known for his defense of religious leaders, his criticism of the crackdown on Falun Gong, and his outspoken open letters appealing to Chinese leaders to respect measures of their own law that protect human rights. On December 12, Gao Zhisheng, who had not been permitted to meet with his lawyer for the duration of his detention period, was tried in secret and forced to plead guilty on charges of incitement to subvert state power. His three-year sentence was eventually suspended and he was placed on probation for five years, during which time he will remain deprived of his political rights and under tight surveillance. Other human rights defenders who have been imprisoned, harassed, detained, or interrogated include Guo Feixiong, Fan Yafeng, Teng Biao, and Li Jinsong. The Commission expressed concerns that the crackdown reflects the unwillingness of the Chinese government to implement legal and political reforms that would offer Chinese citizens viable means to protect their human rights, especially rights to civil, political, and religious assembly.

In Xinjiang, conditions for freedom of religion and belief are particularly poor. Official Chinese government policy

in the XUAR is to stamp out "terrorism, separatism and religious extremism." The government uses counterterrorism as a justification severely to curtail peaceful religious activity of the Uighur Muslim minority. During the last year, Uighur Muslim clerics and students have been detained for various "illegal" religious activities, "illegal religious centers" have been closed, and police continue to confiscate large quantities of "illegal religious publications." There are also a growing number of reports that 179 practitioners of the Sala order, a local Sufi branch of Islam, were arrested in August 2005 following a government ban on the movement. Some religious leaders and activists who attempt to publicize these and other abuses, or to voice their opposition to such policies, have received prolonged prison terms, or even death sentences, on charges of "separatism" and "endangering social order." All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces maintain a dossier on them to make sure they meet political requirements. Imams at Uighur mosques are reportedly required to meet monthly with officials from the RAB 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. Xinjiang officials continue to restrict severely the building of new mosques and the teaching of Islam to children.

During the Commission's visit to China in August 2005, government officials confirmed that minors are restricted from participating in any religious activity or instruction before completion of nine years of compulsory education. The existence of such a policy contradicts statements made by Chinese central government officials who claimed that no restrictions exist prohibiting the religious activities of minors. Aminan Momixi, a woman in a rural area of Xinjiang, was arrested and detained in August 2005 for holding religious classes for 37 students in her home. Despite repeated inquiries, authorities in Xinjiang have refused to account for Momixi's whereabouts. In several localities in Xinjiang, plainclothes police are reportedly stationed outside of mosques to enforce rules forbidding children and government employees from attending services. There are reports that in some areas, women and men under 30 are not allowed to attend 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, and observing Ramadan, as well as wearing head coverings, and are reportedly subject to fines if they attempt to do so. Such standards are reportedly enforced more strictly in southern Xinjiang and in other areas of the XUAR where Uighurs account for a higher percentage of the population.

In response to concerted and persistent international pressure, Chinese authorities released Uighur human rights activist Rebiya Kadeer in March 2005. Since Ms. Kadeer's exile, her family members have faced harassment and arrest. In June 2006, Kadeer's three sons, Kahar, Alim, and Ablikim, were detained and placed under arrest in order to prevent them from meeting with a visiting Congressional delegation. On October 27, Kahar and Alim were tried on charges of tax evasion and Alim was later sentenced to seven years imprisonment. The two were also fined a total of over US$75,000. In February 2007, the Kadeer family was informed that Ablikim was tried in secret on charges of subversion of state power. According to an official statement from the Chinese police, Ablikim was sentenced to nine



Urumqi, Xinjiang Province

The campaign against "evil cults" has, in recent years, expanded beyond the Falun Gong to include leaders of long-established Protestant and Catholic groups.

years imprisonment in April, however his whereabouts and physical condition remain unknown.

The Chinese government retains tight control over religious activity and places of worship in Tibet. The religious activities of monks and nuns are monitored, monasteries are administrated by government-approved management committees, selection and training of reincarnate lamas must receive government approval, and monks and nuns are required to participate in "patriotic education" programs run by government officials. The Chinese government acknowledges that more than 100 Tibetan Buddhist monks and nuns are being held in prison. Tibetan human rights groups claim that these prisoners are subject to torture and other ill-treatment. Reports indicate that government campaigns to promote the "patriotic education" of Buddhist monks in Tibet intensified beginning in April 2005. In July 2005, 18 monks were expelled from Sera Monastery in Lhasa for refusing to participate in "patriotic education" sessions. Additionally, 40 nuns were expelled from Gyarak Convent in October for similar reasons. In November, five monks from Drepung Monastery in Lhasa were arrested and detained after they, along with several other monks, refused to renounce their loyalty to the Dalai Lama. During the Commission's visit to Lhasa, government officials stated that it is not illegal for citizens to possess pictures of the Dalai Lama, but it is illegal to distribute them or to display them, since that could be interpreted as incitement to separatist activities. Despite this purported policy, in January 2006, authorities in Shigatse Prefecture reportedly arrested Phuntsok Tsering, the chant master of Magar Dhargyeling Monastery, on charges of possessing a portrait of the Dalai Lama. However, within the last year, diplomatic observers have reported an increase in the display of pictures of the Dalai Lama at Tibetan monasteries outside the Tibetan Autonomous Region (TAR). Both in May and in December, authorities in the TAR issued warnings to government workers and students that they should refrain from participating in celebrations of Tibetan Buddhist holidays.

Following a series of high-profile releases of and reduced sentences for Tibetan Buddhists between 2001 and 2005, the Chinese government has not responded to international calls for additional releases. In February 2005, the Chinese did release Phuntsog Nyidron, a nun who had been imprisoned since 1989, but placed her under strict house arrest and surveillance. The Commission was able to visit her in Tibet during its trip to China and later pressed the Chinese government to allow her to travel abroad for needed medical attention. She was permitted to travel to the United States in March 2006. The Chinese government continues to deny repeated international requests for access to the 18-year-old boy whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. Government officials have stated that he is being "held for his own safety," while also claiming 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. The boy was featured prominently at an international conference on Buddhism in Zhejiang Province in April 2006. The Dalai Lama and other prominent Tibetan religious leaders were not permitted to attend the conference. In January 2003, Tenzin Delek Rinpoche was arrested on charges related to a 2002 bombing incident and

Commissioners Richard D. Land, Felice D. Gaer, and Michael Cromartie, and USCIRF Executive Director Joseph R. Crapa at a hearing on Capitol Hill about religious freedom in China, January 2007.

A Buddhist monastery in Lhasa,Tibet

later sentenced to death. U.S. officials were promised that the evidence used to convict Tenzin Delek would be reviewed by the Supreme People's Court. After more than three years, the case has never been reviewed, though Tenzin Delek's death sentence was commuted to life imprisonment in January 2005. Additionally, Pawo Rimpoche, a reincarnate lama recognized by the Karmapa Lama in 1994, remains under strict surveillance and is not permitted to leave his monastery.

There are increasing and disturbing reports that China is actively seeking to prevent Tibetans from leaving the country and encouraging the forcible repatriation of those who seek asylum in Nepal or India. In late September, Chinese guards on the Nepalese border opened fire on a group of about 70 Tibetan refugees, resulting in the death of a 17-year-old nun. The group included a large number of monks, nuns and children who were seeking refuge in India in order to receive religious education that they would not be permitted to receive in Tibet. Eyewitness accounts and video footage confirm that the soldiers fired upon the group from a distance and that the group was unarmed. Following the shooting, soldiers took several members of the group into custody. One member, a 15-year-old boy, who later reached asylum in India, reported that those detained were tortured with cattle prods and forced to perform hard labor. Juvenile members of the group were eventually released after their families paid fines; the whereabouts of several adult members of the group, however, remain unknown.

Beginning with the banning of Falun Gong in 1999, the Chinese government has conducted a violent campaign against "evil cults" and "heretical sects." Tens of thousands of Falun Gong practitioners have been sent to labor camps without trial or sent to mental health institutions for re-education because of their affiliation with an "evil cult." Falun Gong practitioners claim that nearly 6,000 practitioners have been sent to prison and over 3,000 have died while in police custody. Some human rights researchers estimate that Falun Gong adherents comprise up to half of the 250,000 officially recorded inmates in reeducation through labor camps. The UN Special Rapporteur on Torture reported that Falun Gong practitioners make up two-thirds of the alleged victims of torture. Given the lack of judicial transparency, the number and treatment of Falun Gong practitioners in confinement is difficult to confirm. During the Commission's August 2005 visit, high level Chinese government officials defended the crackdown on the Falun Gong as necessary to promote "social harmony."

Police continued to detain current and former Falun Gong practitioners and place them in reeducation camps. Police reportedly have quotas for Falun Gong arrests and target former practitioners, even if they are no longer practicing. In the past year, reports continued to surface regarding the re-arrest of Falun Gong practitioners who had been released after completing terms of imprisonment originating from the original crackdown in 1999 and 2000. For example, Bu Dongwei, a lawyer in Beijing working on legal aid issues for the Asia Foundation, was arrested for possession of Falun Gong-related literature. In addition, the Chinese government has reportedly continued to pressure foreign businesses in China to sign statements denouncing the Falun Gong and to refuse to employ the group's followers. Multiple allegations of government-sanctioned organ harvesting from incarcerated Falun Gong practitioners have surfaced within the last year. Independent investigation into the practices of a hospital in Sujiatun, Shenyang proved inconclusive. However, based upon a report on the allegations from two prominent Canadian human rights activists, several international human rights organizations have called for an independent investigation and continued international attention to allegations of such organ harvesting from prisoners.

The campaign against "evil cults" has, in recent years, expanded beyond the Falun Gong to include leaders of

long-established Protestant and Catholic groups. Over the past year, religious leaders have been imprisoned and followers detained and fined for "cultist activity." Despite evidence that suggested witnesses had been threatened and tortured, leaders of the South China Church remain in jail facing serious charges. Family members alleged that the pastor of the church has been tortured while in prison. In August 2006, a female pastor in Inner Mongolia received a one-year sentence of "reeducation through labor" on charges of attempting to organize "cult related" activities. In November 2006, three leaders of the Three Grades of Servant Church were executed after conviction on murder and fraud charges and on charges of propagating an illegal cult. Lawyers claim that the case against the men was based upon confessions coerced through torture. At least 12 people have been executed in relation to the case in the past two years.

Relations between unregistered Roman Catholic congregations and the officially recognized Chinese Patriotic Catholic Association (CPA) are strained due to past government repression and the growing number of CPA bishops and priests secretly seeking ordination and approval of the Vatican. Chinese authorities continued to pressure unregistered Catholic clergy and laypersons to renounce ordinations approved by the Vatican and join the CPA or face fines, job loss, or detention. Also, in September 2006, Chinese officials refused to recognize a bishop in Shaanxi who was ordained with Vatican approval, but without government permission. The bishop was detained and forced to sign a document declaring the ordination illegal.

Commission Chair Felice D. Gaer testifying at a Congressional Human Rights Caucus briefing on Tibet and religious freedom in China, April 2007, with Lodi Gyari, special envoy for the Dalai Lama.

In late 2005, there were signs that the Vatican and Beijing were working toward accommodation regarding the approval and selection of bishops in the CPA. In Shanghai and in Xian, through a process of consultation, the Vatican and the Chinese government agreed upon candidates to replace two aging bishops. Despite this example, in April, May, and November of 2006, the Chinese government and the CPA ordained three bishops without Vatican consultation in Anhui, Kunming, and Xuzhou Dioceses. In addition, during these ordination ceremonies, security personnel from the RAB detained bishops and priests from other dioceses to pressure them to participate in the ordination proceedings. Officials in Fujian Province demolished a church in September 2006.

There remain at least 40 Roman Catholic bishops or priests under arrest, imprisonment, or detention, including the elderly Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s. On August 24, 2006, An Shuxin, Bishop Su's Auxiliary Bishop, was released after 10 years imprisonment. In February 2006, Father Lu Genjun, an underground priest of the Baoding Diocese in Hebei, was arrested at a local train station. No one has received notification of the charges against him or of his whereabouts. In March 2005, Bishop Zhao Zhendong of Hebei was detained along with two other priests; their current whereabouts remain unknown. Clergy in Hebei, Fujian, and Zhejiang provinces were harassed, detained, and arrested on questionable charges during the past year.

Conditions for unregistered Protestant groups in China remained poor during the last year. According to the State Department, in some regions of China, Protestant groups that refuse to affiliate with the government-sanctioned religious associations, either because of theological differences or political objections, are subject to intimidation, extortion, harassment, detention, as well as the forcible closure of their churches. In the last year, the Chinese government continued to raid house church meetings, fining and detaining pastors and lay leaders. In the last year, at least 110 Protestant leaders were detained for a period of 10 days or more, with at least 17 of these receiving prison sentences of one or more years.

In addition, the State Department estimates that "thousands" of house church members were detained for short periods in the last year. The majority of arrests and detentions occurred in Henan, Zhejiang, and Xinjiang provinces. In June 2006, Pastor Zhang Rongliang was sen-

tenced to seven and a half years imprisonment on charges of obtaining a false passport. In July 2005, Protestant Pastor Cai Zhuohua and two other relatives were sentenced to three years, two years, and 18 months in prison respectively for "illegal business activities," stemming from their large-scale publishing of Bibles and Christian literature without government approval. In October 2006, Protestant Pastor Wang Zaiqing was sentenced to two years of imprisonment on similar charges. Observers report that the use of criminal charges to target Protestant leaders is a recent tactic used by Chinese authorities to halt religious activity conducted without government permission. During the last year, demolition of Protestant churches was reported in Zhejiang, Jilin, Fujian, Anhui, and Inner Mongolia provinces; churches in the cities of Guangdong and Shandong were forced to close. In July 2006, officials demolished a church under construction in Zhejiang Province and arrested hundreds of its members. Several were beaten during interrogation and forced to pay fines in order to secure their release. In January 2007, eight leaders from this church were sentenced to prison terms ranging from one to three and a half years.

Religious freedom conditions vary by region for unregistered Protestant congregations and, in some parts of the country, unregistered "house churches," which range in size from a dozen to several hundred members, meet openly and with the full knowledge of local authorities. For example, in Yanbian Korean Autonomous Prefecture, Protestant leaders report that unregistered house churches are able to maintain their activities without interference from authorities. In other provinces, local officials have great discretion in determining whether "house churches" are allowed to exist. Protestant "house churches" encounter difficulties when their membership grows, when they arrange for the regular use of facilities, or when they forge links with other unregistered groups or with coreligionists overseas. The Chinese government's 1997 White Paper on Religion states that it is unnecessary for "small groups of families and friends" who meet in homes to register their activities with the government. Chinese government authorities reiterated this claim during meetings with a delegation of USCIRF Commissioners in Beijing in August 2005. Provincial-level regulations also include language that permits "religious life in the home." Within the last year, however, police conducted raids on hundreds of house church gatherings, confiscated literature, detained and questioned participants, and, in some cases, tried and imprisoned house church leaders. Such raids occurred most frequently in Henan and Zhejiang, where the majority of Protestant religious activity occurs, and in Xinjiang, where oppressive policies on religious affairs are more strictly implemented.

In January 2007, the Commission held a public hearing to receive testimony on religious freedom conditions in China and to discuss policy options that the United States might pursue to improve religious freedom and related human rights conditions. Witnesses included an expert

Mosque in Kashgar, Xinjiang Province

Women in Lhasa, Tibet

panel featuring the former Senior Director for Asian Affairs at the National Security Council and the Executive Director of the NGO Human Rights in China NGO. A second panel of witnesses included representatives from several major religious communities in China, including Tibetan Buddhists, Uighur Muslims, unregistered Catholics, house church Protestants, and Falun Gong. All witnesses who appeared on the panel confirmed that implementation of the March 2005 regulations on religious affairs had not led to any improvements in conditions of religious freedom for their respective religious denomination.

In April 2006, then-Commission Chair Michael Cromartie offered remarks at a reception held by the International Campaign for Tibet to welcome Phuntsok Nyidron to the United States. Also in April, the Commission co-hosted a roundtable discussion with the National Endowment for Democracy focusing on religion and the rule of law in China, featuring presentations from academic experts on rule of law and political development in China. Participants discussed China's implementation of the March 2005 NRRA and the various practices of implementing the policy in different regions of China. In May, the Commission hosted an additional roundtable for follow-up discussions on the same topic with a visiting delegation of Chinese human rights lawyers who have defended several prominent religious freedom-related cases.

In April 2006, Commissioners Cromartie and Felice D. Gaer co-authored an op-ed piece in the *New York Sun* calling on President Bush to raise concerns of religious freedom and related human rights during meetings with Chinese President Hu Jintao that were soon to occur in Washington.

In August 2005, a Commission delegation made a two-week visit to China to engage senior government officials on Chinese policies and practices relating to religious freedom. During the visit, the delegation traveled to the cities of Beijing, Shanghai, Chengdu, Urumqi, Kashgar, and Lhasa. The Commission delegation raised questions about Chinese law and international human rights norms, the control and management of religious affairs, new regulations on "cults" and religious affairs, the situations in Xinjiang and Tibet, religious education of minors, and other matters relating to freedom of religion or belief, as well as the condition of North Korean asylum-seekers in China.

H. Con. Res. 365, introduced in March 2006 and passed in the House of Representatives, contains Commission findings regarding the practices of the Chinese government to suppress the religious freedom of unregistered religious communities and to severely persecute those associated with groups labeled as "evil cults," such as the Falun Gong. The resolution called on the Chinese government to cease harassment of civil rights lawyer Gao Zhisheng and to remove legal and political obstacles for lawyers attempting to defend criminal cases in China, including those associated with politically and religiously sensitive defendants.

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

1 Ending Human Rights Abuses in China

The U.S. government should continue to urge the Chinese government to end severe violations of religious freedom and other human rights and continue to allow effective monitoring of international human rights norms by various United Nations bodies and the U.N. High Commissioner for Human Rights. To this end, the U.S. government should urge the Chinese government to:

- end its current crackdown on religious and spiritual groups throughout China, including harassment, surveillance, arrest, and detention of persons on account of their manifestation of religion or belief; torture and ill-treatment of persons in prisons, labor camps, psychiatric facilities, and other places of confinement; and the coercion of individuals to renounce or condemn any religion or belief;
- release all those imprisoned or detained on account of their manifestation of religious belief in contravention of international human rights standards;
- issue a national decree that renders provincial or local regulations obsolete and that guarantees the right of minors to manifest their religion or belief and the liberty of parents to ensure the religious and moral education of their children consistent with their own beliefs;
- establish a mechanism for reviewing cases of persons detained under suspicion of, or charged with, offenses relating to state security, disturbing social order, "counter-revolutionary" or "splittist" activities, or organizing or participating in "illegal" gatherings or religious activities. This mechanism should also review cases of detained or imprisoned religious leaders, many of whom have been charged with specious criminal offenses;
- extend an unconditional invitation to the UN Special Rapporteur on the Independence of Lawyers and Judges to China, and allow the Rapporteur full access in compliance with the terms of reference required by the Special Rapporteur; and
- determine dates for a visit to China by the UN Special Rapporteur on Freedom of Religion or Belief, in accordance with the terms of reference required by the Special Rapporteur.

In addition, the U.S. government should:

- raise publicly concerns about Chinese human rights abuses in multilateral fora, including at appropriate UN bodies or other international and multi-national fora, and ensure that preparations for such actions be made at appropriately high levels and with the widest possible support from other UN member states.

2 Building on Existing Efforts to Improve the Rule of Law in China

The U.S. government should make the promotion of the rule of law a greater priority of U.S. human rights diplomacy in China. To this end, the U.S. government should continue to urge the Chinese government to:

- ratify and implement the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998;
- amend or repeal Article 306 of the Criminal Procedure Code, which has been used against attorneys who have vigorously defended the rights of their clients;
- amend or repeal Article 111 of the Criminal Procedure Code, which labels as "state secrets" any published information deemed embarrassing to the government, and raise the issue of China's use of "state security" as a rationale for suppressing dissent in bilateral and multilateral discussions and exchanges;
- repeal the Guiding Opinion on Lawyers Handling Collective Cases and similar local regulations that interfere with the ability of lawyers to represent the interests of their clients in collective cases, including cases involving defending religious freedom or related rights or violations on account of religion or belief;
- repeal Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with "evil cults," and also its associated legislation, the Decision of the Standing Committee of the National People's Congress on Banning Heretical Cult Organizations, Preventing and Punishing Cult Activities; and
- end the use of government filters on web sites and e-mail and remove official restrictions on Internet

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

3 Building Programs to Support Chinese Rights Defenders

The U.S. government should support programs that will strengthen the ability of Chinese lawyers and activists to defend religious freedom or related rights or violations on account of religion or belief, advocate state policies that comport with international standards and support of a vibrant civil society and media. To this end, the U.S. government should support initiatives that promote the following goals:

- through the State Department's Human Rights and Democracy Fund, institute new programs that:
  - increase the capacity and networking ability of non-governmental organizations in China that are addressing issues of human rights, including religious freedom, as well as the freedoms of expression, association, and assembly,
  - expand contacts between U.S. human rights experts and Chinese government officials, academics, representatives of both registered and unregistered religious communities, and non-governmental organizations on international standards relating to the right of freedom of religion or belief; on the importance and benefits of upholding human rights, including religious freedom; on reforms to the Chinese criminal justice system, including planned changes in the criminal procedure code; and on the role of defense lawyers; and
  - increase consultations between international human rights experts and Chinese officials, judges and lawyers on the compatibility of Chinese laws, regulations, and practices with ICCPR standards on freedom of religion or belief;
- through the newly instituted Human Rights Defenders Fund, make support available to Chinese lawyers and others who defend the internationally recognized rights of individuals and communities targeted because of their religious belief or practice.

4 Expanding U.S. Outreach and Public Diplomacy in Tibet and Xinjiang

The U.S. government should:

- urge the Chinese government to allow a U.S. government presence, such as consulates in Lhasa, Tibet and Urumqi, Xinjiang, which would be able to monitor religious freedom and other human rights conditions; and
- strengthen its efforts to highlight conditions faced by Uighur Muslims and Tibetan Buddhists by:
  - increasing the number of educational opportunities in the United States that are available to religious and other leaders from these regions, in order to enhance their understanding of religious freedom and other human rights according to international standards;
  - creating legal clinics to assist those in areas of high concentrations of Uighur Muslim and Tibetan Buddhist populations to enforce their human rights under the Chinese Constitution and international law, building on existing programs that serve other ethnic minority areas in China;
  - expanding ongoing assistance to civil society programs that promote Tibetan culture, language, and social welfare and developing similar programs for Uighurs; 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 Voice of America and Radio Free Asia.

5 The U.S.-China Senior Strategic Dialogue and Promotion of Human Rights

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

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

- ensure that religious freedom priorities raised in the Senior Dialogues are backed by 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 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.

6 Raising the Profile of Religious Freedom and Related Human Rights Promotion through the 2008 Olympic Games in Beijing

The U.S. Congress should:

- within funds appropriated for the security of U.S. citizens in Beijing during the 2008 Olympic Games, allocate sufficient resources to ensure that training and related information materials include content that:
  - instructs security officials, Olympic spectators, and athletes regarding China's commitments to uphold for all visitors certain internationally recognized human rights standards during the Olympic Games; and
  - informs U.S. citizens, participants, and spectators at the Olympic games of their rights protected under international law and identifies problem areas they may encounter with Chinese authorities, relating to the freedoms of expression, religion or belief, assembly, and association, including information on Chinese law and recent human rights practices of the Chinese government on these issues;
- as part of such authorizations, designate consultations during the training process with the U.S. Commission on International Religious Freedom and relevant non-governmental organizations; and
- in order to promote a free and open environment, in concert with the principles of the International Olympic Committee (IOC) and the standards of the International Covenant on Civil and Political Rights, designate appropriate funding to independent human rights organizations to monitor and report on human rights conditions during the summer games to ensure that the Chinese government is in compliance with relevant commitments made to the IOC to uphold human rights and international standards during the Summer Olympics.

7 Addressing the Conditions of North Koreans in China

The U.S. government should continue to urge the Chinese government to protect North Koreans in China. To this end, the U.S. government should urge the Chinese government to:

- uphold its international obligations to protect asylum seekers by (1) working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer at least temporary asylum on those seeking such protection; (2) provide the UNHCR with unrestricted access to interview North Korean nationals in China; and (3) ensure that any migrants who are being returned pursuant to any bilateral agreement are not potential asylum seekers refouled in violation of China's obligations under the 1951 Refugee Convention and its 1967 Protocol;
- allow greater numbers of North Korean migrants who desire resettlement to have safe haven and secure transit until they reach third countries;
- grant legal residence to the North Korean spouses of Chinese citizens and their children; and
- allow international humanitarian organizations greater access to North Koreans in China to address growing social problems experienced by this vulnerable population, including child and sexual trafficking and forced labor.

INDONESIA

Indonesia's transition to democracy since 1998 has contributed to a gradual improvement in conditions for human rights, including religious freedom, over the past several years. President Susilo Bambang Yudhoyono's government continues to take positive steps to address terrorist and sectarian violence and to bring peace to the region of Aceh. In addition, the majority of Indonesia's diverse religious communities operate openly and without many restrictions. Nevertheless, the Commission remains concerned about the continued instances of communal violence, the forcible closures of places of worship belonging to religious minorities, the growing political power and influence of religious extremists, the human rights abuses perpetuated by the military and police, and the harassment and arrest of religious individuals considered "deviant" under Indonesian law. Moreover, various segments of the Indonesian government sometimes tolerate discrimination and abuse of religious minorities by extremist groups. Because of these persistent concerns, the Commission continues to place Indonesia on its Watch List.

Islam in Indonesia is known historically for its tolerance and its assimilation 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 government. The wearing of Islamic dress has re-emerged as an outward sign of devotion; the number of Islamic banks, businesses, and publications is growing; and Islamic-themed art and fiction are becoming more popular. Indonesian Muslim leaders have engaged in vibrant discussions on the nature of democracy and pluralism, the separation of religion and state, women's rights, and human rights more generally. There are numerous religious political parties and the role of Islam in politics and society, as well as the growth of terrorism, are discussed widely on television and radio and in numerous public fora, including during the 2004 presidential debates.

Religious extremists are a small but influential minority in Indonesia and there is evidence that support for extremist positions is on the rise among Indonesian Muslims.

A temple in Ubud, Bali

Religious extremists are a small but influential minority in Indonesia and there is evidence that support for extremist positions is on the rise among Indonesian Muslims. A recent nation-wide survey conducted by the Indonesia Survey Institute (LSI) concluded that the majority of Indonesians support such actions as the stoning to death of adulterers, the acceptance of polygamy, the cutting off of the hand of thieves, violence against those who blaspheme Islam, and a restricted social sphere for unmarried women—positions that depart from past attitudes on similar subjects. There are thus growing concerns that more militant strains of Islam are having a greater influence on attitudes, gaining political strength in some local areas, and possibly inciting mobs to communal violence or acts of terrorism. Moderate Muslim leaders and members of religious

minorities report that they continue to face pressure, intimidation, or sometimes violence from protestors organized by extremist groups. There are fears that Indonesia's culture of pluralism and tolerance is being slowly eroded by those espousing an extremist interpretation of Islam.

Over the past several years, members of such groups as Islamic Defenders Front (FPI), the Indonesian Council of Martyrs (MMI), the Alliances for Anti-Apostates, the Islamic Umat Forum (FUI), and Laskar Jundullah have used pressure, intimidation, or violence against those whose views or actions they found unacceptable. Their actions have included intimidating judges and local officials; vandalizing and destroying buildings belonging to religious minorities, including Christian churches, Hindu temples, and Ahmadiyah mosques; threatening moderate Muslims or those considered "deviant"; and forcing the closure of some non-Muslim businesses during Ramadan. These actions have continued in the last year. The offices of the Liberal Islam Network (JIL), whose appeals for pluralism and tolerance in Indonesia angered extremist groups, were attacked by mobs in August 2005. Police prevented the mobs from destroying the JIL offices, but the lives of JIL leaders continue to be threatened by extremists. In February 2006, hundreds of protesters closed down a home used as a Hindu temple in Tangerang City, Banten Province; the protestors claimed that no Hindus lived in the region. In March 2006, members of Laskar Jundullah accused two foreign university linguists living in South Sulawesi of translating the Bible into the local dialect and demanded that the two long-time residents be deported. Police dispersed the crowd, but allowed some in the group to ransack the couple's home. In October 2006, a mob in Bogor, West Java beat to death Muslim cleric Alih bin Hadi, who was accused of holding heretical views, including that the *hajj* to Mecca was unnecessary, that *zakat* could be paid later than is customary, and that religious services could be held late at night. Previously, Alih had agreed to leave Bogor and stop preaching, but he returned a month before he was beaten to death. An investigation into his death is ongoing.

Violence targeting Ahmadiyah Muslims has risen dramatically since the July 2005 *fatwa* by the Indonesian Ulemas Council (MUI) that condemned the Ahmadiyahs as a heretical sect. The MUI is not a government entity and its *fatwas* do not carry the force of law; however, the Indonesian government has not publicly distanced itself from the MUI edicts. Mosques and individuals associated with Ahmadiyah were attacked by mobs on numerous occasions during the past year. Police and local government authorities have sometimes assisted the mobs or acquiesced in their activities. In February 2006, an Ahmadiyah housing complex in Gegerungan, Lombok was attacked; six persons were injured and 25 homes were destroyed. Reports indicate that police knew of the attack beforehand but were unable or unwilling to stop the violence. Although police briefly arrested several participants in the Gegerungan attack, they were quickly released when a mob protested at the police station. In March 2006, members of the Anti-Ahmadiyah Alliance destroyed homes of Ahmadiyah members in Prapen, Lombok; there were no arrests after this attack. As of this writing, 150 Ahmadiyah residents of Lombok were living in an Internal Displaced Persons (IDP) camp in Mataram, since they have not been allowed to return to or rebuild their homes.

In South Sulawesi province, mobs closed and vandalized Ahmadiyah mosques and threatened Ahmadiyah followers in February, April, and October 2006. No arrests were made in any of these attacks. In October 2006 in Bogor, West Java, a mob damaged an Ahmadiyah mosque and the house of a local resident; no arrests were made in this case. In addition, some local governments continue to ban the activities of Ahmadiyah and other "messianic" Islamic sects, as well as some non-Muslim groups. The province of West Nusa Tenggara issued a ban on 13 religious sects, including Ahmadiyahs, Jehovah's Witnesses, Hare Krishnas, and nine forms of indigenous beliefs as alleged deviations from Islam, Christianity, and Hinduism. Reports indicate that the real targets of the legislation were Ahmadiyah and a messianic Islamic sect called Jamaah Salyifiah. Local bans on Ahmadiyah practice were extended or remain in force in parts of West Java and West Nusa Teggara.

In recent years, extremist groups have incited mobs and intimated local officials to close churches, mosques, and temples. In 2005, at least 50 Protestant churches, nine Ahmadiyah mosques, and seven Hindu temples were forcibly closed or damaged. The number of closures and mob violence directed at religious venues declined in the last year, though reports continue to emerge of church, temple, and mosque closures. In the last year, at least nine Protestant churches, four Ahmadiyah mosques, and one Hindu temple have been closed or damaged in the areas of West Java, North Sumatra, South Sulawesi, and West Nusa Tenggara. Police almost never act to prevent forced church, temple, or mosque closings and sometimes as-

sisted militant groups in the closures. One factor in the large number of church and temple closures in recent years was a vaguely-worded decree issued in 1969 that required religious groups to gain "community approval" before they could expand, renovate, or open new religious venues. In areas where Christians, Hindus, or Muslims were in the minority, this provision made building permits difficult, if not impossible, to obtain. In addition, in some places, extremists pressured local government officials to revoke permits of longstanding places of worship and or destroyed those operating without permits.

In response to persistent criticism from religious minorities and international observers, the Ministry of Religion issued a new decree last year, known as Joint Ministerial Decree 1/2006. Decree 1/2006 requires a religious group with a membership over 90 persons to obtain the support of 60 local residents for any plans to build or expand a religious venue. That petition must then be sent to the Joint Forum for Religious Tolerance (FKUB), a provincial panel of religious leaders chosen proportionally by the number of religious adherents in the province. If there remains strong community opposition to the religious venue, the FKUB can find an alternative location. Observers claim that the new decree is designed to stop the proliferation of "house churches" and small Hindu temples (fewer than 90 members) and to remove permit decisions from local authorities who are subject to intimidation and corruption. One supporter of the decree stated that it was issued to bring "social harmony." He told the *Jakarta Post*, "if we don't limit the places of worship they will be abundant. There would be competition from different religions or sects, and it would create public disorder." Prominent Muslim religious leaders have stated publicly that the new decree is more restrictive than the previous one and might violate Article 18 of the International Covenant on Civil and Political Rights. At this time, it is too soon to determine if the new decree has contributed to the overall decline in the number of religious venues closed over the last year. The Commission will continue to monitor the decree and the forced closure of religious venues.

Muslims praying at the Istiqlal Mosque in Jakarta

The number of violent and terrorist acts in Central Sulawesi and the Malukus has decreased in the last year and police have arrested some of those responsible for past violence. However, instances of mob and terrorist violence continue to occur in Central Sulawesi, where political, religious, and economic tensions between the Christian and Muslim communities has the potential to re-ignite past sectarian violence. Extremist groups, including members of Mujahadin Kompak (MK), a militant offshoot of Jemaah Islamiyah (JI), are known to train, recruit, and operate in Central and South Sulawesi. These militant groups frequently have been responsible for attacks on religious minorities and police, instigating mob actions to restrict religious activities, and organizing political efforts to segregate Central Sulawesi into Muslim and Christian districts. In 2005, extremists beheaded three Christian girls, shot two others waiting for a school bus, attacked Protestant religious leaders and services, and bombed a pork market and a Hindu temple in Poso and Palu, Central Sulawesi. Local religious leaders condemned the attacks as the work of "outside extremists" seeking to undermine interfaith reconciliation efforts. President Yudhoyono publicly condemned the violence in Central Sulawesi. Counter-terrorism units and police investigators from Jakarta were sent to coordinate investigations and seek out members of terrorist groups. These measures have produced some arrests, convictions, and the deaths of suspected terrorists. In May 2006, police apprehended three men who confessed to the beheadings of the Christian schoolgirls in Poso. In March 2007, the purported mastermind of the attacks was given a 20 year sentence, and his accomplices 14 year sentences. In addition to these arrests, police also apprehended at least 10 others who confessed to participating in various bombings, beheadings, and shootings in Central Sulawesi over the past two years.

Despite these successes, police tactics and alleged judicial favoritism have exacerbated communal tensions. For example, in September 2006, Fabianus Tibo, Doming-

An Indonesian village

gus da Silva, and Marianus Riwu were executed for their alleged roles in the 2000 killings of 191 Muslims at a local boarding school. Despite evidence that called into question the case against the three, including the public reservations of Poso's former Chief of Police, subsequent higher courts allowed the execution to proceed. The executions led to violence in areas of East Nusa Tenggara Province (where the three men were born) and in Central Sulawesi. In Flores, East Nusa Tenggara, 3,000 Christians rioted and burned down government buildings. In Kefamananu and Atambua, West Timor, between 3,000 and 5,000 persons, largely Christian, rioted, destroying government buildings, homes, and vehicles. In Central Sulawesi, on the same day as the executions, a mob beat two Muslims to death in the predominately Christian village of Taripa. Police arrested 17 people for participating in the killings; all of them admitted their involvement. Several other incidents occurred following the executions, including three small bombings, attacks on both Muslims and Christians, and an attack on the new Central Sulawesi police chief.

The tactics of an elite counter-terrorism unit called Detachment 88, which is partially trained and equipped by U.S. foreign assistance grants, have also exacerbated tensions in Central Sulawesi. In the months following the executions of Tibo, da Silva, and Riwu, Detachment 88 units moved to arrest Muslim individuals suspected of participating in sectarian violence. In three separate raids during January 2007, police killed at least 16 people and captured 28 other suspects. During the funerals for two of those killed in the raids, mobs rioted, killing three people, including a local policeman. A week later, bombs exploded in the Ecclesia Poso Church, though there were no casualties. Local religious leaders report that extremists are now portraying the police as *thoghut* (anti-Muslim forces). They are also concerned that the tactics used by Detachment 88 had only increased sympathy for extremists in Central Sulawesi, will attract *jihadists* from other regions to Sulawesi, and may increase attacks against local Christians. Many grievances remain about the sectarian conflict that occurred in 1999-2001, including fears that few of those responsible for instigating the violence will be held accountable. An estimated 35,000 people continue to live in IDP camps.

The Indonesian government has made some notable progress in other areas, however. For example, the government has prosecuted more than 50 persons accused of religiously motivated terrorism, including six individuals responsible for the suicide attack on the Australian Embassy and 32 individuals for involvement in extremist violence in the Malukus during 1999-2001. There have been no instances of communal and sectarian violence in the Malukus during the past two years. In addition, the Indonesian government continues to encourage inter-religious tolerance and cooperation. Some Indonesian government officials have continued to work with local Muslim and Christian community leaders to defuse tensions in conflict areas. There are also a growing number of inter-religious non-governmental organizations initiating discussions on pluralism, democracy, religious tolerance, and human rights.

Currently, there are 13 individuals being held on charges based primarily on religion or belief. Most have been charged under Article 156 and 156a of the criminal code, according to which "expressing feelings of hostility, hatred or contempt against religions" and "disgracing a religion" are punishable by up to five years in jail. Lia Eden, leader of the messianic Muslim sect Jamaah Alamulla, was sentenced to two years in jail for "denigrating religion." Iman Muhammad Yusman Roy was sentenced to two years in jail in East Java's Malang District Court for reciting prayers in the Indonesian language, which local officials claimed tarnished the purity of Islam. Sumardi Tappaya, a Muslim high school religious teacher on Sulawesi, was sentenced to six months in jail in June 2006 on charges of heresy. A relative had accused him of whistling during prayers, and local religious officials declared that whistling was "deviant." A foreign citizen and an Indonesian were sentenced to five months and two and half years in prison for "proselytizing" and "denigrating religion" while working as humanitarian aid workers on the island of Madura in November 2006. Six counselors at an East Java drug and

cancer treatment center were arrested and sentenced to between five and three years in jail for violating key precepts of Islam. Local religious leaders characterized their rehabilitation center's teachings as heretical. Rus'an, a lecturer at the Muhammadiyah University in Palu, Central Sulawesi, was charged with heresy and is currently under house arrest for publishing an article entitled "Islam, A Failed Religion," about corruption in the Ministry of Religious Affairs. He was arrested after 2,000 people protested and closed the Palu paper where the article had been published. Also in prison are three Protestant women who were sentenced to three years in jail under the Child Protection Law for allegedly attempting to convert Muslim children at their daycare center and youth recreation programs. The women claimed that family members had given permission for their children to attend the event and that no proselytizing had occurred. Witnesses failed to support the women during the trial because of alleged intimidation from the community and local mobs. The judge at the trial also admitted to being intimidated by extremist groups that attended the trial. The case remains on appeal at the Supreme Court.

In August 2005, the Indonesian government concluded a comprehensive peace agreement with the insurgent group Free Aceh Movement (GAM), ending a 30-year conflict that had resulted in significant human rights abuses. The agreement has recently led to a newly elected government and hope for a region hard hit by the tsunami and decades of civil conflict. However, neither the peace agreement nor the elections overturned Aceh's special autonomy status, which allowed the province to establish and implement sharia law and establish sharia courts. Since 2003, there has been a dramatic expansion of the role and power of sharia courts and their vice patrols, locally known as the *Wilayatul Hisbah*. Over the past year, reports indicate that at least 100 persons in Aceh were caned for crimes such as being alone with persons of the opposite sex who were not blood relatives, consuming alcohol, and gambling. Public canings sometimes have drawn crowds in the thousands. Though religious leaders insist that public caning is supposed to be a method of "shame not pain," there are reports that some persons required hospitalization. The jurisdiction of sharia courts and the power of the *Wilayatul Hisbah* will be controversial issues for the new Acehese government to face and will require continued monitoring.

The expansion of sharia in Aceh has influenced local initiatives elsewhere in Indonesia. Efforts to implement sharia provisions nationally have consistently been defeated by a coalition of religious minorities and the largest Muslim organizations. However, some provinces and localities are enforcing Islamic law at the municipal and regional levels. Indonesian non-governmental organizations estimate that at least 66 *perda syaria* or local sharia laws have been promulgated and enforced in the past three years. In South Sulawesi, Madura, and Padang, West Sumatra, local authorities issued laws extending sharia provisions to all Muslims, including enforcement of Islamic dress, prohibition on alcohol, and caning punishments. In Madura and South Sulawesi, civil servants are required to cease work activities during the call to prayer and recitation of the Koran is reportedly being required for promotion. Similar laws have already been implemented in parts of West Java, including Cianjur, Tasikmalaya, and Garut. In the city of Tangerang, Banten Province, local laws have banned public displays of affection, alcohol consumption, and prostitution. These laws apply to Muslims and non-Muslims. The anti-prostitution ban is being challenged in Indonesian courts because it defines a prostitute as anyone who draws attention to him or herself by attitude, behavior, or dress. In the past year, according to the State Department, 31 women were arrested as prostitutes, including a married mother waiting at a bus stop during the early evening. Fifty-six Indonesian parliamentarians issued a petition calling for a review of local sharia legislation to determine if the laws conflicted with constitutional protections and national laws. The petition was later dropped, and no review was instituted. Indonesian human rights advocates have expressed fears that local *perda syaria* legislation is a backdoor attempt to implement sharia nationally and may be used to mobilize political support for the more extremist Muslim parties during the 2009 elections.

U.S. government assistance currently supports programs in conflict resolution, multi-religious dialogue and tolerance, pluralism, and education, programs that are in line with previous recommendations by the Commission.

The Commission regularly meets with Indonesian political leaders, human rights activists and defenders, journalists, and religious leaders, including representatives of Muslim, Christian, and Hindu communities from the regions of Aceh, Papua, Sulawesi, Java, Bali, and the Malukus.

INDONESIA COMMISSION RECOMMENDATIONS

The Commissions recommends that the U.S. government urge the government of Indonesia to:

- disarm fully and disband all outside militia forces in Sulawesi, the Malukus, and Papua, such as Laskar Jundullah, Mujahidin Kompak, and Laskar Merah Putih;
- continue efforts to bring those who participated in, or are responsible for, sectarian and ethnic violence in Central Sulawesi, Malukus, and Papua to justice, by providing fair and transparent trials;
- provide protection for religious venues, as well as restitution to religious communities whose venues have been destroyed or closed due to mob violence or protest, and ensure that those responsible for such acts are prosecuted;
- establish an independent commission, composed of prominent persons in Poso, with a presidential mandate to question civilian and military authorities about police and military activities during the violence in 2000-2001, to examine grievances from the 2000-2001 conflict and suggest ways to address them, and to make recommendations about civilian and police activities to address current communal and terrorist activities;
- commit sufficient resources for the resettlement of an estimated 35,000 Internally Displaced Persons (IDPs) in Central Sulawesi and the Malukus, who are a reminder of the 1999-2002 sectarian violence and a potential recruitment pool for extremists;
- publicly address the July 2005 Indonesian Ulamas Council (MUI) *fatwas* prohibiting interfaith prayer, interfaith marriage, interfaith inheritance, religious pluralism, liberalism, and secularism, as well as the decisions condemning the Ahmadiyah community, as contradicting the ideals of religious freedom and tolerance in Indonesia's Constitution, and condemn publicly the communal violence and harassment that followed the issuance of the *fatwas* targeting moderate Muslim organizations, such as the Liberal Islam Network (JIL), as well as Ahmadiyah mosques and religious centers;
- amend the Joint Ministerial Decree No. 1/2006 (Regulation on Building Houses of Worship) to bring it into compliance with the Indonesian Constitution's protection of religious freedom as well as international standards, and removes any restrictive barriers on building and re-furbishing places of worship for all religious groups in Indonesia; and
- transfer or remove from Papua any security, police, and militia personnel who were indicted for activities related to serious human rights abuses and war crimes by the UN's Serious Crimes Investigation Unit (SCIU) and the Ad Hoc Human Rights Court for East Timor in Jakarta.

In addition, the Commission recommends that the U.S. government should:

- commend the government of Indonesia for its efforts to curb terrorism, establish peace in Aceh, and promote inter-religious understanding, conflict mitigation, and a vibrant discussion among members of civil society on the role of Islam in supporting human rights, democracy, and pluralism;
- consistent with the National Security Strategy of the United States (2006), continue to expand U.S.-Indonesian cooperation in economic development, democracy, education, good governance, pluralism, and rule of law programs by:
  - supporting Indonesia's evolving legal and human rights reform agenda by providing training, capacity building, and targeted exchanges with Indonesian government agencies, legal and judicial institutions and legal and human rights-focused civil society organizations, including the National Human Rights Commission (Komnas HAM), the Supreme Court, and the Directorate General of Human Rights in the Ministry of Justice and Human Rights;
  - expand 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;
  - establish programs and work with allies in Europe and elsewhere to support monitoring of the implementation of sharia law in Aceh and other parts of Indonesia to determine if individual rights and freedoms, including religious freedom, are being guaranteed for

all citizens and making sure that U.S. humanitarian and foreign assistance programs do not support sharia police or courts in Aceh or other municipalities in Indonesia;

- monitoring and publicly reporting on the impact of U.S.-funded humanitarian relief and post-conflict development programs on the promotion of religious freedom and other human rights, monitoring that should include, for example, a report to the appropriate congressional committees;
- establishing programs that promote training and capacity-building for Indonesian human rights-focused civil society organizations involved in conflict resolution, inter-religious dialogue, reconciliation, public interest law, and economic and social development in areas of communal and sectarian conflict;
- prioritizing support for non-governmental organizations (NGOs) and human rights-focused civil society organizations pursuing programs on inter-religious economic development, conflict prevention and social cohesion, and the resettlement of internally displaced persons in potential flashpoint areas such as Central Sulawesi, the Malukus, Papua, or parts of West Java;
- expanding U.S. government support for the promotion of religious pluralism in Indonesia by supporting seminars and conferences, international exchanges, intra-religious dialogue, and new radio, television, and publishing activities of interfaith and private organizations that promote respect for religious freedom and human rights; and
- expanding support for media, dialogue, and publishing ventures of Indonesian organizations seeking to promote intra-Muslim dialogue on the compatibility of Islam and human rights, democracy, and pluralism, including the translation of books by prominent Indonesian scholars into, as appropriate, Arabic, Urdu, Persian, Turkish, and English; and

- ensure that any ties with the Indonesian military and police should include, as priorities:
  - reform of the Indonesian military, including transfer to civilian control, training in international human rights standards, and technical assistance in military law and tribunals;
  - dedicated funds for training Indonesian police in counter-terrorism techniques and protecting human rights in areas of sectarian conflict, including fellowships to the International Law Enforcement Academy (ILEA) in Bangkok, Thailand and participation in UN Police training programs (UNPOL); and
  - denial of U.S. assistance to any police or military unit found to engage in a pattern of violations of human rights.

Unloading food supplies (World Food Program/Gerald Bourke)

KOREA, DEMOCRATIC PEOPLE'S REPUBLIC OF

By all accounts, there are virtually no personal freedoms in the Democratic People's Republic of North Korea (DPRK or North Korea) and no protection for universal human rights. In pursuit of absolute control of all facets of politics, society, and the flow of information, the government headed by Kim Jong Il has created an environment of fear in which dissent of any kind is not tolerated. Freedom of thought, conscience, and religion or belief does not exist, as the government severely represses public and private religious activities and maintains a policy of tight control over government-sanctioned religious practice. Religious belief of any kind is viewed by the government as a potential competitor to the officially propagated cult of personality centered on Kim Jong Il, and his late father, Kim Il Sung. In the past several years, North Korean government officials have arrested, imprisoned, tortured, and sometimes executed those discovered engaging in clandestine religious activity. There is no evidence that religious freedom conditions have improved in the past year. The Commission continues to recommend that North Korea be designated a "country of particular concern," or CPC, which the Department of State has done since 2001.

Because of the North Korean government's extremely tight control over all information entering and leaving the country, detailed data about religious freedom conditions is difficult to obtain. In 2005, the Commission authorized researchers to interview 40 North Korean refugees living in South Korea. The resulting study, authored by David Hawk and entitled *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience, and Religion in North Korea*, shows how successive North Korean governments suppressed the country's once vibrant religious and intellectual life and put in its place a quasi-religious cult of personality surrounding the Kim family. The report also describes the survival of very limited religious activity in North Korea.

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

One Catholic and two Protestant churches, built between 1988 and 1992, operate in Pyongyang. Services have been held in these churches since the mid-1990s in response to the growing presence of foreign aid workers in Pyongyang. Access to these church services is tightly controlled and monitored, and most North Korean refugees

Religious belief of any kind is viewed by the government as a potential competitor to the officially propagated cult of personality centered on Kim Jong Il, and his late father, Kim Il Sung.

A North Korean mother and child (World Food Program/Gerald Bourke)

report that they exist as showpieces for foreign visitors. Nevertheless, in addition to foreign visitors, those permitted to participate in services include some North Korean citizens who were known to practice prior to the Korean War. The absence of a priest for Roman Catholics means that mass cannot be celebrated and most sacraments cannot be performed. According to South Korean religious groups working in Pyongyang, a fraction of North Koreans who attend services at the churches in Pyongyang are genuine in their faith; however, the largest presence in these churches are security personnel sent to monitor and report on church activities. International observers who attend services at the churches in Pyongyang report that North Korean congregants regularly arrive and depart as a group in tour buses. The Korean Presbyterian Church of South Korea reports that it has reached an agreement with the North Korean government to build a new church in Pyongyang; however, construction plans have not progressed.

According to written responses from the North Korean government to UN treaty bodies, the government claims that some 500 house churches operate in North Korea with official approval. Until recently, it was not possible to verify who attended these house services and whether they existed outside of Pyongyang. Reports, including the Commission's study, are emerging that indicate that house church participants are largely made up of individuals whose families were Christians before the Korean War and that some do in fact operate outside of Pyongyang. It is unclear whether these meetings are permitted to occur regularly, and experts report that they are generally monitored by government representatives. It is impossible to ascertain the number of house churches permitted to operate by the government or the extent of their activities and membership, as visiting religious leaders and scholars are repeatedly denied access to such gatherings in rural areas.

The Commission continues to receive credible reports that underground religious activity, or that which takes place outside of government sanction and control, is growing, despite pervasive suppression by North Korea's all-encompassing security apparatus. There is no reliable estimate of the number of religious believers practicing underground. Anyone discovered taking part in unauthorized religious activity, which includes carrying religious literature in public, distributing religious literature, or engaging in public religious expression and persuasion, is subject to severe punishment, such as long-term imprisonment in labor camps, torture, and possible execution. There continue to be reports of torture and execution of religious believers, including a January 2005 report of the execution of six religious leaders. Additionally, in March 2006, authorities in Pyongyang sentenced Son Jong Nam to death on charges of spying for South Korea. Son's contact with Protestants in China, his religious conversion, and his private criticism of the North Korean regime reportedly served as a basis for the sentence. As of this writing, it is not possible to verify whether Son Jong Nam was executed.

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

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

The government also forcefully controls all means of transmitting information in the country, including television, radio and print media, access to the Internet, and cellular and landline phone communication. The regime prevents North Koreans from learning about improved human rights developments in other countries, telling those outside their country about abuses of religious freedom and other human rights inside North Korea, and maintaining contact with co-religionists abroad. Possessing anti-state written materials, listening to foreign radio broadcasts, or altering radios so that they might receive foreign broadcasts constitute crimes punishable by long-term imprisonment, and international phone lines are available only under highly restricted circumstances. Cell phone use for the general population has been banned since 2004.

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

As a result of the prolonged famine and the highly oppressive nature of the regime, an estimated 300,000 refugees have fled North Korea to China during the past eight years. With the easing of famine conditions, an estimated 50,000 to 100,000 remain in China today. China, according to an agreement with North Korea, considers all of these refugees to be economic migrants who are subject to forcible repatriation. According to North Korean law, leaving the country is tantamount to treason and all returnees are subject to arrest and imprisonment, often accompanied by torture. According to refugee testimony, those determined to have migrated to avoid famine conditions are sometimes released after a short period of detention. However, within the last year, some reports indicate that repatriated North Koreans are facing harsher penalties upon their return, with increased numbers of first time returnees being sentenced to one to five years imprisonment, regardless of their reasons for fleeing North Korea. Anyone suspected of having contact with either South Korean humanitarian or religious organizations is reportedly extensively interrogated. Security forces try to determine if those repatriated have become adherents of Christianity or otherwise "contaminated" by their contact with South Koreans. Reports continue to emerge from those repatriated that security forces use torture during interrogation; anyone found to have had contact with Protestant or other religiously-based aid organizations in China is subject to long-term imprisonment in hard labor facilities designated for

Commissioner Preeta D. Bansal (second from right), moderating a panel session on human rights in North Korea at the Asia Society in New York, with Brookings Institution Senior Fellow Roberta Cohen (left), Republic of Korea National Assembly Member Chung Eui-yong and Japan's Human Rights Ambassador Fumiko Saiga, May 2006.

The Commission continues to receive credible reports that underground religious activity, or that which takes place outside of government sanction and control, is growing, despite pervasive suppression by North Korea's all-encompassing security apparatus.

political prisoners. The North Korean government also continues to offer rewards to its citizens for providing information that leads to the arrest of individuals suspected of involvement in cross-border missionary activities.

The Holy Trinity Russian Orthodox Church opened in Pyongyang in August 2006. Two North Koreans are reportedly receiving Orthodox theological training in Moscow. There are also reportedly three Buddhist temples and a Chondokyist shrine in Pyongyang. Government officials have claimed that Buddhist temples are cultural relics that need to be preserved. There is a department of religion at Kim Il Sung University, but graduates and faculty are said to be involved in training security forces to identify repatriated refugees who may have become Christian adherents during their time in China. Many graduates also reportedly work with the officially sanctioned religious federations and interact with foreign religious visitors.

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

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

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

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

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

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

- use all diplomatic means to urge the North Korean government to undertake the following measures that would help bring the DPRK into compliance with its international legal obligations with respect to freedom of thought, conscience, and religion or belief:
  - end the severe human rights violations, including imprisonment and execution on account of religion or belief, against individuals not affiliated with the state-sponsored religious federations or those North Koreans having contact with foreign religious groups in China;
  - release prisoners from administrative detention in *kwan-li-so* political penal labor colonies, such as those reported to be in certain villages in the "total control zone" at Camp No. 15 ("Yodok"), as well as those who remain detained in other facilities for exercising their right to freedom of thought, conscience, and religion or belief and rehabilitate remaining religious adherents held in lifetime detention;
  - end the coercive enforcement of the official ideology, *Juche/Kimilsungism*, that results in discrimination and other human rights violations against adherents of other religions or belief systems;
  - enable adherents of systems of thought and belief not covered by the existing federations, such as Confucianism, Shamanism, and other indigenous Korean belief systems, to practice their religion or belief without government interference and to form organizations for that purpose;
  - implement the existing Constitutional provision allowing for the construction of places of worship outside the capital city of Pyongyang, including for religious groups who are not affiliated with the state-sponsored federations or for which there is no applicable federation;
  - end prohibitions and punishments for importing religious literature from abroad;
  - allow individuals and religious groups to engage in public expression of their religion or belief and to inform others of their belief systems;
  - allow religious groups to operate religious education programs for young persons and adults;
  - allow clergy or religious leaders to travel abroad for higher education and/or training, and allow the residence of foreign clergy where there are shortages; and
  - distribute widely Korean language translations of and other information on the Universal Declaration of Human Rights and the international human rights treaties to which North Korea is a party.
- work with regional and European allies to fashion a comprehensive plan for security concerns on the Korean peninsula—modeled after the Helsinki Final Act of 1975 and the Organization for Security and Cooperation in Europe—as suggested by the Commission and in Sec. 106 of the North Korean Human Rights Act and
  - consider, with this model, expanding the Six-Party talks on nuclear security to include separate discussions on issues related to human rights and human security, using ongoing security negotiations to press North Korea for improvements in areas of mutual concern, including monitoring of humanitarian aid, resettlement of refugees, family reunifications, abductions, and other pressing human rights issues, including religious freedom; such discussions should proceed on both the bilateral and multilateral levels within the working group format of the Six Party Talks;
- ensure that the Special Envoy on Human Rights in North Korea, appointed by President Bush in accord with the Envoy's mandate in the North Korea Human Rights Act of 2004, retains full authority to move forward on assistance to North Korean refugees, new human rights and democracy programming, and expanded public diplomacy programs;
- urge the Chinese government to uphold its international obligations to protect asylum seekers, by (1) working with the UN High Commissioner for Refugees (UNHCR) to establish a mechanism to confer at least temporary asylum on those seeking such protection; (2) providing the

UNHCR with unrestricted access to interview North Korean nationals in China; and (3) ensuring that any migrants who are being returned pursuant to any bilateral agreement are not potential asylum seekers refouled in violation of China's obligations under the 1951 Refugee Convention and its 1967 Protocol;

- in bilateral relations with China, Russia, Mongolia, and other countries in the region, place a higher priority on working to provide safe haven, secure transit, and clear resettlement procedures for North Koreans;
- promote further cooperation among the Department of State, the Department of Homeland Security, and regional allies, including South Korea, to facilitate more efficient resolution of remaining technical or legal issues that hinder programs for resettlement of North Koreans in the United States and other countries;
- urge the Chinese government to allow international humanitarian organizations greater access to North Koreans in China, to address growing social problems experienced by this vulnerable population;
- encourage nations with diplomatic relations with North Korea to include religious freedom and other human rights in their talks with North Korea, and to urge the North Korean government to invite UN Special Rapporteurs and other appropriate UN bodies to assess the human rights and humanitarian situation, to monitor the delivery of humanitarian assistance, and to recommend reforms and technical assistance programs;
- continue to use appropriate international fora to condemn egregious human rights abuses in North Korea and seek protections and redress for victims, including by co-sponsoring of resolutions on North Korean human rights practices by appropriate UN bodies; and
- expand radio, television, Internet, and print information available to the North Korean people through:
  - the expansion of appropriations to the Broadcasting Board of Governors earmarked to allow Radio Free Asia and Voice of America to increase shortwave and medium-wave broadcasting to North Korea to provide a total of 12 original hours of daily broadcasting; and
  - the funding of programs through the National Endowment for Democracy and the Department of State Human Rights and Democracy Fund that disseminate information on human rights, including religious freedom, inside North Korea in the form of written and electronic materials, DVDs, and digital programming.

In addition, the U.S. Congress should:

- fund a regional task force involving prominent political, academic, religious, and other non-governmental experts from Asia and the United States to raise the public profile of North Korea's human rights and human security concerns and to make recommendations to regional governments for establishing a permanent framework that addresses both human rights and other outstanding security and economic concerns on the Korean Peninsula;
- continue to appropriate funds authorized in the North Korea Human Rights Act for public diplomacy, refugee assistance, and democratization programs;
- establish a congressional caucus to focus specifically on North Korean human rights and refugees and to explore new ideas for establishing an "Helsinki Option" for security talks on the Korean Peninsula; and
- raise religious freedom and related human rights as a prominent concern in every Congressional or Congressional staff visit to North Korea and reiterate requests seeking access for international monitors to North Korean prisons as promised by Vice Foreign Minister Kim Gye-gwan to a visiting Senate Foreign Relations Committee delegation in August 2003.

Military celebration for Kim Il Sung

Pha That Luang Buddhist temple in Vientiane, Laos

LAOS

The Commission removed Laos from its Watch List in 2005. In taking this action, the Commission cited the positive steps taken by the Lao government to address the religious freedom concerns expressed by the Commission and the international community. Most of these steps were taken in advance of Laos being granted Permanent Normal Trade Relations (PNTR) with the United States in October 2005. Religious freedom conditions are improved relative to the past and some positive developments continue, particularly in urban areas and among the majority Buddhist population. However, Laos' respect for religious freedom continues to be marred by problems at the provincial level, especially for ethnic and religious minorities. The Commission remains concerned that the Lao government appears unable or unwilling to curtail the actions of provincial authorities. In view of the Lao government's continued poor overall human rights record, past religious freedom abuses could re-emerge, so the Commission continues to monitor closely the actions of the Lao government with regard to religious freedom to determine if a return to the Watch List is warranted.

Since the end of 2002, religious groups, particularly in the largest cities and districts of Laos, have reported steadily improving religious freedom conditions, including a better relationship with the Lao government. The government continues to monitor the activities of some religious groups, including Protestants, Baha'is, Catholics, and some Muslims; however, in major urban areas, religious leaders report few restrictions on their worship activities. In addition, the government has allowed them to re-open, build, and/or expand new places of worship and carry out charitable work in recent years. During the past year, the government has allowed the ordination of two new Catholic priests, the first such ordinations in 30 years. The government also allowed the building of a Catholic church in the northern province of Sayaboury and provided the Bishop of Luang Prabang more freedom to visit Catholics in the northern provinces, areas where both Protestant and Catholic religious practices were once severely restricted. Four new Protestant churches were built in the former Saisomboun Special Zone and Bolikhamsai Province. Vientiane Province authorities also permitted the Lao Evangelical Church to rebuild a destroyed church in Phone Ngam Village.

The government remains wary, however, of religious traditions other than Theravada Buddhism, particularly of various forms of Protestantism popular among ethnic minority groups. Theravada Buddhism, which is closely associated with Lao culture, is generally exempt from the restrictions and oversight experienced by other religious groups. Increasingly, Buddhist rituals and ceremony are being incorporated into state functions and Buddhism is sometimes promoted by government officials. The rapid growth of Protestantism in the last decade and contacts between its adherents and co-religionists abroad have made many Communist government officials suspicious. However, there continue to be reports that the Lao Front for National Construction (LFNC), the agency that oversees religious policy and regulates religious activities, has publicly called for greater religious reconciliation and tolerance. The LFNC continued to train local officials on religious tolerance and has met with provincial and village-level officials to promote better understanding of Protestantism.

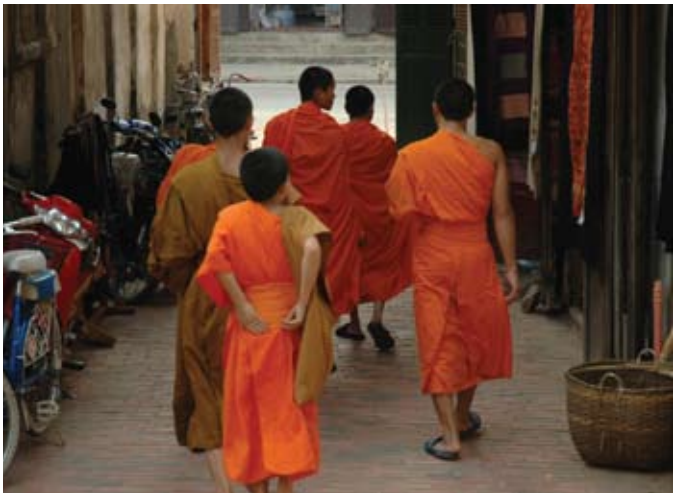
Nevertheless, troubling reports persist that provincial and village-level officials harass individuals, confiscate property, and detain and arrest persons for participating in religious activities. In the past year, at least five Lao Christians were detained for several days after attempting to bring Bibles into the country at the Lao-Thai Friendship Bridge. A Protestant in Salavan Province has been under house arrest since April 2006 for refusing to renounce his religious belief. In late 2005, authorities in the Muang Phin District of Savannakhet Province detained 24 ethnic Brou Protestants for several days in order to force them to renounce their religion. All but two of the men recanted their faith. These two men were imprisoned for approximately one year, but were reportedly released in early 2006. In December 2005, a group of 27 ethnic Hmong

Protestants were detained in Bolikhamsai Province. The group was detained after being repatriated from Thailand. Reports indicate that the 27 were detained in part because of their religious affiliation. In the period 2003–2004 Lao authorities released all but two of the religious prisoners known to be incarcerated at the time, but the State Department estimates that there are currently 30 prisoners held for reasons related to their religious belief or practice, a figure that includes the 27 ethnic Hmong mentioned above.

Between 1999 and 2002, the State Department reported that campaigns of coerced renunciation of faith occurred in nearly every Lao province. These reports have diminished significantly over the past several years. However, reports persist that local officials in Oudomasai, Salavan, and Bolikhamsai provinces pressured minority Protestants to renounce their religion on threat of arrest or forceful eviction from their villages. In April 2006, officials in Salavan Province reportedly arrested a village leader and expelled two families for refusing to renounce their religion. In early 2006, a village chief reportedly confiscated land belonging to Protestant families in Oudomsai Province after they refused to give up their beliefs. In this case, however, there are reports from Lao Protestant leaders that the land confiscation issue was resolved. In addition, in February 2005, local authorities expelled ethnic Khmu Protestants from the Ban Kok Pho village in Bolikhamsai Province.

Another ongoing concern of the Commission is the potential for restrictions and other abuses through Decree 92, the Lao government's 2002 decree on religious activities. During its visit to Laos in February 2002, the Commission was assured that passage of the decree would improve religious freedom in Laos by legalizing religious activities, protecting the religious practices of ethnic minorities, and providing guidelines to local and provincial officials to ensure that abuses by those officials would cease. Decree 92 legitimized activities previously regarded as illegal, such as public religious persuasion, printing religious material, owning and building places of worship, and maintaining contact with overseas religious groups. Lao religious leaders report that these provisions have proved to be positive elements of the law. There also continue to be credible reports that the LFNC uses Decree 92 to facilitate religious practice in some areas and to promote cooperation among religious communities.

Nevertheless, through Decree 92, the Lao government continues to provide government officials with a potential legal basis for control of, and interference in, religious activities. For example, the government remains able to impose restrictions on religious activities through an approval process that has become increasingly burdensome on religious groups. The government requires most religious groups, with the exception of the Buddhists, to report their activities to the LFNC. According to some religious leaders, the government now requires that these reports be submitted every quarter, with detailed lists of the group's present and future activities. Religious leaders in Laos also claim that there continue to be restrictions on the publication of religious materials, despite provisions in Decree 92. In addition, many religious activities can be conducted only with government approval, and the decree contains vague national security provisions that prohibit activities that create "social division" or "chaos," reiterating Article 9 of the Lao Constitution and Article 66 of the criminal code, used in the past by government officials to arrest and detain arbitrarily ethnic minority Christians. Thus, Decree 92 can be used to restrict and suppress religious activities, rather than protect and promote the freedom of religion or belief. In practice, the government continues to oversee religious practice and asserts its right to direct religious practice toward serving the national interest. This has led local and provincial leaders to intervene in the activities of ethnic minority Protestants whom they perceive as disloyal and potentially dangerous. The Commission will continue to monitor how the decree is implemented and whether the central government has made progress in controlling the alleged abusive acts of local officials.



Buddhist monks in Luang Prabang, Laos

LAOS COMMISSION RECOMMENDATIONS

In the past year, the Commission and its staff have met with Lao government officials and religious leaders, domestic and international human rights activists, academics and other experts on Laos. The Commission traveled to Laos and issued a report on its findings in February 2003. With regard to Laos, the Commission has recommended that the U.S. government should:

- make clear to the government of Laos that continued improvements in the protection of freedom of thought, conscience, and religion or belief is essential to further improvements in and expansion of U.S.-Laos relations, and urge Lao officials to:
  - ratify the International Covenant on Civil and Political Rights and invite the UN Special Rapporteur on Freedom of Religion or Belief and other relevant UN mechanisms to visit the country;
  - release all individuals arrested and detained in part because of their religious belief and practice, including at least 30 ethnic minority Protestants;
  - halt any harassment and detention of persons on account of their religion by local government officials and hold any such officials responsible for violations of the religious freedom of Lao citizens, particularly in such provinces as Oudomasai, Salavan, and Bolikhamsai, and Savannakhet;
  - criminalize forced renunciations of faith by passing a law in the National Assembly providing for specific penalties for those who carry out such practices;
  - repeal or amend Article 66 of the Lao Criminal Code so that it cannot be used to arrest or detain individuals for engaging in religious activities that are protected by the Lao Constitution and under international law;
  - amend those elements of Decree 92 on religious activities that are inconsistent with international human rights law;
  - respect and fully implement the freedom of individuals and organizations to engage in social, humanitarian, and charitable activities, free from undue government interference; and
  - provide access to all parts of Laos by foreign diplomats, humanitarian organizations, and international human rights and religious organizations, in particular, to Savannakhet, Oudomasai, Salavan, Bolikhamsai, and Saisomboune Special Zone;
- establish measurable goals and benchmarks, in addition to those listed above, for further human rights progress in Laos as a guide for diplomatic engagement between Laos and the United States or for initiating a formal human rights dialogue with the government of Laos, addressing such human rights issues as ethnic and religious discrimination, torture and other forms of ill-treatment in prisons, unlawful arrest and detention, the absence of due process, and practical steps to ensure the right to freedom of expression, association, and assembly;
- expand Lao language broadcasts on Voice of America (VOA) and Radio Free Asia (RFA) while ensuring that the content of the Lao language broadcasts on VOA and RFA includes adequate information about the importance of human rights, including religious freedom, within Laos; and
- initiate and expand technical assistance and human rights programs that support the goals of protecting and promoting religious freedom, including:
  - rule of law programs that provide assistance in amending, drafting, and implementing laws and regulations;
  - human rights and religious freedom training programs for specific sectors of Lao society, including government officials, religious leaders, academics, lawyers, police, and representatives of international non-governmental organizations;
  - training, networking, and capacity-building for Lao groups that carry out charitable, medical, and development activities;
  - educational initiatives to combat intolerance of religious and ethnic minorities and to promote human rights education; and
  - the expansion of the number and funding of educational, academic, government, and private exchange programs with Laos that will bring a wide cross-section of Lao society to the United States.

VIETNAM

Since Vietnam was named a "country of particular concern" (CPC) in 2004, Vietnam and the United States have engaged diplomatically to address a number of religious freedom concerns. In the process, conditions for many religious communities have improved in some respects, as Vietnam has expanded the zone of permissible religious activity and issued new administrative ordinances and decrees that outlined registration procedures and outlawed forced renunciations of faith. In addition, Vietnam has also granted early release to specific prisoners whose cases were presented by the United States. These advances were cited by the State Department in November 2006 when it lifted the CPC designation.

The Commission has noted this progress in Vietnam, but has concluded that these improvements were insufficient to warrant lifting the CPC designation. This conclusion was reached because it was too soon to determine if legal protections would be permanent and whether such progress would last beyond Vietnam's accession to the World Trade Organization. In addition, the Commission's view was that lifting the CPC designation potentially removed a positive diplomatic tool that had proved to be an effective incentive to bilateral engagement on religious freedom and related human rights.

In the last year, there have been arrests and short-term detentions of individuals because of their religious activity. There were also reports of individuals threatened unless they renounced their religious affiliations, and new legal regulations were used, in some cases, to restrict religious freedom. Targeted in particular were religious leaders and individuals associated with ethnic minority Protestants, Hoa Hao Buddhists, Vietnamese Mennonites, Khmer Krom Buddhists, and monks and nuns of the government-banned Unified Buddhist Church of Vietnam (UBCV). In addition, since it joined the World Trade Organization (WTO), the government of Vietnam has initiated a crackdown on human rights defenders and advocates for the freedoms of speech, association, and assembly, including many religious leaders who previously were the leading advocates for religious freedom in Vietnam. Given the recent deterioration of human rights conditions in Vietnam and because of continued abuses of and restrictions on religious freedom, the Commission recommends that Vietnam be re-designated as a CPC in 2007.

Since November 2006, Vietnam has received a state visit from President Bush, was granted Permanent Normal Trade Relations (PNTR) with the United States, had the CPC designation lifted, and joined the WTO. However, since January 2007, Vietnam has carried out a wide-ranging crackdown on individuals associated with human rights, democracy, legal reform, labor, and free speech organizations. Among the first arrested were Fr. Nguyen Van Ly and lawyer Nguyen Van Dai, two well-known advocates for religious freedom and legal reform in Vietnam. Previously, Father Ly had been arrested in 2001 and sentenced to 15 years in prison after submitting written testimony to the Commission. After Father Ly was granted early release in 2005, he founded the Vietnam Progression Party, became an editor of "Freedom of Speech" magazine, and helped organize the Block 8406 democracy movement, which began in April 2006 when hundreds of people signed public petitions calling for greater democracy and human rights, including religious freedom, in Vietnam. On April 2, 2007, Fr. Ly and several associates

were sentenced under Article 88 of Vietnamese criminal code for "propagandizing against the state." Fr. Ly received a sentence of eight years in prison and five years house arrest. Nguyen Van Dai, one of Vietnam's few human rights lawyers, was arrested in Hanoi in March 2007. Lawyer Dai defended individuals arrested for their religious activities; he is also the co-founder of the Committee for Human Rights in Vietnam and one of the principal organizers of Block 8406. He is currently awaiting trial. Some of the public charges leveled against Fr. Ly and Lawyer Dai are related to their religious freedom activities. In *Family and Society* newspaper, Fr. Ly is described as "joining hands with black forces and reactionary elements to build a force under the cover of freedom of religion activities." In the online publication of the Ministry of Public Security entitled *Law and Order*, Dai is accused of collecting "evidence of Vietnam's religious persecution" to send to "enemy powers and overseas reactionaries."[1]

Religious leaders and religiously-motivated dissidents like Fr. Ly and Nguyen Van Dai have fought for religious freedom in Vietnam and have become leaders in the fight for legal reforms and human rights. The step from advocating for religious freedom to peacefully advocating for legal and political reforms and the freedoms of speech, assembly, and association was a small one for many of the leaders of Vietnam's dissident community. They contend that freedom of religion or belief is intimately connected to other human rights and that religious freedom cannot be fully protected without legal and some political reform. Vietnam's recent wave of harassments, arrests, and criminal prosecutions are a direct challenge to the positive trajectory of U.S.-Vietnamese relations. They also endanger all of Vietnam's human rights advocates and call into question the Vietnamese government's commitment to protect and advance religious freedom over the long term.

In the 18 months leading to President Bush's visit in November 2006, however, Vietnam made progress in addressing some of the longstanding religious freedom concerns. In May 2005, the State Department announced it had reached an agreement with Vietnam on benchmarks to demonstrate an improvement in religious freedom conditions. Under the agreement, the Vietnamese government committed to: 1) implement fully the new legislation on religious freedom and render previous contradictory regulations obsolete; 2) instruct local authorities strictly and completely to adhere to the new legislation and ensure compliance; 3) facilitate the process by which religious congregations can open houses of worship; and 4) give special consideration to prisoners and cases of concern raised by the United States during the granting of prisoner amnesties. The U.S. government agreed to consider taking Vietnam off the CPC list if these conditions were met.

Following the signing of the agreement, the United States and Vietnam held productive diplomatic discussions leading to noticeable improvements in law and practice for many Vietnamese religious groups and a decline in the overall number and frequency of forced renunciations of faith, imprisonments, and torture. Vietnamese Catholics and Buddhists associated with the government-sanctioned Vietnamese Buddhist Sangha (VBS) report that they experience few restrictions in conducting worship activities and the number of religious adherents of these communities continues to grow. The government has also gradually eased restrictions on the Catholic Church. In the past year, the government approved a new bishop for the newly created Ba Ria Vung Tau Diocese, allowed additional priests to be ordained, approved the establishment of a new seminary, and permitted several local dioceses to conduct religious education classes for minors and some charitable activities. In addition, Hanoi continues to discuss with the Holy See conditions for the normalization of relations, discussions that included a

[1] Other human rights advocates who have been temporarily detained, interrogated, beaten, arrested, or had warrants issued for their arrest since January 2007 include Fr. Chun Tin and Fr Phan Van Loi, Mennonite Pastors Nguyen Quang, Nguyen Cong Chinh, and Tran Van Hoa, Catholic seminary professor Nguyen Chinh Ket, and lawyers Li Thi Cong Nhan and Le Quoc Quan.

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.

Vietnam also issued several decrees and ordinances that outlawed forced recantations of religion and provided new guidelines to help ease the process of registration. Over the past year, the government has extended some form of legal recognition or permission to a diverse and growing number of religious communities and individual congregations, including the United Christian Mission Church of Danang, the Baha'is, Seventh-Day Adventists, and individual churches in Ho Chi Minh City, including Grace Baptist, the Mennonite Church of Pastor Nguyen Trung, and a reported 91 individual "house churches." The government has also allowed hundreds of previously closed churches and meeting points to open and operate in the Central Highlands and northwest provinces, though only an estimated 25 percent of these churches have gained some form of legal recognition or permission to operate. Religious leaders from Protestants groups in urban areas report that disruptions of their activities occur less frequently than in the past and they are allowed to conduct some large-scale meetings and religious education classes. The government has also granted, for the first time, permission to print Bibles in two ethnic minority languages. In addition, Vietnam continued to grant early release of individuals incarcerated for their religious activities, including Brother Nguyen Thien Phung, a member of the order of Mother Co-Redemptrix, Ma Van Bay, a leader of the Hmong Protestant community, and Y' Oal Nie, a Protestant leader of the Ede ethnic minority. Finally, the Committee on Religious Affairs (CRA), the government organization that oversees the regulation of religious affairs, has held at least three meetings to explain the new laws to religious leaders, and there are some reports of training for local CRA officials as well. These are important and positive steps, and most were taken in the months immediately preceding Vietnam's WTO accession.

Despite these positive developments and a corresponding decline in the intensity of religious freedom abuses in Vietnam, the government continues to maintain overall control of religious organizations and restricts their activities and growth through a pervasive security apparatus and the process of recognition and registration. Unregistered religious activity is illegal and legal protections for government-approved religious organizations are both vague and subject to arbitrary or discriminatory interpretations based on political factors.

The Vietnamese government continues to remain suspicious of ethnic minority religious groups, such as Montagnard and Hmong Protestants and Khmer Buddhists; those who seek to establish independent religious organizations, such as the UBCV, Hao Hoa, and Cao Dai; and those it considers to pose a threat to national solidarity or security, such as "Dega" Protestants and individual Mennonite, Catholic, Buddhist, and house church Protestant leaders. In addition, Vietnam's new ordinances and decrees on religion continue to require that religious groups seek advance permission for most religious activity and ban any religious activity deemed to cause public disorder or "sow divisions." In some cases, the new laws are being used to restrict, rather than promote, religious freedom.

In the past year, Vietnamese security forces detained, interrogated, arrested, imprisoned, beat, harassed, or threatened adherents from many of Vietnam's diverse religious communities. In January 2007, security forces briefly detained the congregation and tore down part of the church structure of Pastor Nguyen Quang in Ho Chi Minh City. Pastor Quang had previously been arrested in 2004, along with five other members of his congregation. In February 2007, security forces reportedly beat Mennonite pastor Nguyen Cong Chinh in Kontum. In June and July 2006, police beat two men and two women from an unregistered Protestant church in Thanh Hoa Province, after a dispute erupted over the home used by the congregation as a place of worship. There are reports that security officials were punished for the June incident, although another member of the Thanh Hoa congregation was beaten in October 2006 when he refused police orders to leave a prayer meeting. In September 2006, Protestant pastor Tran Van Hoa was arrested and detained for two weeks. In addition, security officials closed down Christmas celebration services in a Baptist church in Haiphong, Bac Giang province. In Quang Ngai province,

In the past year, Vietnamese security forces detained, interrogated, arrested, imprisoned, beat, harassed, or threatened adherents from many of Vietnam's diverse religious communities.

A river on the Mekong Delta

security officials reportedly told ethnic Hre Protestants that "unless they behave," their churches would be destroyed and leaders arrested "once APEC [the Asia-Pacific Economic Cooperation summit meeting] is over." In June 2005, police detained 17 ethnic Hre Protestants. When community members refused to cease their religious activities, their homes and rice fields were burned and land confiscated.

Relations between ethnic minority residents and government officials in the Central Highlands remain tense and there continue to be reports of a large and intrusive security presence in the region. In 2001 and 2004, over 45,000 people demonstrated for religious freedom and land rights in Gai Lai, Dak Lak, and Dak Nong provinces. Numerous eyewitnesses report that the 2004 demonstrations were disrupted by attacks on protestors by security forces and hired proxies. There are credible reports of severe violence occurring in Dak Lak province, including the deaths of at least 10 demonstrators. No public investigation or accounting of police action during the 2001 and 2004 demonstrations has occurred. Since the demonstrations, however, Vietnamese officials imprisoned those believed to have organized the protests, as well as others suspected of taking part, or those who sought asylum in Cambodia. Vietnamese security officials have also pursued Montagnards into Cambodia to stop the flow of asylum seekers. Montagnard villages and communes remain under tight control, and no international observer has been allowed unobstructed access to the region, though diplomats have occasionally visited.

However, in the last year, the Vietnamese government has relaxed some restrictions on ethnic minority Protestants associated with the Evangelical Church of Vietnam, South (SECV), particularly in Gai Lai province. The government has allowed a reported 80 churches in the Central Highlands to register legally with the SECV. Several hundred more have been given *de facto* or official permission to operate. Religious leaders in the Central Highlands claim that nearly 800 of the 1,250 churches and meeting points closed since 2001 have been re-opened. However, outside of Gai Lai province, there remain severe restrictions on the activities of religious groups and believers. In the last year, Human Rights Watch (HRW) conducted extensive interviews with Montagnard Protestants and concluded that they face severe restrictions on religious practice and association. Most repression targeted Protestants who refused to join the SECV or those suspected of affiliating with the banned *Tin Lanh Dega* (Dega Protestant Church).

The Vietnamese government has forcibly repressed remnants of the *Tin Lahn Dega*, which it views as a subversive institution combining religion and advocacy of political autonomy. A recent study commissioned by the UN High Commissioner for Refugees found that few self-identified adherents of *Tin Lanh Dega* sought any type of political autonomy. Most sought "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.

Nevertheless, to suppress *Tin Lanh Dega* activity or sympathy with the group, security officials in Dak Nong, Dak Lak, and parts of Gai Lai and Kontum provinces have engaged in severe violations of religious freedom and related human rights. HRW found that police do not allow people to gather for worship, often live in the homes of known religious leaders, constantly monitor and interrogate religious leaders, and arrest and detain those found meeting clandestinely for prayer. In addition, police also use a variety of methods to "refer" suspected Dega Protestants to join the SECV. In February and March 2006, police in Gai Lai province reportedly detained individuals from several *Tin Lahn Dega* congregations in an attempt to force them to join the government-approved religious organization. Police asked those detained whether they would remain "political" or whether they would follow the "Christianity of [the Prime Minister]." Those who refused to cease their religious activity were beaten and later released. Others were pressured to sign pledges agreeing to "abandon Christianity and politics."

Only isolated cases of forced renunciations have occurred in the Central Highland since the practice was outlawed in a February 2005 decree. However, the practice still occurs in places and has taken on different forms. In September 2006, a pastor in Dak Nong province reported that the deputy chairman of Dak Mil District accused him and his church of "anti-government activities" for not participating in required Sunday buffalo sacrifices. There were other instances of fines, police "summons," short-term detentions, or threats of withholding government benefits used to induce individuals to abandon their religion, including 30 ethnic minority Protestants in Coastal Ninh Thuan Province.

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

Hmong Protestants in the northwest provinces continue to experience restrictions and abuses. Since 2001, the government has conducted campaigns of harassment, detentions, beatings, monitoring, and forced renunciations of faith among Hmong Protestants, including in the 2002-2003 beating death of at least two pastors and the forcing underground of hundreds of churches and meetings points.

A pagoda in Hanoi

The Vietnamese government has long connected the growth of Hmong Protestantism with the "receive the king" tradition of Hmong culture. This tradition was interpreted as a harbinger of political secession, requiring a security response from the government.

Leaders from the Evangelical Church of Vietnam, North (ECVN) reported to the Commission in April 2006 that police continue to beat and threaten Hmong Protestants in Dien Bien Province in order to get them to renounce Christianity. This is consistent with reports that police have forced Hmong Protestants to take part in self-criticism sessions or sign written renunciation pledges. For example, in May 2005, police in Dien Bien province issued at least 21 "re-education" summons to local Hmong Protestants. At the time, religious believers were threatened with beatings, loss of government services, or fines if they did not give up their religious beliefs. Also in Muong Lay district, Dien Bien province, police forced several Protestants to construct traditional animistic altars in their homes and

to sign documents renouncing Protestantism. In Ha Giang province in November 2005, police forced an ethnic minority Protestant pastor to sign a pledge to renounce his faith and cease religious activities after his congregation sought to register legally with the government approved ECVN. At the same time, four Hmong Protestants in Hoang Su Phi district, Ha Giang province were pressured unsuccessfully by border guards to sign documents renouncing their faith. In January 2007, security officials threatened to freeze the bank account of a Protestant leader in Muong Khong district, Dien Bien province unless he either left the district or renounced his faith. In some of the cases just mentioned, Hmong Protestants are refusing to abandon their religious traditions or are ignoring threats and fines. There are no reports, however, that security officials are being punished for these actions, which have been illegal since the February 2005 decree prohibiting forced renunciation of faith.

Hmong Protestants have also been harassed and detained for carrying Protestant literature and training materials and for providing researchers with information about religious freedom conditions. In Muon Nhe district, Dien Bien province, a "house church deacon" was detained after he returned from Hanoi carrying church documents and applications for registration. Since that time, there are reports that a special task force of security personnel has been living in the district to monitor activities of Hmong Protestants there. Two Protestant leaders from Lao Cai province were detained for two weeks and fined because they traveled to Hanoi to acquire registration applications forms from ECVN leaders. In January 2007, four Protestants from Tuyen Quang province were arrested for transporting 115 Christian books and training materials. They were released after a week and fined $1,000 (approximately five years' wages). Police have threatened to charge the village chief of Muong Nhe district, Dien Bien province, with national security crimes for sending to researchers documents about government attempts to "prohibit Christian practice" in the northwest provinces. In 2002 – 2004, police in Dien Bien province beat to death Protestant leader Mu Bua Sehn, imprisoned his brother Mua Say So, for seeking to bring those responsible to account, and severely beat elder Lau Vang Mua for continuing to conduct religious activities in the district despite their orders to stop. Mua left Vietnam for Laos with 19 Protestant families. In December 2006, Vietnamese police arrested Mua and his brother in Laos and took them back to Dien Bien province. Mua's brother was released, but there remains no word on the conditions or charges Mua faces.

Buddhists throughout Vietnam have become increasingly vocal about past and current religious freedom abuses.

The Vietnamese government is beginning to allow Hmong Protestants to organize and, according to the State Department, conduct religious activity in homes and "during the daytime." In the last year, the government has given an estimated 30 churches official permission to conduct religious activity as a pilot project. An estimated 1,000 other religious communities in the northwest provinces are seeking affiliation with the ECVN. At this time, 532 religious venues have applied for registration. Though required by law to respond to such application in a timely manner, Vietnamese government officials have denied or ignored all of these applications. ECVN officials were told that they should not expect approval of new registration applications this year.

ECVN leaders who have visited those churches given legal permission to operate are concerned about the way local authorities are interpreting the new laws on religion. In a survey of current conditions, Hmong religious leaders report that security officials regularly attend religious services and check church membership lists and force anyone not on the list to leave. In some locations, security officials reportedly bar anyone under the age of 14 from attending services, ban mid-week meetings and programs for children and young people, and have insisted that religious leaders be chosen under their supervision. Such restrictions may be directly related to a handbook published by the Committee on Religious Affairs in Hanoi to train local officials how to manage religious affairs. Though the handbook recognizes that "some" Hmong have a "genuine need" for religion, it instructs officials to manage tightly religious communities and to restrict their growth. The most troubling aspect of the handbook is its advisory that officials take active measures to "resolutely subdue" new religious growth, to "mobilize and persuade" new converts to return to their traditional Hmong religions, and to be vigilant against anyone who "abuses religion" to undermine "the

revolution." On the one hand, the handbook is important because it finally recognizes the legitimacy of some Hmong Protestant religious activity. However, it also indicates that the Vietnamese government will continue strictly to control and manage religious growth, label anyone who seeks to propagate Protestantism in the northwest provinces as a national security threat, and use unspecified tactics to get new converts to renounce Protestantism. In this case, the government is using law to restrict rather than protect religious freedom.

Significant pressure remains on leaders, monks, and nuns associated with the UBCV. UBCV leaders Thich Quang Do and Thich Huyen Quang are still restricted in their contacts and movement. Western diplomats and high-level Vietnamese officials have met with both leaders in the last year, and Thich Huyen Quang was allowed to seek needed medical treatment. However, at least 11 other 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 not been rescinded. Repression of the UBCV is not entirely focused on its leadership, but also on local attempts to organize "provincial committees" and the "UBCV Buddhist Youth Movement." Police reportedly detain and interrogate monks suspected of organizing these activities in Quang Nam-Danang, Thua Thien-Hue, Binh Dinh, Dong Nai, and Bac Lieu provinces. In August and September 2005, monks were detained in these provinces and ordered to withdraw their names from the committees and cease all connections with the UBCV. In the last year, police have briefly detained monks attending a youth conference in Hue and have subjected the organizers of the conference to constant interrogations and harassment. There are reports that the UBCV's national youth leader, Le Cong Cau, is being held in virtual house arrest. Former religious prisoner Thich Thien Minh continues to face constant harassment and local officials in March 2007 reportedly tore down the pagoda in which he was living. The next day he was presented with a "police order" accusing him of "activities opposing the Socialist Republic of Vietnam." In addition, Thich Thien Minh was ordered to renounce his position as UBCV Youth Commissioner, cease all contacts with the outlawed UBCV leadership and disband operation of the Former Political and Religious Prisoners Association which the authorities consider an "illegal organization."

Vietnamese authorities continue to threaten and detain monks, adherents of UBCV affiliated monasteries, and others seeking to meet UBCV leaders. In December 2005, reports emerged that UBCV nun Thich Nu Thong Man was subject to a "denunciation campaign" and expulsion order by provincial authorities in Khanh Hoa province. Police threatened local villagers with the loss of jobs and government services unless they publicly denounced the nun and asked provincial authorities to have her expelled from the local monastery. In January 2007, security officials from Binh Dinh province issued orders prohibiting future religious gatherings at the Thap Thap Monastery, reportedly threatening that local Buddhists would lose their jobs or their children expelled from school if they did not obey. In March 2007, police detained Therese Jebsen of the Norwegian Rafto Foundation as she tried to visit Thich Quang Do to present him with the foundation's annual award.

Buddhists throughout Vietnam have become increasingly vocal about past and current religious freedom abuses. Since 2003, local Buddhists in Bac Gian province issued multiple petitions to protest the arrest and torture of eight Buddhists, including the beating death of monk Thich Duc Chinh. In July 2006, an appeals court ordered the temporary release of the eight citing the "lack of evidence" against them. Nonetheless, 50 monks and nuns from the government-recognized VBS demonstrated for their complete acquittal and to demand that those responsible for the monk's death be held accountable. In Soc Triang province, there are also multiple reports of large scale demonstrations against the defrocking and arrest of several ethnic Khmer Buddhist monks. The monks who were arrested reportedly conducted their own peaceful protest over longstanding restrictions placed on the religious, cultural, and language traditions of the Khmer ethnic minority. In response, police have expanded arrests, harassment, and restrictions on Khmer Buddhist religious activity. As Theravada Buddhists, the Khmer have distinct ethnic and religious traditions from the dominant Mahayana tradition of the VBS. Some Khmer Buddhists have called for a separate religious organization from the VBS. The situation of the Khmer Buddhist will require additional monitoring, as information from that remote region is difficult to confirm.

U.S. Ambassador Michael Marine stated in September 2006 that there are "no longer any prisoners of concern" in Vietnam. Yet, at least 10 Hoa Hao followers remain in prison, in part for their role in organizing protests over the

government's harassment of their fellowship in An Giang province and also over the arrest of monk Vo Van Thanh Liem, who was arrested partly for submitting written statements to a U.S. congressional hearing on human rights in Vietnam. The Vietnamese government continues to ban participation in unregistered Hoa Hao groups, many of whom refuse to join the officially-approved organization because of the government's role in selecting the leadership of that organization. Also incarcerated are Hmong Protestants Mua Say So, Lau Vang Mua, Cao Dai Hong Thien Hanh, and Hoa Hao Bui Tan Nha. There are also at least four ethnic M'Nong Protestants incarcerated in Dak Nong province. In addition, according to the State Department, Vietnam continues to hold at least 13 individuals under house arrest, including the UBCV leadership and Fr. Phan Van Loi of Hue.

In addition to more recent cases, there remain credible reports of religious leaders and individuals being held in long-term detention and re-education camps. In May 2006, UBCV monk Thich Thien Minh published a list of 62 "prisoners of conscience" held at the Z30A re-education camp in Xuan Loc, Dong Nai province. Religious prisoners on his list include Roman Catholic priests, a Buddhist monk, and several Hoa Hao Buddhists. Also, Nguyen Khac Toan, sentenced to 12 years in prison in 2002 for his advocacy of Internet and speech freedoms, stated that in the prison where he was held were "225 ethnic Protestant Montagnards," including several minors. Toan's testimony confirms HRW's well-documented prisoner list, which includes 355 ethnic Montagnards. The number of Montagnard Protestants currently remaining in prisons is a significant ongoing religious freedom concern. Most arrests stem from participation in the 2001 and 2004 peaceful demonstrations for land rights and religious freedom, for alleged connection to outside groups with political aspirations, for organizing refugee flights to Cambodia, or for affiliation with the banned *Tin Lahn Dega*. Because of tight security and government secrecy, it is difficult to determine whether any or all Montagnards on these lists are imprisoned for their religious practice or affiliation. However, an official in the SECV has compiled a list of 153 prisoners who, he claims, are innocent religious leaders arrested for alleged sympathy with *Tin Lanh Dega* or because they failed to turn in members of their congregations who participated in the 2001 and 2004 demonstrations.

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

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

In the past year, the Commission has also issued statements about the State Department's lifting of the CPC designation and the arrest of Fr. Nguyen Van Ly and Nguyen Van Dai and other human rights advocates. All of the Commission's statements on Vietnam can be found on the Commission's Web site.

Commissioner Michael Cromartie testifying on Vietnam, March 2006.

VIETNAM COMMISSION RECOMMENDATIONS

In addition to its recommendation that Vietnam continue to be named a CPC, the Commission recommended that the U.S. government should:

- Work to implement fully the Montagnard Development Program (MDP) created last year as part of the House and Senate Foreign Operations conference report. The MDP should provide targeted humanitarian and development funds to ethnic minorities whose demands for land rights and religious freedom are closely connected. This program is consistent with Vietnam's own stated goals of reducing poverty in the Central Highlands and northwest provinces and with the need for reform, transparency, and access to regions where many religious freedom abuses continue to occur.
- Re-allocate foreign assistance 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. The Commission suggests the funds go to the creation of the Promoting Equal Rights and the Rule of Law (PEARL) program.

Previously, the Commission has urged the U.S. government to make clear to the government of Vietnam that ending violations of religious freedom is essential to the continued expansion of U.S.-Vietnam relations, urging the Vietnamese government to meet certain benchmarks consistent with international religious freedom standards including:

- establishing a non-discriminatory legal framework for religious groups to engage in peaceful religious activities protected by international law without requiring groups to affiliate with any one officially registered religious organization; for example:
  - allow the Unified Buddhist Church of Vietnam and Khmer Buddhists to legally operate independently of the official Buddhist organization, the Vietnam Buddhist Sangha;
  - allow leaders chosen by all Hoa Hao adherents to participate in the Executive Board of the Hoa Hao Administrative Council or allow a separate Hoa Hao organization to organize and register as the Hoa Hao Central Buddhist Church with the same privileges as the Administrative Council;
  - allow Presbyterian, Assembly of God, Baptist, Mennonite, Jehovah's Witness, and any other Christian denominations that do not wish to join either the Southern Evangelical Church or the Northern Evangelical Church of Vietnam, to register independently; and
  - allow Cao Dai leaders opposed to the Cao Dai Management Council to form and register a separate Cao Dai organization with management over its own affairs;
- amending the 2004 Ordinance on Religious Beliefs and Religious Organizations, Decree 22, and the "Prime Minister's Instructions on Protestantism" and other domestic legislation so that it does not restrict the exercise of religious freedom and conforms to international standards for protecting the freedom of thought, conscience, and religion or belief;
- establishing a legal framework that allows for religious groups to organize and engage in humanitarian, medical, educational, and charitable work;
- enforcing the provisions in the Prime Minister's "Instructions on Protestantism" that outlaw forced renunciations of faith, and establish in the Vietnamese Criminal Code, specific penalties for anyone who carries out such practices;
- repealing those ordinances and decrees that empower local Security Police to detain citizens in administrative detention for vague national security or national solidarity offenses, including Ordinance 44, Decree 38/CP, and Decree 56/CP;
- setting up a national commission of religious groups, government officials, and independent, non-governmental observers to find equitable solutions on returning confiscated properties to religious groups;
- releasing or commuting the sentences of all those imprisoned or detained on account of their peaceful advocacy of religious freedom and related human rights including, among others, UBCV Patriarch Thich Huyen Quang, Thich Quang Do, 13 UBCV leaders detained since

the 2003 crackdown, members of ethnic minorities in the Central Highlands and northwest provinces, Hoa Hao followers arrested in July 2005, and Fr. Ly, Nguyen Van Dai, and others arrested since January, 11 2007;

- re-opening all of the churches, meeting points, and home worship sites closed after 2001 in the Central Highlands and northwest provinces;
- investigating and publicly reporting on the beating deaths of Hmong Protestant leaders Mua Bua Senh and Vang Seo Giao, and prosecuting anyone found responsible for these deaths;
- allowing ethnic minorities in the Central Highlands safely to seek asylum 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 non-governmental organizations (NGOs) to members of all religious communities in Vietnam, particularly those in the Central Highlands and the northwestern provinces; and
- halting incursions into Laos and Cambodia by the Vietnamese military and police in pursuit those seeking asylum because of abuses of and restrictions on their religious freedom.

The Commission has also recommended that religious freedom in Vietnam be both protected and promoted through expanded foreign assistance programs in public diplomacy, economic development, education, good governance, and the rule of law; including by:

- expanding funding for additional Voice of America (VOA) and Radio Free Asia (RFA) programming for Vietnam and to overcome the jamming of VOA and RFA broadcasts;
- working to improve the capacity and skills of Vietnamese civil society organizations, including medical, educational, development, relief, youth, and charitable organizations run by religious organizations;
- targeting some of the Fulbright Program grants to individuals and scholars whose work promotes understanding of religious freedom and related human rights;
- requiring the Vietnam Educational Foundation, which offers scholarships to Vietnamese high school-age students to attend college in the United States, to give preferences to youth from ethnic minority group areas (Montagnard and Hmong), from minority religious communities (Cao Dai, Hoa Hao, Catholic, Protestant, Cham Islamic, and Kmer Krom), or former novice monks associated with the Unified Buddhist Church of Vietnam and Khmer Krom Buddhists;
- providing grants to educational NGOs to bring Vietnamese high school students to the United States for one year of study, prioritizing minority groups and communities experiencing significant poverty and human rights abuses;
- creating new exchange programs between the Vietnamese National Assembly and its staff and the U.S. Congress;
- working with international corporations seeking new investment in Vietnam to promote international human rights standards in Vietnam and find ways their corporate presence can help promote and protect religious freedom and related human rights; and
- expanding existing rule of law programs to include regular exchanges between international experts on religion and law and appropriate representatives from the Vietnamese government, academia, and religious communities to discuss the impact of Vietnam's laws and decrees on religious freedom and other human rights, to train public security forces on these issues, and to discuss ways to incorporate international standards of human rights in Vietnamese laws and regulations.

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

City hall in Vienna, Austria

THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

The International Religious Freedom Act of 1998 (IRFA) specifically cites U.S. participation in multilateral organizations as a way to advance respect for freedom of religion or belief, which is enshrined in numerous international human rights declarations and conventions. The 56 participating States of the Organization for Security and Cooperation in Europe (OSCE), i.e., Europe East and West and the states of the former Soviet Union, along with the United States and Canada, committed themselves to uphold extensive standards to protect freedom of religion or belief and to combat discrimination, xenophobia, intolerance, and anti-Semitism. Freedom of thought, conscience, and religion or belief is singled out in the OSCE founding document, the 1975 Helsinki Final Act. After the fall of the Soviet Union, the OSCE has continued to be an important forum in which participating States have been held accountable for their human rights commitments. Moreover, uniquely for an international organization, the OSCE since its inception has involved non-governmental organizations (NGOs) as partners in its review of members' human rights practices.

In recent years, however, some participating States have sought to curtail the organization's human rights activities. In 2004, delegations from nine countries, led by Russia along with eight other former Soviet states—Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine, and Uzbekistan—issued a written statement demanding that the OSCE give more weight to security matters.[1] Russia, in particular, has often protested in recent years that the OSCE focuses too much of its criticism on the countries of the former USSR, while downplaying human rights problems in the West.[2] Russia withheld needed approval for the OSCE 2005 budget, which must be agreed to by all participating States, thereby delaying its implementation and putting in jeopardy many of the OSCE human rights activities. These activities demonstrating an increasing lack of commitment to their human rights obligations, including efforts to combat racism, xenophobia, and other forms of intolerance and discrimination. The OSCE, citing an agreement made in Moscow in 1991, has frequently reiterated that OSCE participating States have "categorically and irrevocably" declared that the "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."

Background on Racism, Xenophobia, Discrimination, and Intolerance

In recent years, there has been a rise in incidents of racism, xenophobia, discrimination, 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-Jewish or anti-Semitic views and actions also continue to be problems in many OSCE participating States and officials often fail to hold the perpetrators of anti-Semitic attacks to account. Anti-Zionism and vilification of Israel can also mask anti-Semitism. Reportedly, many of the recent anti-Semitic incidents in Western Europe have been committed by angry and marginalized young North African Muslim immigrants. According to monitoring organizations, there

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

[2] Yet, on the invitation of the United States, the OSCE deployed an Election Assessment Mission for the U.S. November 2006 Congressional elections; in November 2006, ODIHR also sent an Election Assessment Mission to the parliamentary elections in the Netherlands.

were twice as many physical assaults on Jews in 2006 in comparison with the previous year, with the greatest increases in the United Kingdom, Canada, and France. A disturbing number of anti-Semitic incidents were recorded elsewhere, for example, in Norway, Belgium, Germany, and Ukraine.

"Skinhead" gangs and neo-Nazi groups are other sources of hate-filled rhetoric and violence in many countries in the OSCE region. Various ethnic and religious minorities, including Muslims, Jews, migrants, and members of other minorities, 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." When burnings, beatings, and other acts of violence target members of a particular group because of who they are and what they believe, such acts should be viewed not merely as police problems, but as human rights violations that require an unequivocal response.

The OSCE Response

In the last few years, the OSCE has set up several mechanisms to address intolerance and related human rights issues as mandated by the 2003 OSCE Ministerial Meeting. As a result of U.S. diplomatic leadership on this issue, the OSCE has convened a series of high-level meetings to address anti-Semitism and other tolerance-related issues. As the Commission recommended, in late 2004, the OSCE Chairman-in-Office appointed three Personal Representatives to promote tolerance. The OSCE also became the first international organization to name a prominent independent appointee specifically to examine anti-Semitism. At the same time, it established a Personal Representative monitoring intolerance toward Muslims, and a third who tracks other forms of intolerance, including xenophobia, racism, and intolerance against Christians and members of other religions. Finally, a new Tolerance Program within the OSCE's Office of Human Rights and Democratic Institutions (ODIHR) was set up in late 2004 to monitor and encourage compliance with OSCE commitments to combat xenophobia, anti-Semitism, and Islamophobia, as well as to promote freedom of religion or belief.

Several OSCE institutions expressed concern in 2006 over the rise of intolerance and discrimination in the OSCE region. These included a declaration issued by the OSCE Parliamentary Assembly at its July session in Brussels and the OSCE Brussels Ministerial Council decision in December 2006 on measures to combat intolerance and discrimination and promote mutual respect and understanding.

OSCE Meetings on Tolerance and Related Topics

The OSCE Ministerial Council in 2003 mandated a major international conference to address anti-Semitism in the then-55 states of the OSCE region. The Berlin Conference on Anti-Semitism in April 2004 was attended by 600 officials from 55 nations and by hundreds of NGOs. The conference recommended specific steps to fight anti-Semitism, including collecting and regular reporting on hate crimes data, bolstering national laws, promoting educational programs, and combating hate crimes fueled by racist propaganda in the media and on the Internet. In the 2004 Ministerial Council, the participating States authorized the OSCE Chairman-in-Office to appoint three Personal Representatives to coordinate and highlight OSCE activities in this field. The OSCE has also held a series of high-level and expert-level meetings on other tolerance-related issues, including the Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination (Brussels, September 2004); the Human Dimension Seminar on Migration and Integration (Warsaw, May 2005); the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance (Cordoba, June 2005); and the Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism (Vienna, July 2005).

The 2005 Ministerial Council in Ljubljana called for the emphasis of OSCE activities in 2006 to be on thematic, implementation-focused meetings, including on tolerance-related topics. In June 2006, Kazakhstan hosted the first OSCE Tolerance Implementation Meeting, followed by meetings on Holocaust education in Croatia in October and on the deficit of hate crimes data in November in Austria. The 2006 Human Dimension (HDim) meeting in Warsaw, Europe's largest conference involving the NGO community, drew a wide variety of religious and ethnic groups, notably from Muslim minority communities. The HDim plenary session on freedom of religion and belief attracted a record number of speaking requests from 57 OSCE delegations and NGOs. In March 2007, a Supplementary Human Dimension Meeting on Freedom of Assembly, Association and Expression also included NGO activity relating to freedom of religion.

These conferences have raised awareness among the governments of the OSCE participating States, NGOs, and the public regarding anti-Semitism, discrimination against Muslims, and other tolerance-related issues in the OSCE re-

OSCE headquarters in Vienna, Austria (Photo: OSCE Mikhail Evstafiev)

gion. The challenge remains, even after all of the meetings, for the OSCE and its 56 members to act on the ideas that have emerged from these conferences and reports and to translate them into activities and programs that will combat these forms of intolerance in OSCE participating States.

OSCE Personal Representatives

In December 2004, the 55 OSCE participating States authorized the then-Chairman-in-Office (CiO), Bulgarian Foreign Minister Solomon Passy, to name three Personal Representatives to promote tolerance. Anastasia Crickley of Ireland, chairperson of the European Monitoring Centre on Racism and Xenophobia, was appointed as the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions; Gert Weisskirchen, German parliamentarian and professor of higher education, was named the Personal Representative on Combating Anti-Semitism; and Omur Orhun, former Turkish Ambassador to the OSCE, was appointed the Personal Representative on Combating Intolerance and Discrimination against Muslims.

These appointments have been re-confirmed by each subsequent CiO, namely, Slovenia, Belgium, and Spain and will extend at least through the end of 2007. The mandates of these Representatives include the promotion of better coordination of the implementation of decisions by the OSCE Ministerial and Permanent Councils on Tolerance and Non-discrimination as well as cooperation between the CiO and the ODIHR.

The mandates of the three Personal Representatives address separate but interrelated issues that call for distinct, yet coordinated, responses. The persons selected by the OSCE CiO for these honorary and part-time positions come from a variety of backgrounds. The OSCE CiO has expressed the view that the Personal Representatives should coordinate with the various relevant OSCE institutions and among themselves in order to fulfill their mandates. Indeed, the Commission is concerned that the work of the Representatives has been hampered by inadequate funding for staff and travel expenses, and other demands on their time and attention. The Commission also believes that the activities of the Personal Representatives should be given more prominence in the work of the OSCE.

During the past year, the Personal Representatives made contributions to various OSCE meetings. For example, Crickley made a presentation on the role of various international organizations on tolerance education at the October 2006 meeting on education and the Holocaust. Orhun made a presentation on the "cartoon controversy" at the July 2006 OSCE meeting on the media. In addition to playing an active role at relevant OSCE meetings, country visits have played a key role in the work of the Personal Representatives and in their regular reports to the OSCE Permanent Council. They have all visited the United States; Orhun has held meetings in Turkey and has made visits to the Netherlands, Great Britain, Germany, and France, as well as consulting with the Organization of Islamic Conference; Crickley also met with the UN in Geneva and has visited Great Britain and Austria, as well as consulted with the EU; and Weisskirchen has held meetings in Germany and Canada and has visited Russia. Invitations from the participating States to the Personal Representatives would enable them to meet with relevant government officials and raise key issues of concern directly with them, and to meet with NGOs, and with community and religious leaders and activists, without interference.

The Commission also encourages each of the three Personal Representatives to undertake events with relevant non-governmental communities as well as with the media. In 2006, Weisskirchen held roundtables involving the

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.

civil society sector in Germany, the United Kingdom and Canada, which addressed the issue of anti-Semitism and, together with the German delegation to the OSCE Parliamentary Assembly, he convened an expert meeting on anti-Semitism with specialists from countries throughout the OSCE region. Orhun, working with the ODIHR, convened several roundtables with representatives of Muslim communities across the OSCE region. For example, a 2005 meeting in Warsaw identified key issues of concern and possible areas of cooperation. A 2006 meeting, attended by NGOs and media experts, addressed the portrayal of Muslims in public discourse. Based on these recommendations, the ODIHR announced in 2006 that it is developing a resource guide on improved reporting on Islam and Muslim communities in OSCE States.

The Office of Democratic Institutions and Human Rights Tolerance Program

One of the major institutional responses of the OSCE to growing concerns regarding religious intolerance was to set up a new Tolerance Program in late 2004 within the ODIHR. The mandate of the Tolerance Program includes OSCE efforts to promote tolerance and to combat intolerance and xenophobia, as well as to advance freedom of religion or belief. The United States has been a strong advocate for the establishment of the program and for sufficient funding for its activities. The Tolerance Program staff includes specialists on the issues of anti-Semitism, Islamophobia, xenophobia, and racism, as well as on freedom of religion or belief. These specialists monitor and conduct research, write reports, conduct programs, and provide staff expertise for the three Personal Representatives and the ODIHR Advisory Panel of Experts on Freedom of Religion or Belief. The Tolerance Program was charged with setting up a database of information, as well as projects on such issues as data collection for hate crimes legislation, police training on hate crimes, and Holocaust education in specific countries.

In accordance with a decision by the 2003 OSCE Ministerial Council, many of the Tolerance Program's activities have centered on gathering and publicizing information related to tolerance and non-discrimination. The Program's Web site, *http://www.osce.org/odihr/16431.html*, which became operational in 2006, brings together previously hard-to-find material that is directly relevant to addressing discrimination and to combating intolerance by providing access to information from OSCE participating States, NGOs, and inter-governmental organizations on international standards and instruments. The Web site also references Legislationline, ODIHR's online database, and the Human Rights Information and Documentation Systems International index to 3,000 NGO Web sites, and provides customized access to more than 1.5 million documents. The Tolerance Program has developed a "Web site Guide to Tolerance Education" and a curriculum unit on "Holocaust Education and Anti-Semitism." The Tolerance Program has also issued several useful publications on addressing priorities in various OSCE States, including "Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation, and National Initiatives" and "Education on the Holocaust and on Anti-Semitism: An Overview and Analysis of Educational Approaches."

In 2006, the ODIHR published further information on tolerance-related topics, including "Teaching Materials on the History of Jews and Anti-Semitism in Europe," in cooperation with experts from seven pilot countries: Croatia, Denmark, Germany, Lithuania, Poland, the Netherlands, and Ukraine. This publication includes material on the history of anti-Semitism; contemporary forms of anti-Semitism, anti-Semitism as a form of discrimination, and a teaching guide on the subject. The ODIHR also produced two publications related to the struggle against hate crime: "Challenges and responses to hate-motivated incidents in the OSCE region for the period January-June 2006," and a fact sheet on the ODIHR Law Enforcement Officer Program on combating hate crime, issued in English, Russian, Polish, and Serbian. During the past year, the Tolerance Program has translated

many of its key publications into the Russian language, particularly useful in light of the rising levels of xenophobia, racism, and various forms of intolerance in Russia and other former Soviet republics.

To date, ODIHR's Tolerance Program has emphasized activities with external organizations, but the Program could examine work with the 18 OSCE Field Presences and other OSCE institutions. The 2003 OSCE Ministerial Council also tasked the Tolerance Program with acting as a focal point for the various national contact points on hate crime set up by the OSCE participating States. Information about practical initiatives from participating States, NGOs, and other institutions can also be submitted online. In 2006, the Tolerance Program ran special programs to train police and the judiciary in Spain and Croatia on ways to combat hate crimes.

As mentioned above, part of the Tolerance Program's current mandate is to address freedom of religion or belief. Responsibility for the issue of religious freedom was removed from the ODIHR Human Rights Department when the issue was assigned to the Tolerance Program in late 2004. The Commission is concerned that as a result of this bureaucratic reassignment, freedom of religion or belief will be relegated as a corollary to tolerance work and will no longer be included in the ODIHR human rights programs. Furthermore, only one staff person in the Tolerance Program is assigned to the issue of freedom of religion or belief, and that person is also assigned to work with NGOs; in 2007, this position was removed from the unified budget, thus endangering its permanent status and changing its recruitment basis. In 2006, the ODIHR planned to hold workshops on freedom of religion issues with NGOs, religious communities, and government officials in Russia and Tajikistan. However, little news and information about those meetings was available in the out-of-date and sparse freedom of religion section of the ODIHR Tolerance Program Web site.

OSCE Venues for Addressing Freedom of Religion or Belief Issues

Freedom of religion or belief is defined as a basic human rights principle in the 1975 Helsinki Final Act. Since then, the issue has been addressed in various ways by the OSCE: through the periodic OSCE and later ODIHR conferences to review implementation of human rights commitments by the 56 participating States; during several conferences which specifically addressed these issues, such as the Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism, held in Vienna in July 2005; in the structure of the ODIHR, where, until the Tolerance Program was set up, freedom of religion or belief was part of the Human Rights Department portfolio; through the 18 OSCE Field Presences, where freedom of religion or belief can also be the subject of monitoring, reports, and related activities; and through the inclusion of the views of relevant international, regional, and non-governmental human rights organizations in connection with each of the other venues described above.

Under the auspices of the ODIHR, the OSCE also hosts annual conferences, traditionally held in Warsaw in October, to review implementation by the 56 OSCE participating States of their OSCE human rights commitments, including freedom of religion or belief. Known as the Conferences on the Human Dimension (HDim), these 10-day meetings bring together diplomats, representatives of other international organizations, and, reportedly, the largest number of NGOs for a general European human rights conference. These conferences have been criticized by some government representatives for being too lengthy, for not attracting enough press and public attention, and increasingly, for the failure of participating States to respond—either in words or in deeds—to criticism of their human rights records voiced at the HDim.

The ODIHR Advisory Panel of Experts on Freedom of Religion or Belief was re-organized in 2004 and expanded to a total of 58 persons nominated by countries from throughout the OSCE region, including an Advisory Council of 15 members. The Panel functions primarily as a consultative body for the governments of participating States considering new or amended legislation affecting freedom of religion, as well as for expert opinions on individual cases. The Panel reviews both proposed and enacted legislation under guidelines developed by the ODIHR and the Council of Europe Venice Commission, guidelines that are based on international conventions and on OSCE commitments. The Panel then issues recommendations to the participating States on bringing such legislation into conformance with international human rights standards.

The Panel has advised the governments of Macedonia, Romania, and Serbia on legislation and Panel recommendations on relevant legislation were also taken into consideration by the governments of Kazakhstan, Kyrgyzstan, and Bulgaria. In the case of Uzbekistan, the government has not responded to the Panel's recommendations for revisions of

its religion laws. In two recent examples of expert opinions on individual cases, the Panel determined that the situation of Jehovah's Witnesses in Moscow is illustrative of problems in other post-Soviet countries, where registration requirements are being used to control religious groups. The Panel has also been critical of official threats to destroy Hare Krishna property in an agricultural cooperative in Kazakhstan, and in November 2006 offered its assistance in resolving this dispute. The Commission is convinced that the activities of the Panel should be better known and more transparent, in particular with respect to those governments that ignore its recommendations. In addition, every year the Panel should hold at least one meeting of its entire membership.

Commission Activities

Since 2001, the Commission has participated with, often in the capacity as members of, U.S. delegations to OSCE meetings and has made extensive recommendations relating to the work of the OSCE on protecting freedom of religion or belief and on combating intolerance and anti-Semitism in the OSCE region. Then-Commission Vice Chair Felice D. Gaer made public statements on behalf of the Commission at the first-ever special meeting on anti-Semitism in June 2003, as well as at the ODIHR HDim meeting the following October. In July 2004, the Commission recommended that the U.S. government should advocate an active role for NGOs in monitoring religious intolerance. In September 2004, at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia, and Discrimination (Brussels), Vice Chair Gaer stressed the importance of freedom of religion or belief in the OSCE region. At the October 2004 OSCE HDim, the Commission made certain that public information on the status of freedom of religion or belief in various OSCE states and the Commission's concerns about religious freedom were included in the concluding intervention by the U.S. delegation to the HDim meeting.

At the OSCE Conference on Anti-Semitism and Other Forms of Intolerance, held in Cordoba in June 2005, then-Commission Vice-Chair Nina Shea spoke at the Panel of Experts Workshop on Promoting Tolerance and Ensuring Freedom of Religion and Belief on restrictive registration practices. Serving as official advisers to the U.S. delegation to the Cordoba meeting, then-Commission Chair Michael Cromartie and Vice Chair Shea met with various diplomats and NGO representatives. Archbishop Charles Chaput, a member of the Commission, served in his private capacity on the U.S. official delegation to the 2005 Cordoba meeting. During the 2005 OSCE HDim meeting in Warsaw, Gaer served as a member of the U.S. delegation and made a plenary statement on the problems faced by ethnic minorities, including anti-Semitism. She also held meetings with the three OSCE Personal Representatives and with numerous delegations and NGO representatives. The Commission staff also took part in a roundtable on intolerance and discrimination against Muslims and made a presentation on ways the Commission has addressed this issue. During the 2006 OSCE HDim Conference, Gaer, as Chair of the Commission, served as an official member of the U.S. delegation and presented a plenary statement on freedom of religion. Together with Commission staff, she also held meetings with OSCE Personal Representatives, as well as with numerous delegations and NGOs. The Commission staff also made a presentation during an event on freedom of religion in Turkmenistan, held during the 2006 HDim Conference.

The Commission was one of the first official bodies to speak out against the rise in anti-Semitic violence in Europe; it has also addressed anti-Semitism and related issues in countries such as Belarus, Belgium, Egypt, Iran, France, Russia, Saudi Arabia, Uzbekistan, and Pakistan. The U.S. Congress introduced and unanimously passed resolutions in the Senate and the House on the rise of anti-Semitism in Europe. The Senate version cited the Commission's findings and urged the Commission to continue documenting the issue.

The Commission has recommended that the U.S. government work with the OSCE and the U.S. delegation to ensure that separate attention is paid to anti-Semitism in the region and successfully advocated for the OSCE's first special meeting on anti-Semitism. During preparations for that meeting, Gaer stressed that acts of anti-Semitism must not be seen as hooliganism, but as a human rights abuse that States should combat by robust implementation of their international human rights commitments. Participating on the U.S. delegation at the Berlin meeting, Vice Chair Gaer discussed anti-Semitism in the OSCE region and met with a wide variety of delegations and NGOs. During the Berlin conference on anti-Semitism, the Commission brought to the attention of the U.S. delegation the key role played by NGOs in monitoring anti-Semitism, intolerance, and discrimination, and this language was included in the delegation's concluding speech. The resulting OSCE "Berlin Declaration" on anti-Semitism has served as a precedent for the UN in organizing its own public event on combating anti-Semitism.

THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE COMMISSION RECOMMENDATIONS

With regard to the institution of the Organization for Security and Cooperation in Europe (OSCE), the Commission recommends that the U.S. government should:

- express continued strong support for the OSCE in the face of attacks led by the Russian government, particularly on the OSCE's human rights activities carried out by the Office of Democratic Institutions and Human Rights (ODIHR);
- authorize and appropriate funds in addition to existing U.S. contributions to the OSCE for the purpose of expanding programs that combat anti-Semitism, xenophobia, and discrimination against Muslims, Christians, and members of other religions, and of developing ways to advance freedom of thought, conscience, and religion or belief.
- 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;
- urge that the State Department ensure that U.S. OSCE delegations include 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;
- ensure that U.S. OSCE delegations make an effort to organize regular briefings for the civil society groups at OSCE meetings.

With regard to freedom of thought, conscience, and religion or belief and the promotion of tolerance, the Commission has recommended that the U.S. government urge that OSCE participating States undertake the following steps:

- ensure that they are complying with their commitments to combat discrimination, xenophobia, and anti-Semitism, as detailed in the 1990 Copenhagen Document on the Human Dimension, including adopting laws against incitement to violence and ensuring effective remedies for acts of discrimination;
- engage in a regular public review of compliance with OSCE commitments on freedom of religion or belief, on racial and religious discrimination, and on anti-Semitism, including by facilitating a more active role by NGOs as part of that process;
- commit to condemn promptly, publicly, and specifically hate crimes and to investigate and prosecute their perpetrators;
- take all appropriate steps to prevent and punish acts of anti-Semitism, such as publicly to condemn specific anti-Semitic acts, to pursue and prosecute the perpetrators of attacks on Jews and their communal property, and, while vigorously protecting freedom of expression, to counteract anti-Semitic rhetoric and organized anti-Semitic activities;
- condemn in a public fashion, while vigorously protecting freedom of expression, attacks targeting Muslims and pursue and prosecute the perpetrators of such attacks;
- ensure that efforts to combat terrorism not be used as an unrestrained justification to restrict the human rights, including freedom of religion or belief, of members of religious minorities;
- bring national legislation and practice, as well as local laws, into conformity with international human rights standards and OSCE commitments by: permitting all religious groups to organize and conduct their activities without undue interference; discontinuing excessive regulation of the free practice of religion, including registration or recognition requirements that effectively prevent members of religious communities from exercising their freedom to manifest religion or belief; and permitting limitations on the right to freedom of religion or belief only as provided by law and consistent with participating States' obligations under international law;
- monitor the actions of regional and local officials who violate the right to freedom of religion or belief and provide effective remedies for any such violations; and
- establish mechanisms to review the cases of persons detained under suspicion of, or charged with, religious, political, or security offenses and to release those who have been imprisoned solely because of their religious beliefs or practices, as well as any others who have been unjustly detained or sentenced.

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

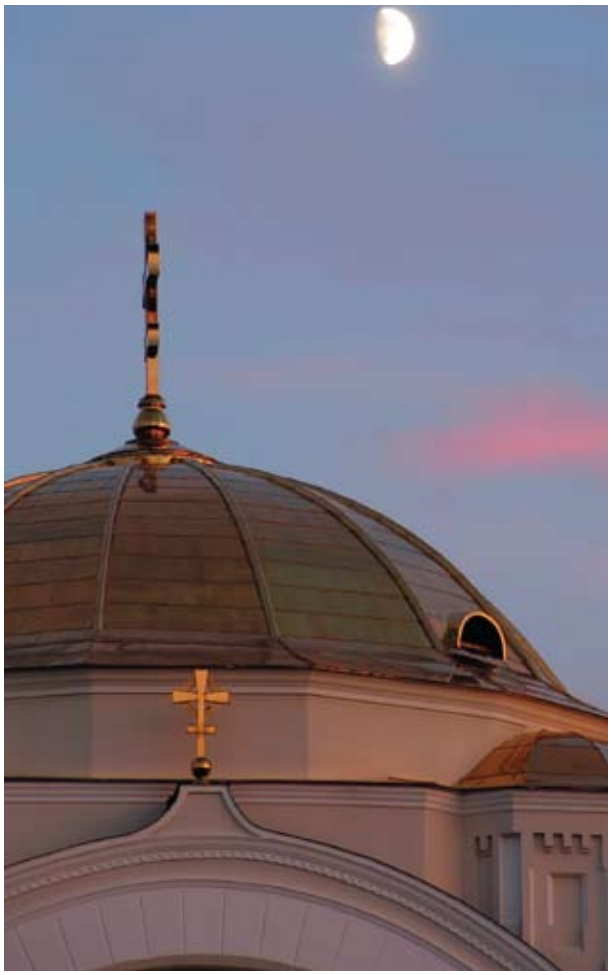
- ensure reappointment of the three Chairman-in-Office Personal Representatives on tolerance issues;
- make the country-specific reports of the three Personal Representatives available to the public;
- provide the ODIHR the necessary mandate and adequate resources to hire as part of the Unified Budget experienced staff at the working level, to direct the Tolerance Program, to monitor compliance with OSCE obligations on freedom of religion or belief, and to combat discrimination, xenophobia, and anti-Semitism;
- provide funding for each of the three OSCE Personal Representatives on Tolerance to ensure travel and other program support;
- take concrete action within the OSCE to ensure that all participating states are living up to their commitments to combat discrimination and intolerance, in particular to combat anti-Semitism, as detailed in the 1990 Copenhagen Document, action which should include adopting laws to protect against incitement to violence based on discrimination, including anti-Semitism, and providing the individual with effective remedies to initiate complaints against acts of discrimination;
- consider opening the sessions of the OSCE Permanent Council to members of the press and public;
- consider ways to attract more public attention to the activities of the OSCE Panel of Experts on Freedom of Religion or Belief, including by bringing greater transparency to its activities;
- 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;
- undertake a public review of compliance by participating States within the OSCE on a regular basis of their commitments to combat discrimination, xenophobia, and anti-Semitism;
- convene expert conferences on anti-Semitism and freedom of religion or belief, as well as other tolerance issues, during 2008 and 2009;
- consider holding the Human Dimension Implementation Meeting (HDim) in September and October in several areas in the OSCE region, preferably in areas with major OSCE Field Presences;
- consider reorganization of the HDim conference into 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);
- provide funding for added staff to deal with freedom of religion or belief, working within the ODIHR Human Rights Program;
- provide funding for the OSCE Field Presences and the ODIHR to hold public roundtables with local government officials, NGOs, and community leaders to discuss the concept, definition, and implementation of steps to counter hate crimes and hate crimes legislation;
- ensure that the ODIHR Tolerance Program staff take part in ODIHR training of Field Presences and other OSCE staff; and
- provide funding for the translation of additional ODIHR Tolerance Program reports into OSCE languages, particularly Russian, and for at least one ODIHR Tolerance Program staffer with Russian-language capability.

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 a widespread pattern of serious human rights abuses, including involvement in the "disappearances" of several key opposition figures, the imprisonment of political opponents and journalists, and strict media controls. Human rights conditions deteriorated further after the March 2006 presidential elections, which observers from the Organization for Security and Cooperation in Europe (OSCE) and other organizations deemed fraudulent. The government of Belarus also continues to commit serious violations of the right of its citizens to freedom of thought, conscience, and religion or belief. Religious freedom conditions, which had already declined as a result of the strict law on religion passed in October 2002, deteriorated further in the past year. The Commission continues to place Belarus on its Watch List, and will maintain scrutiny throughout the year to determine whether the government's record has deteriorated to a level warranting designation as a "country of particular concern," or CPC.

According to the U.S. Department of State's 2006 *Country Reports on Human Rights Practices*, the human rights record of the Belarus government "remained very poor and worsened in some areas, as the government continued to commit frequent serious abuses." The State Department reports that the Belarus government continued to engage in arbitrary arrests, detentions, and imprisonment of citizens for political reasons, criticizing officials, or participating in demonstrations. Court trials, whose outcomes were usually predetermined, were often conducted behind closed doors without an independent judiciary or independent observers.

Government structures to control and restrict religious groups are extensive and intrusive, leading some human rights groups to compare today's situation for religious freedom in Belarus to that under the former Soviet regime. For example, authorities reportedly issued a warning to three Christians in Brest for holding in a 24-hour silent vigil in June 2006 to express solidarity with victims of political repression in the country; the three protesters were told they needed prior permission to organize and conduct religious events outside designated worship areas. Belarus also maintains its Soviet-era religious affairs bureaucracy, which includes a Plenipotentiary for Religious and Nationality Affairs and its staff in Minsk (known, until July 2006, as the State Committee for Religious and Nationality Affairs), as well as several of its officials in each of the country's six regions. According to the Forum 18 News Service, the six regions have 20 districts, with each district having a Department for Relations with Religious and Social Organizations, as well as a Commission for Monitoring Compliance with Legislation on Religion.



Church in Brest fortress, Brest, Belarus

Legislation on religion passed in October 2002 led to greater restrictions on religious freedom in Belarus. The law codified the activities of the official Committee of Religious and Nationality Affairs (since renamed) of the Council of Ministers (CRNA) and set up severe regulatory obstacles and major bureaucratic and legal restrictions on the activities of many religious communities. Essentially, the 2002 religion law prohibits: all religious activity by unregistered

Some religious groups have been consistently denied registration, particularly Protestant groups. 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.

groups; any activity of religious communities except in areas in which they are registered; foreign citizens from leading religious activities; and unapproved religious activity in private homes, with the exception of small, occasional prayer meetings. The law set up a three-tiered system of registration, and particularly restricts the activities of groups on the lowest tier. The law also mandated that all existing religious communities in Belarus re-register with the CRNA by November 2004. Most previously registered groups were re-registered, but the law was viewed as a strengthening of the government's opportunities to deny registration to disfavored groups.

Since coming to power in 1994, President Lukashenko has openly favored the Belarusian Orthodox Church (BOC), an Exarchate of the Moscow Patriarchate Russian Orthodox Church, resulting in a privileged position for the BOC. This relationship was codified in June 2003, when the Belarus government and the BOC signed a concordat setting out the Church's influence in public life, which has contributed to the difficulties for many religious minorities (described below). In March 2004, the Belarusian government granted the BOC the exclusive right to use the word "Orthodox" in its title. Several "independent" Orthodox churches that do not accept the authority of the Orthodox Patriarch in Moscow have been denied registration, including the Belarusian Autocephalous Orthodox Church (BAOC) and the True Orthodox Church, a branch of the Orthodox Church that rejected the compromise with the Soviet government made by the Russian Orthodox Church in the 1920s. In 2005, the State Department reported that authorities confiscated a building in Semkov Gorodok, which the local BAOC community had renovated. In June 2005, authorities warned the priest of the unregistered Russian Orthodox Church Abroad (ROCA) that he could be jailed and fined for conducting "illegal religious activities," including small gatherings in private homes. In November 2005, authorities denied registration to another ROCA parish in Ruzhany; a religious affairs official in Brest reportedly told ROCA members to worship at the BOC. In recent years, ROCA members have been fined four times, totaling over $2,000, for worshiping in private homes. The community again applied for registration, but in October 2006, there were credible reports that BOC officials were pressuring parishioners to withdraw their signatures from registration applications.

Some religious groups have been consistently denied registration, particularly Protestant groups. 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. Another is an alleged failure to limit activities to a required location. In many cases, officials do not provide any reason for the denial of re-registration requests. In 2006, the Belarus government rejected the UN Human Rights Committee's decision that it had violated religious freedom by refusing to register a nation-wide Hare Krishna association. The authorities maintained that their refusal was "justified" because it was in accordance with Belarusian law, but they failed to address the UN Committee's finding that a requirement for state-approved physical premises to gain legal registration is "a disproportionate limitation of the Krishna devotees' right to manifest their religion" under the International Covenant on Civil and Political Rights. In June 2006, a Minsk court deregistered the Christ's Covenant Reformed Baptist Church for lack of legal addresses.

Without state registration, religious communities can be liable to fines levied under a Soviet-era provision of the Administrative Violations Code. Evidence indicates that since 2004, the Belarus authorities have increased the amount of the fines and expanded the range of religious groups that are subject to them. Until two years ago, such fines were usually approximately $15, and most often imposed on Council of Churches Baptist congregations, which refuse on theological grounds to register with any state authorities. Since 2006, such fines have increased, in some cases dramatically. According to Forum 18, the pastor and administrator of New Life Church were fined a total of

$5,455 for "unsanctioned" religious activity, a Pentecostal church was assessed fines that totaled $2,767, and members of the Russian Orthodox Church Abroad were given fines totaling $1,857. In July and August 2006, a Union of Evangelical Christians Salvation Church pastor was fined $2,170 and $300, respectively, for holding an unauthorized religious service and performing a baptism in a lake. In October 2006, independent media reported that authorities levied a fine of $29 against a 78-year-old Roman Catholic priest for conducting an "unauthorized" religious service in Minsk; the priest, a Belarus-born Polish citizen, had worked in the city of Slutsk for 15 years. The average monthly wage in Belarus is estimated to be $139.

In addition to fines, the Belarusian authorities appear to be adopting tougher sanctions, such as short-term detentions and imprisonment, against church leaders and parishioners who take part in unregistered religious activity. In March 2006, the pastor of the Minsk-based Christ's Covenant Reformed Baptist Church received a 10 day prison term for conducting religious worship in his home, the first time in 20 years that a religious leader was sentenced to imprisonment in Belarus. The church's re-registration request had previously been denied. Pentecostal bishop Sergey Tsvor faced similar charges, but they were dropped because of technical errors made by the police. Also in March 2006, authorities sentenced human rights lawyer Sergey Shavtsov to 10 days in detention for conducting an unsanctioned interdenominational seminar in a private cafe.

While re-registered religious organizations, including Muslims, Lutherans, and Baha'is, have held worship services at residential addresses without prosecution, the Administrative Violations Code (Article 167) and the 2002 religion law forbids most religious meetings in private homes and religious activity outside designated houses of worship without advance approval from state authorities. A first offense is punishable by a warning, a fine of between 20 and 150 times the minimum monthly wage, or three to 15 days' imprisonment. A second violation within one year is punishable by a fine of between 150 and 300 times the minimum monthly wage or 10 to 15 days' imprisonment. While the law permits persons to gather in private homes to pray, it requires that individuals obtain permission from local authorities to hold rituals, rites, or ceremonies in homes. Police interfered with religious meetings in residences several times in 2006, sometimes fining participants. Baptists, Pentecostals, and other Protestants were warned or fined for illegally conducting and hosting religious services.

A woman in Mogilev, Belarus (OSCE)

In addition to problems for home worship, the government continued to limit the ability of a number of groups to own or use property for religious purposes. The government permits the use of residential property for religious services only after it has been formally converted from residential use. This interpretation of the law effectively requires all religious organizations to re-register their properties as religious properties. However, authorities continued to reject requests for property registration from many Protestant churches, as well as from other religious groups seen as new to Belarus. In January 2006, police visited a residence during a worship service of a registered Minsk-based Pentecostal congregation and drew up a protocol against the bishop for

Statue of St. Michael at St. Simon and St. Helena Catholic Church, Minsk, Belarus

alleged violations of the public demonstrations law, which requires advance official permission for all public events. This is despite the fact that the congregation is registered to hold worship services in that building. In July 2006, a Minsk court ordered the New Life Church to sell to the city a building the church had purchased as a place of worship at a price far below market value and to vacate the premises by the following October. The authorities refused to re-register the New Life Church because it tried to use a former cow barn as its legal residence; the pastor and other leaders were then assessed large fines for conducting services in the barn. After church members began a hunger strike, the authorities reviewed their decision. The Higher Economic Court, however, has postponed its ruling five times since December 2006. Members of a Catholic parish in the city of Grodno halted a hunger-strike after receiving endorsement for church construction from the Grodno city administration. According to the church's parish priest, the church has not yet received permission to build, but intends to "ask for final permission from the president."

Various other laws, regulations, and directives also restrict the activities of registered religious communities. For example, groups are not allowed to function outside their geographic area of registration. If a registered religious community does not qualify as a "central association"—meaning it has not been legally recognized for over 20 years or it does not have enough members—it cannot own media outlets or invite people from outside Belarus to work with the community, as in the case of the Greek Catholic Church. The Society for Krishna Consciousness also does not qualify as a central association and therefore cannot rent a hall or produce a publication with a print run of over 300.

Generally speaking, the Belarus government continues to interfere with religious education or deny parents the right to provide religious education for their children. In August 2006, border guards transported to Minsk 47 Baptist children and adults who had been on a religious retreat on private property in the Grodno region. Local authorities had ordered the gathering to disperse and threatened to take the children to a police juvenile facility. According to the State Department, after their release, a senior religious affairs official in Minsk conceded that the retreat was legal since private individuals had organized the event.

The government does not deal sufficiently with anti-Semitism and has not responded adequately to find and hold accountable those responsible for vandalism against Jewish memorials, cemeteries, or other property. Reported anti-Semitic incidents continued in 2006, though there were fewer reported incidents than in previous years. In October 2006, vandals damaged property and gravestones at Jewish and Christian cemeteries in Orsha. At the Jewish cemetery, where 7,000 Holocaust victims are buried, 10 tombstones and the fence around the property were damaged. Police stated they would not file criminal proceedings for vandalism if the perpetrators were found. In November, Minsk's Yama Holocaust Memorial was again vandalized on the same weekend that the Israeli Cultural and Information Center was also vandalized with swastikas and anti-Semitic graffiti. Although authorities initially refused to investigate these incidents, claiming they were cases of teenage hooliganism, later in November, Deputy Foreign Minister Viktor Gaysenok pledged that police would do

everything possible to find and punish those who damaged the memorial. The investigation was pending at year's end. In late November, the Brest Jewish memorial, dedicated in 1992 to the memory the Brest ghetto, was the subject of the sixth attack of vandals since the memorial was built. Police were investigating the incident. On another issue, due to a requirement in the 2002 religion law that religious organizations do not have priority in reclaiming property confiscated in Soviet times if a former worship building is now used for culture or sports activities, only nine of 92 historic synagogues in Belarus have been returned to the Jewish community since the country gained independence in 1991.

The government did not permit foreign religious workers to engage in religious activities outside the institutions that invited them. Observers have expressed concern that the lack of standardized government guidance on how to implement recent changes to visa laws may affect the ability of foreign religious workers to live and function in the country. For 10 years, authorities have refused to renew the work permit of the founder of the Minsk-based New Testament Church and the pastor of its congregation. Forum 18 reported that in July 2006, authorities denied permission for the Full Gospel Union to invite a Nigerian pastor to preach at three member churches. In October, authorities refused to renew visas for seven Polish Catholic priests and five nuns from the Grodno region who had been working in the country for 10 years and ordered them to leave by the end of the year. Of the approximately 350 Catholic priests who serve in the three Roman Catholic dioceses in Belarus, over half are foreigners, mostly from Poland. In September 2006, a Catholic priest from Poland was summoned to Minsk for celebrating mass without state permission in that city a week earlier. Religious workers of other denominations with a long history in the country, particularly some Protestant groups, continued to have difficulties obtaining visas.

In contrast to the harsh measures described above, Lukashenko signed a law in late 2005 that exempted from tax the land and property of many religious organizations. The list of eligible religious organizations includes some denied re-registration but not yet liquidated by court order, such as the Minsk-based New Life Church and the Minsk Society for Krishna Consciousness. However, the recently liquidated Minsk-based Belarusian Evangelical Church and Belarusian Evangelical Reformed Union reportedly are not included.

The Commission has traveled to Belarus and met with officials of the State Committee on Religious and Nationalities Affairs as well as with representatives of various religious and human rights groups. The Commission released a report on Belarus in May 2003 with recommendations for U.S. policy, reflecting the findings from its visit to that country. The Commission welcomed passage of the Belarus Democracy Act, approved by Congress in October 2004. President Bush' signature on the Belarus Democracy Reauthorization Act in January 2007 renewed the original legislation. This legislation has implemented certain Commission recommendations regarding freedom of religion in Belarus. Throughout the past year, Commission staff has met with independent human rights activists from Belarus, including the author of the "White Book," an extensive report on religious persecution in that country. In 2004, 2005, and 2006, the Commission took part in meetings of the Organization for Security and Cooperation in Europe, presenting information on freedom of religion in Belarus and meeting with Belarusian officials.

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BELARUS COMMISSION RECOMMENDATIONS

With regard to Belarus, the Commission recommends that the U.S. government should undertake the following policies in multilateral relations and in regard to international organizations:

- use every measure of public and private diplomacy to advance the protection of human rights, including religious freedom, in Belarus, including enhanced monitoring and public reporting by the U.S. Department of State and the appropriate international organizations;
- coordinate with the European Union on the application of financial sanctions and visa bans on high-ranking Belarusian officials, particularly those who are directly responsible for, or who have carried out, the government's abuses of religious freedom;
- undertake efforts to prevent Belarus from gaining membership in the new UN Human Rights Council; and
- urge the Belarus government to issue invitations to the UN Special Rapporteur on the Situation of Human Rights in Belarus; the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Special Rapporteur on Freedom of Religion or Belief, as well as the Working Group on Enforced and Involuntary Disappearances.

The U.S. government should undertake the following policies in bilateral relations:

- urge the Belarus government to take immediate steps to end repression, including:
  - repealing the highly repressive religion law;
  - ending the practice of denying registration to religious groups and then erecting obstacles to religious practice because of that unregistered status;
  - providing the right to conduct religious education and distribute religious material;
  - halting government attacks on the persons and property of minority religious groups;
  - ensuring a greater effort on the part of government officials to find and hold to account perpetrators of attacks on the persons and property of members of religious minorities; and
  - providing free access by domestic and international human rights groups and others to sites of religious violence or the destruction of places of worship;
- urge the Belarus government to ensure that no religious community is given a status that may result in or be used to justify impairment of the rights of members of other religious groups;
- urge the Belarus government to publicly condemn, investigate, and prosecute criminal acts targeting Jews and the Jewish community, as well as members of other ethnic and religious communities;
- continue to support, publicly and privately, persons and groups engaged in the struggle against repression in Belarus, including the group of religious and opposition activists who make up the Freedom of Religion Initiative that published the "White Book"; and
- organize roundtables inside Belarus between members of registered and unregistered religious communities and international experts on freedom of religion.

In addition, the U.S. government should implement or modify the following U.S.-funded programs and policies:

- institute fully the measures set forth in the 2007 Belarus Democracy Reauthorization Act, which expresses the Sense of Congress that sanctions be applied against the government of Belarus until the U.S. president "determines and certifies to the appropriate congressional committees that the government of Belarus has made significant progress" in meeting human rights conditions designated in the bill, including: the release of individuals who have been jailed on account of their political beliefs; the withdrawal of politically motivated charges against opposition figures; a full accounting of the "disappearances" of noted opposition leaders and journalists; and the cessation of all forms of harassment of independent media, non-governmental organizations, opposition groups, and religious

organizations; specific sanctions would include: the denial of entry into the United States to high-ranking Belarusian officials, and the prohibition of strategic exports and U.S. government financing to the Belarusian government, except for humanitarian goods and agricultural or medical products;

- ensure that the activities to promote democracy authorized by the Belarus Democracy Act include the right to freedom of religion or belief and the promotion of religious tolerance;
- urge that Congress and the State Department ensure that U.S. government-funded radio broadcasts to Belarus, including those of Radio Free Europe/Radio Liberty, continue at least at their present levels and that efforts are made to secure sufficient transmission capacity to ensure reliable reception throughout that country; and
- provide increased international travel opportunities, particularly to attend international conferences, for Belarusian civil society leaders, including representatives of human rights groups and religious leaders, and others who defend freedom of religion in that country.

An Orthodox Christian church in Belarus. (OSCE)

GEORGIA

Georgia's former government under President Eduard Shevardnadze exhibited a slow and inadequate response to three years of vigilante violence against members of some of the country's religious minorities. However, under the government of President Mikheil Saakashvili, elected in January 2004, the number of reported incidents of violence against minority religious communities has markedly decreased. In January 2005, two leaders of vigilante violence were sentenced to prison for their involvement in the attacks. In the past year, President Saakashvili, the National Security Council Secretary, and the Government Human Rights Ombudsman have advocated on behalf of religious freedom and spoken out in support of minority religious groups. In late 2004, Georgian officials permitted the Jehovah's Witnesses Watchtower Bible and Tract Society to operate legally in the country for the first time. Under a new registration process established by parliament in April 2005, 14 religious communities were able to obtain legal status as non-commercial organizations. While the Georgian Orthodox Church (GOC) remains the only religious group with formal legal status as a religious organization and other religious freedom issues remain unresolved in Georgia, major improvement in religious freedom conditions led the Commission to remove Georgia from its Watch List in 2004.

Georgia's 1995 Constitution mandates the separation of church and state, guarantees religious freedom, and forbids "persecution of an individual for his thoughts, beliefs or religion." In practice, however, violations of religious freedom have occurred, especially at the regional level, where local officials have restricted the rights of members of mainly non-traditional religious minorities, who in past years were subjected to societal violence. However, according to the State Department, increased investigations and prosecutions of the perpetrators led to further improvements in the status of religious freedom in 2006.

The precipitous drop in the number of violent attacks on religious minorities and the sentencing of the ringleaders of the violence represent significant improvements for religious freedom in Georgia. Under the Shevardnadze government, members of minority religious groups, including Baptists, Roman Catholics, Hare Krishnas, Jehovah's Witnesses, and members of Orthodox churches that do not accept the primacy of the GOC Patriarchate, were subjected to over 100 violent vigilante attacks. Jehovah's Witnesses, as well as members of independent Orthodox churches, were particularly targeted. Local police were implicated in these attacks, as they often refused to intervene to protect the victims. What began in 1999 as a series of isolated attacks in the capital of Tbilisi escalated by 2002 into a nation-wide scourge of widely publicized mob assaults against members of religious minorities.

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The main instigators of these attacks were the defrocked GOC priest Basil Mkalavishvili and director of the Orthodox "Jvari" Union, Paata Bluashvili, the latter of whom was reportedly supported by some in the GOC hierarchy. In November 2003, after years of government delay and inaction and only days after the fall of the Shevardnadze government, a court in Rustavi sentenced Bluashvili and four associates to suspended prison terms ranging from two to four years for their role in leading the two attacks against Jehovah's Witnesses. In November 2005, after Jehovah's Witnesses rented a hall in Rustavi to conduct meetings, Bluashvili and members of his group threatened the owner of the meeting hall, who then cancelled the contract with the group. Pending investigation of the November incident, Bluashvili was re-arrested and sentenced to pretrial detention. Upon his appeal of the new detention, a court overturned the sentence of pre-trial detention and again released him, awaiting trial. In April 2006, a Rustavi court reinstated the sentence, but Bluashvili failed to appear at the hearing and as of this writing one year later, was still being sought by authorities. Mkalavishvili was also tried and convicted on criminal charges, though only after somewhat drawn-out legal proceedings. He and an associate were sentenced in January 2005; Mkalavishvili received a six-year term and his associate a four-year term.

Despite improvements, other religious freedom concerns remain. Although the primary leaders of the violent

Tbilisi, Georgia

mob attacks against members of religious minorities have been convicted, many others accused of participating in this violence—including local police officials—have not been held to account by the Georgian authorities, reportedly due to fears of offending the GOC hierarchy. In October 2006, the news service Forum 18 reported that Georgian courts have tried and sentenced only nine perpetrators in 12 violent mob attacks against religious minorities, and only two of these defendants have received prison sentences. Jehovah's Witnesses, the victims of most mob attacks in Georgia, have reportedly turned to the European Court of Human Rights in Strasbourg, where four of their cases are under consideration. Moreover, occasional mob attacks on religious minorities still occur. According to Forum 18, in September 2006 a hostile mob invaded and damaged a new religious and cultural center under construction by the Assyrian Catholic community in Tbilisi.

There are various concerns about the status of the GOC, to which 65 percent of the country's population claims adherence. Article 9 of Georgia's constitution recognizes the "special importance of the GOC in Georgian history." In October 2002, the Georgian government signed a "concordat" with the GOC, granting the Church some approval authority over state school textbooks, the construction of religious buildings, and the publication of religious literature by other religious groups. Although the agreement was reaffirmed in January 2005, a new law in April 2005 provided for the separation of state schools and religious teaching and narrowed the application of the concordat, such as limiting teaching by the GOC to after-school hours and eliminating school and teacher involvement. Reports continue, however, of social pressure against students who are members of religious minorities, including Yezidis, an ancient religion with a majority of ethnic Kurdish adherents, who refuse to take part in GOC religious education.

In recent years, Assyrian Chaldean Catholics, Lutherans, Muslims, Old Believers, Jehovah's Witnesses, and Roman Catholics have stated that the GOC Patriarchate has often acted to prevent them from acquiring, building, or reclaiming places of worship. Roman Catholics, Baptists, Pentecostals, the Armenian Apostolic Church, and the True Orthodox Church reportedly continue to face GOC pressure, condoned by government officials, preventing them from building houses of worship. The GOC Patriarchate has also reportedly denied permission for Pentecostals, the Salvation Army, and the True Orthodox Church to print some religious literature in Georgia, although Assyrian Chaldean Catholics, Baptists, Roman Catholics, and Yezidis have not reported difficulties in this regard. Other Orthodox communities, for the most part ethnic Russian adherents from three dissident Orthodox denominations—the Molokani (an Orthodox heterodox pacifist group), Staroveriy (Old Believers), and Dukhoboriy (Spirit Strugglers)—as well as some other minority Christian groups, report periodic difficulties from local officials and the GOC in building places of worship or displaying their literature in bookstores. An affiliate organization of the Jehovah's Witnesses has been allowed, however, to register as a civic association, which should ease problems with regard to the import of religious literature.

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Tbilisi, Georgia

In April 2005, a new law was passed allowing religious communities to register as non-commercial organizations. This new law was in response to the fact that the GOC was the only religious community to have legal status in Georgia. As a result, the Church of Jesus Christ of Latter Day Saints (Mormons), Seventh Day Adventists, and 12 other religious denominations were approved for registration. While this remedy generally is considered a satisfactory mechanism to grant legal personality to some religious groups, Muslims, the Roman Catholic and Armenian Apostolic churches, and some other groups reportedly are trying to devise a different arrangement with the government better to accommodate their internal hierarchical structures. The leaders of other religious minority groups are also still seeking recognized legal status, a prerequisite for the community collectively to own property or organize most religious activities. The absence of formal legal status, however, generally has not prevented most religious communities from functioning through affiliated registered non-governmental organizations. Members of various religious minority communities have noted the positive role played by the government's Human Rights Ombudsman in advancing their rights in accordance with international law. In December 2005, for example, the Human Rights Ombudsman issued a report calling for equal recognition under the law for all religions, a suggestion to which some Members of Parliament reportedly objected due to the historic role of the GOC.

Despite general tolerance toward minority religious communities viewed as traditional to Georgia, opinion polls and the Georgian media reflect significant societal intolerance towards Protestants and other religions relatively new to Georgia. The State Department has reported that public opinion polls continue to show that most Georgians view minority or new religious groups as a threat to the GOC and national cultural values, and that violence against, and the prohibition of, such groups would be acceptable. Some GOC representatives have argued that foreign Christian religious workers should confine their activities to regions of Georgia where Muslims are the majority of the population. The government human rights ombudsman has also reported hostility towards non-Orthodox religious communities, including reports that children in state orphanages are sometimes baptized by GOC clergy without their parents' permission (it is not uncommon in Georgia and other post-Soviet countries for impoverished parents to place their children in orphanages on a temporary basis).

COMMISSION RECOMMENDATIONS

With regard to Georgia, the Commission recommends that the U.S. government should:

- encourage the Georgian government to continue to investigate and prosecute those individuals, including local officials, who are alleged to have been complicit or engaged in violence against members of religious minority communities;
- encourage the Georgian government to establish a mechanism to enable all religious communities to gain legal personality under Georgian law in a manner that reflects internal structural characteristics of the communities and is consistent with international human rights standards;
- fund programs in Georgia for journalists, religious leaders, and members of non-governmental organizations to promote religious tolerance and provide education on international standards on freedom of religion or belief; and
- encourage the Organization on Security and Cooperation in Europe (OSCE), the OSCE Field Presence in Tbilisi, and the OSCE Panel of Experts on Religion and Belief to conduct activities in Georgia to increase public and official awareness of the importance of freedom of religion or belief and tolerance.

TURKMENISTAN

Turkmenistan continues to engage in systematic and egregious violations of freedom of religion or belief. Until the sudden death of the country's president, Saparmurat Niyazov, in December 2006, Turkmenistan had been dominated by Niyazov's all-pervasive authoritarian rule and escalating personality cult. While Niyazov's government had made small adjustments to the laws that closely regulate religious practice, these changes had done little to alter in practice the country's generally repressive policies. After his highly orchestrated electoral win in February 2007, the country's new president, Kurbanguly Berdymukhammedov, moved swiftly to implement educational reforms and has also promised reforms in the agricultural, health, and other social sectors. He has also expanded Internet access and promised to allow more international contacts, indicating his intention to curtail the country's isolation. It is too early, however, to ascertain whether significant reform will also be undertaken with regard to human rights and, in particular, freedom of religion or belief. Until such reforms are implemented, the Commission continues to recommend that the Secretary of State designate Turkmenistan a "country of particular concern," or CPC. Although religious freedom continues to be severely proscribed in Turkmenistan and there is scant evidence that the situation has improved substantially, the Secretary of State has not named Turkmenistan a CPC.

New primary, secondary, and university textbooks are being printed, with greater focus on science, mathematics, English, Russian, and Turkmen, thus presumably curtailing the previous (and almost exclusive) emphasis on the Rukhnama in the educational system.

President Niyazov's personality cult, which had become comparable to a state-imposed religion, was bolstered by the official imposition of his book of "spiritual thoughts," the *Rukhnama*. According to the State Department, the *Rukhnama* had been used "in part to supersede

A statue of the late Turkmen leader Saparmurat Niyazov in Ashgabat (OSCE/Armonds Pupols)

other established religious codes, as well as historical and cultural texts and thereby influence citizens' religious and cultural behavior." Students were required to study the *Rukhnama* at all public schools and institutes of higher learning. A July 2002 law enjoins parents and guardians "to bring [children] up in the spirit of ...the unshakeable spiritual values embodied in the holy *Rukhnama*." Credible reports indicate that mullahs in Turkmenistan were told in late 2005 to stop reading the Koran in mosques and restrict themselves to the *Rukhnama.* Niyazov had ordered that his books be displayed in mosques and churches alongside the Koran and the Bible. *Rukhnama* quotations have also been carved alongside Koran citations in the country's largest mosque.

The Organization for Security and Cooperation in Europe (OSCE) noted that while the February 2007 Turkmenistan presidential election was an "improvement," it was not "genuine," not least because exiled members of Turkmenistan's political opposition were not allowed back into the country to compete in the election. The former chairman of the Turkmen parliament, Ovezgeldy Atayev, was sentenced on specious charges involving the suicide death of a relative to a five-year prison term after a closed trial in March 2007; his wife was later also convicted of unknown charges and is currently in a prison camp. According to the country's constitution, Atayev was the next in line to succeed Niyazov. The new president has renamed the heads of the powerful Defense and Interior Ministries, as well as the secret police and the Presidential Guard.

Turkmenistan's new leader has, however, taken some steps to end Niyazov's 20-year legacy of isolated one-man rule. His first official action was to order the opening of 15 Internet cafes in various cities, although access fees are high, politically sensitive sites are reportedly blocked, and copies of the *Rukhnama* are displayed. In January, prominent Turkmen ecologist Andrei Zatoka, who was arrested in late 2006, received a suspended three-year sentence. In the president's first decree, aimed at the educational system which Niyazov had done much to destroy, secondary schooling was increased from nine to 10 years in the 2007 school year and higher education from two to five years; he also promised to facilitate access for Turkmen citizens to universities and institutes in other countries. In March 2007, the Turkmen president signed an educational reform decree that recognizes foreign diplomas and initiates reform of the high school curriculum. Reportedly, 23,000 teachers have returned to work and the country's new leaders reportedly have told diplomats that they want more international exchange programs. Police and street controls on travel inside Turkmenistan have also been eased.

Security police continue to break up religious meetings in private homes, search homes without warrants, confiscate religious literature, and detain and threaten congregants with criminal prosecution and deportation. Family members of detained religious leaders have been subjected to harassment and internal exile.

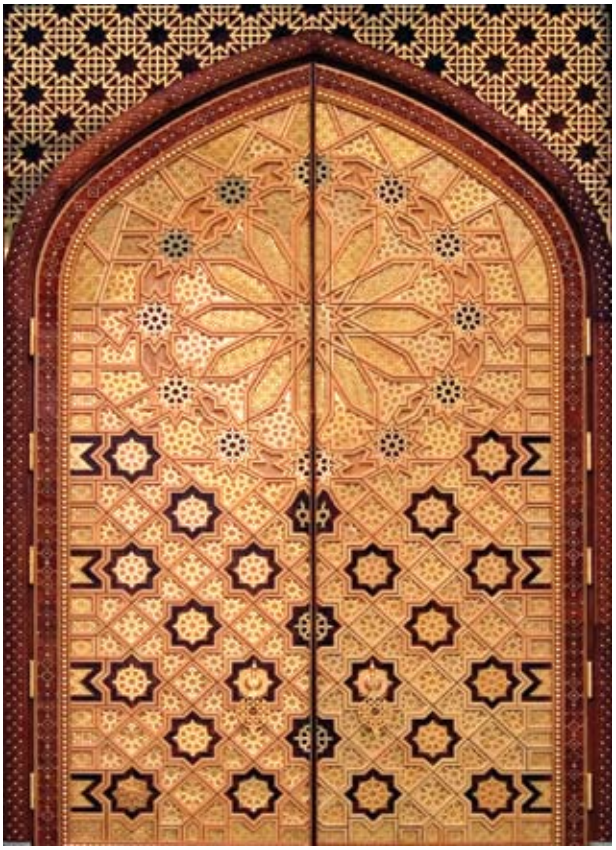
The new leadership has also begun to distance itself from Niyazov's personality cult. Berdymukhammedov has made some initial attempts to curtail the imposition of the sworn oath of loyalty to Niyazov, calling for assigning a specific time and place when the oath should be made and suggesting that it should be restricted to special occasions. According to news reports, in televised comments in March 2007, Berdymukhammedov in effect called for cutting back on public expressions of adherence to Niyazov, including by designating only one day, December 21, as the official day of mourning for Niyazov; proposing a new law on loyalty oath procedures and regulations; and suggesting that official greeting ceremonies be trimmed. In March 2007, a new presidential decree was signed ordering that Niyazov's name by replaced by the words "Turkmen president" on the presidential banner. New primary, secondary, and university textbooks are being printed, with greater focus on science, mathematics, English, Russian, and Turkmen, thus presumably curtailing the previous (and almost exclusive) emphasis on the *Rukhnama* in the educational system. The Turkmen Academy of Sciences has been re-opened, and a series of articles by Turkmen scholars exploring the country's history, including Islamic and archeological sites, have recently been published on official websites.

Despite these small changes, the prevalence of the Niyazov cult persists and the *Rukhnama* reportedly still plays a prominent role in the country's educational system and official ceremonies. The *Rukhnama* also continues to be ritualistically referred to in print and broadcast media. Houses are still decorated with Niyazov's portraits and his statue continues to revolve with the sun in the capital city of Ashgabat. Although Berdymukhammedov took his presidential oath on the Turkmen constitution, he also bowed towards a copy of the Koran and the *Rukhnama* and swore to continue Niyazov's policies. Lavish state celebrations to mark what would have been Niyazov's 67th birthday on February 19, 2007 included huge *Rukhnama* banners, the opening of a new museum to honor the deceased president, and the unveiling of a new biography of Niyazov. In April 2007, the Turkmen government sponsored an international youth conference, with participants from 40 countries, to study the country's "spiritual constitution," the *Rukhnama*. The *Rukhnama* is also still being taught in all schools, and remains a required element of school exams.

In the sphere of protections for religious freedom and related human rights, no reforms have been undertaken by the new government. Indeed, some observers believe that reforms are unlikely in this sphere because the country's tight control of religious practice also reflects the views of the country's current security apparatus. Turkmenistan's parliament did designate funds in March 2007 to speed up construction of a mosque in the city of Mary. However, there have been no moves to reform the country's repressive laws on religion. The former chief mufti of Turkmenistan, Nasrullah ibn Ibadullah, is still serving a 22-year prison term handed down during a closed trial in 2004. Ibadullah, who opposed Niyazov's decree that the *Rukhnama* be displayed next to the Koran in the country's mosques, was officially charged with treason for an alleged role in a 2002 assassination attempt on Niyazov. According to Amnesty International, the mullah's family has not been allowed to see him since his arrest, and given the generally dire prison conditions in Turkmenistan, there are serious concerns about his health. Furthermore, the Turkmen government has not responded to repeated official requests from the UN Special Rapporteur on Freedom of Religion or Belief to visit the country.

Since independence in 1991, religious groups have been required to register with the government in order to engage in religious activities. The 1997 version of the country's religion law effectively banned all religious groups except the state-controlled Sunni Muslim Board and the Russian Orthodox Church, though religious instruction even for these two communities remains severely limited. In March 2004, Niyazov proclaimed that no new mosques should be built anywhere in the country and seven mosques are reported to have been destroyed in that year. Niyazov ordered the publication of a list of religious rituals common to all Turkmen and reportedly secret police attend mosques to identify Muslims who perform religious rites in a way that differs from the officially-prescribed Turkmen practice. The Turkmen authorities continue to limit the number of Muslims permitted to perform the *hajj*; in early November 2006, the government announced that only 188 of the country's official quota of 4,500 would be allowed to go to Mecca. Nevertheless, the country's official newspaper declared in April 2007 that it was the duty of every Muslim to undertake the *hajj*. The Turkmen State University Theological Faculty has been dissolved and absorbed into another department, leaving only one institution of Islamic education open, with the government controlling its curriculum.

The Russian Orthodox community has also been affected by the repressive policies of Niyazov, who banned the country's residents from receiving Russian publications by mail, including the *Journal of the Moscow Patriarchate*. All Russian Orthodox parishes were re-registered by No-



Kipchak Mosque, Ashgabat

vember 2005. Yet, Turkmen authorities refuse to allow the Russian Orthodox community to build a new cathedral in the capital of Ashgabat, though Niyazov allocated land for that purpose 10 years ago. According to the Forum 18 News Service, final construction work on the community-funded convent next to St Nicholas' Church in Ashgabat was halted in late 2005, after Niyazov allegedly privately warned Orthodox clergy that if construction went ahead he would order demolition of all the country's Orthodox churches. In addition, the Turkmen government has attempted to isolate local parishes from the Russian Orthodox Church, in part by pressuring the local Church to take Turkmenistan's parishes from the jurisdiction of the Central Asian diocese in Uzbekistan and put them under the Patriarch of Moscow, which in July 2005 rejected this proposal.

A new law on religion in 2003 further codified the Turkmen government's highly repressive policies, effectively banning most religious activity, and setting criminal penalties for those found guilty of participating in "illegal" religious activity. The law also required religious groups to coordinate with the Turkmen government any contacts with co-religionists abroad. In response to international pressure, Niyazov issued a decree in March 2004 stating that religious communities may register "in the prescribed manner," and reduced the registration requirement from 500 members to five. In May 2004, President Niyazov issued several decrees decriminalizing unregistered religious activities and easing other requirements for registration, resulting in the registration of nine small groups, in addition to the majority Sunni Muslims and the Russian Orthodox Church. Nevertheless, Turkmen officials have stated that "eased" registration requirements do not mean that religious communities may gather in private homes or that religious adherents will no longer be required to request official permission before holding worship services. In fact, some reports indicate that registration is actually being used as a method of more effective state control over religious communities, as it affords officials the right to know what occurs at every meeting of a religious group. Participants in religious meetings who refuse to provide details about their gatherings risk having their communities charged with being in violation of registration requirements. Moreover, religious groups that do not meet the often arbitrary registration rules still face administrative penalties that may include imprisonment and large fines due to their unregistered status.

Though such raids were fewer than in previous years, police have continued to interfere in the activities of both registered and unregistered religious communities in the past year. Security police continue to break up religious meetings in private homes, search homes without warrants, confiscate religious literature, and detain and threaten congregants with criminal prosecution and deportation. Family members of detained religious leaders have been subjected to harassment and internal exile. In addition, members of some religious minority groups, particularly Protestants, Hare Krishnas, and Jehovah's Witnesses, have faced official pressure to renounce their faith publicly, and been forced to swear an oath on the *Rukhnama*.

In 2006, Baptists, Hare Krishnas, Jehovah's Witnesses, and Seventh-day Adventists reported disruption of meetings, along with detentions (including of children), and administrative fines. In June 2006, a Russian Baptist reportedly was deported from Turkmenistan for his religious activities and forced to leave his wife and two young children behind. According to Forum 18, two Protestants are facing official charges or harassment, reportedly linked to their religious activism. Jehovah's Witnesses reportedly

experienced eight incidents of harassment or short-term detention during a three-month period in the last year. One Jehovah's Witness was confined to a psychiatric hospital in June 2006 for refusing military conscription, reportedly at the order of a deputy defense minister. In late June 2006, another Jehovah's Witness was forcibly confined for five days to a drug treatment center for refusing military service; according to Forum 18, he became very ill as a result. Police raided a home in Konye-Urgench where a group of Jehovah's Witnesses had gathered; at the local police station they were interrogated, insulted, and released. A Hare Krishna adherent received a seven-year jail sentence on unknown charges; in October 2006, she was released as part of a general prisoner amnesty.

No religious literature is printed in Turkmenistan and the import of religious materials is essentially impossible. In addition, known religious adherents are sometimes banned from travel. In recent years, the Turkmen government has refused entry visas to three or four priests who are Russian citizens, while church delegations to Turkmenistan from Tashkent, Uzbekistan, and Moscow have been forced by Turkmen officials to reduce their numbers. Muslims are not allowed to travel abroad for religious education; however, Russian Orthodox men from Turkmenistan are allowed to study for the priesthood at the Tashkent seminary.

For several years, the Commission has raised public concerns about the status of religious freedom in Turkmenistan at meetings of the OSCE. In October 2006, Commission staff took part in a roundtable on Turkmenistan sponsored by Radio Free Europe/Radio Liberty (RFE/RL) at the OSCE Human Dimension Meeting in Warsaw. In January 2007, Commissioners met with Assistant Secretary of State Richard Boucher to discuss concerns over U.S. policy on Turkmenistan and the failure to name the country a CPC. The Commission has met with the U.S. Ambassador to Turkmenistan to discuss bilateral relations, the status of religious freedom and other human rights, and steps the United States might take to ameliorate the situation. As recommended by the Commission, the UN Commission on Human Rights (UNCHR) passed resolutions condemning Turkmenistan for repression of religious and political rights in 2004. In March 2005, the Commission met with delegation heads from the United States and European Union (EU) countries at the 61st session of the UNCHR session and presented information about violations of religious freedom in Turkmenistan, questioning the decision of the United States and the EU not to introduce a resolution on Turkmenistan at the 2005 UNCHR.

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

No religious literature is printed in Turkmenistan and the import of religious materials is essentially impossible.

Women at a market in Turkmenistan (OSCE).

In addition to continuing to recommend that Turkmenistan be designated a CPC, the Commission has further recommended that the U.S. government should urge the government of Turkmenistan to undertake the following steps:

- dismantle the personality cult of former President Niyazov, including eliminating the requirement that the *Rukhnama* be quoted and displayed in mosques, and drop the *Rukhnama* from the school and university curricula;
- undertake a major reform of the country's laws and regulations to bring them into conformity with its international legal obligations, such as dropping imprisonment or fines of individuals who engage in unregistered religious activities; allowing children to receive religious education; allowing the publication and distribution of religious literature inside Turkmenistan; and permitting freedom of movement for members of all religious and other communities;
- adopt reform of the country's policies toward religion, including ending state interference in the selection, training, and management of religious communities, such as those of Sunni and Shi'a Muslims and the Russian Orthodox Church, as well as of Protestant and other minority communities;
- identify specific immediate steps to improve religious freedom conditions, which should include (1) ending harassment and deportation of religious leaders; (2) halting unjust arrest, detention, imprisonment, torture, and residential and workplace intimidation of religious leaders and their adherents; and (3) releasing immediately and unconditionally any persons who have been detained because of their religious beliefs, practices, or choice of religious association, including Nazrullah ibn Ibadullah, the country's former chief mufti;
- respond to longstanding requests for visits by the UN Special Rapporteurs on Freedom of Religion or Belief; on Torture; on the Right to Education; on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; on Extra-judicial, Summary or Arbitrary Executions; and on the Independence of the Judiciary; as well as the Representative of the UN Secretary General on the Human Rights of Displaced Persons; the Special Representative of the Secretary-General on the Situation of Human Rights Defenders; the Working Group on Arbitrary Detention, and representatives of the Organization for Security and Cooperation in Europe (OSCE), including the Panel of Experts on Freedom of Religion or Belief, and provide the full and necessary conditions for such visits; and
- implement the new education law by undertaking a thorough review and reform of the country's educational system, including revising texts and lessons to eliminate Niyazov's personality cult, and to add education on human rights.

The Commission has recommended that the U.S. government should:

- suspend non-humanitarian assistance to the government of Turkmenistan, with the exception of programs that serve identifiable U.S. national security interests in connection with the current campaign against terrorism. This recommendation does not apply to U.S. assistance to appropriate non-governmental organizations, private persons, or cultural or educational exchanges, including the specific items discussed below;
- scrutinize all aspects of any assistance programs in Turkmenistan to ensure that these programs do not facilitate Turkmen government policies or practices that result in religious freedom violations. The United States should also examine its programs in Turkmenistan to determine if opportunities exist within those programs to promote the development of genuine respect for human rights, including religious freedom, in that country;
- support efforts to facilitate Turkmenistan's sale of natural gas on world markets, including support for the Trans-Caspian Gas Pipeline, only if the Turkmen government takes definitive steps to improve substantially conditions for human rights and religious freedom in Turkmenistan;
- identify specific steps that the government of Turkmenistan could take in order to have its currently suspended assistance reinstated and to avoid triggering further

restrictions on assistance programs, steps which should include, but not be limited to (1) the lifting of oppressive legal requirements on religious groups and allowing all such groups to organize and operate freely; (2) the end to harassment and deportation of religious leaders; and (3) the halting of unjust arrest, detention, imprisonment, torture, and residential and workplace intimidation of religious leaders and their adherents, including releasing those currently detained or imprisoned; and (4) the reform of laws and policies that violate international human rights standards; and

- develop assistance programs to encourage civil society groups that protect human rights and promote religious freedom, including by:
  - expanding "train-the-trainer" legal assistance programs for representatives of religious communities to act as legal advisers in the registration process; and
  - specifying freedom of religion as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development and the Democracy Commission Small Grants program administered by the U.S. Embassy.

The Commission recommends that, in the longer term, the U.S. government expand the following programs with regard to Turkmenistan:

- increase radio, Internet, and other broadcasts of objective news and information, including educational topics, human rights, freedom of religion, and tolerance;
- increase exchange programs, including for civil society leaders, students, and others concerned with human rights, and continue the expansion of the Peace Corps program in Turkmenistan;
- use appropriate avenues of public diplomacy to explain why religious freedom is an important element of U.S. foreign policy, as well as specific concerns about violations of religious freedom in Turkmenistan; and
- expand "American corner" reading rooms in various regions.

The Commission also recommends that the U.S. government work with other governments to adopt the following policies with regard to Turkmenistan:

- freeze Niyazov's overseas financial assets, releasing such funds only with verifiable guarantees that these funds will be used to implement human rights and democratic reforms inside Turkmenistan;
- encourage the new government of Turkmenistan to abide by the recommendations of the October 2006 Report of the UN Secretary General on the Situation of Human Rights in Turkmenistan;
- expand the activities of the OSCE's office in Ashgabat, particularly on human rights, tolerance, and freedom of religion or belief, including programs with local schools, universities, and institutes; consider providing extra-budgetary funding for the OSCE Field Presence in Ashgabat to assist it in the effective implementation of additional programs during the post-Niyazov transition;
- encourage scrutiny of freedom of religion or belief in appropriate international fora such as the OSCE and other multilateral venues and also raise the issue of religious freedom violations in Turkmenistan at those UN bodies that consider human rights questions; and
- continue to support discussions among representatives of Turkmenistan's religious communities, religious affairs officials, and experts on international norms on religious freedom, in conjunction with the OSCE and with representatives of other relevant international organizations.

UZBEKISTAN

Since Uzbekistan gained independence in 1991, fundamental human rights, including freedom of religion or belief, have been under assault. A restrictive law on religion severely limits the ability of religious communities to function in Uzbekistan, facilitating the Uzbek government's exercise of a high degree of control over religious communities and the approved manner in which the Islamic religion is practiced. The Uzbek government has continued to arrest Muslim individuals and harshly repress the activities of groups and mosques that do not conform to government-prescribed practices or that the government claims are associated with extremist political programs. This policy has resulted in the imprisonment of thousands of persons in recent years, many of whom are denied the right to due process, and there are credible reports that many of those arrested continue to be tortured or beaten in detention. Though security threats do exist in Uzbekistan, including from members of *Hizb ut-Tahrir* and other groups that claim a religious linkage, these threats do not excuse or justify the scope and harshness of the government's ill treatment of religious believers. The Commission recommends to the Secretary of State that Uzbekistan continue to be designated a "country of particular concern," or CPC. The Commission's CPC recommendation for Uzbekistan should not in any way be construed as an exculpatory defense of *Hizb ut-Tahrir*, an extremist and highly intolerant organization that promotes hatred of the West, moderate Muslims, Jews, and others. In 2006, the State Department followed the Commission's recommendation and for the first time 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. In the Ferghana Valley, viewed as the country's most actively religious region, the state has confiscated a number of mosques and used them as warehouses or for other state purposes. Uzbek human rights defenders reported that as of late 2006, the Uzbek government had introduced various administrative and other obstacles to daily prayer practice in the Ferghana valley. For example, in the Andijon region, the regional head of administration introduced other restrictions on Islamic practice, such as a ban on the five daily public calls to prayer from mosques and on preaching by mullahs at weddings. Despite the presence of a Shi'a minority in the country, there is no training for Shi'a religious leaders, nor does the government recognize foreign Shi'a religious education.

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The state fully controls the training, appointments, and dismissals of Muslim leaders through the official Muftiate. There are 10 state-controlled *madrassas* (including two for women), which provide secondary education in Uzbekistan. In addition, the official Islamic Institute and Islamic University in Tashkent provide higher educational instruction. The State Department reported in 2006 that regional leaders in Uzbekistan have been instructed that children should not attend mosque; in the city of Bukhara, police have reportedly prevented children from doing so. The state also closes or confiscates privately-funded religious schools for its own purposes. For example, in Margilan and Andijon the government in 2004 and 2005 confiscated two religious schools, or *madrassas*, reportedly built with community funds. The state-controlled Muslim Board publishes some books and periodicals, as does the independent former Chief Mufti Muhamad Sadyk Muhamad Yusuf.

Over the past decade and particularly since 1999, the Uzbek government has arrested and imprisoned, with sentences of up to 20 years, thousands of Muslims who reject the state's control over religious practice or who the government claims are associated with extremist groups. As of 2005, according to a State Department estimate, there were at least 5,500 such persons, including individuals sent to psychiatric hospitals. According to Uzbek human rights activists, in the past year, the number of arrests and

Mosques on the Registan, Samarkand, Uzbekistan

detentions linked to religious convictions has risen sharply in the Uzbek capital Tashkent and its surrounding region. These Uzbek sources also estimate that during the first half of 2006, an estimated 150 Muslims were arrested and sentenced on charges related to their religious beliefs. Most of those arrested have no political connections, Uzbek human rights activists claim, and their only "crime" is that of performing their daily prayers and learning about Islam. According to the State Department's 2006 *Country Reports on Human Rights Practices*, "authorities made little distinction between actual [*Hizb ut-Tahrir*] members and those with marginal affiliation with the group, such as persons who had attended Koranic study sessions with the group." Human rights organizations report that many of those in detention were arrested on false drug charges or for possession of literature of a banned organization. Once arrested, they often are denied access to a lawyer or are held incommunicado for weeks or months. Many of those imprisoned or detained for charges related to religion are treated particularly harshly; prisoners who pray or observe Muslim religious festivals are by many accounts subjected to further harassment, beatings, and other torture, in efforts to force them to renounce their religious or political views.

The use of torture continues to be widespread in Uzbekistan, despite promises from the government to halt the practice. The UN Special Rapporteur on Torture, in his February 2003 report on Uzbekistan, concluded that "torture or similar ill-treatment is systematic" and that the "pervasive and persistent nature of torture throughout the investigative process cannot be denied." Even after the publication of the Rapporteur's report, reliance on the use of torture in detention did not significantly decrease. According to the State Department's 2006 human rights report, "police, prison officials, and the [security services] allegedly used suffocation, electric shock, deprivation of food and water, and sexual abuse, with beating the most commonly reported method of abuse [and] torture." Convictions in the cases described above are based almost entirely on confessions, which, according to the State Department and many human rights organizations, are frequently gained through the use of torture.

The government of Uzbekistan does face threats to its security from certain extremist or terrorist groups that claim religious links, including the Islamic Movement of Uzbekistan, which has used violence but whose membership reportedly declined after U.S. military action in Afghanistan in late 2001 killed its leaders. Uzbekistan continues to be subject to violent attacks; there were several incidents in 2004, although the motivation of those involved is difficult to determine. In the city of Andijon in May 2005, there were daily peaceful protests in support of 23 businessmen on trial for alleged ties to Islamic extremism. A small group reportedly seized weapons from a police garrison, stormed the prison holding the businessmen, released the defendants, and attacked other sites in the city. In connection with these events, on May 13, after several thousand mostly unarmed civilians gathered on the central square, Uzbek armed forces fired indiscriminately and without warning into the crowd. Estimated fatalities range from an official total of 187 to over 700 according to the Organization for Security and Cooperation in Europe (OSCE); some reports of non-governmental organizations (NGOs) say as many as 1,000 men, women, and children were killed. The Uzbek government has rejected repeated calls from the United States, the European Union, the OSCE, and the UN High Commissioner for Human Rights for an independent international investigation into these events.

In the aftermath of Andijon, Uzbek authorities jailed hundreds of local residents, human rights activists, and journalists on suspicion of involvement in the events. One Uzbek human rights NGO compiled a list of arrestees totaling 363 persons, in addition to those already convicted by the end of 2005, including dozens of people who had spoken to the press or reported on the events. Relatives of human rights defenders have also been targeted in attempts to pressure activists to stop speaking out about human rights violations; those related to human rights activists have reportedly been threatened, dismissed from their jobs, beaten, and sometimes arrested, prosecuted, and imprisoned on fabricated criminal charges. In January 2006, one arrestee, human rights activist Saidjahon Zaynabitdinov, with whom a Commission delegation met in October 2004, was convicted of extremist activity and other offenses and sentenced to seven years in prison. He had reportedly shown journalists bullet casings used by the Uzbek authorities against the Andijon demonstrators. The State Department reported that in several cases, the Uzbek government has pressured other countries forcibly to return Uzbek refugees who were under the protection of the Office of the UN High Commissioner for Refugees (UNHCR).

A community leader in the Ferghana Valley, Uzbekistan

Hizb ut-Tahrir, banned in most Muslim countries, purports not to engage in violence but is intolerant of other religions and has in some circumstances sanctioned violence. The group calls for a worldwide caliphate to replace existing governments and the imposition of an extremist interpretation of Islamic law. Although it does not specify the methods it would use to attain those goals, it does, according to the State Department, reserve the "possibility that its own members might resort to violence." In addition, the State Department reports that *Hizb ut-Tahrir* material includes "strong anti-Semitic and anti-Western rhetoric." Alleged members of *Hizb ut-Tahrir* comprise many of the thousands in prison; in most cases, however, Uzbek authorities have failed to present evidence to the court that these persons have committed violence. Many of those arrested and imprisoned are not affiliated with *Hizb ut-Tahrir* but are wrongfully accused of membership or association, sometimes due to alleged—or planted—possession of the group's literature at the time of arrest.

After the May 2005 Andijon events, the number of court cases against independent Muslims in Uzbekistan reportedly increased considerably. While before May 2005, the authorities often accused arrested Muslims of being members of *Hizb ut-Tahrir*, since that time, arrested Muslims are usually accused—frequently without evidence—of being "Wahhabis" or members of another banned Islamist group, *Akromiya*, which played an important role in the Andijon events. "Wahhabi" is a term that usually refers to followers of a highly restrictive interpretation of Sunni Islam practiced in Saudi Arabia. In Uzbekistan, however, "Wahhabi" is a catchphrase used to refer to a range of Muslim individuals and groups, such as genuine extremists, those that oppose the Karimov regime, and those who practice Islam independently of government strictures. For the Uzbek authorities, all these groups and individuals are equally suspect and subject to government repression. The Uzbek criminal code distinguishes between "illegal" groups, which are not properly registered, and "prohibited" groups, such as *Hizb ut-Tahrir*, *Tabligh,* a Muslim missionary movement which originated in South Asia in 1920, and *Akromiya*, a group based on the 1992 writings of an imprisoned Uzbek mathematics teacher, Akram Yuldashev, which, according to human rights defenders in Uzbekistan, espouses charitable work and a return to Islamic moral principles. According to the State Department's 2006 Human Rights Report, the Uzbek government has pressured and prosecuted members of *Akromiya* (also known as *Akromiylar*) since 1997, claiming that the group is a branch of *Hizb ut-Tahrir*, and that it attempted, together with the Islamic Movement of Uzbekistan, to overthrow the government through an armed rebellion in May 2005 in Andijon. The charges against the 23 local businessmen on trial in Andijon in May 2005 included alleged membership in *Akromiya*.

Some 20 policemen searched a house in Tashkent in June 2006, confiscating a copy of the Koran, the hadiths (sayings attributed to the prophet Muhammad), religious books, and tape recordings of the exiled mullah Obid kori Nazarov and his pupil Hairullah Hamidov, the Uzbek "Human Rights Initiative Group" reported. The items were seized as material evidence against two men who were arrested and accused of "Wahhabism," although reportedly they merely sought independent religious education. Human rights sources indicate that Nazarov, who had been forced to flee the country after the authorities branded him a "Wahhabi" leader, was not promoting extremism, but simply operating outside of government strictures. The State Department reported that in September 2006, Ruhitdin Fakhrutdinov, a former imam of a Tashkent mosque, was sentenced in a closed trial to 17 years in prison. During his trial, which involved clear violations of due process, the independent imam was accused of being an extremist and charged with involvement in a 1999 car bombing in Tashkent, although no evidence was presented to the court of involvement in violent acts. Fakhrutdinov was delivered in 2005 to the Uzbek authorities from his place of asylum in Kazakhstan, allegedly with the assistance of the Kazakh authorities.

The 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, such as stipulating that a group must have a list of at least 100 members who are Uzbek citizens and a legal address; criminalizes unregistered religious activity; bans the production and distribution of unofficial religious publications; prohibits minors from participating in religious organizations; prohibits private teaching of religious principles; and forbids the wearing of religious clothing in public by anyone other than clerics. 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. In December 2005, the government modified the country's criminal and administrative codes to introduce much heavier

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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. As a result, police monitoring of places of worship has intensified. While the government has not intervened significantly in Christian training and appointments, it prohibits the Jewish community from establishing a rabbinate or yeshiva to train rabbis.

According to the State Department, seven evangelical groups repeatedly have been denied registration in 2006. All Protestant churches in the autonomous region of Karakalpakistan lost their registration appeals by September 2005, and Karakalpakistan authorities also continued to exert pressure on the Hare Krishna community. As of late 2006, the Uzbek government was threatening to close the country's last registered Jehovah's Witnesses community. Sometimes the state-run media engages in harassment of religious minorities. Two prime-time Uzbek-language programs, broadcast on national state TV in late 2006, claimed that Protestants and Jehovah's Witnesses turned people into "zombies." Protestant leaders have reported fears that these programs were part of a campaign to prepare the Uzbek population for further repression of minority religious communities.

A market in the Ferghana Valley, Uzbekistan

In past years, Christian leaders have reportedly been detained in psychiatric hospitals, severely beaten, and/or sentenced to labor camps. Some Christian communities continue to have their churches raided, services interrupted, Bibles confiscated, and the names of adherents recorded by Uzbek officials. In late 2006, the Uzbek authorities stepped up their campaign against the leaders of several unregistered Protestant communities. In Karakalpakistan, two Pentecostal Christians have been charged for their religious activity and if convicted, each faces five years of imprisonment. In March 2007, a court in Andijon sentenced local Protestant pastor Dmitry Shestakov to four years internal exile for "illegal" religious activity; he was arrested in January 2007 and had faced a possible total of 20 years of imprisonment. Government harassment of Shestakov dates back almost a decade, increasing in May 2006, reportedly because some ethnic Uzbeks had converted to Christianity.

It has become more difficult to secure permission to publish religious literature in the past year, the Forum 18 News Service reports. Permission is still required from the state Committee for Religious Affairs and the state-controlled Muslim Spiritual Board (Muftiate), but reportedly, a secret instruction was issued in 2006 limiting publications to less than 1,000 copies of any single religious book. Amendments to the criminal and administrative codes, which came into force in June 2006, instituted new penalties for the "illegal" production, storage, import, and distribution of religious literature, with penalties of up to three years' imprisonment for repeat offenders. Reportedly, the Chairman of the state Committee for Religious Affairs has said that the import of foreign literature for Muslims had practically ceased. Fines for violations of these codes can be up to 100 – 200 times the minimum monthly wage or "corrective labor" of up to three years.

The Russian Orthodox Church publishes a newspaper and a journal (both in Russian) and maintains a website. The Catholic Church in Tashkent maintains an internet news agency. Various Christian churches have set up a Bible Society in Tashkent, which produces limited supplies of Christian books, but the Religious Affairs Committee must approve each edition. Other religious minorities are almost entirely banned from producing religious literature in Uzbekistan, especially in the Uzbek language. The Jehovah's Witnesses note that they cannot print or import their religious literature in Uzbek; the Religious Affairs Committee limits imports of Russian-language literature

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to registered congregations, making imports to the many unregistered Jehovah's Witnesses communities prohibited.

For many years, the Uzbek government has allowed only about 20 percent of the country's quota of pilgrims to make the religious *hajj* to Mecca. Since May 2005, the Uzbek government has intensified its efforts to isolate the people of Uzbekistan. It has cracked down on both domestic and foreign-based NGOs in order to minimize Western influence; after many audits targeting a number of international, human rights oriented NGOs, almost three-fourths of these organizations were closed during 2006, the State Department reported. Other elements of this campaign include: the detention and deportation in 2005 of a Forum 18 reporter and the demand, in March 2006, that the UNHCR close its office within one month. In April 2007, the Uzbek government granted a three-month extension of the work accreditation for the Tashkent office director of Human Rights Watch.

In October 2004, the Commission traveled to Uzbekistan and met with senior officials of the Foreign, Internal Affairs, and Justice Ministries, the Presidential Administration, the Committee on Religious Affairs, and the Parliamentary Ombudsman's office. The delegation also met with the Muslim, Jewish, and Christian communities, as well as other religious groups, Uzbek human rights activists and lawyers, alleged victims of repression and their families, Western NGOs active in Uzbekistan, and U.S. Embassy personnel. In November 2006, the Commission issued a press statement welcoming the designation of Uzbekistan as a Country of Particular Concern.

Commission staff continue to take part in meetings with delegations of Uzbek religious leaders, human rights groups and academics from Uzbekistan, and U.S.-based experts and activists concerned with Uzbekistan. In January 2007, the Commission co-sponsored an event entitled "Religious Freedom and State Policy in Central Asia," together with the Center for Strategic and International Studies (CSIS), to discuss religious freedom conditions in Uzbekistan, Turkmenistan and other Central Asian states. In July 2005, the Commission held a public briefing on "U.S. Strategic Dilemmas in Uzbekistan and Turkmenistan," also with CSIS. At a June 2005 Carnegie Endowment roundtable on Andijon, the Commission released its Policy Focus report, which includes numerous policy recommendations. In May 2005, then-Commission Chair Michael Cromartie testified on Uzbekistan at a hearing of the U.S. Commission on Security and Cooperation in Europe.

Language reflecting a Commission recommendation on Uzbekistan was included in the Consolidated Appropriations Act of 2005. The Congress conditioned funds to Uzbekistan on its "making substantial and continuing progress in meeting its commitments under the 'Declaration of Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America,'" such as respect for human rights, including religious freedom. The Commission's recommendation to re-open the Voice of America's (VOA) Uzbek Service was adopted in June 2005, but the U.S. Board for Broadcasting Governors and the President's Budget request for fiscal year 2008 have again proposed the closure of the VOA's Uzbek Service.

1 The U.S. government should ensure that it speaks in a unified voice in its relations with the Uzbek government. To that end, the U.S. government should:

- ensure that U.S. statements and actions are coordinated across agencies to ensure that U.S. concerns about human rights conditions in Uzbekistan are reflected in all dealings with the Uzbek government;
- following the European Union's October 2005 decision, reduce aid and arms sales to Uzbekistan and ban visits by high-level Uzbek officials in response to the Uzbek government's refusal to allow an independent investigation into the violence in Andijon in May 2005;
  - ensure that U.S. assistance to the Uzbek government, with the exception of assistance to improve humanitarian conditions and advance human rights, be made contingent upon establishing and implementing a specific timetable for the government to take concrete steps to improve conditions of freedom of religion or belief and observe international human rights standards, steps which should include:
  - ending reliance on convictions based solely on confessions, a practice that often is linked to ill-treatment of prisoners, and implementing the recommendations of the UN Committee Against Torture (June 2002) and the UN Special Rapporteur on Torture (February 2003);
  - establishing a mechanism to review the cases of persons previously detained under suspicion of or charged with religious, political, or security offenses, including Criminal Code Articles 159 (criminalizing "anti-state activity") and 216 (criminalizing membership in a "forbidden religious organization"); releasing those who have been imprisoned solely because of their religious beliefs or practices as well as any others who have been unjustly detained or sentenced; and making public a list of specific and detailed information about individuals who are currently detained under these articles or imprisoned following conviction;
  - implementing the recommendations of the Organization for Security and Cooperation in Europe (OSCE) Panel of Experts on Religion or Belief to revise the 1998 law on Freedom of Conscience and Religious Organizations and bring it into accordance with international standards;
  - registering religious groups that have sought to comply with the legal requirements; and
  - ensuring that every prisoner has access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments, and allowing prisoners to practice their religion while in detention to the fullest extent compatible with the specific nature of their detention;
- ensure that U.S. security and other forms of assistance are scrutinized to make certain that this assistance does not go to Uzbek government agencies, such as certain branches of the Interior and Justice Ministries, which have been responsible for particularly severe violations of religious freedom as defined by the International Religious Freedom Act of 1998 (IRFA); and
- use appropriate avenues of public diplomacy to explain to the people of Uzbekistan why religious freedom is an important element of U.S. foreign policy, as well as specific concerns about violations of religious freedom in their country.

2 The U.S. government should encourage greater international scrutiny of Uzbekistan's human rights record. To that end, the U.S. government should:

- work with other governments to urge the UN Human Rights Council to reverse its recent decision to end human rights scrutiny of Uzbekistan under confidential resolution 1503 and to address this situation in a public country resolution at the Council;
- encourage scrutiny of Uzbek human rights concerns in appropriate international fora such as the OSCE and other multilateral venues and facilitate the participation of Uzbek human rights defenders in multilateral human rights mechanisms; and
- urge the Uzbek government to agree to a visit by UN Special Rapporteurs on Freedom of Religion or Belief

and the Independence of the Judiciary and provide the full and necessary conditions for such a visit.

❸ The U.S. government should support Uzbek human rights defenders and religious freedom initiatives. To that end, the U.S. government should:

- respond publicly and privately to the recent expulsions of U.S. non-governmental organizations and the numerous new restrictions placed on their activities; unless these restrictions are rescinded, the U.S. government should make clear that there will be serious consequences in the U.S.-Uzbek bilateral relationship, including a ban on high-level meetings;
- continue the careful monitoring of the status of individuals who are arrested for alleged religious, political, and security offenses and continue efforts to improve the situation of Uzbek human rights defenders, including by pressing for the registration of human rights groups and religious communities;
- support efforts to counteract the Uzbek government's blockade on information into the country by increasing radio, Internet, and other broadcasting of objective news and information on issues relevant to Uzbekistan, including education, human rights, freedom of religion, and religious tolerance;
- reinstate funding for the Voice of America (VOA) Uzbek Language Service to the fiscal year 2007 level of $600,000 so as to meet the Broadcasting Board of Governors' stated goal of outreach to the Muslim world; reinstatement of the VOA Uzbek Service would reach the news-deprived population of Uzbekistan, in addition to the large Uzbek diaspora in Afghanistan and other neighboring countries;
- increase foreign travel opportunities for civil society activists, religious leaders, and others 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;
  - expand exchange programs for Uzbek human rights defenders, including participation in relevant international conferences and opportunities to interact with Uzbek officials; and
  - ensure that the U.S. Embassy vigorously protests cases when an Uzbek participant in an exchange program encounters difficulties with the Uzbek authorities upon return to Uzbekistan, and if such difficulties continue, inform the Uzbek authorities that there will be negative consequences in other areas of U.S.-Uzbek bilateral relations, including a ban on high-level meetings.

EGYPT

Serious problems of discrimination, intolerance, and other human rights violations against members of religious minorities, as well as non-conforming Muslims, remain widespread in Egypt. Over the past few years, the Egyptian government has adopted several measures to acknowledge the religious pluralism of Egypt's society, including increased efforts in promoting interfaith activity. Yet the government has not taken sufficient steps to halt repression of and discrimination against religious believers, including the indigenous Coptic Orthodox Christians, or, in many cases, to punish those responsible for violence or other severe violations of religious freedom. A December 2006 Supreme Administrative Court ruling upheld the government's discriminatory policy of prohibiting Egyptian Baha'is from obtaining a national identity card, and the government has also not taken adequate steps to combat widespread and virulent anti-Semitism in the government-controlled media. Egypt remains on the Commission's Watch List, and the Commission continues to monitor the actions of the government of Egypt to see if the situation rises to a level that warrants designation as a "country of particular concern," or CPC.

Egypt has a poor overall human rights record that includes repressive practices which seriously violate freedom of thought, conscience, and religion or belief. The government maintains tight control over all Muslim religious institutions, including mosques and religious endowments, which are encouraged to promote an officially sanctioned interpretation of Islam. According to Egyptian officials, the government regulates these Muslim institutions and activities as a necessary precaution against religious extremism and terrorism. The state appoints and pays the salaries of all Sunni Muslim imams; all mosques must be licensed by the government, and sermons are monitored by the government.

Human rights organizations inside the country are seriously concerned that Islamic extremism is advancing in Egypt, with detrimental effects on the prospects for democratic reform, religious tolerance, and the rights of women and girls and members of religious minorities. Some believe that the government is not acting to its fullest ability to counteract this problem, especially in the areas of public education and the media, where 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 Koranites—a very small group in Egypt that does not accept as authentic *hadith*, the oral traditions of the life of the Prophet Muhammad, or *Sunna*, accounts of the way the Prophet Muhammad lived his life—who are accused of practicing beliefs deemed to deviate from Islamic law.

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All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is are unable to meet and engage in group religious activities.

In December 2003 and March 2004, state security services arrested and imprisoned at least nine Shi'a Muslims without charge and subsequently interrogated them concerning their religious beliefs; they were reportedly also physically abused. Most were released within weeks while others served several months in prison; all had been released by June 2005. In December 2004, 13 "unorthodox" Muslims were referred to trial by a State Emergency Court on charges of "insulting heavenly religions"; their status remains unknown. 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 the attacks on Coptic Christians in Alexandria in October 2005. In March, an appeals court upheld his sentence.

The Emergency Law, which has been in effect since 1981 and was renewed for another two years in May 2006, restricts many human rights, including freedom of religion or belief as well as freedom of expression, assembly, and association. The Law must be extended again before May 2008 or it will expire. During his 2005 presidential campaign for a fifth six-year term, President Mubarak had pledged to rescind the Law; in late December 2006, Mubarak stated that he intended to replace the Emergency Law with new anti-terror legislation. Under the Emergency Law, the security forces mistreat and torture prisoners, arbitrarily arrest and detain persons, hold detainees in prolonged pretrial detention, and occasionally engage in mass arrests. Thousands of persons have been detained without charge on suspicion of illegal terrorist or political activity; others are serving sentences after being convicted on similar charges. Egyptian and international human rights groups have asserted that the primary purpose of the state emergency and military courts is to punish political activism and dissent, even when that dissent is peaceful. These courts are also used to detain and try individuals deemed by the state to have "unorthodox" or "deviant" Islamic or other religious beliefs or practices. In 2005, Egypt's National Human Rights Commission formally called for the Emergency Law to be lifted.

Members of Egypt's non-Muslim religious minorities, particularly Christians and Baha'is, report discrimination, interference, harassment, and surveillance by the Egyptian state security services. There was an upsurge of attacks targeting Coptic Orthodox Christians in late 2005 and early 2006. In addition, Coptic Orthodox and other Christian denominations face societal intolerance and violence by Muslim extremists. Egyptian authorities have been accused of being lax in protecting the lives and property of these groups, as well as prosecuting those responsible for violent acts against them. In October 2005, Christians in Alexandria were targets of rioting by extremists angered by the distribution of a DVD; the resulting clashes left three Muslims dead and a Christian nun wounded. In February 2006, a criminal court in Alexandria sentenced a man to three years in prison for physically attacking the nun. In

January 2006 near Luxor, more than a dozen Christians and Muslims were injured after clashes broke out when Muslim youths torched a house that Coptic Christians had been using as a makeshift church. Despite the government claim that investigations have been conducted, the results of these investigations have not been made public.

In April 2006, three Coptic Christian churches in Alexandria were attacked on Palm Sunday by a Muslim man, resulting in the death of one Christian and the wounding of approximately a dozen others. In the three days of demonstrations that followed the attacks, rioting broke out, leaving one Muslim man dead and almost 40 Christians and Muslims injured. Some groups blamed excessive police force for some of the injuries to both Muslims and Christians. According to the Interior Ministry, the man who attacked the churches was caught and is being held; he is believed to be "mentally unstable." At least 100 persons were detained in response to these events, some for questioning and others on suspicion of incitement to riot and taking part in the riot. A People's Assembly fact-finding committee was formed to investigate the incident and to report its findings; as of this writing, the committee had not yet released its findings publicly.

Violent attacks on Christian communities over the years have resulted in very few prosecutions of perpetrators, including the 2004 Court of Cassation decision to uphold the acquittal of 94 of 96 suspects who were charged with various offenses in connection with the killing of 21 Christians in Al-Kosheh in late 1999 and early 2000. Some Egyptian human rights advocates believe that Egyptian authorities should investigate claims of police negligence and inadequate prosecution of those involved in the violence.

In addition to violence, Christians face official and societal discrimination. Although Egyptian government officials claim that there is no law or policy that prevents Christians from holding senior positions, the Coptic Orthodox Christian community faces *de facto* discrimination in appointments to high-level government and military posts. There are only a handful of Christians in the upper ranks of the security services and armed forces; one Christian governor out of 26; one elected member of parliament out of 444 seats; no known university presidents or deans; and very few legislators and judges. According to the State Department, public university training programs for Arabic language teachers exclude non-Muslims because the curriculum involves the study of the Koran. Under Egyptian law, Muslim men can marry Christian women but Muslim women are prohibited from marrying Christian men. Romantic relationships across this divide are often a source of tension between Muslim and Christian communities in Egypt. In February 2007, Muslim groups reportedly set fire to several Christian-owned shops in southern Egypt due to rumors of a relationship between a Muslim woman and a Coptic Christian man. Seven Muslims and one Coptic Christian were arrested on suspicion of taking part in arson attacks on Christian-owned stores and property.

A Bedouin man in the desert, Egypt

For all Christian groups, government permission must still be sought to build a new church or repair an existing church, and the approval process for church construction is time consuming and inflexible. President Mubarak continues to have the authority to approve applications for new construction of churches and more than 100 applications to build new churches await his decision. Though most of these applications were submitted more than five years ago, the majority have not received a response. Even some permits that have been approved cannot, in fact, be acted upon because of interference by the state security

Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media, despite official claims that they have advised journalists to avoid anti-Semitism. Human rights groups also cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamic extremists, a development the Egyptian government has not adequately addressed.

services, at both the local and national levels. In December 2005, President Mubarak signed Decree 291 transferring authority for renovating or repairing existing churches from the president to the country's 26 governors. Although initially viewed as a welcome step, more than one year later, churches continue to face significant delays in receiving permits and some local authorities continue to prevent maintenance and renovation of existing churches.

Although neither the Constitution nor the Penal Code prohibits proselytizing or conversion, the State Department has observed that the Egyptian government uses the Penal Code to discourage proselytizing by non-Muslims. Article 98(f) of the Code is used frequently to prosecute alleged acts of proselytism by non-Muslims. Known converts from Islam to Christianity generally receive attention from the state security services; most conversions are reportedly done privately. Egyptian government officials have stated that no law prevents conversion, but some individuals have been arrested for falsifying identity documents. 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. However, in an important case, an Egyptian court affirmed that the state could not prevent a woman from changing the religion on her identity card from Muslim to Christian. According to the State Department, it is not clear if this decision will set a precedent for similar future cases, although there have been at least 32 court verdicts since 2004 allowing Christians who converted to Islam to re-convert to Christianity and identify themselves as such on identity cards. In contrast to these re-conversion cases, the Egyptian government does not recognize conversions of Muslims to other religions. In 2006, Egyptian authorities re-arrested Baha Al-Accad, a citizen who was born Muslim but converted to Christianity. Al-Accad, who was first detained in April 2005, had been acquitted by a court for "contempt of religion"; he was subsequently released, detained again without charge, and transferred to a prison in Wadi Natroun, where he remains as of this writing.

Commissioners Felice D. Gaer and Bishop Ricardo Ramirez, and USCIRF Executive Director Joseph R. Crapa with Egyptian Minister of Foreign Affairs Ahmed Aboul Gheit.

All Baha'i institutions and community activities have been banned since 1960 by a presidential decree. As a result, Baha'is are unable to meet and engage in group religious activities. Over the years, Baha'is have been arrested and imprisoned because of their religious beliefs, often on charges of insulting Islam. Almost all Baha'i community

members are known to the state security services, and many are regularly subject to surveillance and other forms of harassment. Al-Azhar's Islamic Research Center has issued *fatwas* (religious edicts) in recent years urging the continued ban on the Baha'i community and condemning Baha'is as apostates. There has been increased intolerance of Baha'is in both the independent and government-controlled media in recent years.

The Egyptian government's requirement that religious affiliation be included on national identity cards particularly affects the Baha'i community. Egyptian government officials have stated that only the three "heavenly religions" (Islam, Christianity, and Judaism) are recognized and protected under the Constitution. Although no such limitation appears in the Constitution itself, the state has interpreted the text in this way because only three religions are recognized in Islam. Since "Muslim, Jew, or Christian" are the only choices, Baha'is are effectively prevented from obtaining identity cards, which are needed for many basic transactions, such as opening a bank account, buying a car, or obtaining a driver's license. Moreover, the Egyptian government has recently made it illegal to be in public without an identity card. Because the Baha'i faith is banned, the community also has difficulty obtaining birth and death certificates, as well as obtaining or renewing passports.

In April 2006, a lower Egyptian administrative court ruled that a Baha'i couple should be permitted to identify their religious affiliation on official government documents. This positive development proved short-lived, as the Interior Ministry appealed the ruling following the advice of religious authorities and some parliamentary members. A higher court suspended the original decision in May, creating a sense of insecurity in the Baha'i community. In August, Egypt's National Council for Human Rights (NCHR), a government-appointed advisory body, held an unprecedented public symposium in Cairo focused solely on the Egyptian government's policy requiring citizens to list their religion on national identification cards. At the symposium, human rights and civil society groups testified that the Egyptian government should reverse its policy. Nevertheless, in December, the Supreme Administrative Court upheld the Egyptian government's discriminatory policy of prohibiting Baha'is from obtaining a national identity card. Because Baha'is are forced to choose between claiming adherence to a religion other than their own or foregoing an identity card and other official documents, the court's ruling effectively denies Egyptian Baha'is their rights as citizens of Egypt and subjects them to particular hardship in obtaining education, employment, and social services. The Egyptian government has stated that all citizens must be in possession of new, computerized identity cards by January 2007; those who do not carry identity cards will be subject to detention and arrest. As of this writing, no such arrests had been made; however, a Baha'i was dismissed from a job and at least two Baha'is (a student and lecturer) were expelled from universities because they were unable to obtain identity cards.

Grand Sheikh of Al-Azhar Muhammad Sayyid Tantawi (center) with USCIRF delegation.

Material vilifying Jews—with both historical and new anti-Semitic stereotypes—appears regularly in the state-controlled and semi-official media. This material includes anti-Semitic cartoons, television programming such as a 24-part series based on the notorious anti-Semitic "Protocols of the Elders of Zion," and spurious Holocaust denial literature. Egyptian authorities have not taken adequate steps to combat anti-Semitism in the media, despite official claims that they have advised journalists to avoid anti-Semitism. Human rights groups also cite persistent, virulent anti-Semitism in the education system, which is increasingly under the influence of Islamic extremists, a development the Egyptian government has not adequately addressed. The small Jewish community maintains and owns its property and performs required maintenance largely financed through private donations. However, state security services continue to regulate and approve those permitted to make repairs, which, in some cases, has created problems and delays.

After several years of close surveillance, authorities had increased repressive measures in late 2005 and early 2006 against the small community of Jehovah's Witnesses,

On a positive note, in November 2005, the National Council for Human Rights (NCHR) announced the formation of a sub-group, the "Citizenship Committee," to focus on religious freedom issues.

who are not recognized by the Egyptian government. In the past year, however, Jehovah's Witnesses reported improved conditions and a significant decrease in harassment and abuse by government officials. Moreover, Egyptian Jehovah's Witnesses are currently pursuing legal recognition.

The Muslim Brotherhood and other Islamist political groups, which advocate or seek to establish an Islamic state in Egypt based on their interpretation of Islamic law, are considered illegal organizations by the Egyptian government under a law prohibiting political parties based on religion. Despite these restrictions, the Muslim Brotherhood has become more visible in Egypt's political landscape. In fact, more than 100 members of the Muslim Brotherhood ran as independent candidates in the December 2005 parliamentary elections and won 88 seats, up significantly from their previous 15. The Muslim Brotherhood and other Islamist political groups have used violence in the past to achieve their aims, including the assassination of President Anwar al-Sadat in 1981 and attacks on foreign tourists. Some of these groups persist in advocating violence. Egyptian security forces continue to arrest hundreds of suspected Islamists every year, and some are subject to torture and/or prolonged detention without charge. According to Egyptian and international human rights groups, there are several thousand political detainees, including members of the Muslim Brotherhood and other Islamist political groups, in administrative detention at any given time whose cases are not being investigated. Most groups that closely monitor the detention of such individuals claim that the vast majority of these prisoners are in prison as a result of their political beliefs or activities, and not on the basis of religion.

Democracy and human rights activist Saad Eddin Ibrahim (center) with Commissioners Bishop Ricardo Ramirez and Felice D. Gaer.

On a positive note, in November 2005, the National Council for Human Rights (NCHR) announced the formation of a sub-group, the "Citizenship Committee," to focus on religious freedom issues. As a result, the NCHR's 2006 annual report contained increased reporting on religious freedom concerns. Issues addressed in the recent report included the situation of Baha'is; problems facing Jehovah's Witnesses; violence targeting Christians; and the need for the government to pass a law on the construction of new places of worship for all religious groups.

In July 2004, a Commission delegation traveled to Egypt. While there, the delegation met with senior government officials, religious leaders, human rights groups, scholars, educators, legal specialists, and others active in civil society. In June 2005, the Commission released a *Policy Focus* brief on Egypt at an event at the Woodrow Wilson Center in Washington. The *Policy Focus* on Egypt provides details about the Commission's visit to Egypt and presents recommendations for U.S. policy.

In November 2006, the Commission issued a statement calling for the Egyptian government to reverse its discriminatory policy on national identity cards. In December, the Commission expressed deep regret over a decision by the Supreme Administrative Court of Egypt to uphold the Egyptian government's discriminatory policy of prohibiting Baha'is from obtaining national identity cards. In January 2006, the Commission wrote to Secretary of State Rice requesting that the United States urge President Mubarak to prevent the imminent deportation of hundreds of refugees and asylum seekers back to Sudan, where many of them reportedly faced religious persecution. Approximately 3,000 Sudanese had been staging a peaceful protest in Cairo since

September 2005. In late December 2005, Egyptian police attempted to disperse the assembly by firing water cannons at the protesters and beating many; at least 25 men, women, and children died.

In July 2005, Commission Vice Chair Felice D. Gaer testified before a Members' Briefing of the Congressional Human Rights Caucus entitled, "The Human Rights Situation in Egypt: An Overview." In November 2005, Commissioner Elizabeth Prodromou testified before the Congressional Human Rights Caucus at a hearing entitled "Religious Freedom in Egypt." Also in July 2005, House Resolution 413 was introduced, expressing the concern of the House of Representatives that the amount of U.S. foreign assistance provided to Egypt over the past 25 years has increased despite the lack of any meaningful political reforms by the government of Egypt. The resolution contains a significant number of the Commission's recommendations with regard to Egypt.

Throughout the past year, the Commission and its staff met with Egyptian government officials, members of nongovernmental organizations representing various religious communities in Egypt, as well as civil society and human rights groups, and other Egypt experts.

Ibn Tulun Mosque, Cairo

EGYPT COMMISSION RECOMMENDATIONS

1 Taking Most Responsibility for Religious Affairs Out of the Hands of the Egyptian Security Services

With regard to Egypt, the Commission recommends that the U.S. government should urge the Egyptian government to:

- remove *de facto* responsibility for religious affairs from the state security services, with the exception of cases involving violence or the advocacy of violence;
- repeal the state of emergency, in existence since 1981, in order to allow for the full consolidation of the rule of law in Egypt;
- implement procedures that would ensure that all places of worship are subject to the same transparent, non-discriminatory, and efficient regulations regarding construction and maintenance; 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 Internet blogger Abdel Karim Suleiman and any individuals convicted under Article 98(f) on account of their religion or belief.

2 Implementing Additional Reform in Order to Comply with International Human Rights Standards

- 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, in school textbooks, and in teacher training the concepts of tolerance and respect for human rights, including religious freedom, ensuring that textbooks meet the standards set out in the Universal Declaration of Human Rights;
- cease all messages of hatred and intolerance, particularly toward Jews and Baha'is, in the government-controlled media and take active measures to promote understanding and respect for members of these and other minority religious communities;
- take all appropriate steps to prevent and punish acts of anti-Semitism, including condemnation of anti-Semitic acts, and, while vigorously protecting freedom of expression, counteract anti-Semitic rhetoric and other organized anti-Semitic activities;
- ensure that every Egyptian is protected against discrimination in social, labor, and other rights by modifying the national identity card either (a) to omit mention of religious affiliation from identity documents, or (b) to make optional any mention of religious affiliation on identity documents, since currently, individuals must identify themselves as adherents of one of the three faiths recognized by the state: Islam, Christianity, or Judaism;
- more actively investigate religious-based violence against Egyptian citizens, particularly Coptic Christians, prosecute perpetrators responsible for the violence, and ensure compensation for victims;
- investigate claims of police negligence and inadequate prosecution of those involved in the Al-Kosheh case;
- request the National Council for Human Rights to investigate allegations of discrimination against Coptic Orthodox Christians as a human rights issue and to publish its findings and recommendations; and
- implement the 2002 recommendations of the UN Committee Against Torture.

3 Ensuring that U.S. Government Aid Promotes Prompt and Genuine Political and Legal Reforms and is Offered Directly to Egyptian Civil Society Groups

In addition, the Commission recommends that the U.S. government should:

- establish a timetable for implementation of political and human rights reforms, including steps described in the recommendations above; if deadlines are not met, the U.S. government should reconsider the appropriate allocation of its assistance to the Egyptian government;

- continue direct support for human rights and other civil society or non-governmental organizations (NGOs) without vetting by the Egyptian government;
- urge the Egyptian government to ensure that NGOs engaged in human rights work can pursue their activities without undue government interference, and monitor and report to what extent this is accomplished; and
- expand support of initiatives to advance human rights, promote religious tolerance, and foster civic education among all Egyptians, including support for:
  - civic education and public awareness programs that reflect the multi-confessional nature of Egyptian society and the diversity of Egypt's religious past;
  - efforts by Egyptian and international NGOs to review Egyptian educational curricula and textbooks for messages of hatred, intolerance, and the advocacy of violence, and to monitor equal access to education by girls and boys regardless of religion or belief; and
  - preservation of Egyptian Jewish properties and antiquities in a publicly accessible site, such as in a museum, so that all Egyptians can better understand past and present Jewish contributions to their history and culture.

In the context of the annual congressional appropriation for U.S. assistance to Egypt, Congress should require the State Department to report to it annually on the extent to which the government of Egypt has made progress on the issues described in this chapter, as well as on the progress of the U.S. government on offering funding directly to Egyptian NGOs without prior Egyptian government approval.

IRAN

The government of Iran engages in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused. Over the past year, the Iranian government's poor religious freedom record deteriorated, especially for religious minorities and in particular for Baha'is, Sufi Muslims, and Evangelical Christians, including intensified harassment, detention, arrests, and imprisonment. Heightened anti-Semitism and Holocaust denial rhetoric and activities by senior government officials have increased fear among Iran's Jewish community. Since the 1979 Iranian revolution, significant numbers from religious minority communities have fled Iran for fear of persecution. Dissident Muslims also continue to be subject to abuse. Since 1999, the State Department has designated Iran as a "country of particular concern," or CPC. The Commission continues to recommend that Iran remain a CPC.

The Constitution of the Islamic Republic of Iran proclaims Islam, specifically the doctrine of the Twelver (Shi'a) Jaafari School, to be the official religion of the country. It stipulates that all laws and regulations, including the Constitution itself, be based on Islamic criteria. The head of state, Ayatollah Ali Khamenei, is the Supreme Leader of the Islamic Revolution and has direct control over the armed forces, the internal security forces, and the judiciary. The Council of Guardians, half of whose members are appointed by the Supreme Leader, reviews all legislation passed by the *Majlis* (parliament) for adherence to Islamic and constitutional principles. The Constitution grants the Council of Guardians the power to screen and disqualify candidates for elective offices based on a vague and arbitrary set of requirements, including candidates' ideological and religious beliefs.

In recent years, hundreds of prominent Muslim activists and dissidents from among the Shi'a majority advocating political reform have been sentenced to lengthy prison terms by the Revolutionary Court, on charges of seeking to overthrow the Islamic system in Iran; others have been arrested and detained for alleged blasphemy and criticizing the nature of the Islamic regime. Reformists and journalists are regularly tried under current press laws and the Penal Code on charges of "insulting Islam," criticizing the Islamic Republic, and publishing materials that deviate from Islamic standards. Prominent Iranian investigative journalist Akbar Ganji was released from prison in March 2006 after serving a six-year prison sentence on reportedly spurious charges of "harming national security" and "spreading propaganda" against the Islamic Republic. Ganji was arrested and convicted as a result of attending a human rights conference in 2000 in Germany, where he publicly expressed views critical of the Iranian regime. Following a visit to Iran, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression concluded in early 2004 that such charges brought by Iranian courts "lack any objective criteria" and are open to "subjective and arbitrary interpretation by judges implementing them."

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A number of senior Shi'a religious leaders who have opposed various religious and/or political tenets and practices of the Iranian government have also been targets of state repression, including house arrest, detention without charge, trial without due process, torture, and other forms of ill treatment. In October 2006, a senior Shi'a cleric, Ayatollah Mohammad Kazemeni Boroujerdi, who opposes religious rule in Iran, and a number of his followers were arrested and detained after clashes with riot police. Iranian officials charged him with "sacrilege" for having claimed to be a representative of the hidden Imam, a venerated figure in Shi'a Islam. Boroujerdi has denied these charges. While the current status of Boroujerdi and his followers is unknown, it appears that he and several of his followers remain in detention.

Muslim minorities continue to face repression. Some Iranian Sunni leaders have reported widespread abuses and restrictions on their religious practice, including detentions and torture of Sunni clerics, as well as bans on Sunni teachings in public schools and Sunni religious literature, even in predominantly Sunni areas. Sufi and Sunni Muslim leaders are regularly intimidated and harassed by intelligence and security services and report widespread official discrimination. The Sunni community still has not been able to build a mosque in Tehran. In February 2006, Iranian authorities closed and destroyed a Sufi house of worship in the northwestern city of Qom and arrested approximately 1,200 Sufis who took to the streets in protest. Most were released within hours or days, although dozens reportedly suffered serious injuries. More than 170 Sufis were detained and reportedly tortured in order to extract confessions that would be broadcast on national television. Those who were released were forced to sign agreements saying they would not attend Sufi religious activities in Qom and would make themselves known to intelligence offices. Some were forced to sign documents renouncing their beliefs. In May, a court sentenced more than 50 Sufis to jail on various charges in connection with the February incident. According to the State Department, the defendants and their two lawyers were sentenced to a year in prison, fines, and 74 lashes. In addition, there were reports in the past year that the government is considering banning Sufism outright.

The constitution of Iran formally recognizes Christians, Jews, and Zoroastrians as protected religious minorities who may worship freely and have autonomy over their own matters of personal status (e.g. marriage, divorce, and inheritance). Nevertheless, the primacy of Islam and Islamic laws and institutions adversely affects the rights and status of non-Muslims. Members of these groups are subject to legal and other forms of discrimination, particularly in education, government jobs and services, and the armed services. Non-Muslims may not engage in public religious expression and persuasion among Muslims; some also face restrictions on publishing religious material in Persian.

Since August 2005, the Iranian government has intensified its campaign against non-Muslim religious minorities. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and imprisonment of, and physical attacks against, these groups indicate a renewal of the kind of oppression seen in previous years. Ayatollah Ahmad Jannati, head of the Guardian Council, has publicly attacked non-Muslims and referred to them as "sinful animals" and "corrupt." In November 2005, after publicly criticizing Ayatollah Jannati's remarks, the lone Zoroastrian member of the Iranian parliament was charged with the "dissemination of false information, slander and insult" by Iranian authorities, though as of this writing, the case has not gone to trial. In March 2006, the UN Special Rapporteur for Freedom of Religion or Belief confirmed that religious freedom conditions are worsening for all religious minorities in Iran, particularly Baha'is.

Women in Qom, Iran, considered a holy city by Shi'a Muslims.

The Baha'i community has long been subject to particularly severe religious freedom violations in Iran. Baha'is, who number approximately 300,000 – 350,000, are viewed as "heretics" by Iranian authorities, and may face repression on the grounds of apostasy. Since 1979, Iranian government authorities have killed more than 200 Baha'i

leaders in Iran, and more than 10,000 have been dismissed from government and university jobs. Baha'is may not establish places of worship, schools, or any independent religious associations in Iran. In addition, Baha'is are barred from the military and denied government jobs and pensions as well as the right to inherit property, and their marriages and divorces are not recognized. Baha'i cemeteries, holy places, and community properties are often seized and many important religious sites have been destroyed.

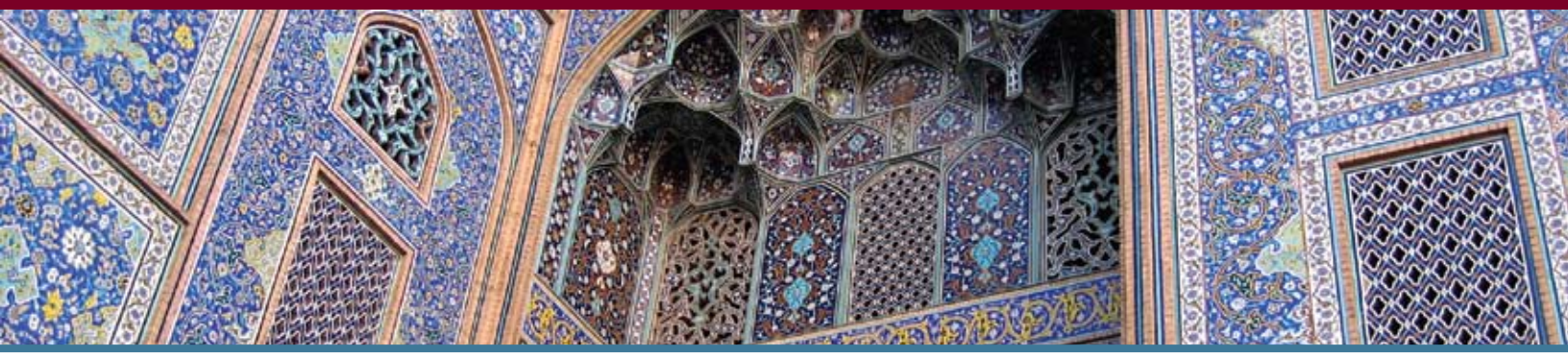
In recent years, Baha'is in Iran have faced increasingly harsh treatment. Baha'i property has been confiscated or destroyed and dozens of Baha'is have been harassed, interrogated, detained, imprisoned, or physically attacked. In 2005, the personal property of several Baha'is in Yazd was confiscated and destroyed and a Baha'i cemetery in Yazd was razed. In the past several years, a series of articles in the government-controlled newspaper *Kayhan*, whose managing editor is appointed by Supreme Leader Ayatollah Khamenei, have vilified and demonized the Baha'i faith and its community in Iran. In March 2006, the UN Special Rapporteur on Freedom of Religion or Belief exposed a confidential October 2005 letter from the Iranian Chairman of the Command Headquarters of the Armed Forces to several Iranian government agencies directing these entities to collect information on all members of the Baha'i community in Iran and to monitor their activities. In the past, waves of repression against Baha'is began with government orders to collect such information, and the new directives have created a renewed sense of insecurity and fear among Baha'i adherents.

Since August 2005, the Iranian government has intensified its campaign against non-Muslim religious minorities. A consistent stream of virulent and inflammatory statements by political and religious leaders and an increase in harassment and imprisonment of, and physical attacks against, these groups indicate a renewal of the kind of oppression seen in previous years.

In the past two years, dozens of Baha'is have been arrested, detained, interrogated, and subsequently released after, in some cases, weeks or months in detention. Charges typically ranged from "causing anxiety in the minds of the public and of officials" to "spreading propaganda against the regime." In December 2005, Zabihullah Mahrami, a Baha'i who had been jailed for more than 10 years on charges of apostasy, died in prison under mysterious circumstances. In May 2006, 54 Baha'is, mostly young women in their teens and twenties, were arrested in Shiraz while teaching underprivileged children non-religious subjects such as math and science. Throughout the fall of 2006, several other Baha'is were arrested and released pending trial. In none of these cases were any formal charges ever filed. More than 120 Baha'is have been arbitrarily arrested since early 2005. Dozens are awaiting trial, while others have been sentenced to prison terms ranging from 90 days to one year. All of those convicted are in the process of appealing the verdicts. As of this writing, there are more than 60 Baha'is awaiting trial on account of their religious beliefs.

In the past, members of the Baha'i religion have not been allowed to attend university. Significantly, in the fall of 2006, for the first time in decades, nearly 200 Baha'i students were admitted to a number of universities and colleges in Iran, although more than 90 of those admitted have since been expelled after university officials learned that they were Baha'is. Furthermore, during the past year, young Baha'i schoolchildren in primary and high schools increasingly have been pressured to convert to Islam, and in some cases, expelled on account of their religion. In December 2006, the UN General Assembly adopted a resolution condemning the Iranian government's poor human rights record, including its continued human rights abuses targeting religious minorities and its escalation and increasing frequency of violations against members of the Baha'i faith.

Christians in Iran continue to be subject to harassment, arrests, close surveillance, and imprisonment; many are reported to have fled the country. 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. As a result of one of these raids, an Evangelical pastor, Hamid Pourmand, was imprisoned in September 2004 and sentenced in February 2005 to three years in prison by a military court. In November 2005, he was acquitted by an



Islamic court of charges of apostasy but was ordered to serve the balance of his original three year sentence. In July 2006, without explanation, Pourmand was released from prison but was reportedly warned by authorities that if he attended any church services, his release orders would be revoked. It is a common practice, particularly in cases involving offenses based on religious belief, for Iranian authorities to release prisoners but to leave the charges against them or their convictions in place in order to threaten them with re-imprisonment at any time in the future.

In May 2006, a Muslim convert to Christianity, Ali Kaboli, was taken into custody in Gorgan after several years of police surveillance and threatened with prosecution if he did not leave the country. He was interrogated, held incommunicado, and released after a month. No charges have been filed against him. According to the State Department, a Christian couple who had been arrested in September 2006 for leading a house church in Mashhad was released after almost two weeks in detention. Formal charges have still not been pressed against the couple, but authorities have indicated that the couple's arrest and detention were in connection with their Christian beliefs and activities. In December 2006, at least eight house church leaders were arrested in a sweep by authorities in four different cities. The church leaders were charged with evangelization and "acts against the national security of the Islamic Republic." All but one was released either within days or weeks of the original arrests; as of this writing, Behrouz Sadegh-Khandjani is the only one from among that group who remains in police custody in Tehran. Iranian President Mahmoud Ahmadinejad reportedly has called for an end to the development of Christianity in Iran. During the past few years, representatives of the Sabian Mandaean Association reported that even the small, unrecognized Mandaean religious community, numbering between five and ten thousand is facing intensifying harassment and repression by authorities.

Official policies promoting anti-Semitism are on the rise in Iran, though members of the Jewish community have usually been singled out on the basis of "ties to Israel," whether real or perceived. President Ahmadinejad and other top political and clerical leaders have made public remarks in the past year denying the existence of the Holocaust and stating that Israel should be "wiped off the map." Anti-Semitic tracts have also increased in the government-controlled media, including editorial cartoons depicting demonic and stereotypical images of Jews along with Jewish symbols. In the fall of 2006, and in response to the Danish cartoon controversy, a prominent newspaper, *Hamshahri,* cosponsored a cartoon contest in which the paper solicited submissions from around the world attacking Jews and the Holocaust. Iran's official Cultural Ministry awarded the contest's first prize of $12,000. In past years, several government-controlled newspapers celebrated the anniversary of the anti-Semitic publication, the *Protocols of the Elders of Zion*. In February 2006, the leader of Iran's Jewish community, Haroun Yashayaei, sent an unprecedented public letter to President Ahmadinejad expressing serious concern about the President's repeated Holocaust denial statements and the extent to which these statements have intensified fears among Iran's 30,000-member Jewish community. Official government discrimination against Jews continues to be pervasive. According to the State Department, despite minimal restriction on Jewish religious practice, education of Jewish children has become increasingly difficult in recent years, and distribution of Hebrew religious texts is strongly discouraged. In December 2006, President Ahmadinejad hosted a Holocaust denial conference in Tehran. In response, UN Secretary-General Kofi Annan denounced the conference, and the UN Security Council issued a Presidential Statement condemning statements made by President Ahmadinejad denying the Holocaust.

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The government's monopoly on and enforcement of the official interpretation of Islam negatively affect the human rights of women in Iran, including their right to freedoms of movement, association, thought, conscience, and religion, and freedom from coercion in matters of religion or belief. The Iranian justice system does not grant women the same legal status as men; for example, testimony by a man is equivalent to the testimony of two women. Provisions of both the Civil and Penal Codes, in particular those sections dealing with family and property law, discriminate against women. In early April, Iranian authorities arrested five women's rights activists for their involvement in collecting signatures for a project aimed at ending discrimination against women in the application of Islamic law in Iran. Some of the activists' demands included: 1) that women's testimony in court carry the same weight as that of men; 2) equality of inheritance rights between men and women; 3) eliminating polygamy; and 4) the equality of compensation payments between women and men in the event of wrongful death. Two were released after one day and the other three were released on bail after nearly two weeks in detention.

Throughout the past year, Commission staff met with members of non-governmental organizations representing various religious communities in Iran, as well as human rights groups and other Iran experts and policymakers. In February 2006, the Commission issued a statement documenting recent religious freedom abuses by Iranian authorities and expressing concern about the worsening treatment of religious minorities in Iran. In June, Commission Vice Chair Nina Shea testified before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations at a hearing titled "The Plight of Religious Minorities: Can Religious Pluralism Survive?" Commissioner Shea's testimony focused on religious freedom conditions in five countries—Egypt, Iran, Iraq, Pakistan, and Saudi Arabia—and presented recommendations for U.S. policy.

In August, the Commission called on the National Cathedral to ensure that former Iranian President Mohammad Khatami would be questioned about his record on human rights and religious freedom during any presentation he made at the Cathedral in September. The Commission wrote a letter to Reverend Canon John Peterson of the National Cathedral's Center for Global Justice and Reconciliation pointing out the irony of inviting Mr. Khatami to speak on the role of the Abrahamic faiths in the peace process when, in his own country, Mr. Khatami presided as President during a time when religious minorities—including Jews, Christians, Sunni and Sufi Muslims, Baha'is, dissident Shia Muslims, and others—faced systematic harassment, discrimination, imprisonment, torture, and even execution based on their religious beliefs. In September, Commission Chair Felice D. Gaer and Vice Chair Nina Shea published an op-ed in the *Washington Post* citing a "troubling irony" in inviting President Khatami to speak at the National Cathedral on the role the Abrahamic faiths can play in shaping peace in the world. The op-ed stated that Khatami held office as president from 1997 to 2005 while religious minorities—including Jews, Christians, Sunni and Sufi Muslims, Baha'is, dissident Shiite Muslims, and Zoroastrians—faced systematic harassment, discrimination, imprisonment, torture, and even execution because of their religious beliefs. Also during his term, Iranian officials persecuted reformers, students, labor activists, and journalists for "insulting Islam" and publishing materials deemed to deviate from Islamic standards.

IRAN COMMISSION RECOMMENDATIONS

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

- at the highest levels, vigorously speak out publicly about the deteriorating conditions for freedom of thought, conscience, and religion or belief in Iran, including drawing attention to the need 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 virulent anti-Semitism and Holocaust denial activities;
- work within its current overall policy framework to ensure that violations of freedom of religion and belief, and related human rights, are included in any multilateral or bilateral discussions with the Iranian government;
- ensure that funding budgeted to promote democracy and human rights in Iran includes support for effective initiatives advancing freedom of religion or belief, as well as ways to promote rule of law programs that specifically seek to protect religious minorities in Iran;
- increase funding for U.S. public diplomacy entities, such as Voice of America and Radio Farda, and expand and develop new programming solely focusing on the situation of human rights—including the freedom of thought, conscience, and religion or belief—in Iran;
- continue to support a UN General Assembly resolution condemning severe violations of human rights, including freedom of religion or belief, in Iran, and calling for officials responsible for such violations to be held to account;
- call on the UN Human Rights Council to monitor carefully and demand compliance with the implementation of recommendations of the representatives of those special mechanisms that have already visited Iran, particularly those of the UN Special Rapporteur on Freedom of Religion or Belief (1995), the Working Group on Arbitrary Detention (2003), and the Special Rapporteur on Freedom of Opinion and Expression (2003); and
- encourage the UN Human Rights Council to continue to use its procedures to maintain oversight of conditions for freedom of religion or belief in Iran, including, as Iran has issued a standing invitation, continued visits and reporting by the Special Rapporteur on Freedom of Religion or Belief, and other relevant special rapporteurs and working groups.

SAUDI ARABIA

The government of Saudi Arabia engages in systematic, ongoing, and egregious violations of the right to freedom of religion or belief. Since its inception, the Commission has recommended that Saudi Arabia be designated a "country of particular concern," or CPC. In September 2004, the State Department for the first time followed the Commission's recommendation and designated Saudi Arabia a CPC. In September 2005, Secretary of State Condoleezza Rice approved a temporary 180-day waiver of further action, as a 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." In July 2006, the Secretary decided to leave in place the waiver "to further the purposes of the Act" by announcing that these bilateral discussions with Saudi Arabia had enabled the United States to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups." Despite this potentially positive development, the Commission has studied the situation and again determines that freedom of religion does not exist in Saudi Arabia and that the country should continue to be designated a CPC.

The government of Saudi Arabia persists in enforcing vigorously its ban on all forms of public religious expression other than the government's interpretation and enforcement of the Hanbali school of Sunni Islam.

The Saudi government continues to engage in an array of severe violations of human rights as part of its repression of freedom of thought, conscience, and religion or belief. Abuses include: torture and cruel and degrading treatment or punishment imposed by judicial and administrative authorities; prolonged detention without charges and often incommunicado; and blatant denials of the right to liberty and security of the person, including coercive measures aimed at women and the broad jurisdiction of the *mutawaa* (religious police), whose powers are vaguely defined and exercised in ways that violate the religious freedom of others.

The government of Saudi Arabia persists in enforcing vigorously its ban on all forms of public religious expression other than the government's interpretation and enforcement of the Hanbali school of Sunni Islam. This policy has violated the rights of the large communities of non-Muslims and Muslims from a variety of doctrinal schools of Islam who reside in Saudi Arabia, including Shi'as, who make up 10 – 15 percent of the population. 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.

Members of the Shi'a and other non-Sunni communities, as well as non-conforming Sunnis, are subject to government restrictions on public religious practices and official discrimination in numerous areas, particularly in government employment. In past years, prominent Shi'a clerics and religious scholars were arrested and detained without charges for their religious views; some were reportedly beaten or otherwise ill-treated. Reports indicate that some of these Shi'a clerics have been released, but the current status of a number of others remains unknown. Between 2002-2004, several imams, both Sunni and Shi'a, who spoke out in opposition to government policies or against the official government interpretation of Islam, were harassed, arrested, and detained. Some members of the Shi'a community remained unjustly imprisoned though there were no known arrests of Shi'a religious leaders on account of religion in the past year. On a positive note, in February 2006, thousands of members of the Shi'a community in Qatif, in the Eastern Province, made their largest public appearance in observance of Ashura without government interference. However, authorities continue to disallow observance in other areas of the Eastern Province, such as Al-Ahsa and Dammam.

Spurious charges of "sorcery" and "witchcraft" continue to be used by the Saudi authorities against non-conforming Muslims. Several individuals remain in prison on these charges. Human rights advocates report that Ismailis,

a Shi'a sect numbering some 700,000 inside Saudi Arabia, continue to suffer severe discrimination and abuse by Saudi authorities. In 2000, in the Najran region, after the *mutawaa* raided an Ismaili mosque for practicing "sorcery," approximately 100 Ismailis, including clerics, were arrested. Many were released after serving reduced sentences, but dozens remain in prison. In late October 2006, Saudi state media reported that any remaining Ismaili religious prisoners held in Najran as a result of the 2000 riots would be pardoned and released. Despite these reports, only 10 Ismailis were released and at least 18 other religious prisoners still remain in jail; some of those that remain in prison are reportedly subject to flogging.

In late December 2006, approximately 49 foreign guest workers, all members of the Ahmadi Muslim religious movement, were arrested by the *mutawaa* at a place of worship in Jeddah. In January and February, nine more Ahmadis were arrested. In January, Saudi authorities began deporting several of the Ahmadi prisoners, mostly Indian and Pakistani nationals, and international human rights groups called on the Saudi government to halt expulsions of foreign workers on account of their religious beliefs and affiliations. Despite this call, by early April, all 58 of the Ahmadis who had been arrested were deported. None of those deported are known to have been charged with any criminal offenses. In addition, two other Ahmadi religious leaders, who were not in Saudi Arabia during the initial arrests of 49 in December, have not returned to the country for fear of arrest and prosecution by Saudi authorities.

Over the past few years, members of the Sufi community have been harassed, arrested, and detained because of their non-conforming religious views, although there have been no new reports of such incidents in the past year. In September 2003, the *mutawaa* arrested 16 foreign workers for allegedly practicing Sufism; their status remains unknown. In June 2005, Saudi authorities shut down a weekly gathering held by a Sufi leader who adheres to the Shafi'i school of Islamic jurisprudence.

Criminal charges of apostasy, blasphemy, and criticizing the nature of the regime are used by the Saudi government to suppress discussion and debate and silence dissidents. Promoters of political and human rights reforms, as well as those seeking to debate the appropriate role of religion in relation to the state, its laws, and society are typically the target of such charges. For example, in April 2007, an Egyptian Muslim guest worker reportedly was sentenced to death in the town of Arar in northern Saudi Arabia for allegedly desecrating the Koran and renouncing Islam. Media reports indicated that a court found the man guilty of no longer being a Muslim for "violating the boundaries set by God." Hadi Al-Mutaif, an Ismaili man, was originally sentenced to death in 1994 for a remark deemed blasphemous that he made as a teenager. In 1999, his death sentence was commuted to life in prison. In late 2006, Saudi state media reported that Ismaili religious prisoners held in Najran would be pardoned and released. However, Al-Mutaif continues to serve a life sentence on blasphemy charges. In April 2006, a Saudi journalist was arrested and detained by Saudi authorities for almost two weeks for "denigrating Islamic beliefs" and criticizing the Saudi government's strict interpretations of Islam. In November 2005, a Saudi high school teacher, accused for discussing topics such as the Bible, Judaism, and the causes of terrorism, was tried on charges of blasphemy and insulting Islam and sentenced to three years in prison and 750 lashes. Although he was pardoned by King Abdullah in December 2005, he nevertheless lost his job and suffered other repercussions.

Restrictions on public religious practice, for both Saudis and non-Saudis, are officially enforced in large part by the *mutawaa*, and fall under the direction of the Ministry of Interior. The *mutawaa* conduct raids on worship services, including in private homes. They have also harassed,

detained, whipped, beaten, and otherwise meted out extra-judicial punishments to individuals deemed to have strayed from "appropriate" dress and/or behavior, including any outward displays of religiosity, such as wearing Muslim religious symbols not sanctioned by the government. In recent years, the Saudi government has stated publicly that it has fired and/or disciplined members of the *mutawaa* for abuses of power, although reports of abuse persist.

Although the government has publicly taken the position—reiterated again in 2006—that it permits non-Muslims to worship in private, the guidelines as to what constitutes "private" worship are vague. Surveillance by the *mutawaa* and Saudi security services of private non-Muslim religious activity continues. Many persons worshipping privately continue to be harassed, arrested, imprisoned, and then tortured and deported. They are generally forced to go to great lengths to conceal religious activity from the authorities. Foreign migrant workers without diplomatic standing, and with little or no access to private religious services conducted at diplomatic facilities, face great difficulties. Moreover, the Saudi government does not allow clergy to enter the country for the purpose of performing private religious services for foreigners legally residing in Saudi Arabia.

There is a continuing pattern of punishment and abuse of non-Muslim foreigners for private religious practice in Saudi Arabia. According to the State Department, there was a decrease in both long and short-term detentions and arrests and deportations of non-Muslims in the past year. However, there were also reports that the *mutawaa* continued to target non-Muslim religious leaders and groups for harassment, arrest, and deportation in an effort to deter these groups from conducting private religious services. In March 2005, a Hindu temple constructed near Riyadh was destroyed by the *mutawaa*, and three guest workers worshiping at the site were subsequently deported. Also in March 2005, the *mutawaa* arrested an Indian Christian and confiscated religious materials in his possession; he was released in July 2005 after four months of detention. In April 2005, the *mutawaa* raided a Filipino Christian private service in Riyadh and confiscated religious materials such as Bibles and Christian symbols. Also in April 2005, at least 40 Pakistani, three Ethiopian, and two Eritrean Christians were arrested in Riyadh during a raid on separate private religious services. All of the Pakistani Christians were released within days and all five of the African Christians were released after a month in detention.

In May 2005, at least eight Indian Protestant leaders were arrested, interrogated, and subsequently released for reportedly being on a list, obtained by the *mutawaa*, of Christian leaders in the country. Six were deported or left the country on their own accord and the status of the other two is unknown. In April 2006, an Indian Roman Catholic priest, who was visiting Saudi Arabia, was deported after being detained for four days in Riyadh for conducting a private religious service. Also in April 2006, the *mutawaa* reportedly arrested a female Shi'a student in Riyadh, allegedly for proselytizing to other students. She was released several days later. In June, four East African Christians were arrested in Jeddah while leading a private worship ceremony. All were deported the following month. In October, the *mutawaa* raided a private religious service in Tabuk, detained a Christian Filipino religious leader, and confiscated Bibles and other religious materials.

The government's monopoly on the interpretation of Islam and other violations of freedom of religion adversely affect the human rights of women in Saudi Arabia, including freedom of speech, movement, association, and religion, freedom from coercion, access to education, and full equality before the law. For example, women must adhere to a strict dress code when appearing in public and can only be admitted to a hospital for medical treatment with the consent of a male relative. Women need to receive written permission from a male relative to travel inside or outside the country and are not permitted to drive motor vehicles. Religiously based directives limit women's right to choose employment by prohibiting them from studying for certain professions such as engineering, journalism, and architecture. In addition, the Saudi justice system, in which courts apply Islamic law to the cases before them, does not grant women legal status equal to men's. For example, testimony by a man is equivalent to the testimony of two women; 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 March 2006, the Saudi Embassy in Washington published a report summarizing efforts by the Saudi government to revise the state curriculum and a number of school textbooks to exclude language promoting religious intolerance. Nevertheless, non-governmental organizations from outside Saudi Arabia continue to report the presence of highly intolerant and discriminatory language, particularly against Jews, Christians, and Shi'a Muslims, in these educational materials

A mosque in Jeddah, Saudi Arabia

published by the Saudi Ministry of Education.[1] Furthermore, in the past year, there were frequent reports, including by the State Department, of virulently anti-Semitic and anti-Christian sentiments expressed in the official media and in sermons delivered by clerics who are under the authority of the Ministry of Islamic Affairs.

In March 2004, the Saudi government approved the formation of a National Human Rights Association, the country's first purportedly independent human rights body, but, as of this writing, there is no indication that this entity is publicly reporting on or investigating religious freedom concerns. It is comprised of 40 members and chaired by a member of the Consultative Council, a 150-member advisory body appointed by then-King Fahd. In September 2005, the Council of Ministers, chaired by King Abdullah, approved the establishment of a government-appointed, 25-member Human Rights Commission. The following month, King Abdullah appointed, with the rank of minister, Turki bin Khaled al-Sudairi, a former state minister and Cabinet member, as chairman of the Commission. The Human Rights Commission is mandated to "protect human rights and create awareness about them ... in keeping with the provisions of Islamic law." It is not yet possible to determine if either human rights body will prove to be a positive mechanism for addressing human rights concerns in Saudi Arabia.

In recent years, senior Saudi government officials, including the Crown Prince and the Grand Mufti, made statements with the reported aim of improving the climate of tolerance toward other religions; both also continued publicly to call for moderation. In a public interview in 2005, King Abdullah reiterated that non-Muslims are free to practice their faith privately but that public worship by non-Muslims is not permitted. He also said that to allow any non-Muslim places of worship to be built in Saudi Arabia "would be like asking the Vatican to build a mosque inside of it."

[1] Center for Religious Freedom and Institute for Gulf Affairs, Saudi Arabia's Curriculum of Intolerance, Freedom House, 2006 (*http://www.hudson.org/files/publications/CRF_SaudiReport_2006.pdf*).

In July 2006, the State Department announced that ongoing bilateral discussions with Saudi Arabia had enabled the United States to identify and confirm a number of policies that the Saudi government "is pursuing and will continue to pursue for the purpose of promoting greater freedom for religious practice and increased tolerance for religious groups." This announcement followed extensive discussions between the U.S. and Saudi governments as a result of CPC designation. Among the measures that were confirmed by Saudi Arabia as state policies are:

Halt the Dissemination of Intolerant Literature and Extremist Ideology in Saudi Arabia and around the World

- 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.
- Prohibit the use of government channels or government funds to publish or promote textbooks, literature, or other materials that advocate intolerance and sanction hatred of religions or religious groups.
- Ensure Saudi embassies and consulates abroad review and destroy any material given to them by charities or other entities that promote intolerance or hatred.

Protect the Right to Private Worship and the Right to Possess Personal Religious Materials

- Guarantee and protect the right to private worship for all, including non-Muslims who gather in homes for religious practice.
- Address grievances when this right is violated.
- Ensure that customs inspectors at borders do not confiscate personal religious materials.

Curb Harassment of Religious Practice

- Ensure that members of the Commission to Promote Virtue and Prevent Vice (also known as the mutawaa) do not detain or conduct investigations of suspects, implement punishment, violate the sanctity of private homes, conduct surveillance, or confiscate private religious materials.
- Require all members of the mutawaa to wear identification badges with their pictures and names.

Empower the Human Rights Commission

- Bring the Kingdom's rules and regulations into compliance with human rights standards.

The Commission welcomed the announcement and stated that the newly-reported Saudi policies—if actually implemented in full—could advance much-needed efforts to dismantle some of the institutionalized policies that have promoted severe violations of freedom of religion or belief in Saudi Arabia and worldwide.

The State Department reports that during the past year, the Saudi government took limited measures to remove from educational curricula what it deemed to be disparaging references to other religious traditions. In 2006, the Saudi government reportedly put into place policies to limit harassment of religious practice and curb violations by the mutawaa. According to the State Department, reports of harassment of non-Muslims and non-Sunni Muslims by the mutawaa continue, but there were fewer reports in 2006 than in previous years. The sixth National Dialogue, held in late November 2006, resulted in many prominent Saudi educators and scholars calling for reforms of religious education materials and curricula.

In addition to the Saudi government's violations of religious freedom within its own borders, evidence has mounted that funding originating in Saudi Arabia has been used to finance globally religious schools and other activities that support religious intolerance, and, in some cases, violence toward non-Muslims and disfavored Muslims. For example, the Saudi government operates a network in over a dozen world capitals, including one outside of Washington, DC, of Islamic academies, chaired by the local Saudi ambassador, reportedly using the same religious curriculum as the public educational system in Saudi Arabia. The Saudi government itself has been implicated in promoting and exporting views associated with certain Islamic militant and extremist organizations in several parts of the world, and a number of reports have identified members of extremist and militant groups that have been trained as clerics in Saudi Arabia. These reports point to a role for the Saudi government in propagating worldwide an ideology that is incompatible with universal norms of the right to freedom of religion or belief.

The Saudi government funds mosques, university chairs, Islamic study centers, and religious schools (madrassas) all over the world. During Afghanistan's war against the former Soviet Union, Saudi-funded madrassas were established in Pakistan that were reportedly less focused on education than on promoting an extremist agenda glorifying violence. These madrassas provided ideological training for some of those who went on to fight in Kashmir, Chechnya, and Afghanistan. The peaceful expression and propagation of religious beliefs, including Islam, is a human right. However, there is legitimate concern when a government may be propagating an ideology that promotes hatred and violence against both Muslims and non-Muslims.

Criminal charges of apostasy, blasphemy, and criticizing the nature of the regime are used by the Saudi government to suppress discussion and debate and silence dissidents.

The religious extremism reportedly preached by some Saudi clerics and the violence incited and perpetrated by certain state-supported radicals continues to warrant further investigation by the U.S. government. The Commission has urged the U.S. government to address publicly concerns that have arisen from the propagation of religious hatred and intolerance from Saudi Arabia. The Commission has published reports and held public hearings over the past several years regarding this issue, and issued a number of recommendations for U.S. policy. The Commission welcomed the public statements made in the past year by Ambassador Hanford raising concerns about the role of the Saudi government in the promotion of religious intolerance and extremist ideology.

Throughout the past year, the Commission has spoken out numerous times about religious freedom concerns in Saudi Arabia. In June 2006, Commission Vice Chair Nina Shea testified on behalf of the Commission before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations at a hearing entitled "The Plight of Religious Minorities: Can Religious Pluralism Survive?" Commissioner Shea's testimony focused on religious freedom conditions in five countries—Egypt, Iran, Iraq, Pakistan and Saudi Arabia—as well as recommendations for U.S. policy. In September, the Commission publicly expressed concern that the State Department had removed longstanding and widely quoted language, "freedom of religion does not exist," from its 2006 *Report on International Religious Freedom* on Saudi Arabia, despite the fact that the report states that "there generally was no change in the status of religious freedom during the reporting period." In October, the Commission held a briefing on the current status of human rights and reform in Saudi Arabia with Ibrahim al-Mugaiteeb, President of *Human Rights First Society*, a human rights organization in Saudi Arabia that, despite repeated attempts to gain official recognition, has never been granted a license to function by the Saudi government. Mr. al-Mugaiteeb operates in the Kingdom at his own risk. In November, the Commission issued a statement and wrote to U.S. Ambassador to Saudi Arabia James Oberwetter about misleading claims by Saudi authorities regarding the purported release of religious prisoners in the southwestern region of Najran. In April 2007, Commissioners Gaer and Shea met with the newly appointed U.S. Ambassador to Saudi Arabia, Ford M. Fraker, to discuss persistent religious freedom concerns.

Throughout 2006, the Commission continued to meet with representatives of a variety of human rights and other non-governmental organizations, academics, and other experts on Saudi Arabia.

Saudi Arabia's Foreign Ministry, Riyadh

SAUDI ARABIA COMMISSION RECOMMENDATIONS

In light of the July 2006 confirmation of Saudi government policies on religious practice and tolerance, the Commission recommends that the U.S. government should:

- urge the Saudi government to identify specific benchmarks and timetables for implementation of those benchmarks;
- create a formal mechanism to monitor implementation of the July 2006 confirmation of policies as part of every Ministerial Meeting of the United States-Saudi Arabia Strategic Dialogue, co-chaired by Secretary of State Rice and Foreign Minister of Saudi Arabia Prince Saud al-Faisal;
- ensure that U.S. representatives to the relevant Working Group of the Strategic Dialogue, after each session, or at least every six months, report its findings to Congress; the policies that can be monitored with clear-cut criteria for progress include:
  - analyzing the content of Saudi textbooks at the beginning of every new school year (September);
  - retraining teachers and principals in schools to ensure that tolerance is promoted;
  - revising teacher manuals to include promotion of tolerance;
  - retraining and reassigning imams who espouse intolerance; vensuring that customs inspectors at borders do not confiscate religious materials;
  - ensuring that Saudi embassies and consulates abroad destroy any material given to them that promote intolerance and hatred;
  - ensuring that members of the *mutawaa* do not operate outside of agreed-upon parameters;
  - ensuring that all *mutawaa* wear identification badges;
  - holding accountable any member of the *mutawaa* who commits an act of torture; and
  - monitoring sermons in mosques regularly; and
- communicate and share information with other concerned governments about the confirmed policies of the July 2006 announcement, particularly those policies related to Saudi exportation of hate literature and extremist ideology.

With regard to religious freedom conditions in Saudi Arabia, the Commission reiterates its recommendations that the U.S. government should:

- press for immediate improvements in respect for religious freedom, including:
  - establishing genuine safeguards for the freedom to worship privately;
  - entrusting law enforcement to professionals in law enforcement agencies subject to judicial review and dissolving the *mutawaa*;
  - permitting non-conforming Muslim and non-Muslim places of worship in specially designated areas and allowing clergy to enter the country to carry out such worship services;
  - reviewing cases and releasing those who have been detained or imprisoned on account of their religious belief or practices;
  - permitting independent non-governmental organizations to advance human rights;
  - ending state prosecution of individuals charged with apostasy, blasphemy, sorcery, and criticism of the government;
  - ceasing state-sponsored messages of hatred, intolerance, or incitement to violence against Muslims and members of non-Muslim religious groups in the educational curricula and textbooks, as well as in government-controlled mosques and media;
  - inviting the UN Special Rapporteur on Freedom of Religion or Belief to conduct a fact-finding mission; and
  - ratifying international human rights instruments, including the International Covenant on Civil and Political Rights, and cooperating with UN human rights mechanisms; and
- use its leverage to encourage implementation of numerous Saudi government statements to ensure that the Saudi government carries out political, educational, and judicial reforms in the Kingdom by:
  - raising concerns about human rights, including religious freedom, both publicly and privately in the U.S. anti-terrorism dialogue with the Saudi government;
  - expanding human rights assistance, public diplomacy, and other programs and initiatives—such as the Middle East Partnership Initiative—to include more

components specifically for Saudi Arabia;

- continue to seek proposals from private entities to conduct religious freedom programs in Saudi Arabia; and
- increase the number of International Visitor and other exchange programs to include educators, religious leaders, journalists, and other members of civil society.

With regard to the exportation of religious intolerance from Saudi Arabia, the Commission has recommended that the U.S. government should:

- continue efforts, along with those of the Congress, to monitor Saudi state promises to end its sponsorship of government officials and programs, individual members of the royal family, and Saudi-funded individuals or institutions that directly or indirectly propagate globally, including in the United States, an ideology that explicitly promotes hate, intolerance, human rights violations, and, in some cases, violence, toward members of other religious groups, both Muslim and non-Muslim;
- request the Saudi government to provide an accounting of what kinds of Saudi support have been and continue to be provided to which religious schools, mosques, centers of learning, and other religious organizations globally, including in the United States;
- request the Saudi government to stop funding religious activities abroad until it knows the content of the teachings and is satisfied that such activities do not promote hatred, intolerance, or other human rights violations;
- request the Saudi government to monitor, regulate, and report publicly about the activities of Saudi charitable organizations based outside Saudi Arabia in countries throughout the world; and
- request the Saudi government to: a) cease granting diplomatic status to Islamic clerics and educators teaching outside Saudi Arabia; and b) close down any Islamic affairs sections in Saudi embassies throughout the world that have been responsible for propagating intolerance.

The Commission urges the U.S. Congress to hold biannual hearings at which the State Department reports on what issues have been raised with the Saudi government regarding violations of religious freedom and what actions have been taken by the United States in light of the Saudi government's response.

Market scene in Afghanistan

AFGHANISTAN

Conditions for freedom of religion or belief in Afghanistan have become increasingly problematic in recent years. Flaws in the country's new constitution, which does not contain clear protections for the right to freedom of religion or belief for individual Afghan citizens, failed to prevent a number of criminal court cases that were in violation of the rights of the accused. In addition, the failure or inability of the Afghan government to exercise authority over much of the country outside Kabul contributes to a progressively deteriorating situation for religious freedom and other human rights in many of the provinces. Although the status of religious freedom has improved since the fall of the Taliban regime, these developments indicate that religious extremism, including through the return of the Taliban, is an increasingly viable threat once again in Afghanistan. In light of these very real dangers to the declared U.S. goal of instituting democracy and human rights protections in Afghanistan, the Commission has determined to place the country on its Watch List. Since the United States has a crucial role to play, the Commission will continue carefully to monitor the situation in Afghanistan.

In January 2004, Afghanistan adopted a new constitution. The constitution contains an explicit recognition of equality between men and women and a reference to Afghanistan's commitment to abide by its international human rights obligations. However, though the Constitution provides for the freedom of non-Muslim groups to exercise their various faiths, it does not contain explicit protections for the right to freedom of religion or belief that would extend to every individual, particularly to individual Muslims, the overwhelming majority of Afghanistan's population. Other fundamental rights, such as the right to life and free expression, can be superseded by ordinary legislation. This omission is compounded by a repugnancy clause that states that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam," as well as by provisions for a judicial system empowered to enforce the repugnancy clause and apply Hanafi jurisprudence to cases where there is no other applicable law.

The absence of a guarantee of the individual right to religious freedom and the inclusion of a judicial system instructed to enforce Islamic principles and Islamic law mean that the new constitution does not fully protect individual Afghan citizens who dissent from state-imposed orthodoxy against unjust accusations of religious "crimes" such as apostasy and blasphemy. There are also fewer protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and members of religious minorities, and to question interpretations of Islamic precepts without fear of retribution or being charged with "insulting Islam." There is concern that these constitutional deficiencies could permit a harsh, unfair, or even abusive interpretation of religious orthodoxy to be officially imposed, violating numerous human rights of the individual by stifling potential dissent within the Afghan population.

Both of these cases, involving Muslim individuals exercising their internationally guaranteed rights, indicate that the inadequate guarantees for individual human rights in the constitution represent a significant problem for Afghanistan's development as a democratic, rule of law based state where fundamental human rights are protected.

Afghan Women

These concerns are not merely theoretical, since in the past two years, several very troubling cases exemplifying the constitution's inadequacies came before the courts. In October 2005, Afghan journalist and editor Ali Mohaqiq Nasab was imprisoned after being found guilty of charges of blasphemy and "insulting Islam." The purported "crime" of Nasab, editor of the journal *Haqooq-i-Zan* (Women's Rights), was to question discrimination against women and the use of certain harsh punishments under traditional Islamic law, including amputation and public stoning. Although Nasab, who is also an Islamic scholar, was initially sentenced to two years of hard labor, the prosecutor in the case reportedly intended to seek the death penalty against him. In December, Nasab's term was reduced to a six-month suspended sentence, but only after he apologized to the court.

In March 2006, Abdul Rahman, an Afghan citizen, was arrested and threatened with execution on the charge of changing his religion. His offense, according to a public prosecutor in Afghanistan, was "rejecting Islam." Rahman was to face the death penalty if found guilty of apostasy. The prosecutor in the case called Rahman "a microbe [who] should be cut off and removed from the rest of Muslim society and should be killed." The judge overseeing the trial publicly affirmed that if Rahman did not return to Islam, "the punishment will be enforced on him, and the punishment is death." Within a few weeks, in the face of a massive international outcry about the case, the court dismissed the charges against him, citing lack of evidence and suspicions about his mental state, but concerns about his personal safety forced him to seek asylum abroad. Both of these cases, involving Muslim individuals exercising their internationally guaranteed rights, indicate that the inadequate guarantees for individual human rights in the constitution represent a significant problem for Afghanistan's development as a democratic, rule of law based state where fundamental human rights are protected.

The constitutional concerns are intensified by the fact that the task of interpreting many of these provisions has been left to the Supreme Court, which until recently was headed by Chief Justice Fazl Hadi Shinwari, who had demonstrated little tolerance for those who disagreed with his hard-line interpretation of Islam. As a consequence of his actions, a sitting Minister in the interim Afghan government was forced to resign after she was charged with blasphemy for questioning the role of Islamic law in Afghanistan, journalists were jailed on charges of offending Islam, and during the October 2004 presidential elections, a presidential candidate was threatened with disqualification for purported "anti-Islamic remarks" on women's rights and family law. In an important development, a new Supreme Court Chief Justice was named in August 2006, Abdul Salam Azimi, who, unlike his predecessor, is formally trained in civil jurisprudence. It remains to be seen, however, whether he will be a positive force for religious freedom and other human rights in Afghanistan.

These constitutional pitfalls have been extended to other legislation also. The current media law prohibits publication or broadcast of information that insults "the sacred religion of Islam and other religions." According to the State Department, the vagueness in the definition of what constitutes offensive material allows for the potential abuse of this clause with the aim of limiting freedom of the press and intimidating journalists. Indeed, incidents of this sort of abuse have already occurred, as when former Supreme Court Chief Justice Fazl Hadi Shinwari in November 2004 successfully appealed to the Afghan government to have cable television taken off the air because its "immoral" programs allegedly insult religion. In January 2006, the Afghan Minister of Information, Culture, and Tourism declared that though Afghan law allows citizens access to a free press,

there are limitations that are "not imposed by the government but are in line with Islamic and national principles." That same month, cable television was shut down in Balkh province for broadcasting films and music that were "against Islam and Afghan culture." In February 2006, the Afghan government, through a special media commission, imposed a fine on Afghan TV, one of four private stations in Kabul, for broadcasting "unIslamic materials." At the end of 2006, the Ministry of Information and Culture proposed a new media law that, if enacted, would more explicitly curtail freedom of expression by, among other measures, prohibiting content deemed to be "against Islamic values." Because the term "against Islamic values" is not defined in the proposed law, media organizations fear that censorship in the name of religion will expand significantly.

In July 2006, there were reports that Afghanistan's Ulema, or council of Muslim clerics, proposed the establishment of a Department for the Promotion of Virtue and Prevention of Vice, an organization troublingly reminiscent of a similarly named body used by the Taliban to enforce its strict religious codes through public beatings, imprisonment, torture, and execution, including stoning to death. At the time, Afghanistan's Deputy Minister for Religious Affairs was quoted as stating that the new Vice and Virtue agency will not be the same as that under the Taliban but would instead be aimed at promoting religious values through "education, preaching, and encouragement." The proposal has reportedly been referred to the country's parliament, but as of this writing, had not yet been enacted.

Due to continued security problems, the government of President Karzai does not exercise full control over the country. As a result, the situation for religious freedom and other human rights is increasingly both precarious and problematic in many parts of the country. Concerns that the government of Pakistan has been providing sanctuary to the Taliban intensified in late 2006, as evidence began to indicate that the Taliban has re-armed and stepped up attacks inside Afghanistan, posing a threat to the stability of the government. Many of the human rights abuses practiced by the Taliban reportedly persist today under the rule of the regional warlords, who continue to operate in regions that are effectively outside of central government control. These abuses include political killings, torture, coercion to enforce social and religious conformity, and abuses against women and girls, sometimes with the active support of the local courts and police. In some areas of Afghanistan, there is reportedly now a "parallel Taliban state," and Afghans are increasingly receptive to Taliban courts, as they are, once again, seen as less corrupt than those administered by the tribal warlords. These substantial security threats, which have increased in the past year, present a persistent danger to the establishment of democracy and the rule of law throughout Afghanistan.

As far back as 2002, the Commission raised strong concerns about the decision not to extend the international security presence outside of Kabul and the repercussions that could potentially ensue as a consequence of this decision. In its report from that year, the Commission recommended that the "U.S. government should actively support expanding the international security presence beyond Kabul, as there was an urgent need to expand security in order to safeguard the process of political reconstruction in the country and to protect religious freedom and other human rights for all Afghans both in the near term and into the future." It seems clear that the political reconstruction process has indeed become seriously threatened as a result of the alarming and deteriorating security conditions. Despite these concerns, some religious freedom problems have diminished since the rule of the Taliban. For example, the active persecution of Afghanistan's Shi'a minority (approximately 15 percent of the population) that was perpetrated by the Taliban has ended, and Shi'as are once again able to perform their traditional processions and to participate in public life. In January 2005, President Karzai appointed a Shi'a scholar to the country's Supreme Court, the first Shi'a scholar ever to be appointed to that body. The State Department reports that in February 2006, six people were killed during a Shi'a Ashura procession in Herat, though some consider the violence to have been politically rather than strictly religiously motivated. Most Shi'a are

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The U.S. government should provide greater leadership and resources needed to secure freedom for all in Afghanistan, which regrettably appears to be reverting more and more to Taliban-like practices. The U.S. government should therefore step up its leadership and engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, since the United States has been so directly involved in the country's political reconstruction. Failure will leave Afghanistan not only less free but also more unstable, thereby contributing to regional insecurity and potentially serving again as a future haven for global terrorism that threatens U.S. interests.

from the Hazara ethnic group, which has traditionally been harshly discriminated against and segregated from the rest of society due to a combination of political, ethnic, and religious reasons. The situation of Afghanistan's religious minorities, which include small communities of Hindus and Sikhs, has also improved since the fall of the Taliban, as there is no longer any official discrimination, though societal violence against both groups, particularly in the areas outside of government control, continues to be a concern. Although there are no churches, expatriate Christians are reportedly able to meet for private worship services in Kabul and one or two other major urban centers. However, some religious advocacy organizations are reporting instances of societal intolerance of and violence against persons who have converted to Christianity.

In the past year, the Commission spoke out several times about the deteriorating situation in Afghanistan. In July 2006, the Commission issued a statement raising several concerns about the proposed creation of a Department for the Promotion of Virtue and Prevention of Vice. The Commission noted that the creation of such a government institution in Afghanistan charged with the promotion of religious adherence to state-imposed orthodoxy could amount effectively to a religious police force that could: violate Afghan citizens' universal right to freedom of thought, conscience, and religion or belief, including the right to be free from state compulsion with regard to religious worship and practice; abridge the human rights of Afghan women and girls; impose political conformity and stifle political debate about human rights and political freedom in Afghanistan, as well as the role of religion in Afghan law and society; and arbitrarily determine the "correct" nature of religious adherence and what constitutes a "violation"—a significant problem given the wide variety of doctrines and practices that exist within the majority Muslim community in Afghanistan.

In March 2006, the Commission wrote to President Bush expressing its concern about the trial and threatened execution of Abdul Rahman on charges of apostasy. In April, Commission Vice-Chair Felice D. Gaer testified on behalf of the Commission before a Congressional Human Rights Caucus Members' Briefing on "Anti-Conversion Laws and Religious Freedom in South Asia and the Middle East: The Case of Abdul Rahman." In her testimony, Commissioner Gaer described the weak state of human rights protections in Afghanistan today, and cautioned that freedom and democracy are still in peril in that country. In October 2005, the Commission issued a statement condemning the arrest and trial of Ali Mohaqiq Nasab on charges of blasphemy and "insulting Islam." In December, the Commission wrote to the State Department asking that it urgently communicate with the German government to prevent the imminent involuntary deportation of thousands of particularly vulnerable asylum seekers from Germany to Afghanistan, including Hindu refugees who face the threat of violence upon return to Afghanistan.

During the period that the constitution was being drafted, the Commission met with numerous high-ranking U.S. government officials to articulate the importance of institutionalizing human rights guarantees in the document that adequately protect the rights of each individual. The Commission also briefed Members of Congress and relevant committee staff on its policy findings and recommendations. In January 2003, the Commission held an international forum, *"Reconstructing Afghanistan: Freedom in Crisis?"* in cooperation with George Washington University Law School, which brought together Afghan leaders, U.S. policymakers, and other experts to discuss ways of integrating adequate human rights protections into judicial and legal reform processes. The Commission also raised the issue of religious freedom in numerous public statements, as well as in two separate op-ed articles, in *The Washington Post* and *The New York Times*, authored by Commissioners Michael K. Young, Felice D. Gaer, and Preeta D. Bansal. In late 2003, the Commission was cited on this issue in over a dozen editorials in major newspapers worldwide.

In August 2003, a Commission delegation visited Afghanistan for an intensive series of discussions with senior officials of the Transitional Administration, U.S. officials, representatives of non-governmental organizations and of Afghan civil society, former President Burhanuddin Rabbani, religious leaders, and members of the diplomatic community, including the United Nations Assistance Mission in Afghanistan (UNAMA). In September 2004, the Commission issued a press release criticizing the Supreme Court Chief Justice's attempt to stifle freedom and electoral democracy by calling for the disqualification of a candidate who made comments of which Chief Justice Shinwari did not approve.

The U.S. government should provide greater leadership and resources needed to secure freedom for all in Afghanistan, which regrettably appears to be reverting more and more to Taliban-like practices. The U.S. government should therefore step up its leadership and engagement in Afghanistan to preserve and consolidate the Afghan people's gains in the protection of human rights, since the United States has been so directly involved in the country's political reconstruction. Failure will leave Afghanistan not only less free but also more unstable, thereby contributing to regional insecurity and potentially serving again as a future haven for global terrorism that threatens U.S. interests.

A street vendor in Afghanistan

AFGHANISTAN COMMISSION RECOMMENDATIONS

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

1 On Promoting the Individual Right to Religious Freedom and Other Human Rights

- vigorously support respect for the right of every individual to freedom of thought, conscience, and religion or belief in post-Taliban Afghanistan, and be prepared to make great efforts to ensure protection of fundamental human rights, including freedom of conscience and the equal rights of women, as outlined in international human rights instruments to which Afghanistan is a party;
- use its influence to protect freedom of expression against charges that may be used to stifle debate, such as blasphemy, "offending Islam," apostasy, or similar offenses, including expression on sensitive subjects such as the role of religion in society and the rights of women and members of minority groups;
- act to bolster the position of those reformers who respect, and advocate respect for, human rights, since those persons in Afghan society who would promote respect for internationally recognized human rights are currently on the defensive, even threatened, and these people need U.S. support to counter the influence of those 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;

2 On Addressing the Deteriorating Security Conditions

- make greater efforts to improve security outside Kabul in order for Afghanistan's political reconstruction to succeed, because without adequate security, the warlords will continue to hold sway over much of the country, undermining the rule of law and Afghanistan's nascent democratic institutions;
- direct measurable, concrete support and benefits, including the improved, country-wide security referred to above, to the Afghan people, which, in turn, will enable the Karzai government and other moderates to make the hard choices necessary to oppose religious extremism;

3 On Advancing Institutional Reform

- ensure that programs, administered by the U.S. Agency for International Development, to help develop primary and secondary education, including through the printing of textbooks, and to provide civic education, incorporate, as part of the content, education on international standards with regard to human rights, including freedom of religion or belief, and religious tolerance;
- strengthen efforts to reform the judicial system, including through helping to develop sorely needed infrastructure and through strongly supporting the reconstruction in Afghanistan of a judicial sector operating under the rule of law and upholding civil law and international standards of human rights, and work to ensure that all judges and prosecutors are trained in civil law and international human rights standards, women are recruited into the judiciary at all levels, and all Afghans have equal access to the courts; and
- assist legal experts in visiting Afghanistan, engaging their Afghan counterparts, and providing information to the Afghan public on the universality of human rights and the compatibility of Islam and universal human rights, including freedom of religion and belief, and expand existing programs to bring Afghans to this country to experience how Islam and other faiths may be practiced in a free society.

BANGLADESH

During the past year, Bangladesh has been in the throes of a major political and constitutional crisis, the resolution of which will determine whether religious freedom and other universal human rights will be protected by democratic institutions and the rule of law or whether the country will continue on a downward spiral toward authoritarianism and intolerance. In January 2007, a state of emergency was declared, normal political activities banned, and previously scheduled national elections indefinitely postponed. Recent deviations from democratic norms and reports of serious human rights abuses raise troubling questions about the future prospects for respect for a range of freedoms, including potentially freedom of religion or belief. The Commission placed Bangladesh on its Watch List in 2005 due to a number of concerns:

- Islamist radicalism and violence, as well as the then government's initial downplaying of the problem;
- the anti-minority, particularly anti-Hindu, violence that occurred following the last general election in 2001 and the failure to investigate and hold perpetrators to account for that violence and other instances of violence against members of religious minorities;
- the inadequate police response to the sometimes violent campaign against the minority Ahmadi religious community;
- discrimination against members of religious minority communities in public employment and access to government services; and
- the repeated and sometimes fatal attacks against journalists, authors, and academics for debating sensitive social or political issues or otherwise expressing opinions deemed by militants to be offensive to Islam.

These concerns led the Commission to visit Bangladesh in February-March 2006 and to hold a public forum on Bangladesh in October 2006. Although the political context has altered considerably with changes in government in October 2006 and January 2007, the Commission finds that religious freedom remains under threat in Bangladesh. If left unchecked, current trends toward greater intolerance and religiously-motivated violence, particularly toward Hindus, Ahmadis, and Christians, could further undermine human rights protections for all Bangladeshis. Accordingly, the Commission continues to place Bangladesh on its Watch List.

Women in Bangladesh

Since 1991, notwithstanding relatively difficult economic conditions, Bangladesh has had a representative government, regular changes of power through free elections, a judiciary that sometimes rules against those in authority, a lively press often critical of government policies, active participation of women in the workplace, and a functioning civil society with active human rights groups, women's organizations, and numerous non-governmental organizations (NGOs). Democratically-elected governments in office since 1991 have, however, left untouched and in some cases further elaborated on Islamic elements introduced in the constitution by previous military regimes, including the establishment of Islam as Bangladesh's official religion, as described below.

Following independence from Pakistan in 1971, Bangladesh was established as a secular state in which national identity was based on Bengali language and culture. The constitution contains strongly-worded guarantees for freedom of religious belief and practice, as well as equal treatment by the government for citizens regardless of reli-

If left unchecked, current trends toward greater intolerance and religiously-motivated violence, particularly toward Hindus, Ahmadis, and Christians, could further undermine human rights protections for all Bangladeshis.

gious affiliation. Subsequent military regimes amended the constitution, however, to introduce Islamic elements, including the affirmation that "absolute trust and faith in Allah" is to "be the basis for all actions" by the government. Although not judicially enforceable, this change in the constitution has been cited by minority rights advocates as diminishing the status of non-Muslims as equal members of Bangladeshi society. Islam was made Bangladesh's state religion in 1988 under the military dictatorship of H.M. Ershad.

Aided by the expansion of Islamic schools (*madrassas*), charities, and other social welfare institutions, some receiving foreign funding, Islamist activists have gained in political, economic, and social influence in Bangladesh in recent years. Explicitly Islamist parties first entered government in 2001. Those with the agenda of making Bangladesh an Islamic state, including Jamaat-e-Islami Bangladesh, helped the center-right Bangladesh Nationalist Party (BNP) win the last national election in October 2001 and allegedly then used their positions in the BNP-led government to deny funding to or otherwise disadvantage groups viewed as opposing an Islamist political and social agenda which Jamaat championed. Although many some of those who call for a more Islamist Bangladesh have been engaged in peaceful political and social activities, others, drawing inspiration from extremist movements elsewhere in the Islamic world, have adopted a jihadist ideology of violent struggle against perceived opponents of Islam.

Dhaka, Bangladesh

This lack of accountability for anti-minority violence associated with the 2001 election led the Commission, minority advocates, and many others to be concerned that Bangladesh's next national elections would also result in anti-minority violence. Some with whom the Commission met during the February-March 2006 visit to Bangladesh were themselves experiencing difficulties in becoming registered. Others claimed that locations dominated by minority voters had not been visited by the enumerators conducting the registration or, on the other hand, alleged that non-citizens believed to favor Islamist parties were being registered. Widespread concerns with the registration process were underlined when a study undertaken by the U.S. National Democratic Institute found 13 million more names on the voter rolls than would be eligible according to Bangladesh's population.

Controversy over the impartiality of the electoral process, including over voter registration, resulted in the indefinite postponement of the national election scheduled for January 2007. On January 11, 2007, Bangladesh's President resigned, under opposition pressure, from his controversial position as head of the caretaker government charged with administering the country during the national election period. A state of emergency was declared, during which public political activities were banned and elections postponed, pending correction of deficiencies in the electoral process, including the voter rolls. The head of the current caretaker government, a former World Bank official, has publicly declared his intention to hold "free, fair, and participatory" elections "within the shortest possible time."

Despite the caretaker government's public promises to uphold human rights, there were numerous reports of serious human rights abuses, including suspected extrajudicial killings by the security forces, arbitrary detentions, torture, curbs on press freedom, and violations of the right of due process. Many of the reported abuses were associated with a high-profile anti-corruption campaign

spearheaded by the military. In addition, charges of corruption or other serious crimes, including murder, were brought against a number of senior politicians, including Awami League leader and former Prime Minister Sheikh Hasina. BNP leader and former Prime Minister Khaleda Zia was also reportedly under virtual house arrest. The role of the military under the current caretaker government raises questions about the future of democracy, rule of law, and respect for human rights in Bangladesh. These institutions, important guarantors for religious freedom, could be further eroded if the country's current caretaker government seeks to prolong its tenure beyond what is strictly needed to prepare for the free and fair election of a national government truly representative of the popular will. On the positive side, the political turmoil that led to the postponement of the 2007 elections has not resulted in widespread anti-minority, particularly anti-Hindu, attacks, attacks such as those that occurred following national elections in 2001. As of this writing, no new election date has been set.

Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremists to expand their influence. Due to a weak legal system and corrupt law enforcement, gangs employed by politicians engage in criminal activities with relative impunity. Armed groups of Islamist vigilantes and leftist guerrillas terrorize remote rural areas. Authors, journalists, and academics expressing opinions allegedly offensive to certain interpretations of Islam are subject to violent, sometimes fatal, attacks. Extremists oppose NGOs that promote the economic betterment of women and protection of women's rights. Some such organizations have been bombed, presumably by these extremists.

Although Bangladesh has the unusual distinction of having its two major parties, the BNP and the Awami League, led by women relatives of slain leaders who had both served as Prime Minister, religious extremism, mostly among Muslims, victimizes Bangladeshi women of all faiths. Some Muslim clerics, especially in rural areas, have sanctioned vigilante punishments against women for alleged moral transgressions. Rape is also reportedly a common form of anti-minority violence. The government commonly fails to punish the perpetrators of these acts against women, since the law enforcement and the judicial systems, especially at the local level, are vulnerable to corruption, intimidation, and political interference.

Commissioners Preeta D. Bansal (center, back row) and Felice D. Gaer (right, back row) with women's rights activists in Bangladesh

Politically-motivated bombings, assassinations, and other terrorist acts, often ascribed to Islamist militants, have exacerbated partisan tensions and increased the vulnerability of minority communities. In August 2004 and January 2005, such attacks resulted in the deaths of prominent opposition political figures. In February 2005, the government banned two militant groups implicated in a series of bomb attacks on NGOs. Militants have been blamed for a coordinated wave of almost simultaneous bomb attacks, numbering in the hundreds, carried out in all but one of Bangladesh's 64 districts on August 17, 2005. Militants were also implicated in a series of bomb attacks on Bangladesh's judiciary in October-November 2005. Among the victims was one of the country's few judges from a religious minority community, a Hindu. The bomb attacks were accompanied by militant demands to substitute sharia, or Islamic law, for Bangladesh's current system of secular jurisprudence and by threats against courts and judges who do not apply sharia. The then government of Prime Minister Khaleda Zia responded with a campaign of arrests of militants suspected of involvement in the bombings and in other violent incidents. As a result of arrests made during this campaign, more than 30 suspected militants were detained and later sentenced to death. In March 2007, six members of the Islamist militant group Jamaat-ul-Mujahideen Bangladesh (JMB), including JMB leader Sheikh Abdur Rahman and notorious Islamist vigilante Siddiqul Islam, better known as "Bangla Bhai,"

Palace in Dhaka, Bangladesh

were executed for their involvement in bombings that took place in 2005.

Despite constitutional protections, Hindus and other non-Muslims in Bangladesh face societal discrimination and are disadvantaged in access to government jobs, public services, and the legal system. They are also underrepresented in elected political offices, including the national parliament. Minority group advocates claim that religion plays a role in property and land disputes, pointing to expropriations of Hindu property since the Pakistan era and the gradual displacement of non-Muslim tribal populations by Bengali Muslims in the Chittagong Hill Tracts and other traditionally tribal areas. Such disputes occasionally result in violence.

The Commission was told on its visit to Bangladesh that Hindus have left the country in large numbers in the past three decades because of the atmosphere of uncertainty and fear under which religious minorities must live. Hindus, Christians, and representatives of other minority religious communities continue to express concerns regarding the safety of their co-religionists, citing the growth in Islamist radicalism and instances of violence, including fatalities, in which the victims' religious affiliation or activities may have been factors. In June 2005, there were arson or bombing attacks against Ahmadi mosques in three locations. In July 2005, two Bangladeshis working for a Christian NGO were murdered, allegedly for showing a film depicting the life of Jesus. As of this writing, there have been no charges brought in this case or in the September 2004 murder of a prominent Christian convert from Islam.

The most serious and sustained conflict along ethnic and religious lines has been in the Chittagong Hill Tracts, located in Bangladesh's eastern border region neighboring India and Burma. The varied but wholly non-Bengali/non-Muslim indigenous peoples in this formerly autonomous area had opposed inclusion in East Pakistan, due to their identification with other tribal groups in northeast India. After Bangladesh won its independence, Bangladeshi authorities ignored appeals for restoring local autonomy in the Hill Tracts and indeed promoted an acceleration in Bengali settlement. The resulting insurgency ended in December 1997 with the signing of a peace agreement. Resentment remains strong, however, over settler encroachment, human rights abuses by the Bangladeshi military, and the slow pace of the government's implementation of the peace agreement. Muslim Bengalis, once a tiny minority in the Chittagong Hill Tracts, are now believed to outnumber members of indigenous groups.

Islamist extremists in Bangladesh have engaged in a public campaign against the Ahmadi community, which is viewed as heretical by many Muslims. The Ahmadis, also referred to as Ahmadiyya, are estimated to number about 100,000 in a population of over 140 million. Anti-Ahmadi demonstrators have called on the government of Bangladesh to declare Ahmadis to be "non-Muslims," as was done in Pakistan, and subsequently used in Pakistan to justify a range of legal limitations on the Ahmadi community and individual Ahmadis. The demonstrators have also called for curbs on Ahmadi missionary outreach to the broader Muslim community. Although Bangladesh has thus far refused to declare Ahmadis to be non-Muslims, in January 2004, the then BNP-led government bent to militant pressure and banned the publication and distribution of Ahmadi religious litera-

Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremists to expand their influence. Due to a weak legal system and corrupt law enforcement, gangs employed by politicians engage in criminal activities with relative impunity.

ture. Police seized Ahmadi publications on a few occasions. The ban was stayed by the courts in December 2004, with further legal action still pending. Although the ban is not currently being enforced, it was not withdrawn by the BNP-led government before leaving office in October 2006

Anti-Ahmadi activists object to Ahmadi houses of worship being called "mosques" and on a number of occasions have organized mass demonstrations against them in order to occupy or attempt to occupy the sites. In several instances, anti-Ahmadi activists have forcibly replaced signs identifying Ahmadi places of worship as mosques, putting in their place anti-Ahmadi signs warning Muslims away, sometimes with the assistance of the police. According to Ahmadi sources, as of this writing, anti-Ahmadi signs have now been taken down from all Ahmadi mosques, with the exception of one in the city of Bogra. In some instances, the anti-Ahmadi agitation has also been accompanied by mob violence in which Ahmadi homes have been destroyed and Ahmadis held against their will and pressured to recant. Although the campaign against the Ahmadis has continued, the violence has diminished in recent months, due to improved and more vigorous police protection. In February 2007, Ahmadis in Brahmanbaria were able to hold a major convention, which they had been unable to do for over a decade because of hostility from anti-Ahmadi militants.

The Commission visited Bangladesh February 26 – March 2, 2006 at the invitation of the government of Bangladesh. The Commission delegation met with a broad range of individuals, including government officials, political leaders, human rights monitors, journalists, women's rights advocates, Muslim religious leaders, leading members of the Ahmadi, Hindu, Buddhist, and Christian communities, and civil society representatives. The government of Bangladesh received the delegation at a high level, including individual meetings with four members of the Cabinet: the Foreign Minister; the Minister for Law, Justice, and Parliamentary Affairs; the Minister of Education; and the Minister of Industries, the last mentioned being the head of Jamaat-e-Islami Bangladesh. The delegation also met with the Minister of State for Religious Affairs and with the Secretary for Home Affairs, whose responsibilities include law enforcement.

The Commission also has met on a number of occasions with human rights monitors, representatives of religious communities, Bangladeshi diplomats, and others to discuss religious freedom in Bangladesh. On October 17, 2006, with the participation of the International Republican Institute and the National Democratic Institute for International Affairs, the Commission held a public forum in Washington, D.C. on the topic "The Bangladesh Elections: Promoting Democracy and Protecting Rights in a Muslim-majority Country." Coincident with the forum, the Commission issued *Policy Focus on Bangladesh*, with a number of policy recommendations. In April 2004, the Commission, together with Congressman Joseph Crowley, a member of the House Committee on International Relations, held a public hearing in Flushing, New York, on "Bangladesh: Protecting the Human Rights of Thought, Conscience, and Religion."

A USCIRF roundtable on Capitol Hill about Bangladesh's national elections

BANGLADESH COMMISSION RECOMMENDATIONS

With regard to Bangladesh, the Commission makes the following recommendations.

1 Urgent Measures to Prevent Anti-Minority Violence in the Upcoming Elections

In light of Bangladesh's upcoming national elections, the Commission recommends that the U.S. government should:

- urge Bangladesh's caretaker government to set and to adhere strictly to a publicly announced timetable for undertaking all necessary actions to safeguard the voting rights of all Bangladeshis in the next national elections, and to ensure that those elections are held freely and fairly and at the earliest practical date by:
  - restoring public confidence in the non-partisan and independent character of both the Election Commission and the election-period caretaker government;
  - making every effort to prevent violence before and after the election, including instructing law enforcement bodies to ensure the security of all Bangladeshi citizens throughout the voting process;
  - instituting a registration process that will facilitate the enrollment of the maximum number of eligible voters before the election, in a manner that does not discriminate on the basis of perceived religious or political affiliation or ethnic background, deleting names of extra or ineligible voters, ensuring the inclusion of minority voters, and investigating and resolving complaints about the registration process fairly, promptly, and well in advance of the actual election;
  - using all practical technical means of ensuring the security of the ballot, including the use of "transparent" and numbered ballot boxes;
  - permitting and facilitating international and domestic non-governmental monitoring of the entire electoral process; Bangladesh should be encouraged as a member of the United Nations and of the Commonwealth to avail itself of the resources of these and other international organizations with experience in assisting member states in conducting credible elections;
  - satisfying the requirements of monitors from the U.S. National Democratic Institute, the U.S. International Republican Institute, and the European Union, as well as election experts from the UN, all of whom refused to offer legitimacy to the severely flawed election scheduled for January 2007; and
  - investigating fully the acts of violence committed in the aftermath of the 2001 elections and holding the perpetrators to account, with the aim of preventing potential similar recurrences in 2007 and during any other election period in the future;
- encourage Bangladeshi authorities, and in particular the caretaker government overseeing the election period, to ensure that the elections are not marred by violence by:
  - deploying security forces to work now to identify and prepare against specific threats to vulnerable localities and communities, including religious and ethnic minorities;
  - publicly ordering the security forces to undertake a maximum effort to prevent and punish election-related violence, particularly violence targeting members of minority religious communities, whether during the election campaign, on election day, or in its aftermath; and
  - publicly condemning, outlawing, and swiftly responding to anti-minority violence and discrimination in advance of the election and ensuring, through legislation if necessary, that election-related violence will be thoroughly investigated and that those responsible will be brought to justice;
- prepare and publicize a comprehensive pre- and post-election analysis of the election process with recommendations for needed reform;
- provide for official U.S. government monitors in advance of, and in connection with, the upcoming elections in addition to those already planned by the National Democratic Institute for International Affairs and the International Republican Institute; and
- urge other states and international organizations to work together to increase monitoring and other efforts to forestall violence, with the assistance of indigenous human rights and other civil society organizations,

and coordinate actions in support of a peaceful, free, and fair election in Bangladesh with other countries and international organizations.

2 Urgent Measures to Protect Those Threatened by Religious Extremism

The Commission recommends that the U.S. government should urge the government of Bangladesh to:

- investigate and prosecute to the fullest extent of the law perpetrators of violent acts, including future acts and those already documented, against members of minority religious communities, non-governmental organizations (NGOs) promoting women's human rights, and all those who oppose religious extremism;
- rescind its January 2004 order banning publications by the Ahmadi religious community, continue to reject extremist demands to declare Ahmadis to be non-Muslims, protect the places of worship, persons, and property of members of this religious community, and fully investigate and promptly bring to justice those responsible for violence against Ahmadis; and
- protect women from vigilante or anti-minority violence, combat claims of religious sanction or justification for violence against women, and vigorously investigate and prosecute the perpetrators of such violent incidents.

3 Longer-Term Measures to Protect Universal Human Rights

The Commission recommends that the U.S. government should urge the government of Bangladesh to:

- ensure that decisions on public employment in national institutions such as the civil service, the military, law enforcement agencies, and the judiciary, including at the highest levels, do not discriminate on the basis of religious affiliation, belief, or ethnic background; conduct and publicize the results of a comprehensive survey of minority representation in the public service;
- establish effective, legally transparent mechanisms for handling complaints regarding discrimination in public employment;
- ensure that law enforcement and security services are equally protective of the rights of all, regardless of political or religious affiliation or belief, including due process for all who are accused of crimes, according to Bangladesh's own constitution and relevant international standards;
- establish the independence of the judicial system from the executive at all levels in order to prevent political interference in the judicial process and to ensure that the courts afford equal access and equitable treatment to all citizens;
- include in all school curricula, in school textbooks, and in teacher training for both public schools and government-regulated *madrassas* information on tolerance and respect for human rights, including freedom of religion or belief;
- promote the use of history and social studies texts in public schools that reflect the country's religious diversity and are reviewed by an independent panel of experts to exclude language or images that promote enmity, intolerance, hatred, or violence toward any group of persons based on religion or belief;
- repeal the Vested Property Act of 1974, discriminatory legislation that has been used unjustly to seize Hindu-owned property in the decades since Bangladesh's independence and has continued to be used under successive governments to reward well-connected members of the majority community in Bangladesh;
- ensure that publicly-funded support for domestic faith-based charitable, humanitarian, developmental, or educational activities be awarded on a non-discriminatory basis;
- permit NGOs to conduct legitimate humanitarian and developmental activities without harassment, undue interference, or discrimination and ensure that they are protected from extremist intimidation or violence; and
- guarantee the right of human rights defenders to receive funding from foreign sources, as set forth in the relevant UN instruments [1], without harassment, unless such foreign funding incites or supports religious extremism, hatred, or the destruction of any of the rights and freedoms guaranteed to Bangladeshi citizens.

[1] Article 13 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, passed in 1998, states that "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means..."

4 U.S. Assistance to Promote Human Rights, Including Freedom of Religion or Belief

The Commission recommends that the U.S. government should:

- use public diplomacy, including international exchange programs, to bolster the position of Bangladesh's voices of moderation and of those reformers who respect, and advocate respect for, internationally recognized human rights, including the human rights of women and of members of minority religious communities;
- assist Bangladeshi educational authorities in improving and expanding public education in order to enhance the availability and quality of education of all Bangladeshis, regardless of faith, gender, or ethnicity, and support non-governmental review of curricula and textbooks of public schools and *madrassas*;
- support efforts to improve the human rights performance and professional competence of the security forces so that they can better protect all Bangladeshis from violence and intimidation by extremists;
- act to counter the extremist assault on Bangladesh's secular legal system, including by (1) strengthening U.S. assistance to promote the rule of law and to enhance access to the legal system by women and members of religious minorities, and (2) informing Bangladeshis, through educational and cultural exchanges, broadcast and print media, and other means of public diplomacy, on the universality of human rights and the compatibility of Islam and universal human rights, including freedom of religion or belief; and
- support, and provide technical assistance for, the creation of an independent national human rights commission in Bangladesh able to investigate, publicize, and bring to the courts all categories of human rights abuses, including violence and discrimination against religious minorities, in accordance with international standards[2] for such organizations, i.e., independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

[2] Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights, found in the Annex to Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights, Office of the High Commissioner for Human Rights.

On the Ganges River at Varanasi, India, an important pilgrimage site for Hindus

INDIA

The positive developments in India affecting freedom of religion or belief that began in 2004, when parliamentary elections resulted in installation of a coalition government led by the Congress Party, continued in the past year. Under the previous leadership of the Bharatiya Janata Party (BJP), the Commission in prior years found that the Indian government's response to increasing violence against religious minorities in the state of Gujarat and elsewhere to be inadequate. In addition, several senior BJP government leaders had publicly allied themselves with, or refused to disassociate themselves from, extremist organizations that were implicated in that religious violence. In response, from 2002 – 2004, the Commission recommended that India be designated a "country of particular concern," or CPC. As a result of the changes that took place in India after the 2004 elections, the Commission in 2005 no longer recommended that India be designated a CPC.

Unlike many of the other countries that draw Commission attention, India has a democratically elected government, is governed generally by the rule of law, and has a tradition of secular governance that dates back to the country's independence. India has a judiciary that is independent, albeit slow-moving and frequently unresponsive, that can work to hold the perpetrators of religious violence responsible; contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports on the rise of religiously motivated violence; and is home to a free press that has widely reported on and strongly criticized the situation on the ground in India and the growing threats in the past decade to a religiously plural society.

Despite this, religious minorities in India have been the victims of violent attacks by fellow citizens, including killings, in what is commonly called "communal violence." In the late 1990s, there was a marked increase in violent attacks against members of religious minorities, particularly Muslims and Christians, throughout India, including killings, torture, rape, and destruction of property. Those responsible for communal violence were rarely held responsible for their actions, helping to foster a climate in which it was believed that attacks on religious minorities could be carried out with impunity. The increase in such violence in India coincided with the rise in political influence of groups associated with the Sangh Parivar, a collection of organizations that view non-Hindus as foreign to India and aggressively press for governmental policies to promote a Hindu nationalist agenda. Although it was not directly responsible for instigating the violence against religious minorities, the BJP-led national government clearly did not do all in its power to pursue the perpetrators of the attacks and to counteract the prevailing climate of hostility against these minority groups, especially at the state and local levels.

The dome of a Jain temple in India

Of particular concern to the Commission were the February 2002 events in the state of Gujarat, when, after a fire on a train resulted in the death of 58 Hindus, hundreds of Muslims were killed across Gujarat by Hindu mobs. In addition, hundreds of mosques and Muslim-owned businesses and other kinds of infrastructure were looted or destroyed. More than 100,000 people fled their homes and, in the end, as many as 2,000 Muslims were killed. India's National Human Rights Commission (NHRC), an official body, found evidence of premeditation in the killings by members of extremist groups espousing Hindu nationalism, complicity by Gujarat state government officials, and police inaction in the midst of attacks on Muslims. Christians were also victims in Gujarat, and many churches were destroyed.

In the months following the violence, the BJP-led state government in Gujarat headed by State Minister Narendra Modi was widely accused of being reluctant to bring the perpetrators of the killings of Muslims to justice. Few persons had been arrested and held to account for the deaths. In response to the failures of the Gujarat government, India's Supreme Court declared in October 2003 that it had "no faith left" in the state's handling of the investigations and instructed the Gujarat state government to appoint new prosecutors to examine the religious violence of 2002. In April 2004, in what was described as an indictment of the Gujarat government, the Supreme Court overturned the controversial acquittal of the 21 accused in a particular case and ordered a new trial of those indicted. In August 2004, the Supreme Court ordered the Gujarat government to reopen its investigation of the 2002 violence, criticizing the local police officials for poor investigative practices and follow-up. The Court set up an inquiry committee to reexamine 2,000 cases; as a result, it was announced in February 2006 that the Gujarati police would reopen nearly 1,600 cases and take action against 41 police officials for their alleged role in the Gujarat violence. In addition, Gujarati police announced that they would pursue more than 600 others accused in these reopened cases. In July 2006, a report from a committee attached to the Prime Minister's office chastised the Gujarat government for failing to improve the situation for Muslims in that state, noting that a "state of fear and insecurity" still existed for many Muslims there. The report also expressed concern about the divisions between Hindus and Muslims that had developed in many Gujarati towns since the 2002 events.

In July 2006, after reports implicated Muslim extremists in train bombings in Mumbai (Bombay) in which more than 200 people were killed, successful efforts were made to prevent anti-Muslim rioting.

In addition to the steps taken by the Supreme Court, the current Congress-led government continued its efforts to redress a number of aspects of the Hindu nationalist agenda of the previous government. In June 2004, a government-appointed committee of historians was tasked with removing the "distortions and communally biased portions" of school textbooks that had been introduced by the BJP. Those texts were replaced in 2005 with revised editions. Because several states continued to use objectionable texts, including social science books published in Gujarat in June 2005 that contained language minimizing Hitler's role in the Holocaust (Hitler is a respected figure among some extreme Hindu nationalists) and belittling religious minorities, the federal government decided to take further action by forming a National Textbook Council to ensure that such books would no longer be used.

The government of Prime Minister Manmohan Singh has also continued to act decisively to prevent communal violence in situations where it has erupted in the past. In July 2005, six Muslim militants attacked a religious site in Ayodhya, in the state of Uttar Pradesh, where in 1992 Hindu extremists destroyed the sixteenth century Babri mosque, resulting in nationwide riots that left up to 3,000 dead, mostly Muslims. There were protests organized by the BJP in response to the July attack, but police dispersed the crowds and no violence ensued. In February 2006, a mass rally of Hindu nationalists was held in the Dangs district of Gujarat calling on members of the indigenous "tribal" people to "reconvert" to Hinduism. In the weeks leading up to the event, the Hindu groups issued a number of highly inflammatory statements, particularly against Christians, and violence against local Christian communities was feared, as has happened in the past. However, the military was sent into the area to maintain peace; riot police were reportedly posted outside churches and temples and no violence occurred. In March 2006, after bombs exploded in

Indian girls at the seashore

the Hindu holy city of Varanasi killing 20 persons, allegedly instigated by Islamist groups, authorities reportedly acted swiftly to prevent retaliation against Muslims. Prime Minister Singh appealed for calm, and soldiers and police were deployed at holy sites across the country. In July 2006, after reports implicated Muslim extremists in train bombings in Mumbai (Bombay) in which more than 200 people were killed, successful efforts were made to prevent anti-Muslim rioting. In November 2006, a central government-appointed panel known as the Sachar Committee acknowledged that Muslims in India face discrimination and other hardships. In response to the report's findings, Prime Minister Singh pledged to do more to "address the imbalances."

Despite the improved situation, concerns about religious freedom in India remain. Attacks on Christian churches and individuals, largely perpetrated by individuals associated with Hindu nationalist groups, continue to occur, and perpetrators are rarely held to account by the state legal apparatus. Dozens of violent attacks carried out or incited by Hindu extremist groups against Christian institutions and persons continued throughout the past year. In January 2007, in the state of Karnataka, members of the Bajrang Dal, a Hindu nationalist group, attacked a Christian pastor and his wife in a village near Bangalore; after the couple fled the area, the group found them and attacked them again, accusing them of "forcible conversions." The following week in the same state, a similar group attacked two more pastors; when the police arrived, the pastors, rather than the attackers, were taken to the police station. In February 2007, about 100 members of an extremist group attacked a pastors' conference in the Raipur district of Chhattisgarh state, severely beating 30 persons. Also in February, in the state of Orissa, a mob of 400 persons led by members of the Bajrang Dal attacked a Christian school in the Jharsuguda district, causing five persons to be hospitalized from the violence. The mob also destroyed church property. That same month in Maharashtra, a mob of 15-20 persons beat five Christian students near the town of Panvel, leaving two with severe head injuries and the others with serious internal injuries. In that incident, doctors reportedly refused to treat the students until a police complaint was filed, forcing them to receive treatment in a private hospital. Similar attacks occur, sometimes in greater numbers, every month, particularly in states where the BJP heads the state government, including in Rajasthan, Madhya Pradesh, Gujarat, Chhatisgarh, and Jharkhand. In some instances, the police respond appropriately; in others, however, the police reportedly look the other way or even appear to be complicit in the attacks.

Several of the BJP-led states, including Orissa, Madhya Pradesh, and Chhattisgarh, as well as Arunchal Pradesh, have laws against "forced" or "induced" religious conversions, which require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or "inducement" to convert another. However, reports of persons having been arrested, still less prosecuted, under these laws are not common. Nevertheless, concerns have been raised that these laws can sometimes result in a hostile atmosphere for religious minorities, as states in which these laws exist tend to be those in which attacks by extremist groups are more common—and often happen with greater impunity than elsewhere in India. For example, the state of Madhya Pradesh, which is headed by the BJP, was the scene of an increasing number of attacks in the past year. In June 2006, a report by the Indian national government's National Commission for Minorities (NCM) found that Hindu extremists had frequently invoked the state's anti-conversion law as a pretext to incite mobs against Christians. The NCM report also found that police in Madhya Pradesh were frequently complicit in these attacks. In Rajasthan, the BJP-headed state parliament passed a law against forced conversions in April 2006, but in May, the governor refused to sign the bill, so it has not become law. Until the end of last year, the only states that had passed such laws were those headed by the BJP. In December 2006, however, the state of Himachal Pradesh, which has a Congress Party-led government, passed legislation on conversions similar to that found in other states, the first time such a law has been passed by a state ruled by the Congress Party, which usually opposes such legislation. In February 2007, the governor signed the bill into law. Significantly, the government of Tamil Nadu rescinded its law against forced conversions after the May 2004 elections. Throughout the past year, Commission staff conducted personal interviews with members of non-governmental organizations representing various religious communities in India, as well as human rights organizations, academics, and other India experts. In March 2005, the Commission issued a statement encouraging the Department of State to prevent the planned visit to the United States of Gujarat State Minister Narendra Modi, citing evidence presented by India's NHRC and numerous domestic and international human rights investigators of the complicity of Gujarat state officials, led by State Minister Modi, in the February 2002 mob attacks on Muslims.

COMMISSION RECOMMENDATIONS

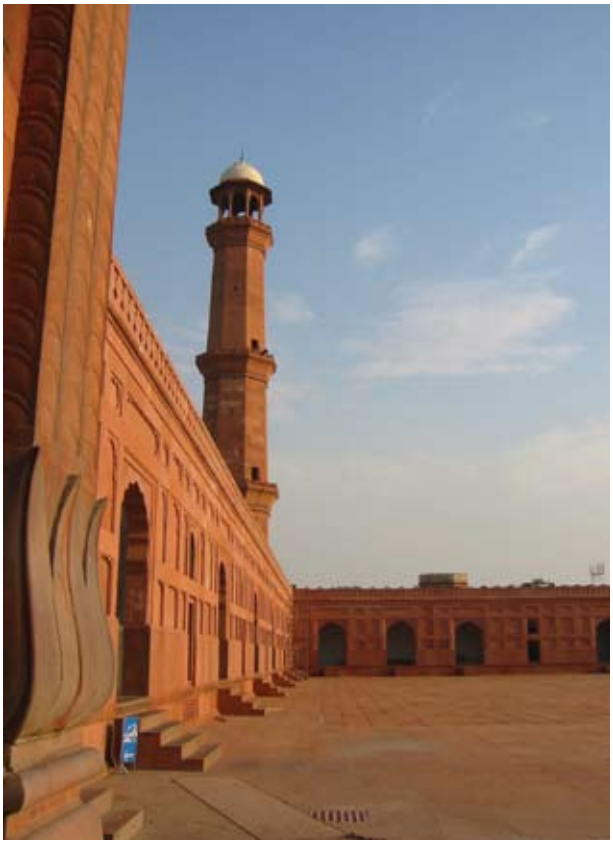
With regard to India, the Commission recommends that the U.S. government should:

- press the government of India to make more vigorous and effective efforts to halt the violent attacks against religious minorities that continue to occur with troubling regularity in India and to hold state governments and state government officials accountable for the violence and other unlawful acts that occur in their states; and
- urge the Indian government to continue its policies aimed at returning the country to its tradition of religious tolerance, including by:
  - continuing to pursue, investigate, and lay charges against the perpetrators of the killings in Gujarat and hold them to account;
  - following through on the determination to eliminate religiously intolerant language from school textbooks;
  - taking steps to prevent and punish communal violence, including by following through on a pledge made in 2004 to enact a law criminalizing inter-religious violence; and
  - continuing the kinds of measures that have successfully prevented outbreaks of violence in high-tension situations, and engaging in pre-planning to ensure that the police and other law enforcement agencies have the resources necessary to avert communal violence in the future.

PAKISTAN

Sectarian and religiously motivated violence persists in Pakistan, particularly against Shi'as, Ahmadis, Christians, and Hindus, and the government's somewhat improved response to this problem continues to be insufficient and not fully effective. The current government's political alliance with militant religious parties has served to strengthen such groups and give them influence in the country's affairs disproportionate to their support among the Pakistani people. Substantial evidence that Musharraf's government has been complicit in providing sanctuary in Pakistan to the Taliban also intensified in the past year. In addition, a number of the country's laws, including legislation restricting the rights of the Ahmadi community and laws against blasphemy, frequently result in imprisonment on account of religion or belief and/or vigilante violence against the accused. These religious freedom concerns persist amid the wider problem of the lack of democracy in Pakistan, an issue the current government has done little to address. Proposals by President Musharraf to have the outgoing parliament elect him to another term as president have raised serious questions about whether the next parliamentary elections, scheduled to be held in 2007, will be free and fair. In light of these persistent, serious concerns, the Commission continues to recommend that Pakistan be designated a "country of particular concern," or CPC. To date, the State Department has not designated Pakistan a CPC.

Successive governments have severely violated religious freedom in Pakistan. Discriminatory legislation, promulgated in previous decades and persistently enforced, has fostered an atmosphere of religious intolerance and eroded the social and legal status of members of religious minorities, including Shi'as, Ahmadis, Hindus, and Christians. Government officials do not provide adequate protections from societal violence to members of these religious minority communities, and, with some exceptions, perpetrators of attacks on minorities are seldom brought to justice. In some recent instances, the government of Pakistan has directly encouraged religious intolerance. In March 2006, it was reported that, in an attempt to persuade people in the regions bordering on Afghanistan not to support Islamist militants, the Pakistani military dropped leaflets claiming that those militants were fighting against Pakistan "in connivance with Jews and Hindus."



Badshahi Mosque in Lahore, Pakistan

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.

Many religious schools, or *madrassas*, in Pakistan provide ongoing ideological training and motivation to those who take part in violence targeting religious minorities in Pakistan and abroad. In mid-2005, the government of Pakistan renewed its effort to require all madrassas to register with the government; in addition, *madrassas* were ordered to expel all foreign students. By year's end, and despite an outcry from some militant groups, most of the religious schools had registered. However, reports indicate

Blasphemy allegations, which are often false, result in the lengthy detention of, and sometimes violence against, Ahmadis, Christians, Hindus, and members of other religious minorities, as well as Muslims on account of their religious beliefs.

that the registration process will have no effect on the content of the schools' curricula, which remains extremist and includes exhortations to violence, and there are still no government controls on the *madrassas'* sources of funding. It therefore continues to be doubtful whether these belated official efforts to curb extremism through reform of the country's Islamic religious schools will be accompanied by other measures to make them effective. Moreover, these efforts do not adequately address the much wider problem of religious extremism in Pakistan and the continued, unwarranted influence of militant groups on the rights and freedoms of others. By issuing proclamations that are not acted upon, the government has only strengthened sectarian and extremist forces. The reach of these groups was demonstrated in February 2007, when the Punjab Minister for Social Welfare, Zille Huma Usman, was shot dead by a man whom police described as a religious fanatic. The accused perpetrator, who was arrested, reportedly stated that he shot the minister because she was not wearing what he believed to be the proper clothing for women.

Despite President Musharraf's appeals for religious moderation and tolerance, religiously motivated violence, much of it committed against Shi'a Muslims by Sunni militants, remains chronic in Pakistan. Ahmadis, Christians, and Hindus have also been targeted by Sunni extremist groups and mob violence. To its credit, the government has made some attempts to respond to these attacks. For example, when, in November 2005, a mob of over 1,500 persons, incited by local Muslim clerics on the basis of a false accusation of blasphemy against a local Christian man, set fire to and destroyed several churches, schools, and homes of Christian families in the town of Sangla Hill, political leaders condemned the violence and its perpetrators were arrested and brought to trial. After the February 2006 bombings of a procession of Shi'a Muslims in the town of Hangu in the North West Frontier Province that killed at least 43 people, the central government condemned the blasts and the perpetrators were identified as a result of a government investigation.

Nevertheless, religiously motivated violence continues to be a serious problem. Sunni Muslims are also victims of reprisal attacks, sometimes carried out by Shi'a militant groups. In January 2007, at least 14 people were killed in a suicide bombing attack in Peshawar shortly before a Shi'a religious procession was scheduled to come through. One day later, another suicide bomber killed himself and two policemen at a checkpoint near the Afghan border, after they successfully prevented him from approaching a Shi'a Ashura procession and detonating a bomb. And on the same day in Bannu, further north, two rockets landed near a Shi'a mosque where worshipers were arriving to mark Ashura. Eleven people were wounded. In February, it was reported that six suspected members of a Sunni militant group had been arrested. In June 2006, a mob, stirred up by allegations that some Ahmadis had desecrated the Koran, attacked an Ahmadi locality near Sialkot, injured two persons, and set fire to several vehicles, shops, and homes. When the police arrived, seven Ahmadis, rather than the perpetrators, were arrested. In March 2007, an assistant sub-inspector of police shot dead an Ahmadi man after accusing him of being an "infidel" in Seera village near Phalian, killing him instantly. The perpetrator reportedly told police that he killed the man for changing his religion from Sunni Islam to the Ahmadi religion. According to news reports, the perpetrator went to a police station and turned himself in and a case has been lodged against him.

In the past few years, the minority Christian community also continued to be the target of extremist and mob violence. In November 2005, a mob of over 1,500 persons, incited by local Muslim clerics on the basis of a false accusation of blasphemy against a local Christian man, set fire to and destroyed several churches, schools, and homes of Christian families in the town of Sangla Hill, in the province of Punjab. Political leaders condemned the violence and perpetrators were arrested and reportedly will be brought to trial. In January 2006, the blasphemy charge was dropped. In February 2006, in the furor that erupted in Pakistan after the

A mosque in Karachi, Pakistan

publication of highly controversial cartoons in the Danish press, mobs threatened Christian communities in a number of areas in Pakistan. In the town of Sukkur, in Sindh province, a crowd of Muslims burned down two churches, an attack that was triggered in part by rumors that a Christian man had committed blasphemy. Provincial authorities ordered an investigation into the incident and reportedly a number of people have been arrested. In August 2006, a church and several Christian homes were attacked in a village outside Lahore in what was called a dispute over land. Three Christians were injured after 35 Muslim men reportedly burned buildings and desecrated Bibles.

Ahmadis, who number between 3 and 4 million in Pakistan, are prevented by law from engaging in the full practice of their faith. Pakistan's constitution declares members of the Ahmadi religious community to be "non-Muslims," despite their insistence to the contrary. Barred by law from "posing" as Muslims, Ahmadis are also proscribed by law from many other actions. They may not call their places of worship "mosques," worship in non-Ahmadi mosques or public prayer rooms which are otherwise open to all Muslims, perform the Muslim call to prayer, use the traditional Islamic greeting in public, publicly quote from the Koran, or display the basic affirmation of the Muslim faith. It is also illegal for Ahmadis to preach in public, to seek converts, or to produce, publish, and disseminate their religious materials. In August 2005, Pakistani authorities banned 16 Ahmadi-run publications in the Punjab province. Ahmadis have been arrested—two persons were arrested as a result of the action in the Punjab—and imprisoned for terms of up to three years for all of the above acts, and they are reportedly subject to ill treatment by prison authorities and fellow prisoners. According to the State Department, as of late 2006, 17 Ahmadis faced criminal charges under the anti-Ahmadi laws. What is more, because they are required to register to vote as non-Muslims, a policy that was reaffirmed by Pakistani government officials in February 2004, Ahmadis who refuse to disavow their claim to being Muslims are effectively disenfranchised. The one potentially positive development—the December 2004 abolition of the religious identification column in Pakistani passports, which, among other advances, enabled Ahmadis to participate in the *hajj*—was derailed in March 2005, when members of a government ministerial committee restored the column, reportedly in response to pressure from militant religious parties. There is no indication that the current government intends to institute any reforms to 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 on account of their religious beliefs. 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 affect on the way the blasphemy laws are exploited in Pakistan. The negative impact of the blasphemy laws is further compounded by the lack of due process involved in these proceedings. In addition, during blasphemy trials, Islamic militants often pack the courtroom and make public threats about the consequences of an acquittal. Such threats have proven credible, since the threats have sometimes been followed by violence. Although no one has yet been executed by the state under the blasphemy laws, some persons have been sentenced to death. Several of those accused under the blasphemy laws have been attacked, even killed, by vigilantes, including while in police custody; those who escape official punishment or vigilante attack are sometimes forced to flee the country.

In November 2006, two Christian men were sentenced, in a closed hearing, to 10 years in prison for committing blasphemy. The lawyer for the two men claimed that due

process was not followed and that the judge wanted to release the accused but was pressured by extremists to sentence them. In January 2007, a Christian woman was charged under the blasphemy law for allegedly "uttering derogatory remarks" about the Prophet Muhammad. According to the State Department, at least five Ahmadis were in prison on blasphemy charges. There have also been some acquittals of those accused of blasphemy charges. In November 2006, a Christian man was acquitted of blasphemy charges by the Lahore High Court after spending eight and a half years in prison, and a Christian woman was acquitted of the blasphemy charge she was facing. In January 2007, the Lahore High Court overturned the blasphemy sentence of a Christian man who had been in prison for five years. That same month, a Christian youth who was accused of desecrating the Koran was granted post arrest bail, one of the few times a person accused of blasphemy was granted bail after arrest. More frequently the accused spend years in prison while their cases are being investigated. While the acquittals are welcomed, in virtually all cases, those acquitted have been forced into hiding because of fears of vigilante violence.

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. Rape victims run a high risk of being charged with adultery, for which death by stoning remains a possible sentence. In October 2003, the National Commission on the Status of Women in Pakistan issued a report on the Hudood Ordinances that stated that as many as 88 percent of women prisoners, many of them rape victims, are serving time in prison for allegedly violating these decrees, which make extramarital sex a crime and adultery a criminal offense. The Hudood laws apply to Muslims and non-Muslims alike. The UN Committee Against Torture, as well as the UN Special Rapporteur on Torture, have stated that stoning and amputation do constitute acts in breach of the obligation to prevent torture or cruel, inhuman, and degrading treatment or punishment under international human rights standards and treaties. Although these extreme corporal punishments have not been carried out in practice, lesser punishments such as jail terms or fines have been imposed. In a positive development, correcting one of the most heavily criticized crimes that were prosecuted by the standards of these religious ordinances, in December 2006, President Musharraf signed into law a bill curtailing the scope of the Hudood ordinances regarding rape charges. The new law removed the crime of rape from the sphere of the Hudood laws and put it under the penal code, thereby doing away with the requirement that a rape victim produce four male witnesses to prove the crime. Under the new legislation, convictions for rape will be based on forensic and circumstantial evidence. This change followed another amendment to the Ordinances enacted in July 2006 allowing women convicted of purported sexual transgressions to be released on bail rather than having to remain in prison—sometimes for lengthy periods—waiting for their cases to come to trial.

Finally, evidence that Musharraf's government is giving sanctuary to the Taliban intensified in late 2006, especially as it became apparent that the Taliban has re-grouped and stepped up reported cross-border attacks inside Afghanistan. In January 2007, a UN representative confirmed the claim that Pakistan was harboring Taliban leaders. In September 2006, NATO's Supreme Allied Commander of the U.S. European Command, General James Jones, told a Senate panel that it is "generally accepted" that the Taliban has its headquarters somewhere near the town of Quetta in Pakistan. 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 Commission's May 2001 report on Pakistan played a key role in highlighting to U.S. and Pakistani government officials the undemocratic nature of the Pakistani separate electorate system for religious minorities. In January 2002, the Pakistani government abolished the system of separate electorates.

In June 2005, the Commission held a hearing on Capitol Hill entitled, "The United States and Pakistan: Navigating a Complex Relationship," during which experts examined U.S. policy toward Pakistan, highlighting the serious religious freedom and other human rights problems in Pakistan. In July, the Commission issued a press statement expressing serious concern about legislation, the so-called "Hasba bill," passed that month by the provincial assembly in Pakistan's North West Frontier Province that proposed the creation of a "watchdog" position to monitor the observance of "Islamic values" in public places. The bill would have empowered a person, called the *mohtasib*, to enforce one interpretation of religious requirements on such activities as participation in Friday prayers, the conduct of business on Fridays, and the ap-

Evening prayer

pearance of unrelated men and women in public. There were concerns that the bill would also have imposed Taliban-like restrictions on women's movement and dress. The cause of outcry in other parts of Pakistan and abroad, the law was later declared to be unconstitutional by Pakistan's Supreme Court.

Throughout 2006, the Commission continued to meet with representatives of the various religious communities in Pakistan, including Muslims, Ahmadis, Christians, and Hindus, as well as with human rights organizations, academics, and other experts. The Commission also met with representatives of the Pakistani government. In January 2006, the Commission wrote to President Bush urging him to discuss in his January meeting with Pakistani Prime Minister Shaukat Aziz the need to promote and protect religious freedom and religious tolerance in Pakistan. In March 2006, the Commission wrote again to the President, urging him, during his meeting abroad with President Musharraf, to indicate that improvements in religious freedom conditions in Pakistan are essential to any meaningful advances in the war on terrorism and to successes in the global promotion of democracy. In addition, then-Commission Chair Michael Cromartie, together with Commissioner Elizabeth H. Prodromou, published an op-editorial in the *Philadelphia Inquirer* on March 3, 2006 calling on President Bush to raise religious freedom concerns with President Musharraf.

In addition to recommending that Pakistan be designated a CPC, the Commission has recommended that the U.S. government should:

- urge the government of Pakistan to make much more serious efforts to combat Islamic extremism in that country, noting especially the current government's political alliance with Islamist political parties, which affords an inordinate amount of influence to these groups, and which, in turn, has had a strong negative impact on religious freedom in Pakistan;
- urge the government of Pakistan to decriminalize blasphemy and until such time as that is possible, to implement procedural changes to the blasphemy laws that will reduce and ultimately eliminate their abuse; and ensure that those who are accused of blasphemy and people who defend them are given adequate protection, including by investigating death threats and other actions against them carried out by militants, and that full due process is followed;
- urge the government of Pakistan to take more effective steps to prevent sectarian violence and punish its perpetrators, including by making greater efforts to disarm militant groups and any religious schools that provide weapons training;
- urge the government of Pakistan to rescind the laws targeting Ahmadis, which effectively criminalize the public practice of their faith and violate their right to freedom of religion guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;
- urge the government of Pakistan to sign and ratify the International Covenant on Civil and Political Rights;
- expand U.S. government contacts beyond the Pakistani government to include a more open and public dialogue with a variety of representatives of civil society in Pakistan, including groups and political parties that may be critical of the current government;
- give greater attention and assistance to institutions in Pakistan that are crucial to its democratic development, particularly the judiciary and the police, which are reported to be especially corrupt, ineffective, and lacking accountability, thereby contributing to violations of human rights, including religious freedom, in Pakistan; and
- in administering its education assistance to Pakistan, focus more specifically on promoting reform in the state schools, where the State Department reports that textbooks regularly include derogatory statements about religious minorities, particularly Jews and Hindus, and religious intolerance is presented as acceptable.

SRI LANKA

In recent years, the Commission turned its attention to Sri Lanka because of two primary concerns: an increasing number of attacks targeting members of religious minorities and their worship buildings; 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. In February 2006, the Commission visited Sri Lanka to seek information about reports of growing religious intolerance. The delegation met with Sri Lankan government officials, Members of Parliament, representatives of political parties, human rights organizations and other non-governmental groups, and representatives of the Buddhist, Hindu, Christian, and Muslim communities. Attacks on religious minorities, particularly Christians and Ahmadis, continue in Sri Lanka. Since April 2006, the proposed legislation on religious conversions has been before a parliamentary standing committee. The Commission will continue to monitor the situation in Sri Lanka and report on any further attempts to restrict freedom of religion in that country.

Unlike many of the other countries that draw Commission attention, Sri Lanka is, despite years of civil war, a functioning democracy. The primary new development in the past year was the return in April 2006 of serious fighting between the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), who are seeking an independent state in the north of the country, and Sri Lankan government security forces. A ceasefire of several years' standing broke down and peace talks were suspended, resulting in the renewal of the brutal civil conflict that has plagued Sri Lanka for over 20 years. Since then, there have been reports of a renewal of the kind of human rights violations, perpetrated by the forces of both sides of the conflict, that were common throughout the 1980s and 1990s. 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. In April 2006, in the ethnically and religiously mixed town of Trincomalee, mobs of Sinhalese, reportedly well organized, responded to an alleged LTTE bombing by attacking and destroying dozens of Tamil businesses and homes and killing several people. Police and other law enforcement personnel reportedly stood by for more than two hours before making efforts to halt the violence.

A Buddha statue, Dambula, Sri Lanka

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. Churches are sometimes desecrated and/or burned to the ground. Reports indicate that over the past five years, approximately 200 attacks have been carried out against churches and/or individuals; during the same period, 200 other persons reportedly have received verbal threats. The violence has mainly affected Evangelical churches, but other Protestant and Roman Catholic institutions have also been targeted. Although few deaths have resulted, dozens of Christian individuals have been injured enough to require hospitalization.

Though diminished in number since the peak of violence in 2003, the attacks have continued. The police sometimes respond quickly to the attacks and on occasion provide extra security for churches. Other sources suggest that these actions are pro forma and not effective. In August 2006, a mob of 200 persons led by three Buddhist monks attacked a children's home run by the Dutch Reformed Church in central Sri Lanka. They forced their way in, destroyed much

USCIRF delegation meeting with representatives of Sri Lanka's Jathika Hela Urumaya (JHU) Party.

of the property, and threatened staff with death if they did not leave the premises. In October 2006, a mob of 50 people led by four Buddhist monks arrived at a church service in Gampaha and demanded that the service cease. Because he feared that his congregation would be attacked, the pastor agreed to cancel the service. The pastor filed a complaint with the police and the church met without incident the following November. In November, a church in Gampola, Gandy district, came under attack, damaging windows and other parts of the church. In February 2007, a church near Colombo that had been attacked and had property destroyed in December was attacked again, when a group of people began throwing stones at the church. A police complaint was reportedly made.

In addition, in the past year there have been an increasing number of reported attacks on the country's small Ahmadi community, a group that considers itself to be Muslim but which is deemed unorthodox by some Muslims. This violence, which consists of attacks on Ahmadi individuals and property, is reportedly carried out by groups of Muslims who object to the Ahmadis' religious views. Some reports indicate that the antagonism against Ahmadis in Sri Lanka is being provoked in part by persons who are connected to the current government, including an advisor to the president.

The UN Special Rapporteur on Freedom of Religion or Belief, who traveled to Sri Lanka in May 2005, concluded in her report that, with regard to acts of religious violence or intolerance by non-state actors, the Sri Lankan government's obligation to promptly investigate and prosecute all perpetrators has not "been satisfactorily fulfilled." This problem was compounded by the fact that due to wider, more chronic deficiencies in the judicial system in Sri Lanka, including corruption, a lack of police training, and inadequate infrastructure, arresting perpetrators and moving them through the criminal court system was a serious problem, regardless of the crime involved.

In 2004, two draft laws purporting to restrict religious conversion as well as the act of attempting to convert another person were circulated in Sri Lanka. The first was a private member's bill drafted by the Jathika Hela Urumaya (JHU) party comprised of nationalist-minded Buddhist monks, targeting "forced" conversions; the second was a bill proposed by the government, a much stricter bill that essentially prohibited any and all attempts to convert another person—even inadvertently. In July 2004, the government's bill was sent to committee for re-drafting. The JHU bill was tabled that same month and sent for analysis on its constitutionality to the Supreme Court, where over 20 challenging petitions had been filed. In August 2004, Sri Lanka's Supreme Court ruled that certain clauses of the JHU bill violated several articles of the constitution. As a result of the Supreme Court's ruling, in order for it now to become law, the bill in its entire form would require a two-thirds majority in the parliament and the approval of the people of Sri Lanka in a referendum.

In March 2005, the JHU again introduced legislation on conversions. Called "Bill on the Prohibition of Forcible Conversions," the legislation was the same as that tabled the previous year, including the provisions of that bill that had been found unconstitutional by the Supreme Court. This bill against religious conversions would have: (1) provided for prison terms of up to five years for anyone who attempted to convert a person from one religion to another by "the use of force or by allurement or by any fraudulent means," with the terms "fraud" and "allurement" vaguely defined such that many charitable activities could be included; (2) established reporting requirements for any person who adopts a new religion as well as for any person who takes part "directly or indirectly" in the conversion of another person, requiring individuals to inform government authorities of their action or face the threat of jail time and fines; and (3) provided an opportunity for "any interested person" having "reason to believe" a violation of the act to bring cases in the public interest. According to the UN Special Rapporteur, the proposed law was not "an appropriate response to the religious tensions and is not compatible with international human rights law."

The JHU bill was sent to a parliamentary standing committee for discussion. After elections in November 2005, newly-elected President Mohinda Rajapaksa prorogued parliament, thereby annulling all bills going through any stage of the process of being enacted by parliament, including the JHU's bill on religious conversion. It later came up once more before parliament and was referred again to a parliamentary standing committee, where it has reportedly been since April 2006.

In the past few years, there have been reports, particularly in the period immediately after the December 2004 "tsunami" disaster, of some groups and individuals engaging in efforts to encourage people to convert—reportedly amounting to "unethical" practices—that are said to have led to increased tensions among religious communities in Sri Lanka. Some in Sri Lanka suggest that the anti-conversion legislation came about in response to these reports. These claims have included, for example, the offering of money, employment, access to education or health care, or some other material good as an incentive to convert or join a particular church, taking advantage chiefly of the poorest people among Sri Lanka's population. Though there have been allegations, concrete evidence of any such practices has not been found. The December 2005 report of the UN Special Rapporteur stated that despite repeated requests, she "did not meet any person who had changed his or her religion because of allurement or other form of inducement." She also reported that she did not come across any substantiated cases of religious conversion that would constitute a violation of the right to freedom of religion or belief. The Commission on its visit also requested to meet with persons who had been subject to "unethical" practices regarding conversion but was not provided with any such cases. However, some involved in evangelizing activities have also been accused of denigrating Sri Lanka's other religious communities by referring to those religions as evil, pagan, or unworthy of consideration, and thereby sowing contention and even violence among religious groups.

Religious communities in Sri Lanka must register either as a corporation, which enables them to be treated as a corporate entity in financial and real estate transactions, or as a charitable organization, which entitles them to some tax exemptions. In 2003, the Sri Lankan Supreme Court denied the incorporation petition of a Roman Catholic group, the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis, claiming that incorporation is impermissible if the group is engaged in proselytization and/or providing material benefit. The group took its petition to the UN Human Rights Committee (HRC), a treaty body, which in November 2005 decided in the group's favor. The HRC found that articles 18 and 26 (non-discrimination) of the International Covenant on Civil and Political Rights had been violated. It stated that the grounds advanced by the Supreme Court and the government of Sri Lanka in support of the restrictions were insufficient to demonstrate that these restrictions were necessary to further one or more of the limitations on rights permitted by the Covenant.

In addition to the February 2006 visit to Sri Lanka, the Commission issued a statement in July 2005 expressing concern about growing religious intolerance in Sri Lanka, particularly the ongoing violence against religious minorities and the proposed bill addressing forced religious conversions. In September 2005, the Commission issued a statement about the proposed amendment to the constitution, expressing concern about articles in the amendment discussed above that would have violated the internationally guaranteed rights primarily of members of the majority Buddhist community as well as minority religious groups. Throughout the past year, Commission staff continued to meet with religious leaders, academics, human rights activists and others from Sri Lanka, and with members of congressional and international delegations and others that visited the country.

Commissioners Felice D. Gaer, Michael Cromartie and Preeta D. Bansal and USCIRF Executive Director Joseph R. Crapa meeting with Sri Lanka Foreign Ministry officials.

CUBA

Religious belief and practice continue to be tightly controlled in Cuba. Religious freedom conditions have been affected in part by the ongoing government crackdown on democracy and free speech activists, resulting in a generally deteriorating situation for human rights, including religious freedom. A 2005 law on religion meant to "legalize" house churches has reinforced the government's efforts to increase control over some religious practice. The Commission continues to place Cuba on its Watch List, and will monitor conditions of freedom of religion or belief in Cuba to determine if they rise to a level warranting designation as a "country of particular concern," or CPC.

Cuba's human rights record, which deteriorated significantly in 2003, continued to be poor in 2006. Cuba remains a communist party-dominated dictatorship. Since seizing power in 1959, President Fidel Castro has maintained strong, centralized control of all facets of life in Cuba. While parliamentary, judicial, and executive institutions exist in name, all are under his control, and there is no legal or political avenue of dissent. Individuals who engage in dissent are harassed, jailed, and mistreated in prison. In February 2003, the Cuban government initiated an extensive crackdown on democracy activists, including those supporting the Varela Project and the Christian Liberation Movement. Seventy-five human rights activists were arrested and sentenced in 2003; 59 were still in prison at the end of 2006. The crackdowns have continued, and several more human rights activists have been imprisoned since 2003. In response to the Varela Project, the Cuban National Assembly unanimously passed an amendment making socialism the irrevocable basis of the constitution. Since Fidel Castro became incapacitated in July 2006, all of his policies have been maintained by his brother, Raul, who is currently acting president.

Since 1959, the communist government has sought to suppress religious belief and practice because it was "counterrevolutionary." During the early years of the Castro regime, government and Communist Party officials forced priests, pastors, and other religious leaders into labor camps or exile and systematically discriminated against those who openly professed religious belief by excluding them from certain jobs or educational opportunities. In the past decade, however, the state instituted a limited rapprochement with religious believers, and it seemed as though conditions might improve. For example, the government abandoned its official policy of atheism in the early 1990s. Castro welcomed a visit from Pope John Paul II in 1998 and visited Havana's Jewish Community Center for its Hanukah celebration that same year. In 2000, religious holidays were reinstated, and members of Cuba's Jewish community were allowed to emigrate to Israel. The Pope's visit, in particular, sparked great hopes within the religious communities in Cuba, as well as among democracy activists, who viewed these steps as a softening of past government policies.

Yet, despite optimism that religious freedom conditions would improve, violations and restrictions have continued, as has the government's strong degree of control and generally hostile attitude toward religion. Although the Cuban government seeks to project the image that the right to religious freedom is respected, in fact, government authorities

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San Francisco de Asis Church in Old Havana

continue to view the influence of religion as a threat to the ideology of Castro's revolution. In early 2001, the Communist Party in Havana prepared a report that criticized inroads made by churches, particularly the Roman Catholic Church, into Cuban society, and asserted that the social work of the churches violated the law. Communist Party officials reportedly apologized to the Catholic Church hierarchy after the report became public. Nevertheless, Havana's Catholic Cardinal, Jaime Ortega y Alamino, gave an interview in 2003 in which he asserted that "restrictions on religious freedom are returning" in Cuba, and that they represent a "return to the ideology of repression." The crackdowns on the freedoms of speech, assembly, and association in Cuba since 2003 have affected religious freedom conditions also. In 2004 there were reports that a marked shift in government propaganda had taken place favoring strict interpretations of communist orthodoxy, including an assault on religious freedom and related human rights.

The government's main interaction with, and control of, religious denominations is through the Office of Religious Affairs of the Cuban Communist Party. The Cuban government also requires churches and other religious groups to register with the relevant provincial office of the Registry of Associations within the Ministry of Justice. According to the State Department, the Cuban government is most tolerant of those religious groups that maintain "close relations" with the state or those who "often supported government policies." Currently, there are approximately 50 state-recognized religious groups, primarily Christian denominations, half of which are members of the government-recognized Cuban Council of Churches (CCC). Reportedly, the government in recent years has not granted recognition to any relatively new denominations and, in 2006, did not move on any pending applications. The government, however, 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 are also small Jewish and Muslim communities. In the past, there were reports that conditions for Jehovah's Witnesses had improved substantially; however, in the past year, there has been harassment of and discrimination against members of this group by local Communist Party and government officials.

In recent years, the Cuban government has rarely permitted the construction of new places of worship, and the government did not grant permission for the construction of any new worship buildings in 2006. Many religious groups, registered and unregistered, hold services in private homes or similar accommodations, commonly known as

"house churches." There are reports that at least 10,000 house churches exist nationwide, the majority of which are technically illegal. Permission for such meetings is frequently denied to those outside the recognized religious faiths and to those the government deems to be "an independent religious movement" (i.e. not recognized or hostile to government policies). If a complaint is made against a house church meeting, it can be broken up and the attendees imprisoned.

A new law went into effect in September 2005 requiring all house churches to register. In order to receive legal registration, the new law requires that there be no more than three meetings per week; that a house church cannot be within two kilometers of another house church of the same denomination; and that detailed information on the number of members, when services will be held, and the names and ages of the inhabitants of the house be provided. The new requirements also prohibit the participation of foreign citizens without government permission and such individuals are prohibited altogether in the mountainous regions. Put into effect as Directive 43 and Resolution 46, the new law has increased concerns primarily among Protestant and Santeria religious groups, many of which hold unauthorized religious meetings in private homes several times per week. If the registration application is refused, the members of the house church are not permitted to meet. There are reports that at least one house church was demolished, one was threatened with demolition, and several were shut down or confiscated since Direction 43 and Resolution 46 were promulgated. There are also reports of individual worshippers receiving citations and some churches repeatedly being forced to pay large fines. However, there is no evidence that the new legislation has resulted in a systematic crackdown on house churches.

In the past year, both registered and unregistered religious groups continued to experience varying degrees of official interference, harassment, and repression. The State Department reports that Cuban Interior Ministry officials regularly engage in efforts to monitor and control the country's religious institutions, including through surveillance, infiltration, and harassment of religious clerics and laypersons. In January 2004, a Ministry of Interior official revealed in an interview that government infiltration of civil and religious organizations remains widespread. There have been reports of religious leaders being attacked, beaten, or detained for opposing certain actions of the local or state government. Some Protestant house churches continued to be harassed and evangelical denominations reported evictions from houses used for worship (most of which were unauthorized and thus illegal). Because an estimated 70 percent of the Afro-Caribbean population engages in at least some religious practice, which is viewed as presenting a potential grassroots threat to the government, religious groups in these communities are more heavily targeted than political opposition organizations. According to the State Department, in the past year, independent Santeria priests have been threatened and pressured to assimilate into the government-sanctioned Yoruba Cultural Association.

Because an estimated 70 percent of the Afro-Caribbean population engages in at least some religious practice, which is viewed as presenting a potential grassroots threat to the government, religious groups in these communities are more heavily targeted than political opposition organizations.

Other means by which the government restricts religious practice include: enforcement of a regulation that prevents any Cuban or joint enterprise, except those with specific authorization, from selling computers, facsimile machines, photocopiers, or other equipment to any church other than at the official—i.e. exorbitant—retail prices; an almost total state monopoly on printing presses; a prohibition on private religious schools; limitations on the entry of foreign religious workers; denial of Internet access to religious organizations; restrictions on making repairs to church buildings; and the denial of religious literature such as Bibles to persons in prison. Additionally, there is a requirement that religious groups receive permission from local Communist Party officials prior to holding processions or events outside of religious buildings. Refusal of such permission is often

Havana, Cuba

based on the decision of individual government officials rather than the law. According to the State Department, in 2005, the Catholic Church decided to stop seeking permits for religious processions in some areas.

In February 2006, Church of God Reverend Carlos Lamelas, an advocate for religious freedom and a critic of the state's interference in the church, was arrested and held for four months, although he was never formally charged. He was not brought to trial until December, and then on human trafficking charges. However, a new prosecutor dropped the charges days later due to lack of evidence.

Political prisoners and human rights and pro-democracy activists are increasingly being limited in their right to practice their religion. Religious leaders report pressure, sometimes blatant, by the government to expel pro-democracy or human rights activists from their church and some activists have, in response, been asked by church leaders to distance themselves from the congregation. There are reports that two Roman Catholic priests were told their visas would not be renewed because of their contact with human rights activists. Additionally, political prisoners report being denied the right to receive visits from clergy members, having Bibles and rosaries confiscated, and being prevented from attending religious services with other prisoners. Family members of these prisoners are also affected. In many churches, security officials reportedly continue to monitor sermons and sit behind the wives of political prisoners in order to intimidate them. In March 2006, government-directed mobs physically prevented at least five wives, many from the "Ladies in White" organization, from traveling to Havana for mass at Santa Rita Catholic Church. The Ladies in White organization was the joint winner of the European Parliament's 2006 Sakharov Prize for Freedom of Thought. The State Department also reports that several other political prisoners' wives were warned they would be arrested if they attempted to join the other wives at mass.

CUBA COMMISSION RECOMMENDATIONS

With regard to Cuba, the Commission recommends that the U.S. government should:

- raise religious freedom and other human rights violations in Cuba more effectively in multilateral fora, particularly in the UN, and demand that the government of Cuba respond to and initiate a dialogue with the UN Special Representative of the High Commissioner on Human Rights on the situation of human rights in Cuba; and
- use all diplomatic means to urge the Cuban government to undertake the following measures aimed at bringing Cuba into compliance with its international legal obligations with respect to freedom of thought, conscience, and religion or belief:
  - order, publicly and officially, the state security agencies to end the instigation of mob violence against religious persons and other human rights activists, including those recently released from prison; the mistreatment of indigenous religious communities; and the harassment of the spouses of imprisoned human rights activists during religious services and hold those involved in any further incidents accountable for their conduct;
  - revise government Directive 43 and Resolution 46 restricting religious services in homes or 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 the elections in religious bodies; and
  - take immediate steps to end restrictions on religious activities protected by international treaties and covenants including:
- ending the practice of arbitrarily denying registration to religious groups, as well as detaining or harassing members of religious groups and interfering with religious activities because of that unregistered status;
- issuing permits for construction of new places of worship;
- ending the practice of evictions and requisition of personal property of religious individuals or communities without due process, restitution, or provision of alternative accommodation;
- securing the right to conduct religious education and distribute religious materials; and
- lifting restrictions on humanitarian, medical, charitable, or social service work provided by religious communities and protecting persons who conduct such activities in Cuban law.

APPENDIX 1

Biographies of Members of the U.S. Commission on International Religious Freedom

Felice D. Gaer, *Chair*

Felice D. Gaer, Chair of the U.S. Commission on International Religious Freedom, heads 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 (2004-6) and as 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.

Ms. Gaer was a public member of nine U.S. delegations to UN human rights negotiations. She serves on the board of the Andrei Sakharov Foundation, the Eleanor Roosevelt Center and the Franklin and Eleanor Roosevelt Institute. In 2002 and 2003 she was cited in the annual *Forward 50* list of Jewish Americans who are making a difference.

Ms. Gaer is a graduate of Wellesley College, from which she received the Alumni Achievement Award in 1995. She also received advanced degrees from Columbia University.

Ms. Gaer, who has served on the Commission since 2001, was appointed by Speaker Nancy Pelosi (D-Calif.).

Michael Cromartie, *Vice Chair*

Michael Cromartie, a Vice Chair of the Commission, is Vice President of the Ethics and Public Policy Center in Washington, D.C., where he directs the Evangelicals in Civic Life and the Media and Religion programs. The Ethics and Public Policy Center was established in 1976 to clarify and reinforce the bond between the Judeo-Christian moral tradition and domestic and foreign policy issues. Cromartie is also a Senior Advisor to The Pew Forum on Religion and Public Life in Washington and a Senior Fellow with The Trinity Forum.

Mr. Cromartie has contributed book reviews and articles to *First Things*, *Books and Culture, The Washington Post*, *The Washington Times*, *The Reformed Journal, Insight*, *Christianity Today, Stewardship Journal*, and *World*. He is the editor of 16 books on religion and politics including, most recently, *"Religion, Culture, and International Conflict: A Conversation," "Religion and Politics in America: A Conversation,"* and "*A Public Faith: Evangelicals and Civic Engagement*."

He is an advisory editor at *Christianity Today* and an adjunct professor at Reformed Theological Seminary, and was an advisor to the PBS documentary series "With God on Our Side: The Rise of the Christian Right in America."

Frequently asked to comment on the dynamics between religious faith and political convictions, Mr. Cromartie has been interviewed on numerous radio and television programs, including National Public Radio, CNN, ABC News, The News Hour with Jim Lehrer, MSNBC, and PBS. He has been quoted frequently in the *Washington Post*, *New York Times*, *The New Republic*, *Christianity Today, Time*, the *National Catholic Reporter* and *U.S. News and World Report*. He holds an M.A. in Justice from The American University and a B.A. from Covenant College in Georgia.

Commissioner Cromartie was appointed by President George W. Bush.

Dr. Elizabeth H. Prodromou, *Vice Chair*

Elizabeth H. Prodromou is Assistant Professor in the Department of International Relations at Boston University, where she is also a Research Associate at the Institute on Culture, Religion and World Affairs. She has published widely on issues of religion and human rights, democracy, and security in Europe and the United States. Her publications have appeared in scholarly and policy journals such as *European Journal of Political Research, Social Compass, Journal of the American Academy of Religion, Orbis,* and *Survival*, as well as in numerous anthologies on Southeastern Europe.

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, and Princeton University.

She is the editor, co-editor, or author of four forthcoming books on religion and world affairs*: Church-State Relations in Greece: European Enlargement, Democracy, and Religion*; *Religious Pluralism in 21st Century American Public Life: the Challenges and Opportunities for Orthodox Christianity*; *Thinking through Faith: Perspectives from Orthodox Christian Scholars*; and, *The Orthodox Church of Greece in the 21st Century: Religion, State and Society in an Era of Transitions.*

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 is now serving as a Commission Vice Chair.

Nina Shea, *Vice Chair*

An international human-rights lawyer for 25 years, Nina Shea joined Hudson Institute, 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, where she is currently vice chair, since 1999. She was appointed as a U.S. delegate to the United Nations' Commission on Human Rights by both Republican and Democratic administrations.

For over a decade, she has worked extensively for the advancement of individual religious freedom and other human rights in U.S. foreign policy as it confronts Islamic 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 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).

Preeta D. Bansal

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. She maintains a high-profile *pro bono* practice for public interest clients on novel issues of constitutional law. She is an Advisory Board Member of the Clinton Global Initiative, a member of the United States Advisory Committee of Human Rights Watch, and a member of the Council on Foreign Relations, and she serves on the boards of several national and international organizations.

Ms. Bansal was Solicitor General of the State of New York during New York Attorney General (now Governor) Eliot Spitzer's first term, beginning in 1999. *The New York Times* called her a "legal superstar" and a "nimble, unorthodox thinker," 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 U.S. Supreme Court Justice John Paul Stevens, and to then-Chief Judge James L. Oakes of the U.S. Courts of Appeals for the Second Circuit. She served in the Clinton Administration as a Special Counsel in the White House and as a Counselor in the U.S. Justice Department. 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). She served as Chair of the Commission in 2004-2005.

The Most Reverend Charles J. Chaput, *O.F.M. Cap., D.D.*

Archbishop Charles J. Chaput has led the Archdiocese of Denver since April 1997 after being appointed by the late Pope John Paul II. He has written and spoken widely on the relationship between religious faith and public life and the importance of building moral cooperation and acceptance between religions and denominations.

Archbishop Chaput joined the Order of Friars Minor Capuchin, St. Augustine Province, in 1965. After earning a Bachelor of Arts in Philosophy from St. Fidelis College Seminary in Herman, Pennsylvania, he completed studies in psychology at Catholic University in Washington, D.C. He earned a Master of Arts in Religious Education from Capuchin College in Washington, D.C. and was ordained to the priesthood in August 1970.

Archbishop Chaput also received a Master of Arts in Theology from the University of San Francisco. He served as an instructor in theology and spiritual director at St. Fidelis from 1971-1974 and as executive secretary and director of communications for the Capuchin Province of St. Augustine in Pittsburgh from 1974-1977.

Archbishop Chaput then became pastor of Holy Cross Parish in Thornton, Colorado, and vicar provincial for the Capuchin Province of Mid-America. He was named secretary and treasurer for the province in 1980, and he became chief executive officer and provincial minister three years later. Archbishop Chaput served as Bishop of Rapid City, South Dakota, for nine years before being appointed Archbishop of Denver.

The Archbishop serves on the Board of Directors of The Catholic University of America in Washington, D.C., of the Eternal Word Television Network (EWTN) in Birmingham, Alabama, and of The Catholic Foundation and the St. John Vianney Theological and Redemptoris Mater Seminaries in Denver. He also chairs the Ad Hoc Committee on Native American Catholics and is a member of the Committee on Marriage & Family of the U.S. Conference of Catholic Bishops.

Archbishop Chaput was appointed to the Commission by President George W. Bush.

Dr. Khaled M. Abou El Fadl

Dr. Khaled Abou El Fadl is Professor of Law at the UCLA School of Law. He has also been a Visiting Professor at Yale Law School, where he taught national security law, Islamic law and immigration law. Dr. Abou El Fadl holds degrees from Yale University, the University of Pennsylvania Law School, and Princeton University. An Islamic jurist and scholar, Sheikh Abou El Fadl received formal training in Islamic jurisprudence in Egypt and Kuwait.

A world-renowned expert in Islamic law and American lawyer, Dr. Abou El Fadl serves as an expert in a wide variety of cases ranging from human rights and political asylum to international and commercial law.

Dr. Abou El Fadl is a prolific author and prominent public intellectual on Islamic law and Islam and is most noted for his scholarly approach to Islam from a moral point of view. He writes extensively on universal themes of morality and humanity, and the notion of beauty as a moral value. Dr. Abou El Fadl is a staunch advocate and defender of women's rights, and focuses much of his written attention on issues related to women. He regularly appears on national and international television and radio. His most recent published works focus on issues of authority, terrorism, tolerance, Islam, and Islamic law.

Commissioner Abou El Fadl was appointed by President George W. Bush.

Dr. Richard 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's latest book is *The Divided States of America? What Liberals and Conservatives are Missing in the God-and-Country Shouting Match*. Dr. Land has also recently authored *Imagine! A God-Blessed America* (2005) and *Real Homeland Security* (2004). He earned his A.B. *magna cum laude* at Princeton University and his D.Phil. at Oxford University.

Then-Senate Majority Leader Bill Frist reappointed Dr. Land to U.S. Commission on International Religious Freedom in 2005. President Bush selected him for his two previous terms at the Commission (September 2001 to September 2004).

The Most Reverend Bishop Ricardo Ramírez, *C.S.B.*

The Most Reverend Ricardo Ramírez, C.S.B., is Bishop of Las Cruces, New Mexico. A champion of ecumenism, he has worked as an advocate for immigrant rights and a proponent of Hispanics in the Catholic Church in the United States.

Bishop Ramírez was ordained to the priesthood in 1966. He was named Titular Bishop of Vatarba and Auxiliary Bishop of San Antonio in 1981, and the following year he became the first Bishop of the Diocese of Las Cruces, New Mexico. He holds a B.A. from the University of St. Thomas in Houston, Texas; an M.A. from the University of Detroit, Michigan; a Doctor of Laws *honoris causa* from Neumann College, Wichita, Kansas; a Doctor of Divinity *honoris causa* from the University of St. Michael's College, Toronto, Canada; and a Doctor of Humane Letters *honoris causa* from Siena Heights University in Adrian, Michigan. Bishop Ramírez attended St. Basil's Seminary in Toronto, Canada, Seminario Conciliar in Mexico City, Mexico, and the East Asian Pastoral Institute in Manila, Philippines.

Bishop Ramírez currently serves on the New Mexico Advisory Committee to the U.S. Commission on Civil Rights and the Catholic Church Extension Society Board. He is Episcopal Advisor of the Institute for Hispanic Liturgy and Episcopal Moderator of the Asociación Nacional de Sacerdotes Hispanos (ANSH). He is also a member of the U.S. Conference of Catholic Bishops' (USCCB) International Policy Committee, Committee on the Liturgy; and Committee on the Catholic Common Ground Initiative, and he is Consultant for the USCCB Committee on Hispanic Affairs. The bishop has also served as a member of the U.S. State Department Advisory Committee on Religious Freedom Abroad and chaired the USCCB's Catholic Campaign for Human Development and Committee for the Church in Latin America. He served as administrative secretary for the Comisión para el Estudio de la Historia de la Iglesia en Latinoamérica (Commission for the Study of the History of the Church in Latin America), and was elected a delegate for the United States at the 1997 Synod for America. In 2007, the President of the USCCB appointed him to the U.S. delegation for the Fifth General Conference of the Latin American Episcopate.

Bishop Ramírez was appointed to the Commission by former Senate Minority Leader Thomas Daschle (D-SD) in 2003 and reappointed by former Senate Minority Leader Harry Reid in 2005.

Ambassador John V. Hanford III

Ambassador Hanford serves *ex officio* as a non-voting member of the Commission.

Joseph R. Crapa, *Executive Director*

Joseph R. Crapa, the Commission's Executive Director, joined the Commission in November 2002. Prior to coming to the Commission, Mr. Crapa served as Chief of Staff to Senator Charles E. Schumer, the senior Senator from New York. Before that, Mr. Crapa spent four years as an official in the Executive Branch from 1997-2001, where he was nominated by President Clinton and confirmed by the Senate to serve as an Assistant Administrator at the U.S. Agency for International Development. He also held positions of Assistant Secretary at the Department of Agriculture and Associate Administrator at the Environmental Protection Agency where his portfolio included Congressional Relations and Public Affairs.

Mr. Crapa has extensive experience dealing with foreign and domestic policy issues. For ten years he served as Chief of Staff to Rep. David Obey (D-WI), currently the Chairman of the House Appropriations Committee, and also as counsel to the House Appropriations Committee. He was an Adjunct Professor of Government at Georgetown University (1990-1995) and was chosen as a Stennis Fellow of Congress (1995-1997); he continues as a Senior Fellow and Mentor. He also is a Lecturer for the Washington Campus, a consortium of universities where he lectures on Congress and the policy process.

Mr. Crapa graduated from Cathedral College Preparatory Seminary, received a B.A. from St. John's University, and earned his M.A. from Duke University, and his Ph.D. at the University of Arizona where he was a National Defense Teaching Fellow.

The International Religious Freedom Act Of 1998 [1]

SELECTED PROVISIONS

Section 3. DEFINITIONS (22 U.S.C. § 6402)

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term ``particularly severe violations of religious freedom'' means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term ``violations of religious freedom'' means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;

(ii) speaking freely about one's religious beliefs;

(iii) changing one's religious beliefs and affiliation;

(iv) possession and distribution of religious literature, including Bibles; or

(v) raising one's children in the religious teachings and practices of one's choice; or

(B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

[1] P.L. 105-292, as amended, 22 U.S.C. § 6401, et seq. The full text of IRFA can be found on the Commission's Web site, www.uscirf.gov.

Section 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM (22 U.S.C. § 6442)

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.— Not later than September 1 of each year, the President[2] shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

Section 405. DESCRIPTION OF PRESIDENTIAL ACTIONS (22 U.S.C. § 6445)

[With respect to each country named a "country of particular concern" (CPC), the President shall, according to section 402(c)(1)(a) and, in general, following an attempt to carry out consultations with the foreign government in question, carry out one or more of the actions described in paragraphs (9) through (15) of section 405(a), as determined by the President. The President may substitute a commensurate action. IRFA § 405(b).]

405(a)(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961;

405(a)(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

405(a)(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961;

405(a)(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402;

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;

[2] The authority to make decisions and take actions under IRFA has been delegated by the President to the Secretary of State.

405(a)(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402; and/or

405(a)(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

[In lieu of carrying out action as described above, the President may conclude a binding agreement with the respective foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. IRFA § 402(c)(2). Moreover, "[a]t the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection." IRFA § 402(c)(5).]

Section 407. PRESIDENTIAL WAIVER. (22 U.S.C. § 6447)

(a) In General.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) Congressional Notification.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

International Human Rights Standards: Selected Provisions on Freedom of Thought, Conscience, and Religion or Belief

This document sets forth the relevant provisions of international instruments, as well as further information concerning international standards concerning the protection of freedom of thought, conscience, and religion or belief.

A. EVERYONE HAS THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE, AND RELIGION

- **Universal Declaration of Human Rights 1948** (UDHR), Art. 18:

  Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

- **International Covenant on Civil and Political Rights 1966** (ICCPR), Art. 18:

  1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
  2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.
  3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
  4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

- In general, according to the UN Human Rights Committee (HRC), The treaty body that reviews compliance with the ICCPR, Article 18 of the ICCPR protects: theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.

  —Human Rights Committee (HRC) General Comment No. 22

- **European Convention for the Protection of Human Rights and Fundamental Freedoms 1950** (ECHR), Art. 9:

  Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

- **Helsinki Final Act 1975**, Principle VII:

  The participating States will respect human rights and fundamental freedoms, including the freedom of though, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

- **UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981** (UN 1981 Dec.), Art. 1:

  (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or belief in worship, observance, practice and teaching. (2) No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. (3) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Components of the right to freedom of thought, conscience, and religion or belief include:

1. Freedom to Change One's Religion or Belief

[UDHR, Art. 18, ECHR, Art. 9(1), OSCE Copenhagen Document, Art. 9(4)]

2. Freedom to Have or to Adopt a Religion or Belief of One's Choice

[ICCPR Art. 18(1)]

- Necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief;
- No limitations permitted on this freedom; and
- No individual shall be compelled to reveal his or her thoughts or adherence to a religion or belief.

—HRC General Comment No. 22 (paras. 3, 5)

3. Freedom From Coercion Which Would Impair an Individual's Freedom to Have or To Adopt a Religion or Belief of His or Her Choice

[ICCPR, Art. 18(2) and UN 1981 Dec. Art. 1(2)]

- No limitations are permitted on this freedom.
- The same protection is enjoyed by holders of all beliefs of a non-religious nature.
- Examples of impermissible coercion that would impair the right to have or adopt a religion or belief include:

  (a) The use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to specific beliefs and congregations, to recant their religion or belief, or to convert; and

  (b) Policies or practices having the same intention or effect, such as, for example, those restricting political rights protected under article 25 of the ICCPR or access to education, medical care or employment

–Human Rights Committee (HRC) General Comment No. 22 (para. 5)

4. Freedom to Manifest Religion or Belief in Worship, Observance, Practice, and Teaching [UDHR, Art. 18, ICCPR, Art. 18(1), UN 1981 Dec., Art. 1, OSCE Vienna Document, Art. 16(d)]

- This freedom may be exercised in public or in private, individually or in community with others.
- This freedom, at a minimum, encompasses the following freedoms:

(a) To worship or assemble in connection with a religion or belief, and to establish and maintain, including the building of places of worship, freely accessible places for these purposes;

(b) To establish and maintain appropriate charitable or humanitarian institutions, and seminaries or religious schools;

(c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief, including the use of ritual formulae and objects, the display of symbols, observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group;

(d) To write, issue and disseminate relevant publications in these areas;

(e) To teach a religion or belief in places suitable for these purposes;

(f) To solicit and receive voluntary financial and other contributions from individuals and institutions;

(g) To organize, train, appoint, elect, designate by succession, or replace appropriate leaders, priests and teachers called for by the requirements and standards of any religion or belief;

(h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; and

(i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.[1]

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[2] 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.

[1] See Para. 4, UN HRC General Comment No. 22; Art. 6, UN 1981 Dec.; Art. 16(h-j), Vienna Document

[2] 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.

- 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)]

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) [3]

[3] Commission staff translation.

NOTES

NOTES

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